

Mr Walter Sofronoff KC
Chair
ACT Criminal Justice System Board of Inquiry
PO Box 1429
CANBERRA ACT 2601
via email: BOI.Information@inquiry.act.gov.au

12 May 2023

Dear Chair

We refer to your letter dated 3 May 2023. You have asked us to:

- confirm whether the Sexual Assault (Police) Review Oversight Committee (Oversight Committee) is examining the systems response by criminal justice agencies to reports of sexual violence and give an overview of that aspect of its work;
- provide the Inquiry with the terms of reference for any independent expert engaged by the Oversight Committee to assist with that systems review; and
- outline when the Oversight Committee expects to publish its findings/report.

The Sexual Assault (Police) Review (the Review)

1. The Review was established in response to Recommendation 15 of the *Listen. Take Action to Prevent, Believe and Heal* report (the SAPR Report) which recommended the following:

The ACT Government establish and fund an independent cross-agency taskforce to undertake a review of all sexual assault cases reported to ACT Policing that were not progressed to charge, including those deemed unfounded, uncleared, or withdrawn. The initial phase of the review to focus on reports made from 1 July 2020 to present. Subject to the outcomes of this initial phase, the review is to be extended to all reports made since 1 January 2015 that have not progressed to charge. Further any victim survivor whose matter has not progressed to charge outside of this stated review period may also request a review of their matter.

2. Recommendation 15 was agreed to by the ACT Government and funded in its 2021-22 Midyear- Budget Review. The ACT Government funded the establishment of a cross-agency taskforce to review sexual assault cases which occurred in the ACT from 1 July 2020 to 31 December 2021 that were reported to ACT Policing but did not progress to charge.¹ This process is referred to as the Sexual Assault (Police) Review (the Review).
3. The Oversight Committee was established in May 2022 to lead the Review. The Oversight Committee is headed by two independent Co-Chairs, Christine Nixon AO APM and Karen Fryar AM, in line with the commitment in recommendation 15 to be an independent, cross-agency taskforce. The Oversight Committee is comprised of the Chief Police Officer, the Director of Public Prosecutions, the Victims of Crime Commissioner and the Domestic,

¹ ACT Government, Budget Review, 2021-22, p 67.

Family and Sexual Violence Coordinator-General.²

4. The Review's Terms of Reference are at Appendix 1 of this letter. The relevant section of the Terms of Reference provides that the purpose of the Review is:
 - a. to better understand the reasons for the low number of sexual offence reports proceeding to the point of charge, including but not limited to:
 - i. identifying whether current police processes are being adhered to and whether any changes should be made to police processes in relation to the conduct of investigations;
 - ii. identifying whether decisions are legally sound in all cases and whether those decisions are clearly recorded, reviewed and communicated to the Director of Public Prosecutions and the complainant;
 - iii. identifying any systemic cultural or practical changes or additional services that may be required to better support child and adult complainants and uphold their rights under the Victims Charter; and
 - iv. any other relevant matter.
 - b. for each case reviewed, to:
 - i. identify what, if any, further investigation should be undertaken;
 - ii. identify whether there is a reasonable prospect of conviction after the investigation; then
 - iii. consider whether criminal charges should be laid.
5. The Terms of Reference are implemented in practice through a two-stage approach. This is outlined briefly below:
 - a. An Investigation Case Analysis which examines cases to determine whether decisions not to charge are legally sound. It also makes recommendations about whether a victim survivor should be re-engaged and/or the matter reinvestigated by ACT Policing. This work is undertaken by the Office of the Director of Public Prosecutions with support provided by ACT Policing.

A Process Review analyses cases for insights into reasons for high attrition rates for complaints re sexual offences in the ACT. The work of the Process Review Team is addressed in paragraph 14 of this letter. The Process Review Team is led by the independent researcher and supported by Victim Support ACT and ACT Policing to the extent necessary to facilitate the researcher to do their work on an independent and methodologically sound basis.

The Process Review will include victim-survivor consultations to centre their lived

² The Chief Police Officer withdrew from the Oversight Committee on a temporary basis in April 2023. ACT Policing is being represented on the Oversight Committee by Commander Andrew Bailey until the Chief Police Officer has concluded his engagement with the Board of Inquiry into the Criminal Justice System.

experience in reporting to police in the ACT, providing further insights into the systems responses of criminal justice agencies responding to reports of sexual violence.

6. In undertaking its functions, the Oversight Committee is guided by advice from a Working Group, consisting of officer-level representatives from agencies represented on the Oversight Committee. It is also informed by advice from the Review's independent researcher.
7. Issues addressed by the Working Group since it was established include, but are not limited to:
 - a. legislative frameworks to support information-sharing for the Review;
 - b. defining the dataset; and
 - c. operational matters such as:
 - i. procurement of independent researcher and associated contract negotiations;
 - ii. developing trauma-informed materials to support re-engagement of victim-survivors as part of the Investigation Case Analysis;
 - iii. resolving technical issues to enable the independent researcher to access PROMIS data for the process review
8. Matters relevant to the Review do not involve members of the Oversight Committee in their personal capacities. The Oversight Committee members are representatives of agencies with operational functions relevant to the Review.

