

16 August 2024

Natasha Stott Despoja AO Royal
Commissioner
Royal Commission into Domestic, Family and Sexual Violence
Submitted via: https://agdroyal.qualtrics.com/jfe/form/SV_2hLHQnhearojAbA

Dear Ms Stott Despoja

Flinders Criminology Submission to the Royal Commission into Domestic, Family, and Sexual Violence (the Royal Commission).

Thank you for the opportunity to submit to the Royal Commission. The submission from Flinders Criminology, in response to the Issues Paper questions, is enclosed.

We would be happy to discuss this with you further or work with you to develop an evidence-informed strategy to identify, analyse and respond to domestic, family, and sexual violence (DFSV). Flinders Criminology is available and well-placed to evaluate initiatives or generate a literature review tailored to the South Australian context.

In our submission, we have emphasised the importance of:

- SA-focused analysis and data to understand causes, appraise initiatives and evaluate barriers;
- Proactive prevention to minimise contact with the criminal justice system (CJS), especially for diverse cohorts;
- Establishing inclusive, culturally appropriate and trauma-informed strategies and approaches.

Yours sincerely,

Flinders Criminology Per

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Encl. McLachlan (2024).

Summary of Recommendations

Recommendation 1

Flinders Criminology recommends undertaking an evaluation-based study with a focus on the SA context.

The Royal Commission is the first opportunity to collect and analyse DFSV data in the SA context (e.g., its diverse communities and geopolitical and sociocultural layers, including metropolitan and regional/rural/remote).

Without measuring the issue, cross-tabulating all existing data, and evaluating the existing gaps in the measures, we cannot understand systematically 'what works' and how to set benchmarks to evaluate progress.

Recommendation 2

Flinders Criminology recommends a proactive and systematic scan of the barriers that exist in the South Australian context, drawing directly from the lived experiences of those who have suffered DFSV, as part of and alongside evidence-based research.

Recommendation 3

Flinders Criminology recommends that the SA Government clearly articulates its understanding and application of "trauma-informed" or "culturally appropriate and safe" services and its strategy to ensure services that reflect such approaches are provided.

Recommendation 4

Flinders Criminology recommends the Victims of Crime Act 2001 be strengthened to make victims' rights enforceable. We argue that the legislation should be reformed such that the onus is shifted from the victim to the agency or official to ensure the victim/survivor is aware of their rights and has the capacity to benefit from these rights being upheld.

Flinders Criminology also recommends South Australian Parliament pass the Human Rights Bill at its earliest convenience.

Flinders Criminology Response to Issues Paper Questions

PREVENTION

Q. 1: What causes domestic, family and sexual violence?

Q. 2: What works, or will work, to prevent domestic, family and sexual violence?

Q. 3: What existing initiatives are directed at addressing the attitudes and systems that drive domestic, family and sexual violence? Are they effective?

Invisibility (especially in diverse communities), intersectional and intergenerational causes of DFSV

The Royal Commission takes place at an important time in relation to the Australian Government and South Australian (SA) initiatives to fight DFSV. These initiatives are crucial because the current DFSV situation in Australia is dire. Data shows that one-in-four women and one-in-14 men have experienced violence by an intimate partner or family member since the age of 15.¹ The latest statistics produced by the Australian Institute of Criminology (AIC) reveal an increase in the number of women killed by their partners between 2021–22 and 2022–23.² According to the AIC National Homicide Monitoring Program, in 2022–23, one woman was killed every 11 days, compared with one man being killed every 91 days. And three-in-four women victims of homicide were killed by an intimate partner.³ In about three-in-five (58%) of DFSV cases examined in a study by Australia's National Research Organisation for Women's Safety (ANROWS) for the years 2018–19, the homicide occurred during a period of intended or actual separation.⁴

In 2021–22, the overall rate of hospitalisation for injury arising from DFSV assault was three-in-10. For women, the rate was three times higher (nine-in-10) compared with the number of assault-related hospitalisations among men.⁵ The

¹ Australian Bureau of Statistics. (2021–22). Personal Safety, Australia. ABS.

<https://www.abs.gov.au/statistics/people/crime-and-justice/personal-safety-australia/latest-release>.

² Miles H. & Bricknell S. (2024). *Homicide in Australia 2022–23. Statistical Report no. 46*. Australian Institute of Criminology, <https://doi.org/10.52922/sr77420>. A long-term analysis of domestic homicide victims, spanning the years 1989–90 to 2022–23, shows an overall decrease. It is also noted that on 26 June 2024, the AIC launched the 'Intimate partner homicide dashboard', a statistical dashboard to provide real-time data in a concerted effort, as envisaged by the National Plan, to develop safe and appropriate responses and reduce DFSV by 25% every year.

³ Ibid,

⁴ Australian Domestic and Family Violence Death Review Network, & Australia's National Research Organisation for Women's Safety (2022). *Australian Domestic and Family Violence Death Review Network Data Report: Intimate partner violence homicides 2010–2018* (2nd ed.; Research report 03/2022). ANROWS. <https://www.anrows.org.au/publication/australian-domestic-and-family-violence-death-review-network-data-report-intimate-partner-violence-homicides-2010-2018/>.

⁵ Australian Institute of Health and Welfare (AIHW) (2022). *Family, domestic and sexual violence, Health services*, AIHW. <https://www.aihw.gov.au/family-domestic-and-sexual-violence/responses-and-outcomes/health-services#hospitalisations>.

same dataset shows that rates are higher for younger women, with a sharp peak between 25–34 years (66 per 100,000).⁶ In 2022, it was estimated that a full-time GP meets around five women per week due to experiencing intimate partner violence in the last 12 months.⁷ In 2021, a longitudinal study found an increase over time in ‘first’ DFSV hospital stays and an increase in DFSV hospital stays overall. According to this study, most people with DFSV hospital stay were women (68%), and most were aged 15–44.⁸

The rate of DFSV against Aboriginal and Torres Strait Islander women is even higher.⁹ The Report of the Legal and Constitutional Affairs References Committee into Missing and murdered First Nations women and children, released in August 2024, confirms such data. Further, these women are 33 times more likely to be hospitalised due to family violence than non-Indigenous women.¹⁰ In this cohort, DFSV is exacerbated by the ongoing effects of colonisation and racism¹¹ and the fear of having children removed if authorities become involved.¹² Culturally and linguistically diverse (CALD) communities, including people on temporary visas, are also heavily impacted by DFSV; yet only recently, and to a limited extent, have their direct experiences begun to be investigated and understood.¹³ The CALD Projects with Action Research (CALD

⁶ Ibid.

⁷ Ibid.

⁸ Australian Institute of Health and Welfare (AIHW) (2021). *Examination of hospital stays due to family and domestic violence 2010–11 to 2018–19*. AIHW. <https://www.aihw.gov.au/reports/family-domestic-and-sexual-violence/examination-of-hospital-stays-due-to-family-and-do/summary>

⁹ Australian Institute of Health and Welfare (AIHW), Family, domestic and sexual violence in Australia, 2018, catalogue number DFSV 2, AIHW, Australian Government, 2018, doi:10.25816/5ebcc144fa7e6.

¹⁰ Australian Institute of Health and Welfare (AIHW) (2024). *Aboriginal and Torres Strait Islander People*, AIHW. <https://www.aihw.gov.au/family-domestic-and-sexual-violence/population-groups/aboriginal-and-torres-strait-islander-people>. <https://www.aihw.gov.au/reports/family-domestic-and-sexual-violence/examination-of-hospital-stays-due-to-family-and-do/summary>. See also: Australian Human Rights Commission (2020), *Wiyi Yani U Thangani Report*. AHRC.

¹¹ Nancarrow, H. (2019). *Unintended consequences of domestic violence law: Gendered aspirations and racialised realities*. Springer Nature. See also: Buxton-Namisnyk, E. (2022). Domestic violence policing of First Nations women in Australia: ‘Settler’ frameworks, consequential harms and the promise of meaningful self-determination. *The British Journal of Criminology*, 62(6), 1323–1340.

¹² Stubbs, G., & Rice, E. (2023). First Nations voices in child protection decision making: changing the frame. *First Peoples Child & Family Review*, 18(1), 5–27. See also: Oates, F. (2020). Barriers and solutions: Australian indigenous practitioners on addressing disproportionate representation of indigenous Australian children known to statutory child protection. *AlterNative: An International Journal of Indigenous Peoples*, 16(3), 171–179; Wise, S., & Corrales, T. (2023). Discussion of the knowns and unknowns of child protection during pregnancy in Australia. *Australian Social Work*, 76(2), 173–185.

¹³ Koleth, M., Serova, N., & Trojanowska, B. K. (2020). *Prevention and safer pathways to services for migrant and refugee communities: Ten research insights from the Culturally and Linguistically Diverse Projects with Action Research (CALD PAR) initiative* (ANROWS Insights, 01/2020). Sydney, NSW: ANROWS. See also: Australia’s National Research Organisation for Women’s Safety. (2021). *Best practice for working with culturally and linguistically diverse communities in addressing violence against women* (ANROWS Insights, 03/2021). ANROWS; Webster, K., et al. (2019). *Attitudes towards violence against women and gender equality among people from non-English speaking countries: Findings from the 2017 National Community Attitudes towards Violence against Women Survey (NCAS)* ANROWS; Maturi, J., & Munro, J. (2023). How the ‘culture’ in ‘culturally and linguistically diverse’ inhibits intersectionality in Australia: a study of domestic violence policy and services. *Journal of intercultural studies*, 44(2), 143–159.

