



# REVIEW OF GOOD CHARACTER IN SENTENCING

Submission of the  
Community Restorative Centre



*21 February 2025*

## Acknowledgement of Country

CRC acknowledges the Traditional Custodians of the land on which we work and live. The offices of CRC stand on the lands of the Gadigal, Wangal, Bediagal, Wiljkali, Baarkintji, Darug, Wiradjuri, Dharawal, Awabakal, and Worimi Peoples. We recognise their continuing connection to land, water, and community and pay respects to Elders, past and present. We particularly acknowledge their ongoing advocacy on social justice matters such as those discussed in this submission.

*This always was, always will be Aboriginal Land.*

## About this submission

We thank the NSW Sentencing Council (NSWSC) for this opportunity to provide a submission to the Review of Good Character in Sentencing. This submission is informed by our experience as a long running community organisation supporting people impacted by the criminal legal system in NSW.

This submission was prepared by staff of the CRC's Advocacy, Policy and Research Unit (ARPU) with support and contributions from CRC's CEO Alison Churchill, Rory Gillard, Damien Linnane, Reylene Galloway, and Alex Faraguna.

We would like to also draw attention to our [2024 submission to the Australian Law Reform Commission Inquiry into Justice Responses to Sexual Violence](#). Comprehensive recommendations are made in that submission regarding the broad spectrum of victim survivor rights and experiences including and beyond sentencing.

## About the Community Restorative Centre

The Community Restorative Centre (CRC) is the lead NGO in NSW providing specialist support to people affected by the criminal legal system, with a particular emphasis on the provision of post-release and reintegration programs for people with multiple and complex needs. CRC has over 70 years specialist experience in this area. All CRC programs aim to reduce recidivism, break entrenched cycles of criminal legal system involvement, and build pathways out of the criminal legal system. CRC works holistically to do this, addressing issues such as homelessness, drug and alcohol use, social isolation, physical and mental health, disability, employment, education, family relationships, financial hardship, and histories of trauma.

All CRC services utilise a human rights framework which recognise the inherent value of all people and aim to create genuine opportunities for people affected negatively by the criminal legal system. People leaving prison and their families have the right to be treated fairly and have the ability to make genuine choices about building pathways out of the criminal legal system and into the community.

# 1. Introduction

We recognise the profound trauma and harm experienced by survivors of child sexual abuse, and we acknowledge the courage of individuals and organisations who have contributed to this consultation. The ongoing impacts and harm of child sexual assault is significant on all aspects of a person's life, often lifelong. We respect all those who have expressed their experiences of the criminal legal system, and the nuanced understanding of the impacts of prior good character in sentencing.

Our position does not diminish the seriousness of these offences; rather, it is rooted in our longstanding commitment to decarceration, addressing the social and systemic factors that contribute to offending, and advocating for policies that prioritise harm reduction, accountability, and rehabilitation over punitive approaches.

Any discussion on sentencing reform must be informed by an understanding of the broader social determinants of criminalisation, particularly for marginalised communities. This includes an understanding of the structural drivers of offending—including poverty, trauma, and systemic discrimination. Our submission, therefore, seeks to ground this discussion in an evidence-based, systemic analysis that considers both the realities of those convicted of offences and the broader community impact of sentencing decisions.

CRC's position aligns with the perspectives of the NSW Council for Civil Liberties and the Aboriginal Legal Service (NSW/ACT), among others, in not supporting the blanket removal of good character considerations in sentencing for child sex offences. Such a shift risks undermining principles of individualised sentencing and the capacity of courts to consider the full context of a person's background and rehabilitation prospects.

## *A punitive approach does not reduce sexual violence*

Combatting sexual violence as an individual act, as the criminal legal system currently does, is largely ineffective at reducing sexual violence, including child sexual violence, and supporting victim survivors (Moore, 2016). As such, we do not seek an extension of punitive individualised justice responses by way of the prison system to respond to sexual violence. Increasing the carceral net and punishment does not work to reduce rates of sexual violence (Goodmark, 2009, p. 51). Further, expanding criminal responses often has disproportionate impacts on First Nations people and other marginalised groups due to factors such as over policing, more limited access to appropriate support services and factors in bail refusal. First nations people are overrepresented in prisons due to systemic inequality and racism in the criminal legal system (Anthony, 2020).

