



www.respectqld.org.au

info@respectqld.org.au

ABN 47 552 535 661

Certificate of Incorporation IA37574

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Women's Safety and Justice Taskforce

www.womenstaskforce.qld.gov.au

GPO Box 149 BRISBANE QLD 4001

RE: Discussion paper two: Women's and girls' experience of the criminal justice system

Thank you for considering our submission to this process. Sex workers¹ experience systemic barriers to reporting crime, including sexual offences, in Queensland. Our safety is compromised by laws that criminalise basic safety strategies. Sex workers who prioritise safety risk arrest and are targeted by police posing as clients. Police target sex workers for minor advertising breaches, yet repeatedly fail to act on or take crime against sex workers seriously. Sex workers who attempt to report crime risk further surveillance once they are known to police. It is the systemic nature of these barriers to criminal justice for women who work as sex workers that must be recognised and examined as part of this review.

Respect Inc is the state-wide sex worker organisation in Queensland. Our organisation provides comprehensive community development, health promotion, peer education, advocacy and skill sharing for sex workers state-wide. All Respect Inc offices are sex worker drop-in spaces, staffed and run by and for sex workers. The locations are Gumuy (Cairns), Meanjin (Brisbane), Thul Garrie Waja and Gurrumbilbarra (Townsville) and on the land of the Yugambeh and Kombumerri people (Gold Coast). Respect Inc team members also visit rural and regional locations on an annual basis. The Respect Inc Management Committee, members, staff and volunteers are all current or past sex workers.

Respect Inc understands that the Women's Safety and Justice Taskforce is seeking consultation on themes, priorities and next steps for your work. This submission brings together our front-line experience, input directly from sex workers, as well as quotes and examples from sex worker advocacy in the public sphere and the considered reflections of Respect Inc as a whole, demonstrating systemic, long-standing documented issues.

We wish you the very best in this process. Please contact me on 0451 149 782 if you have questions, clarifications or would like to discuss these matters in more detail.

Regards,

Dr Elena Jeffreys, State Coordinator, Respect Inc

¹ Our preferred terminology is 'sex work' or 'sex worker'; the term 'prostitution' is used only where it is directly quoted from legislation.

Brisbane
28 Mein Street
Spring Hill Q 4000
07 38351111

Townsville
118a Charters Towers Road
Hermit Park Q 4812
07 47244853

Cairns
7/24 Florence Street
Cairns City Q 4870
07 40515009

Gold Coast
L 1, 3 Davenport St
Southport Qld 4215
07 5564 0929

Nothing in this submission should be read to imply that sex work per se is dangerous beyond the dangers inherent in other occupations except that the laws in Queensland undermine sex workers' ability to implement basic safety strategies and criminalise sex workers. This increases the likelihood that we will experience police interactions or charges and perpetuates the culture within QPS that results in reports of sexual violence and other crimes being ignored or not progressed to charge, resulting in poor access to criminal justice for sex workers.

Executive Summary

1. Criminalisation and licensing of women sex workers should be considered a cross cutting issue by the taskforce.

The criminalisation of sex worker safety strategies is a cross-cutting issue and creates a 'catch 22' situation. When following the law we are more susceptible to crime because we cannot implement basic safety protocols. The Criminal Code 1899 Chapter 22A makes it illegal for independent sex workers to:

- do bookings together, share a workspace or work in the same building
- message another sex worker about their current location
- check-in and check-out with another sex worker when a client arrives and leaves, a safety strategy traditionally used by sex workers
- employ a receptionist
- use a driver (unless that driver only drives that one sex worker – making it cost prohibitive), or
- provide even limited or coded descriptions in advertising of the services provided.

Effectively, sex workers are forced to choose between working safely or legally. As a result, sex workers face significant barriers to reporting crime, harassment or intimidation and instead avoid becoming known to police. When we implement basic safety strategies we are less likely to report perpetrators to police due to the very real risk of prosecution.

Twenty years after the introduction of the licensing system in Queensland there are only 21 brothels currently licensed, and all sex workers outside the licensing system are subject to criminalised workplaces or the strict laws that criminalise the implementation of safety strategies. As police are responsible for policing illegal activities it means the majority of sex workers are subject to police attention.

2. Sex workers should be recognised as a community with unique barriers to criminal justice.

Laws that criminalise sex workers create unique barriers to reporting sexual offences. This situation is particular to Queensland, as other states and territories have either already progressed the full decriminalisation of sex work or intend to do so. Research shows that full decriminalisation of sex work increases sex workers' access to justice. Until a moratorium on prosecutions and entrapment of sex workers is in place, and/or full decriminalisation implemented, the sex worker community should be considered a high priority population by the TaskForce. After the laws have changed there will be a period of transition for sex workers, which should also be taken into account by the TaskForce. Work to re-educate magistrates, police, Legal Aid staff and all relevant services will need to occur for the full benefit of decriminalisation to be realised.

3. Attitudinal change to sexual violence and other crimes in a sex work setting.

There are prevailing community attitudes that sex work is not work, sex workers cannot be raped, and that sex workers bring crimes upon ourselves. Queensland laws perpetuate these attitudes, and unfortunately the attitudes are prevalent within the Queensland police force.

Discrimination, prejudice, ignorance and the systemic lack of action by police means that many gender-based crimes are not investigated. Sex workers are prevented from reporting crimes due to fear of arrest. When these same perpetrators are brought before the justice system for other gender-based crimes, their history of abuse, violence, assault and coercive control over sex working women, including trans and gender diverse women, is not being taken into account. Attitudinal change to sexual violence and other crimes against sex workers is part of solving the broader issue of gender-based crimes being committed against all women and girls in Queensland.

4. The laws, and police attitudes perpetuated by the laws, are barriers to women who work as sex workers reporting crimes against them.

Sex workers are campaigning to repeal the Prostitution Act 2000, sections of the Police Powers and Responsibilities Act 2001, and chapter 22A of the Criminal Code that criminalise sex workers' safety strategies.

Sex workers in Queensland are vulnerable to certain types of gender-based crime, in part because perpetrators know that the sex worker community is not taken seriously within mainstream society or by police. Police take sex workers less seriously when we attempt to report. The laws perpetuate police attitudes of disregard for the human rights of sex workers. The police have power over sex workers, and the power to charge sex workers for implementing basic safety strategies. This power imbalance, embedded in the law, causes major barriers to access to justice for sex workers.

Police powers over sex workers create barriers to justice, and prevent reporting and prosecutions from occurring. Police powers in Queensland include entrapment. QPS officers can seek approval to legally pose as fake clients for the purpose of pressuring sex workers into committing crimes, then prosecuting the targeted sex worker. The negative impacts of these powers cannot be overstated. One outcome is that sex workers do not trust police, and fear that by reporting crimes against them that they will become targets for police harassment. Another outcome is that sex workers in Queensland have been fined or charged for activities they may not have undertaken if not for police entrapment exercises.

5. Police as first responders and role in taking a report or progressing a charge.

It is common for police to tell sex workers who are trying to report crimes that 'there is no crime here,' and 'the courts will not believe you, there is no point making a report'. Even when accompanied by a support person, including staff from Respect Inc, police have been observed creating reasons for the report not to be taken. This is a major barrier to addressing sexual offences against sex workers in Queensland.

Recommendations

Respect Inc recommendation #1

The Taskforce recognise criminalisation of sex work and licensing are cross cutting issues that significantly reduce access to justice for women who work as sex workers in Queensland.

Respect Inc recommendation #2

The Taskforce recognise sex workers as a community with unique barriers to justice, warranting further investigation as part of this review.

Respect Inc recommendation #3

The Taskforce specifically investigate the use of entrapment by police in relation to women accused of other crimes.

Respect Inc recommendation #4 the Taskforce recognise:

- the ways in which sex workers as a particular population are specifically targeted by police in Queensland,
- how laws in Queensland which criminalise sex worker safety strategies and advertising unnecessarily increase the likelihood of sex worker engagement with police,
- how interactions with police and the attitudes of many police in Queensland toward sex workers make it almost impossible for sex workers to report crime, for fear of greater levels of surveillance which may lead to their arrest,
- how the use of entrapment for low impact crimes, by police posing as a client of sex workers, is an excessive and unnecessary police power that further creates a level of distrust, and reduces sex workers' ability and willingness to report sexual violence or other crimes.

Respect Inc recommendation #5

Full decriminalisation of sex work in Queensland.

Discussion question: Should the task force explore any other cross-cutting issues?

Respect Inc recommends the task force explore criminalisation as a cross-cutting issue and calls for the inclusion of sex workers to be recognised as a community experiencing specific, often complex, intersecting disadvantage, and to be included as a target population of the Taskforce policy work.

To understand the discrimination and stigma attached to survivors of sexual offending, attitudes towards sexual assault within a sex work setting must be taken into account. Victims are blamed by society. Sex workers are thought of as 'bringing it upon themselves' and face prejudice when we try to access justice. There is a general misconception that sex workers 'cannot be raped'. This notion is perpetrated by mainstream media and within western culture broadly. Stigma and discrimination against any survivor is unacceptable. Unfortunately sex workers experience extreme prejudice when seeking support after gender-based violence.

