



# **The FAVE Project**

## **Financial Assistance and Victims' Experiences**

### **Technical Report No. 6: Contexts, Data, and Decisions by Victim Assist Queensland for Sexual Offences**

Kathleen Daly, Robyn Holder, and Victoria Meyer

School of Criminology and Criminal Justice  
Griffith Criminology Institute  
Griffith University

*The FAVE Project*  
*Financial Assistance and Victims' Experiences*

**Technical Report No. 6:  
Contexts, Data, and Decisions by  
Victim Assist Queensland for Sexual Offences**

Kathleen Daly, Robyn Holder, and Victoria Meyer  
School of Criminology and Criminal Justice and  
Griffith Criminology Institute

Griffith University  
Brisbane

February 2019

When citing this report, please use:

Daly, K., R. Holder, and V. Meyer (2019). *The FAVE Project, Financial Assistance and Victims' Experiences, Technical Report No. 6: Contexts, Data, and Decisions by Victim Assist Queensland for Sexual Offences*. Brisbane: School of Criminology and Criminal Justice and Griffith Criminology Institute, Griffith University.

© Kathleen Daly, Robyn Holder, and Victoria Meyer

## The FAVE Project, Financial Assistance and Victims' Experiences

### Technical Report No. 6: Contexts, Data, and Decisions by Victim Assist Queensland for Sexual Offences

#### Introduction

*Technical Report No. 6* is one of two technical reports for the Financial Assistance and Victims' Experiences Project (the FAVE Project). *Report No. 6* provides historical context for state payments to crime victims in Queensland and internationally, and then focuses on the operational activities and outcomes of Queensland's financial assistance scheme for victims of crime. The state administrative scheme began on 1 December 2009 and is carried out by staff at Victim Assist Queensland (VAQ), an organisational unit within Queensland's Department of Justice and Attorney-General. *Report No. 6* focuses on the Financial Assistance side of the project, whereas *Report No. 7* centres on the Victims' Experiences side. For both, the research centres on financial assistance for victims of sexual offences.

The FAVE Project is part of a broader program of research, funded by two ARC research grants (Daly, Chief Investigator, 2008-11, 2013-15), with continuing support from a third ARC (Daly, Chief Investigator, 2017-20) on conventional and innovative justice responses to violent victimisation, with a focus on sexual violence. The aim is to assess and compare different justice mechanisms (financial assistance being just one mechanism) in different contexts of victimisation and to understand the meanings of money as justice, from a victim's perspective. Selected reports, conference papers, and publications to date include Daly (2011, 2014a, 2014b, 2015, 2016a, 2016b, 2017a, 2017b); Daly and Holder (2017, 2019); Daly and Wade (2017); Holder and Daly (2018).

*Technical Report No. 6* describes the legal and organisational contexts of Queensland's financial assistance scheme (set more broadly within an Australian and international context), the decision-making and assessment criteria established by legislation and used by assessors, and the decisions made. Two sources of de-identified data were utilised in assembling the final FAVE dataset.

The first is VAQ's Case Management System (CMS), which has a range of variables, including the applicant's age at the time of victimisation and at application, the type of offence and victim-offender relationship, type of assistance sought and granted, the outcome of the application, among other variables. The second is the data coded and extracted from the Statement of Reasons (SoR), a document sent to each applicant that gives a VAQ assessor's reasons for awarding categories of financial assistance to an applicant. The CMS and SoR data were consolidated and merged into the final FAVE dataset, which has about 160 variables.

The FAVE Project assembled and analysed applicant cases that were lodged and determined (or finalised) from 1 July 2012 to 31 December 2013, an 18-month period. The final FAVE dataset has 291 cases which were decided during the 18 months, although applicants may lodge further requests for the same victimisation. We also created a more limited dataset of outcomes for all sexual violence victims who had *applied* for financial assistance during the 18-month period, and for whom information on outcomes was extended an additional 12 months, that is, to January 2015 (the FLOW dataset). This dataset (N=383 cases) permits a longer window of observational time to determine what happened to victims' applications and the length of time to reach a decision.

In addition to the FAVE and FLOW datasets, data were gathered from victims on their experiences seeking and receiving financial assistance. Described in *Technical Report No. 7*, an online survey and in-depth interviews were carried out with survivors, drawn from the FAVE and FLOW samples.

The questions raised in the Financial Assistance side of the FAVE Project are these: What structures assessors' decisions in making awards for financial assistance? Are some victims viewed as more deserving than others? If so, which ones and why? What monetary amounts do victims receive? There are two sources of financial assistance for primary victims of crime, the focus of the study. One is termed *special assistance*, or what VAQ staff and the FAVE team refer to as the *recognition payment*. For sexual offences, this payment can range from \$1,301 to \$10,000. What explains the range in size of the recognition payment? Are there differences in payments by age, sex/gender, or Indigenous status? Are there differences based on victim-offender relationship, offence characteristics, or the behaviour of the victim? The second source of financial assistance is payment of expenses incurred by the applicant as a result of the victimisation. These include counselling, medical and dental costs, loss of earnings, damage to clothing, among others.

For the Victims' Experiences side of the FAVE Project, the questions are: Why do victims apply for financial assistance and what do they hope to achieve? How do they judge their experiences with staff and the payments they received? Does the money they receive assist in their 'recovery' from crime (as is intended by VAQ)? Does it provide appropriate recognition of their victimisation (as the legislation calls for)? What is the meaning of the recognition payment to victims, and how do they decide to spend the money and why? What problems do they face in seeking financial assistance?

The two sides of the FAVE Project proceeded in tandem from 2014 to 2016. Likewise, the research literature relevant to each has considerable overlap. However, we decided to write two reports because each used different methods, asked different questions, and yielded different results.

*Technical Report No. 6* provides a brief history of the rise and evolution of state schemes to recompense crime victims, a comparison of schemes in Australia, and a summary of legislative change over time in Queensland. It describes VAQ's decision-making processes and how the FAVE and FLOW datasets were assembled and the variables coded. Selected findings are reported; and detailed appendices give comparative data, legislative and operational detail, and statistical outcomes. The literature on real rape and credible victims was applied to questions of how assessors use their discretion in awarding the recognition payment.

*Technical Report No. 7* reviews the empirical literature on victims' experiences with state schemes, identifying what new knowledge the FAVE Project sought to contribute. It sketches the conceptual basis for the online survey questions and those in the interviews, and it describes the methods used to implement the research.

There are strong preferences in using the terms victim or survivor, particularly in research on sexual and violent victimisation. We alternate usage of both terms in this report.

### **Acknowledgments**

Many people contributed to the success of the FAVE Project, and we are grateful for their support. The ARC contributed significant funding with DP130103775 (2013-2015, extended to February 2017), aided with funds by Griffith University's Art, Education, and Law Pro-Vice Chancellor (Professor Paul Mazerolle) and (then) Head of School (Professor Janet Ransley) to support a post-doctoral fellow on the 2013-2015 ARC grant (Robyn Holder).

The VAQ office and staff have been key partners. We especially acknowledge Nicola Doumany (Director, December 2009 to October 2016) and Dean Corless (Acting Director, 12 October 2016 to 15 February 2018; Director, 16 February 2018 to present) for their active engagement, assistance, and support throughout the project.

Daly made initial contact with VAQ in 2011, with several phone conversations and email exchanges with VAQ staff member Jonty Bush, who provided data and insight to structure a research stream in an ARC research proposal. When the project was awarded funds from the ARC, key people at the research implementation stage in 2013 and 2014 were Nicola and Jonty, along with Bill Duffy (VAQ data specialist), Amanda Shipway, and Shannon Lowrie, who guided the data transfer process and provided the de-identified data. In developing the interviews, Robyn Holder thanks Melinda Purdie, Megan Topping, and Shannon for developing an office protocol on ways of inviting victim participation in the research, for facilitating contact with interviewees, and for assisting in the online survey.



## Table of Contents

### Introduction

### Acknowledgments

### Tables and Box

Note: Box 1 and Tables 1, 2, 6, 13, and 14 are within the text of the report.  
Tables 3 to 5 and 7 to 12 are at the end of the report in Appendix 8 (Tables).

Table 1. Maximum monetary amounts to victims in Queensland legislation over time . . . .	18
Box 1. Awards (range and mean) for sexual offences under The Code and COVA . . . . .	19
Table 2. Number of FAVE applications and persons . . . . .	38
Table 3. Key variables for all cases and by four offences	
Table 4. Frequencies and statistical tests for male and female cases	
Table 5. Recognition payment and expenses granted (overall)	
Table 6. Recognition payment and expenses by offence . . . . .	45
Table 7. Sex/gender analysis for category A and B offences	
Table 8. Sex/gender analysis for four offences	
Table 9. Indigenous status analysis for category A and B offences	
Table 10. Indigenous status analysis (female cases only) for category A and B offences	
Table 11. Rape cases: real rape, victim credibility, and offence seriousness	
Table 12. Sexual assault cases: real rape, victim credibility, and offence seriousness	
Table 13. Elapsed time from offence to report and to VAQ application . . . . .	56
Table 14. Time to report to authorities by victim's age at report . . . . .	57

### Legislative Abbreviations

COVA (*Criminal Offence Victims Act 1995*)  
VOCAA (*Victims of Crime Assistance Act 2009*)  
The Code (*Criminal Code 1899* (Qld))

Notes on compensation as a term, changes to VAQ practice since the FAVE research period, money currency, and Financial assistance and FA. . . . . 10

### Part I. Historical and legal context

A. State payments to victims of violent crime: a brief history . . . . .	11
1. Developments in Anglo-Saxon law to the mid-20 <sup>th</sup> century . . . . .	11
2. Developments in Great Britain, New Zealand, Australia, and other countries . . . . .	11
B. Why should the state pay money to crime victims? . . . . .	13
C. Australian schemes . . . . .	15
D. Other sources of financial assistance for crime victims . . . . .	17



E. Queensland	17
1. Legal and organisational context	17
2. Three approaches to recompensing victims	17
(a) court-ordered defendant to pay	17
(b) COVA ( <i>Criminal Offence Victims Act 1995</i> )	17
(c) VOCAA ( <i>Victims of Crime Assistance Act 2009</i> )	19
3. VOCAA: eligibility	20
4. VOCAA: purpose, types of assistance, and maxima	21
5. VAQ's broader activities	23

## Part II. VAQ decision-making under VOCAA

A. Steps in applying for financial assistance and decision-making for primary victims	24
B. Key terms, decisions, and documents	26
1. Types of victims	26
(a) primary	26
(b) secondary	27
(c) related	27
2. Types of financial assistance: expenses	27
(a) counselling expenses	28
(b) medical expenses	28
(c) travel expenses	28
(d) loss of earnings	28
(e) damage to clothing	29
(f) report expenses	29
(g) legal expenses	29
(h) exceptional circumstances	29
3. Other financial assistance: special assistance (the recognition payment)	30
4. Offences, categories of violence, and seriousness	30
5. Assessor discretion in the recognition payment	31
6. Statement of Reasons	32

## Part III. The FAVE Project

A. Time frame, data, and sampling	33
B. Research questions for financial assistance decision-making	34
1. VAQ assessors and other staff	34
2. FAVE Project staff	35
3. Real rape, credible victims, and deserving victims	35
C. Strengths and limits	36

## Part IV. Data collection and coding

A. Project datasets	37
1. Number of cases	37
2. Coding the SoRs	38
(a) real rape and credible victims	38
(b) coding challenges	39

3. Assembling the FAVE dataset .....	40
4. FLOW dataset .....	40
(a) eligible and ineligible applications .....	41

## **Part V. Selected findings**

A. Demographics: victim age, sex/gender, Indigenous status, and victim-offender relations .....	41
1. Profile of sexual offence cases .....	41
2. Unexpected findings for victim age and on-going victimisation .....	42
(a) age .....	42
(b) on-going victimisation .....	42
(c) relating the two unexpected findings .....	43
3. Sex/gender .....	43
4. Indigenous status .....	44
5. Re-classification of offences .....	44
B. Amounts awarded: overview .....	44
C. Amounts awarded: detailed analysis .....	47
1. Variation by sex/gender .....	47
2. Variation by Indigenous status and sex/gender .....	48
3. Highest total payments .....	49
4. Regression analysis of factors associated with outcomes .....	50
(a) recognition payment .....	50
(b) expenses .....	50
5. Explaining sex/gender differences in the recognition payment .....	51
(a) rape .....	51
(b) MSR .....	52
D. Other findings .....	52
1. Time taken to decide an application .....	52
2. Elements associated with real rape and credible victims .....	53
3. Sexual abuse in an institutional context and historical abuse .....	54
(a) institutional context .....	54
(b) historical abuse .....	55
(c) historical sexual abuse of a child in an institutional context .....	59
(d) impact of historical and older cases on sex/gender differences in the recognition payment .....	59
4. Victims' experiences applying for financial assistance .....	60

## **Part VI. Summary, discussion, and implications**

A. Summary .....	61
1. Profile of applicants .....	61
2. Variation in amounts awarded .....	61
(a) recognition payment .....	61
(b) expenses .....	62
B. Discussion .....	63
C. Implications .....	65

<b>References</b> .....	68
-------------------------	----

## Appendices

Appendix 1. Overview of Australian Financial Assistance (FA) or Criminal Injuries Compensation (CIC) Schemes . . . . .	75
Appendix 2. VOCAA Schedule 2: amounts, offences, categories for special assistance, and meaning of serious injury . . . . .	77
Appendix 3. VOCAA section 27: meaning of injury . . . . .	80
Appendix 4. Queensland Criminal Code definitions of sexual offences . . . . .	81
Appendix 5. Examples of Statement of Reasons: (1) VOCAA and (2) COVA . . . . .	84
Appendix 6. DJAG Review of VOCAA (2015) recommendations to amend VOCAA . . . . .	92
Appendix 7. Other financial assistance available from VAQ . . . . .	94
Appendix 8. Tables 3, 4, 5, 7, 8, 9, 10, 11, and 12 . . . . .	95

## Notes

**1. Compensation as a term.** When the idea of providing money to victims of violent crime first emerged in the 1960s, the term *compensation* was widely used by legislators and researchers to refer to state- or criminal court-determined payments to eligible crime victims. When used this way, the term compensation is not accurate. The term more properly refers to money awarded to a plaintiff in a civil court case. Thus, whenever possible, our preference is to use alternative terms such as monetary payments, awards, or recompense to crime victims. However, the term compensation is used when quoting or paraphrasing the work of others.

**2. Changes to VAQ practice since the FAVE study period.** The FAVE Project analysed financial assistance decisions and victims’ experiences for applications lodged and decided from 1 July 2012 to 31 December 2013. Since then, a number of changes to VAQ practice have occurred.

During 2014-15, a legislated review of VAQ took place, which resulted in 15 recommended changes (see *Technical Report No. 6*, Appendix 6). All the recommendations were accepted and took effect on 1 July 2017. Of the legislative changes, the most relevant to the FAVE Project was the introduction of fixed amounts for each category of violence for the recognition payment. Thus, there is no longer assessor discretion when deciding the payment within the category (or band), once the category is determined.

Another legislative change responded to recommendation 7: ‘to expand the definition of “act of violence” in [VOCAA] to include an act of domestic and family violence to align with the definition under the Domestic and Family Violence Protection Act 2012’. The implication is that acts of violence within domestic and family violence are not limited to physical violence alone, but may include psychological, emotional, or economic abuse. This change has seen applications for domestic and family violence triple from 512 in FY 2017 to 1,539 in FY 2018 (Stone 2019).

In 2015, VAQ implemented two internal changes. First, a ‘rapid assessment’ process was introduced to fast-track cases not requiring additional evidence. This has significantly reduced the time frame for processing applications. Second, VAQ engaged an external consultant to assist with re-wording correspondence and Statements of Reasons (SoRs) into plain English. VAQ continues to implement these changes in their formal communication with victims.

**3. Money currency.** Unless otherwise shown, all money amounts are in Australian dollars.

**4. Financial assistance and FA.** Throughout this report and in the research instruments used, we use these terms interchangeably.

## Part I. Historical and legal context

### A. State payments to victims of violent crime: a brief history

Monetary, material, and non-material forms of recompense for wrong-doing have a long history in human societies (Schafer 1960, 1968, 1970; Wolfgang 1965). These processes—referred today as restitution, reparation, and compensation—involve the transfer of money or goods from offenders (and their families) to victims (and their families) to resolve disputes, maintain harmony, punish, repay material loss, and repair harm.

#### 1. Developments in Anglo-Saxon law to the mid-20<sup>th</sup> century

In the tenth century, principles of money payments (*wer*, *bot*, and *wite*)<sup>1</sup> replaced earlier group- and individual-based forms of retaliation and revenge. During the 12<sup>th</sup> and 13<sup>th</sup> centuries, there was increasing centralisation of the state and sovereign (Wormald 1980) in which the authority of smaller family or kin groups in conflict was gradually usurped (Davies 1969). During this period, the state (represented by the King) assumed the role of offended party. Crimes (public wrongs or breaches of the King's Peace) began to be differentiated from private wrongs, and offenders were required to pay fines to the sovereign (state) rather than directly to a victim (Kearon and Godfrey 2007; Schafer 1968). This change has been characterised as 'the price that English society paid for a centralized system of criminal justice in the Court of the King's Bench: the King transferred the money payment from the victim to himself' (Feeney 1968: 175). Over the centuries the distinctness of, and separation between, civil and criminal law gradually became more pronounced.

From the 16<sup>th</sup> to 19<sup>th</sup> centuries in England and Wales, lawyers emerged as a professional class (Langbein 1978); and various figures, including Sir Thomas More, Jeremy Bentham, and Herbert Spencer, suggested that elements of offender recompense to victims be restored to criminal justice. They proposed, respectively, that offenders perform community work, pay money or restitution in kind, and pay money earned from prison work (Daly and Proietti-Scifoni 2011; see also Schafer 1968). By the end of the 19<sup>th</sup> century, the criminal code in many countries provided a variety of methods for convicted offenders to pay victims. However, practical difficulties—offenders typically had no money, and there was little institutional motivation to pursue payment—rendered an offender-focused approach ineffectual (Lamborn 1970; Schafer 1970; Tallack 1900).

#### 2. Developments in Great Britain, New Zealand, Australia, and other countries

In the 1950s, Margery Fry, a British penal reformer and magistrate, revived the idea that offenders should pay victims for crime, arguing initially that 'repayment is the best first step towards reformation that a dishonest person can take' (Fry 1951: 126). Due to the impracticality of the idea because most offenders could not pay, it was Fry's later ideas that took hold. In an editorial published in *The Observer* a year before she died, Fry proposed that the state should assume responsibility not only for offender rehabilitation, but also for recompensing crime victims, similar to that in work-related injuries schemes (Fry 1957, reprinted 1959). Her argument was one of two major rationales that subsequently emerged for state recompense to crime victims in the 1960s: a 'distributive justice or insurance type rationale' (Duff 1998: 106), in which members of society would share the costs to victims injured by crime.

<sup>1</sup> The *wer* was a 'payment to a family for the death of one of its members; the *bot* ... a family payment for injuries less than death; and the *wite*, a sum of money paid to the lords to cover the cost of over-seeing the system of compensation' (Hudson and Galaway 1975: xix; see also Schafer 1968).

In Great Britain, a Home Office working party (1961 para 18, cited in Miers 1990: 10) reported that it could find ‘no constitutional or social principle on which State compensation [can] be justified’. Nonetheless, a scheme was established in Great Britain in 1964.<sup>2</sup> It was grounded in common law principles and informed by tort law. Although substantially reformed in 1996 and again in 2012, the new schedule of compensable injuries hewed closely to a tort law damages approach (Miers 2007, 2014c).

The year before, in 1963, New Zealand legislatively established the first criminal injury compensation (CIC) scheme for crime victims. It was based on Fry’s notion of modelling a criminal injuries scheme based on work-related injuries.

In 1966, a New Zealand Royal Commission, chaired by J. Woodhouse, was established to investigate compensation for work-related deaths and incapacity. However, the *Woodhouse Report* (1967) went beyond this initial focus. It recommended ‘a unified and comprehensive system to provide benefits to all injured persons regardless of the cause of injury and irrespective of fault’ (*Woodhouse Report*, cited in Weeks 1970: 118). This included victims of crime.

The Commission’s recommendation led, in time, to New Zealand’s Accident Compensation Commission (ACC), which was established in 1974 to provide ‘entitlements’ for injuries irrespective of cause. In addition, an applicant may make a ‘sensitive claim’. If, after rehabilitation or treatment, a trauma is ongoing, then amounts above standard entitlements may be awarded (New Zealand Law Reform Commission 2008: 16).<sup>3</sup>

The New Zealand ACC and British schemes both operate as separate, quasi-administrative tribunals.

States in Australia took another path. New South Wales (NSW) was the first, with a scheme established in 1967, followed by Queensland in 1968. The Attorneys General in both states argued that in Australia’s federal system, a scheme should not substitute for, nor subsidise Commonwealth social security payments, nor prejudice the victim in their claim for social security.

NSW and Queensland diverged from Great Britain and New Zealand in that their legislation was based on existing provisions in criminal law. As such, the ‘administration of the schemes in each of these States [was] shared jointly by the criminal courts and the executive arm of government’ (Chappell 1970: 79; see also Freckelton 2001: 32). The principle of each state’s legislation was to ‘leave the matter in the hands of the criminal courts that actually dealt with the offenders’.<sup>4</sup> Both

<sup>2</sup> We use the term *established* with a common-sense meaning. For example, Great Britain’s criminal injuries compensation (CIC) scheme was not legislated until 1988 with the *Criminal Justice Act 1988*. Although the scheme was in operation, there was no ‘commencement order’ made for the legislation (Miers 1990: 11). Substantive legislation was introduced with the *Criminal Injuries Compensation Act 1995* and commenced in 1996 (Miers 2007: 342). Separate legislation was established in Northern Ireland in 1968, amended in 1970 (Lamborn 1973: 446, fn 1). Note that legislation may have been passed in a particular year, but commenced later.

<sup>3</sup> The New Zealand Law Reform Commission examined *compensation* under the no-fault ACC, and *reparation* under the *Sentencing Act 2002 (NZ)*. At the time, the relevant legislation for the former was the *Injury Prevention, Rehabilitation and Compensation Act 2001 (NZ)*.

<sup>4</sup> NSW Parliamentary Debates. Legislative Assembly, 28 February 1967: 3910 (speech by NSW Attorney-General, Ken McCaw).

jurisdictions expected a victim to pursue an offender for payment of court-ordered compensatory amount; and if avenues were exhausted or not forthcoming for other reasons, a victim could then apply to an administrative state arm for an *ex gratia* payment. In effect, the state was to be an underwriter to the liability of a convicted offender. This approach led to considerable procedural complexity.<sup>5</sup>

Following NSW and Queensland, South Australia enacted legislation in 1969; Victoria, 1972; Tasmania, 1976; Western Australia, 1982; the Northern Territory, 1982; and the Australian Capital Territory, 1983 (see Appendix 1).

In Canada, by 1973, eight provinces had established schemes (Lamborn 1973: 446-47, fn 1); and in the United States (US), by 1982, so had 36 states (President's Task Force on Victims of Crime 1982).<sup>6</sup> During the mid-1980s, legislation was established in Finland, Sweden, France, and Germany. By 2000, 16 European countries had state schemes (Brienen and Hoegen 2000).

The Office for Victims of Crime (2005, accessed 22 June 2016) listed 35 countries with state schemes for victims of violent crime. In addition to three federated countries (Australia, the US, and Canada) were member states of the European Union<sup>7</sup> and 11 other countries (Bermuda, Columbia, Hong Kong, Israel, Japan, Norway, Philippines, Republic of Korea, Switzerland, Taiwan, and Trinidad and Tobago). A conservative estimate of the number of schemes worldwide, when counting them in federated jurisdictions is 102: including 8 in Australia, 53 in the US (50 states, District of Columbia, two territories), and 9 in Canada.

In general, state schemes support eligible crime victims to apply for two broad categories of loss incurred as a result of a crime (or criminal injury, as it is termed): economic loss (reasonable expenses and loss of income) and non-economic loss. The latter is a monetised assessment of the harm of the criminal injury, which may be physical or psychological. Psychological injury is sometimes described as mental injury or pain and suffering. Amounts for non-economic loss are often termed lump sum payments. US schemes do not provide for non-economic loss. Law reform in some Australian states (see section C), including Queensland (section E), have not changed these broad components, but legislation has changed the nature of, rationale for, and basis for assessment of non-economic payments.

## **B. Why should the state pay money to crime victims?**

In the early debates about state payments to victims of violent crime, two questions were raised. Why should this particular group receive special treatment from the state? If there was a case for special provision above universal welfare and health services, why should it take the form of money? (Atiyah 1970; *Woodhouse Report* 1967).

<sup>5</sup> It was not until 2009 in Queensland and 2013 in NSW (more than 40 years later) that legislation established more simplified, administratively-based schemes.

<sup>6</sup> By 1998, all 50 states had schemes (Department of Justice 1998).

<sup>7</sup> A Council of the European Union Directive 2004/80/EC (29 April 2004) said that all member nations should ensure access to compensation for victims of crime. As of 22 June 2016, there were 28 EU members (see [http://ec.europa.eu/justice/criminal/victims/compensation/index\\_en.htm](http://ec.europa.eu/justice/criminal/victims/compensation/index_en.htm); and [http://Europa.en.about-eu/countries/index\\_en.htm](http://Europa.en.about-eu/countries/index_en.htm)), but we do not know how many have a state-based scheme. The Directive noted that 'most member states have already established such compensation schemes, ... in fulfilment of their obligations under the European Convention of 24 November 1983' (p. 2, point 8).

Two arguments were put forward for why the state should pay money to crime victims as a distinct group: (1) the state has a societal responsibility for crime and (2) the state has a duty to protect citizens from crime. At times, these arguments were combined. In addition, other pragmatic and intuitive ideas were suggested.

The first argument, put forward initially by Fry, was that the state has a responsibility to assist crime victims to recover from injuries that were caused by no fault of their own, and that this was consistent with the state's responsibility to assist offenders' rehabilitation (Fry 1951, 1957/1959). This argument rests on assumptions from distributive justice. Specifically, that there should be an equitable distribution of benefits and burdens of communal living (Goldscheid 2004; Miers 2014a: 155), and that the transaction from the state to the victimised citizen facilitates or restores economic activity to an individual, as well as spreading financial losses across a wider population. Others have expanded the distributive justice paradigm by saying that state recompense to victims is a form of formal and political recognition (Fraser 1995).<sup>8</sup>

Countering the societal responsibility argument, analysts pointed out that 'victims of accidents and automobile collisions' (Lamborn 1973: 464) would also logically be viewed as a state responsibility and that the case for special treatment of crime victims was not persuasive (Atiyah 1970, updated and expanded by Cane 1999; Lamborn 1973).

The second argument was that the state has a duty to protect citizens from crime or to prevent the conditions in which victimisation may occur (CASA House 1997; Lamborn 1973). This rests on the implications of a *social contract* between the state and citizens. Specifically, the state has a duty 'to reimburse those persons whom it failed to protect' (Lamborn 1973: 462), whether because it 'did not prevent crime, is responsible for the ... conditions which produced the criminal, or accepted liability under the social contract (Duff 1998: 106). Ashworth (1986: 121) argues that because the state undertakes responsibility for criminal prosecution, it has an obligation for residual compensation to the victim.

This second, legal duty rationale, was criticized in the 1960s in the British Parliament; and as Lamborn (1973: 463) points out, none of the 22 jurisdictions with state schemes in 1972 'accepted the theory' fully. This was evident in the stringent limits and restrictions placed on payment levels and eligibility.

In addition to these two arguments, other reasons were that civil remedies were inadequate, payment schemes may be an incentive for victims to assist the state in managing and prosecuting crime, and payments may prevent vigilantism and ameliorate stigmatisation of crime victims (Feeney 1968; O'Connell and Fletcher 2015; Smith 1985).

More intuitively, it was believed that 'it was right to do so'. Payments were made 'in recognition of a sense of public sympathy' and 'social solidarity' with a victim (Miers 2014b: 112). In the British debates preceding the establishment of its scheme in the 1960s, Lord Showcross took this idea a step further, arguing there was no reason for 'elaborate theoretical or philosophical speculation'; rather 'it was enough to rely on ... "public instinct"' (Cane 1999: 259).

<sup>8</sup> Although not related to criminal injuries directly, Pemberton (2014: 44) argues that a 'meta-duty of respect' is owed by the state to victims. He discusses this duty as providing 'grounding' for victims' rights within criminal justice. The state's obligation to respond to crime victims is 'recognition' of the fact of victimisation, not the attributes and behaviours of the victim (p. 33). Victimisation arouses 'empathy' as well as recognition of both harmfulness and wrongfulness of the victimisation (p. 44).

Although there were (and are) varying rationales for why the state should respond to criminal victimisation and the harm it causes, there was (and is) no clear justification for why the state should *only respond to violent victimisation* (the focus of all schemes) and *the response should be monetary payments*.

### **C. Australian schemes**

The emergence of criminal injuries compensation (CIC) schemes in Australia in 1967 has been attributed to changed socio-economic conditions and changing community expectations (Chappell 1970). The schemes operated without substantive revision until the late 1980s. From then onwards, there was increasing focus on two problems: (1) complex, time-consuming, and difficult application and determination procedures and (2) accelerating costs of payments and implementation.