PAR) initiative, which involved 26 projects across Australia, illustrated the complex impacts of DFSV within some communities as a result of the intersections between racism, language barriers, religious and cultural practices, and the immigration process.¹⁴ Historically, 'culture' has been essentialised and conflated with difference, hindering the inclusion of CALD communities' interests in policies and practices.¹⁵

Children and young people are also heavily affected by DFSV. In 2023, the Australian Bureau of Statistics (ABS) estimated that 10% of children before the age of 15 have experienced abuse by a family member.¹⁶ In addition, Australian Institute of Health and Welfare (AIHW) data for 2021–22 indicates that there were 4,706 hospitalisations of young people aged 15–24 due to DFSV assault. This data is significant in revealing the extent of harm inflicted on children and young people, who are especially impacted by exposure to DFSV, including coercive controlling behaviours.¹⁷ The data also points to the long-lasting social, health and emotional harms of DFSV for this cohort, which affects children's development, and can be intergenerational, potentially predicting the likelihood of becoming a victim or perpetrator of violence.¹⁸ On this point, the latest ABS data shows that 13% of adults had witnessed partner violence against a parent before the age of 15, with the vast majority of these cases (12%) involving violence against the mother.¹⁹

In terms of intergenerational impact, this data suggests that DFSV perpetuates gender inequity over time. The data also indicates that DFSV against women and girls with disability occurs at higher rates than DFSV against the male and other

¹⁴ Koleth, M., Serova, N., & Trojanowska, B. K. (2020). *Prevention and safer pathways to services for migrant and refugee communities: Ten research insights from the Culturally and Linguistically Diverse Projects with Action Research (CALD PAR) initiative* (ANROWS Insights, 01/2020). ANROWS.

¹⁵ Maturi, J., & Munro, J. (2023). How the 'culture' in 'culturally and linguistically diverse' inhibits intersectionality in Australia: a study of domestic violence policy and services. *Journal of intercultural studies*, 44(2), 143–159.

¹⁶ Australian Bureau of Statistics (ABS). (2023). *Childhood abuse*, ABS. <https://www.abs.gov.au/statistics/people/crime-and-justice/childhood-abuse/2021-22>. See also: Higgins D.J., et al. (2023). 'The prevalence and nature of multi-type child maltreatment in Australia – external site opens in new window', *Medical Journal of Australia*, 218 Suppl 6:S19–S25, doi:10.5694/mja2.51868.

¹⁷ Barlow, C., & Walklate, S. (2022). *Coercive Control* (1st ed.). Routledge. <https://doi.org/10.4324/9781003019114>.

¹⁸ 'An estimated 1.2 million people (43%) aged 18 years and over who experienced childhood abuse before the age of 15 went on to experience violence or abuse by a cohabiting partner as an adult.' ABS (2023). *Childhood abuse*, ABS. <https://www.abs.gov.au/statistics/people/crime-and-justice/childhood-abuse/2021-22>, unpaginated. See also: Boxall H, Pooley K & Lawler S (2021) Do violent teens become violent adults? Links between juvenile and adult domestic and family violence, AIC <https://doi.org/10.52922/ti78450>; Fitz-Gibbon, K., et al. (2022). *Adolescent family violence in Australia: A national study of service and support needs for young people who use family violence* (Research report, 18/2022). ANROWS. <https://www.anrows.org.au/publication/adolescent-family-violence-in-australia-a-national-study-of-service-and-support-needs-for-young-people-who-use-family-violence/>

¹⁹ ABS (2023). *Childhood abuse*. <https://www.abs.gov.au/statistics/people/crime-and-justice/childhood-abuse/2021-22>.

mainstream cohorts of people with disability.²⁰ The latest ABS data shows that 21.8% of women and 21.0% of men in Australia live with disability.²¹ Despite the relative similarity of these figures, women and girls with disability suffer more, and this violence primarily occurs at home.²² Of interest to the Royal Commission, in relation to accessing more nuanced data on violence and abuse within households, is that only in the latest ABS 2022 report were respondents asked about their experiences of physical abuse, emotional abuse and neglect in the 12 months prior to the interview.

Technology-facilitated abuse (TFA) in the DFSV space is also cause for great concern in relation to the safety of vulnerable groups, in particular women who experience TFA from an intimate partner or a former partner.²³ However, data indicates that there are other cohorts experiencing high levels of TFA, including young people²⁴ and members of the LGBTIQ+ community.²⁵

Overall, the data reviewed above indicates that gender inequity intersects with other forms of inequity, such as a lack of socio-cultural and economic opportunities or the disadvantages arising for people living in regional, rural and remote areas.²⁶ This renders DFSV more invisible, and therefore more difficult to understand and address in a nuanced way. The 2021–22 hospitalisations data provides insight into such inequity. When the rates are analysed more closely, it is found that the DFSV hospitalisations:

- were highest in the Northern Territory
- increased with geographical remoteness
- were highest in areas with the greatest socioeconomic disadvantage.²⁷

²⁰ Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability. (2023). *Final Report: Our vision for an inclusive Australia and Recommendations*; See also: Our Watch & Women with Disabilities Victoria. (2022). *Changing the landscape: A national resource to prevent violence against women and girls with disabilities*, <https://www.ourwatch.org.au/change-the-story/changing-the-landscape>; ABS (2018). *Experiences of violence and personal safety of people with disability, 2016*, <https://www.abs.gov.au/ausstats/abs@.nsf/mf/4431.0.55.003>

²¹ ABS (2024). *Disability, ageing and carers, Australia: Summary of findings, 2022* (cat. no. 4430.0). <https://www.abs.gov.au/statistics/health/disability/disability-ageing-and-carers-australia-summary-findings/latest-release>.

²² Ibid.

²³ Powell, A., Flynn, A., & Hines, S. (2022). *Technology-facilitated abuse: National survey of Australian adults' experiences* (Research report, 12/2022). ANROWS.

²⁴ Dragiewicz C, et al. (2020) *Children and technology-facilitated abuse in domestic and family violence situations: Full report*. Office of the eSafety Commissioner, Australian Government

²⁵ Fileborn, B. & Ball, M. (2023). Technology-Facilitated Domestic Violence: Some Queer Considerations. In Harris, Bridget & Woodlock, Delanie (Eds.) *Technology and Domestic and Family Violence: Victimisation, Perpetration and Responses* (pp. 133-143). Routledge; Flynn, A., Powell, A., & Hines, S. (2023). Policing technology-facilitated abuse. *Policing and Society*, 33(5), 575–592. <https://doi.org/10.1080/10439463.2022.2159400>.

²⁶ Campo M & Tayton S (2015). *Domestic and family violence in regional, rural and remote communities, An overview of key issues*, December, Australian Institute of Family Studies. https://aifs.gov.au/sites/default/files/publication-documents/cfca-resource-dv-regional_0.pdf

²⁷ AIHW (2024). *Family, domestic and sexual violence, Health services*, (last updated 12 April 2024), <https://www.aihw.gov.au/family-domestic-and-sexual-violence/responses-and-outcomes/health-services#hospitalisations>.

Concerning intersectionality, the 2023 Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability pointed out that violence is more likely, more frequent and more severe for groups of women with disabilities who face multiple intersecting disadvantages and inequities, such as Aboriginal and Torres Strait Islander women, LGBTQIA+ people, older women, and women living in regional, rural and remote areas.²⁸

The issue of DFSV is also invisible because, until recently, it was relegated to the 'private' domestic sphere rather than seen as a workplace and societal matter.²⁹ This is evident in the stigma women often feel about disclosing the abuse and violence they experience. Because DFSV violates societal norms around acceptable behaviours, survivors who disclose may experience stigma in the form of victim-blaming or stigmatising reactions from others.³⁰ This is quite evident in diverse communities and is more acute among intersectional cohorts.³¹

The data above, and the studied cited, demonstrate we know the causes. We know the 'trigger' points and its embedded issues of invisibility, intersectionality and intergenerationally. We know that DFSV is predictable and preventable, with concerted efforts.

Lack of SA-focused data to really understand the causes

Unfortunately, we could not identify sufficient evidence-based, nuanced and disaggregated data (from national data) for SA to provide a tailored scan of the causes and issues at hand.

SA also lacks a system to collect data to form an evidence-based response to DFSV and its contexts and needs. SAPOL data, for example, does not clearly outline the populations, such as CALD people who are impacted by DFSV.

²⁸ Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability. (2023). *Final Report: Our vision for an inclusive Australia and Recommendations*.

²⁹ Weissman, D. M. (2007). The personal is political – and economic: Rethinking domestic violence. *BYU L. Rev.*, 387. See also: de Jonge, A. (2018). Corporate social responsibility through a feminist lens: Domestic violence and the workplace in the 21st century. *Journal of Business Ethics*, 148, 471–487; LaVan, H., Lopez, Y. P., Katz, M., & Martin, W. M. (2012). The impact of domestic violence in the workplace. *Employment Relations Today*, 39(3), 51–63; Guthrie, R., & Babic, A. (2021). Employers' potential liability for family and domestic violence: An Australian overview. *The Economic and Labour Relations Review*, 32(4), 513–533.

³⁰ Kennedy, A. C., & Prock, K. A. (2018). "I still feel like I am not normal": A review of the role of stigma and stigmatization among female survivors of child sexual abuse, sexual assault, and intimate partner violence. *Trauma, Violence, & Abuse*, 19(5), 512–527; Murray, C. E., Crowe, A., & Overstreet, N. M. (2018). Sources and components of stigma experienced by survivors of intimate partner violence. *Journal of Interpersonal Violence*, 33(3), 515–536.

³¹ Kennedy & Prock (2018). As above; Vaughan, C., et al. (2015). Promoting community-led responses to violence against immigrant and refugee women in metropolitan and regional Australia: The ASPIRE Project; State of knowledge paper. *ANROWS Landscapes*.

Similarly, ABS data regarding SA lacks details about victim/survivor characteristics and diversity. Without this data, it is difficult to form a comprehensive understanding of the issues at hand and truly see 'the causes' in the context of diverse cohorts (First Nations and CALD communities especially, but also in areas such as disability and LGBTQIA+ and all their intersections).

This lack of data prevents the ability to envisage a strategy with benchmarks/ 'check points' injected to assess progress.

Flinders Criminology staff have produced different reports focused exclusively on the SA context, covering issues related to DFSV and CALD communities, including forced marriage and modern slavery.