Independent researcher

9. In its meeting of 3 June 2022, the Oversight Committee determined that to undertake its work and meet its Terms of Reference, an experienced, professional, independent and academically rigorous independent researcher should be engaged to conduct both quantitative and qualitative analysis.
10. A procurement process was undertaken by the Domestic, Family and Sexual Violence Office, as Secretariat for the Review, to locate a suitable researcher who understands, or has experience doing the following:
 - a. working on sexual assault and/or sexual violence issues whether within a domestic and family violence context, or otherwise;
 - b. engaging with vulnerable stakeholders, including experience in sensitive inquiry for those personnel who may engage in interviews with victim survivors;
 - c. process reviews;
 - d. working with government; and
 - e. engaging with police.
11. Dr Rachael Burgin from Swinburne University of Technology has been engaged as the Review's independent researcher tasked with undertaking and leading the Process Review. Her work involves assessing and analysing the investigation and response to complaints of sexual assault made to ACT Policing between 1 July 2020 and 31 December 2021 falling

within Part 3 and Part 3A of the *Crimes Act 1900* (ACT) and self-referred reports of sexual offences outside of this time period. This research will inform the final report of the Review.

12. Dr Burgin is supported by Dr Anastasia Powell from RMIT University and Dr Adrienne Byrt. Officials from Victim Support ACT assist Dr Burgin to undertake data collection for this purpose. Dr Burgin and Dr Powell are both leading experts on sexual violence evidenced not only by scholarly outputs, but also by commissioned projects, representation on high-level advisory committees and regular media engagements.
13. As a part of the Process Review Team, the independent researchers are required to:
 - a) develop and undertake the Process Review;
 - b) conduct interviews with victim-survivors in matters that will not proceed to charge, in a trauma-informed and victim-survivor centric manner;
 - c) assess ACT Policing compliance with internal policies and procedures in the investigation of sexual assault matters;
 - d) compile quantitative and qualitative data from the process review matter reviews, victim-survivor interviews and other research methods as agreed by the process review team to identify trends and themes for inclusion in an interim and final assessment report;
 - e) obtain ethics approvals for the research;
 - f) participate in meetings with government agencies involved in the process review;
 - g) manage and maintain the confidentiality of sensitive, personal information and personal health information in accordance with applicable Territory and Commonwealth laws and processes agreed by the process review team; and
 - h) any other action that the process review team agrees upon.
14. These requirements are formalised in a contract with the independent researcher, the Territory and ACT Policing.

Timelines and next steps

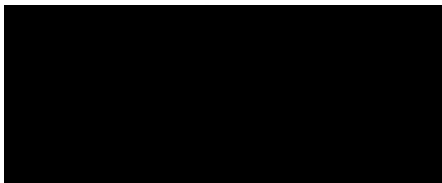
15. Dr Burgin provided an interim assessment report to the Oversight Committee on 6 April 2023. This report detailed work undertaken to establish the Process Review and made recommendations on ways to enhance the second phase of the Review. Dr Burgin is due to provide a final report to the Oversight Committee in late 2023.
16. We delivered our Interim Report to the ACT Government via the Domestic, Family and Sexual Violence Office on 2 May 2023. We did not make recommendations in this report but will do so following the completion of all phases of the Review.
17. The Review will continue throughout 2023.
18. Victim-survivors whose cases were recommended for re-engagement will continue to be contacted by Victim Support ACT. The Process Review will also continue during this period.

19. We intend to issue our final report to the ACT Government in late 2023. This report will be informed by the insights provided by the Independent Researcher, Investigation Case Analysis, Process Review and sector consultation.

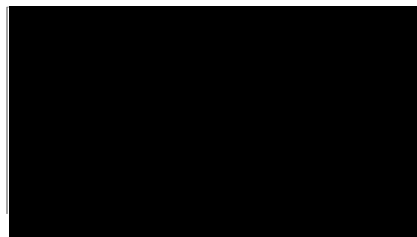
Conclusion

20. The Review implements an important recommendation from the SAPR Report, as it seeks to identify strengths and opportunities for improving police responses to sexual assault and is situated within a larger reform workplan.
21. A copy of our Interim Report to the ACT Government can be provided upon request after it has been considered by the Minister for Police and Emergency Services, the Attorney-General and the Minister for the Prevention of Domestic and Family Violence.

Yours sincerely



Christine Nixon
Co-Chair, Oversight Committee
Sexual Assault (Police) Review



Karen Fryar
Co-Chair, Oversight Committee
Sexual Assault (Police) Review

Encl Terms of reference for the Oversight Committee