*"Training with police, judiciary or lawyers will not 'fix' stigma because stigma is not simply a result of naivety or a lack of empathy. Stigma exists where power is exercised (Link and Phelan 2001). Stigma (and its role in maintaining social hierarchies) is pivotal to the over-policing of Aboriginal and Torres Strait Islander, trans, street-based, drug-using, HIV-positive and migrant sex workers. It is also central to the criminalisation of drug use, rough sleeping, solicitation and loitering."*²

Respect Inc would like to emphasise points made by our peak body Scarlet Alliance "The Queensland Law Reform Commission's Review of consent laws and the excuse of mistake of fact report recognised "[v]ulnerable populations tend to experience a higher incidence of sexual violence, including Aboriginal and Torres Strait Islander people, women with disability, and sex workers." Prevent. Support. Believe: Queensland's Framework to address Sexual Violence , also recognises that sex workers experience high rates of sexual assault."

'Sex workers face significant barriers in reporting crimes. An amnesty clause for sex workers coming forward to report crime should be implemented, such as has been introduced in California recently; and [t]he current policy and legislative environment and policing practices in Queensland increase sex workers vulnerability to crime, including sexual violence'.³

And in evidence to the Legal Affairs and Community Safety Committee of Queensland Parliament, Scarlet Alliance expanded:

'In short, we support recommendations by Respect for legislation to protect sex workers when reporting crime—for example, the legislation in California SB 233 Immunity from arrest 2019-2020 has passed into law. This legislation ensures that, if a sex worker has engaged in the act of sex work at or around the time they were a victim or a witness to a crime, this is

² Stardust Z, Treloar C, Cama E and Kim J (2021) 'I wouldn't call the cops if I was being bashed to death': Sex work, whore stigma and the criminal legal system. International Journal for Crime, Justice and Social Democracy. Advance online publication. <https://doi.org/10.5204/ijcjsd.1894>

³ [Scarlet Alliance Submission to Legal Affairs and Community Safety Commission, Criminal Code Consent and Mistake of Fact Inquiry 2021](#)

inadmissible in a separate prosecution of that victim or witness to prove criminal liability for that act of sex work. Further, the criminalisation of sex worker safety strategies via section 229H of the Criminal Code increases the risk of sex workers in Queensland experiencing sexual violence.¹⁴

Sex workers are turned away by police when we try to report sexual offences against us, and are sometimes threatened with arrest. When trying to report, police in Queensland are known to use the opportunity to add 'sex worker' to the person's QP Record, without actually taking the report. Respect Inc and the sex worker community are incredibly disappointed by this behaviour by Queensland police. The fact that police misuse attempts by sex workers to report sexual offences as intelligence gathering exercises **against the survivor**, rather than taking the report, demonstrates the deprioritisation of apprehending sexual predators.

*"The few occasions where sex workers reported positive experiences with police were isolated to individual officers or particular stations with a history of liaison and training with sex worker organisations; however, even these came with cautionary caveats. Our participants' experiences confirm that 'regimes of stigmatisation and criminalisation [continue] to undermine sex workers citizenship rights to police protection and legal recourse' (Krüsi et al. 2016: 1137)."*¹⁵

The criminal laws that penalise sex workers -a gendered workforce many of whom are women - is one of the outcomes of the normalisation of sexual violence against women and girls. To address sex workers' vulnerability and targeting for sexual assault and access to justice, the laws must change.

Respect Inc recommendation #1

The Taskforce recognise criminalisation of sex work and licensing are cross cutting issues that significantly reduce access to justice for women who work as sex workers in Queensland.

Asian and migrant sex workers in Queensland carry the burden of criminalisation

In the experience of Respect Inc, hearing both the lived experiences of Asian and migrant background sex workers, and reviewing court records, this part of our community is heavily targetted and disproportionately charged by police with crimes relating to working in pairs, working from the same hotel, hiring a receptionist, driving another sex worker to a booking, and assisting each other with advertising. These safety strategies are important to any workforce, providing a safety net and community connection, especially important for people who speak English as a second language.

¹⁴ [Scarlet Alliance transcript of evidence to Legal Affairs and Community Safety Commission, Criminal Code Consent and Mistake of Fact Inquiry 21 Jan 2021](#)

¹⁵ ['They won't change it back in their heads that we're trash': the intersection of sex work-related stigma and evolving policing strategies](#) April 2016, Sociology of Health & Illness 38(7) [10.1111/1467-9566.12436](#)

Criminalisation and licensing are cross cutting issues



To ensure women who work as sex workers have access to justice and are able to report sexual violence there is a urgent need to repeal section 22A of the Criminal Code which includes the laws that criminalise sex worker safety strategies, the Prostitution Act 2000 which creates the licensing framework and criminalises all sex industry business models other than the 21 legal brothels (including co-operatives, sex workers working in pairs, erotic massage parlours, and escort agencies) as well as the sections of the Police Powers and Responsibilities Act which give police the power to entrap sex workers for low level crimes and for provide police immunity to undertake illegal activities.

Improved rights for sex workers would have an impact on current social attitudes about women in general. Cultural change can come from legislative change that is positive. Examples of legislative reform leading to cultural change include the Sex Discrimination Act 1984 (Cwlth) and the Anti-Discrimination Act 1991 (Qld).

Respect Inc recommendation #1 the taskforce recognise criminalisation of sex work and licensing are cross cutting issues.

Respect Inc recommendation #2

The Taskforce recognise sex workers as a community with unique barriers to justice, warranting further investigation as part of this review.

Part 1, Women and Girls experience of the criminal justice system as victim-survivors. The TaskForce proposes to focus examination on women and girls' experiences as victims of sexual offences in the criminal justice system.

Respect Inc supports the Taskforce approach of focusing on the personal experience of women and girls as survivors of sexual offences, and how the criminal justice system works (or does not) for survivors. It is important to the sex worker community that:

- sex workers are explicitly included as a sub-population of this category, because of our unique experiences within the criminal justice system if/when we consider reporting sexual offences against us
- all women, including trans women, are explicitly included in the 'Women and Girls' population, and that no aspect of the work of the Taskforce be exclusionary of trans women.

Part 1 Question:

Given rates of victimisation are highest for women and girls with respect to sexual offences, within the time available, do you support the Taskforce focusing inquiries on sexual offending against women? If not, why not and what other offence types should the Task Force focus on?

Respect Inc supports the Taskforce inquiries to focus on the sexual offending against all women. Specifically, the Inquiry must not exclude the experiences of any women, including trans women. Respect Inc concur with our peak body Scarlet Alliance, who has also submitted to Discussion Paper 2, that it is not currently explicit 'whether the Taskforce includes transgender women, non-binary, and other female-identified people in the term 'women', but recommend that these people are intentionally and explicitly captured in the work of the Taskforce.'

Theme 1 Community understanding of sexual offending, and barriers to reporting

The TaskForce proposes to consider the need for cultural and attitudinal change across all sectors of society to improve women and girls' experience of the criminal justice system as victims of sexual offences

For the Taskforce to understand discrimination and stigma attached to survivors of sexual offending, attitudes towards sexual assault in a sex work setting must be taken into account. Victims are blamed by society. Sex workers are thought of as 'bringing it upon themselves' and face prejudice when we try to access justice. Sexual assault, domestic violence, coercive control and other gender-based offences are considered 'lesser' crimes, compared with theft and property-based offences. This is a social and cultural issue.

'They're not going to believe me because I'm a sex worker.' This is what Nikki Cox — a pseudonym she works under — thought to herself when she drove to a police station after she was sexually assaulted by a client, who booked with the name Alex, in February last year.⁶

Respect Inc supports the proposal by the Taskforce to consider the need for social, cultural and attitudinal change for the purpose of improving women's and girls' experiences of the criminal justice system as survivors of sexual offences. Respect Inc would like to highlight the intersecting issues that create prejudice against survivors. For example:

- consideration of the racist nature of policing, and how this results in barriers to Aboriginal and Torres Strait Islander peoples having access to culturally appropriate solutions/resolutions after incidents of sexual violence, domestic violence, partner intimidation and child custody arrangements.
- consideration of transphobia, and how this makes trans women more vulnerable to sexualised and partner violence.
- that all considerations of porn as a genre of entertainment must be led by those who work in porn, not by campaigners who are opposed to all forms of pornography.
- that the 'incel' online misogynist movement must be understood as a threat to the safety of women and girls *in and of itself*, not through a lens of the genre of porn.

⁶ [This Sex Worker Who Was Sexually Assaulted Didn't Think She Would Be Believed. Now Her Client Is Going To Jail](#) BuzzFeed, 30 Nov 2019

The TaskForce proposes to consider the emerging societal factors such as pornography and dating apps that may be contributing to community attitudes and prevalence of sexual violence against women and girls.

Respect Inc does not support the Taskforce consideration of pornography and dating apps as 'emerging societal factors' contributing to sexual violence against women and girls.