Initial reform to CIC schemes began in the 1980s, with an effort to streamline procedures and restrict eligibility and cap entitlements. In NSW and Victoria, there was reduced eligibility and lump sum amounts claimable for what was termed pain and suffering or psychological injury.

Freckelton (2001: 39) suggests that during the 1990s, there was a ‘backlash’ against CIC schemes from segments of the public and media. In part, the problem was how victims experienced the schemes in a context of increasing awareness of their entitlements and services for crime victims (Freckelton 2001: 36-38). During this time, a new, albeit diverse, service sector provided policy advice to governments about the needs and interests of victims; and it raised questions about government expenditure on a relatively small proportion of violent crime victims,<sup>9</sup> and about the value of money to victims.

Legislation change occurred to CIC schemes in Queensland (1995), NSW and Victoria (both in 1996), and the ACT (1999). However, a significant change occurred in these four jurisdictions during the first decade of the 21<sup>st</sup> century: the terminology shifted from compensation to financial assistance, with an emphasis on reimbursing or defraying the costs of crime to victims for certain goods or services (e.g., replacing locks and counselling sessions) and other losses such as income. Broadly, these items comprise economic loss. In addition to expenses, payments for pain and suffering (or psychological injury) were re-named recognition payments, special assistance, or special financial assistance. Thus, today in these jurisdictions and depending on the type of victim (whether primary or secondary), a monetary payment is made to all victims that recognises the non-economic loss caused by crime. In Queensland, the payment is called special assistance or a recognition payment; in New South Wales and the ACT, a recognition payment; and in Victoria, special financial assistance.

By comparison, four other Australian jurisdictions (Western Australia, South Australia, Northern Territory, and Tasmania) have retained the language and approach of compensation (that is, to determine a payment for economic and non-economic loss).

<sup>9</sup> Service sector reports in the 1990s said that a small proportion of violent crime victims applied for payments (NSW Brahe Report 1993; Victim Support Working Party 1998).



All eight schemes use different criteria and levels of proof to establish that injuries arose from a violent criminal offence. Seven of the eight jurisdictions<sup>10</sup> require a report of the incident(s) to the police for most victims, but there are provisions in three schemes that do not require certain victims to report the incident(s) to the police.<sup>11</sup>

Most use a balance of probabilities standard that a criminal offence took place.<sup>12</sup> However, in Western Australia, victims can apply only after an offence has been proved in criminal court. The Northern Territory uses the term *financial assistance* in its legislation, but it does not have a capped recognition payment. Thus, we group it in the CIC jurisdictions. Appendix 1 shows the key elements of the Australian schemes, as of November 2018.

For financial assistance (FA) schemes, the shift to payments for goods and services, and the accompanying policy emphasis on recovery and rehabilitation of victims, has made more explicit what had been hidden in previous legislation. Earlier legislation generally provided for economic loss as being ‘reasonable expenses’ or specified types of losses such as income, but these tended to be over-shadowed by the amount awarded to a victim for pain and suffering or the non-economic loss component. The reforms in the four FA jurisdictions make these expenses (or losses) explicit, and they may cap (although not always) the amounts that can be claimed for them.<sup>13</sup>

The expenses portion of Australian FA schemes brings it somewhat closer to schemes used in the US, but US state schemes award payments for expenses only. From the first year a scheme was established in the US (1995 in California), almost all US jurisdictions have paid only the “‘hard’ costs of crime’ such as medical or security expenses (Miers 2014a: 121),<sup>14</sup> without a non-economic loss component.

State schemes for crime victims do not exist in a vacuum. In Australia, other types of monetary schemes exist such as state and non-state *ex gratia* payments for historical abuse (Daly 2014a, 2016a, 2016b), state payments for policy wrongs against Indigenous people (Daly 2014a), for sexual abuse while in the Australian Defence Force Academy, for war veterans who were

<sup>10</sup> The exception is NSW where decision-makers can consider reports to the police and/or a health professional for a range of violent offences (not just sexual offences). Since 2016 in the ACT, a *special reporting class victim* may apply for reimbursement of expenses incurred without a report to police. If they wish also to apply for the recognition payment, then a report must have been disclosed to another entity specified in the legislation (s 31(3)(4)).

<sup>11</sup> In Western Australia, for example, child victims can ‘persuade the assessor’ to waive the police report requirement, but the applicant must have done everything reasonably possible to assist police in identifying, apprehending, and prosecuting the alleged offender. In Queensland, victims of sexual offences can report to other professionals such as doctors and psychologists, or (as of 1 July 2017), domestic violence service is accepted. Since 2016 in the ACT, a special reporting class victim (including victims of sexual offences) need not have reported the incident to police but must have disclosed to another entity specified in the legislation (s 31(3)(4)).

<sup>12</sup> In South Australia, the Crown Solicitor requires that the criminal offence is established beyond reasonable doubt. However, if a claim is rejected on these grounds, it can be submitted to the Attorney-General for review to determine if it can receive an *ex gratia* payment (interview on file, 8 December 2015).

<sup>13</sup> Such change has not been met positively by some victim advocacy groups because it has come with a substantial reduction in amounts paid to individual victims. For example, the NSW Women’s Legal Service has made trenchant criticisms of CIC law reforms over the years (see <http://www.wlsnsw.org.au/law-reform/victims-compensation-changes/>) (see also Heenan 1998).

<sup>14</sup> Nonetheless, schemes in the US still use the term compensation rather than financial assistance.

prisoners of war, and for Australian victims of eligible incidents of terrorism that occurred outside Australia (Daly 2016b).

#### **D. Other sources of financial assistance for crime victims**

Those victimised by violent crime are affected in diverse ways. They may, for example, have medical or dental costs, counselling, or other expenses. In addition to CIC or FA schemes, there may be other options for defraying expenses, and these depend on the circumstances surrounding the incident(s). In brief, in Australia these are:

- Financial and other assistance if an injury is ‘a personal injury arising out of, or in the course of, employment if the employment is a significant contributing factor to the injury’. This is covered by workers’ compensation legislation.<sup>15</sup>
- A civil legal action.
- A claim under household or motor vehicle insurance.
- A claim under Medicare or other private health insurance.
- Hardship or other payments from Commonwealth social security payments via Centrelink.

#### **E. Queensland**

##### **1. Legal and organisational context**

The focus of the FAVE Project, and this report, is on financial assistance provided under VOCAA.<sup>16</sup> However, it is important to put VOCAA in historical context.

We reiterate that the types of offences for which victims may be recompensed by the state are *violent offences only*.

##### **2. Three approaches to recompensing victims**

###### **(a) court-ordered defendant to pay**

From 1899 to 1995, a criminal court could, following a conviction, order a defendant to pay a monetary amount (compensation was the term used) to a victim of an indictable violent offence under s 663B(1) of the *Criminal Code 1899* (Qld) (hereafter The Code). However, such orders were infrequently made. A submission for such an order was to be made by the public prosecutor, if it was requested by a victim. Furthermore, when a court did make an order, it was up to the victim to pursue the offender for the payment. Many offenders could not be located or did not have the means to pay. In some circumstances, victims could seek an *ex gratia* payment from the state.

###### **(b) COVA (*Criminal Offence Victims Act 1995*)**

Commencing on 18 December 1995, COVA allowed victims to receive a payment from the defendant or from the state. Making an application did not affect a victim’s common law right to

<sup>15</sup> In Queensland, this is the *Workers’ Compensation and Rehabilitation Act 2003*.

<sup>16</sup> As we note later, depending on when the offence occurred, victims may be subject to earlier legislation (COVA) or to both COVA and VOCAA.

civil litigation (s 22). Like processes under The Code, a victim could apply to the court for an amount to be paid by the defendant (s 24), if the defendant had been convicted. The application must have been made within 6 years from the date of the sentence. If the victim was a child at the time of sentence, the application must have been within 6 years of turning 18.

COVA also permitted *ex gratia* payments to be paid by the state in some cases. These included when:

- an injured person was assisting a police officer (in arrest or prevention);
- the defendant was found not guilty because of an unsound mind;
- the defendant was found unfit for trial and/or found to be unsound of mind when committing the act;
- the defendant was not criminally responsible because they were less than 10 years old; and
- the alleged perpetrator was never charged because s/he could not be found or identified, as long as the applicant showed they had reported the offence as soon as possible to a police officer, or if it was a sexual offence, to a doctor or appropriate agency (s 33).

The amount of money that could be awarded was determined by the legislation (The Code or COVA) operational at the time that the offence(s) was committed. Table 1 is a guide.<sup>17</sup>

Table 1. Maximum monetary amounts to victims in Queensland legislation over time

<b>The Code from 1 Jan 1969</b>	<b>The Code from 1 Jul 1975</b>	<b>The Code from 1 Jul 1984</b>	<b>COVA from 18 Dec 1995</b>	<b>COVA from 18 Dec 1997</b>
Maximum amount of \$2,000 per incident (e.g., 2 charges of assault = maximum \$4,000)	Maximum amount of \$5,000 per incident	Maximum \$20,000 <i>per course of conduct</i> , for mental or nervous shock, physical injuries linked to work-cover table	Schedule of injuries introduced; maximum amount of \$75,000	Category called adverse impacts introduced; maximum amount \$75,000 (retrospective to 18 Dec 1995)

The amounts awarded were decided based on the injuries suffered as a result of the offence. Under COVA, these were determined by a compensation table, in which specific injuries were itemised, as set forth in Schedule 1 (s 25). Section 663B(1) of The Code was repealed by COVA, but s 46 was preserved. This permitted offences that had occurred before the introduction of COVA to be assessed under the original section (The Code) using the original payment caps. COVA was amended in 1997 to include adverse impacts of sexual offences (see Davies 1991; Forster 2002; and Stubbington 2009 for analysis of legislative change in Queensland).

<sup>17</sup> The information is drawn from Legal Aid Queensland at <http://www.legalaid.qld.gov.au/Find-legal-information/Criminal-justice/Victims-of-crime/Victims-of-crime-compensation-a-guide-for-respondents-before-1-December-2009#toc-how-is-compensation-calculated--2> (accessed 2 November 2017).

## BOX 1

## Awards (range and mean) for sexual offences under The Code and COVA

We examined Queensland Supreme and District Court records from January 2010 to 11 September 2013 for *sexual offence* cases that involved a compensation claim (pecuniary and non-pecuniary loss). We found a total of 94 cases. The average (mean) award under The Code (N=11 cases) was \$32,727 (range \$5,000 to \$80,000) (all but two were awarded costs, in addition). The average (mean) award under COVA (N=83 cases) was \$29,748 (range \$6,000 to \$75,000). The median award under The Code and COVA was \$20,000 and \$30,000, respectively.

In 2008, the Department of Justice and Attorney-General (DJAG) reviewed COVA. The review aimed to establish a scheme that was simpler, easier, and quicker for violent crime victims to access. Specifically, the review noted that COVA had been ‘criticised for its inadequacy in responding to the needs of victims in terms of its complexity, inequalities, and the costs and delays to victims’ (DJAG 2008: 14).

**(c) VOCAA (*Victims of Crime Assistance Act 2009*)**

DJAG’s (2008) report, which had 27 recommendations, was made public in February 2009. The recommendations included the repeal of COVA to be replaced by the *Victims of Crime Assistance Act 2009* (VOCAA). VOCAA (ss 149–217) outlined transitional provisions in moving from COVA to VOCAA. In general, if a victim was eligible under The Code or COVA, they could also apply under VOCAA.

There are three major differences between VOCAA and the two previous approaches. First, under VOCAA, the state makes the payment, not the defendant (although a victim could seek an *ex gratia* payment from the state, under certain conditions, under COVA and The Code). The state can commence proceedings against an offender for that person to pay the state for the financial assistance awarded to the victim (s 110).

Second, the application and decision-making process differs. Under VOCAA, victims apply to a government agency, Victim Assist Queensland (VAQ), and their application is assessed by a suitably qualified person, who is guided by legislation. Thus, VOCAA shifts decision-making authority from a judicial officer in a court to an assessor in a government administrative unit.

Third, under VOCAA, a larger set of victims is eligible to apply: not only those who were injured as a result of an act of violence (*primary victims*), but also *secondary* and *related* victims (see Part II, B1). No conviction is required, as was necessary under The Code and COVA. However, except for *special primary victims*,<sup>18</sup> victims are expected to have reported the crime to the police.

<sup>18</sup> These are victims of sexual offences, child victims, those with an impaired capacity, and those against whom offences were committed by a person in a position of power, influence, or trust. For these victims and offence contexts, victims can report an offence to a counsellor, psychologist, or doctor instead of a police officer (see Part II, B1 for definitions).

VOCAA included a requirement that the legislation be reviewed within 5 years of the commencement. A report was released in December 2015, which made 15 recommendations, most of which sought to support victim's rights and improve the application process for victims.

All the recommendations were accepted by the government, and the *Victims of Crime Assistance and Other Legislation Amendment Act 2017*, which implemented all 15 recommendations, took effect 1 July 2017. Appendix 6 lists the recommendations.

In this report, we describe the key elements of VOCAA as it operated during the FAVE Project, with reference to the research period 2012-13. When relevant, we describe in footnotes any major departures that were in the amended VOCAA.

### 3. VOCAA: eligibility

A person is eligible to apply for financial assistance:<sup>19</sup>

- if they are a victim of an act of violence<sup>20</sup> in Queensland; or if they incur or are reasonably likely to incur financial expenses for the death of a victim of an act of violence; and
- even if the perpetrator may have an excuse or defence, or the perpetrator has not been identified, arrested, prosecuted, or convicted (s 25(2)).

The acts of violence for which victims may seek financial assistance are grouped in four categories, from most to least serious (see Appendices 2 and 3):

- category A (attempted murder, rape, incest with a person under 16 or having an impaired capacity, maintaining a sexual relationship with a person under 16).
- category B (an attempt to commit a category A offence, a sexual offence, grievous bodily harm, robbery while armed or with violence or in company, burglary with violence, torture, kidnapping, and other offences listed in The Code, s 316 and s 317).
- category C (an attempt to commit a category B offence, serious assault, robbery, unlawful wounding, assault occasioning bodily harm).
- category D (an attempt to commit a category C offence, and an offence that involves any of the following, if the act is not category A, B, or C: assault, unlawful stalking, deprivation of liberty).

In addition to primary victims, who directly experienced an act of violence (including special primary victims see below and Part II, B1 for definitions), there are other eligible victims: secondary victims (parent of a primary victim or a witness victim) and related victims (a

<sup>19</sup> All dot-point text on this page, itemising VOCAA elements, was taken verbatim from the relevant section of the Act, although we have not used quotation marks.

<sup>20</sup> VOCAA clarifies the meaning of an act of violence to be a 'crime or series of related crimes, whether committed by 1 or more persons, that—(a) are committed in Queensland and (b) directly result in the death of, or injury to, 1 or more persons'. It notes that 'assistance may be granted to a person in relation to an act of violence even though the person who committed the act has not been, or cannot be, found guilty...because of a justification, excuse or defence'.

dependent or close family member of a person who died as a result of an act of violence). *The FAVE Project analysed primary victims of sexual offences only.*

A person is not eligible for financial assistance:

- if they committed the offence (s 21(2)), or conspired to commit the offence (s 79);
- if the reason the offence was committed against the person was due to their involvement in criminal activity;
- if, in the absence of a reasonable excuse, the person has not given reasonable assistance in the arrest or prosecution of the person (s 82); and
- if they do not report the offence to the police, unless they have a reasonable excuse for not reporting (s 81).

There are exceptions to the police reporting eligibility rule in Queensland. If a victim is a designated special primary victim, they are not required to report the offence to the police. Rather, they may report the offence to a counsellor, psychologist, doctor, or (as of 1 July 2017), domestic violence service and be eligible to apply.

Among the criteria for being a special primary victim (see Part II, B1) is being a victim of a sexual offence. Thus, all the victims in the FAVE Project are special primary victims. Sexual offences are all those listed in The Code (Appendix 4).

Except for special primary victims, primary victims should have reported the crime to the police to be eligible for financial assistance, or an assessor needs to be reasonably satisfied that a victim has a reasonable excuse for a report not being made.

#### **4. VOCAA: purpose, types of assistance, and maxima**

A section of VOCAA explicitly departs from the idea of providing *compensation* to crime victims to one of providing *financial assistance*:

Grants of financial assistance to victims of acts of violence under the scheme *are not intended to reflect the level of compensation to which victims of acts of violence may be entitled at common law* or otherwise. (s 3(2)(b); emphasis added)

In its information for applicants, the VAQ website says:

How much assistance you can get depends on the cost of the goods and services *you need to recover* from the crime and its effects. (emphasis added)

Thus, by providing financial assistance *for the costs of goods and services*, VAQ aims to assist victims to recover from the physical, financial, and psychological effects of a crime.

A separate (and second) component of the scheme is special assistance, which we and VAQ refer to as the recognition payment. It is

an amount *representing a symbolic expression* by the State of the community's *recognition of the injuries* suffered by them. (s 3(2)(b); emphasis added)

This payment is symbolic recognition of the wrong of the offence(s) to the victim. A victim is free to spend this payment in any (lawful) way they wish.

Reasonable expenses or costs that an eligible primary victim<sup>21</sup> can apply for are:

- interim assistance (immediate expenses related to the offence, e.g., medical expenses)
- counselling expenses
- medical and dental expenses
- reasonable incidental travel expenses (to attend medical or counselling appointments)
- loss of earnings
- damage to clothing
- reporting expenses (to obtain medical reports)
- up to \$500 for legal assistance when submitting an application
- in exceptional circumstances, other reasonable costs related to recovery

These are described in Part II, B2 of this report.

The maximum amount a primary victim can receive is \$75,000 (plus up to \$500 for eligible legal costs), an amount that combines costs or expenses and the recognition payment, which can range from \$130 to \$10,000.<sup>22</sup> Eligible primary victims can apply for additional amounts up to the maximum of financial assistance, in the form of amendments to the original application, for expenses for up to 6 years from the date of the original application; or if the victim was a child at the time of the offence (under 18 years of age), before they turn 24.

Secondary victims (parents, witnesses, or related victims) can receive a maximum of \$50,000.<sup>23</sup> They are not eligible to receive a recognition payment. However, related victims (a dependent or close family member of a person who died as a result of an act of violence) can apply for a *distress payment* of up to \$10,000 as a ‘symbolic expression by the State of the community’s recognition of the distress suffered by them’ (s 3).

Eligible secondary victims can also apply for additional expense amounts up to the maximum for the victim type for up to 6 years.

VAQ’s financial assistance to crime victims is understood as a scheme of last resort that complements other sources of assistance. Potential applicants are expected to access other relevant schemes such as Medicare, Workers’ Compensation, and Centrelink.<sup>24</sup>

<sup>21</sup> Expenses and financial assistance types, which are available to other types of victims, are listed in Appendix 7.

<sup>22</sup> As of 1 July 2017, change to VOCAA came into effect. No longer does each category (or band) have a range, but there is one amount for each band: category A (\$10,000), category B (\$3,500), category C (\$2,000), and category D (\$1,000) (DJAG 2015: 18).

<sup>23</sup> Further detail on secondary victims is given at <https://www.qld.gov.au/law/crime-and-police/victims-and-witnesses-of-crime/financial-assistance/victims-categories/>

<sup>24</sup> Others include income protection insurance, settlement of damages awarded in a civil court claim, compensation, or private health insurance. Thus, the financial assistance scheme is ‘a complementary scheme and [the assessor] must consider relevant payments [the applicant] have already received or may still receive’. See ‘How we assess your application’ at <https://www.qld.gov.au/law/crime-and-police/victims-and-witnesses-of-crime/financial-assistance/processing-of-your-application>.

## 5. VAQ's broader activities

In addition to receiving applications and making decisions on financial assistance, VAQ is responsible for other activities and disburses other funds:

- It hosts *Victims LinkUp*, a central information and referral service for victims of crime. It provides information and guidance on how to apply for financial assistance under VAQ, information and referral to existing support services, access to a victim's complaints resolution process, and other relevant information.
- It administers, via the Victim Services Coordination Unit, the *Victim Services Building Capacity Funding Program*. This program provides once-off funding for projects to help build capacity of non-government service providers and the community to address service delivery gaps and improve access to services for victims of crime in Queensland. In 2017-18, the fund had a total pool of \$100,000. As an example, in 2017-18, the Brisbane Rape and Incest Survivors Support Centre (BRISSC) received \$38,000 to build the capacity of generalist workers and community leaders to respond effectively to sexual violence in the south-west Brisbane region, covering 32 suburbs.<sup>25</sup>
- It administers the *Victims Services Funding Program*, which provides multi-year funding to victim support organisations<sup>26</sup> (\$9.42 million over 2017-20 to six non-government agencies).
- It is responsible for promoting the Charter of Victims' Rights (Schedule 1AA VOCAA) and for managing or referring complaints, via a victims' services coordinator, to the relevant entity for resolution (Chapter 2 VOCAA).

As of November 2018, there were a total of 52 VAQ staff members, including the Director and a Queensland Police Service Liaison Officer. The financial assistance unit includes 12 assessors, 3 team leaders, and 13 administrative support officers. VAQ's funding programs are administered within the Victim Services Coordination Unit (VSCU). There is a part time Senior Program Officer within the VSCU who is responsible for the administration of grant funding and service level agreements (email, Dean Corless, 13 November 2018).

<sup>25</sup> See <https://www.qld.gov.au/law/crime-and-police/victims-and-witnesses-of-crime/agency-training-funding-and-research/past-projects-for-victims-of-crime>.

<sup>26</sup> See <https://www.qld.gov.au/law/crime-and-police/victims-and-witnesses-of-crime/agency-training-funding-and-research/funding-for-support-agencies>



## Part II. VAQ decision-making under VOCAA

### A. Steps in applying for financial assistance and decision-making for primary victims

The following lists the steps, roughly in temporal order, in what occurred when applications were received and reviewed by VAQ during the research period.<sup>27</sup> In practice, decision-making may move back and forth; thus, what follows is a general sequence.

- Crime occurs, and a victim seeks help from the police or support service.
- Victim is referred to VAQ *Victims Linkup*, who advise on the next steps; they send an information pack to the victim.
- Victim filled in an application form online (primary victims only) or by email, fax, or hardcopy, and submits it to VAQ via *Victims Linkup*.
- Case information is entered into VAQ case management system (CMS).
- Application form is checked for completeness, e.g., to determine if it contains relevant documents or required forms; if not, a letter requesting such information is sent to the applicant.

A team leader reviews the application, completes an initial assessment, and allocates the application to an assessor. In this initial assessment, the team leader examines the application, police reports, and expenses claimed. The team leader provides instructions or guidance on current office policy for the assessor.

- Application is allocated to a VAQ assessor, who begins an assessment plan:
  1. Is the victim eligible?
    - (a) Was the applicant a victim of a personal offence/act of violence?
      - i. If no, not eligible.
      - ii. If yes, move to question (b).
    - (b) Was the act of violence committed in Queensland and result in injury?
      - i. If no, not eligible.
      - ii. If yes, move to question (c).
    - (c) Was the act of violence reported to police?
      - i. If yes, move to question (d).
      - ii. If no, was there a reasonable excuse? If yes, move to question (d).
      - iii. If no, are they a special primary victim? If yes, move to question (d).

<sup>27</sup> Changes in office practices were introduced in 2015 with a *rapid assessment* of applications from primary victims, specifically, those that requested expense components did not require additional evidence. They could be moved more quickly through the process. A review of the practice was to occur in 2016-17.

- (d) Was the act committed after 1 December 2009?
- i. If yes, is the application within the prescribed time limit?<sup>28</sup> If yes, move to question (e).
  - ii. If no, is the person eligible under transitional provisions, i.e., was there a conviction, or did police advise that the perpetrator died or could not be identified or found, or was deemed to be of unsound mind? If yes, was the application brought within the transitional arrangements time limit?<sup>29</sup> If yes, move to question (e).
- (e) Did the applicant commit or conspire to commit the act of violence, or engage in criminal activity that resulted in the act of violence being committed against them?
- i. If yes, not eligible.
  - ii. If no, **victim is eligible**, move to step 2.
2. Is the victim applying for interim assistance?
- (a) If yes, does the application include documentary evidence of an incurred expense (e.g., a tax invoice from a dentist) or one likely to be incurred (e.g., a mental health plan from a psychologist for 10 immediate future counselling sessions) for less than \$6,000? If yes, grant interim assistance.
  - (b) If no, continue to step 3.
3. What type of victim is applying: primary, secondary (parent or witness), or related? If primary, continue to step 4.
4. What is the specific act of violence and the related category of violence?
- (a) If category A, continue to step 5.
  - (b) If not category A, are there circumstances (serious injury or illness) that would raise (*uplift*) the act of violence category?
    - i. If no, continue to step 5 at same category.
    - ii. If yes, continue to step 5 at higher category.
5. Grant Special Assistance (the recognition payment) within the range for the category of violence.
6. Assess other types of expenses applied for and review evidence documents to determine expense grants (that is, for counselling, medical and dental, incidental travel, loss of earnings, reporting, legal advice, damaged clothing, and exceptional circumstances).
- If evidence is missing, contact applicant to request more documentation.
7. Complete General Application assessment and Assessment Plan, generate Statement of Reasons and finalise case in CMS.

<sup>28</sup> The prescribed time limit is within 3 years of the offence, or from the death of a primary victim; for a child victim, it is 3 years from the day they turn 18 (s 54). The VAQ director has the authority to allow extensions under certain circumstances, and VAQ rarely refuses an application on the basis of time (phone call, Dean Corless, 31 October 2016).

<sup>29</sup> The transitional arrangements time limit is within 3 years of the conviction or, for a child, before they turn 21 (s 157(3)).

The assessment process can be fluid. Having considered the recognition payment category (and potential circumstances, if relevant) during the assessment process, the assessor then makes contact with the victim to discuss aspects of the assessment. These discussions would include the recognition payment category (and potential circumstances), as well as expenses.

During step 7, the assessor's decision is reviewed and approved by a team leader. VAQ's CMS also contains a number of rules to ensure that assessors' decisions comply with VOCAA (e.g., up to 1 July 2017 the category A recognition payment must be between \$5,000 and \$10,000) (email, Dean Corless, 5 December 2016).

If, subsequent to the first assessment, the victim has more expense documents or expense needs related to the act of violence, the victim submits an amendment application, which is allocated to a VAQ assessor. Amendment payments can be granted within 6 years of the original application grant.

An example of an amendment application is as follows. A victim had 10 sessions of counselling, and their psychologist recommends that another 10 sessions would help the victim recover from the same act of violence. The victim submits an amendment application for an additional 10 counselling sessions with the psychologist's treatment plan attached as evidence.

If an applicant disagrees with a decision made by a VAQ assessor, they can apply for the decision to be reviewed. The application for review must be made within 28 days of receiving notice of the decision, and it must give all the reasons the applicant may dispute the decision. Between 1 December 2009 and 13 December 2018, VAQ received 375 applications for internal review. An internal review is conducted by another VAQ assessor at a higher level. The original decision may (or may not) be amended. If the applicant disputes the internal review decision, they can apply to Queensland Civil and Administrative Tribunal (QCAT). Since the start of VOCAA in 2009, there have been a total of 37 matters that have proceeded to review by QCAT. Most VAQ decisions were upheld by QCAT, but QCAT increased awards in three cases and returned four to VAQ for a reconsideration of new evidence (email, Dean Corless, Director, VAQ, 11 January 2019).

## **B. Key terms, decisions, and documents**

We paraphrase legislation, decisions, and documents, using plain language for ease of readability.

### **1. Types of victims**

#### **(a) primary**

A primary victim, for the purposes of VOCAA (s 26), is a person who dies or is injured as a direct result of the act of violence having been committed against the person.

A special primary victim (s 82(2)) is the primary victim of an act of violence that involved a sexual offence, or the offender was in a position of power, influence, or trust (for example, the victim's parent, partner, or carer). Victims who are children or have impaired capacity or those who were threatened or intimidated by an offender or someone else are also considered special primary victims (s 26). Primary victims can apply for financial assistance up to \$75,000, plus up to \$500 for legal costs of applying. The FAVE study and this report focus on primary victims.

**(b) secondary**

A secondary victim can either be the parent of a primary victim or a witness to the act of violence. Parent secondary victims can be injured (1) as a direct result of the act having been committed against their child or (2) as a result of becoming aware of it. Parent secondary victims can apply for financial assistance up to \$50,000.

A witness secondary victim is a person who is injured as a direct result of witnessing an act of violence. Witness secondary victims are divided into *less serious* and *more serious* categories, and the maximum amount of financial assistance they can apply for is \$10,000 or \$50,000, respectively.

**(c) related**

A related victim is a dependent or close family member of someone who died (primary victim) due to an act of violence. A family member means someone who had a 'genuine personal relationship' (s 27(7)) with the primary victim at the time they died. Related victims can apply for financial assistance up to \$50,000 per victim.

**2. Types of financial assistance: expenses**

Reasonable expense payments related to the act of violence can be granted to a victim based on evidence that the expenses were incurred or reasonably likely to be incurred. Acceptable evidence documents include invoices, receipts, and doctor or psychologist treatment plans.<sup>30</sup> The expense amount granted can be paid to the victim, the supplier, or to the person who incurred the expense on behalf of the victim. For example, if a victim needs to have urgent medical attention that is not covered by Medicare and their parent or partner pays for the treatment, VAQ will grant the expense amount to the victim, but will pay the monies to the person who originally paid the bill.