These are:

- Marmo, M., Esmaili, H., Ibrahim, N., Lock-Weir, L. (2023) *Forced, servile, and arranged marriage and their relationship with family violence within culturally and linguistically diverse (CALD) communities in South Australia*. Flinders University.
- Zannettino, L., Marmo, M., Esmaili, H., & Richards, J. (2023). "Gatekeeping Family Violence": The Role of Religious and Community Leaders in the Afghan Migrant Community in South Australia. *Religions*, 14(9): 1208.
- Esmaili, H., Richards, J., Zannettino, L., & Marmo, M. (2022). Transformation from the Inside Out: The Contribution of Islamic Law and Community Culture in Addressing Family Violence among Afghan Refugee and Migrant Communities in South Australia. *Adelaide Law Journal*, 43(1): 301-343.
- Esmaili, H., Richards, J., Marmo, M. & Zannettino, L. (2020). *Afghan Migrant Community Responses to Family Violence in South Australia: The Interaction of Islamic Law, Australian Law and the Role of Community Leaders*. Flinders University. ISBN: 978-1-925562-41-5.
- Marmo, M. (2019). *Slavery and Slavery-like practices in South Australia*. Flinders University. ISBN: 978-1-925562-34-7.

Because of these empirically-driven research projects in SA CALD communities, we acknowledge the massive gap in knowledge among SA agencies and general public.

The first step is collecting and analysing nuanced yet comprehensive SA data. To do this, South Australian Government data should be made accessible to facilitate research.

Given the lack of current data, we are hesitant to discuss 'what works/the existing initiatives that work'. We fear that the usual diverse and intersectional, and largely voiceless cohorts will remain invisible, misunderstood and misheard.

Recommendation 1

Flinders Criminology recommends undertaking an evaluation-based study with a focus on the SA context.

The Royal Commission is the first opportunity to collect and analyse DFSV data in the SA context (e.g., its diverse communities and geopolitical and sociocultural layers, including metropolitan and regional/rural/remote).

Without measuring the issue, cross-tabulating all existing data, and evaluating the existing gaps in the measures, we cannot understand systematically 'what works' and how to set benchmarks to evaluate progress.

Flinders Criminology is available and well-placed (also for its interdisciplinary team) to work with the Commissioner, to be engaged to undertake the tailored analysis of the South Australian context, working with SA agencies and their data.

In summary:

- DFSV is an intergenerational issue and needs to be addressed accordingly if we aim to reduce its impacts, if not eradicate them.
- DFSV needs accurate data to be understood and applied in a way that recognises diversity and intersectionality, especially as proactive prevention.
- Any time a situation reaches the CJS stage, it is a sign that proactive prevention has not been effective. We need to work more on prevention (more below).
- We need to better understand victims'/survivors' experiences with, and expectations of, South Australian Police.³² More broadly, this and any research, legislative, or policy projects must represent genuine collaborations, co-designed with victim/survivors and those with lived experience.
- All services, not just CJS, need to be culturally responsive and trauma-informed (more below).
- The initiatives in SA are not measured, nor are they 'benchmarked' against any 'goals' linked to a shared vision. There is no one agency or individual responsible for understanding and reducing DFSV.
- Many diverse communities are left to 'fend for themselves', especially

³² We note that a recent study indicates that intimate femicide is preventable. This research shows that, before the precipitating event, there is significant prior 'criminal justice system involvement among perpetrators, with 71% having contact with two legal points prior to the intimate femicide' (Fitz-Gibbon, K; et al. (2024) Securing women's lives: examining system interactions and perpetrator risk in intimate femicide sentencing judgments over a decade in Australia. *Monash University. Report*, p. 8. <https://doi.org/10.26180/25855543.v1>).

- women and girls.
- The overlap between arranged marriage, partner-visa servitude/ marriage and forced marriage is overlooked.
 - The 'meaning' of coercive control in CALD communities is misunderstood or ignored.
 - While there has been a long fight to render DFSV visible in the mainstream SA context, in CALD and First Nations communities, it remains a 'woman's issue'. This is even more the case in faith-based communities.³³
 - Male gatekeepers of CALD communities are part of the problem, yet they can be part of the solution. We need to train religious leaders to avoid victim-blaming advice that promotes ongoing DFSV victimisation.
 - The 'knowledge-gap' is massive for victims/survivors. Many victims/survivors do not know the extent of the support they can access, including DFSV paid leave (where applicable).

³³ See e.g., Wahome, C. (2023). *What would constitute a Culturally-Inclusive intervention approach for African-Australian intimate partner violence perpetrators within a community-led framework?* Honours thesis, Flinders Criminology.

EARLY INTERVENTION

Q. 4: What systems, including systems outside of government, receive information which may allow for the identification of individuals who are at high risk of experiencing or perpetrating domestic, family and sexual violence?

Q. 5: What is needed to allow for this information to be used by government and specialist domestic, family and sexual violence services?

Q. 6: What interventions should be considered to manage the risk of a person who is identified as being at high risk of experiencing or perpetrating domestic, family and sexual violence?

Marmo et al. will submit a separate paper on DFSV in the CALD communities: barriers, responses, and the importance of proactive prevention by September 2024. We are prepared to discuss these issues at short notice.

RESPONSE

Q. 7: What are the barriers to reporting domestic, family and sexual violence to police or seeking support from domestic, family and sexual violence services?

Generally speaking, the barriers to reporting often relate to the reasonable fear of a poor, judgemental or inconsistent police response, which may prevent help-seeking (and recovery) from other services such as welfare agencies and other support agencies. These barriers are often correlated with the myth of the "real" or "ideal" victim,³⁴ and have been found to reflect South Australia Police responses.³⁵ There is significant evidence of secondary victimisation by the justice system in response to DFSV.³⁶ Many crime victims/survivors know this, and this acts as a barrier to reporting.

Case example:

In 2021, Betsy Stanko, a US/British feminist criminologist and her team of 54 academics shadowed the Metropolitan Police in their work to determine why so few sexual assaults were resulting in criminal charges. They found that many police officers were inexperienced, that the police culture was misogynistic, and officers relied on rape myths to test the veracity of victims/survivors' accounts. A key finding was that "[d]isproportionate investigation effort was being put into testing the credibility of a victim's account... [with] a need to re-balance investigations to include a thorough investigation of suspects' offending

³⁴ Christie, N. (1986). The Ideal victim. In M. Duggan (Ed.) (2018). *Revisiting the "ideal victim" · developments in critical victimology* (pp. 11-23). Policy Press.

³⁵ McLachlan, K. (2007). *Grounds for Hope and Disappointment: Victims1/Survivors' Perceptions of South Australia Police responses to rape*. (LLM Thesis, Flinders University Law School).

³⁶ McLachlan, K.J. (2024). *Trauma-informed Criminal Justice: Towards a More Compassionate Criminal Justice System*. Palgrave Macmillan.

behaviours".³⁷

The research led to six key principles to inform police investigation of sexual violence:

1. "Suspect-focused investigations": Investigate the suspect, not the victim-survivor. Assume the victim-survivor is telling the truth.
2. "Better disruption and challenging of repeat suspect": Target people who repeatedly target vulnerable victims/survivors unlikely to report.
3. "Systematic procedural justice to victims": Look after victims/survivors. This will help reduce the attrition of cases from the system.
4. "Officer learning and development": Train and support more specialist officers. The best sexual assault investigators are the people who prefer and choose that role.
5. "Better administrative data-led, monitoring and evaluation": Improve record-keeping and IT systems.
6. Improve officers' skills in examining phone and social media records.³⁸

These barriers are exacerbated for women from CALD backgrounds or people who do not have permanent citizenship in Australia. Often, victims/survivors fear deportation and police responses that reflect those from their home countries or do not understand their rights or have the language skills to convey their experiences. This compounds the impact of the offending, as the victims/survivors may experience discrimination or poor service responses from other government and non-government agencies (beyond criminal justice) if they come forward.

Aboriginal women are 45 times more likely than non-Aboriginal women to experience DFSV. Yet many victims/survivors of DFSV are mislabelled as instigators or co-offenders and arrested when they reach out to the CJS for help. Members of the Stolen Generations are more likely to have been charged, arrested, and imprisoned and victims of violence than Aboriginal people who were not forcibly removed from their families.³⁹ Aboriginal women who offend are likely to be victims of crime, particularly DFSV,⁴⁰ with 90% of women in prison having been victims of family or other violence.⁴¹

³⁷ Stanko, B. (2022). *Operation Soteria Bluestone Year 1 Report 2021-2022*. King's Printer and Controller of HMSO.

³⁸ Stanko (2022), as above, p. 17-18.

³⁹ Australian Institute of Health and Welfare. (2021). *Aboriginal and Torres Strait Islander Stolen Generations aged 50 and over: updated analyses for 2018-19* (Cat. no. IHW 257). AIHW. <https://www.aihw.gov.au/getmedia/d7a0f2d9-c965-471c-86a7-919edcb3458f/aihw-ihw-257.pdf.aspx?inline=true>

⁴⁰ Australian Law Reform Commission. (2017). *Pathways to Justice—An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples: Final Report* (Vol. ALRC Report 133). Commonwealth of Australia.

⁴¹ Wilson, M., et al. (2017). Violence in the Lives of Incarcerated Aboriginal Mothers in Western Australia. *SAGE Open*, 7(1), Online only. <https://doi.org/10.1177/2158244016686814>

Often, services are funded by the Australian Government to support adult female DFSV victims/survivors who are 'culturally mainstream' (rather than First Nations or CALD). This may present a barrier for other women victims/survivors, male (and non-binary) victims/survivors and child victims/survivors who are seeking to report their victimisation and seek support services.

We note that the barriers to reporting are known to be universal, but there is a lack of SA-specific data. While the Royal Commission will receive many submissions highlighting barriers, agencies and individuals who lack a "voice" and are marginalised or not easily represented in the process will be left behind. The Royal Commission offers an important opportunity to run a statewide analysis of the key issues for all victims/survivors.