Western society is built on notions of the invisibility of women, women as chattels, women as non-political extensions of male husbands and heteronormativity. That smart phones enable access to porn and dating apps cannot be attributed to these attitudes. Community attitudes and the prevalence of sexual violence have not changed since the emergence of pornography and dating apps.

Discussion question Given the relevance to offending behaviours as well as reporting, do you support the Taskforce examining community attitudes to sexual offending against women and girls? If not, why?

There is a general misconception that sex workers cannot be raped. This notion is perpetrated by mainstream media and within western culture broadly. Stigma and discrimination against any survivor is unacceptable. Unfortunately sex workers experience extreme prejudice when seeking support after gender-based violence:

A sex worker who disclosed a recent assault to her GP was told 'If you didn't put yourself in that situation you wouldn't have been hurt'. Excerpt from Respect Inc legal brief July 2020.

Blaming survivors for sexual assault is unacceptable, however this type of community attitude is very familiar to sex workers in Queensland.

The TaskForce proposes to examine, and seek community input about what prevents women and girls from reporting sexual offences to police and what can be changed to improve rates of reporting.

Discussion question Given under-reporting of sexual offences, do you support the Taskforce examining the barriers to reporting sexual offending against women and girls? If not, why?

Respect Inc supports the Taskforce examining barriers to the reporting of sexual offences to police. There is a set of systemic barriers to sex workers in Queensland reporting. Some of the barriers are experienced by other women while others are unique to sex workers.

'Criminalisation results in incarceration, fines and debt cycles, deportation and prevents sex workers from reporting crime and seeking justice. Sex workers in Queensland are unnecessarily placed at risk of violence by the criminalisation of our safety strategies.' Candi Forrest, International Day to End Violence Against Sex Workers Rally, 17 Dec, 2018.⁷

The most significant barriers to sex workers in Queensland reporting sexual offences are the current criminal and licensing laws and extensive police powers. The outcome of the current structure is a two-tiered industry whereby the majority of sex workers have little choice but to operate outside of

⁷ ["Stop criminalisation of sex worker safety in Queensland"](#) Q News, 19 December 2019

the legal sector, consequently placing them under police surveillance. The criminalisation of sex worker safety strategies forces sex workers to choose between operating safely OR legally. As long as police are the regulators of the sex industry, and our work or our workplaces are criminalised, access to redress for sexual violence will be limited. In order to be effective, recommendations to remove barriers to sexual violence reporting must include the removal of current criminal and licensing laws as an essential component of decriminalising sex work.

When sex workers try to report crimes we are turned away by police and told that there is no crime, ridiculed or threatened with arrest.

'The officer taking details said "is that it?" He sort of looked at me like it was a bit comedic that I had come in to report it.' Stephanie.⁸

When trying to report, police in Queensland use the opportunity to add 'sex worker' to the person's QP Record, without actually taking the report. Respect Inc and the sex worker community are incredibly disappointed by this behaviour by the Queensland police. The fact that Police misuse attempts by sex workers to report sexual offences as intelligence gathering exercises **against the survivor**, rather than taking the report, demonstrates the deprioritisation of apprehending sexual predators. This tells us that Queensland police would prefer to prosecute, rather than protect, sex workers.

In December 2018 Respect Inc supported a sex worker who had gone to the local police station after midnight and waited until the early hours of the morning to see an officer and report an assault that had happened at their home just a few hours earlier. The police officer told the worker she could be arrested herself, and 'you better just get out of here'. In March 2019 the same worker was in court on an unrelated matter, and the Magistrate read out her occupation as 'sex worker'. Respect Inc Legal Brief March 2019.

In July 2021 Respect Inc supported a sex worker after they tried to report a recent rape at the local police station and were turned away. They were told 'there is not enough evidence'. The worker was not referred to the hospital for samples or for a rape kit to be taken, even though the assault had happened less than 12 hours earlier. Respect Inc Legal Brief Rape July 2021.

Respect Inc recommendation #5 Full decriminalisation of sex work in Queensland.

To properly address barriers faced by sex workers to sexual violence reporting, current criminal and licensing laws relating to sex work must be repealed.

Theme 2 Police first-response when survivors decide to report, the investigation (including police decisions to investigate or not), and support for the survivors during the police investigation process. The TaskForce proposes to examine the initial response to reports of sexual offences made to police, the ongoing police response and what processes are in place to support victims at this important stage of the process.

Discussion question Given that police currently act as a gateway to the criminal justice system for sexual offences, do you support the Taskforce examining the initial police response to reports of sexual offending against women and girls? If not, why?

⁸ [Sex workers accuse police in Queensland of 'entrapment'](#) News.com, 22 November 2019

Respect Inc supports the Taskforce examining the initial police response to reports of sexual offending. Our organisation has supported sex workers to report crime and has experienced the attitudes and behaviour of police. We have also received multiple reports from sex workers who have been turned away or discriminated against by police at the initial stages of reporting sexual offences. These most notably perpetuate stigma and arise as a result of police not understanding or knowing about the laws around sex work within Queensland as well as outright discrimination based on employment choice.

Sex workers also face the possibility of being arrested or charged when reporting sexual violence or other crimes. Police use their powers over sex workers as a gateway to reporting, which has the end result of convincing sex workers not to go ahead with their reporting.

In 2019 Respect Inc supported a sex worker after she was raped and robbed. The worker had called local police to their hotel room immediately. Police arrived and told the worker that they could do nothing as sex work was 'illegal in Queensland'. This statement is incorrect and was recorded by police body cameras. *Respect Inc Legal Brief Rape & Robbery 2019.*

Sex workers have been turned away, refused help and often leave scared or unwilling to turn to police again about any future incidents of the same nature. Sex workers are often told by police that the exchange of money negates the rape or sexual assault they have experienced, or that the matter is a civil case. Sex workers have been, and are still currently, told that their choice of employment would stop them from being believed by the court system and therefore the case is not worth taking on by police. These are all examples of gatekeeping by one police officer; however, it leads to sex workers individually, and friends of sex workers who hear these stories, choosing not to report if/when experiencing crimes later.

In November 2020, Respect Inc was contacted by a sex worker who was raped by a client and then physically assaulted when she refused to give him money back. The worker then went to Logan police station to report the incident, where they were told 'it is a civil matter and they can't do anything'. Respect Inc Legal Brief November 2020.

In another case during that same time period, another sex worker faced the precise same gatekeeping, this time via PoliceLink:

In December 2020, Respect Inc was contacted by a sex worker who had had the payment for a booking stolen back from her by the perpetrator immediately after the booking. The worker had called Police Link to report the crime, and was told 'this is not a criminal issue, you will have to go through QCAT'. Respect Inc Legal Brief December 2020.

As well as the practical impact of negative gatekeeping by police, there is also a psychological impact on the individual sex worker who has been turned away. This is exacerbated in particularly violent cases, when the perpetrator goes on to harm other women:

In April 2021, Respect Inc supported a sex worker who had reported a violent rape by two men to police. The sex worker had met one of the perpetrators online and arranged a date - not a sex work booking. The rape was filmed and the footage was accidentally sent to the victim, which she told police she had a copy of. The police did not take the report seriously, and the following day one of the perpetrators attempted to rape another woman. The second woman tried to defend herself and was stabbed several times by this same man. When the

second attack happend, the police contacted the sex worker back and asked her to come in and make a report, even though they had turned her away initially. The sex worker has been experiencing guilt and shame on top of the trauma of the incident; because she had been unable to convince the police of the seriousness of her experience, she blames herself for the second attack. Respect Inc Legal Brief Rape April 2021.

Sex workers attempting to report crimes are also subject to extremely voyeuristic and unnecessary questioning by police regarding their employment rather than them focusing on the crime that has been committed. These few examples describe experiences that are unfortunately common and routine for sex worker community members when attempting to access justice of any kind.

Theme 2, continued The TaskForce proposes to examine police actions and attitudes when receiving a report, taking a statement, investigating and deciding what action is appropriate following the report of a sexual offence.

Discussion question Given the role police play in investigating and charging sexual offences, do you support the Taskforce examining the police attitudes towards and decision to charge in relation to sexual offending against women and girls? If not, why?

Respect Inc supports the Taskforce proposal to examine police attitudes towards the decision to charge in relation to sexual offending. Sex workers report to Respect Inc that police refuse to acknowledge a crime has been committed when the victim is a sex worker, refuse to take the report when sex workers attempt to report the crime, regularly decide not to progress the report or charge the offender or charge the perpetrator with fraud instead of rape.

‘They [police] said how horrible the experience would be if I wanted to continue. So it was very much trying to get me straight back out of the door. I left there feeling distraught and never tried to report it again.’⁹

Decisions by police not to go ahead with investigating sexual offences has a long term impact on the number of reports they will receive. When sex workers are turned away, trust in the system is lost for the long term.

