

Domestic & Family Violence Offences

The Taskforce Challenge to the Justice System

- *Understand and respond* to the *complexity* of domestic violence
- *Support* the vulnerable and become more *accessible*
- Think *creatively* about *existing* powers and functions
- Provide *practical protection* for victims
- Hold perpetrators *accountable*
- Give opportunities to *both* to turn their lives around
together or apart

Overview

- Focus on what we do now
- Creative options... or at least let's pose some questions
- Qld Taskforce proposals to reform criminal law and process

Special Witnesses

- a child under 16 years
- a person with an impairment that would be likely to disadvantage them as a witness
- a person likely to suffer severe emotional trauma
- A person likely to be so intimidated as to be disadvantaged as a witness

Principles for dealing with a child witness

- treat with dignity, respect and compassion
- limit, to the greatest practical extent, the distress or trauma suffered by the child when giving evidence;
- the child should not be intimidated in cross-examination;
- the proceeding should be resolved as quickly as possible.

Special Arrangements

children and vulnerable witnesses

- Recorded police interview (for a child)
- Remote Witness Room & Video Link
- Defendant or other party excluded or obscured
- Control of arrangements for identification by a child
- Closed court
- Support person
- Judicial control of questioning

Other special provisions

- Controlling examination
 - Rest breaks for the witness
 - Limit the time for questioning
 - Limit the number of questions on an issue
 - Keeping questions simple
- Unrepresented defendant cannot personally cross-examine a child or special witness
- Interpreters

The offence in context?

Relevant evidence of the history of the domestic relationship between the defendant and the victim is admissible:

- Offences of violence including murder and manslaughter
- but not sexual offences

Sentencing

- Factual basis for plea
- Victim Impact Statements
- What is the role of the sentencing judge:
 - To assist the victim?
 - To correct or rehabilitate the offender?
- What if a couple reconciles?

Reform Proposals from Qld Taskforce

- a new circumstance of aggravation
 - the relationship or the nature of the offending?
- Recording all DVO breaches (eg non-contact conditions)
 - more information required by sentencing judge?
- New offence of strangulation
 - defence of provocation?
- Review penalties

Some closing thoughts

- Trends in imprisonment; how effective? How desirable?
- Flexibility? options or mandates
- Accountability? return to the sentencing judge
- Judicial Education