Recommendation 2

Flinders Criminology recommends a proactive and systematic scan of the barriers that exist in the South Australian context, drawing directly from the lived experiences of those who have suffered DFSV, as part of and alongside evidence-based research.

Q. 8. What are the elements of a best practice crisis response which will meet the needs of:

- **a victim-survivor?**
- **a victim-survivor who is a child?**
- **a perpetrator (acknowledging that one need is to hold a perpetrator to account for their use of violence)?**

Q. 9. What are the elements of a best practice health response?

Q10. What are the elements of a best practice police response?

Q11. What are the elements of a best practice justice system response?

The best practice response for anyone who comes into contact with the justice system (and/or police and/or health systems), both crisis and ongoing, is based on trauma-informed practice and is culturally safe.

Further, it must be recognised that the rights and interests of child victims/survivors are not always synonymous with their parents or guardians.

The First Action Plan 2023–2027: Under the National Plan to End Violence against Women and Children 2022–2032

Trauma-informed practice

Under the *National First Action Plan 2023–2027*, the South Australian Government has committed to:

*Develop workforce training resources to build mainstream workforce competence in delivering **trauma-informed, culturally appropriate, and safe** family, domestic and sexual violence services for LGBTIQ+ people, people living with disability, people from culturally and linguistically diverse backgrounds, and First Nations people. (Action 3, emphasis added)*

Trauma-informed care and practice

The proposal refers to trauma-informed practice in a way that does not engender confidence that it is a concept genuinely understood or intended.

Trauma-informed practice requires that service providers understand and recognise adversity and its traumatic impacts, respond in an evidence-informed way that focuses on the individual and prevent further trauma. "Five foundational principles" of trauma-informed care: safety, trustworthiness, choice, collaboration, and empowerment.⁴²

Recommendation 3

Flinders Criminology recommends that the SA Government clearly articulates its understanding and application of "trauma-informed" or "culturally appropriate and safe" services and its strategy to ensure services that reflect such approaches are provided.

As per McLachlan:⁴³

In applying trauma-informed practice principles, a service must "recognize, understand and minimize" the long-term impact of trauma (Kubiak et al., 2017, p. 92). This approach has been articulated as four steps (the 4Rs? by the Substance Abuse and Mental Health Services Administration (SAMHSA, 2014) ... Specifically, a service must:

- 1. **Realise** what trauma is and the potential impacts of adversity,*
- 2. **Recognise** trauma symptoms experienced by the individual accessing the service,*
- 3. **Respond** appropriately to the individual's unique trauma, and*
- 4. **Resist re-traumatisation** by avoiding insensitive or*

⁴² Kezelman, C., & Stavropoulos, P. (2012). "The Last Frontier": Practice Guidelines for Treatment of Complex Trauma and Trauma Informed Care and Service Delivery. *Adults Surviving Child Abuse*, p. 12

⁴³ McLachlan, K.J. (2024). *Trauma-informed Criminal Justice: Towards a More Compassionate Criminal Justice System*. Palgrave Macmillan, p. 99.

inappropriate responses when providing services (SAMHSA, 2014).

Trauma-informed practice is not just about having good intentions to support victims/survivors of crime. It requires the application of a structured framework, such as the SAMHSA⁴⁴ framework in an intentional way. It is also not just about supporting deserving or "real victims". Many men and women who offend also have a history of exposure to or being a victim of domestic abuse. Some people who offend also have a history of sexual abuse, as a child or adult or both. Trauma-informed practice is designed to support everyone who encounters the justice or welfare systems. This includes workers.⁴⁵

A trauma-informed criminal justice response requires the application of specific principles: safety, trustworthiness, choice, collaboration, empowerment, and acknowledgement of historical, cultural, and gender issues.⁴⁶ Specifically:

- Safety relates to physical and emotional safety,
- Trustworthiness refers to establishing mutually understood, clear, and consistent expectations and boundaries for workers and service users,
- Choice involves prioritising users' service preferences through information, options, and an awareness of their rights and responsibilities,
- Collaboration encourages the involvement of users in the planning and shared decision-making around activities and service settings, and
- Empowerment aims to promote the service users' skills through a strengths-based approach.⁴⁷

Culturally safe

The following is taken from McLachlan:⁴⁸

Cultural safety refers to the provision of services in an environment

⁴⁴ Substance Abuse and Mental Health Services Administration. (SAMHSA, 2014). *SAMHSA's Concept of Trauma and Guidance for a Trauma-Informed Approach*. US Department of Health and Human Services.

⁴⁵ Day, A., & McLachlan, K. (2024). A Trauma-informed Approach to Supporting New Professionals in the Criminal Justice System: A Literature Review. Prepared for SafeWork SA as part of an Augusta Zadow Award. The Magnolia Project. <https://magnoliaproject.com.au/our-projects/winning-the-augusta-zadow-award/augusta-zadow-trauma-informed-resources-to-support-new-professionals-in-the-criminal-justice-system/>; McLachlan, K.J. (2024). *Trauma-informed Criminal Justice: Towards a More Compassionate Criminal Justice System*. Palgrave Macmillan.

⁴⁶ Kezelman, C., & Stavropoulos, P. (2012). "The Last Frontier": Practice Guidelines for Treatment of Complex Trauma and Trauma Informed Care and Service Delivery. *Adults Surviving Child Abuse; Substance Abuse and Mental Health Services Administration. (SAMHSA, 2014). SAMHSA's Concept of Trauma and Guidance for a Trauma-Informed Approach*. US Department of Health and Human Services.

⁴⁷ McLachlan, K.J. (in press). The ABCs of trauma-informed policing. *Journal of Community Safety and Well-being*. Forthcoming.

⁴⁸ McLachlan, K.J. (2024). *Trauma-informed Criminal Justice: Towards a More Compassionate Criminal Justice System*. Palgrave Macmillan . p. 253 – 255.

which is physically, emotionally, and spiritually safe and respectful of a person's identity and their needs (Edwige & Gray, 2021; Workman et al., 2023). It is about "shared meaning, shared knowledge and experience, of learning together with dignity, and truly listening" (Williams, 2012, p. 2). It is not enough to merely understand trauma is associated with the over-representation of First Nations peoples in the criminal justice system. Responses must be culturally informed and culturally safe. There has been little work in criminal justice to examine how to be culturally safe, with most work in this area emerging from healthcare, particularly midwifery and nursing (Workman et al., 2023).

Cultural safety is aligned with the concept of self-determination, and is best determined by First Nations peoples, families, and communities; indeed, it can only truly be shown to exist if the service recipient feels culturally safe. Due to the diversity of First Nations cultures, there is no single way of responding that is culturally safe. Cultural safety requires acknowledgement from the criminal justice system that cultural identity influences social and emotional wellbeing, and thus behaviour. As outlined in Chapter 2, social and emotional wellbeing (SEWB) may be regarded as incorporating social, political, and historical factors and includes connection to body and mind, family and community, culture, land and spirituality (Lewis & Frankland, 2019; Newton et al., 2015).

To be culturally safe, practitioners must recognise the justice system traditionally exacerbates disadvantage for First Nations peoples. Current justice responses to First Nations peoples are not reducing rates of incarceration. As highlighted by Vanessa Edwige and Paul Gray (2021):

Numerous, repeated reviews have hardened the well-worn ground of the social determinants of incarceration, the over-incarceration of Aboriginal and Torres Strait Islander people in Australia, and the characteristics of services of supports which promote wellbeing and healing, and reduce recidivism ... (p. 4)

Nevertheless, the lack of meaningful action taken to acknowledge and address these social determinants means that current justice practices are not culturally safe.

Drawing from a health model (AHPRA, 2020, p. 9), culturally safety requires:

- 1. Acknowledge adversity in the form of "colonisation and systemic racism, social, cultural, behavioural and economic factors" which impact an individual's SEWB and result in intergenerational trauma and an increased risk of criminality;*
- 2. Acknowledge and address individual racism, "their own biases, assumptions, stereotypes and prejudices" and provide court responses that*

- are holistic, free of bias and racism;
3. Understand "the importance of self-determined decision-making, partnership and collaboration" driven by the individual, family, and community; and
 4. Advance "a safe working environment through leadership to support the rights and dignity of Aboriginal and Torres Strait Islander people and colleagues".

Culturally safe ways of working clearly align with trauma-informed practice. The first point above (i.e., acknowledging adversity and its impacts) aligns with realising the presence of intergenerational trauma and recognising the existence of a trauma-crime association. The third point and fourth points (i.e., understanding the importance of self-determination, collaboration, and safety) reflect trauma-informed responses. Safety, empowerment, choice, trust and transparency, and self-determination are all trauma-informed principles that are also core to cultural safety (Williams, 2012; Workman et al., 2023).

Organisational implementation of trauma-informed practice and care

As per McLachlan:⁴⁹

True trauma-informed responses (3R in the SAMHSA model) offer compassion to victims of crime, people who offend, and the criminal justice workforce. If we consider the relevance of the 4R SAMHSA (2014) framework, realising and recognising the relevance and significance of trauma in the justice system helps workers understand why some people may present and act the way they do. While this is vitally important to contextualising people's behaviour, implementing policies and practices that reflect trauma-informed responses and aim to resist re-traumatisation can and should exist independently (or additionally) as organisational and sector priorities. Trauma-informed approaches are not just about individuals and their actions; they also relate to the environment or organisational context (Senker et al., 2023).

The NHS Education for Scotland (NES, 2023) and SAMHSA (2014) both acknowledge that trauma-informed practice should be entry-level and universal, with certain workers in advocacy and support positions, evidence gathering, presentation, and interpretation roles or who are managers required to have knowledge and skills at a more advanced level. In addition to people in client-focused or leadership roles, trauma-informed practice requires that all workers know and apply trauma-informed ways of working with all clients. Additionally, there is increasing recognition of secondary trauma: the impact of working in criminal justice on the social and emotional wellbeing of police officers,

⁴⁹ McLachlan, K.J. (2024). *Trauma-informed Criminal Justice: Towards a More Compassionate Criminal Justice System*. Palgrave Macmillan, p. 102f.

correctional staff, lawyers, and the judiciary (as per Chapter 7). Trauma-informed practice has also been shown to promote safety and job satisfaction for workers in the criminal justice system.