“‘Where’s the crime? What is it you want from us?’ the police officer asked.... ‘I said, there has to be a crime, it’s sexual assault. It doesn’t matter that I was getting paid, because even though you’re getting paid, you still have the right to say no.’ Despite this, the officer wouldn’t take her statement.’ (Wolf, 2019) - Anna, Independent Escort, Brisbane.¹⁰

‘I think my experience with the police that day was actually worse than being assaulted.... There was no compassion, no recognition that I’d obviously gone through trauma.... I didn’t want to go anywhere near the police system again’. (Sophie quoted in Wolf, 2019). - Sophie, Independent Escort, Brisbane.¹¹

⁹ [Sex workers accuse police in Queensland of ‘entrapment’](#) News.com, 22 November 2019

¹⁰ [The Case for Decriminalisation: Sex Work and the Law in Queensland](#) Queensland University of Technology, June 2019

¹¹ [No justice for sexual assault victims: Sex workers ‘less than citizens’](#) Archer, 17 January 2019

Stephanie said fear of arrest discourages sex workers from reporting violence or robbery to the police. 'It is really isolating to know that people who are meant to keep you safe are the ones who are watching you work and trawling through your ads', she said.¹² *Aggravated sexual assault case QLD.*

'I was able to give the police information [about the perpetrator]. People, times, places, etc. But they keep thinking I am only talking because of the reward [for information]. Asking me if I take drugs, are you still a sex worker... I mean how is that relevant? Such stupid questions. They said "What if you get the reward? You will have to give us your name then", I said 'I don't want the money.' *Respect Inc Legal Brief Cold Case.*

In July 2020, a sex worker made contact with Respect Inc after reporting a drink spiking and rape to police, as she was concerned by their attitudes that they were not taking the report seriously. A Respect Inc Peer Educator attending the formal statement appointment in support with the sex worker. The officer used the term 'prostitute', and made several statements about STIs and drug use - 'You aren't like other workers, drug users', as well as statements about condoms not being the norm in sex work. He also admitted he did not know the laws on sex work and that he had thought the worker was lying about the advertising platform initially. *Respect Inc Legal Brief July 2020.*

The examples above are devastating. In each case the decision to charge, believe, or be prepared to take a report in an effective and non-judgmental manner is left up to individual police in isolation. The arbitrary nature of police decisions in relation to pursuing charges or not should be unacceptable to the Taskforce. Respect Inc notes that there are too many opportunities for police to turn survivors away, and police enthusiastically take advantage of this in order to avoid prosecution.

When making the decision not to take reports and/or pursue charges against perpetrators, Respect Inc has also repeatedly observed front-line police in those situations using it as an opportunity to gather intelligence on the sex worker instead. When sex workers have attempted to report sexual offences, instead of following up the offence, front-line police tell the worker that they will not be believed, and there is no point making a report. Later the worker finds out that their QP record was updated during that interaction, with occupation 'sex worker' or 'escort' or 'prostitute'. This has led to discrimination by police and courts that follow the sex worker throughout their life.

Theme Two, continued The TaskForce proposes to consider the role of the sexual violence support service system, the level of coordination and collaboration that occurs across the specialist service system and criminal justice system and if there are any opportunities for improvement.

Discussion question Given the role that specialist and mainstream services play, or could potentially play, in supporting victims and survivors of sexual violence offences, do you support the Taskforce examining the role and potential role of sexual violence and mainstream services? If not, why?

Respect Inc is a front-line service and sometimes first responder to incidents of sexual offending. The Respect Inc team faces challenges when trying to refer survivors who are sex workers to relevant sexual assault and domestic violence services.

¹² [Sex Workers Say Their "Safety Strategies" Are Criminalised, And It's Putting Them In Danger](#) Buzzfeed, 6 November 2019

Sex workers face discrimination from church-based and other crisis services. Crisis services run by faith-based organisations, and/or that are sex worker exclusionary and trans-women exclusionary, are creating barriers to access for those groups. Respect Inc has also observed that there is often a lack of beds and low resourcing among the services that do accept sex workers.

Respect Inc accompanies sex workers to relevant sexual assault services in the time immediately following an assault. Our team has observed that health and other relevant information is not always shared in a timely manner. This is an area that needs improvement, for example:

A sex worker informed Respect Inc that in July 2020, she had been raped and hadn't been able to locate the condom after the rape. She found out during the police interview that the medical team had found pieces of the condom inside her, but had not informed her during the examination. She was relieved to know that it had been found, but the information would have been more useful to know at the time. The sex worker had waited at the Gold Coast University Hospital for 5 hours before the rape kit was done, and sent home in inappropriate clothing because her clothing was taken as evidence. All that time she had been worried about if the condom had been removed by the perpetrator, the possible negative impact on her health, with life-long consequences. *Respect Inc Legal Brief July 2020.*

Theme 3, Adequacy of laws, DPP and its support or not for survivors, Trial process including special measures for survivors, the human rights of survivors, nature/culture of the court process and possible alternatives to the adversarial justice model

The TaskForce proposes to consider: - the adequacy of sexual offences in Queensland - the role of the Office of the Director of Public Prosecutions and its engagement with victims - the trial process and laws of evidence including special measures for victims during the court process - avenues for victims to raise concerns with the process and support for victims - the nature and culture of the court process and alternative justice models.

Respect Inc has observed the particular lack of support for migrant sex workers for whom English is a second language, when moving through the court process. Added barriers faced by migrant workers to participating in court cases can be overlooked by relevant authorities. There are risks for migrant workers in that they may be deported as information about their case is brought to court. For example, if a migrant sex worker is robbed, it is unlikely that the worker would go to police, and the perpetrators know that the worker will be too scared to make a report and that it is less likely that any charges will be brought against them. The intersection between gender and race is apparent in these types of cases.

Information came up in a court case where a worker had been the victim of 'stealthling', and unknown to the sex worker the Immigration Department became involved. In court, Immigration presented evidence claiming to show that the sex worker's work hours were more than she was permitted to work under her visa conditions. The sex worker claims this is incorrect and wonders how they could have come up with the hours they did. The sex worker is now concerned that she may be deported prior to the court case. *Respect Inc Legal Brief October 2019.*

Migrant workers coming forward to report crime against them risk Border Force getting involved and trying to find a breach of visa, and using it in court to challenge the honesty of the survivor - such as in this case by fabricating a person's work hours. These risks are very real and become barriers to

reporting, and there is no apparent attempt by Queensland prosecutors to protect sex workers or prepare sex workers for this type of aspersion of character.

Respect Inc recommendation #2 The task force recognise sex workers as a community with unique barriers to justice, warranting further investigation as part of this review.

The TaskForce proposes to consider whether additional legislative reform is desirable.

Respect Inc observes that legislative reform to increase penalties for sexual offences may not have the desired effect, because there is a current culture of inattention and blatant discrimination by police to the issue of sexual offences generally. If the police are able to implement the laws as they stand, the sex worker community is not confident that bringing increased penalties for sexual offences will make any difference.

Respect Inc recommendation #5: Full decriminalisation of sex work in Queensland. Removal of criminal and licensing laws are a desirable outcome and should be considered by the Taskforce.

Discussion question: Is it appropriate for the Taskforce to consider the adequacy of Queensland's current sexual offences including provisions about consent and the operation of the excuse of honest and reasonable mistake of fact in the prosecution of sexual offences? If not, why?

It is entirely appropriate and necessary for the Taskforce to look at Queensland sexual offences including consent and mistake of fact. Respect Inc is concerned that sex worker issues were not fully taken into account recently when Queensland laws relating to consent and mistake of fact were amended. Dr Elena Jeffreys from Respect Inc explained this to the [Legal and Community Safety Committee 21 Jan 2021](#) (paraphrased):

Section 348(2) (e) of the Criminal Code states that consent is not 'freely and voluntarily given' if it is obtained 'by false and fraudulent representations' about the 'the nature or purpose of the act'. While this section could and should cover the situation where consent to sex with a sex worker is fraudulently obtained, particularly in the case of payment being withdrawn, currently in practice it does not. Even sex workers who surmount the significant barriers to reporting rape or sexual assault are being told by police, 'I don't see the crime', or 'It is a civil, not a criminal, matter'. This happens regularly, and our organisation has progressed formal complaints about this behaviour, as well as brought it to the attention of the Minister for Police and the Police Commissioner. In other cases a charge is prosecuted under section 408C of the Criminal Code, which relates not to consent but primarily to property fraud and has resulted in fines of only \$300 to \$750. The QLRC report acknowledges that this outcome does not recognise the total criminality of the offending. Respect Inc believes that it is far from ideal that cases end up tried under this clause because the victim is a sex worker. The bill does not provide any clarification to police or the justice system on this particular matter. If the bill progresses, our recommended very small addition to the Criminal Code would provide protection to some degree and, importantly, recourse to justice for sex workers in Queensland. Currently, while there has been a government commitment to refer the full decriminalisation of sex work to the QLRC, there is no date, and that creates a risk that sex workers will be left behind.