Primary victims can be granted a total financial assistance package of up to \$75,000, plus up to an additional \$500 for legal costs for making their application to VAQ.

Interim assistance can be applied for when a victim has immediate expenses and their general application cannot be decided immediately. Up to \$6,000 within the \$75,000 maximum can be granted as interim assistance for any of the eligible expenses. However, the assessor must be satisfied that the expenses are necessary to the victim<sup>31</sup> before the general application is decided. Interim assistance is only for expenses. The special assistance (recognition) payment is decided in the general application and cannot be part of an interim assessment.

Here are the major categories of expenses that may be claimed by primary victims<sup>32</sup> under VOCAA.

<sup>30</sup> Treatment plans are used as evidence of expenses that are likely to be incurred in the future. A complete list of commonly requested supporting documents by VAQ for each expense can be found at <https://publications.qld.gov.au/dataset/aaadba7d-075b-45d7-82e6-a73cd58605a7/resource/4149f9c0-33be-4363-966b-a2fc791da738/download/commonlyrequesteddocuments.pdf>

<sup>31</sup> We interpret the term *necessary* to mean 'the cost of goods and services [a victim] needs to recover from the crime and its effects' (VAQ website information to applicants).

<sup>32</sup> See Appendix 7 for other types of financial assistance.

### **(a) counselling expenses**

Reasonable counselling expenses can be paid to a victim or their counsellor based on a mental health treatment plan from a social worker or psychologist, or based on invoices paid for counselling sessions already attended by the victim in relation to the act of violence. VAQ supports the victim's ability to choose their preferred counsellor, but the counsellor must have appropriate qualifications, including registration under the *Health Practitioner Regulation National Law Act 2009* or as an Accredited Mental Health Social Worker. Counselling expenses are not capped, but are available within the maximum financial assistance for primary victims of \$75,000.

### **(b) medical expenses**

Reasonable medical expenses include ambulance, pharmacy, general practitioner, dentist, hospital, and psychiatrist treatments. These can be paid based on a doctor or hospital bill, pharmacy receipts, or medical treatment plan, or a letter from a doctor outlining the treatment plan or quotes from surgeons, among other examples. The VAQ assessor will deduct the appropriate Medicare or private health insurance rebate from the billed or quoted amount before calculating the amount to be granted for medical expenses. Like counselling expenses, medical expenses are not capped, but are available within the maximum of \$75,000.

What is considered reasonable amounts for counselling and medical expenses are based on the Workcover Qld Table of Costs for allied health and medical practitioners.<sup>33</sup>

### **(c) travel expenses**

Reasonable incidental travel expense payments can be granted. Incidental travel means travel to and from a victim's home or workplace to attend medical or counselling appointments (only). As evidence of the appointment, an appointment confirmation letter or tax invoice must be provided with the application. The mode of transport can be either in a private motor vehicle, public transport, or taxi. For a private motor vehicle, the VAQ assessor will calculate the amount based on their determination of the Google Earth distance between the two addresses multiplied by the cents per kilometre determined by the Australian Taxation Office for the make, model, and engine size of the vehicle used. Public transport or taxi travel evidence can be a bus/train transaction or ticket, or a taxi receipt. To be granted, the travel must be 20 kilometres or more each way, and the service must not be reasonably available any closer to the victim's home or work. Incidental travel expense payments are available within the \$75,000 maximum.

### **(d) loss of earnings**

The loss of earnings amount is capped at \$20,000 within the \$75,000 maximum. Loss of earnings must be directly related to the act of violence and within the first 2 years after it occurred. The amounts for this expense are calculated based on the victim's earnings at the time of the act of violence. Earnings are the victim's personal or taxable income, including unpaid sick leave and annual leave entitlements. Paid sick leave cannot be claimed.

If the earnings were not yet paid, but there was a certain employment opportunity such as a signed contract in place, a victim can also apply for loss of likely earnings. The evidentiary burden for applying for loss of earnings can be high because it requires information such as

<sup>33</sup> PDF documents and spreadsheets for these costs are at <https://www.worksafe.qld.gov.au/service-providers/allied-health-fees> and at <https://www.worksafe.qld.gov.au/service-providers/medical-fees>.

payslips, tax returns, information from accountants, additional medical certificates, other income sources such as Centrelink and insurance benefits, and advice from employers about employment conditions and leave taken.

**(e) damage to clothing**

Payments for the expense of loss of, or damage to, clothing are available for the clothing the victim was wearing at the time of the act of violence within the maximum of \$75,000 for primary victims. Victims need to provide a description of the item of clothing and the nature of the damage, with a receipt or estimate of the item's value. Clothing includes clothes, shoes, underwear, hats, helmets, belts, and specialist work wear, but does not include jewellery, optical wear, or articles the victim was carrying.

**(f) report expenses**

Report expenses are costs that were incurred or likely to be incurred for a victim to obtain medical reports for their financial assistance application. Report expenses are granted within the \$75,000 maximum and are based on costs given in invoices from medical practitioners.

**(g) legal expenses**

Legal expenses are costs incurred when a victim seeks legal assistance to complete the application for financial assistance. Primary victims can apply for up to \$500, in addition to the \$75,000 maximum.

**(h) exceptional circumstances**

In exceptional circumstances, other expense payments can be granted to primary victims within the \$75,000 maximum. Exceptional circumstances exist if the act of violence had an unusual, special, or out of the ordinary effect on a victim due to their personal circumstances or the nature of the act of violence. Examples are when an elderly person is assaulted in their home and becomes seriously concerned for their security; or when a victim living in a remote area is assaulted by someone living in the same area, and the victim becomes seriously concerned that the perpetrator will hurt them again. The FAVE cases had examples like these of security or relocation expenses granted to applicants in the exceptional circumstances category.

Other examples of exceptional circumstances expenses include bedroom furniture or linen when a victim was sexually abused in their bedroom, lounge room furniture for a victim who was abused on their lounge, accommodation for a victim who required a pregnancy termination, 6-foot fencing for a victim who could not move away from their home and the perpetrator lived nearby, the cost of an English course and tertiary admissions test for a victim who was prevented from finishing high school due to the act of violence, martial arts fees, crime scene cleaning, a plane ride of considerable distance to a remote region of Queensland for a victim's husband to be with her while she was recovering from the act of violence, and private school fees for a victim who was unable to continue attending the school in which the perpetrators were enrolled.

The approach taken by VOCAA when assessors are determining this category of expenses is to first decide whether there are exceptional circumstances for the victim, then to assess whether the payment of the requested expense would 'significantly help the victim recover from the act of violence' (s 39(g)). Compared to other expenses, exceptional circumstances is subject to considerable assessor discretion.

### 3. Other financial assistance: special assistance (the recognition payment)

Within the maximum of \$75,000 that a primary victim can receive is special assistance (the recognition payment), which (up to 1 July 2017) ranged from \$130 to \$10,000, depending on the category of seriousness of the act of violence. VOCAA describes it as ‘a symbolic expression by the State of the community’s recognition of the injuries suffered by’ primary victims of violent crime in Queensland (s 3(2)(b)). It is calculated by determining the category of violence with consideration of the degree and type of injury suffered by the victim.

For each category of violence there is a range within the band (see Appendix 2).<sup>34</sup> This means that VAQ assessors may use their discretion under s 85(6) in deciding the amount within the band for each category of violence.

All eligible primary victims are entitled to a recognition payment. Even if a victim does not request it in their application, the VAQ assessor will add it and assess the category of violence they believe the incident falls into. In 27 of the 291 FAVE cases (9 percent), VAQ assessors added the recognition payment.

### 4. Offences, categories of violence, and seriousness

VOCAA identifies four categories of violence: A, B, C, and D (see Appendix 2). Sexual offences, the focus of the FAVE Project, are in categories A and B. Category C includes robbery, unlawful wounding, and serious assault; and category D, assault, unlawful stalking, and deprivation of liberty.

Sexual offences include rape, incest (with a person under 16 or of impaired capacity), maintaining a sexual relationship with a person under 16 (hereafter MSR), attempting to commit any of these offences, and other sexual offences defined under section 352 of The Code (Appendix 4).

The first three offences (rape, incest, and MSR) are three of four acts of violence in category A (attempted murder is the fourth). Other sexual offences and attempting to commit any of the first three offences are in category B.

The category of violence determined by a VAQ assessor is important because it sets the range within which the recognition payment is determined. During the time of the FAVE Project (and up to 1 July 2017), the ranges were: category A (\$5,000 to \$10,000), category B (\$1,301 to \$3,500), category C (\$651 to \$1,300), and category D (\$130 to \$650).

All category A and B offences fall under the umbrella of serious violent offences or serious child sex offences, as detailed in the *Penalties and Sentences Act 1992* (Qld), Schedules 1 and 1A. In general, this means that they attract maximum imprisonment sentences of 5 years to life; and typically, 14 years or more.

<sup>34</sup> Recommendation 5 of the 2016 review of VOCAA removed the range for each category of violence, and the legislation has been amended with the following prescribed fixed amounts: category A (\$10,000), category B (\$3,500), category C (\$2,000), and category D (\$1,000) (DJAG 2015).

## 5. Assessor discretion in the recognition payment

During the time of the FAVE research, assessors had discretion to determine the recognition payment in two steps. First, they had discretion to determine the category of violence (items [a] and [b] below). Second, once the category is determined, they had discretion to determine the amount within the band (item [c]). As of 1 July 2017, item [c] is no longer relevant in assessors' determination of the recognition payment.<sup>35</sup>

(a) An assessor can *uplift* an offence, based on legislatively prescribed *circumstances*, a term that includes the *impact (harm) of the offence* (very serious injury or infected by a very serious disease); *specific victim vulnerabilities* (age, impaired capacity); and *specific offence contexts* (series of related crimes on the day or over time, or deprivation of liberty).

(b) An assessor can *re-classify* a police or judicial officer's legal classification of an offence, or determine the category of violence in the absence of a legal determination.

(c) An assessor then decides a precise amount within the A, B, C, or D categories of violence.

### *Uplifting a case based on 'circumstances'*

VOCAA (Schedule 2) sets out a complex formula for the recognition payment for different categories of violence (from A to D), alongside circumstances (category A to C circumstances). Circumstances is a term that refer to the degree of injury resulting from the act of violence (see Appendix 2 and related Appendix 3 for definitions of injury and serious injury).

For category B, C, or D offences, differing circumstances (harm, victim vulnerabilities, or offence contexts) can be considered. If category A circumstances were present in a category B, C, or D, offence, the recognition payment can be *uplifted* to category A. Once in category A, the assessor has no legislative guidance on how to determine the payment, except that it must fall within the band, from \$5,000 to \$10,000.

The category A circumstances in which a category B, C, or D offence can be uplifted to category A are when, the victim as a 'direct result of the act – suffered a very serious injury or [was] infected with a very serious disease' (Schedule 2, s 1(3)).

The category B circumstances in which a category C or D offence can be uplifted to category B are when the victim as a 'direct result of the act – suffered a serious injury or [was] a victim of a series of related crimes or suffered a deprivation of liberty' (Schedule 2, s 1(3a)); or if, when the act was committed, the victim was under 16 years, over 60 years, or had an impaired capacity (Schedule 2, s 1(3b)).

Once a case is uplifted to the relevant category of violence, based on circumstances, assessors have no legislative guidance on how to determine the payment within the band. *During the time of the FAVE Project, none of the cases were uplifted with reference to circumstances.* Although none of the FAVE sexual offence cases were uplifted, other types of offences may show a different pattern.

<sup>35</sup> DJAG review recommendation 5 amends VOCAA by changing the ranges in each category to fixed amounts. Category A offences are fixed at \$10,000, and category B at \$3,500 (see Appendix 6).



*Re-classifying a case*

Assessors have discretion under VOCAA to determine the category of violence. Quoting verbatim from the relevant section of the Act (s 85(6)):

The government assessor may be satisfied on the balance of probabilities that an act of violence of a particular category has caused a person's injury even though

- (a) no person has been charged with, or convicted of, an act of violence of that category in relation to the injury; or
- (b) a person has been charged with, or convicted of, an act of violence of a different category in relation to the injury.

In other words, in the absence of an arrest or conviction for a particular offence, or despite the legal offence of conviction, an assessor can determine what the category of violence is.

We term this activity *re-classification*; and when assessors re-classify offences, the movement is always upwards to the next higher category of violence. For example, an offender may be charged with indecent treatment of a child (ITC, category B offence), but the VAQ assessor may decide, based on the offence, that a more accurate determination of the offence is 'maintaining a sexual relationship with a child' (MSR, category A). Likewise, a serious sexual assault (category B) could be re-classified to rape (category A) in the same way.

Of 291 cases, 46 (16 percent) were re-classified from category B to category A. The share was the same for male (14 percent) and female (16 percent) cases. Put another way, of 18 male cases in category A, 28 percent had been re-classified from category B. Of 173 female cases in category A, 24 percent had been re-classified from category B.

*Uplift and re-classification*

Uplift differs from re-classification, but there is confusion in DJAG's (2015: 17) report on this point. The report does not differentiate an assessor's discretion to *uplift* a category of violence (item [a]) from their discretion to decide a payment, once a category of violence is determined (item[b]). Furthermore, it does not discuss *re-classification* (item [b]) at all.

**6. Statement of Reasons**

Statements of Reasons are notification documents that are sent by Queensland Government departments to applicants when departments make decisions. VAQ is no exception. The broad requirement of what must be included in the Statements of Reasons for all departments is in section 27B of the *Acts Interpretation Act 1954*. Specifically, Statements of Reasons '(a) set out the findings on material questions of fact; and (b) refer to the evidence or other material on which those findings were based'. VAQ's Statement of Reasons (hereafter SoR) for financial assistance adds more detail to this requirement by including the amounts, both in total and for each component of assistance, and any conditions the assessor places on the grant.

VAQ's SoRs often make reference to relevant sections of VOCAA (or when relevant, COVA). The SoR is divided into sections, typically with these titles: background, authority, evidence of the material considered, assessment decision, conditions on all grants of assistance, and notice of internal review. The SoR includes set paragraphs on the authority of the assessor (s 62), the

application of natural justice principles and timeliness of the assessment (s 63), conditions on the grant (s 86, s 106), and how to apply for an internal review (s 124).

Under Assessment Decision are sub-sections that address the case. The headings include, for example: eligibility, victim type, category of violence, grant – special assistance, medical expenses, counselling, and the like. Within most sections, assessors are free to write as much or as little as they see fit, as long as they cover the basic requirements.

An SoR is sent to an applicant each time a decision is made or changed. This means that one application can have a number of SoRs: one for an interim assessment, one for the general assessment, and one or more for amendment assessments.<sup>36</sup>

Appendix 5 gives examples of SoRs, which were assembled from a number of SoRs we received during the FAVE Project. To ensure de-identification, cross-hatching is used and dates were changed.<sup>37</sup>

Example 1 shows an SoR for offences occurring from 1 December 2009 onwards (and related to VOCAA); and Example 2, for offences that occurred before 1 December 2009 (and related to provisions in COVA). We give examples of each because they show differences in wording that relate to legislation in the two time frames.

These SoRs are good examples of what victims read and receive. Readers will observe, as we did, that the SoR is not an easily readable document. The mode of communication is distant and bureaucratic, not warm. In 2015, VAQ engaged an external consultant to assist with rewording correspondence and SoRs into plain English (email, Dean Corless, 9 February 2017).

### **Part III. The FAVE Project**

#### **A. Time frame, data, and sampling**

Meetings were held in August and October 2013 between Project Director Daly and VAQ staff to understand the kinds of data that could be requested and in what form. Coming from those meetings, these key decisions were made:

- Because the victim-offender relationship was not determined for applications until 1 July 2012, the FAVE Project would request data on applicants only from that date forward.
- Because the FAVE Project required a sufficient number of cases, the sampling window would run for 18 months, from 1 July 2012 to 31 December 2013, with the latter date marking applications that had been *finalised*<sup>38</sup> by then.

<sup>36</sup> See Part II, A on steps in applying for financial assistance for discussion of amendment applications.

<sup>37</sup> In the SoRs we received from VAQ, cross-hatching was carried out by VAQ staff to remove any identifying information on applicants.

<sup>38</sup> Finalised in this context means that the decision has been made by the VAQ assessor to grant funds under the general or main assessment; however, future amendments could be sought and received, and were part of some FAVE cases.

- The request would be only for primary victims of all ages, who were victims of a sexual offence. Included in that definition were domestic violence cases that had a sexual assault element.
- VAQ would supply data on the grants awarded for each category of assistance.
- VAQ would supply de-identified SoRs associated with each finalised application (for which the FAVE Project would pay costs for VAQ staff time to de-identify).

On 24 January 2014, a data sharing agreement was signed between Griffith University and the Queensland Department of Justice and Attorney General (Victims Assist Queensland). It specified that the FAVE Project would receive a de-identified dataset of about 300 cases and the associated Statements of Reasons for each.

## **B. Research questions for financial assistance decision-making**

### **1. VAQ assessors and other staff**

In discussions with VAQ assessors and other staff during 2014 and 2015, we learned several things. First, they placed considerable importance on ideas of natural justice and fairness when discussing their work. What does natural justice mean? According to the Queensland Ombudsman (2007: 7), the elements of natural justice are notice, fair hearing, and lack of bias. The last item—lack of bias—is important to bear in mind when reflecting on the potential impact of societal constructs of deserving, blameless, and innocent victims in assessors’ decision-making (see below, item [3]).

Second, there were suggestions that the assessment process was a ‘negotiation’ and that a final decision was a ‘negotiated outcome’ between an assessor and victim-applicant. Although VOCAA provides legislative guidelines, assessors have considerable discretion. Like the exercise of discretion in criminal justice, discretion in state schemes for crime victims is double-edged. It can be positive by responding to and allowing for individual circumstance, but it may lead to different outcomes for otherwise like cases. The impact of discretion on assessors’ decisions is discussed in Part V and Daly and Holder (2019).

When we asked assessors and other VAQ staff what they were interested to learn from the research, they had these questions:

- Why do some people seek financial assistance and others not? Why do some drop out of the process (even after their application has been assessed and money awarded)?
- How can seeking financial assistance be encouraged?
- How do external support services affect the application process?
- Is the process of applying for financial assistance helpful or onerous?
- Is there an ideal package for victim/survivors?
- What guides assessor decision-making?
- How is recovery from crime to be assessed, that is, from what baseline?
- What are effective ways of managing victims’ expectations of the process, whether high or low?
- To what extent are victims’ rights being addressed by VAQ and other justice entities?

## 2. FAVE Project staff

The FAVE Project team was interested in discovering who applied for financial assistance in sexual offence cases, how discretion was exercised by assessors and its impact, and what the outcomes were. Among the questions were these:

- Who applies for financial assistance and what is the character of their sexual victimisation?
- Do recognition payments or expenses awarded vary by the type of sexual offence; victim-offender relation; or victim age, sex/gender, or Indigenous status?
- What is the range of awards, and what explains variation in amounts received?
- Do societal constructs of real rape and credible victims, which are drawn from research in criminal justice, affect amounts awarded for the recognition payment?
- How, more generally, do societal constructs of deserving and blameless victims, which are drawn from the literature on state schemes, affect decisions?
- Are there cases of historical institutional sexual abuse or historical abuse, and how are these handled?
- How long does the decision-making process take, from application to award?
- What is the experience of applying for financial assistance from a victim's perspective?

## 3. Real rape, credible victims, and deserving victims

Researchers have long analysed criminal justice responses to female victims of rape and sexual assault. One argument is that the more an offence conforms to what is termed *real rape*, the more likely it will move through the system and result in conviction. The elements associated with real rape are stranger relations, took place in a public setting, has evidence of serious physical injury, has weapon use, and multiple assailants.<sup>39</sup> As we know, the more typical adult victim rape is completely different: it has a lone assailant whom the victim knows, may leave little trace of serious physical injuries, and has no weapon use.

The term real rape was coined by Estrich (1987), but it continues to be relevant today (Krahé 2016). The elements associated with real rape are hypothesised to have a stronger influence (to the detriment of victims) when an offence is what is termed a *simple rape* (not aggravated rape) (Beichner and Spohn 2012; Horney and Spohn 1996), although evidence is mixed for this claim. Another approach analyses the impact of *credible rape victims*. Such victims do not engage in risk-taking behaviour before the offence (e.g., going home with a suspect, drinking alcohol or taking drugs); they resist by screaming or hitting an assailant, and report the offence right away. The degree to which these elements are present (or absent) is associated with the degree to which victims may be blamed (or not blamed) for sexual victimisation or be viewed as having a degree of responsibility (or not) for what occurred.

Constructs of real rape and credible victims are relevant to adult female victims, not to child or male victims (see Daly and Bouhours 2010; Spears and Spohn 1996). Furthermore, they may have less influence today in criminal justice decision-making than they once did. Daly and Bouhours (2010) compared outcomes at an earlier (1970-1989) and later (1990-2005) time period. They found that stranger relations and a victim's reputedly good character and credibility were less important to police and court outcomes in the later period.

<sup>39</sup> Together, in the absence of witnesses, these elements suggest strong evidence of non-consent.

The real rape and credible victim constructs are a sub-set of more general constructs of *deserving*, *blameless*, and *innocent* victims—terms frequently used in the literature on state schemes for violent crime victims. As developed by Miers (1990, 2007, 2014a, 2014b), all schemes are premised on assumptions that a victim’s behaviour did not contribute to their victimisation. These assumptions are embedded in VAQ eligibility criteria (see Part I, E3), which also include that a victim reports the offence and gives reasonable assistance to the police.

In VOCAA s 85 (2) (a), a victim’s behaviour is also relevant *in determining the amount of assistance*, i.e., an assessor may reduce the amount for expenses or the recognition payment, depending on the victim’s conduct. The text reads:

In deciding the amount, the government assessor may have regard to, and may reduce the amount that would otherwise be payable to the applicant on the basis of the following –

- (a) the extent to which the applicant’s conduct directly or indirectly contributed to the injury suffered by the applicant as a direct result of the act of violence in relation to which assistance is sought.

This section is important for calling attention to the fact that a victim’s behaviour can legitimately be used by an assessor *to reduce* amounts awarded for expenses and the recognition payment. We are reviewing the SoRs to determine if language like this is present, or if it is merged in the assessor’s mind with eligibility criteria.

### C. Strengths and limits

The FAVE Project can answer questions about VAQ’s decision-making processes in determining financial assistance for sexual offence victims in Queensland, but it is limited to the information contained in the de-identified case management system data and SoRs. The Victims' Experiences side of the project; however, does provide insight into victims’ experiences applying for and receiving financial assistance, and especially the recognition payment (see Holder and Daly 2018).

The details of assessors’ decision-making are recorded in the VAQ assessment plan for each case, but this information was not available to the FAVE Project team. Thus, we were unable to link the final decision made by an assessor to information gathered by VAQ staff during the process, including phone calls with a victim, which would have given us greater insight into why a decision was made. The SoR is the final formal determination an assessor provides to a victim, and this was what we analysed. Thus, one limit of the FAVE study is that we do not have information on the processes that led to a decision, and how an assessor may have been affected by certain elements of the case or the victim.

A strength of the FAVE study is providing an in-depth analysis for a large number of cases of what occurred, from application to decision outcome, in awarding financial assistance—both expenses and the recognition payment—to crime victims. There have been reviews or summaries of *what is possible* in criminal injuries or financial assistance schemes, but few have analysed actual outcomes for sub-groups of victims (Daly and Holder 2019).

The FAVE Project’s focus on sexual offences may be viewed as a limit, and it would have been optimal to have analysed more than one broad set of offences. However, two or more offence categories (such as death resulting from an act of violence, robbery, assault) would have

introduced significantly more complexity into the study, which we did not have the resources to undertake. Thus, we decided to focus on sexual offences and do that well, in order to produce one of a few such studies in the world on financial assistance for any offence, rather than undertake what might have been a more superficial analysis of a number of offence categories.

The focus on sexual offences can also be viewed as a strength because we are able to relate what we learn about victims' experiences and decision-making processes to the substantial literature on sexual victimisation, responses by police, by other legal and medical authorities, and civil society. Also, there is considerable variation in sexual victimisation and contexts of victimisation, which was important to understand. The focus on sexual offences stems from Daly's program of research on assessing and comparing conventional and innovative justice responses to sexual violence (Daly 2011, 2014b, 2017a; Daly and Wade 2017). Financial assistance is one type of justice mechanism, which can be compared to others such as criminal prosecution, civil litigation, conferences, and social media (Daly and Wade 2017; Powell 2015).

## **Part IV. Data collection and coding**

### **A. Project datasets**

The FAVE dataset (merged CMS data and coded SoRs) had these parameters and variables:

- applications made between 1 July 2012 to 31 December 2013
- primary victims of sexual offences of all ages
- sexual offences, including domestic violence with a sexual offence element
- finalised applications only
- the types and amounts of grants applied for and awarded
- the Statement of Reasons for each application

#### **1. Number of cases**

In March 2014 VAQ supplied the requested CMS data as a set of excel spreadsheets and their associated Statements of Reasons (SoR) as HTML files.

The initial file had 309 cases. After reviewing and cleaning the data, we found that 307 cases fit the research parameters. Each of these was given a FAVE ID number from FAVE 001 to FAVE 307, which became the unique identifier for each case in the dataset.

When the FLOW data were received and initially analysed (see point 4 below), it was discovered that 13 FAVE cases had been finalised in January 2014, which was outside the 18-month time frame. When the SoRs were coded and analysed, an additional three FAVE cases were found to have no mention of sexual offences. Thus, a total of 16 cases were removed from the dataset, resulting in a final N of 291 cases in the FAVE dataset.

When constructing the dataset, we decided that one application equals one case. Our reasoning was that each application was a unique interaction with an administrative entity (VAQ) and the requirements for financial assistance. Each application concerned a unique crime(s) and had a unique outcome. Thus, the application was the unit of analysis for the research.

Some victims' applications related to the same offender, and in two instances, the same person applied for financial assistance for different offences. The number of applications and persons is shown in Table 2.

Table 2. Number of FAVE applications and persons

N of applications per person	N of persons	N of final cases in the FAVE dataset
1	287	287
2	2	4
total	289	291

## 2. Coding the SoRs

After creating the initial CMS dataset, the research team began coding the SoRs. The SoR is sent to an applicant once a decision is made (s 90). It has a cover letter, which outlines in dot points the amounts awarded and for what types of expenses, and contains information about how to lodge a review, if dissatisfied with the decision.

Each case can potentially have several SoR documents: one for the interim assessment, one for the general assessment, and one or more for amendment assessments. Most cases had one general assessment SoR, but 21 percent had more than one. There were 407 SoRs associated with the 291 cases. These were read and coded, and the variables added to the dataset.

The FAVE Project team had initially believed that the SoRs were free text. However, when reading and coding the SoR, we discovered that assessors used a template, structured by legislative requirements and concepts, in which relevant text was entered in various sections. Set paragraphs and headings may have evolved over time, but an assessor has discretion in deciding what they write.

In coding and analysing the SoRs, the team was interested to understand what assumptions, conceptions, or criteria the assessors used in determining the award, and in particular, for the recognition payment. These may be explicit and implicit in the text of the SoR.

### (a) real rape and credible victims

We were interested to determine whether certain features of victims or offences elevated or depressed the amount awarded for the recognition payment. Specifically, did elements of the real rape construct or credible victims influence assessor decisions? What role did offence seriousness play in the recognition payment?

We identified three sets of variables when coding the SoRs: those associated with offence seriousness, real rape, and credible victims.<sup>40</sup>

In creating the five seriousness variables, we drew from VOCAA's (s 81(2)) description of special primary victims. This group included not only sexual offence victims, but also *child victims* and those with *impaired capacity*, and victims against whom offences were committed by a *person in a position of power, influence, or trust*. For these victims and offence contexts, victims can report an offence to a counsellor, psychologist, doctor, or (as of 1 July 2017), domestic violence service instead of a police officer. Another term in VOCAA is a *series of related crimes* (s 25(4)(a)), which refers to multiple incidents against a victim around the same time or over a period of time. These terms and phrases were used in the SoRs, and we coded them as indicators of offence seriousness, but legislation does not specify them as such. A fifth

<sup>40</sup> Other elements of seriousness such as whether the victimisation was on-going or not, and if so, its duration, were created from detailed date variables created in the FAVE dataset.

seriousness item was assessor mention of an age disparity (3 years or more) between victim and offender.

The five items for real rape were stranger relations, occurred in a public setting, evidence of physical violence or force, weapon used, and multiple assailants.

For victim credibility, there were positive and negative items. The four positive ones were victim reported to authorities within 3 days, reported within 7 days, mention of victim resistance, and the case had a court conviction.<sup>41</sup> The three negative ones were mention of the victim having been at a bar or party before the offence, having used alcohol or drugs, or having accepted company from the alleged perpetrator.

Of the 17 items, we had complete information for four (victim-offender relations, reported within 3 days, reported within 7 days,<sup>42</sup> case had a court conviction). For 13, we coded as 'yes' when an item was *mentioned by an assessor* in an SoR. Here we faced known limitations of content analyses of documents (Bowen 2009), especially when coding for the mention (or not) of theoretically informed pre-set variables. The SoR texts varied in the level of detail assessors gave for offence contexts and victims' behaviour,<sup>43</sup> i.e., this was inconsistent across the SoRs. We could assume that mention of an item reflected an assessor's belief in its relevance to their award, or what justified it. However, when an item was not mentioned, it could mean that it was not relevant, or alternatively, that it was relevant, but the assessor chose not to mention it.