Building on the 4Rs trauma-informed framework (SAMHSA, 2014), trauma-informed organisational practice requires:

1. a commitment to a trauma-informed approach,
2. staff training,
3. proactive use of trauma-informed language and communication,
4. safe physical environments and procedures that minimise trauma triggers,
5. a culture of continuous improvement,
6. the promotion of trauma-focused practice to enhance recovery, and the establishment of a trauma-informed community of both staff and service users (Benedict, 2014; Kubiak et al., 2017).

Further, organisations and professionals must also acknowledge that the criminal justice system can be trauma-inducing for staff, victims of crime and people who have offended (Senker et al., 2023).

RECOVERY AND HEALING

Q. 13: Acknowledging that every victim-survivor will have different needs depending on their personal circumstances, are there universal needs that will arise for all victims/survivors?

All victims/survivors of crime have universal rights, which are embedded in the *Victims of Crime Act 2001 (SA)* many of which are not enforceable. These rights include:

1. Fair and dignified treatment
2. To have the perceived need for protection taken into account
3. A right to information
4. To be advised of their role as a witness
5. To be consulted in certain decisions
6. To be present in court
7. To have the impact of the offence considered by the sentencing judge and to make submissions on parole
8. To request consideration of appeal
9. To be informed about access to health and welfare services
10. To access information about compensation and restitution
11. To have property returned
12. To have privacy protected.

These “principles... should govern the way victims are dealt with by public agencies and officials (s. 5(1)). We argue that all victims/survivors of crime **must** have these rights upheld in all interactions with justice and welfare

agencies. *Often*, there is a significant burden on victims/survivors to “request their rights be upheld and to “prove” their victimisation at a time when it is better to provide support and safety at the acute stages.

In addition, in any interaction with a justice or welfare agency, people's individual needs must be recognised against the trauma-informed principles of practice, as outlined above, specifically safety, trust, empowerment, collaboration, choice, and recognition of the relevance of historical, gender, and cultural factors.

Victims/survivors of crime need to know what services are available. This information is not currently easily accessible to people from a range of CALD backgrounds. It is often web-based, making it difficult to access for older victims/survivors or people with limited access to technology.

Non-government agencies (NGO) often receive short-term funding, which makes it difficult to know what is currently available for which victims/survivors in what suburbs under which conditions. For example, the Women's Domestic Violence Legal Service (WDVLS) has changed host, is not available for men, and many victims/survivors do not know that they can have free legal support to issue an intervention order should the South Australia Police choose not to support an interim intervention order being applied.

Recommendation 4

Flinders Criminology recommends the *Victims of Crime Act 2001* be strengthened to make victims' rights enforceable. We argue that the legislation should be reformed such that the onus is shifted from the victim to the agency or official to ensure the victim/survivor is aware of their rights and has the capacity to benefit from these rights being upheld.

Flinders Criminology also recommends South Australian Parliament pass the Human Rights Bill at its earliest convenience.

We enclose a copy of McLachlan, K.J. (2024). Trauma-Informed Responses to Victims of Crime. In: *Trauma- Informed Criminal Justice: Towards a More Compassionate Criminal Justice System* (pp. 121-147). Palgrave Macmillan.

Q. 14: What are the best practice approaches to supporting a victim-survivor to recover from trauma and the mental, physical, emotional and economic impacts of violence?

Q. 15: Taking into account your response to question 14, what best practice approaches are already in place in the domestic, family and sexual violence systems in South Australia?

Best practice approaches to supporting victims/survivors are based on trauma-informed approaches as outlined above. In addition, the Victims of Crime Fund should be used to support individuals in accessing free recovery and healing services for as long as they need, in a tailored and individualised approach. These support services should include but not be restricted to counselling and might also include legal representation, property replacement or hardening, safe housing for victims/survivors of domestic or family violence or their partners (should the victim choose to remain in the family home), interest-free loans, or indeed any service that may increase the victims/survivors' sense of safety (and actual safety). The fund is not currently being used as it was intended when established.

Best practice approaches to support victims/survivors include respectful media and political reporting of victims/survivors' interests, experiences and needs. Legislation requiring media outlets to follow best practice guidelines would also help.⁵⁰

It is difficult to identify best practice approaches with little evaluation undertaken in South Australia of either justice-funded or welfare-funded programs. In the past, some of this work was done by the Attorney-General's Department (the now-defunct Office of Crime Statistics and Research).

We reiterate our recommendation to benchmark the existing services for victims/survivors of DFSV and to do a gap analysis to identify future needs and how best to respond to these needs.

Again, Flinders Criminology is well placed to be commissioned to undertake research and evaluations of programs and services to determine best-practice responses.

⁵⁰ See: <https://www.ourwatch.org.au/media-and-reporting/resources/guidelines-for-reporting>



6

Trauma-Informed Responses to Victims of Crime

6.1 Introduction

There is an emerging scholarship regarding trauma-informed justice responses to people who are victims of crime, with most emerging from the US and generated by practitioners. Often, victim support agencies are assumed to apply trauma-informed care and practice approaches already. Nevertheless, in my experience working with a victim support agency, trauma-informed services for victims of crime tend to be implicit and assumed through goodwill and a commitment to be trauma-informed rather than being informed explicitly by scientific information about trauma or an articulated trauma-informed practice framework. This chapter will highlight the importance of trauma-informed criminal justice responses to victims of crime in terms of ethical, legal, and procedural outcomes. The chapter will further examine how trauma-informed principles of practice may inform justice system responses to victims of crime. Work that emphasises the importance of trauma-informed responses to victims of crime is not universal: it has focused on violence against women and children, particularly sexual violence and people trafficking. This chapter will demonstrate how the SAMHSA (2014) 4Rs trauma-informed framework could be used to ensure appropriate and

consistent responses to victims of crime at any point of contact with the criminal justice system.

6.2 The Potentially Traumatic Impact of Crime

A victim of crime is someone who has experienced a loss or injury (which may be physical, financial, or psychological) due to crime. Some—but not all—people will be traumatised by their experience as a victim of crime. Crime is an adverse experience that is potentially traumatic. Trauma, rather than being an event or experience itself:

... results from an event, series of events or set of circumstances that is experienced by an individual as physically or emotionally harmful or life threatening and that has lasting adverse effects on the individual's functioning and mental, physical, social, emotional or spiritual wellbeing. (SAMHSA, 2014, p. 7)

Crime victims are not homogenous; they can represent a broad cross-section of the community. Experiences of crime and its impact are also individualised and subjective. Whether a crime is traumatic depends on a range of factors, including the nature and characteristics of the offending, the relationship between a victim and the person who committed the crime, and the victim's access to internal and external supports.

As outlined in Chapter 2, when victims of crime experience trauma, it may manifest as psychological, emotional, physical, and social harm to the individual. Psychological trauma is often associated with various psychiatric diagnoses, including diagnoses relating to psychosis, dissociation, anxiety and depression, and personality disorders. If the crime experienced is particularly threatening (e.g., attempted murder), an individual may meet the diagnostic criteria for Post-Traumatic Stress Disorder (PTSD). Some victims may be diagnosed with complex trauma or complex PTSD if the crime they have experienced is chronic or a significant betrayal of trust (e.g., child sexual abuse or domestic abuse).

Prolonged experiences of crime victimisation may also result in neurological trauma, changing the physical structure of a person's brain. This may lead to an increase in impulsive, unpredictable, or violent behaviour due to changes in the volume and functioning in areas of the brain associated with emotional regulation and problem-solving (Rinne-Albers et al., 2017).

Given the diversity of victims of crime and their experiences, some people may require formal support (e.g., counselling), with many relying on informal support from family and friends to deal with the impacts of crime (Silk, 2023). Trauma-focused (or trauma-specific) therapeutic practices are outlined in Chapter 2 and include long-term, trauma-focused cognitive behavioural therapy (TF-CBT), contextual behaviour trauma therapy, and reprocessing therapies such as Eye Movement Desensitisation and Reprocessing (EMDR). Some of these treatment approaches are less appropriate for victims of crime who have complex trauma, who instead require “treatments for these disorders [that] seek to heal attachment-related injuries, to rehabilitate developmental competencies, and to revise ongoing emotional reactivity, maladaptive interpersonal patterns, and negative social perceptions” (Cloitre et al., 2009, p. 406). Despite the established evidence for individualised support for people with trauma, services for crime victims tend to be “one-size-fits-all” (Ellard & Campbell, 2020, p. 7).

6.3 Terminology: Victims, Survivors and Victims/Offenders

6.3.1 Victims/Survivors

For many people who have been victimised—especially victims of gendered crimes—they may identify as survivors rather than victims. The term “victim” implies passivity and powerlessness (McCarthy, 1997) and is loaded with blame, guilt, shame, and weakness. Further, it has been suggested “when one becomes a ‘victim’ and not a person who has experienced [crime] the rest of one’s identity is obscured” (Spangaro, 1993, p. 15). Conversely, “survivor” is associated with re-empowerment

and the recovery process (McCarthy, 1997). Additionally, the labels “victim” and “survivor” have been described as existing on a continuum, such that a person begins as a victim and becomes a survivor over time, as they cope and recover from their experience. Yet, as Jan Jordan (2001) notes: “an unintended consequence resulting from overemphasis of the survival aspects can be a silencing of the victim’s voice, and a minimising by some women of the effects of [the victimisation]” (p. 9). “Victim” is a legal term that emphasises that a person has been criminally offended against and, in some cases, re-victimised through their experiences throughout the criminal justice process (Easteal, 1994). In this chapter, people who have experienced crime are referred to as victims rather than victims/survivors for ease of reading and in line with systemic terminology (acknowledging that the terminology may be problematic for some readers).