Cases of non-payment by clients in the Australian Capital Territory have been prosecuted as sexual assault and a clear precedent has been set in that jurisdiction. There is support within the sex worker community in Queensland that non-payment should be considered sexual assault, and not fraud. It is common in Queensland for police to prosecute non-payment as fraud. For example:

'Originally I did feel like he should have been charged for rape and I was pushing for that. In my mind, payment equals consent and if you take away the payment I wouldn't be consenting to having sex with him', *Gabrielle said*.¹³

In the case being described by Gabrielle above, the perpetrator was charged with fraud, not assault.

The TaskForce proposes to consider: - how much pre-trial engagement, information and support is given to victims of sexual violence - the level of consultation with victims of sexual violence about decisions not to proceed with certain charges or whether to accept pleas of guilty to alternative charges - opportunities for victims of sexual violence to seek a review of decisions made by a prosecuting lawyer or complain about a prosecuting lawyer's behaviour or general conduct of a matter.

Respect Inc peer educators support sex workers in court cases against perpetrators of sexualised and gender-based offences, domestic violence and fraud (in cases of non-payment). Sex workers are not offered enough information, support or consultation during pre-trial activities. Many important decisions are made behind closed doors by the Qld Department of Prosecutions and lawyers representing offenders, which have short-term and long-term impacts on sex workers who have come forward as victims of an offence. For example:

During a call with relevant police, Respect Inc staff were informed 'The accused has provided details of a debilitating illness, which has put the court date on hold for the near future'. The officer who charged the accused in October 2019 was surprised that the sex worker survivor and Respect Inc as the supporting organisation had not yet been informed of the situation. The August 2021 court date we were preparing for has been postponed, maybe cancelled, and the sex worker at the centre of the case is not aware of this and now the peer educator has the job of letting the sex worker know.

Excerpt from Respect Inc legal brief, 2019 - 2021.

Discussion question: Given the role that the ODPP plays in the prosecution of sexual violence offences, do you support the Taskforce examining the role of the ODPP and their engagement with victims during the process? If not, why?

The role of the ODPP and their engagement with sex workers who are survivors of sexually violent offences should be a focus for the Taskforce. The prosecution processes are complicated and long. Respect Inc observes that there are often long gaps between communications from the ODPP and survivors. This means the survivor is unsure what is happening with the case, may have put their life on hold (i.e. by not moving interstate) without knowing if or when the trial will occur. It can lead to the survivor becoming despondent, clinically depressed and anxious, confused and feeling that no

¹³ ['It absolutely should be seen as rape': when sex workers are conned](#) The Guardian, 13 October 2018

one really cares about the incident or violence against women generally. The survivor is concerned that the perpetrator is out in the general community and re-offending, and even though the survivor is following the 'correct' legal pathway, the perpetrator is still a risk to other women and other sex workers.

The TaskForce proposes to examine the nature and process of the trial for sexual offences, including committal processes, pre-trial procedures, sentencing and appeals.

Discussion question: Do you support the Taskforce examining the trial process with a focus on the particular needs of victims while ensuring the accused person has a fair trial? If not, why?

The Taskforce should examine the way trials proceed and the impact that processes have on survivors. Many sex workers comment that the trial process was as terrible as the assault. The length, complications, risks and unnecessary emotional work required by victims during the trial process should all be considered.

Sex workers have felt that the sentencing does not adequately match the impact of the incident, and/or that perpetrators who have access to resources are more likely to get off, or win appeals.

Additionally, the risks involved in for sex workers becoming a witness for the state are great, and yet rarely explained by the ODPP, and survivors are not eligible for free legal advice about concerns they might have that are specific to sex work laws:

Respect Inc was contacted by a sex worker who had taken a booking that was meant to involve being paid for performing a striptease. The person came to the worker's apartment for the booking. During the interaction she became uncomfortable and put her clothes back on. The perpetrator then raped the worker and left without paying. The worker made a report to police and the case has gone to court. However the court wanted access to the worker's phone to download and make a copy of data. She is understandably afraid of what the court might do with the personal and business information on the phone, as it may reveal her safety strategies which are illegal in Queensland, and implicate her colleagues and support people. The sex worker obtained free legal advice about her rights and was told she is not eligible for free advice about these risks because she is the 'victim' and not being charged. *Respect Inc Legal Brief Rape and Non Payment.*

The TaskForce proposes to consider whether there are other opportunities for addressing the needs of victims following the prosecution of sexual offences and whether establishing a Victims of Crime Commissioner or a Domestic and Sexual Violence Commissioner would better support victims in Queensland.

If a Victims of Crime Commissioner, or Domestic and Sexual Violence Commissioner was established, it would need to be filled by a person who is sympathetic and knowledgeable about the intersecting and cross-cutting issues of concern. For sex workers, the problem is one of stigma, discrimination and ignorance. There are risks involved with setting up high ranking positions, namely who will be in that role. Putting a 'qualified' person whose life is completely different from our own into a well paid role is not going to assist break down myths and stereotypes about sex workers and access to justice.

Discussion questions: Do you support the Taskforce examining the needs of victims following the prosecution of a sexual offence and whether the establishment of a Victims of Crime Commissioner is appropriate for Queensland? If not, why?

Examining the needs of victims should definitely be of concern to the Taskforce. Establishing new Commissioner roles does not feel like a good use of Taskforce time. Increased investment in government resources and funding into existing agencies, including Human Rights Queensland and Legal Aid, may be more useful for victims.

The TaskForce proposes to consider a range of alternatives such as restorative justice models and specialist court models.

Discussion question: Do you support the Taskforce examining alternative ways of delivering justice for victims such as through the establishment of specialised courts or through restorative justice? If not, why?

For sex workers in Queensland, alternative restorative justice models could be very useful. Respect Inc supports the Taskforce proposal to examine restorative justice.

The next comments relate to sex worker-specific specialised court models, which have been used as forced methods of diversion out of sex work for women.

Respect Inc does not support specialist court models relating to sex work offences. Specialist court models of this nature in other jurisdictions have not improved access to justice. Instead they have increased the burden of activity on sex workers, forced sex workers to stop sex work even when it is the person's chosen profession, and increased the risk of their sex worker status becoming public outside of the person's control. Additionally, the specialist court model does not appear to shorten the length of cases. It has been observed to increase and drag out sex workers' forced engagement with the legal and justice systems.

The next comments relate to client-specific specialised court models, which have been used as forced methods of diversion away from being clients of sex workers.

Respect Inc does not support specialist court models that aim to divert clients away from paying sex workers for services. These models are proven not to work and only serve to stigmatise the consensual exchange of sexual services for money.

Part 2 Women and Girls experience of the criminal justice system as accused persons

Theme 4: Why do women and girls come into contact with police and the criminal justice system, what is that engagement like. The role of police in charging women and girls & the experience of being charged.

Respect Inc recommends the Taskforce recognise:

- the ways in which sex workers as a particular population are specifically targeted by police in Queensland,
- how laws in Queensland, which criminalise sex worker safety strategies and advertising, unnecessarily increase the likelihood of sex worker engagement with police,
- how interactions with police and the attitudes of many police in Queensland toward sex workers make it almost impossible for sex workers to report crime (for fear of greater levels of surveillance) and that sex workers attempting to report crime are often prevented from doing so by police attitudes, mistreatment or misinformation,
- how the use of entrapment, where police pose as the client of sex workers, for low impact crimes is an excessive and unnecessary police power that further creates a level of distrust, reducing sex workers ability to report sexual violence or other crimes.

'Our basic safety strategies are illegal. So sex workers choose between working legally or safely. Police pose as clients to identify if we are implementing these same safety strategies. Sex workers are charged and our money, phones and laptops, our so called 'tainted property' is seized. Consequently, police are viewed as unhelpful when experiencing crime. And so many crimes go unreported or if they are reported sex workers do not feel we are taken seriously.' Kayla Rose, Queensland Parliament House Symposium, 14 November, 2018.

A recent review into the sex industry laws in Queensland notes that 'it is also evident that many of these provisions force sex workers to work outside of the law in order to protect their own safety'.¹⁴

'I have to work illegally in order to stay safe', she said.

'I know workers who have been arrested just for texting each other and being charged with knowingly participating in the provision of prostitution.'

*All of Stephanie's safety strategies are criminalised: 'Messaging other workers when my clients leave or arrive, booking into hotels that other workers are booked into so I know there is someone close by, using drivers that other workers use.'*¹⁵

Respect Inc recommendation #3

The Taskforce specifically investigate the use of entrapment by police in relation to women accused of other crimes.

Respect Inc recommendation #4 the Taskforce recognise:

- the ways in which sex workers as a particular population are specifically targeted by police in Queensland,
- how laws in Queensland which criminalise sex worker safety strategies and advertising unnecessarily increase the likelihood of sex worker engagement with police,
- how interactions with police and the attitudes of many police in Queensland toward sex workers make it almost impossible for sex workers to report crime, for fear of greater levels of surveillance which may lead to their arrest,

¹⁴ [Human Rights Act 2019 \(Qld\) Legislative Review](#), University of Queensland, 6 July 2021

¹⁵ [Sex Workers Say Their "Safety Strategies" Are Criminalised, And It's Putting Them In Danger](#) Buzzfeed, 6 November 2019

- how the use of entrapment for low impact crimes, by police posing as a client of sex workers, is an excessive and unnecessary police power that further creates a level of distrust, and reduces sex workers' ability and willingness to report sexual violence or other crimes.