CRC advocates for responses to address sexual harm that come outside the criminal legal system (as it stands now). We believe there needs to be a focus on prevention; transformative and restorative justice approaches; community-based supports for people experiencing and escaping sexual violence; increased support for victim-survivors of child sexual violence; and increased support for men (both as victims of sexual violence, including abuse which occurred in childhood, and as people convicted of sexual violence/at risk of causing sexual violence).

### *Longer prison sentences doesn't make our community safer*

Our position is informed by our concern that removing consideration of 'good character' will extend the length of sentences for people. CRC is hesitant to support amendments that will potentially have the effect of incarcerating people for longer, as we recognise that prison is an ineffective mechanism of addressing root causes or reducing recidivism (Productivity Commission, 2021). Prisons isolate people, separate people from supports like ongoing counselling and community programs and expose people to harm (including sexualised violence) which do not create the conditions needed to change people's behaviour. The Victorian Sentencing Advisory Council states that "Research into specific deterrence shows that imprisonment has, at best, no effect on the rate of reoffending and often results in a greater rate of recidivism" (2011, p. 2).

The overincarceration of First Nations people is also well documented, and the subsequent ongoing traumatic, health and family impacts on individuals and communities (Deadly Connections, 2021). Evidence shows that many individuals leaving prison are not set up with an exit plan, appropriate access to resources, housing, access to transport and drug and alcohol support. In addition, those services that are offered are individualistic and focused on the 'offending behaviour,' and do not address the structural factors that drive interactions with the criminal legal system (Russell et al., 2022, p. 7). Prisons are criminogenic: you're more likely to return to prison if you have been there before (Payne, 2007).

We are strong advocates for holding people accountable for the harm they cause to individuals and communities. However, we recognise that holding people accountable for their behaviour and punishment through incarceration are not necessarily the same thing. Incarcerating people does not guarantee people will accept accountability for their actions (Kaba, 2021, p. 26). On this note, Mariame Kaba, a US-based educator on the prison system, argues, "our adversarial court system discourages people from ever acknowledging, let alone taking responsibility for, the harm they have caused. At the same time, it allows us to avoid our own responsibilities to hold each other accountable, instead delegating it to a third party—one that has been built to hide away social and political failures [via incarceration]."

*"As a survivor of childhood sexual assault, I firmly believe people who commit these crimes should be held to account. I also believe sentencing should be at the discretion of judges, rather than politicians, and removing good character submissions doesn't make society safer. People who are campaigning to remove good character submissions are well-meaning, but either fail to understand or choose to ignore that a judge being able to take 'good character' into consideration doesn't mean that they will.*

*It's the same issue with parole – there is little societal understanding that being eligible for parole doesn't mean they'll necessarily get it. Just because a good character submission is admitted, doesn't mean that it will be given any weight in sentencing. This should be a decision for someone who has had a career in weighing all the factors in an individual's case. When we remove the ability of a judge to take all factors into consideration when sentencing, it won't result in outcomes that are fairer or more appropriate.*

*If someone is a repeat offender or has been assessed as highly likely to reoffend, judges will indeed be less likely to take a good character submission into consideration. Likewise, I personally feel differently towards repeat offenders than people who make isolated mistakes, even horrific ones. Good character submissions should be at least considered, because there's more to every person than the single worst mistake they've made."*

**Damien Linnane**, CRC Editor of Paper Chained Magazine, and PhD Candidate researching the experiences of incarcerated people's access to healthcare

### *Experiences of sexual violence amongst people who have been in prison: the 'victim' and 'offender' overlap*

The exclusion of good character from all sexual offences, or all child sexual offences, undermines the discretion of the judge to undertake individualised sentencing. Importantly, it also discounts the personhood and context around people who have committed sexual offences. Its removal entrenches societal ideas that those who have caused harm have no capacity for rehabilitation and pushes us further away from reintegration, therapeutic or restorative approaches to justice.