To strengthen the analysis, we created four additional aggregate variables for 'any mention' of an item associated with real rape, positive credibility, negative credibility, and offence seriousness. Thus, all together, there were 21 variables in the analysis. In addition to these variables, we recorded the words that were used by the assessor to justify their reasons for the recognition payment, and we noted when the SoR said something unusual or significant in terms of the administrative context of the case.

It is important to emphasise that during the research period, *there was no legislative clarity on how assessors were to award funds for the recognition payment, once the category of violence had been determined* (DJAG 2015: 17).

## **(b) coding challenges**

We had hoped that the SoR section entitled Assessment Decision would include information about the offender, the offence itself, and its impact on a victim. However, as the coding progressed, what we had hoped to find was not apparent or explicit. Two problems emerged.

First, the character of the offence was described in detail in some cases, but not in others. We subsequently learned from VAQ staff that such information may be variably described or less likely present in SoRs in the more recent period because assessors did not want to unduly distress

<sup>41</sup> A criminal conviction is not required under VOCAA, but it was under previous legislation. Of 291 cases, 38 percent had criminal convictions under previous legislation, and 10 percent under VOCAA. We reasoned that cases with convictions may have had more credibility than those reported to authorities alone.

<sup>42</sup> Except for 10 cases when the date of report was not given in the SoR.

<sup>43</sup> During the research period, the VAQ office had 10 assessors; we did not have information on who the assessors were, nor seek to analyse award variation by assessor.



or re-traumatise victims by repeating elements of the offence. Second, the SoR template had set text for the required legal or administrative elements. Text space was more often devoted to these elements than information related to the victim and offence.<sup>44</sup>

One aim in coding the SoRs was to know the character, context, and seriousness of sexual offences. This was partly realised because we had complete information for some items, but inconsistent information for others.

A second aim was to know what a victim did after the offence, specifically, when it was reported. This date, which was given in the SoRs, could then be linked to the CMS data on the date of the offence, its duration (if on-going), and the date of application to VAQ—all of which could be linked to a victim's age. This aim was fully realised.

The third aim was to test the impact of real rape, credible victim, and seriousness variables. This was realised largely by identifying what an assessor *mentioned* in the SoR (i.e., an item's relevance to or justification for a decision). However, we cannot be sure what the absence of a mention means. Despite data limitations, we have confidence in the findings.

### **3. Assembling the FAVE dataset**

In July 2015 the coding of the SoRs was completed, with initial data reduction and coding on an excel spreadsheet. Then, the CMS data were merged with the SoR data into one SPSS file.

The initial FAVE dataset had 78 variables (45 from CMS and 33 from the SoRs). Seven of these were indicator flags to identify when detailed data were available. The dataset expanded with more variables from the real rape, credible victims, and seriousness analysis, along with other variables we had created to enable precise analysis. The final FAVE dataset has about 160 variables.

After merging the CMS and SoR data, cross-checks revealed errors in both. Further discrepancies were found in preliminary analyses of the FAVE dataset, when cross-checks among the variables revealed conflicts that had to be resolved. The FAVE dataset was finalised in September 2018, and selected findings from it are given in Part V.

### **4. FLOW dataset**

The FLOW data were received from VAQ in 2015 in an excel spreadsheet. The data were current as of 9 January 2015 and contained *all* sexual offence applications (for all types of victims), which were received from 1 July 2012 to 31 December 2013. Compared to the FAVE data, which was truncated on 31 December 2013, the FLOW data showed the status of all applications at different stages of the VAQ process, including assessed and grant awarded, completed, yet to be assessed, ineligible, and so forth. All the FAVE cases (N=291) were in the FLOW dataset.

Because the FLOW dataset extended the time frame by over 12 months for all applications received from 1 July 2012 to 31 December 2013, we can more accurately depict the time to decide an application and what percentage of applications was determined to be eligible. In addition to time, the FLOW dataset has variables for the victim's sex/gender, Indigenous status, age at the time of the offence, and age at application. It was finalised in January 2018.

<sup>44</sup> In general, relatively more space was given to detailing expenses awarded than to explaining the amount decided for the recognition payment.

An analysis of eligible and ineligible applications is presented next, with additional findings on time taken to decide an application in Part V, D1.

### **(a) eligible and ineligible applications**

During the 18-month period (1 July 2012 to 31 December 2013), 621 applications were received by VAQ for sexual offences. Of these, 468 (75.4 percent) were deemed eligible for financial assistance, a figure that included three types of victims (primary, parent, and witness). Another 89 cases (14.3 percent) had not yet been determined, and 64 (10.3 percent) were deemed not eligible. Thus, of determined cases (N=532), 468 (88 percent) were eligible.

## **Part V. Selected findings**

The FAVE-SoR dataset contains 291 cases of decisions for financial assistance: 287 were sexual offences, and four were domestic violence cases that involved sexual offences. Four offence categories were analysed: two category A offences (rape and maintaining a sexual relationship with a child [MSR]) and two category B offences (sexual assault and indecent treatment of a child [ITC]).<sup>45</sup> The applications came from these regions of Queensland: Greater Brisbane (34 percent), Gold Coast (12 percent), Sunshine Coast (17 percent), Southwest Queensland (8 percent), Central Queensland (7 percent), North Queensland (7 percent), Far North Queensland (6 percent), and other (9 percent). Thus, most (63 percent) of the cases came from the southeast corner of the state.

### **A. Demographics: victim age, sex/gender, Indigenous status, and victim-offender relations**

Please refer to Appendix 8 for Tables 3 to 5 and 7 to 10.

Table 3 shows the frequencies for all the key variables for all cases (column 1) and disaggregated by the four offences in columns 2, 3, 4, and 5. Column 6 notes significant offence and sex/gender differences. Table 4 shows the frequencies of male and female cases in greater detail.

#### **1. Profile of sexual offence cases**

- 87 percent of victims were female.<sup>46</sup>
- 12 percent were Aboriginal or Torres Strait Islander.<sup>47</sup>

<sup>45</sup> These were distilled from a larger set of offences in the 291 cases. Some offences had a very small number of cases; these were moved to one of the four offences, with careful attention to preserve the relevant A or B offence category. For category A offences, unlawful sodomy was included within rape. For category B, unlawful carnal knowledge and attempted rape were included in sexual assault. For the four incest cases, three fit in the rape offence; one was 'over a period of time' with a child victim and was included in MSR.

<sup>46</sup> Throughout the analyses, we use the terms males and females because of the huge age range in the composition of victims (from less than a year to 65 years old when the incident occurred or the victimisation began). We use the term *sex/gender* to denote a socially produced embodiment. Sex is accurate when comparing males and females, but award outcomes are based on the incorporation of biological (sex) and socio-cultural (gender). The VAQ identifier denoted only male or female; no other sex/gender term (such as trans) was used.

<sup>47</sup> Of 291 cases, 12 percent were Indigenous, 78 percent were non-Indigenous, and for 10 percent, Indigenous status was not known. Of 261 known cases, 13 percent were Indigenous. We are sensitive to concerns that the term *Indigenous* homogenizes Aboriginal and Torres Strait Islander identities; we use the term for ease of reporting the findings. The VAQ identifier did not distinguish between Aboriginal and Torres Strait Islander applicants.

- 98 percent reported the offence to the police; the remainder, to counsellors.<sup>48</sup>
- all alleged or convicted offenders were male (in 68 percent of cases that could be determined).

Of offenders:

- 47 percent were family members or relatives of the victim.
- 44 percent were well-known or known to the victim.
- 9 percent were strangers.

## 2. Unexpected findings for victim age and on-going victimisation

### (a) age

At the time of the offence or when it began, on average:

- 46 percent of victims were under 12.
- 78 percent were under 18.

We had not expected to see such a young profile of sexual offence victims. Annual reports do not disaggregate victim age by type of offence. National victimisation surveys and interview research are of those 18 and over. The personal safety survey reports some information, but it is spotty.

In addition, all the male victims were under 18 (75 percent of females were). The mean age for males was 10.2, and for females, 16.5.<sup>49</sup>

For cases with on-going victimisation, we calculated age from the *start of the victimisation*. In contrast, VAQ calculated age, using the end date in all cases, including those having a period of victimisation. If we used VAQ's method, 34 percent of victims were under 12, and 76 percent were under 18.

### (b) on-going victimisation

The finding for age must be understood in light of the second finding: a high share of applicants who had experienced on-going victimisation:

- 48 percent had experienced on-going victimisation, ranging from 1 week to over 5 years.
- the average length of time was 1.5 years (median) and 2.5 years (mean).<sup>50</sup>

There was nothing in the literature (government annual reports, victimisation surveys, interviews of crime victims seeking state-based funds) to have prepared us for a profile of such young-aged victims with nearly half having experienced on-going victimisation. In part, this is because victimisation surveys do not survey young victims, and in part, government annual reports give

<sup>48</sup> Of 291 cases, 280 were reported to the police, five were reported to the police, but then withdrawn, and six were reported to a counsellor. Of the five who withdrew their report, a reasonable excuse was given by the victim, and the application was assessed as eligible.

<sup>49</sup> Using the median, the ages are more similar: 11 and 12.7, respectively, for males and females.

<sup>50</sup> On-going victimisation was more likely for those under 12 (71 percent) or under 18 (42 percent) compared to those 18 to 30 (13 percent) and 30 or over (6 percent).

limited information on victim demographics by type of violent offence. Moreover, interview studies of victims are limited to those 18 and over. The age of sexual offence victims in the FAVE sample may be specific to Queensland, but we cannot know until research in other jurisdictions is carried out.

Extracting from Table 3, the following shows the percentage of each of the four offences that had on-going victimisation and the average (median) length of time. Of the four offences, MSR stood out: 100% of cases (by definition) were on-going, and the median length of time was the longest (2.3 years).

Extract from Table 3. On-going victimisation: average time by type of offence

offence	% of cases on-going	average time (median)
rape (N=118)	33	1.1 yr
maintaining sexual relationship with a child (MSR) (N=73)	100	2.3 yrs
sexual assault (N=34)	12	2.7 wks
indecent treatment of a child (ITC) (N=66)	36	4.3 mos

### (c) relating the two unexpected findings

Age of victimisation varied by whether the victimisation was on-going or not. Of victims who had experienced on-going victimisation, the age at which it began was as follows:

- 68 percent were under 12.
- 96 percent were under 18.

By comparison, of those who had experienced one incident, the age at which it occurred was as follows:

- 25 percent were under 12.
- 61 percent were under 18.

Like other findings, an overall average age of victimisation masked significant sub-group differences. Specifically, it is important to distinguish cases with on-going victimisation from others. And in addition, certain offences (such as MSR in Queensland) involve on-going victimisation by definition.

### 3. Sex/gender

A comparison of male (N=37) and female (N=254) cases (Table 4) showed many differences. These variables were significant at  $p < .05$ :

- Females were more likely to be victims of rape; and males, ITC; each had a similar share of MSR and sexual assault offences.
- Females were more likely victims of category A (68 percent) offences than males (49 percent).

- All males were under 18, but 75 percent of females were. For the 25 percent of females 18 and older, 12 percent were 18 to 30, and 13 percent, older than 30.
- Males were more likely to have experienced on-going victimisation (68 percent) than females (45 percent).
- Of the males (N=25) and females (N=115) with on-going victimisation, the period of victimisation was significantly longer for females (mean, 2.7 years; median, 1.8 years) than males (mean 1.4 years; median, 1 year).

For victim-offender relations, females were more likely to be victimised by family and relatives (49 percent) compared to males (35 percent), and males were more likely to be victimised by others well-known or known to them (57 percent) compared to females (42 percent). They were similar in the stranger share of cases (8 or 9 percent). These overall VO distributions were not statistically significant.

#### 4. Indigenous status

Indigenous or non-Indigenous status was reported in 261 cases (90 percent). Of this, the number of Indigenous claimants was 35 (13 percent), with three Indigenous males and 32 females. The male share of Indigenous cases where Indigenous status is known (9 percent) is somewhat lower than the overall proportion of men (both Indigenous and non-Indigenous) in the full sample (13 percent, N=291). Thus, when comparing cases by Indigenous status, we are comparing females.

When analysing key variables related to the recognition payment (category A or B offence, specific offence, and on-going victimisation or not), there were no differences between Indigenous and non-Indigenous applicants. However, there were major differences in the application and success rates for expenses, which are discussed below in C2.

#### 5. Re-classification of offences

Of 291 cases, 16 percent were re-classified from category B to A. Re-classification was significantly associated ( $p < .05$ ) with on-going victimisation, MSR offences, child at victimisation/adult at application, and historical abuse (see D3(b) for definition). It was unrelated to sex/gender, Indigenous status, or whether the applicant received the maximum recognition payment; however, it neared significance ( $p < .07$ ) for victim-offender relations, with family and relatives more likely to have been the offenders than those known, well-known, or strangers.

#### B. Amounts awarded: overview

Table 5 (in Appendix 8) summarises outcomes for the recognition and expense payments.<sup>51</sup> For expenses, two measures were created: the *application rate* (the percent of all applicants who applied for each expense category) and the *success rate* (the percent of applicants who received a payment of those who applied for any expense category). Both are aggregate measures, that is, the percent who applied for *any expense*, and the percent who *received any expense* of those who had applied.

<sup>51</sup> The expense total includes interim assistance, general assessment, and any amendments. Victims can request additional expenses (amendments) for up to 6 years from the date of the original application.

In Table 5, first set of columns (1-8), the averages are based on the number of victims. In the last two columns (9-10), the averages are of total amounts disbursed by VAQ for the recognition and expense payments.

From columns 1-8, expenses for which one-third or more victims applied were counselling, travel, medical, and exceptional circumstances. The expenses with the highest success rates (column 3) were clothing, counselling, legal, and exceptional circumstances, for which 46 percent or more of victims received funds. The expense item least likely to be received was loss of earnings (16 percent success rate), but this expense had the highest average awarded (\$7,617) (column 8). Counselling, medical, and exceptional circumstances had the next highest average awards, which ranged from about \$2,600 to \$2,900.

The recognition payment ranged from \$1,500 to \$10,000, with an average of \$7,257. The average total award was \$9,815 (which included cases that did not receive any expense payment). As we shall see, these averages mask sub-group differences for category A and B cases, by sex/gender and Indigenous status.

For columns 9-10, money totals and shares are shown from a VAQ disbursement perspective. During the research period, VAQ disbursed a total of about \$2.9 million to victims in financial assistance, and the recognition payment was 74 percent of the total.

Turning to Table 6 (below), the top line (all cases) again shows the average recognition payment (\$7,257) and the total payment (\$9,815, which includes those who did not receive expenses). About seven in 10 victims received expense payments, and a similar share received the maximum recognition payment. When disaggregating by category and type of sexual offence, a more complicated picture emerges.

Table 6. Recognition payment and expenses by offence

	<b>% of 291</b>	<b>RP \$ average (1)</b>	<b>total \$ average (2)</b>	<b>% exp (3)</b>	<b>% max RP (4)</b>
all cases (N=291)		7,257	9,815	69	71
category A (\$5,000 to 10,000 RP)					
rape	40	9,428	12,784	80	80
maintaining sexual relationship with a child (MSR) (<16)*	25	9,493	11,798	60	80
category B (\$1,301 to 3,500 RP)					
sexual assault	12	3,057	5,052	62	53
indecent treatment of a child (<16)	23	3,067	4,766	66	56
	100				

\*Note: MSR is on-going child sexual abuse. The offence is maintaining a sexual relationship with a child which includes varied types of sexual offences.

Turning to each column in Table 6:

Column 1 shows that the average recognition payment for each offence in category A was similar. Likewise, it was similar for the two category B offences.

Column 2 shows the average total payment, which includes the recognition payment and expenses. This figure is somewhat misleading because it includes cases that did not receive expense payments.<sup>52</sup>

Column (3) shows the percent of victims who received an expense payment. This varied by the type of offence. Specifically:

- In category A, 80 percent of rape cases, but 60 percent of MSR cases received an expense payment.
- For category B, 62 to 66 percent of cases received expense payments.

Why did this occur? A detailed analysis (Daly 2017b) concludes that offence-based variation in receiving expenses can be explained, in part, by variation in *application rates*. These, in turn, were related to three applicant groups: a child, both at victimisation and application (under 18 years); a child at victimisation (under 18), but adult at application (18 and over); and an adult both at victimisation and application (18 and over). Across all four offences, child/adult victim cases had lower application rates for expenses, on the order of 15 to 20 percentage points lower.

Variation in receiving expenses can also be explained by *success rates* for those who do apply. These varied by offence (rape highest, sexual assault lowest, MSR and ITC in between). Success rates also varied by applicant group (child/adult lower), except for rape, for which success rates were the same across all three applicant groups.

Overall, the analysis shows a dual impact of the application rate (of some importance) and the success rate (of greater importance) in victims receiving any expense payment. Each of these can vary by type of offence and applicant group. Of all four offences, sexual assault stood out as having the lowest success rate and the largest gap in the application and success rates.

The analysis of application and success rates is at a high level of aggregation. Measures were created of the percentage who applied for *any* expense and the percentage who received *any* expense payment of those who applied. Further analyses will consider specific expenses applied for and received by offence and applicant groups.

Column 4 shows that the percent of cases receiving the maximum recognition payment varied by category A or B.

- For category A cases, 80 percent of victims received the maximum recognition payment.
- For category B, 53 to 56 percent received the maximum recognition payment.

<sup>52</sup> The table can be misleading in other ways. It is a snapshot of FAVE case outcomes as of 31 December 2013, and there may have been additional payments after this time to some victims. In general, an average (using the mean) for expenses can be misleading because a few high payments can skew the result upwards. For the N=202 applicants who received an expense payment, the range was \$14 to \$33,357. The mean was \$3,684, and the median was \$2,500. Thus, both measures of central tendency need to be inspected, although tests of statistical significance are carried out of means.

Thus, not only does category A have a higher maximum (\$10,000) compared to category B (\$3,500), but also the percentage receiving the maximum was greater for category A cases.

### **C. Amounts awarded: detailed analysis**

For analyses of the recognition payment, the low number of male cases, coupled with the lack of variance for the male recognition payment in category A (all males received the maximum), means that tests of statistical significance for sex/gender differences in the average recognition payment for category A (and offences within category A) can only be indicative (Tables 7 and 8). The same holds when comparing Indigenous and non-Indigenous average recognition payments and by sex/gender (Tables 9 and 10). All Fishers' Exact tests of proportions are sound.

However, the reader will be aware that some analyses contain a small number of cases, which creates problems in statistical tests of means and proportions. Specifically, of the four Indigenous status and sex/gender groups, the number of Indigenous males was small (N=3). Likewise, the number of non-Indigenous males is small. Thus, comparisons by Indigenous status are largely between non-Indigenous males and females and Indigenous females.

#### **1. Variation by sex/gender**

Recall from Table 4 that all the males were under 18 when victimised. They were more likely to be victims of ITC (category B) while females were more likely to be victims of rape (category A). Similar proportions were victims of MSR. Overall, then, category A offences were a higher share of female (68 percent) than male (49 percent) cases.

##### *For the recognition payment*

- For category A cases, all the males received the maximum amount of \$10,000, whereas 78 percent of the females did (Appendix 8, Table 7).
- The average for category A offences was higher for males (\$10,000) than females (\$9,396), but the amount was nearly the same for males and females in category B offences (Appendix 8, Table 7).
- Within category A, the average for rape was higher for males (\$10,000) than females (\$9,381), as was the average for MSR (\$10,000 and \$9,422, respectively) (Appendix 8, Table 8).

##### *For the expense payment*

- Overall, a similar share of males (92 percent) and females (89 percent) applied for an expense payment, and the success rate was similar (71 and 78 percent, respectively).
- For category A cases, the average expense payment (for those who received one) was higher for males (\$7,407) than females (\$3,773) (Appendix 8, Table 7).
- Within category A, for rape cases, the average expense payment (for those who received one) was higher for males (\$7,273) than females (\$3,928); and for MSR, the average was higher for males (\$7,675) than females (\$3,439) (Appendix 8, Table 8).



- For category B cases, there were no sex/gender differences in expense payments (Appendix 8, Table 8).

Other male-female analyses were carried out for the role of applicant groups in category A. In these, the number of male cases was low (N=6 each for child-child and child-adult groups). For the child-child group in category A, the average male expense payment (for those who received one) was higher (\$6,884) than the female payment (\$3,663). This pattern was repeated in the child-adult group, with the average male expense payment (\$7,930) higher than the female payment (\$3,486). A detailed analysis would be required to explain these differences.

*For the total payment (recognition and expense payment)*

- For category A offences, there were sex/gender differences in the mean total payment, both for those who did and did not receive an expense payment. For those who received expenses, the total payment was higher for males (\$17,407) than females (\$13,082); and for those who did not, the total payment was higher for males (\$10,000) than females (\$9,627) (Appendix 8, Table 7).
- For category B offences, there were no sex/gender differences for those who received an expense payment, but there were for those who did not receive expenses: \$3,314 for males and \$2,903 for females (Appendix 8, Table 7).

Thus, sex/gender differences are consistent (male higher) for category A cases, but not for category B. These are discussed below and in Daly and Holder (2019).

## **2. Variation by Indigenous status and sex/gender**

Of 291 cases, for 261 (90 percent) the Indigenous/non-Indigenous status was recorded. The following findings draw from this subset (Tables 9 and 10 in Appendix 8).

When examining distributions for categories A and B (see Notes in Table 9):

- There were differences in the Indigenous and non-Indigenous share of category A and B offences, with a higher share of Indigenous (77 percent) than non-Indigenous (67 percent) cases in category A.
- There was a higher share of females (Indigenous and non-Indigenous) in category A offences compared to males.

*For the recognition payment*

- There were no differences by Indigenous status in the average recognition payment for category A offences. There were significant differences for category B: Indigenous applicants had a higher average payment than non-Indigenous applicants.
- For category A, a higher share of non-Indigenous (82 percent) than Indigenous cases (67 percent) received the maximum recognition payment. The pattern was reversed for category B, in which a higher share of Indigenous (88 percent) than non-Indigenous (48 percent).

- When analysing differences by Indigenous status for female cases only, a similar pattern was evident: no differences in the average recognition payment for category A offences, but differences (Indigenous females higher) in the average payment for category B (\$3,417 for Indigenous and \$3,026 for non-Indigenous females). For category A, a higher share of non-Indigenous (80 percent) than Indigenous (65 percent) females received the maximum recognition payment, but no differences were evident for category B. There were a low number of Indigenous females in category B.

*For the expense payment*

- Indigenous applicants were less likely to receive an expense payment in category A cases (52 percent) than non-Indigenous applicants (76 percent). Likewise for category B: 25 percent of Indigenous and 72 percent of non-Indigenous applicants received an expense payment.
- Of those applying for expenses, the success rate in receiving a payment was lower for Indigenous (67 percent) than non-Indigenous applicants (85 percent) in category A and in category B (29 and 76 percent, respectively).
- None of the three Indigenous males received an expense payment, although two had applied.
- Among Indigenous females, 50 percent received an expense payment, with a success rate of 62 percent. These percentages were lower than those for non-Indigenous females: 75 percent received an expense payment, with a success rate of 83 percent. For females in category A, the percentages receiving expenses were lower for Indigenous than non-Indigenous females. The N of Indigenous females in category B who received expenses is low (N=2).
- Among non-Indigenous applicants, there were no sex/gender differences in receiving expense payments (72 and 75 percent, respectively, for males and females), and no differences in success rates (77 and 83 percent, respectively, for males and females).
- Among those who received an expense payment, the average was highest for non-Indigenous males (\$5,243), lower for non-Indigenous females (\$3,449), and lowest for Indigenous females (\$1,677).

*For the total payment*

In category A, for those who received expenses, the total payment was higher for non-Indigenous (\$13,461) than Indigenous applicants (\$10,488). There were no differences in the total payment for those who did not receive expenses.

In category B, for those who received expenses, there were no differences in the total payment. However, for those who did not receive expenses, the total payment was higher for Indigenous applicants. This result reflects outcomes for the category B recognition payment, which was higher for Indigenous applicants.

### **3. Highest total payments**

Of 291 cases, the highest amount awarded was \$43,357 (FAVE 128). It was composed of medical expenses (\$9,101), counselling expenses (\$6,690), incidental travel expenses (\$1,352), damage to

clothing (\$150), loss of earnings (\$15,564), legal expenses (\$500), and the maximum recognition payment for category A (\$10,000). The female applicant (who was under 18) was a victim of domestic violence, which included attempted murder, rape, torture, and deprivation of liberty.

The next highest payment of \$41,005 (FAVE 34) was awarded for rape, attempted rape, and assault with intent to commit rape. The female victim was 30 years old at the time. The payment was composed of medical expenses (\$15,742), counselling expenses (\$12,820), clothing (\$560), loss of earnings (\$661), exceptional circumstances (\$1,222), and the maximum recognition payment for category A (\$10,000).

#### **4. Regression analysis of factors associated with outcomes**

##### **(a) recognition payment**

As we would expect, the size of the recognition payment is strongly determined by whether the offence was category A or B (bivariate correlation,  $r = .95$ ). Therefore, to understand this payment, we sought to identify the factors associated with category A and B cases. Significant bivariate correlations were found between category A and these variables:

- on-going victimisation (positive)
- female victim (positive)
- applicant group: child at offence and adult at application (positive)
- applicant group: child at offence and at application (negative)

In addition, offending by family members or relatives was positively related.

A binary logistical regression with the five independent variables showed that category A offences were related to on-going victimisation, female victim, and not being a child at offence and application. (This means that compared to the two other applicant groups, the child at offence *and* at application was *less* likely to be in category A.) Victim-offender relations (family or relatives) had no additional effect.

A second equation was carried out with four variables (this time omitting the child-child applicant group as a variable). It showed that category A offences were related to on-going victimisation, female victim, and child at offence and adult at application (compared to the two other applicant groups).

A binary logistical regression showed that category B was related to single incident victimisation, male victim, and being a child at victimisation and at application.

These regressions reinforce the cross-tabulations (and correlations) reported above, but they also show that each of the significant variables had an independent effect on the classification in category A or B, net of the other variables in the equation.

##### **(b) expenses**

To predict the success rate in receiving any expense award, we analysed the role of category A or B, victim Indigenous status, applicant group, sex/gender, and victim-offender relationship. (The cases in this analysis were reduced to those who had applied for expenses and for whom Indigenous status was known, N=233 cases.)

Three variables predicted the success rate of receiving expenses for those who had applied: category A offence, not being Indigenous, and not being in the child-adult applicant group compared to child-child or adult-adult groups. Victim sex/gender and victim-offender relationship (family or relatives) had no effect.

For the average expense payment received, we analysed those who received one or more expense payments, for whom Indigenous status was known (N=184). There were no differences in the average expense payment for each of the four offences, three applicant groups, three victim-offender relationships (family/relatives, known, and stranger), whether the offence was on-going or a single incident, whether it was associated with a court conviction (or not), or whether it was re-classified (or not).

However, there were differences in the average expense payment for *older cases* (defined as victimisation before 18 December 1995, see discussion of historical abuse, Measure 3 below), which received a higher payment (\$5,419) than other cases (\$3,300). In addition, for category A cases, those who received the maximum recognition payment had a higher expense payment (\$4,311) compared to those who received less than the maximum (\$1,849). Category B cases did not show these differences.

## 5. Explaining sex/gender differences in the recognition payment

Recall from Table 7 that the average recognition payment and total payment were higher for male than female category A cases. Except for one outcome in category B (total payment for those who did not receive expenses, for which males were higher), there were no other sex/gender differences in category B.

Examining the two category A offences (rape and MSR) (Table 8), the recognition payment was higher for males than females for both rape and MSR. We summarise male/female differences and how we analysed them below. More complete information is given in Daly and Holder (2019).

### (a) rape

After inspecting the variables associated with male rape cases—all under 18 with a high share having experienced on-going victimisation—we inferred that assessors placed greater value on on-going (rather than single incident) victimisation, which, in turn, was more frequently associated with child victims. This may explain the higher recognition payment for males.

It was not possible to carry out a multivariate analysis to test this explanation; instead we chose the method of exact matching of male and female pairs.<sup>53</sup> We did so first, by removing female cases 18 and over, and then, separately listing the male and female cases by on-going or single incident victimisation. Matched pairs were then identified by victim-offender (VO) relations,<sup>54</sup> and then by age of victimisation and duration of victimisation (if on-going).

The matched pair sample was nearly identical in age and age range of victimisation, percent on-going victimisation, and duration time and range. A somewhat higher share of male cases had

<sup>53</sup> After the protocol for identifying matched pairs was decided, it was carried out independently by two researchers. The results were then compared and moderated.

<sup>54</sup> These were family and relatives, known or well-known, and strangers.

convictions, and a somewhat higher share of females had been victimised by immediate family and relatives, but both had the same share of stranger victimisation. For the recognition payment, seven of nine females received the maximum, and the average was \$9,500. When moving from the full sample to matched pairs, the award gap reduced from \$619 to \$500, but continued to be somewhat higher for male child victims.