The TaskForce proposes to consider the complex underlying factors contributing to women and girls coming into contact with the criminal justice system, including examining the unique factors that impact on particular population groups.

The long history and culture of police misuse of powers in relation to the sex industry in Queensland and laws that criminalise many aspects of sex work, that in other industries are considered basic administration tasks or necessary safety strategies, contributes to sex workers being a population highly likely to experience contact with the criminal justice system.

The Criminal Code section 229H *'Knowingly participating in provision of prostitution (1) A person who knowingly participates, directly or indirectly, in the provision of prostitution by another person commits a crime'* is the most common charge relating to sex work used in Queensland. The section is broad and criminalises:

- two sex workers working together,
- two sex workers working from the same hotel,
- a sex worker hiring a receptionist,
- a sex worker driving another sex worker to an outcall,
- checking-in with another sex worker at the end of a booking.

In addition, the Prostitution Act 1999 criminalises all sex worker workplaces other than the 21 licensed brothels, for example co-operatives, erotic massage parlours, escort agencies.

Police also have additional powers under the Police Powers and Responsibilities Act that define some sex work offences as 'relevant offences' for police to undertake 'controlled activities', this most common taking the form of entrapment, with police posing as clients.

*'One of the women told the ABC, on the condition of anonymity, that she was arrested by an undercover police officer posing as a client. The 27-year-old said she had only been working for the agency for a few weeks and had been assured the business was legal.'*¹⁶

In addition, other sex workers, or sex workers' families and friends can be charged, held or searched without a warrant if found to have consorted, or to be likely to consort with a sex worker charged for offences outlined above in section 229H of the Criminal Code. A person (a sex worker, family member or friend) who is found to be on a premises suspected to be used by two sex workers (even though this is a well known safety strategy) can be charged under section 229I, maximum penalty three years imprisonment.

¹⁶ [Sex Workers Say Their "Safety Strategies" Are Criminalised, And It's Putting Them In Danger](#) BuzzFeed, 6 November 2019 and [Sex workers charged after Gold Coast raid but workers say they thought escort agency was legal](#) ABC, 30 October 2019

Discussion question: Do you support the Taskforce focusing on the underlying factors that are contributing to the increasing levels of women and girls coming into contact with the criminal justice system with a particular focus on Aboriginal and Torres Strait Islander women and girls? If not, why?

Respect supports a particular focus on the experiences of women and girls from Aboriginal and Torres Strait Islander backgrounds. This should be informed and led by Aboriginal and Torres Strait Islander organisations who are frontline and advocate within the criminal justice system, are peer based and can represent Aboriginal and Torres Strait community experience of the system.

Aboriginal and Torres Strait Islander sex workers are more significantly disadvantaged by the laws that criminalise aspects of sex work and are even more likely to experience targeting by police. The criminalisation of sex work gives police an excuse to harass and assault Aboriginal and Torres Strait Islander women, without any recourse to justice. Below is an example from our observations at Respect Inc:

'During peer education a sistergirl peer was talking to me about being harassed by police, arrested, assaulted and incarcerated. She was known by police as a sex worker, but was not working at the time of the harassment and subsequent incarceration. She had asked a man for a smoke and was given one. As she walked away, police pulled up, got out of the police car and proceeded to accuse her and her friend of soliciting for sex work. Even after telling the male police officer that she was not soliciting, but had just asked for a smoke, which was confirmed immediately by the man who gave her the smoke, the police still told her to get into the police car. She was told she was under arrest as they didn't believe her story. She refused to get in so was grabbed by the officer and slammed on the ground (along with her friend), violently handcuffed and put in the back of the van. She was charged with resisting arrest, assaulting police and soliciting. She spent two days in police cells after which the charges were dropped because the Aboriginal Legal Service became involved in the case. Upon release she had a black eye and cuts and bruises all over body. These were caused by police handling. No apology was given and she was told not to "make a fuss" or it would not be good for her.'

Hope Sweet, the Aboriginal and Torres Strait Islander Project Leader at Respect Inc.

Aboriginal and Torres Strait Islander women experience a higher than average rate of losing custody of children when locked up, even when charges are later dropped or the woman is found not guilty. Children should not be removed from families or kinship systems as a result of parents being incarcerated. The incarceration rates for Aboriginal and Torres Strait Islander women and girls is far too high in Queensland, has negative impacts on health and education when a person is locked up. Being locked up and separated from family and kinship systems creates life-long trauma for Aboriginal and Torres Strait Islander women, has no positive benefit for community and creates negative outcomes for individuals and family. Respect Inc observations include:

'The trauma of being removed from parents and kinship can hold Aboriginal and Torres Strait Islander girls and women back, making it impossible to reach education and health goals. So many young Aboriginal and Torres Strait Islander sex workers have been in the foster system and have been disconnected from kinship groups. Trauma caused by removal can lead to alcohol and drug misuse. A young sex worker was telling me how her feelings of

abandonment and disconnect from culture and country caused her so much trauma that she started masking her hurt with drug and alcohol misuse from the age of 12. She described it as a big monster that sat on her and ate so much happiness and joy. She had been in and out of court her whole life, first with the foster system and then in the criminal system. Connection to culture and kinship are the only way to heal our women and our culture. Our women and girls hold the key, they raise strong, healthy and culturally connected children who are our future.'

Hope Sweet, the Aboriginal and Torres Strait Islander Project Leader at Respect Inc.

The age of criminal responsibility must be raised. No young women should be held criminally responsible at age 10, 11, 12 or 13. These are years of development, and the impact of forced interaction with the criminal justice system has life-long negative consequences, including fear of police. As a result, Aboriginal and Torres Strait Islander women and girls who have been incarcerated face barriers to reporting sexual offences.

Deaths in custody is a significant risk for all Aboriginal and Torres Strait Islander women and girls who are locked up. According to the latest Australian Bureau of Statistics figures, Aboriginal people are jailed at 13 times the rate of non-Indigenous people. Observations from Respect Inc include:

'Among Aboriginal and Torres Strait Islander women, the fear of being incarcerated is on par with the fear of death. Ms Mandijarra and Veronica Marie Nelson Walker are two of a long list of women whose lives ended in custody. I can tell you the expectation of dying in custody is a real fear for me. I make this point because when many non-Indigenous women get arrested or go to prison they are pretty sure they will be walking out alive. When we get arrested or go to prison we feel like we are fighting for our lives, as we know there is an extremely high chance we may pay with our lives.'

Hope Sweet, the Aboriginal and Torres Strait Islander Project Leader at Respect Inc.

The TaskForce proposes to consider the role and actions of police responding to criminal offending or alleged criminal offending by women and girls, including the impact of: - under representation of women as members of the Queensland Police Service - cultural capability within the Queensland Police Service - whether women and girls who are accused of committing offences in Queensland are subject to racism and misogyny alleged to exist within the Queensland Police Service.

Respect Inc runs sex worker sensitivity training sessions for Queensland police, in regular ISACURE team training environments and one-on-one sessions with officers in particular stations as requested. During our sex worker sensitivity training members of the Queensland police service are very engaged and interested, and often willing to continue discussions and ask questions about the curriculum. Respect Inc gathers evaluations after each training session, which has allowed us to see particular trends within QPS about police issues regarding sex workers. Noted areas of concern are lack of knowledge regarding laws affecting sex work and sex workers within Queensland, lack of knowledge regarding what 'stealthing' is and if it is a crime, little to no knowledge around support services for sex workers and acknowledgement of gaps with appropriate use of language. There are also gaps in knowledge about how to handle sex workers' attempts to report crimes, and to ensure sex workers are comfortable during reporting.

On average for each group training session, one or two police officers will submit negative feedback in relation to their views on their personal policing and community engagement. Instead of using the training as a learning opportunity, negative feedback trends include:

- 'Why is this topic important to me? I don't deal with sex worker complaints.'
- 'I already know how to take complaints, sex workers aren't special.'
- 'What a waste of time.'
- 'The laws are the laws, my job is just to follow them. This training is not relevant to me.'

Discussion question: Do you support the Taskforce focusing on the role of the police in relation to women and girls accused of offences? If not, why?

Respect Inc supports the Taskforce focusing on the role of police in relation to women and girls accused of offences.

Despite findings in the 1989 Fitzgerald Inquiry that there were high levels of police control, misuse of powers and corruption in relation to the sex industry, sex workers in Queensland in 2021 are still heavily policed, with significant negative impacts on our health, safety, legal and human rights. It is the continued criminalisation of sex work outlined in this submission that reduces sex workers' ability to put in place basic safety strategies and also makes sex workers more likely to be fined or charged by police in relation to sex work or other matters.

QPS statistics in 2016-17 note that is mainly women over the age of 30 charged with 'prostitution-related offences.'