People who have been in prison have statistically experienced higher rates of violence and sexual violence compared to the general community. Research on experiences of sexual and physical assault amongst people in prison in Australia found that in a sample of 2,426 people in prison, 13% of men and 60% women had experienced sexual abuse (Schneider et al., 2011). People in prison also experience higher rates of childhood sexual abuse in comparison to those in the general community where 60% of women and 37% men in prison reported they had experienced childhood sexual abuse (JH&FMHN, 2017).\*

A study of 789 men and women in prisons across NSW, found that approximately 50% of women and 16% of men reported being sexually abused before the age of 16, with the authors concluding that childhood sexual abuse is "much more common in NSW prisons than in the general community and is associated with long term mental health and behavioural risks" (Butler et al., 2001, p. 109). The Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission) spoke to a range of people across Australia who had experienced sexual abuse at a young age. 22.7% of the people spoken to had committed a criminal offence at some point in their lives. According to another study, child sexual abuse victims were almost five times more likely to be charged with an offence than their peers in the general population (Royal Commission, 2017, p. 144).

By its very nature, the criminal legal system upholds a distinction between 'victim' and 'offender', whereby prison is intended as punishment for 'offenders'. But these categories are more often more nuanced, as people who have used sexual violence have often experienced sexual violence

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\* CRC would like to acknowledge that in the data provided by Government agencies, and in many research studies, only 'men' and 'women' are included. However, we know that non-binary people, Sistergirls, Brotherboys and people of other gender identities also experience high rates of sexual violence and these discussions fail to take the nuanced needs of these communities into account.

themselves. Thus, there is an overlap between ‘victims’ and ‘offenders’, and we find CRC clients have typically experienced violence and abuse throughout their lives. This creates significant trauma and influence a range of factors that can lead to criminalisation. People who have been in prison face higher rates of substance use, housing stress, mental health diagnoses, and financial issues which can be driving factors behind criminalisation (Australian Institute of Health and Welfare, 2023). Despite the prevalence of violence in the lives of our clients, we find they are infrequently seen as ‘genuine’ victims, and are seen as ‘offenders’ first, and ‘victims’ second.

The blurring of binaries of ‘victim’ and ‘offender’ has real implications for how people engage with the criminal legal system, and access to support services. Misunderstanding of the overlap between ‘victims’ and ‘offenders’ creates a range of issues for victim/survivors of sexual violence who are also people who have been convicted of crimes. In the criminal legal system, it may mean that police, juries or judges may be more biased against a criminalised person’s account of events.

## 2. Prior Good Character in Sentencing

### *Inequity in sentencing and the use of prior good character*

The current operation of s21A(5A) of the *Crimes (Sentencing Procedure) Act 1999* includes that good character cannot be considered where it “was of assistance to the offender in the commission of the offence.” This aspect of the legislation was recommended by the Royal Commission to be adopted by other jurisdictions (2017, Rec 74). CRC acknowledges however that there are inconsistencies in the application of this exception and supports a review of its application (ODPP, 2024, 2). CRC further acknowledges that the limited use of good character references in sexual assault cases, particularly child sexual offences, upholds victim rights to not have to hear further defence of the person convicted of violence against them.

There is unfortunately a lack of data on the intersection of race and class in the use of prior good character and mitigation in sentencing. High profile cases, however, such as good character submissions from former Prime Ministers on behalf of George Pell, reveal systemic bias. CRC would like to recognise the inequitable ways, particularly in relation to race and class, that ‘good character’ considerations benefit people who commit offences. In our decades of experience providing support to people affected by the criminal legal system, we hold that it is generally white, middle-class men who most benefit from prior good character considerations.

Between July 2023 and June 2024 in NSW across all courts (Higher, Local and Children’s Criminal Courts), First Nations people were more likely to be imprisoned as a total of all sexual assault and child sexual assault offences, and almost four times more likely to be imprisoned for non-assaultive sexual offences compared with non-Indigenous people (BOSCAR, 2025). Further, First Nations people were less likely to be given community corrections orders (with or without supervision) as an alternative to imprisonment compared with non-Indigenous people (BOSCAR, 2025). There are multiple, compounding, reasons for inequity in the imprisonment rates for First Nations people (Anthony, 2020). However, given entrenched inequalities, CRC supports the view that while there is inequity in who is able to rely on prior good character, access (e.g. increased resources for Legal Aid and access to private lawyers), should be increased rather than removed.

We support a recommendation, made by the NSW Law Society Young Lawyers (2024), to review published judgements on how good character considerations have been applied in practice in sentencing, to indicate whether good character is being considered consistently in sentencing.