6.3.2 Victim-Offenders

There is a false dichotomy in the law that people cannot be both “victims” and “offenders”. In the past 40 years or so, there has been growing recognition that many people who offend are also victims of crime. Often the media and the general public focus on blameless or “ideal victims” as those worthy of our support and sympathy (Christie, 1986). Victims who offend, as non-ideal victims, do not garner much sympathy at all. However, the “*victim-offender overlap*” is not uncommon. People who are both victims and offenders exist in certain populations with an increased risk of both offending and victimisation (Hass & Hannis, 2017) and are an international phenomenon (Berg & Schreck, 2022). As examined in Chapter 4, many adults who are victims of child maltreatment also have an offending history. Indeed, the association between trauma and offending discussed in Chapter 3 acknowledges that trauma may be the product of adversity associated with crime victimisation. While many people may be victims of crime and never offend, being a victim of crime increases the risk of further victimisation and offending.

Consider the examples in the textbox of victimisation taken from a South Australian (SA) sample of people who were convicted of drug

trafficking. Do these people deserve less support and sympathy simply because they went on to offend after being victims of crime? If you have read Chapter 3, you should understand how such adverse experiences might result in trauma and criminality, such as illicit drug use. I ask you to keep this in mind as you read on.

You had a very dysfunctional and difficult relationship with your biological mother who was a drug addict and who was absent and neglectful of you during your childhood. On two occasions she left you as what you would describe as 'collateral' with a drug dealer for debts owed and you were subjected to abuse during those times. You also perceive that your mother sold your younger sister in prostitution to support your mother's drug habit and your other siblings were also subjected to abuse and neglect. (R v KJB)

At the age of 13, she used illicit drugs for the first time when her boyfriend held her down and injected her with methylamphetamine against her will. (R v TLI)

You were together for about 10 years. Although you had a good relationship at first, things began to change and he became physically violent towards you and quite manipulative. You found yourself trapped in a cycle of violence. You tried to force him to leave the house but he refused. In desperation, you started to sleep in your own car after work rather than going home. (R v TLS).

6.4 What Is Trauma-Informed, Victim-Centred Practice?

A recent literature review of 54 empirical studies that examined the experiences and support needs of adult survivors of sexual violence found that victims of crime require trauma-informed responses (Silk, 2023). Trauma-informed practice does not aim to resolve trauma. According to SAMHSA (2014):

A program, organization, or system that is trauma-informed realizes the widespread impact of trauma and understands potential paths for recovery; recognizes the signs and symptoms of trauma in clients, families,

staff, and others involved with the system; and responds by fully integrating knowledge about trauma into policies, procedures, and practices, and seeks to actively resist re-traumatization. (p. 9)

A trauma-informed service or organisation requires an explicit trauma-informed care framework. Furthermore, trauma-informed organisations and service providers must acknowledge the impact of inherent power imbalances between the agency and the individual client (DePrince & Gagnon, 2018, p. 27).

The pioneers of trauma-informed work, Maxine Harris and Roger Fallot (2001) identified four principles underpinning any interaction with a potentially traumatised individual: respect, information, connection, and hope ('RICH'). They later refined *trauma-informed principles of practice* to incorporate safety, trustworthiness, choice, collaboration, and empowerment (Fallot & Harris, 2011). In operationalising the 4Rs framework (i.e., to realise, recognise, respond to trauma, and resist re-traumatisation), SAMHSA (2014) identified six trauma-informed principles of practice:

1. Safety,
2. Trustworthiness and transparency,
3. Peer support,
4. Collaboration and mutuality,
5. Empowerment, voice, and choice, and
6. Cultural, historical, and gender issues.

These six principles extend the five trauma-informed principles outlined in Chapter 5 (re Kezelman & Stavropoulos, 2012).

If the SAMHSA (2014) trauma-informed practice principles and framework are applied to services for victims of crime, this means that everyone within the service agency must:

- **realise** the ways that crime victimisation may be traumatic,
- **recognise** the signs and symptoms of unresolved trauma,

- **respond** in a way that seeks to promote a sense of safety, trust, collaboration, empowerment, and choice, as well as reflect the personal characteristics and needs of the individual, and
- **resist** re-traumatisation.

Recent research with victims of crime and practitioners in Scotland has highlighted the importance of all the elements of the 4Rs process to promote the best outcomes for victims of crime (NES, 2021b). The next section will explain why a trauma-informed approach is necessary before examining the 4Rs SAMHSA (2014) victim-focused process in detail.

6.5 The Importance of a Trauma-Informed Response for all Victims of Crime

Government and academic work from Australia (Ombudsman WA, 2022) and the US (Gjika & Marganski, 2020) highlights the importance of trauma-informed service responses to victims of various types of crime. There are three main reasons for criminal justice agencies to provide trauma-informed services to victims of crime:

1. First, trauma-informed victim-focused responses are ethically appropriate.
2. Second, trauma-informed victim-focused responses are legally required.
3. Third, trauma-informed victim-focused responses promote better outcomes regarding reduced attrition and increased convictions.

Each of these will be examined in turn.

6.5.1 Ethical Reasons to be Trauma-Informed: Avoid Re-traumatisation

How criminal justice agencies respond to victims of crime can exacerbate the impact of crime. Evidence suggests that if victims of crime

have positive experiences with justice agencies, where they feel respected, involved, and informed, the criminal justice system can validate and empower victims (Werner, 2021). As stated by Eric Werner (2021), a US attorney, “[w]hen victims are left out of the system, they are disempowered and disconnected. When victims refuse to participate in the criminal justice system by not reporting a crime or refusing to testify—it is *justice* that suffers” (p. 578, references removed). It is the ethical obligation of justice agencies to support victims of crime in a way that is “trauma-reducing rather than trauma-inducing” (Gjika & Marganski, 2020, p. 170). However, as outlined later in this chapter, there is significant evidence that contact with the justice system may result in additional or compounded trauma, especially if the victim of crime feels they have received neither procedural justice (i.e., fair, decent, appropriate treatment; CVWEW, 2011) nor outcome justice (i.e., a finding or admission of guilt, a type or length of sentence; CVWEW, 2011). Secondary traumatisation may occur when people feel disempowered, silenced, or disbelieved, or their experiences are minimised. This can occur when the individual experiences of victims are overlooked, for example, when it is assumed that specific crime victimisation experiences are always more traumatic than other types of crime victimisation for all victims, all the time (Ellard & Campbell, 2020).

6.5.2 Legal Obligation to be Trauma-Informed: Victims’ Rights

Victims of crime have rights articulated by the United Nations in the *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power* (1985), which include:

- being “treated with compassion and respect for their dignity” (Principle 4),
- being informed, having a voice and having the opportunity to participate (Principle 6),
- receiving individualised “necessary... assistance” (Principle 14),

- receiving “proper and prompt aid” from criminal justice agencies (Principle 16),
- access to redress, restitution, or reparation where possible.

Victims’ rights are typically also embedded in local legislation (McLachlan, 2021b). Re-traumatisation by the criminal justice system often occurs when these rights are overlooked or breached. In some jurisdictions (e.g., England and Wales), service agencies are legally bound to recognise victims’ rights (McLachlan, 2021b). In other jurisdictions, such as Australia, rights are legislated but not enforceable. Victims also have rights under the Universal Declaration of Human Rights (UDHR; UN, 1948; refer Wemmers, 2012), namely:

- recognising victims as “equal in dignity and rights” (i.e., deserves dignity and respect; Article 1),
- acknowledging crime as a violation of victims’ “right to life, liberty and security of person” (Article 3),
- victims have “the right to recognition as a person before the law” (i.e., victim participation and procedural rights; Article 6), and
- “equal protection of the law” (Article 7).

Often, secondary traumatisation by the criminal justice system occurs through a lack of procedural justice, which undermines any benefit they may have otherwise felt regarding outcome justice (Ellard & Campbell, 2020). By embedding trauma-informed principles of practice in criminal justice responses to victims of crime, victims’ rights are also upheld.

6.5.3 Better Outcomes Through Trauma-Informed Victim Support

Secondary trauma caused by the criminal justice system can exacerbate crime-induced trauma (DePrince, & Gagnon, 2018). Procedural justice can be aided by a trauma-informed approach that reflects victims’ rights (CVWEW, 2011). Consistent and respectful support for victims of crime can result in better long-term health outcomes, more effective

evidence-collection, and positive ongoing relationships between victims and justice agencies. This can assist police and prosecutors in achieving successful prosecutions based on strong evidence from victims of crime who are also witnesses. Trauma-focused training is key to embedding trauma-informed practices in criminal justice agencies.

Trauma-informed victim support should exist across all criminal justice agencies and entities. Police are the gatekeepers of the justice system, and their responses are pivotal to the likelihood and success of a victim's journey into court and beyond (Ellard & Campbell, 2020). There is considerable grey literature (often developed or commissioned by policing organisations) encouraging police to use trauma-informed interview techniques when taking statements from victims of crime (IACP, 2017; Lonsway et al., 2020). Such approaches are characterised by recognising victims' rights and avoiding statements or behaviour that may be perceived as victim blaming. For example, when interviewing victims, rather than asking victims "why" they did or did not do something during the crime, questions should be framed in a way that is non-judgmental and aims to understand their experiences, their reactions, and (often automatic) decisions, e.g., "Tell me what you were thinking/ feeling/ experiencing...?" (IACP, 2017; Lonsway et al., 2020).

Trauma-informed support of victims of crime (and others) during the court process is not a new idea either. The legal concept of therapeutic jurisprudence was introduced more than 30 years ago (Wexler, 2000) and is based on the premise that the law (i.e., legislation, legal rules, legal procedures, and legal roles) should promote therapeutic consequences and avoid anti-therapeutic consequences for individuals (Stobbs et al., 2019). The foundational purposes of therapeutic jurisprudence and trauma-informed court practices are similar: "to recognise the importance of therapeutic (trauma-informed) interactions in promoting recovery and desistance from crime, while also avoiding anti-therapeutic outcomes caused by interactions with the criminal justice system" (McLachlan, 2021a, p. 1).