The police use of entrapment and the type of crimes prosecuted as a result of entrapment operations warrants specific investigation by the Taskforce.

In 2000, the Police Powers and Responsibilities Act expanded the role for police when undertaking entrapment of sex workers. In 2011 this Act was amended to include immunity for police when explicitly posing as clients to encourage sex workers to verbally or in writing agree to illegal activity in order to obtain evidence and then charge the

Charges against mainly women for sex work offences has increased up to 450%


The 2016 -17 Queensland Police statistical review shows:

- 'Prostitution' offences up by **57%**, advertising offences up by **450%**,
- 'knowingly participate in the provision of prostitution' offences up by **126%**
- and that **'offenders were mostly women over 30 years old'**

Many aspects of sex work are criminalised-most sex workers can't operate legally


Entrapment is legal and is used against sex workers by police posing as clients

Basic safety strategies are illegal for sex workers

- working together (cost share, support, safety)
- messaging another sex worker about current location
- checking in or out when a client arrives and leaves
- using a driver another sex worker uses and recommends
- describing the services offered even using coded language
- employing a receptionist



Police cannot be both the prosecutors and the protectors


When police are the regulators of the sex industry sex workers are reluctant to report crimes/harassment. Making yourself known to police is considered likely to result in future surveillance, a charge or deportation. Describing an offence to police often means admitting that you are undertaking activities that are essential for your safety but illegal in Queensland. Sex workers state that police do not take reports by sex workers seriously or their treatment discourages continuing with the report. The 2017 needs assessment of sex workers working in licensed brothels, the 'Regulating Bodies Report' found 50% of sex worker respondents would not report an assault to police.

Police resources are diverted away from serious crimes


67% of 'prostitution'-related infringements are for advertising discrepancies. Queensland's sex work advertising laws are complex and criminalise wording and descriptions used in other industries and in other states and territories.

Is this a good use of already stretched police resources?



person. The powers held by police in relation to sex work in Queensland are far greater today than at any time before the Fitzgerald Inquiry.

Queensland police regularly pose as clients of sex workers, attempting to get sex workers to agree to illegal services, for example working in pairs or providing a doubles service, which is illegal in Queensland.

'He kept saying, "Get your friend in here". I said, "No, I don't have a friend here, if you're happy with me, then you pay me". I felt a little uncomfortable. I said, "OK, if you're not happy with me then you can go — then he pulled out his police tag.'

Sitting on her couch in lingerie, five police officers entered Joy's living room — confiscating her phone, ID, passports and house keys — while more officers waited downstairs.¹⁷

The use of entrapment, in relation to sex worker advertising and work practices is an excessive level of power that does not match the seriousness of the crime or community expectations. Sex workers have also raised questions about consent when having consented to a service with a person they believe to be a client turns out to be a police officer with whom they would not have engaged in the same way had they not been deceived. Criminology academics have also raised questions in relation to this practice.

'Janet Ransley, director of Griffith University's Criminology Institute, said entrapment strategies rely on deception and therefore raise important ethical issues around the fairness of police conduct. She said police were not required to report whether they use entrapment as a technique in covert operations, making it difficult to tell how widespread it was being used. "A lot of people in the community would have the view that this is overreach", Professor Ransley said.'

During the Fitzgerald Inquiry, police called for a greater level of powers to gain convictions in relation to sex work.¹⁸ The Fitzgerald Report did not support greater powers for police and noted that 'police perception of supposed difficulties in such areas is largely unjustified'. The report also recommended against the use of a specific police unit targeting sex workers. In opposition to these findings, police powers in relation to sex work have increased multiple times since 1989 with significant increases proposed (however unsuccessful) in 2019 with the specialised Queensland police service unit, the Prostitution Enforcement Taskforce (PETF) still in existence in 2021.

A police officer made a booking, pretending to be a client, but then arrived at the worker's location and said they were there to question her. The police had asked her what the acronym BBBJ meant and she said it was a bare back boob job. They checked the unit to make sure she was alone. She reported that they were quite aggressive, trying to get admissions about other people on the premises and her services offered, but they let it go in the end. They made a phone call back to someone in charge and then left without charging or fining her. *Respect Inc Legal Brief April 2021.*

A sex worker has contacted Respect Inc for advice regarding the use of police entrapment

¹⁷ 5.3.4 Illegitimate Calls for Power, [Fitzgerald Report](#) 1989

¹⁸ [Queensland sex workers forced underground by 'draconian' laws amid 'predatory' police targeting, advocates say](#) ABC, 27 Feb 2021

regarding a fine for breaching a public health order. There were restrictions on sex work at the time due to Covid-19. The police officer acted as a client to make a booking with the sex worker, then arrived at the worker's workplace in a marked police car and in uniform. The worker did not receive a warning before the fine was issued. The sex worker is concerned about more police harassment if they decide to contest the fine due to the intimidating behaviour of police involved in the issuing of the fine. The sex worker felt the fine was unjust, but chose to pay it in order to avoid further involvement with police. *Respect Inc Legal Brief May 2020.*

The financial penalty for sex work-related offences is very high in Queensland, and does not match community expectations about the seriousness of the crime. For example, utilising safety strategies by working in pairs or with a receptionist attracts thousands of dollars in penalties. Excerpt from a fine issued to a Queensland sex worker:

[Cc] 229h(1) Knowingly Participate In The Provision Of Prostitution	Imprisonment for 6 months concurrent. To be suspended for 5 years.
[Cpca] 252(1) Possess Tainted Property	Convicted. Fined \$5,000.
[Cc] 229h(1) Knowingly Participate In The Provision Of Prostitution	On all charges: Convicted. Fined \$6,000.
[Cpca] 252(1) Possess Tainted Property	

The TaskForce proposes to consider the experience of women and girls who progress from initial contact with police through to formal contact with the legal system including courts.

Respect Inc feels strongly that the impact on sex workers upon initial contact with police, the experience of being charged and appearing in court should be considered by the TaskForce. Key issues for sex workers are:

- forced disclosure of sex work identity to police,
- public outing as a sex worker during the court process due to media reporting,
- release of legal name and home street address in local papers and media, resulting in risk of danger and harassment (this is particularly prevalent for migrant background sex workers),
- loss of property, money and personal effects, due to being classed as 'tainted goods'.

Discussion question: Do you support the Taskforce focusing on women and girls experiences in the legal system when they have been accused of committing offences? If not, why?

Respect Inc supports the TaskForce proposal to focus on the experiences of sex workers accused of committing offences, and the impact of the legal system on them. Sex workers from Asian language backgrounds, and who are migrants, appear to be disproportionately targeted by police for sex work-related offences. Young sex workers, women in street-based settings, trans women and Aboriginal and Torres Strait Islander sex workers are at higher risk of police attention and therefore

charges. This leads to an overrepresentation of these groups in the criminal justice system as defendants.

Respect Inc is also concerned about the involvement and participation of Border Force in sex work cases being prosecuted by Queensland Police. There is no data on the number of deportations, or the number of migrant sex workers in detention in Queensland as a result of sex work laws.

Quest News

Sex worker's strange agreement to funnel clients, manage prostitution fees

A sex worker illegally paid a receptionist to act as a go-between for her prostitution work, helping negotiate costs and services and manage her schedule.

Details of ██████████'s bizarre work agreement were heard in Richlands Magistrates Court on Wednesday after the mature woman was arrested in a sting operation in May.

Aided by an interpreter, she pleaded guilty to knowingly participating in the provision of prostitution via another and possessing tainted property.

The court was told the 58-year-old paid another person to act as a receptionist during her work as a prostitute between April and May.

The unknown person would negotiate costs and services and manage a schedule of clients for a fee.

Queensland's prostitution laws prevent anyone from soliciting sex work unless at a licensed brothel or working as a private sole operator.

Undercover detectives in a specialist task force posed as clients and booked an appointment with ██████████ on May 21 at a hotel in Darra.

██████████ told police she had the receptionist placing ads and directing clients to her over the past few months.

A mobile phone used for her work and a sum of cash was also located.

In the above case, the media publicly outed a sex worker after she was targetted for an undercover 'sting' by police, for having a receptionist. This is a basic safety strategy, yet is illegal in Queensland. For women who would otherwise be working alone, having a receptionist makes a lot of sense. Yet police in Queensland specifically target women who are using these strategies. The law is unfair, and it is using up expensive police resources and court time to pursue such charges.

Sex worker stung in covert job

Detective goes undercover as client

SARAH BARNHAM

Sarah.Barnham@scnews.com.au

A TASKFORCE detective went undercover as a client to bust a woman operating an unlawful prostitution business from a Gladstone CBD unit complex.

█████ pleaded guilty in Gladstone Magistrates Court to one count each of engaging in prostitution through an unlawful prostitution business and possessing tainted property.

Court documents sighted by *The Observer* revealed on October 11 detectives of the Prostitution Enforcement Task Force were "conducting compliance checks" on internet advertisers for prostitution services in the Gladstone area.