### **(b) MSR**

MSR provides a better comparison because all the victims were under 16, and by definition, victimisation was on-going. For the full sample, females were younger (9.6 years) than males (12.0) and the duration of their victimisation was somewhat longer (10 months). The strongest difference was VO relations: for 78 percent of females, perpetrators were immediate family and relatives (typically stepfathers and fathers); and for 78 percent of males, they were well-known or known (family friends, a neighbour, a professional). Whereas all males received the maximum RP of \$10,000, 77 percent of females did, with an average of \$9,422.

The MSR cases were matched by selecting pairs by VO relations,<sup>55</sup> and then age and duration of victimisation. The matched sample is nearly identical for age (and age range), duration (and duration range), and VO relations. Each has the same share for court convictions. Despite this, five of nine females received the maximum recognition payment, with an average of \$9,167. On further inspection, this result can be attributed to lower awards to female child victims when perpetrators were family friends or other family members (defined by VAQ as non-biologically related kin). By contrast, males received the maximum, no matter what the VO relationship. When moving from the full sample to the matched pairs, the male/female gap in the average recognition payment increased from \$578 to \$833. Positive assessor bias toward male child victims was evident in the MSR cases.

It is important to note that sex/gender differences were evident for the more serious types of sexual offences (category A), but not for the less serious offences (category B).

## **D. Other findings**

### **1. Time taken to decide an application**

The FLOW dataset had a total of 383 eligible primary victims of sexual offences, 291 of whom were in the FAVE dataset. FLOW includes an additional 92 cases decided after 31 December 2013 and up to January 2015. Using FLOW we can better estimate the time it took to make a decision for all relevant applications received 1 July 2012 to 31 December 2013.

The average (mean) time to decide, using the truncated FAVE dataset, was about 4 months, but it was 4.5 months for FLOW, or a 14 percent increase in the number of days to decide. Differences more strongly emerged in comparing the maximum time to decide. It was 14.4 months using FAVE data, but nearly 18 months for FLOW data, or 25 percent longer.

Examining outcomes from FAVE and FLOW further, a large share of cases in both groups were decided within 6 months (79 percent and 86 percent, respectively). Thus, although most financial assistance applications for primary victims were decided within 6 months, some took up to 18 months.

<sup>55</sup> In most cases, we were able to select pairs by detailed VO relations such as father, stepfather, and friend of the family, in addition to the three VO categories.

We sought to determine if there were differences in time to decide by sex/gender, Indigenous status, and applicant group. Time to decide was coded as ‘less than 6 months’ or ‘6 months or more’. There were no significant sex/gender or Indigenous status differences in time to decide, but there were for applicant group. A higher share of the child-adult victim cases was decided in less than 6 months (86 percent) compared to child-child (77 percent) or adult-adult (72 percent) cases.

In 2015, VAQ began a rapid assessment for less complex cases (for all offences, not just sexual offences). In the first year, the time to decide in these cases took 1 month, a substantial improvement (phone call, Dean Corless, 31 October 2016). Rapid assessment was not in place at the time of the FAVE Project.

## **2. Elements associated with real rape and credible victims**

Do constructs of real rape and credible victims affect amounts awarded for the recognition payment? We carried out the analysis for those 12 years and older, with separate analyses of rape (N=75) and sexual assault (N=29). A set of 2 x 2 tables tested whether 21 items were associated with victims receiving the maximum recognition payment or not. We used one-tailed tests of statistical significance because we had hypothesised the direction of effects, and used a relaxed error level of  $p < .10$  and  $< .20$ . We hypothesised that some seriousness elements should be related to victims receiving the maximum RP, but those associated with real rape and credible victims should not, at least not ideally. The results are shown in Tables 11 (rape) and 12 (sexual assault) in Appendix 8.

Of six items for rape, three were associated with a higher likelihood of victims receiving the maximum recognition payment: stranger relations, evidence of physical violence or force, and any real rape element. To illustrate, 92 percent of the stranger cases received the maximum, but 73 percent of the non-stranger cases did; 89 percent of cases having any real rape element received the maximum, but 65 percent of those without any element did. For rape, no positive credibility item was related to receiving the maximum recognition payment (timely reporting of the offence, mention of victim resistance, case had a court conviction). Although 63 percent were reported within 3 days and 72 percent within 7 days, neither was related to receiving the maximum recognition payment. A high share of rape cases (85 percent) had any positive credibility item, but it was not related to receiving the maximum. The negative credibility items had a relatively stronger impact, although they were noted less often by assessors. Mention that the victim had been using alcohol or drugs, accepted company from the offender, or mention of any negative credibility item was inversely related to a victim’s receiving the maximum recognition payment. One seriousness item affected the likelihood of receiving the maximum: when the offence was part of a series of crimes (on the day or over time).

For sexual assault, no real rape element had the expected relationship to the maximum recognition payment.<sup>56</sup> The variables that did were timely reporting of the offence to authorities (within 3 days or within 7 days), mention that a victim was young, and mention of any seriousness item.

<sup>56</sup> Mention was made in two cases that the sexual assault occurred in a public setting, but neither received the maximum recognition payment.

### 3. Sexual abuse in an institutional context and historical abuse

In 2012, national attention in Australia began to focus on institutional sexual abuse of children, with the announcement by Prime Minister Gillard of the Royal Commission into Institutional Responses to Child Sexual Abuse (hereafter Royal Commission) in November of that year.<sup>57</sup> We explored the handling of these cases with reference to whether the abuse occurred in an institutional context, was historical, or both.

#### (a) institutional context

Of 291 cases, a small number (N=19 or 7 percent) occurred in an institutional context. As defined by the Royal Commission, this includes schools, churches, faith associations, clubs and sporting activities, employment, and residential care.

Of 19 cases, most applicants (N=12 or 63 percent) were 18 or older when they were victimised. Thus, in the FAVE study, those abused in institutional contexts were predominantly adults. For the 12 who were victimised as adults, the VO relationship for 10 was a 'professional' context. For these, the alleged offender was the victim's client (two), doctor (three), employer (two), masseur, nurse, and leader at a church. In two others, the offending was by a colleague and a stranger.

Of the 19, seven were victimised as children: three applied as children and four, as adults.

For the three child-child cases, the alleged offender was a coach, teacher, and older child attending the same school. Case details are as follow:

- FAVE 143 (male) was 12.3 years old when the incident occurred; it was reported on the same day. Application to VAQ was made at age 15.7 (0 time to report; elapsed time from offence to VAQ application 3.4 years). Incident year: 2009.
- FAVE 148 (female) was 11.7 years old when the incident occurred, 12.7 when it was reported to authorities, and 12.8 when applying to VAQ (time to report 354 days or just under 1 year; elapsed time from offence to VAQ application 1.1 years). Incident year: 2011.
- FAVE 282 (female) was 7.9 years old when the incident occurred; it was reported on the same day. Application to VAQ was at age 8.1 (0 time to report; elapsed time from offence to VAQ application 65 days). Incident year: 2013.

For the four child-adult cases, the alleged offender was a hairdresser, someone the victim just met, teacher, and known person in a position of trust. Case details are as follows:

- FAVE 68 (male) was 12.9 years old when the incident occurred, 13.6 when it was reported to authorities, and 33.7 when applying to VAQ (elapsed time from offence to report 248 days and to VAQ application, 20.8 years). Incident year: 1991.
- FAVE 80 (female) was 17.8 years old when the incident occurred; it was reported 4 days later. Application was made to VAQ at age 18.8, about a year later (elapsed time to report 4 days and to VAQ application, about a year). Incident year: 2011.

<sup>57</sup> Previously, there had been public inquiries into institutional abuse of children in Queensland (1998-99) and South Australia (2004-08), as well as redress schemes for institutional abuse in Tasmania and Western Australia; see Daly (2014a).

- FAVE 170 (female) was 10.2 years old when the incident occurred, 12.5 when it was reported to authorities, and 18.0 when applying to VAQ (elapsed time to report 2.3 years and to VAQ application 7.9 years). Incident year: 2005.
- FAVE 201 (male) was 13.5 when the on-going abuse began (which lasted a year). There is no information on the file for date of report, but application was made to VAQ at age 31.8 (elapsed time to report, unknown and to VAQ application 17.3 years). Incident year: 1995.

Seven FAVE cases of child abuse in institutional contexts could, in theory, have come forward to the Royal Commission's private sessions. All but one case (FAVE 201) was single incident victimisation. We shall return to these cases in part 3(c) (below) to determine if any would be considered historical child sexual abuse in an institutional context.

### **(b) historical abuse**

We explored what share of cases was *historical*. There is no settled definition of what this term means; thus, we considered several measures.

One is drawn from the Royal Commission's private sessions. On average, child abuse survivors who came forward in private sessions

... took on average 23.9 years to tell someone about the abuse. Men often took longer to disclose than women (the average for male survivors was 25.6 years and for female survivors, 20.6 years). (Royal Commission, *Final Report*, 2017, Preface and Executive Summary: 23)

The Royal Commission does not explain how it computed the average of 23.9 years. For example, was the elapsed time calculated from the last remembered offence date, if it was on-going? We would expect that survivors may have had difficulty recalling dates or years with precision.

We identified three measures to characterise whether the case was historical or not: (1) elapsed time from end date of the offence (if on-going) or single incident date to reporting it to an authority (in almost all FAVE cases, this was to the police, but also included counsellors); (2) elapsed time from end date of offence (if on-going) or single incident date to VAQ application date; and (3) year the offence began or incident occurred. Measure 3 (offence year) is a precise measure of 'abuse that took place many years ago' (Law Commission of Canada 2000: 18), but Measure 2 may be interpreted the same way by assessors when receiving applications.

Table 13 (next page) shows the elapsed time from the offence (if on-going, the end date of victimisation; if single incident, date of incident) to reporting it to authorities and VAQ application.<sup>58</sup>

<sup>58</sup> This was the date that VAQ received the application.



Table 13. Elapsed time from offence to report and to VAQ application

elapsed time from offence to ...	report to authorities		VAQ application	
	N	% of 281	N	% of 291
3 years or less	236	84	173	60
>3 to 10 years	20	7	71	24
>10 to 20 years	10	4	21	7
>20 years	15	5	26	9
unknown	10	--	0	--
total	291		291	

Note that of the 291 cases, data were missing on the date of report to police or counsellor for 10.

We have information on when FAVE applicants reported the abuse to an authority: 84 percent did so within 3 years or less, and relatively few (5 percent) took more than 20 years. Thus, the profile of FAVE applicants appears to differ greatly from that in the Royal Commission's private sessions, with respect to time taken to disclose abuse.

When cross-tabulating the date of report to authorities by the three applicant groups, the child/adult applicant group had a relatively high share (57 percent) of those reporting to authorities within 3 years. Thus, although members of this group had reported 'in good time', they delayed applying to VAQ. Of the N=45 who reported to authorities beyond 3 years, 42 (93 percent) were members of the child-adult group.

One measure of historical—elapsed time from the offence to report—tells us how long it took to tell someone of the abuse by making a formal report to an authority. The second measure—elapsed time from the offence to application—has two aspects. One is how long it took a victim to file a VAQ application, which could include offences that took place before VAQ began (December 2009). The second is how the case may subjectively appear from an assessor's perspective, that is, it may appear to have 'taken place many years ago'. The third measure is a more objective measure of *older offences*: it uses the date the incident began (if on-going) or date of offence (if single incident). (Note: Measures 1 and 2 use the end date of victimisation, if it was on-going; whereas Measure 3 uses the start date, if it was on-going. This was a logical way to mark time, depending on what was being measured.)

*Note on small N of male cases, t-tests of means, and Fisher's Exact Test*

The impact of historical or older cases on the recognition payment for category A cases is affected by a small N of male cases and no variance in the average recognition payment, just as it was when comparing the mean recognition payment for males and females. In addition, the N of cases is small when analysing sub-groups based on the differing historical measures. In light of the statistical problems in comparing means for males and females, differences are noted when a 90 percent confidence interval around the mean does not contain zero. T-test of means are sound when comparing sub-groups of females. Cross-tabulations, using Fisher's Exact Test are sound, but we would have preferred a higher number of male cases, particularly when analysing MSR.

*Measure 1: elapsed time from offence to report to authorities*

For this measure, we used the time taken to report to authorities, having also in mind what the victim's age was at report. Of 281 cases for which report date was known, 45 were reported more than 3 years after the victimisation occurred. Of the 45, the distribution by age at report is shown in Table 14.

Table 14. Time to report to authorities by victim's age at report

age at report (years)	time taken to report offence to authorities			total
	>3 to 10 years	>10 to 20 years	>20 years	
less than 18	8			8
18 to 20	6			6
21 to 31	6			6
23 to 28		10		10
30 to 59			15	15
total	20	10	15	45

We reasoned that reporting an offence at age 21 or older, which occurred (or ended) more than 3 years could be unambiguously considered *historical*. This is one measure we used.<sup>59</sup>

Of 281 cases, 31 were captured by Measure 1 (21 or older and >3 years to report). Of these, all but one was victimised as a child and applied as an adult.<sup>60</sup> Using Measure 1, historical cases were significantly associated ( $p < .05$ ) with male victims, MSR, on-going victimisation, and category A offences. For female victims of historical cases, VO relations were more likely to be family members or relatives (86 percent); but for male victims, they were split between family members and relatives (40 percent) and those known (60 percent).

In light of sex/gender differences in the recognition payment for category A cases, we pursued the impact of historical abuse further. Using Measure 1, for MSR, the average recognition payment for male and female historical cases was \$10,000 and \$9,792. For category A, the average recognition payment for male and female historical cases was \$10,000 and \$9,875, respectively. The 90 percent confidence intervals around the mean differences (\$208 and \$125, respectively) contained zero.<sup>61</sup>

Using Measure 1, for female MSR cases, there were differences in the average recognition payment for historical (\$9,792) and non-historical (\$9,337) cases ( $p = .05$ ). For female category A cases, there were differences in the average recognition payment for historical (\$9,875) and non-historical (\$9,333) cases ( $p < .01$ ). Thus, using Measure 1, historical abuse differentiated the

<sup>59</sup> A more expansive definition is possible: more than 3 years to report to authorities, with no age restriction at age of report. However, we decided not to include these 14 additional cases.

<sup>60</sup> The exception was case 224, who was 21 when she was raped on several occasions by her employer, while working for him to care for his children. The offences occurred in an institutional context (employer-employee). She reported them to the police when she was 37 and applied to VAQ when she was 44, about 23 years after the offences occurred.

<sup>61</sup> For Measure 1, the N of cases for MSR was 6 males and 12 females; and for category A, it was 7 males and 20 females.

average recognition payment for female MSR and category A cases. By contrast, males received the maximum, whether or not the case was historical.

*Measure 2: elapsed time from offence to VAQ application*

When creating this measure, we needed to decide the cut-off year for length of time from offence to VAQ application. Inspection of the distributions showed a 2-year break in the frequency distribution between 17 and 19 years. Thus, the chosen cut-off was 19.6 years and higher. Of the 291 cases, 28 (10 percent) were captured by Measure 2 of historical abuse.

For Measure 2, historical cases were significantly associated ( $p < .05$ ) with male victims, MSR, on-going victimisation, and receiving the maximum recognition payment for category A offences. For female victims of historical cases, VO relations were family members or relatives (78 percent); but for male victims, VO relations were split between family members (40 percent) and those known (60 percent).

Using Measure 2, for MSR, the recognition payment for male and female historical cases was \$10,000 and \$9,500, respectively. For category A cases, the recognition payment for male and female historical cases was \$10,000 and \$9,735, respectively. The 90 percent confidence intervals around the mean differences (\$500 and \$265, respectively) contained zero.<sup>62</sup>

For female MSR cases, using Measure 2, there were no differences in the average recognition payment for historical (\$9,500) and non-historical (\$9,409) cases. However, for females in category A, there were differences in the average recognition payment for historical (\$9,735) and non-historical (\$9,359) cases ( $p < .10$ ). Thus, using Measure 2, historical abuse differentiated the category A awards given to females. By contrast, males received the maximum, whether or not the case was historical.

*Measure 3: offence year and older cases*

The year that offences occurred (or began) ranged from 1959 to 2013. To determine a cut-off date for older cases, we inspected the distributions, mindful of the legislative start year of COVA (18 December 1995). We decided to code cases occurring before this date as being older; the rest were coded as more recent.<sup>63</sup>

Of 291 cases, 37 (13 percent) were older cases. Using the mean, male cases were older (incident year 2001.5) than female cases (2006.8) ( $p < .05$ ). However, using the median, the incident year was similar (male, 2009; female, 2010).

Like Measures 1 and 2, for Measure 3, older cases were significantly associated ( $p < .05$ ) with male victims, MSR, on-going victimisation, and category A offences. Of the older cases, for females, VO relations were mainly family members or relatives (80 percent); but for male victims, VO relations were split between family members (33 percent) and those known (67 percent).

<sup>62</sup> For Measure 2, the N of cases for MSR was 4 males and 9 females; and for category A, it was 5 males and 17 females. This N for MSR is likely to be too low for reliable comparison.

<sup>63</sup> For the older cases, three were in 1995 (ITC incident, 8 December 1995; in two MSR cases, victimisation began in January and June 1995). Of 37 older cases, the mean year was 1988 and the median, 1986. Of the older cases, 30 were category A (rape, 10 and MSR, 20) and 7 were category B (sexual assault, 1 and ITC, 6).

For Measure 3, of 291 cases, male cases were older than female (mean year of offence was 2001.5 and 2006.8, respectively). For the 37 older cases (that is, all those that occurred earlier than 18 December 1995), the mean offence year for males and females was about the same: 1985.6 and 1986, respectively, and the median was 1984.5 and 1989, respectively.

Using Measure 3, for MSR, the average payment for male and female older cases was \$10,000 and \$9,500, respectively. For category A cases, the average payment for male and female older cases was \$10,000 and \$9,696, respectively. The 90 percent confidence intervals around the mean differences (\$500 and \$304, respectively) did not contain zero; thus, differences can be noted.<sup>64</sup>

For female MSR cases, using Measure 3, there were no differences in the average recognition payment for older (\$9,500) and more recent (\$9,400) cases. However, for females in category A, there were differences in the average recognition payment for older (\$9,696) and more recent (\$9,350) cases ( $p = .07$ ). Thus, a case being older differentiated the recognition payment for female category A offences. Whether the case was older or not, males received the maximum recognition payment.

What we learn is that all three measures of *historical cases* differentiated the average recognition payment for category A female cases. However, only Measure 3 differentiated the average recognition payment for male and female category A cases. We also learn that no matter how historical is measured, it did not differentiate responses to male category A cases because all received the maximum. Further implications for sex/gender differences in the recognition payment are discussed in (d) below.

#### **(c) historical sexual abuse of a child in an institutional context**

Of 291 cases, 19 (7 percent) occurred in an institutional context, as defined by the Royal Commission. Of these, most ( $N=12$ ) were 18 or older when they were victimised. For the remaining seven child victims, just two can be classified as *historical* sexual abuse cases, when using Measures 2 or 3 (which have complete information). They were FAVE 68 (indecent treatment by hairdresser) and FAVE 201 (MSR by known person in position of trust).

For the FAVE cases, when sexual abuse occurred in an institutional context, it was mainly against those who were 18 or over. Of children abused in institutional contexts, the timeframe was contemporary and not historical. Using three measures of historical, when historical sexual abuse occurred, the VO relations were mainly family members or relatives (female victims) or split between family members or relatives and those known (male victims). There was no relationship between whether a case was historical or older and where it had occurred in an institutional context.

#### **(d) impact of historical and older cases on sex/gender differences in the recognition payment**

The analysis of historical and older cases was carried out, in part, to probe more deeply into the reasons for sex/gender differences in the recognition payment for category A offences, and in particular MSR. Why was the payment higher for male than female child victims? Is it evidence of positive bias toward male child victims or can it be explained by other factors? One potential explanation is that a higher share of male cases is historical or older, compared to female cases.

<sup>64</sup> For Measure 3, the N of cases for MSR was 6 males and 14 females; and for category A, it was 7 males and 23 females. Measure 3 had a higher N of cases for analysis compared to Measures 1 and 2.

Thus, it could be argued, it is this quality (not a positive bias toward male cases) that explains sex/gender differences in payments. This line of thought was tested systematically, using three measures.

We found that historical or older cases did influence assessor decision-making in female category A cases, with a higher recognition payment for these cases, compared to non-historical or more recent cases. Although males had a higher share of historical and older cases than females,<sup>65</sup> this cannot explain male-female differences in the average recognition payment awarded to males in category A and MSR cases. Instead, for Measures 1 and 2, what explains the difference is that a greater value was placed on male non-historical and more recent cases than on female ones. For Measure 3, a greater value was attached to male than female older cases. Thus, no matter what measure is used or outcome, there appears to be a positive bias toward male victims.

#### **4. Victims' experiences applying for financial assistance**

To date, we have analysed why victims (18 years or older) applied for financial assistance and how they viewed the amount received for the recognition payment, specifically, what it meant to them and how they spent it (Holder and Daly 2018). We have yet to analyse the interviews and FLOW data to determine what these victims' experiences were in applying for financial assistance, that is, in completing the form, providing receipts, talking with VAQ office staff and assessors, along with waiting for a decision.

When their applications were lodged with VAQ, 47 percent of victims were under 18 years of age, and 22 percent were under 12. Based on the FAVE Project, researchers may need to conceptualise the construct of *victims' experiences* in a new way. For sexual violence cases, parents or carers are likely to be a sizable share of applicants for child victims. It is they with whom researchers need to speak in understanding *experiences* of applying for financial assistance.

Another finding from the FAVE Project is that 35 percent of applicants were children at victimisation and adults at application. Compared to the two other applicant groups, the child-adult group was significantly less likely to apply for expenses: 78 percent did compared to 96 to 97 percent of the two other groups. The child-adult success rate in receiving an expense payment (70 percent) was lower than that of the other groups (79 to 82 percent).

When examining types of expenses awarded, the adult-adult applicant group was significantly more likely to be awarded expenses for medical, exceptional circumstances, and loss of earnings than the child-child or child-adult groups. These are three of the four categories that have the highest average amounts awarded. The fourth category (counselling) had higher shares of child-child and child-adult victims (60 and 28 percent, respectively) compared to adult-adult (19 percent). Despite these differences, of those receiving an expense payment, the average (mean) payment was similar for the three applicant groups: child-child (\$3,510), child-adult (\$3,428), and adult-adult (\$3,642).

<sup>65</sup> Measure 1, historical: male (29 percent), female (9 percent). Measure 2, historical: male (27 percent), female (7 percent). Measure 3, older case: male (32 percent), female (10 percent). Fisher's Exact Test was significant at  $p < .01$  for all measures.

## **Part VI. Summary, discussion, and implications**

### **A. Summary**

The FAVE Project analysed financial assistance decisions for 291 sexual offence cases lodged and decided from 1 July 2012 to December 2013. It was a particular moment in the history of the VAQ practices and decision-making. The VAQ team had developed a settled protocol for handling cases, but change was on the horizon with a review of practices in 2014-15 that led to legislative change that took effect on 1 July 2017.

We reiterate that the FAVE Project analysed primary victims of sexual offences. Other types of violent offences and victims may show a different pattern. We also reiterate that to understand financial assistance outcomes, a reliance on aggregate averages is misleading. This is because there is considerable variation by victim sub-group and type of sexual offences.

#### **1. Profile of applicants**

The profile of applicants was female (87 percent) and young (46 percent under 12 at the start of victimisation or time of incident).<sup>66</sup> About half had experienced on-going victimisation. When it was known, the Indigenous share was small (13 percent). All the alleged (or convicted) offenders were male (when this could be determined), who were either family members or relatives of the victim (47 percent), or well-known or known (44 percent) to them. A small share was not known (9 percent).

Two-thirds were victims of category A offences (rape and MSR), and one-third, of category B offences (sexual assault and ITC), although this masks male-female differences.

Three sub-groups of applicants were identified: child at victimisation and application (43 percent), child at victimisation/adult at application (35 percent), and adult at victimisation and application (22 percent). These sub-groups were, in turn, related to the A and B categories, specifically, the category A share for child-child applicants was lower (56 percent) than it was for child-adult (79 percent) and adult-adult (65 percent) applicants. The applicant group variable affected whether or not victims applied for expense payments (the child-adult applicant group was less likely to do so and also had a lower success rate in receiving expenses, except for rape offences).

#### **2. Variation in amounts awarded**

Three amounts were analysed: the recognition, expense, and total payment. The first two are summarised here. Many interrelated factors contributed to variation in amounts awarded, including those noted above.<sup>67</sup>

##### **(a) recognition payment**

The range in the recognition payment was \$1,500 to \$10,000; the mean, \$7,257, and the median, \$10,000 (52 percent received \$10,000, and 48 percent, less than that).

<sup>66</sup> VAQ calculates age at victimisation as at the end date for those with a period of victimisation. Using this method, 34 percent of victims are under 12.

<sup>67</sup> We have not yet analysed differences, if any, in amounts awarded by region of the state.

The mean for category A and B offences was \$9,453 and \$3,064, respectively. A significantly higher share of category A offences received the maximum payment (80 percent) than category B (53 to 56 percent). Thus, not only is the maximum for category A higher (\$10,000) than B (\$3,500), more victims received it.

This is an important finding. It suggests that assessors were more often convinced that category A victims (rape and MSR) were deserving of the maximum recognition payment than category B (sexual assault and ITC). We asked the VAQ assessors why this may have occurred.

They told us that when comparing rape in category A and sexual assault in category B, rape was ‘the worst of the worst and therefore harder to grade’, whereas for sexual assault, there were many more types of offending to consider (such as touching over or under clothing or how many times this occurred). In general, category A offences were clearly ‘serious’ in their minds, whereas category B was ‘not as serious’, and this led to a greater scrutiny of category B cases.

In general, assessors said that they did not award the maximum for category B (but were more inclined to do so for categories A and C); however, they would award the maximum for B if there were multiple acts of violence or the case involved deprivation of liberty or torture.

All the males in category A received the maximum recognition compared to 78 percent of females. Sex/gender differences were evident in recognition payments to category A cases (male higher). In category B, one exception to the general pattern of better outcomes for males was found for sexual assault, for which 60 percent of females, but no males received the maximum recognition payment.

There were no differences by Indigenous status for the average recognition payment in category A cases, but there were for category B cases. A higher share of Indigenous than non-Indigenous victims received the maximum recognition payment for category B (88 and 48 percent, respectively), and the average recognition payment was higher for Indigenous victims. In addition, the total payment to those who did not receive expenses was higher for Indigenous victims in category B. These outcomes can be traced more specifically to differences between Indigenous and non-Indigenous females.

### **(b) expenses**

Several key findings emerged for expenses. First, of those receiving expenses, the average amount was higher if the victim received the maximum recognition payment for category A (compared to other category A cases, or to all other cases). Second, there were consistent differences in the awarding of expense payments by Indigenous status. Overall, a significantly smaller share of Indigenous than non-Indigenous applicants received an expense payment (46 percent and 74 percent, respectively).

Exploring this finding further, a somewhat smaller share of Indigenous applicants (80 percent) applied for one or more expenses compared to non-Indigenous applicants (91 percent). But the decisive reason for the differences was the success rate in receiving an expense payment: this was significantly lower for Indigenous than non-Indigenous applicants (57 percent and 82 percent, respectively). Further analysis is given in Daly (2017b), and we are currently undertaking a more detailed analysis of outcomes by Indigenous status.

## B. Discussion

Taking a global perspective, recent research on state payments to victims of violent crime is scant. Government reports tell us little, and publicly available government datasets are too superficial (or contain errors) to understand outcomes.

We know little about the profile of victims who apply and what they receive, once they apply. Further, and as importantly, we know even less about why they apply, what they hope to achieve, and whether outcomes align with their expectations (Holder and Daly 2018).

What is striking is that despite a considerable expenditure of state money for violent crime victims in Australia and many other countries, we know little about where it goes and with what impact. The FAVE Project—with the FAVE and FLOW datasets, victim interviews, an online survey, and reflections by VAQ staff and assessors—is a significant step forward in producing a more in-depth understanding.

The FAVE Project focused on one violent crime and type of victim: sexual violence and primary victim. Analyses of assault, robbery, and homicide cases may show different patterns.

This report has provided detail on sexual offence cases: who applied, what they received, and variation in what they received. We turn now to discuss amounts awarded, the role of assessor discretion and bias, and social policy.

The key predictor of total money awarded for sexual offences is the size of the recognition payment, which is keyed to the category of violence. At the time of our study, assessors had discretion within the range (or band) of category A (\$5,000 to \$10,000) and category B (\$1,301 to \$3,500) cases. We found that they were more likely to award category A cases with the maximum amount than category B cases. Their rationale may be understandable, but it demonstrates the ways in which seriousness of crime categories are evaluated differently.

- When a crime was viewed as demonstrably serious (that is, category A offences of rape and MSR), there was less movement downward in the recognition payment. But when it was viewed as less serious or variable in seriousness, depending on offence elements (category B offences of sexual assault and ITC), it was scrutinised more carefully, and there was greater movement downward in the recognition payment.

After matching the category A cases, we found significant sex/gender differences (male higher) in the average recognition payment awarded. Evidence of a positive bias toward male child victims was especially evident for the MSR cases and less so for rape (Daly and Holder 2019).

We also found bias operating in the recognition payment awarded to female victims (12 years and older) of rape and sexual assault. Specifically:

- Real rape elements (stranger relations, evidence of physical force, or any real rape element) was significantly associated with assessors' decisions to award the maximum recognition payment. Positive credibility victims items (reported in 3 or 7 days) affected decisions for sexual assault, but not rape. Negative credibility items were associated with a reduced likelihood of receiving the maximum recognition payment for rape. Although recognising data limitations in coding the SoRs, we are confident that the findings show patterned societal bias operating in assessors' determinations of the recognition payment.