Advocates for trauma-informed prosecutions emphasise that the benefits of trauma-informed victim treatment include prioritising the well-being of victims (ethical and legal obligations) and maximising prosecutorial success (better outcomes). Werner (2021) acknowledges:

The purpose of trauma-informed prosecution is to empower and engage people that have experienced trauma. These practices are designed to help people recover from the fear, anxiety, and damage to their sense of self-worth caused by their experience. The purpose of trauma-informed prosecution is not to guarantee success at trial. (p. 577)

There is also pragmatism in recognising how trauma-informed responses to victims of crime can assist in success at trial. Victims of crime are often central witnesses who provide the evidence required to convict an alleged offender. While victims of crime are not technically a party to criminal law proceedings in adversarial justice systems, victims are integral to a strong case. To maintain victim engagement, justice practitioners must be able to realise and recognise trauma and its manifestations.

6.6 Realising and Recognising Trauma

To provide trauma-informed care and responses to victims of crime, the criminal justice system and its agencies must apply the 4Rs: **realising** how crime victimisation may be traumatic, **recognising** signs and symptoms of unresolved trauma, **responding** in a trauma-informed manner, and **resisting** re-traumatisation (SAMHSA, 2014). Trauma-informed care occurs when service providers ensure they understand:

the prevalence and nature of trauma arising from interpersonal violence and its impacts on other areas of life and functioning. Practices should ensure the physical and emotional safety of survivors and recognise and be responsive to the lived social and cultural contexts which shape victims' needs and healing pathways. (Silk, 2023, p. III)

Two key issues continually emerge in the literature that are rarely reflected in criminal justice professionals' knowledge or practice: first, that trauma may manifest in different ways for different people, and second, that memory and recall can be impacted by trauma. Thus, developing practitioner knowledge through training is imperative to promote trauma-informed responses by justice agencies. For example, a

training bulletin created by Lonsway et al. (2020) for US police officers when interviewing victims of crime advises police officers about how a continuum of reactions to crime victimisation is to be expected. People respond differently to trauma and the adversity of being a crime victim, not just in the ways that police officers may assume “real” victims act and express their distress, e.g., a “victim’s lack of engagement [may be taken to be] a sign that they are uncooperative, rather than a result of being emotionally overwhelmed and/or shut down” (Lonsway et al., 2020, p. 6).

6.7 Responding to Trauma: Operationalising Trauma-Informed Principles of Practice

Trauma-informed practice in the criminal justice system should be universal, individual, and systemic (NES, 2021a). Any time an individual or agency responds to a person who is a victim of crime, they should act in a way that upholds the victim’s rights and reflects trauma-informed principles of practice. Trauma-informed service responses should not be only available for certain crimes or specific individuals or solely from victim-focused agencies. An organisation claiming to offer trauma-informed services must shift from not just realising trauma may be present and recognising its impacts to responding with a systemic, organisation-wide approach that consistently reflects the trauma-informed practice principles.

Most of the analyses of trauma-informed service responses for victims of crime have come from the US and the UK, focusing primarily on gender-based violence (i.e., sexual violence, domestic abuse, and people trafficking). That research has concentrated on first responders, namely police and health organisations (e.g., Jain et al., 2022), rather than holistic trauma-informed experiences throughout all contact points with criminal justice agencies. Very little work has been done in Australia focusing on trauma-informed criminal justice practices. The good news is that this work is emerging. The bad news is that victims’ experiences with the criminal justice system, especially vulnerable and highly traumatised victims, have remained (at best) inconsistent for decades

(refer McLachlan, 2007). There are current examples of ad hoc trauma-informed practice in police, courts, and corrections. This indicates an awareness of the benefits of trauma-informed practice in terms of ethical and legal obligations and better outcomes.

Trauma-informed responses to victims of crime by criminal justice agencies should be characterised by the six key principles of practice (SAMHSA, 2014), as outlined above. However, there is a dearth of information about how this might occur. The following section provides an overview of international examples of how trauma-informed practice principles may be operationalised by justice agencies to inform the development of consistent responses to victims of crime.

6.7.1 Demonstrations of Safety by Criminal Justice Agencies

Safety is a basic human right (Tucci et al., 2020). As outlined earlier in this chapter, if justice agencies assure the safety for victims of crime, this will assist in meeting legal and ethical obligations and promoting better outcomes for everyone involved. Safety is relational and exists in interpersonal connections (Tucci et al., 2020). Tucci et al. (2020) suggest that:

In order to offer safety, it is our belief that adults need to orient themselves to its feel, its dimensions, its reverberations... They need to find the experiences in themselves and their relationships of moments of shared safety that have given way to a sense of relief, comfort and restoration.
(p. 9)

Workers must consider how personal responses and systemic functions may provide safety. At a personal level, a person's language and tone, body language, and self-regulation can assist in establishing an environment of psychological safety. Victims of crime may be hypervigilant and instinctively rather than rationally assess their safety in different social situations (Tucci et al., 2020). Safety requires that a worker bears witness to a victim's experiences and concerns or fears without judgement. If

someone feels that they are being judged or disbelieved, they are unlikely to feel safe.

To promote safety, professionals must be respectful and supportive when dealing with people who are victims of crime. However, even more than this, they need to be aware of the relevance of their own experiences and triggers and work to neutralise or manage responses that may be unhelpful or misconstrued by the victim as an adverse and judgmental reaction. Professionals must reassure individuals that all reactions to crime and crime victimisation are normal and valid. System issues that can promote or undermine safety include the design of the physical space in which victims receive services, delays, and attrition throughout the criminal justice process, and the requirement to repeatedly describe their experience to multiple police officers, prosecutors, and sometimes in open court, with no warm referrals or single point of contact. To promote safety, agencies can take a “no wrong-door’ entry to services... in which victims receive fully coordinated, comprehensive services no matter where or how they enter the system” (OCVA, 2010).

6.7.2 Trustworthiness and Transparency in the Actions of Criminal Justice System Agencies

Trust is related to safety, with transparency more closely related to workers being honest about the availability of victim services and the limitations or scope of victims’ spheres of influence. Workers may be inclined to overstate the influence a victim of crime can have on a justice outcome to make them feel more empowered or involved (or respected). Trust and transparency are better achieved through an honest disclosure of the limitations of a victim’s influence on a justice process or outcome. Continuity of care, with a single point of contact and predictability, is a simple way of promoting safety and trust (refer to Ellard & Campbell, 2020) but may be challenging to implement in practice due to organisational practices, such as police shift work, workloads, and role descriptions. To build trust in the court process, a judicial officer should ensure that victims of crime understand what is happening in the

court. Trust can be promoted by clearly explaining what is happening in court and the person's role in the courtroom, explaining the sanction or outcome of the court process, explaining why a conversation with legal representatives is happening, and using language that is not threatening (SAMHSA, 2013).

6.7.3 Peer Support

Peer support can be key in ensuring that victims feel and are understood and have their experiences acknowledged. In practice, peer support may be either direct or indirect. Direct peer support might occur when professionals refer victims to support provided by people who themselves have been victims of crime (such as Homicide Support Groups). For the minority of victims of crime whose matter progresses to court, peer support may be available through volunteer court companions who have been victims of crime. Court companions can help demystify the court process and be physically present during the court hearing. Indirect peer support may be achieved by ensuring that advisory committees and improvement processes involve people with lived experience of crime victimisation. While professionals may also have their own experiences of adversity, workers in the justice system must be honest and empathic while remaining self-regulated. A professional, such as a police officer or social worker, who is burnt out by their own experiences of adversity or secondary trauma can rarely provide empathetic and supportive care to victims of crime.

6.7.4 Collaboration in Decision-Making

Collaborating with a victim of crime requires working with them to minimise re-traumatisation and achieve the best outcomes within the scope of the criminal justice process (DePrince & Gagnon, 2018). This may occur, for example, by offering to collect and store forensic evidence even if the victim is unsure at the time whether to formally report a crime (so that the option remains open to them later) and assisting

victims in providing impact statements or submissions to courts or parole authorities, to influence decision-making (McLachlan, 2021b).

Correctional services organisations have obligations to provide victims of crime with information and services about the crime and the person who committed the crime. Often, victims are required to be registered to be kept informed, and there may be limitations to registration (e.g., nature of the offence, direct victim as opposed to secondary victim except in the case of homicide). Correctional service agencies may also have Victims Service Charters, which set out what people can expect and typically reflect victims' legislative rights. Victims of crime also have rights embedded in legislation relating to participation in justice processes, such as Parole Board proceedings (McLachlan, 2021b). Victims of crime are given a voice to share their views and concerns about the offence or the person who has applied for parole. This is most often done in writing, but in some jurisdictions may also be able to be provided in person (McLachlan, 2021b). The content of such a submission is not prescriptive, and victims often outline the trauma they have experienced regarding the impact on their social and emotional wellbeing.

6.7.5 Prioritising Empowerment, Voice, and Choice

Victims have the right to be informed and have a voice and opportunity to participate in justice processes (UN, 1985, Principle 6). Some victims of certain types of crimes, such as sexual violence, are more likely to feel disempowered by their experiences reporting the crime than victims of other crimes (Silk, 2023). As highlighted by Anne DePrince and Kerry Gagnon (2018), “if someone’s car is stolen, we would not begin an interaction by questioning whether it was really stolen and then suggest that the person asked for the car to be stolen” (p. 19). When victims in the UK, US, Canada, and Australia were asked what they most needed, they indicated they needed more choices. Victims wanted to choose how, when, and what kinds of emotional support (e.g., group or individual therapy, online or face-to-face, open-ended, or time-limited, available without engaging with the criminal justice system, at a time and in a suitable language), appropriate and relevant practical supports, as well as

whether and how to engage with the criminal justice system (Silk, 2023). They are also keen to identify opportunities to empower themselves and others (Silk, 2023).