█████ advertisement was found to contain reference to several sexual services offered, breaching the Prostitution Act.

The detective contacted █████ on the number listed with her advertisement and was told to meet at the unit █████.

Before revealing his identity

the detective was able to confirm █████ offered "full service sex" at \$230 an hour.

█████ indicated she could not speak English and an interpreter was called in.

The 34-year-old told police she was Chinese and held a working visa. She consented to a search of her unit and officers found a mobile phone, a silver notebook and \$150 cash.

The court heard the notebook appeared to contain details of previous transactions.

█████ told police she knew nothing of the advertisement but told officers she had a "friend" who she paid to place ads and take phone calls from clients. The documents stated █████ was "unwilling to implicate any associate" and became agitated with police over questions about the notebook.

Checks of █████ mobile phone revealed she used a communication app to organise large cash transfers into a Chinese bank account. █████ was fined \$500 for the offending. A conviction was not recorded.

In October 2018, Respect Inc saw yet another case of standard police targeting of sex working women in country towns, that resulted in public outing, loss of money, and yet no recorded convictions. A lot of police attention, and harm caused, for very little 'justice'.

A Chinese speaking sex worker was noticed by local police because of an advertising breach. The words she was using in her advertising did not match the relevant regulations.

Instead of contacting her and advising her what the correct wording would be, the police gained authorisation to make a fake booking, and called up pretending to be clients. When doing so they observed that she was using a receptionist who referred the clients to her. In Queensland this basic safety strategy - having clients vetted through a receptionist prior to confirming the booking - is illegal.

The police raided the sex worker's workplace and her property was seized. The police took her mobile phone and cash \$150, they went through her notebook and phone and found that money was being put into a Chinese bank account - she was charged with several charges, fined \$500 and no conviction was recorded.

This was a traumatic experience for her and an expensive exercise for the police. Sex workers question why this is a priority for police. Is it so that police can say they are 'cracking down' on Asian sex workers? If so it is purely racist in motive.

Theme 5: Women and girls experience of incarceration and release

The TaskForce proposes to consider the reasons for the increasing incarceration rate for women and girls and their experience of incarceration.

Discussion question: Do you support the Taskforce focusing on women and girls' experience of incarceration and release and in particular the progress towards implementing the recommendations of Women in Prison 2019? If not, why?

Respect Inc supports the Taskforce proposal to consider why women and girls are increasingly incarcerated in Queensland. We note that police deliberately target sex workers using the laws that criminalise sex worker safety, and use entrapment to pursue charges. This leads to the increased likelihood that women sex workers in Queensland will have 'stacked' or historic charges that lead the courts to determine that a custodial sentence is appropriate. Without the sex work charges, many of which in Queensland are the result of entrapment, the person would less likely be jailed.

Police also are well known to target drug users. A personal story from one of our community members highlights why this is problematic:

'As a young woman who was incarcerated, I do support the Taskforce proposal to focus on women and girl's experiences of incarceration. The criminalisation of drugs is a massive factor in the overpopulation of women's correctional centres. Also the criminalisation of sex workers plays a massive part. As a person who was a drug user and experienced chemical dependency, and a sex worker, and having been to jail myself, I have lived experience of the issue. In my experience, being sent to prison after years of substance use did not help in any way with my use of drugs. Yes I detoxed in jail and did not use any substance while incarcerated, however I relapsed shortly after leaving jail and this was far worse than before I went in. Of all my experiences with addiction, my relapse after jail was by far the most shameful point of my life and by far the worst of my experiences. I believe this was due to being forced to detox and not having the appropriate support for my recovery. I feel rehabilitation would have been a far better option and I saw this among many of my fellow inmates. My drug use was simply put on hold, and the build up of the desire to use over those 3 months was a recipe for disaster. Many of the women and girls I was in jail with were far worse off within months if not days of being released. This is dangerous, and cruel. My charges were never related to sex work however I chose not to break the laws surrounding sex work in order to keep myself safe. In hindsight this was a mistake, though it did protect me from police harassment while working.' *Young woman sex worker involved in Respect Inc, statement July 2021.*

References

Rushton, G. 'Sex workers say their 'safety strategies' are criminalised, and it's putting them in danger'. 6 November 2019. Buzzfeed.

<<https://www.buzzfeed.com/ginarushton/sex-worker-assault-sentencing-queensland>>

Rushton, G. 'This sex worker who was sexually assaulted didn't think she would be believed. Now her client is going to jail'. 30 May 2019. Buzzfeed..

<<https://www.buzzfeed.com/ginarushton/sex-work-decriminalisation-arrests-gold-coast-queensland>>

Jeffreys, E., O'Brien, E. & Fawkes, J. 2019. The Case for Decriminalisation: Sex Work and the Law in Queensland, QUT Crime and Justice Briefing Paper. Issue No. 1

<<https://eprints.qut.edu.au/131101/1/Briefing%20Paper%20sex%20work.pdf>>

DecrimQLD resources <<https://respectqld.org.au/decriminalise-sex-work/resources/>
<<https://respectqld.org.au/decriminalise-sex-work-media-mentions/>>

Respect Inc & Scarlet Alliance. 2018. Joint Submission on the Human Rights Bill (QLD)

<<https://respectqld.org.au/wp-content/uploads/Documents/Respect-Inc-Scarlet-Alliance-Submission-on-Human-Rights-Bill-2018.pdf>>

Respect Inc. 2021. Submission on the Criminal Code (Consent and Mistake of Fact) and Other Legislation Amendment Bill 2020

<<https://www.parliament.qld.gov.au/documents/committees/LASC/2020/CrimCodeCandMoFOLA/B2020/submissions/046.pdf>>

Stardust, Z., Treloar, C., Cama, E. & Kim, J. 2021. I wouldn't call the cops if I was being bashed to death: Sex work, whore stigma and the criminal legal system. *International Journal for Crime, Justice and Social Democracy*. Vol 10, No. 2.

<https://www.crimejusticejournal.com/article/view/1894>

Wolf, G. 2019. No justice for sexual assault victims: Sex workers 'less than citizens'. *Archer Magazine*.

<<https://archermagazine.com.au/2019/01/no-justice-sexual-assault-victims-sex-workers-less-citizens/>>

DecrimQLD Sex worker safety should be sexy not criminal (Webinar).

<<https://www.youtube.com/watch?v=kO1Xjk4RC0k&t=619s>>

One Woman Project. 2021 Fight for a decriminalised future: Leaving licensing behind (webinar).

<<https://www.youtube.com/watch?v=A7GhYqOjCl4>>

Respect Inc & Scarlet Alliance. 2018. Joint submission. Sex work laws and workplace health and safety symposium report, Brisbane Parliament House, 14th November, 2018.

<<https://respectqld.org.au/wp-content/uploads/Decrim/Sex-work-laws-and-workplace-health-and-safety-symposium-Report.pdf>>

McGowan, M. & Knaus, C. 'It absolutely should be seen as rape: When sex workers are conned. The Guardian, 13 October 2018.

<<https://www.theguardian.com/australia-news/2018/oct/13/it-absolutely-should-be-seen-as-when-sex-workers-are-conned>>

Respect Inc media release on the use of fraud in situations of sexual assault, Oct 2018

<https://respectqld.org.au/media-release-oct-2018-sex-workers-win-in-court-despite-bad-laws-queensland/>

Police raids on suburban locations, arrests of 25 people, Respect media release, Oct 2019

<https://respectqld.org.au/police-raids-on-gold-coast-30-oct-2019/>

Respect Inc and Scarlet Alliance giving evidence to the 'Legal and Community Safety Committee' inquiry into the changes to Consent laws, Jan 2021

<https://www.parliament.qld.gov.au/documents/committees/LASC/2020/CrimCodeCandMoFO/LAB2020/trns-Consent-21Jan21.pdf>

Forrest was a sex worker in the 1980s and remembers police officers coming in and “charging girls on a rotational basis”. “It was my turn so the police officer just said ‘this is the routine, girly,’” the now 57-year-old told BuzzFeed News. “They would come in full of swagger and never had to pay for their bookings.” Forrest was charged and fined about \$150. “We were earning a couple of thousand dollars a week and we weren’t paying any tax so they just said ‘think of it like it is your tax’ and I was quite intimidated,” she said. Even though this kind of corruption ran rampant in the 1980s, Forrest believes sex workers may be less safe now.

[Sex Workers Say Their "Safety Strategies" Are Criminalised, And It's Putting Them In Danger](#) Buzzfeed, 6 November 2019

“Sex work may be the exchange of payment for companionship, intimate and sexual services but payment does not negate consent”.... “My time and services were paid for by this client for an upfront agreed upon service, my body was not bought to do with whatever he wanted nor to violate as he wished.” Quate from Nikki who attempted to report a sexual assault to police at the Mt Gravatt station but the plain clothes police officer said “Where is the crime?”

[This Sex Worker Who Was Sexually Assaulted Didn't Think She Would Be Believed. Now Her Client Is Going To Jail](#) Buzzfeed, 30 Nov 2019