Sources of discretion in awarding the recognition payment have now changed, effective 1 July 2017. Once the category of violence is determined, a fixed amount is awarded, thus eliminating variable amounts awarded within the bands.

Our research suggests that this legislative change was sound: removing assessor discretion will eliminate a positive assessor bias toward male child victims of category A offences, and both positive and negative biases evident in decisions toward female victims of rape and sexual assault.

Despite this improvement, a question for policy is

- Why is the gap so large when moving from category A (\$10,000) to B (\$3,500) offences, and why is the amount so much lower and more compressed for categories C (\$2,000) and D (\$1,000)? We are unsure how these amounts were decided when VOCAA was established in 2009. The Queensland Government may want to consider the recognition payment band amounts, together with indexation of the amounts, in its next review.

Although some assessor discretion has been removed in determining the amount of the recognition payment, it is still in place in their ability *to re-classify* a sexual offence from B to A, or *to uplift* it from category B to A. During the period of our research, re-classification occurred in 16 percent of sexual offence cases, but uplift did not occur at all.

For expenses, it is difficult to explain sub-group differences for whether any expenses were awarded and for the average amounts. The differences cannot be owed entirely to assessor discretion, of course, because applicants must supply relevant and complete information. However, our analysis of success rates (the percent who received expenses of those who applied) suggests that assessors leaned more positively in awarding one or more expense payments to category A than category B cases and to non-Indigenous than Indigenous victims. Of the four offences, sexual assault stood out as least promising for victims who sought expenses for sexual offences: it had the lowest success rate and highest gap in application and success rates.

Success rates in receiving expenses also varied by applicant group. Except for rape, success rates were lower for child-adult cases, on the order of 20 percentage points for MSR and ITC, and even lower for sexual assault. Perhaps this is explained by the passage of time and the difficulty of producing receipts or demonstrating a long-term impact of crime. Or perhaps it is difficult for the adult applicant to itemise and cost the expenses incurred in a life trajectory that was marked by childhood victimisation. VOCAA and its implementation by assessors appears to be keyed to expenses incurred at the time of victimisation and expenses that are immediately obvious. However, while the child-victim applicant group was less successful in receiving expenses for MSR, ITC, and sexual assault, this pattern did not hold for child-adult applicants of rape cases, for whom the success rate was higher than the application rate.

For all offenses and applicant groups, success rates in receiving expenses were lower for Indigenous cases. Although Indigenous and non-Indigenous cases were similar in showing higher success rates for category A than B cases, they were considerably lower for Indigenous cases in each category. Overall differences in success rates for expenses were profound: 82 percent for non-Indigenous and 57 percent for Indigenous cases.

For the amount of expenses awarded, assessors awarded more to those who received the maximum recognition payment in category A (compared to less than the maximum), but this did not occur in the category B cases. For all cases that received an expense payment, the average

amount was highest for non-Indigenous males, compared to females (both Indigenous and non-Indigenous).

A number of questions are raised for social policy, assessor practices, and social supports for applicants:

- Why are there significant Indigenous and non-Indigenous differences in success rates in receiving expense payments? Are the paperwork and compliance measures unreasonable? Do they embed unconscious bias? Are Indigenous applicants receiving accurate information and support when applying?
- Is there assessor bias in awarding expense payments more often to category A than B cases? Or might this reflect the fact that victims require more support to ‘recover’ (in VAQ terms) from crime? Do assessors have sufficient scope to assist applicants to expand their claim while, at the same time, guarding against ineligible claims?

### C. Implications

Five implications flow from our research, not only for Queensland, but also for other Australian jurisdictions and worldwide.

First, for the recognition payment: two FA jurisdictions have retained assessor discretion in awarding amounts *within* the recognition payment bands (Victoria and the ACT), and two have removed the discretion, once the category of violence is determined (Queensland and New South Wales). Our research on sex/gender differences in amounts awarded and on real rape and victim credibility elements suggests that discretion within the bands should be removed and that one amount only should be given for each category of violence.

When we shared our research with VAQ assessors, we learned that it was difficult for them to know how to ‘grade’ variation within the category A and B bands, and this was especially acute for category B, for which they were less likely to award the maximum.

During the time of our research, assessor bias was operating in two ways. One was a positive bias toward male child victims, with all male category A cases receiving the maximum recognition payment. When analysing factors that could explain sex/gender differences in category A cases (on-going victimisation, duration of on-going victimisation, historical or older cases, among others), we found that some could differentiate outcomes for female category A cases. However, no matter whether the victimisation was on-going (or not), historical or older (or not), or what the VO relationship was, males received the maximum payment.

The second was evidence of bias in female cases: a higher share received the maximum recognition payments in rape cases that had real rape elements (stranger relations, evidence of physical injury, any real rape element), and in sexual assault cases, in which victims reported to authorities within 3 or within 7 days (rather than longer). The evidence is sufficient to have warranted removing assessor discretion within the bands. Considerable VAQ assessor discussion was spent on this discretionary judgment (up to 1 July 2017), and assessors are now relieved it is no longer their responsibility. Looking to the future, the Queensland Government may want to consider the recognition payment amounts, together with indexation of the amounts, in its next review.

Second, expenses may appear to be neutral and not subject to potential bias. However, our research finds that certain offences and victims were more likely to receive expenses and at higher amounts. Category A victims were more likely to receive expenses than category B, and among category A cases, those receiving the maximum recognition payment had a significantly higher expense payment. Compared to non-Indigenous applicants, Indigenous applicants were less likely to receive expense payments and to have lower success rates in receiving expenses (of those who had applied) for both category A and B offences. In category A, the average expenses received were lower for Indigenous applicants.

The FAVE Project evidence on expense payments is sufficient, we believe, to warrant a close examination of expenses awarded across the range of offence seriousness categories and differing groups of applicants. Further research might examine the expenses actually incurred and the related material consequences of sexual victimisation. The relationship of money to the ways in which victims seek to re-establish a grip on their life course is significantly under-examined.

Third, governments and victim support services may need to re-assess the service relationship between those offering financial assistance and those providing on-going personal and social assistance to people managing the consequences of victimisation. Our point does not argue for paternalistic intrusion into individual financial management, but rather for closer attention to the *practical* ways in which money helps. Further, both sectors need better service models to assist people over longer periods of time with these practical implications.

Fourth and related to the preceding point, governments may need to consider afresh what financial assistance is *for*. As we see it, the recognition payment is for the *wrong* that occurred, and the expense payment is for the *harm* caused by the wrong. Indeed, the recognition payment amounts by category of offence reflect different levels of crime seriousness (as evidenced in sentencing penalties). However, FA in Queensland (like that in other FA jurisdictions) does not distinguish the two. Rather, the amount awarded is said to provide assistance to victims to *recover from crime*. Framed this way, it is a putative ‘helping hand’ from the state, similar to disaster or flood relief, with an implicit understanding that the greater degree of crime severity, the greater the need for victim relief.

Missing from this type of formulation is the justice aspect of financial assistance for victims, and in particular, its meaning as society’s social solidarity with victims and a symbolic vindication of the wrong. Also missing is a more expansive understanding of the harms that flow from sexual victimisation. Closer attention should be paid to harms, such as the impact on education and employment, and on the innovative ways that victim/survivors seek to re-fashion their lives and social connections.

Finally, we call on all Australian states and territories (as well as all world jurisdictions) to undertake research on their monetary schemes for crime victims. This area should be treated no differently than research on sentencing, for which there is an abundant literature. The FAVE Project has discovered significant findings for sexual violence cases that had not previously been brought to light: the young age of victims, the high share having experienced on-going victimisation, sex/gender differences in offence profiles, applicant group differences in age of victimisation and application, and variation in money amounts received by sex/gender and Indigenous status.

We have emphasised the importance of looking beneath the surface of average outcomes to see important differences by offence types, contexts, applicant groups, sex/gender, and Indigenous groups for the recognition and expense payments. This is where we can identify potential

assessor bias and inconsistency. It is also where we can analyse what lies behind notions of *deserving* and *blameless* victims, terms that are used all the time in the literature on state schemes for victims of violent crime (e.g., Miers 1990, 2014b), but have been neglected as subjects of systematic empirical inquiry.

Without evidence of actual practices, reviews of FA and CIC in Australian jurisdictions and other countries will founder on anecdotes, inaccurate assumptions, and misperceptions. A considerable investment in government funds for crime victims should be matched with research on where the funds are going, how decisions are made, whether policy and practices are aligned, and how victims' experiences of seeking and achieving justice can be improved.

## References

- Ashworth, A. (1986). Punishment and compensation: victims, offenders and the State. *Oxford Journal of Legal Studies*, 6(1), 86-122.
- Atiyah, P. S. (1970). *Accidents, Compensation and the Law* (London: Weidenfeld and Nicholson).
- Beichner, D. and C. Spohn (2012). Modeling the effects of victim behaviour and moral character on prosecutors' charging decisions in sexual assault cases. *Violence and Victims*, 27(1), 3-24.
- Bowen, G. (2009). Document analysis as a qualitative research method. *Qualitative Research Journal*, 9(2), 27-40.
- Brahe. C. (1993). *Review of the Victims Compensation Act, Victims Compensation Tribunal* (Sydney: NSW Attorney General's Department).
- Brienen, M. E. I. and E. H. Hoegen (2000). *Victims of Crime in 22 European Criminal Justice Systems* (Nijmegen: Wolf Legal Productions).
- Cane, P. (1999). *Atiyah's Accidents, Compensation and the Law* (London: Butterworths).
- CASA House (1997). *Just Tokens? A Report on the Experience of Victim/Survivors of Sexual Assault when Making Application for Crimes Compensation*. CASA House.
- Chappell, D. (1970). The emergence of Australian schemes to compensate victims of crime. *Southern California Law Review*, 43, 69-83.
- Council of the European Union (2004). Council Directive 2004/80/EC (29 April 2004). Available at <<https://eur-lex.europa.eu/legal-content/EN/TEXT/?url=CELEX%3A32004L080>> (accessed 3 November 2018).
- Daly, K. (2011). Conventional and innovative justice responses to sexual violence. *ACSSA Issues 12* (with Appendix by K. Daly and B. Bouhours) (Melbourne: Australian Centre for the Study of Sexual Assault, Australian Institute of Family Studies).
- Daly, K. (2014a). *Redressing Institutional Abuse of Children* (Basingstoke: Palgrave Macmillan).
- Daly, K. (2014b). Reconceptualizing sexual victimization and justice. In I. VanFraechem, A. Pemberton, and F. Ndahinda (eds), *Justice for Victims: Perspectives on Rights, Transition and Reconciliation* (London: Routledge), pp. 378-396.
- Daly, K. (2015). Sexual violence and justice: how and why context matters for justice. In A. Powell, N. Henry, and A. Flynn (eds), *Rape Justice: Beyond the Criminal Law* (Basingstoke: Palgrave Macmillan), pp. 36-52.
- Daly, K. (2016a). Money for justice: ex gratia redress for historical institutional abuse. In Y. Smaal, A. Kaladelfos, and M. Finnane (eds), *The Sexual Abuse of Children: Recognition and Redress* (Melbourne: Monash University Publishing), pp. 160-77.

- Daly, K. (2016b). Redressing wrongs: whether, how, and why money matters to victims. Plenary address presented at Victims and Justice National Conference, Melbourne, 8-9 August.
- Daly, K. (2017a). Sexual violence and victims' justice interests. In E. Zinsstag and M. Keenan (eds), *Sexual Violence and Restorative justice: Legal, Social and Therapeutic Dimensions* (London: Routledge), pp. 108-139.
- Daly, K. (2017b). Variation in expense payments, 2012-13, FAVE dataset. School of Criminology and Criminal Justice, Griffith University (25 September 2017).
- Daly, K. and B. Bouhours (2010). Rape and attrition in the legal process: a comparative analysis of five countries. In M. Tonry (ed.), *Crime and Justice: A Review of Research*, 39, 565-650.
- Daly, K. and R. Holder (2017). Financial assistance for victims of sexual offences. Presented to National Victims of Crime Conference, Brisbane, 6-7 September.
- Daly, K. and R. Holder (2019). State payments to victims of violent crime: discretion and bias in awards for sexual offences. *British Journal of Criminology* (forthcoming).
- Daly, K., R. Holder, and V. Meyer (2019). *The FAVE Project, Financial Assistance and Victims' Experiences, Technical Report No. 7: Victims' Experiences Seeking Financial Assistance for Sexual Offences*. Brisbane: School of Criminology and Criminal Justice and Griffith Criminology Institute, Griffith University.
- Daly, K. and G. Proietti-Scifoni (2011). Reparation and restoration. In M. Tonry (ed.), *Oxford Handbook of Crime and Criminal Justice* (New York: Oxford University Press), pp. 207-253.
- Daly, K. and D. Wade (2017). Sibling sexual violence and victims' justice interests: a comparison of youth conferencing and judicial sentencing. In E. Zinsstag and M. Keenan (eds), *Sexual Violence and Restorative justice: Legal, Social and Therapeutic Dimensions* (London: Routledge), pp. 143-178.
- Davies, I. (1991). Compensation for criminal injuries in Australia: a proposal for change in Queensland. *Bond Law Review*, 3(1), 1-24.
- Davies, R. R. (1969). The survival of the bloodfeud in medieval Wales. *History*, 54(182), 338-357.
- Department of Justice (1998). *New Directions: Crime Victim's Compensation*, OVC Bulletin (United States: Office for Victims of Crime).
- Department of Justice and Attorney General (2008). *Victims of Crime Review Report* (Brisbane: Queensland Government).
- Department of Justice and Attorney General (2009). Victim Assist Queensland fact sheet, Accessed 02 March 2017 at [http://www.justice.qld.gov.au/media/internet/pdf/vaq/miscellaneous-publications/Victim\\_Assist\\_Queensland.pdf](http://www.justice.qld.gov.au/media/internet/pdf/vaq/miscellaneous-publications/Victim_Assist_Queensland.pdf)

- Department of Justice and Attorney General (2015). *Final Report on the Review of the Victims of Crime Assistance Act 2009* (Brisbane: Queensland Government).
- DJAG *see* Department of Justice and Attorney General
- Duff, P. (1998). The measure of criminal injuries compensation: political pragmatism or dog's dinner? *Oxford Journal of Legal Studies*, 18, 105-142.
- Estrich, S. (1987). *Real Rape* (Cambridge: Harvard University Press).
- Feeney, T. G. (1968). Compensation for the victims of crime: a Canadian proposal. *Ottawa Law Review*, 2(175), 175-183.
- Forster, C. (2002). The failure of criminal injuries compensation schemes for victims of intra-familial abuse: the example of Queensland. *Torts Law Journal*, 10(2), 143-166.
- Fraser, N. (1995). Recognition or redistribution? A critical reading of Iris Young's *Justice and the Politics of Difference*. *The Journal of Political Philosophy*, 3(2), 166-180.
- Freckelton, I. (2001). *Criminal Injuries Compensation: Law, Practice and Policy* (Sydney: Law Book Company).
- Fry, M. (1951). *Arms of the Law* (London: Victor Gollancz).
- Fry, M. (1957/1959). Justice for victims. *Journal of Public Law*, 8, 191-194. Originally published in *The London Observer* (1957).
- Goldscheid, J. (2004). Crime victim compensation in a post-9/11 world. *Tulane Law Review*, 79(167), 167-233.
- Heenan, M. (1998). ACT reform to sexual assault laws. *Women Against Violence*, 5, 73-75.
- Holder R. and K. Daly (2018). Recognition, reconnection, and renewal: the meaning of money to sexual assault survivors. *International Review of Victimology*, 24(1), 25-46.
- Home Office (1961). *Report of a Working Party on Compensation for Victims of Crimes of Violence* (Cmnd. 1406) (London: HMSO).
- Home Office (1964). *Compensation for Victims of Crimes of Violence* (Cmnd. 2323) (London: HMSO).
- Horney, J. and C. Spohn (1996). The influence of blame and believability factors on the processing of simple versus aggravated rape cases. *Criminology*, 34(2), 135-161.
- Hudson, J. and B. Galaway (eds). (1975). *Considering the Victim: Readings in Restitution and Victim Compensation* (Springfield, Ill.: Charles C. Thomas).
- Kearon, T. and B. Godfrey (2007). Setting the scene: a question of history. In S. Walklate (ed.), *Handbook of Victims and Victimology* (Cullompton, Devon: Willan Publishing), pp.17-36.

- Krahé, B. (2016). Societal responses to sexual violence against women: rape myths and the 'real rape' stereotype. In H. Kury, S. Redo, and E. Shea (eds), *Women and Children as Victims and Offenders: Background, Prevention, Reintegration*, Vol. 2 (Switzerland: Springer Nature, Springer International Publishing AG), pp. 671-700.
- Lamborn, L. L. (1970). Remedies for the victims of crime. *Southern California Law Review*, 43, 22-53.
- Lamborn, L. L. (1973). The propriety of governmental compensation of victims of crime. *The George Washington Law Review*, 41(3), 446-470.
- Langbein, J. (1978). The criminal trial before the lawyers. *The University of Chicago Law Review*, 45(2), 263-316.
- Law Commission of Canada (2000). *Restoring Dignity: Responding to Child Abuse in Canadian Institutions* (Ottawa: Minister of Public Works and Government Services).
- Miers, D. (1990). *Compensation for Criminal Injuries* (London: Butterworths).
- Miers, D. (2007). Looking beyond Great Britain: the development of criminal injuries compensation. In S. Walklate (ed.), *Handbook of Victims and Victimology* (Cullompton: Willan Publishing), pp. 337-362.
- Miers, D. (2014a). Offender and state compensation for victims of violent crime: two decades of development and change. *International Review of Victimology*, 20(1), 145-168.
- Miers, D. (2014b). State compensation for victims of violent crime. In I. Vanfraechem, A. Pemberton, and F. Mukwiza Ndahinda (eds), *Justice for Victims: Perspectives on Rights, Transition and Reconciliation* (London and New York: Routledge), pp. 105-139.
- Miers, D. (2014c). Compensating deserving victims of violent crime: the Criminal Injuries Compensation Scheme 2012. *Legal Studies*, 34(2), 242-278.
- New South Wales Legislative Assembly (1967). Hansard, Tuesday 28 February, p. 3910.
- New Zealand Law Reform Commission (2008). *Compensating Crime Victims*, Issues Paper 11 (Wellington: Law Commission).
- New Zealand Royal Commission of Inquiry into Compensation for Personal Injury (1967). *Compensation for personal injury in New Zealand* (Wellington: R. E. Owen, Government Printer).
- O'Connell, M. and S. Fletcher (2015). To pay or not to pay: revisiting the rationale for state-funded compensation for crime victims: an Australian perspective. In T. Tollefson (ed.), *Victimological Advances in Theory, Policy and Services: Festschrift in honour of Prof Dr John Dussich* (USA: Dumont Printing), pp.79-110.
- Office for Victims of Crime (2005). Directory of International Crime Victim Compensation Programs, 2004-2005. VC Archive, National Criminal Justice Reference Service.



- Pemberton, A. (2014). Respecting victims of crime: key distinctions in a theory of victims' rights. In I. Vanfraechem, A. Pemberton, and F. Mukwiza Ndahinda (eds), *Justice for Victims: Perspectives on Rights, Transition and Reconciliation* (London and New York: Routledge), pp. 32-50.
- Powell, A. (2015). Seeking informal justice online: vigilantism, activism and resisting a rape culture in cyberspace. In A. Powell, N. Henry, and A. Flynn (eds), *Rape Justice: Beyond the Realm of Criminal Law* (Basingstoke: Palgrave Macmillan), pp. 218-37.
- President's Task Force on Victims of Crime (December 1982). *Final Report* (Washington: President of the United States of America).
- Queensland Ombudsman (2007). *The Good Decision-Making Guide: Good Decisions Make Good Sense* (Queensland: Office of the Ombudsman).
- Royal Commission into Institutional Responses to Child Sexual Abuse (2017). *Final Report*. <https://www.childabuseroyalcommission.gov.au/final-report>. Accessed 27 September 2018.
- Schafer, S. (1960). *Restitution to Victims of Crime* (Chicago: Quadrangle Books, Inc).
- Schafer, S. (1968). *The Victim and His Criminal* (New York: Random House).
- Schafer, S. (1970). Victim compensation and responsibility. *Southern California Law Review*, 43(55), 55-67.
- Spears, J. and C. Spohn (1996). The genuine victim and prosecutors' charging decisions in sexual assault cases. *American Journal of Criminal Justice*, 20(2), 183-205.
- Smith, C. L., (1985). Victim compensation: hard questions and suggested remedies. *Rutgers Law Journal*, 17(1), 51-91.
- Stone, L. (2019). Spike in payout claims as law includes victims of financial, emotional abuse. *Brisbane Times*, 28 January, accessed 1 February 2019. <<https://www.brisbanetimes.com.au/national/queensland/spike-in-payout-claims-as-law-includes-victims-of-financial-emotional-abuse-20190124-p50tgv.html>>
- Stubbington, S. (2009). Criminal Offence Victims Act 1995 (Qld): an evaluation. *Queensland Law Student Review*, 2(2), 57-67.
- Tallack, W. (1900). *Reparation to the Injured; and the Rights of the Victims of Crime to Compensation* (Wertheimer: Lea & Company).
- Victim Support Working Party (1998). *Victim Support in the ACT: Options for a Comprehensive Response* (Canberra: Victims of Crime Coordinator Publishing Services).
- Weeks, K. M. (1970). The New Zealand criminal injuries scheme. *Southern California Law Review*, 43(107), 107-121.
- Wolfgang, M. E. (1965). Victim compensation in crimes of personal violence. *Minnesota Law Review*, (50)225, 223-241.

Woodhouse Report *see* New Zealand Royal Commission of Inquiry into Compensation for Personal Injury

Wormald, J. (1980). Bloodfeud, kindred, and government in early modern Scotland. *Past & Present*, 87(May), 54-97.



## Appendix 1: Overview of Australian Financial Assistance (FA) or Criminal Injuries Compensation (CIC) Schemes

Australian Schemes for **Primary** Victims of Violence, as of 4 November 2018

Jurisdiction	Year inaugural legislation enacted	Year/month inaugural legislation took effect	Year current legislation enacted	Enacting legislation	Overall term used	Overall maxima	Specification of recognition payment <sub>1</sub>	Term for specific payment	Types of assistance/ expenses <sub>2</sub>	Determination
Australian Capital Territory (ACT)	1983		2016	<i>Victims of Crime (Financial Assistance) Act</i>	Financial assistance	\$50,000 (incl. recognition payment)	yes	Recognition payment (max. \$26,250)	Economic loss payment (counselling & other psych. costs, medical & dental, travel, justice-related, actual earnings, reasonable expenses incurred by parent/carer of primary, loss/damage personal items, exceptional circumstance expenses).	Victims of Crime Commissioner (Human Rights Commission)
New South Wales (NSW)	1967	Jan 1968	2013	<i>Victims' Rights &amp; Support Act</i>	Financial support, financial assistance	\$50,000 (incl. recognition payment)	yes	Recognition payment (max. \$10,000)	Economic loss (immediate safety, health, or wellbeing expenses, cost of living, personal effects, justice-related expenses), loss of earnings.	Administrative within Department of Justice
Northern Territory (NT)	1982		2007	<i>Victims of Crime Assistance Act</i>	Assistance	\$40,000	no	N/A (compensable violent act and/or compensable injury)	Medical expenses (medical, ambulance, hospital, physio, medical report), loss of earnings, loss of personal effects, exceptional circumstance payments (e.g., relocation, security).	Government legal practitioner assessor
Queensland	1968	Jan 1969	2009	<i>Victims of Crime Assistance Act</i>	Financial assistance	75,500 (incl. special assistance & legal costs)	yes	Special assistance (max. \$10,000)	Expenses for counselling, medical, incidental travel, report costs, loss of earnings, damage to clothing, payments in exceptional circumstances.	Administrative within Department of Justice and Attorney-General
South Australia (SA)	1969		2001	<i>Victims of Crime Act</i>	Compensation	\$100,000	no	N/A (VOCA 2001 s4 non-financial loss) (regulations 2004 called 'special damages' s4(2))	Financial and non-financial loss (indexed in Schedule 1a) and past and future treatment costs.	Crown Solicitor

Jurisdiction	Year inaugural legislation enacted	Year/month inaugural legislation took effect	Year current legislation enacted	Enacting legislation	Overall term used	Overall maxima	Specification of recognition payment <sub>1</sub>	Term for specific payment	Types of assistance/expenses <sub>2</sub>	Determination
Tasmania	1976		1976	<i>Victims of Crime Assistance Act</i>	Financial assistance	\$30,000 (\$50,000 if more than one offence)	no	N/A (pain and suffering)	Expenses incurred or likely to be incurred for costs of counselling, medical treatment, damaged clothing, loss of wages or salary, costs of application.	Criminal Injuries Compensation Commissioner
Victoria	1972		1996	<i>Victims of Crime Assistance Act</i>	Financial assistance	\$70,000 (incl. special financial assistance)	yes	Special financial assistance (max. \$10,000)	Expenses reasonably incurred or likely to be incurred, medical expenses, loss of earnings, damage to clothing, safety-related expenses.	Tribunal within Magistrates Court
Western Australia (WA)	1982	Jan 1983	2003	<i>Criminal Injuries Compensation Act</i>	Compensation	\$75,000	no	N/A (pain and suffering; loss of enjoyment of life; mental or nervous shock)	Loss of income, medical or psychological expenses, incidental expenses (travel, damage to clothing, personal items), pregnancy.	Independent Assessor within Attorney General's portfolio

*Notes*

(1) A recognition payment is a key feature that distinguishes current financial assistance (FA) from criminal injuries compensation (CIC) schemes. FA schemes re-define the non-economic portion of a total payment as a recognition payment and specifies a cap on this sum. In CIC schemes, the non-economic portion is for injuries variously described as pain and suffering, mental injury, nervous shock, psychological injury, or physical injury; and this amount (together with economic loss) is limited by the overall maxima.

(2) FA schemes allow for some expenses to be paid in advance of a final decision on the full application. This is called interim assistance or immediate needs assistance. These payments may be recovered as a debt to the state if the full application is declined.

## Appendix 2: VOCAA Schedule 2: amounts, offences, categories for special assistance, and meaning of serious injury

(Text is verbatim from Schedule 2.)

### 1 Amount of special assistance payable

(1) The amount of special assistance payable in relation to an act of violence is as follows—

- (a) generally—an amount between the minimum amount and maximum amount stated for the act in section 2 having regard to its category;
- (b) if the act is a category B, C or D act of violence and category A circumstances apply to the primary victim of the act—an amount between the minimum amount and maximum amount stated in section 2 for a category A act of violence;
- (c) if the act is a category C or D act of violence and category B circumstances apply to the primary victim of the act—an amount between the minimum amount and maximum amount stated in section 2 for a category B act of violence;
- (d) if the act is a category D act of violence and category C circumstances apply to the primary victim of the act—an amount between the minimum amount and maximum amount stated in section 2 for a category C act of violence.

(2) If an act of violence involves a series of related crimes, the special assistance payable in relation to the act of violence must be worked out, and is payable only, in relation to the crime in the series that is of the highest category.

*Note—*

*Section 4 states the order of the categories of acts of violence.*

(3) In this section—

**category A circumstances**, for a primary victim of a category B, C or D act of violence, means the victim has, as a direct result of the act—

- (a) suffered a very serious injury; or
- (b) been infected with a very serious disease.

**category B circumstances**, for a primary victim of a category C or D act of violence, means—

- (a) the victim has, as a direct result of the act—
  - (i) suffered a serious injury; or
  - (ii) been a victim of a series of related crimes; or
  - (iii) suffered a deprivation of liberty; and
- (b) when the act of violence was committed or, if the act of violence involved a series of related crimes, when 1 or more of the acts were committed, the victim was—
  - (i) a child under 16 years; or
  - (ii) a person over 60 years; or
  - (iii) a person with impaired capacity.

**category C circumstances**, for a primary victim of a category D act of violence, means—

- (a) the victim has, as a direct result of the act, been a victim of a series of related crimes; or
- (b) the act of violence does not involve a series of related crimes and when the act of violence was committed, the victim was—
  - (i) a child under 16 years; or
  - (ii) a person over 60 years; or
  - (iii) a person with impaired capacity.

**serious injury** means an injury involving 2 or more of the kinds of injury mentioned in section 27(1)(a) to (f).

**Note from authors:** For ease of reference, see complete section 27 in Appendix 3.

**very serious disease** means a disease that is life threatening, and includes human immunodeficiency virus (HIV).

very serious injury—

1 A very serious injury is—

(a) a bodily injury that—

(i) has resulted in a loss of a bodily function (including a loss of capacity to have children), impairment of a bodily function (including a reduction of capacity to have children), or disfigurement; and

(ii) has resulted in a permanent and significant reduction in quality of life or is otherwise very serious; or

(b) a bodily injury that has resulted in the loss of a foetus; or

(c) a mental illness or disorder, or intellectual impairment, that has resulted in a permanent and significant reduction in quality of life or is otherwise very serious.