Staff should have the enthusiasm and the skills to engage with victims effectively. One way to ensure that victims of crime receive a supportive response is to have victim advocates/counsellors work alongside patrol officers (Dean et al., 2000). At a more basic level for all policing agencies, when taking a statement or evidence from a victim of crime, police must be cognizant of the legal rights of victims of crime. However, it is also essential to understand the science of traumatic memory and recognise that traumatic memories may be “vague, inaccurate, or incomplete” (Werner, 2021, p. 583). Lonsway et al. (2020) promote the education of police officers about memory. They encourage police to move away from assumptions that recall is linear and instead suggest that other cues and prompts (e.g., sensory experiences such as smells, sounds, or a location) may encourage a victim to remember additional details. All victims of crime (whether they appear to be traumatised or not) benefit from a sensitive statement-taking approach that both acknowledges that recall is not perfect, communicates this fact to the individual, and offers opportunities for additional evidence to be provided in due course to supplement their original statement, should the victim remember additional details, later.

Milam et al. (2017) demonstrate how trauma-informed practice principles can assist prosecutors to:

restore feelings of self-efficacy and control to the victims by providing them with opportunities for choice and consistency. Allowing them to meet with an agent whose gender puts the victim at ease, or allowing them to select the location for meetings, greatly empowers victims. Also, to the extent possible, minimize unexpected changes in meeting times or locations. It is most important to demonstrate honesty and respect. The nature and location of the victim interview is vital to the success of any agent-victim relationship. The agent’s attitude and behavior during the interview are critical. It is essential to monitor your own comportment to guard against actions that can be interpreted as biased or judgmental. Remain honest and respectful, and strive to honor all commitments. A familiarity with and keen attention to the meaning of both verbal

and nonverbal cues are also essential. Crossed arms, lack of eye contact, and changes in facial expression can all indicate shifts in victim comfort during the interview. Also, consider the location and timing of the interview. (p. 40)

Australia has provisions for vulnerable witnesses, such as giving pre-recorded evidence, having a support person or support dog, and using screens or CCTV to distance the victim from the defendant. However, many of these options are only available with judicial approval. The victim has no choice or voice in terms of whether it will be available or not. The US is more advanced than Australia in thinking about how courtrooms can be trauma-informed for victims of crime. The US Office for Victims of Crime (OVCTTAC, n.d.) recommends accepting reasonable individual requests to modify court proceedings, reducing court formalities wherever possible, adjusting (dimming) court lighting where required, and providing tissues, water, and snacks.

6.7.6 Acknowledgement of the Importance of Cultural, Historical, and Gender Issues

A person's cultural background, gender identity and sexuality, and personal and intergenerational experiences of past adversity and trauma are all relevant considerations for justice agencies. Stereotypes about "ideal victims" (Christie, 1986) and rape myths mean that specific populations who are at high risk of victimisation and re-victimisation (such as women from culturally and linguistically diverse backgrounds, sex workers, First Nations women, people who identify as LGBTQIA+) are also at risk of marginalisation and negative experiences with justice agencies (Daley, 2022; Dwyer et al., 2017). There are high rates of unreported sexual violence for women, especially those who identify as LGBTQIA+ (DePrince & Gagnon, 2018). This indicates that far more work needs to be done to promote trauma-informed justice responses which offer tangible benefits for high-risk victims of crime in terms of procedural and outcome justice.

Some people may distrust justice agencies such as the police due to past experiences or the experiences of significant others. Often, this

relates to race, culture, or gender identity. There is significant research demonstrating poor police responses to women who have experienced violence (McLachlan, 2007), to LGBTQIA+ people (Dwyer et al., 2017), to Aboriginal people (Daley, 2022) or to people who are displaced, refugees, and/or of African (Shepherd, 2021) backgrounds. People who have previously been criminalised are unlikely to expect supportive police responses if they are also victimised (which is statistically likely). This mistrust of the police must be recognised as a reasonable response given many victims' reference points. Other issues, such as language barriers and religious views, make it difficult for people from culturally and linguistically diverse communities to know how to report crimes, recognise gender-based violence as a crime, or understand how a justice response may be helpful.

6.8 Resisting Re-traumatisation

Individuals report that experiences with the justice system may be more traumatic than the crime itself (CVWEW, 2011). Given that a foundational purpose of the criminal justice system is to promote community safety, this is sadly ironic. Thus, an essential consideration for all criminal justice agencies is not just to respond in a way that reflects an understanding of the potentially traumatic impact of crime but also to ensure that experiences with the criminal justice system are not re-traumatising.

International research has found that contact with police has the potential to be traumatic, particularly for (but not limited to) victims of sexual violence (Rich, 2019) and domestic abuse.

Historically, officers have been taught effective investigative strategies for suspect-based crimes (i.e., homicide, burglary), which encourages skepticism, the discovery of inconsistencies, and reliance on physical evidence to determine the truth. (Lathan et al., 2019, p. 1735f)

In responding to victims of crime, police officers often defer to their (overestimated) skills of deception detection and rely on myths about the typical behaviours of “real” victims of sexual assault and domestic

abuse to determine the veracity of victims' reports (Rich, 2019). Police overestimate the rate of false reports and are often more sympathetic to the emotional (e.g., hysterical, despairing) victims than the victims with limited or flat affect (Franklin et al., 2020; Lathan et al., 2019) despite clinical research demonstrating that trauma may manifest in a range of behaviours across a continuum, both in the immediate aftermath of the crime and over time (Lonsway et al., 2020).

Research undertaken in the US has found that police responses that lead to secondary traumatisation are often due to a lack of training and understanding of the range of responses to trauma (Franklin et al., 2020; Lathan et al., 2019). In such cases, victims may face scepticism, disbelief, and blame. Even with training, police officers' responses remain inconsistent (Franklin et al., 2020). A Norwegian study found that even when police realised the presence and recognised the impact of trauma, they were unsure how to provide direct support and be empathic and professional. As a result of this internal struggle, police officers may inadvertently present as cold and disengaged (Jakobsen et al., 2017).

To achieve consistently trauma-informed victim treatment, ideally, all police officers and criminal justice professionals should be able to offer victims a trauma-informed response. Research across jurisdictions shows this is not the case (McLachlan, 2007; NHS, 2021b). Some people and personalities within policing agencies are better suited to "crime-fighting", with others better suited to community-facing roles. However, given that most policing tasks focus on the latter (White et al., 2019), it is not unreasonable to expect that all patrol officers have the skills and knowledge to respond to all community members in a trauma-informed manner. While Scottish and US research has found that female and older police officers may be more favourable towards victims and trauma-informed practices (Franklin et al., 2020; Gillespie-Smith et al., 2020, p. 13), training and policies should promote an expectation of consistent trauma-informed responses by police, that become the norm rather than the exception. That is the intention of the Ayrshire Division of Police Scotland, which is moving towards becoming a trauma-informed division (Gillespie-Smith et al., 2020).

6.9 Trauma-Informed Criminal Justice Policies and Practices

There is clear evidence that some justice agencies in some countries are looking to provide trauma-informed services to victims of crime. However, these approaches often lack an implementation framework. SAMHSA (2014) has developed a 10-step implementation approach. In addition to factors discussed in this chapter, such as providing safe physical spaces and ensuring staff are trained in the 4Rs, organisations must also ensure top-down leadership and bottom-up co-designed trauma-informed practice. SAMHSA (2014) emphasises that trauma-informed principles must be embedded in criminal justice policies and practices, with ongoing quality assurance and evaluative processes.

There are obvious challenges to consistently achieving trauma-informed justice for all crime victims. However, there are also many opportunities for trauma-informed practice principles to promote procedural justice even if “outcome justice” cannot be promised. Within an adversarial justice system, experiences such as cross-examining victims can be improved by not allowing questions relating to non-linear recall and memory to undermine victim/witness character. Court processes can remain adversarial without promoting myths and stereotypes about the dichotomy of victims and offenders. The argument that providing (trauma-informed) justice to victims of crime somehow takes away from just outcomes for people who have offended is nonsense. Many people who have offended are also victims of crime. A compassionate justice system uses scientific evidence to inform and improve how society responds to crime to promote community safety. A trauma-informed criminal justice system requires commitment from all people and agencies within it. With this commitment comes a stronger sense of justice for victims of crime and other participants.

6.10 Conclusion

Surprisingly, little has been written about holistic trauma-informed support and services for victims of crime as they navigate the criminal justice system. Trauma-informed victim services should underpin all contact with all victims of crime, regardless of the crime or the subjective impact of that crime. Many non-government support agencies and health services claim to be trauma-informed without articulating a clear framework or way of working. Criminal justice agencies have identified the procedural benefit of ensuring trauma-informed interviews and evidence-collection procedures (to promote successful prosecutions). However, there has been very little written about trauma-informed practices and ways of working that prioritise the fundamental rights of victims to feel respected, believed, engaged, and informed participants in the criminal justice system. Using the SAMHSA 4Rs framework, this chapter has demonstrated how a trauma-informed framework and practice principles can assist in ensuring that victims' rights are upheld and re-traumatisation by the justice system is avoided.

Key Points

- Trauma-informed responses to victims of crime help to reduce re-victimisation, uphold victims' legal and human rights, and can result in better criminal justice outcomes.
- Often criminal justice professionals lack the knowledge that trauma may manifest in different ways for different people and that memory and recall can be impacted by trauma.
- Myths about how "real" victims respond to trauma can negatively influence the way that criminal justice professionals respond to victims of crime.
- Trauma-informed practice in the criminal justice system should be universal, individual, and systemic such that any time an individual or agency responds to a person who is a victim of crime, they should act in a way that upholds the victim's rights and reflects trauma-informed principles of practice.
- For some victims of crime, experiences with the criminal justice system may be more traumatic than the crime itself.

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Sentencing Remarks

- R v KJB* (District Court of SA, Judge #4, 14 August 2019).
- R v TLI* (District Court of SA, Judge #6, 4 June 2019).
- R v TLS* (District Court of SA, Judge #13, 4 July 2019).