2 However, a bodily injury mentioned in paragraph 1(a), or a mental illness or disorder or intellectual impairment mentioned in paragraph 1(c), is not a very serious injury if the injury, or illness or disorder or impairment, would stop being very serious if it were subjected to medical or other treatment, including, for example, because the reduction in quality of life is alleviated.

## 2 Minimum and maximum amounts

The minimum and maximum amounts of special assistance payable in relation to an act of violence are as follows—

<b>Act of violence</b>	<b>Minimum amount</b>	<b>Maximum amount</b>
category A act of violence	\$5000	\$10,000
category B act of violence	\$1301	\$3500
category C act of violence	\$651	\$1300
category D act of violence	\$130	\$650

## 3 Categories of acts of violence

(1) A category A act of violence is an act of violence—

(a) involving—

(i) attempted murder; or

(ii) rape; or

(iii) incest with a person under the age of 16 or with an impaired capacity; or

(iv) maintaining a sexual relationship with a person under the age of 16; or

(b) prescribed under a temporary regulation as a category A act of violence.

(2) A category B act of violence is an act of violence—

(a) that is not a category A act of violence and involves—

(i) an attempt to commit a category A act of violence; or

(ii) a sexual offence; or

(iii) grievous bodily harm; or

(iv) an offence described in the Criminal Code, section 317; or

(v) robbery whilst armed or with personal violence or in company; or

(vi) burglary with violence; or

(vii) torture; or

(viii) kidnapping; or

(ix) an offence described in the Criminal Code, section 316; or

(b) prescribed as a category B act of violence under a temporary regulation.

- (3) A category C act of violence is an act of violence—
- (a) that is not a category A or B act of violence and involves—
    - (i) an attempt to commit a category B act of violence; or
    - (ii) serious assault as described in the Criminal Code, section 340; or
    - (iii) robbery; or
    - (iv) unlawful wounding; or
    - (v) assault occasioning bodily harm, including whilst armed or in company; or
  - (b) prescribed as a category C act of violence under a temporary regulation.
- (4) A category D act of violence is an act of violence that is not a category A, B or C act of violence, including—
- (a) an attempt to commit a category C act of violence; and
  - (b) an act of violence involving any of the following if the act is not a category A, B or C act of violence—
    - (i) assault;
    - (ii) unlawful stalking;
    - (iii) deprivation of liberty.

#### **4 Order of categories of act of violence**

For this Act, the descending order of categories of acts of violence is as follows—

- (a) category A act of violence;
- (b) category B act of violence;
- (c) category C act of violence;
- (d) category D act of violence.



**Appendix 3: VOCAA section 27: meaning of injury**

(Text is verbatim from section 27.)

- (1) In this chapter, *injury* means—
  - (a) bodily injury; or
  - (b) mental illness or disorder; or
  - (c) intellectual impairment; or
  - (d) pregnancy; or
  - (e) disease; or
  - (f) for a sexual offence, the totality of the following adverse impacts of the sexual offence suffered by a person—
    - (i) sense of violation;
    - (ii) reduced self worth or perception;
    - (iii) lost or reduced physical immunity;
    - (iv) lost or reduced physical capacity (including the capacity to have children), whether temporary or permanent;
    - (v) increased fear or increased feelings of insecurity;
    - (vi) adverse effect of others reacting adversely to the person;
    - (vii) adverse impact on lawful sexual relations;
    - (viii) adverse impact on feelings; or
  - (g) a combination of matters mentioned in paragraphs (a) to (f).

## Appendix 4: The Code definitions for sexual offences

(Text is verbatim from The Code.)

### Chapter 32 Rape and sexual assaults

Section 347 Definitions for ch 32

In this chapter— *consent* see section 348. *Penetrate* does not include penetrate for a proper medical, hygienic or law enforcement purpose only.

#### Section 348 Meaning of consent

- (1) In this chapter, consent means consent freely and voluntarily given by a person with the cognitive capacity to give the consent.
- (2) Without limiting subsection (1), a person's consent to an act is not freely and voluntarily given if it is obtained— (a) by force; or (b) by threat or intimidation; or (c) by fear of bodily harm; or (d) by exercise of authority; or (e) by false and fraudulent representations about the nature or purpose of the act; or (f) by a mistaken belief induced by the accused person that the accused person was the person's sexual partner.

#### Section 349 Rape

- (1) Any person who rapes another person is guilty of a crime. Maximum penalty—life imprisonment.
- (2) A person rapes another person if—
  - (a) the person has carnal knowledge with or of the other person without the other person's consent; or
  - (b) the person penetrates the vulva, vagina or anus of the other person to any extent with a thing or a part of the person's body that is not a penis without the other person's consent; or
  - (c) the person penetrates the mouth of the other person to any extent with the person's penis without the other person's consent.
- (3) For this section, a child under the age of 12 years is incapable of giving consent.

#### Carnal knowledge (Part 1 Introductory Chapter 1 Interpretation)

- (1) If carnal knowledge is used in defining an offence, the offence, so far as regards that element of it, is complete on penetration to any extent.
- (2) Carnal knowledge includes sodomy

Section 350 **Attempt to commit rape** Any person who attempts to commit the crime of rape is guilty of a crime, and is liable to imprisonment for 14 years.

Section 351 **Assault with intent to commit rape** Any person who assaults another with intent to commit rape is guilty of a crime, and is liable to imprisonment for 14 years.

#### Section 352 Sexual assaults

- (1) Any person who—
  - (a) unlawfully and indecently assaults another person; or
  - (b) procures another person, without the person's consent— (i) to commit an act of gross indecency; or (ii) to witness an act of gross indecency by the person or any other person; is guilty of a crime. Maximum penalty—10 years imprisonment.
- (2) However, the offender is liable to a maximum penalty of 14 years imprisonment for an offence defined in subsection (1)(a) or (1)(b)(i) if the indecent assault or act of gross indecency includes

bringing into contact any part of the genitalia or the anus of a person with any part of the mouth of a person.

- (3) Further, the offender is liable to a maximum penalty of life imprisonment if—
- (a) immediately before, during, or immediately after, the offence, the offender is, or pretends to be, armed with a dangerous or offensive weapon, or is in company with any other person; or
  - (b) for an offence defined in subsection (1)(a), the indecent assault includes the person who is assaulted penetrating the offender's vagina, vulva or anus to any extent with a thing or a part of the person's body that is not a penis; or (c) for an offence defined in subsection (1)(b)(i), the act of gross indecency includes the person who is procured by the offender penetrating the vagina, vulva or anus of the person who is procured or another person to any extent with a thing or a part of the body of the person who is procured that is not a penis.

### Section 210 **Indecent treatment of children under 16**

- (1) Any person who—
- (a) unlawfully and indecently deals with a child under the age of 16 years; or
  - (b) unlawfully procures a child under the age of 16 years to commit an indecent act; or
  - (c) unlawfully permits himself or herself to be indecently dealt with by a child under the age of 16 years; or
  - (d) wilfully and unlawfully exposes a child under the age of 16 years to an indecent act by the offender or any other person; or
  - (e) without legitimate reason, wilfully exposes a child under the age of 16 years to any indecent object or any indecent film, videotape, audiotape, picture, photograph or printed or written matter; or
  - (f) without legitimate reason, takes any indecent photograph or records, by means of any device, any indecent visual image of a child under the age of 16 years; is guilty of an indictable offence.
- (2) If the child is of or above the age of 12 years, the offender is guilty of a crime, and is liable to imprisonment for 14 years.
- (3) If the child is under the age of 12 years, the offender is guilty of a crime, and is liable to imprisonment for 20 years.
- (4) If the child is, to the knowledge of the offender, his or her lineal descendant or if the offender is the guardian of the child or, for the time being, has the child under his or her care, the offender is guilty of a crime, and is liable to imprisonment for 20 years.
- (4A) If the child is a person with an impairment of the mind, the offender is guilty of a crime, and is liable to imprisonment for 20 years.
- (5) If the offence is alleged to have been committed in respect of a child of or above the age of 12 years, it is a defence to prove that the accused person believed, on reasonable grounds, that the child was of or above the age of 16 years.
- (5A) If the offence is alleged to have been committed with the circumstance of aggravation mentioned in subsection (4A), it is a defence to the circumstance of aggravation to prove that the accused person believed on reasonable grounds that the child was not a person with an impairment of the mind.

In this section—

**deals with** includes doing any act which, if done without consent, would constitute an assault as defined in this Code

**Section 229B Maintaining a sexual relationship with a child**

- (1) Any adult who maintains an unlawful sexual relationship with a child under the prescribed age commits a crime. Maximum penalty—life imprisonment.
- (2) An unlawful sexual relationship is a relationship that involves more than 1 unlawful sexual act over any period.
- (3) For an adult to be convicted of the offence of maintaining an unlawful sexual relationship with a child, all the members of the jury must be satisfied beyond reasonable doubt that the evidence establishes that an unlawful sexual relationship with the child involving unlawful sexual acts existed.
- (4) However, in relation to the unlawful sexual acts involved in an unlawful sexual relationship—
- (a) the prosecution is not required to allege the particulars of any unlawful sexual act that would be necessary if the act were charged as a separate offence; and
  - (b) the jury is not required to be satisfied of the particulars of any unlawful sexual act that it would have to be satisfied of if the act were charged as a separate offence; and
  - (c) all the members of the jury are not required to be satisfied about the same unlawful sexual acts.
- (5) If the child was at least 12 years when the crime was alleged to have been committed, it is a defence to prove the adult believed on reasonable grounds the child was at least the prescribed age.
- (6) An adult can not be prosecuted for the crime without a Crown Law Officer's consent.
- (7) An adult may be charged in 1 indictment with—
- (a) the offence of maintaining an unlawful sexual relationship with a child (the *maintaining* offence); and
  - (b) 1 or more other offences of a sexual nature alleged to have been committed by the adult in relation to the child in the course of the alleged unlawful sexual relationship (the *other offence* or offences).
- (8) The adult charged in 1 indictment as mentioned in subsection (7) may be convicted of and punished for any or all of the offences charged.
- (9) However, if the adult is—
- (a) charged in 1 indictment as mentioned in subsection (7); and
  - (b) sentenced to imprisonment for the maintaining offence and for the other offence or offences;
- the court imposing imprisonment may not order that the sentence for the maintaining offence be served cumulatively with the sentence or sentences for the other offence or offences.

\* Note—\* See the Penalties and Sentences Act 1992, section 155 (Imprisonment to be served concurrently unless otherwise ordered).

- (10) In this section—  
**offence of a sexual nature** means an offence defined in section 208, 210 (other than section 210(1)(e) or (f)), 215, 222, 349, 350 or 352.

prescribed age, for a child, means—

- (a) if the unlawful sexual relationship involves an act that constitutes, or would constitute (if it were sufficiently particularised), an offence defined in section 208—18 years; or
- (b) in any other case—16 years.

means an act that constitutes, or would constitute (if it were sufficiently particularised), an offence of a sexual nature.

## Appendix 5. Examples of Statement of Reasons: (1) VOCAA and (2) COVA

Two examples were compiled from a number of original documents to show the style of communication in the SoRs and the ways in which some expenses are discussed.

*Example 1. An SoR for a VOCAA case, showing special assistance (the recognition payment) and counselling expenses.*

### STATEMENT OF REASONS FOR DECISION - Financial Assistance

This Statement of Reasons relates to your application (Application Number: A0####) to Victim Assist Queensland for financial assistance and details the reasons for the decisions in relation to the application.

#### Background

On 9 November 2012, Victim Assist Queensland received a Financial Assistance Application from ##### on behalf of ##### in relation to an act of violence which occurred between 31 December 2010 and 10 April 2012. This statement of reasons is directed to ########. You applied for financial assistance with:

1. Counselling expenses; and
2. Special assistance.

#### Authority

In accordance with a delegation of the Director, Victim Assist Queensland under section 62 of the *Victims of Crime Assistance Act 2009* (the Act), I am authorised to deal with the application.

#### Evidence of the material considered

In making a decision about your application for financial assistance, I considered the following material:

1. Application for Financial Assistance;
2. Medical Certificate;
3. Queensland Police ##### Occurrence Report;
4. Victim Assistance Unit Guidelines;
5. Victim Assist Queensland file notes;
6. Queensland Wide Interlinked Courts Database;
7. State Reporting Bureau Transcript of Proceedings - #####; and
8. ##### Letter/Treatment Plan dated #####.

#### Assessment Decision

In deciding your application I observed the principles of natural justice and acted as quickly as the requirements under the Act and a proper consideration of your application permitted as required in section 63 of the Act. As each element of your application was assessed, I completed an Assessment Plan to record decisions relevant to your application. The following are the decisions I made in relation to your application and the reasons for the decisions.

#### Eligibility

I have determined that you are eligible for assistance under section 37 of the Act. Your eligibility is based on the following:

1. The acts of violence occurred between 11 December 2010 and 5 April 2012, which is after the commencement of the Act on 1 December 2009;
2. The acts of violence were committed at #####, Queensland and directly resulted in injury to yourself. This satisfies the act of violence requirement under sections 25 and 27 of the Act;
3. The acts of violence were reported to the Queensland Police ##### on 11 April 2012 and I have determined that you provided reasonable assistance in the police investigation, which satisfies the reporting

requirement under sections 81 and 82 of the Act;

4. Under section 25 of the Act, two or more acts of violence can be said to be a series of related crimes resulting in the acts being decided together as one act of violence. I have determined that the acts of violence committed against you over a period of time by the same person constitute a series of related crimes;

5. I have assessed, on the balance of probabilities, that you did not commit or conspire to commit the act of violence, or engage in criminal activity that resulted in the act of violence being committed against you. This satisfies sections 21 and 80 of the Act; and

6. Your application was submitted in the required form as prescribed by section 52 of the Act and was made within the time limit prescribed by section 54 of the Act.

#### Victim Type

I have determined that under section 26(1) of the Act, you are a Primary Victim of an act of violence.

#### Category of Violence

Pursuant to section 85(6) of the Act and based on information provided in your application and by the Queensland Police ### Specific Word ## and the Queensland Courts, I have determined on the balance of probabilities, that the act of violence constituted Maintaining a sexual relationship with a child for the purpose of assessing your application to Victim Assist Queensland.

Maintaining a sexual relationship with a child is a Category A act of violence under Schedule 2 of the Act.

#### Grant - Special Assistance [recognition payment]

Pursuant to section 39(h) of the Act, I may grant an amount (within a prescribed statutory range of \$5000.00 to \$10000.00) as special assistance in recognition of the acts of violence committed against you.

I grant \$10000.00, the maximum amount available for a Category A act of violence. In making my decision on the amount of the grant, I considered the following particulars of the act of violence:

1. The offender was convicted of 3 counts of Indecent treatment of a child and 1 count of Rape;
2. The offender was known to you; and
3. You were aged between 9 and 11 when the offending occurred.

The **conditions** on this Grant of Assistance are as follows:

Pursuant to section 94(1)(c) of the Act, as you are a person under 18 years of age, and the assistance is lump sum assistance, it will be paid to the Public Trustee to be held on trust under the *Public Trustee Act 1978*.

**Amount granted** is \$10000.00.

#### Grant - Counselling

Under section 39(a) of the Act, I approve a grant of up to \$3003.00 for reasonable counselling expenses that you will incur as a direct result of the act of violence.

This grant is based on a letter/treatment plan from ##### dated ##### and is calculated as follows:

1. 2 assessment/intake sessions (2 x \$150.00 = \$300.00);
2. 15 counselling sessions (15 x \$150.00 = \$2250.00);
3. 10 group therapy sessions (10 x \$40 = \$400.00);
4. Protective behaviour resources (\$11.00 + \$11.00 + \$11.00 + \$5.00 + \$15.00 = \$53.00);
5. \$300.00 + \$2250.00 + \$400.00 + \$53.00 = \$3003.00.

The **conditions** on this Grant of Assistance are as follows:

This grant will not be paid to you upfront. An amount of up to \$3003.00 will be paid directly to ##### upon Victim Assist Queensland receiving evidence by way of tax invoice/s that you have:

1. Attended counselling sessions in accordance with the above grant; and
2. Received the protective behaviour resources.

Victim Assist Queensland only agrees to pay for counselling expenses incurred by you as a direct result of the act of violence.

If further sessions are required beyond the initial approved sessions, a progress report (##### Care Practitioner Report) detailing your progress and future treatment needs will be required.

**Amount granted** is \$3003.00.

#### Conditions On All Grants Of Assistance

Section 86 of the Act requires a government assessor to reduce the amount of assistance payable to the applicant if they have received, or will receive, a relevant payment in relation to the act of violence. If the government assessor did not take into account the relevant payment when assistance was granted, under section 106 of the Act the government assessor must, by notice to the applicant, amend the amount of assistance granted to reduce it to the amount that would have been granted under section 86 of the Act.

If you receive, or have received a relevant payment in relation to the act of violence you will be required to refund the amount of assistance paid to you in excess of the amount of assistance granted following the amendment. Any amount that is refundable will be classified as a debt owed by you to the State.

#### Amending your grant of financial assistance

If your circumstances change and you wish to apply for any other expenses related to the act of violence, you may apply, under section 101 of the Act, for an amendment of the grant of assistance (please note an application to amend would need to be made within 6 years from the date of your 18th birthday and would then be assessed under the Act). In general, only 1 application for amendment of the grant of assistance can be made in a calendar year.

#### Unpaid Assistance

Please note Section 96 of the Act provides that if all or part of the assistance granted is not paid to or for the benefit of the applicant within 6 years after the date of this decision, the assistance stops being payable to the applicant.

#### Notice of Internal Review

Under section 124 of the Act you are able to apply for an internal review of the decision. This can be done by writing to the Director, Victim Assist Queensland by the date specified in your Notice of Decision to Grant Assistance. Your application will need to detail the basis on which you are aggrieved by the decision.

End of Statement

## Appendix 5 (continued)

***Example 2. An SoR for a COVA case, showing special assistance (recognition payment), exceptional circumstances expense, medical expense, and incidental travel expense.***

### STATEMENT OF REASONS FOR DECISION - Financial Assistance

This Statement of Reasons relates to your application (Application Number: A0####) to Victim Assist Queensland for financial assistance and details the reasons for the decisions in relation to the application.

#### Background

On 10 December 2012, Victim Assist Queensland received a Financial Assistance Application from you (#####) in relation to an act of violence which occurred between 10 September 2004 and 31 January 2008. You applied for financial assistance with:

1. Medical expenses
2. Incidental travel;
3. Damage to clothing;
4. Special assistance; and
5. Other expenses exceptional circumstances.

#### Authority

In accordance with a delegation of the Director, Victim Assist Queensland under section 62 of the *Victims of Crime Assistance Act 2009* (the Act), I am authorised to deal with the application.

#### Evidence of the material considered

In making a decision about your application for financial assistance, I considered the following material:

1. Application for Financial Assistance;
2. Medical Certificates;
3. Queensland Police ### Occurrence Report;
4. Victim Assistance Unit Guidelines;
5. Victim Assist Queensland file notes;
6. Queensland Wide Interlinked Courts Database;
7. State Reporting Bureau Transcripts of Proceedings;
8. ##### Sales Order dated 9 July 2009; and
9. Letter from ##### received on 24 April 2013.

#### Assessment Decision

In deciding your application I observed the principles of natural justice and acted as quickly as the requirements under the Act and a proper consideration of your application permitted as required in section 63 of the Act. As each element of your application was assessed, I completed an Assessment Plan to record decisions relevant to your application. The following are the decisions I made in relation to your application and the reasons for the decisions.

#### Eligibility

I have determined that you are eligible for financial assistance under section 37 of the Act. Your eligibility is based on the following material findings of fact:

1. I am satisfied that you were the victim of a personal offence as defined in section 150 of the Act. Pursuant to section 157(1)(a) of the Act, a personal offence is taken to be an act of violence;
2. Under sections 170 and 171 of the Act, two or more personal offences can be said to be a series of related offences



which are taken to be a single act of violence. I have determined that the personal offences committed against you over a period of time by the same person constitute a series of related offences;

3. The act of violence was committed at #####, Queensland and I am satisfied that you have suffered an injury as defined in section 150 of the Act;

4. The act of violence was reported to police on 2 June 2008 and I have determined that you provided reasonable assistance in the police investigation. This satisfies the reporting requirement under sections 21(3), 81 and 82 of the Act;

5. The act of violence occurred between 31 July 2004 and 1 January 2008, prior to the commencement of the Act on 1 December 2009. To be eligible for assistance under Chapter 6, Part 2 of the Act (transitional provisions), you must be considered a person who may apply for assistance under sections 154 and 156 of the Act. Your eligibility to apply for assistance under the repealed *Criminal Offence Victims Act 1995* (section 24) was established when the offender was convicted on #### 2012. Your application was brought within the time limit allowed under the transitional provisions of the Act (section 156(3)(b)(i));

6. I am satisfied that you did not commit or conspire to commit the act of violence, or engage in criminal activity that resulted in the act of violence being committed against you. This satisfies sections 21(2) and 80 of the Act; and

7. Your application is in the required form as prescribed by section 52 of the Act.

#### Victim Type

I have determined that under section 157(1)(b) of the Act, you are a Primary Victim of an act of violence.

#### Category of Violence

Based on information provided in your application and by the Queensland Police ### ## and the Queensland Courts, I have determined on the balance of probabilities, that the act of violence constituted Maintaining a sexual relationship with a child, Rape, Unlawful carnal knowledge and Indecent treatment of a child for the purpose of assessing your application to Victim Assist Queensland.

Maintaining a sexual relationship with a child and Rape are Category A acts of violence under Schedule 2 of the Act. Unlawful carnal knowledge and Indecent treatment of a child are Category B acts of violence under Schedule 2 of the Act.

Under section 1(2) of Schedule 2 of the Act, special assistance is determined and paid in relation to the crime in the series that is of the highest category.

#### Grant - Special Assistance

Pursuant to section 39(h) of the Act, I may grant an amount (within a prescribed statutory range of \$5000.00 to \$10000.00) as special assistance in recognition of the acts of violence committed against you.

I grant \$10000.00, the maximum amount available for a Category A act of violence. In making my decision on the amount of the grant, I considered the following particulars of the act of violence:

1. The offender was convicted of one count of Maintaining a sexual relationship with a child, five counts of Rape, three counts of Unlawful carnal knowledge and three counts of Indecent treatment of a child;
2. The offender was a family friend;
3. You were aged between 11 and 14 when the offending occurred; and
4. The offender was also violent towards you and made threats against you.

The **conditions** on this Grant of Assistance are as follows:

The amount of \$10000.00 will be paid directly to you.

**Amount granted** is \$10000.00.

#### Exceptional Circumstances

Pursuant to section 39(g) of the Act, you applied for other expenses exceptional circumstances for replacement furniture.

I have reviewed your application and the available evidence in considering whether your circumstances or the act of

violence satisfy the following elements of the Act, to qualify for a grant for exceptional circumstance expenses:

1. Section 28 of the Act states that exceptional circumstances exist for a victim of an act of violence if, because of the victim's circumstances or the nature of the act, the act of violence has had an unusual, special or out of the ordinary effect on the victim. Exceptional circumstances are more than what a victim would ordinarily suffer as a result of an act of violence being committed against them; and

2. Section 39(g) of the Act states that, if exceptional circumstances exist for the victim, other expenses incurred or reasonably likely to be incurred by the victim may be considered for payment, if the expense will significantly help the victim recover from the act of violence.

I have concluded, based on the available evidence, that you have established on the balance of probabilities, that your circumstances are exceptional and satisfy the requirements of section 28 of the Act.

This decision is based on advice that the offending occurred on your bed and that replacing the bed significantly aided in your recovery from the act of violence.

I am satisfied that the act of violence has had an unusual, special or out of the ordinary effect on you. This effect is more than what a victim would ordinarily suffer as a result of an act of violence.

I have concluded, based on the available evidence, that the requirements of section 39(g) have also been met. I am satisfied, on the balance of probabilities, that the replacement of the furniture would have significantly aided in your recovery.

I have also determined that the amount incurred for the goods is reasonable.

#### Grant - Other Expenses Exceptional Circumstances

Under section 39(g), I approve the payment of up to \$269.95 for other expenses exceptional circumstances. This grant is based on the ##### Sales Order dated ##### 2009 for \$269.95.

The **conditions** on this Grant of Assistance are as follows:

Pursuant to section 94(1)(b) of the Act, this grant for other expenses exceptional circumstances will be paid to the person who incurred the expense.

Pursuant to section 93(2) of the Act, assistance does not become payable until the government assessor receives a copy of an invoice or receipt for the expense.

The amount of \$269.95 will be paid to ##### upon Victim Assist Queensland receiving a receipt or confirmation from ##### confirming that the sales order was paid and goods received.

**Amount granted** is \$269.95.

#### Grant - Damage To Clothing

Under section 39(f) of the Act, I approve a grant of \$120.00 for damaged / lost clothing you were wearing when the act of violence occurred.

The item included in the assessment as lost clothing is:

1. A ##### brand dress.

This grant is based on the information provided by your mother ### ##### during our telephone call on 26 November 2013. Your mother advised that she purchased the dress for you.

The **conditions** on this Grant of Assistance are as follows:

The grant is payable to ### ##### as the person who incurred the expense on your behalf.

**Amount granted** is \$120.00.

#### Grant – Medical Expenses

I approve under section 39(b) of the Act, a grant of \$98.35 for reasonable medical expenses incurred as a direct result of the act of violence.

This grant has been calculated based on the following information:

1. Electronic claim for assessment by Medicare Australia, dated ### 2012, for \$155.00;
2. The Medicare rebate for item number 116 is \$56.65.

Based on the above information the following calculation has been made:

1. \$155.00 - \$56.65 = \$98.35.

The **conditions** on this Grant of Assistance are as follows:

Pursuant to section 94(1)(b) of the Act the amount of \$98.35 will be paid to #####.

**Amount granted** is \$98.35.

#### Grant - Incidental Travel

Under section 39(c) of the Act, I may approve a grant for reasonable incidental travel expenses incurred to attend a medical appointment required as a direct result of the act of violence. In accordance with this section, I approve a grant of \$56.40 for incidental travel.

This grant is based on the following information:

1. The distance between the location of the appointment (#####, #####) and your place of residence (#####) is approximately 37.6 kilometres. This distance satisfies the definition of "incidental travel" in the Act (greater than 20 kilometres);
2. I am satisfied that use of a private vehicle was a reasonable and appropriate mode of transport to travel to the medical appointment;
3. You travelled in a 1995 [specific vehicle] (3.8 litres);
4. In accordance with the Incidental Travel Table of Costs, costs will be reimbursed at the kilometric rate recommended by the Australian Taxation Office. The kilometric rate for a vehicle with an engine size greater than 2.601 litres is 75 cents per kilometre;
5. 37.6km x 75 cents x 2 = \$56.40; and
6. I am satisfied that this medical service was not available closer to your place of residence.

The **conditions** on this Grant of Assistance are as follows:

The amount of \$56.40 will be paid directly to you.

**Amount granted** is \$56.40.

#### Conditions On All Grants Of Assistance

Section 86 of the Act requires a government assessor to reduce the amount of assistance payable to the applicant if they have received, or will receive, a relevant payment in relation to the act of violence. If the government assessor did not take into account the relevant payment when assistance was granted, under section 106 of the Act the government assessor must, by notice to the applicant, amend the amount of assistance granted to reduce it to the amount that would have been granted under section 86 of the Act.

If you receive, or have received a relevant payment in relation to the act of violence you will be required to refund the amount of assistance paid to you in excess of the amount of assistance granted following the amendment. Any amount that is refundable will be classified as a debt owed by you to the State.

No Assessment Performed

**DAMAGE TO CLOTHING:**

Your application form indicated that, pursuant to section 39(f) of the Act you would like to claim for loss of or damage to clothing you were wearing when the act of violence happened.

You advised on ##### that you do not wish to claim for damaged clothing at this time and as a result, no assessment has been performed.

**AMENDMENTS:**

If your circumstances change and you wish to apply for damage to clothing or any other expenses related to the act of violence, you may apply, under section 101 of the Act, for an amendment of the grant of assistance (please note an application to amend would need to be made within 6 years from the date of this decision and would then be assessed under the Act). In general, only 1 application for amendment of the grant of assistance can be made in a calendar year.

**Notice of Internal Review**

Under section 124 of the Act you are able to apply for an internal review of the decision. This can be done by writing to the Director, Victim Assist Queensland by the date specified in your Notice of Decision to Grant Assistance. Your application will need to detail the basis on which you are aggrieved by the decision.

**End of Statement**

**Appendix 6: DJAG Review of VOCAA (2015) recommendations to amend VOCAA**  
(Text is verbatim from DJAG Review.)

**Recommendation 1:** Amend the VOCA Act to increase the maximum amount of funeral assistance payable to an eligible victim from \$6,000 to \$8,000 to reflect the increased cost of funerals and to provide a higher level of assistance to victims who have prematurely lost a loved one as a result of an act of violence.

**Recommendation 2:** Amend the VOCA Act to remove the requirement for financial assistance applications to be verified by a statutory declaration to ease the burden on victims when first applying for financial assistance.

**Recommendation 3:** Amend the VOCA Act to remove the requirement for a medical certificate about the victim's injury to accompany the financial assistance application form to ease the burden on victims when first applying for financial assistance.

**Recommendation 4:** Amend the VOCA Act to remove pools of assistance for secondary and related victims so each application for financial assistance is considered on its own merits.

**Recommendation 5:** Amend the VOCA Act to prescribe the following fixed amounts for each category of special assistance to simplify payments:

- Category A - \$10,000
- Category B - \$3,500
- Category C - \$2,000
- Category D - \$1,000

**Recommendation 6:** Amend the VOCA Act to allow the assessor to defer a decision about granting financial assistance to a later date where:

- the cause of death of the primary victim is unknown; or
- a person is disputing liability for payment of a debt under the VOCA Act.

**Recommendation 7:** Amend the VOCA Act to expand the definition of 'act of violence' in the VOCA Act to include an act of domestic and family violence to align with the definition under the *Domestic and Family Violence Protection Act 2012* so that all victims of domestic and family violence are able to seek financial assistance.

**Recommendation 8:** Amend the VOCA Act to require victims who are eligible to make a Compulsory Third Party (CTP) insurance claim to have that claim finalised prior to applying for financial assistance under the VOCA Act so that payments are not duplicated for injuries related to the one act of violence. However, these victims should still receive help under the VOCA Act to pay for and attend counselling sessions while waiting for their CTP insurance claim to be finalised.

**Recommendation 9:** Amend the VOCA Act to ensure Victim Assist Queensland has access to, or is informed about, all information relevant to making a decision about an application for financial assistance by:

- requiring an applicant to inform Victim Assist Queensland about any other payment received or that will be received in relation to the same act of violence, even after the application is finalised
- allowing Victim Assist Queensland to obtain information from Queensland Courts; Department of Transport and Main Roads; and State Penalties Enforcement Registry
- ensuring the ability of Victim Assist Queensland to obtain information under the VOCA Act applies even after an application for financial assistance has been finalised.

**Recommendation 10:** Amend the VOCA Act to allow Victim Assist Queensland to provide confidential personal information to a person for genuine research purposes.

**Recommendation 11:** Amend the VOCA Act so that recovery of financial assistance from an offender cannot be initiated after six years from when the person was convicted of the relevant offence or six years after an application for financial assistance was made under the VOCA Act to ensure more timely debt recovery action against offenders is taken and there is fairness and transparency in the process.

**Recommendation 12:** Amend the VOCA Act (and other legislation) to foster and encourage victims' rights and the ways victims are supported by:

- renaming the fundamental principles of justice to a Charter of Victims' Rights and redrafting the rights in plain English
- clarifying how rights contained in the renamed Charter of Victims' Rights are exercised by relevant agencies
- inserting additional rights into the renamed Charter of Victims' Rights to provide for:
  - returning property to a victim as soon as possible
  - victims on the Victims Register being given the opportunity to make submissions to the Parole Board concerning the granting of parole to a violent or sexual offender.

**Recommendation 13:** Amend the VOCA Act to include in the renamed Charter of Victims' Rights an onus on relevant agencies to proactively provide information to victims so that victims are able to access the information available to them.

**Recommendation 14:** Amend the VOCA Act to apply the Charter of Victims' Rights to Government funded non-government agencies that are funded to provide a service to assist victims recover from a crime so that the treatment of victims is consistent across both government and non-government services.

**Recommendation 15:** Amend the VOCA Act to authorise the Victim Services Coordinator to help victims resolve complaints where the victim is dissatisfied with the response from the agency.

**Appendix 7: Other financial assistance available from VAQ**

**Funeral expenses.** Funeral expenses are available, up to \$6,000,<sup>68</sup> for the person who ‘incurs, or is reasonably likely to incur, funeral expenses for the funeral of a primary victim of an act of violence’ (s 56). Funeral expense assistance is separate from financial assistance under VOCAA, but it can be applied for at the same time and on the same form as an application for financial assistance. Primary, witness secondary, and related victims can apply in this way, but a parent secondary victim needs to apply again as a related victim. Funeral assistance for primary victims is in addition to the maximum they can apply for, whereas for witness secondary and related victims, funeral assistance is within the maximum.

**Distress assistance.** Distress assistance of up to \$10,000 within the maximum (\$50,000) and pool (\$100,000) is available to related victims of primary victims who died as a result of an act of violence. This payment is for distress suffered, or reasonably likely to be suffered, by the related victim due to the death of the primary victim.

**But for the death of a primary victim, amount would have received.** Related victims of primary victims who died as a result of an act of violence are eligible to apply for up to \$20,000 per pool within the per victim maximum.

<sup>68</sup> DJAG review Recommendation 1 amends the maximum amount of funeral assistance from \$6,000 to \$8,000.

**Appendix 8: Tables 3 to 5 and 7 to 12**

**Table 3. Key variables for all cases and by four offences**

	col. 1	col. 2	col. 3	col. 4	col. 5	col. 6
	all cases N=291 %	rape N=118 %	MSR N=73 %	sexual assault N=34 %	ITC N=66 %	Comments on offence and M/F differences
		category A (\$5,000 to \$10,000)	category A (\$5,000 to \$10,000)	category B (\$1,301 to \$3,500)	category B (\$1,301 to \$3,500)	**sig diffs = p < .05; or *sig diffs = p < .10. Analysis of M/F differences carried out separately (see Table 4). Note: p values for Chi-squares (Fisher's Exact Test are reliable); those for means should be treated as indicative with a low number of male cases and outcomes not normally distributed
<b>Offence category</b>						
rape	40					
maintaining sexual relationship with a child (MSR)	25					
sexual assault	12					
indecent treatment of a child (ITC)	23					
<b>Sex/gender</b>						
male (N=37)	13	8	12	12	23	**sig diffs by offence. **sig diffs by M/F: rape higher share for females (43%) than males (24%); ITC a higher share for males (41%) than females (20%). MSR and sexual assault similar share
female (N=254)	87	92	88	88	77	
<b>Sex/gender and Indigenous status (known, N=261)</b>						
	(N=261)	(N=112)	(N=66)	(N=27)	(N=56)	*sig diffs by offence for four groups, but this can be attributed to M/F diffs. Indigenous and non Indigenous females similar. **sig diffs by M/F (as above). Very low N of Indigenous males
Indigenous male (N=3)	1	1	0	0	4	
Indigenous female (N=32)	12	14	15	7	7	
non-Indigenous male (N=32)	12	7	12	11	23	
non-Indigenous female (N=194)	75	78	73	82	66	



	col. 1	col. 2	col. 3	col. 4	col. 5	col. 6
	all cases N=291 %	rape N=118 %	MSR N=73 %	sexual assault N=34 %	ITC N=66 %	Comments on offence and M/F differences
<b>Age at victimisation</b>						
less than 12 (N=133)	46	34	64	9	65	**sig diffs by offence. MSR and ITC all under 18. Higher share (50%) aged over 30 in sexual assault. **sig diffs by M/F: all males under 18; 75% females under 18, and 25% of females 18 and over
12 to 17 (N=93)	32	31	36	23	35	
18 to 30 (N=31)	10	21	0	18	0	
greater than 30 (N=34)	12	14	0	50	0	
average (mean)	15.7	17.8	9.9	30.9	10.4	**sig diffs (ANOVA) by offence: 9 to 10 yrs for MSR and ITC; 18 to 30 for rape and sexual assault. **sig diffs by M/F (t-test of 291 cases): males younger (mean 10.2) than females (mean 16.5)
average (median)	12.4	15.1	10.1	29.9	10.9	M/F median age more similar (11 and 12.7, respectively)
<b>Single or on-going victimisation</b>						
single incident (N=151)	52	67	0	88	64	**sig diffs by offence: all MSR on-going, lower share sexual assault on-going. **sig diffs by M/F (291 cases): females more likely one incident (55%) than on-going (45%); males more likely on-going (68%) than one incident (32%)
on-going (N=140)	48	33	100	12	36	
cases with on-going victimisation (N=140)	<i>(N=140)</i>	<i>(N=39)</i>	<i>(N=73)</i>	<i>(N=4)</i>	<i>(N=24)</i>	**sig diffs (ANOVA) by offence: period of victimisation longest for MSR and then rape; shortest for sexual assault (although low N of cases). **sig diffs by M/F (overall): period of victimisation longer for females than males (median 1.8 yrs and 1 yr, respectively)
mean (days)	899	834	1128	139	433	
median (days)	537	391	848	19	130	
median (yrs)	1.5 yr	1.1 yr	2.3 yr	2.7 wks	4.3 mos	

	col. 1	col. 2	col. 3	col. 4	col. 5	col. 6
	all cases N=291 %	rape N=118 %	MSR N=73 %	sexual assault N=34 %	ITC N=66 %	Comments on offence and M/F differences
<b>Victim-offender relationship</b>						
family or relatives (N=138)	47	39	71	23.5	48.5	**sig diffs by offence: family and relatives share higher for MSR. Stranger almost exclusively in sexual assault or rape cases. Higher share of females (49%) was victimised by family and relatives compared to males (35%); conversely, higher share of males victimised by those known (57%) compared to females (42%) (but this was NS)
well-known or known (N=127)	44	47	29	53	48.5	
stranger (N=26)	9	14	0	23.5	3	
<b>Victim group (age at victimisation/age at application)</b>						
child/child (N=124)	43	38	31.5	17	76	**sig diffs by offence: ITC has high share of child-child cases, MSR has high share of child/adult cases, and sexual assault has high share of adult/adult cases; rape has a more even distribution across the three groups. **sig diffs by M/F: no adult male victims (female 25% adults); males higher share child-adult victims (51%) than females (33%)
child/adult (N=102)	35	26	68.5	15	24	
adult/adult (N=65)	22	36	0	68	0	
<b>Offence was reported</b>						
to police	98	96	99	100	100	Note: 5 cases (4 rape and 1 sexual assault) were reported to police, but then withdrew; victims had a reasonable explanation (coded as reported to police)
to counsellor	2	4	1	0	0	
<b>Offence was re-classified (yes, N=46)</b>						
	16	9	49	NA	NA	**sig diffs by offence: 49% MSR cases re-classified, compared to 9% of rape. M/F similar: MSR was the offence of re-classification.

	col. 1	col. 2	col. 3	col. 4	col. 5	col. 6
	all cases N=291 %	rape N=118 %	MSR N=73 %	sexual assault N=34 %	ITC N=66 %	Comments on offence and M/F differences.
<b>Offence occurred in an institutional context (yes, N=19)</b>	7	5	1	24	6	**sig diffs by offence: higher share of sexual assault occurred in institutional context
<b>Act assessed under COVA (yes, N=111) (court conviction)</b>	38	26	69	23.5	33	**sig diffs by offence: MSR has higher share of COVA cases. **sig diffs by M/F: MSR and ITC have higher share of COVA cases for males than females
<b>Not COVA case, but has court conviction (yes, N=29). Note: 7 additional cases mention case was in court.</b>	10	8.5	15	9		no diffs

**Table 4. Frequencies and statistical tests for male and female cases**

of 291, M=13%, F=87%	all cases	male	female	diffs?	comment
	N=291 %	N=37 %	N=254 %		
<b>Offence</b>					
rape (A)	40	24	43	0.04	rape higher share female cases
MSR (A)	25	24	25		ITC higher share male cases
sexual assault (B)	12	11	12		
ITC (B)	23	41	20		
<b>Offence category</b>					
category A	66	49	68	0.03	category A higher share
category B	34	51	32		female cases
<b>Indigenous status</b>					
Indigenous	12	8	13	no diffs	
non-Indigenous	78	87	76		
unknown	10	5	11		
Indigenous status (when known)	(N=261)	(N=35)	(N=226)		
Indigenous	13	9	14	no diffs	
non-Indigenous	87	91	86		
<b>Age at victimisation (range under 1 yr to 65 yrs)</b>					
less than 12	46	59.5	44	0.00	for females, split under and over 18 set at 75/25
12 to 17	32	40.5	31		
18 to 30	10	0	12		
greater than 30	12	0	13		
less than 12	46	59.5	44	0.08	higher share males under 12
less than 18	78	100	75	0.00	all males under 18
average (mean)	15.7	10.2	16.5	0.00	males younger
average (median)	12.4	11	12.7		
<b>Single or on-going victimisation</b>					
single incident	52	32	55	0.01	males higher share on-going
on-going	48	68	45		
<b>Duration of victimisation</b>					
single incident	52	32	55	0.00	higher share males on-going; no males longer than 5 years
within a week	2	5	1		
8 days to 6 months	9	14	9		
181 days to 1 yr	8	19	7		
366 days to 3 yrs	13	16	12		
1096 days to 5 yrs	9	14	8		
more than 5 years	7	0	8		

<b>Cases with period of victimisation</b>	<i>all</i> (N=140)	<i>male</i> (N=25)	<i>female</i> (N=115)		
mean (days)	899	516	982	0.01	female longer, equal variance not assumed
median (days)	537	364	643		
mean (yrs)	2.5	1.4	2.7	0.001	female longer, equal variance not assumed
median (yrs)	1.5	1	1.8		
	<b>all cases</b>	<b>male</b>	<b>female</b>	<b>diffs?</b>	
	<b>N=291</b> %	<b>N=37</b> %	<b>N=254</b> %		
<b>Victim-offender relationship</b>					
family and relatives	47	35	49	no diffs	
well-known and known	44	57	42		
stranger	9	8	9		
<b>Age at offence and app</b>					
child offence/child app	43	49	42	0.00	decision rule split for females: 18 and over 25%; no male under 18.
child offence/adult app	35	51	33		
adult offence/adult app	22	0	25		
<b>Offence reported</b>					
to police	98	100	98	no diffs	
to counsellor	2	0	0		
<b>Offence was re-classified (yes)</b>	16	13.5	16	no diffs	
<b>Offence occurred in institutional context</b>					
yes (N=19)	6.5	8	6	no diffs	

	<b>all cases N=291 %</b>	<b>male N=37 %</b>	<b>female N=254 %</b>		
<b>case COVA court conviction</b>	38	49	37	no diffs	
<b>case has non-COVA court conviction</b>	10	5	11	no diffs	
<b>Case is historical: three measures</b>					
<i>Measure 1: elapsed time from offence to report to authorities (greater than 3 years and 21 yrs or older at time of report) (yes, N=31 of 281 could be determined)</i>	<i>(N=281)</i>	<i>(N=35)</i>	<i>(N=246)</i>		for all three measures: males a higher share of historical and older cases
yes (%)	11	29	8.5	0.00	
<i>Measure 2: elapsed time from offence to VAQ application (19.6 years or higher)</i>					
	<b>all cases N=291 %</b>	<b>male N=37 %</b>	<b>female N=254 %</b>		
yes (%)	10	27	7	0.00	
<i>Measure 3: older case (occurred before 18 Dec 1995)</i>					
yes	13	32	10	0.00	

**Table 5. Recognition payment and expenses granted (overall)**

	N applied	% application rate N=291	N granted	% success rate (col 3/col 1)	% victims granted the expense N=291	min \$	max \$	average (mean) \$	total funds disbursed by VAQ \$	% of total funds disbursed
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
Counselling	188	65	115	61	40	35	12,820	2,629	302,344	11
Medical	114	39	45	39	16	18	22,659	2,869	129,117	4
Travel	117	40	49	42	17	27	3,545	954	46,751	2
Loss of earnings	74	25	12	16	4	218	20,000	7,617	91,409	3
Damage to clothing	71	24	57	80	20	10	779	143	8,142	0.3
Report	33	11	8	24	3	130	1,650	473	3,786	0.1
Legal	49	17	25	51	9	495	500	500	12,495	0.4
Exceptional circumstances	110	38	51	46	18	14	22,794	2,945	150,212	5
Recognition payment	291	100	291	NA	100	1,500	10,000	7,257	2,111,850	74
cols 1-8: victim-based outcomes; cols 9-10: VAQ funds disbursed						1,500	43,357	9,815	2,856,106	100

*Notes*

1. Figures are for 291 sexual violence cases decided 2012-13.
2. Even when an applicant does not request a recognition payment, it is granted because all eligible primary victims are entitled to receive it.
3. See Part II (B2) for a detailed description of each expense category.
4. Cols 9 and 10 show total funds *disbursed* by VAQ for expenses and recognition payments, and the percent of each item of the total disbursed. These figures differ from averages for the 291 victims. For example, although the recognition payment was 74 percent of total funds disbursed by VAQ for these items, the share that the recognition payment was of total payments to victims was, on average, 81 percent (all cases), 72 percent (those who received expenses), and 100 percent (those who did not receive expenses).

Table 7. Sex/gender analysis for category A and B offences

<b>Category A</b>	<b>male N=18</b>	<b>female N=173</b>	<b>Indicative t-test of means (2 groups); Fisher's Exact Test for cross-tabs</b>
average recognition payment (\$)	10,000	9,396	** (.00) (male higher), equal variance not assumed
% received maximum recognition payment	100	78	** (.02) (male higher)
<hr/>			
% apply expenses	89	87	no diffs
% receive expenses	67	73	no diffs
% success rate (of those who applied)	75	83	no diffs
<hr/>			
	<i>(N=12)</i>	<i>(N=126)</i>	
average expenses received (\$)	7,407	3,773	near (.14) (male higher), equal variance not assumed
expenses received by applicant group (\$)			
child-child (male N=6; female N= 51)	6,884	3,663	near (.13) (male higher), equal variances assumed
child-adult (male N=6; female N=40)	7,930	3,486	no diffs
adult-adult (male N=0; female N=35)	no cases	4,262	
<hr/>			
total payment (received expenses) (\$)	17,407	13,082	** (.02) (male higher), equal variance assumed
<hr/>			
	<i>(N=6)</i>	<i>(N=47)</i>	
total payment (did not receive expenses) (\$)	10,000	9,627	** (.01) (male higher), equal variance not assumed
<hr/>			
<b>Category B</b>	<b>male N=19</b>	<b>female N=81</b>	
average recognition payment (\$)	3,021	3,073	no diffs
% received maximum recognition payment	53	56	no diffs
<hr/>			
% apply expenses	95	94	no diffs
% receive expenses	63	64	no diffs
% success rate (of those who applied)	67	68	no diffs
<hr/>			
	<i>(N=12)</i>	<i>(N=52)</i>	
average expenses received (\$)	2,820	2,810	no diffs
total payment (received expenses) (\$)	5,670	5,978	no diffs
<hr/>			
	<i>(N=7)</i>	<i>(N=29)</i>	
total payment (did not receive expenses) (\$)	3,314	2,903	** (.05) (male higher), equal variance not assumed



**Table 8. Sex/gender analysis for four offences**

	male	female	<b>Indicative t-test of means; Fisher's Exact Test for cross-tabs ** p &lt; .05 * p &lt; .10</b>
<b>Rape (N=118)</b>	<b>N=9</b>	<b>N=109</b>	
average recognition payment (\$)	10,000	9,381	** (.00) (male higher), equal variance not assumed
% received maximum recognition payment	100	78	no diffs
% apply expenses	89	91	no diffs
% receive expenses	89	79	no diffs
% success rate (of those who applied)	100	87	no diffs
	(N=8)	(N=86)	
average expenses received (\$)	7,273	3,928	near (.145) (male higher)
total payment (received expenses) (\$)	17,273	13,277	* (.095) male higher
	(N=1)	(N=23)	
total payment (did not receive expenses) (\$)	10,000	9,500	no diffs (only one male case)
<b>MSR (N=73)</b>	<b>N=9</b>	<b>N=64</b>	
average recognition payment (\$)	10,000	9,422	** (.00) (male higher), equal variance not assumed
% received maximum recognition payment	100	77	no diffs
% apply expenses	89	81	no diffs
% receive expenses	44	63	no diffs
% success rate (of those who applied)	50	77	no diffs
	(N=4)	(N=40)	
average expenses received (\$)	7,675	3,439	near (.135) (male higher), equal variance assumed
total payment (received expenses) (\$)	17,675	12,664	* (.10) male higher
	(N=5)	(N=24)	
total payment (did not receive expenses) (\$)	10,000	9,750	no diffs
<b>Sexual assault (N=34)</b>	<b>N=4</b>	<b>N=30</b>	
average recognition payment (\$)	2,725	3,101	no diffs
% received maximum recognition payment	0	60	** (.04) female higher
% apply expenses	100	97	no diffs
% receive expenses	75	60	no diffs
% success rate (of those who applied)	75	62	no diffs

	male	female	<b>Indicative t-test of means; Fisher's exact test for x-tabs ** p &lt; .05 * p &lt; .10</b>
	(N=3)	(N=18)	
average expenses received (\$)	4,095	3,085	no diffs
total payment (received expenses) (\$)	6,662	6,377	no diffs
	(N=1)	(N=12)	
total payment (did not receive expenses) (\$)	3,200	2,817	no diffs (only one male case)
<b>ITC (N=66)</b>	<b>N=15</b>	<b>N=51</b>	
average recognition payment (\$)	3,100	3,056	no diffs
% received maximum recognition payment	67	53	no diffs
% apply expenses	93	92	no diffs
% receive expenses	60	67	no diffs
% success rate (of those who applied)	64	72	no diffs
	(N=9)	(N=34)	
average expenses received (\$)	2,395	2,665	no diffs
total payment (received expenses) (\$)	5,339	5,768	no diffs
	(N=6)	(N=17)	
total payment (did not receive expenses) (\$)	3,333	2,965	no diffs

**Table 9. Indigenous status analysis for category A and B offences**

<b>Category A</b>	<b>Indigenous N=27</b>	<b>non- Indigenous N=151</b>	<b>Indicative t-test of means; Fisher's Exact Test for cross-tabs ** p &lt; .05 * p &lt; .10</b>
N male	1	16	no diffs (male share of Indigenous cases lower [4%] than non-Indigenous, but not significant)
N female	26	135	
average recognition payment (\$)	9,185	9,506	no diffs
% received maximum recognition payment	67	82	* (.07) non-Indigenous higher
% apply expenses	78	89	near (.13) non-Indigenous higher
% receive expenses	52	76	** (.02) non-Indigenous higher
% success rate (of those who applied)	67	85	* (.06) non-Indigenous higher
		<i>(N=14)</i>	<i>(N=114)</i>
average expenses received (\$)	1,345	4,049	* (.09) non-Indigenous higher, equal variance assumed
total payment (received expenses) (\$)	10,488	13,461	* (.08) non-Indigenous higher, equal variance assumed
		<i>(N=13)</i>	<i>(N=37)</i>
total payment (did not receive expenses) (\$)	9,231	9,797	no diffs
<b>Category B</b>	<b>Indigenous N=8</b>	<b>non- Indigenous N=75</b>	
N male	2	16	similar M/F distributions; no diffs
N female	6	59	
average recognition payment (\$)	3,438	3,019	** (.00) Indigenous higher, equal variance not assumed
% received maximum recognition payment	88	48	* (.06) Indigenous higher
% apply expenses	88	95	no diffs
% receive expenses	25	72	** (.01) non-Indigenous higher
% success rate (of those who applied)	29	76	** (.02) non-Indigenous higher
		<i>(N=2)</i>	<i>(N=54)</i>
average expenses received (\$)	4,005	2,947	no diffs (low N of Indigenous cases)
total payment (received expenses) (\$)	7,507	6,020	no diffs (low N of Indigenous cases)
		<i>(N=6)</i>	<i>(N=21)</i>
total payment (did not receive expenses) (\$)	3,417	2,880	** (.00) Indigenous higher, equal variance not assumed

Notes: N=261 cases Indigenous status known. Of 35 Indigenous, 27 (77%) in category A. Of 226 non-Indigenous, 151 (67%) in category A. Of 32 female Indigenous, 26 (80%) in category A; of 194 female non-Indigenous, 135 (70%) in category A. Of 3 male Indigenous, 1 (100%) in category A; of 32 male non-Indigenous, 16 (50%) in category A.

**Table 10. Indigenous status analysis (female cases only) for category A and B offences**

<b>Category A</b>	<b>Indigenous female N=26</b>	<b>non-Indigenous female N=135</b>	<b>Indicative t-test of means; Fisher's Exact Test for cross-tabs ** p &lt; .05 * p &lt; .10</b>
average recognition payment (\$)	9,154	9,448	no diffs
% received maximum recognition payment	65	80	near (.12) non-Indigenous higher
<hr/>			
% apply expenses	81	88	no diffs
% receive expenses	54	76	** (.03) non-Indigenous higher
% success rate (of those who applied)	67	86	** (.05) non-Indigenous higher
<hr/>			
	<i>(N=14)</i>	<i>(N=102)</i>	
average expenses received (\$)	1,345	3,653	near (.13) non-Indigenous higher, equal variance assumed
total payment (received expenses) (\$)	10,488	12,997	near (.12) non-Indigenous higher, equal variance assumed
<hr/>			
	<i>(N=12)</i>	<i>(N=33)</i>	
total payment (did not receive expenses) (\$)	9,167	9,773	no diffs
<hr/>			
<b>Category B</b>	<b>Indigenous female N=6</b>	<b>non-Indigenous female N=59</b>	
average recognition payment (\$)	3,417	3,026	** (.00) Indigenous higher, equal variance not assumed
% received maximum recognition payment	83	48	no diffs
<hr/>			
% apply expenses	83	95	no diffs
% receive expenses	33	73	* (.07) non-Indigenous higher
% success rate (of those who applied)	40	77	near (.11) non-Indigenous higher
<hr/>			
	<i>(N=2)</i>	<i>(N=43)</i>	
average expenses received (\$)	4,005	2,964	no diffs (low N of Indigenous cases)
total payment (received expenses) (\$)	7,505	6,086	no diffs (low N of Indigenous cases)
<hr/>			
	<i>(N=4)</i>	<i>(N=16)</i>	
total payment (did not receive expenses) (\$)	3,375	2,769	** (.01) Indigenous higher, equal variance not assumed

**Table 11. RAPE cases: real rape, victim credibility, and offence seriousness  
(females 12 years and older)**

	variable type*	N	% of 75	% receiving the maximum		Fishers' Exact one-tail test
				average % element/else	element stat sig higher?	
<b>Rape (N=75)</b>						
<b>Real rape elements</b>						
stranger	C	13	17%	92/73	yes	0.12
public place	M	14	19%	86/74	no	0.29
evidence of physical violence/force	M	21	28%	86/72	yes	0.18
weapon use	M	6	8%	83/75	no	0.56
multiple assailants	M	4	5%	75/76	no	0.68
any real rape element	A (C/M)	35	47%	89/65	yes	0.16
<b>Victim credibility (positive)</b>						
reported offence within 3 days	C	47	63%	75/79	no	0.46
reported offence within 7 days	C	54	72%	74/81	no	0.38
resistance mentioned	M	10	13%	80/75	no	0.55
court conviction	C	27	36%	70/79	no	0.28
any positive credibility item	A (C/M)	64	85%	77/73	no	0.52
<b>Victim credibility (negative)</b>						
attended hotel/party/event	M	11	15%	64/78	no	0.25
had alcohol or drugs	M	4	5%	25/79	yes	0.04
accepted company from offender	M	11	15%	55/80	yes	0.08
any negative credibility item	A (M)	17	23%	65/79	yes	0.18
<b>Seriousness</b>						
young victim	M	28	37%	79/75	no	0.46
impairment (intellectual disability)	M	2	3%	100/75	no	0.58
power/trust relationship	M	12	16%	83/75	no	0.41
age disparity (3 years or more)	M	5	7%	80/76	no	0.66
series of crimes		25	33%	88/70	yes	0.07
any seriousness item mentioned	A (M)	43	57%	79/72	no	0.33
*Variable types: C = complete data on the variable. M = coded when mentioned by assessor in SoR. A = aggregate variable. Aggregate variables may combine complete data and mentions, A (C/M); or they may be mentions only, A (M).						

**Table 12. SEXUAL ASSAULT cases: real rape, victim credibility, and offence seriousness  
(females 12 and over)**

	variable type*	N	% of 29	% receiving the maximum		Fishers' exact one-tail test
				average % element/else	element stat sig higher?	
<b>Sexual Assault (N=29)</b>						
<b>Real rape elements</b>						
stranger	C	8	28%	50/62	no	0.43
public place	M	2	7%	0/63	wrong direction	0.16
evidence of physical violence/force	M	8	28%	63/57	no	0.57
weapon use	M	2	7%	100/56	no	0.34
multiple assailants	M	1	3%	100/57	no	0.59
any real rape element	A (C/M)	16	55%	56/62	no	0.54
<b>Victim credibility (positive)</b>						
reported offence within 3 days	C	14	48%	71/47	yes	0.17
reported offence within 7 days	C	16	55%	69/46	yes	0.20
resistance mentioned	M	5	17%	40/63	no	0.33
court conviction	C	10	35%	70/53	no	0.31
any positive credibility item	A (C/M)	21	72%	62/50	no	0.43
<b>Victim credibility (negative)</b>						
attended hotel/party/event	M	1	3%	0/61	no	0.41
had alcohol or drugs	M	0	0%	no case	no case	no case
accepted company from offender	M	2	7%	100/56	no	0.34
any negative credibility item	A (M)	3	10%	67/58	no	0.63
<b>Seriousness</b>						
young victim	M	5	17%	100/50	yes	0.05
impairment (intellectual disability)	M	1	3%	100/57	no	0.59
power/trust relationship	M	0	0%	no case	no case	no case
age disparity (3 years +)	M	2	7%	100/57	no	0.34
series of crimes	M	3	10%	67/58	no	0.63
any seriousness item mentioned	A (M)	8	28%	88/48	yes	0.06
*Variable types: C = complete data on the variable. M = coded when mentioned by assessor in SoR. A = aggregate variable. Aggregate variables may combine complete data and mentions, A (C/M); or they may be mentions only, A (M).						