*The submission of character references allows for consideration in sentencing across a range of offences*

The removal of prior good character references from all child sexual offences – or all sexual offences – will perpetuate disadvantageous systemic outcomes as crimes committed are different, varied and range in severity. Child sexual offences included a broad spectrum of offending, from the most serious crimes to lower level offences (Legal Aid, 2024, 2). In addition, those charged with these offences range in age, with 14.7% of those charged with sexual offences as a principle offence in 2022-23 aged between 10-17 years (ABS, 2024). There are individual circumstances and factors in each sentencing decision, and the removal of judge’s discretion in these situations does not equate to just outcomes.

*“As a society we often like to paint certain crimes as black or white, but there is actually a spectrum of offences when it comes to sexual assault of minors. For example, there is a difference between someone who actively preys on eight-year-olds, which is what happened to me, and a very young adult who as a first offence, accepts an offer of sex from a teenager under the age of consent. Both are crimes that people should be held accountable for, but they shouldn’t be painted with the same brush.”*

**Damien Linnane**, CRC Editor of Paper Chained Magazine, and PhD Candidate researching the experiences of incarcerated people's access to healthcare

*The submission of character references does not mean they will be used for mitigating sentences*

Based on CRC’s experience working with families of those incarcerated, there is an understanding that character references have been important for families going through the court processes. Clients have advised that character references are suggested by their loved one’s legal team, particularly in support of young and people who have been convicted of an offence for the first time. With individuals who are on remand, the families are often the ones tasked with obtaining and compiling character references from a professional and personal capacity, which is then provided to the lawyer (private or Legal Aid) overseeing the case to present to the magistrate.

The use of character references provides families with a hope that their loved one’s sentencing will be reduced, and increases their support of and faith in the criminal legal system. However, clients advise that in their experiences, character reference do not make a significant difference in sentencing. This is particularly the case where there is repeat offending, or offending over a long period of time or with more than one victim.

While prior good character isn’t always used by the courts to mitigate sentences, CRC holds that a judge’s discretion to take it into account should remain an option. Noting the Victorian

Sentencing Advisory Council, “the purposes of sentencing should be considered independently – according to their own merits – and that caution should be exercised if imprisonment is to be justified as a means of deterring all crimes and all kinds of offenders” (2011). The removal of individual considerations in the process of sentencing does not equate to deterrence or a reduction in recidivism, and can further entrench inequities in sentencing decisions.

#### **Case Study: Linda**

A CRC Family Worker has been working with a client, Linda, for two years since the original arrest of her partner, William. William has been sentenced for sexual offences, including child sexual offences.

During the process, Linda has advised that she had power of attorney and liaised with William’s legal team, including compiling character references from professional and personal contacts within their support network. Character references were provided before sentencing. This was William’s first-time committing an offence.

Despite over 20 character references submitted to the court, William was sentenced to an aggregate term of imprisonment for 10 years with a non-parole period of 5 years.

### **3. Restorative justice, alternative justice and therapeutic responses to sexual violence**

CRC’s work has demonstrated the long-term benefits—both social and economic—of supporting people transitioning out of the criminal legal system. A 2021 report found that individuals accessing CRC’s services generated government savings of \$16 million over three years, highlighting the cost-effectiveness of alternatives to incarceration (NSW Health, 2021, 4). CRC supports evidence-based interventions to hold people accountable for the harm they cause, promote the safety of victim/survivors of sexualised violence, and change the behaviour of people who commit child sex offences.

In response to sexual violence, victim/survivors want acknowledgement and community support over the harms done, their voice in the process in a way that is safe for them to share, assurance that the violence will stop, and accountability which may include an apology (Naylor, 2010). As Naylor (2010) stated, “all of the current features of the trial militate against this.”

Further, increasing penalties for people convicted of sexual violence offences has not proven to be an effective deterrent and does nothing to address the root causes of violence. We also know that criminal legal system responses are discriminatory and will disproportionately target marginalised and minority groups, including First Nations peoples, and people from lower socio-economic status (Ilea, 2018). As such, restorative justice is one way to respond to sexual violence that both upholds victims’ rights, the principles of the justice system and reduce

wellbeing and risk of reoffending for people who have been convicted of sexual violence offences.

### **Case Study: Julie**

A CRC Family Worker has been working with a client, Julie, since September 2024. The client is the parent of a person, Chris, who was incarcerated for sexual offences.

The original referral was from a local community organisation who felt it would be best that Julie received counselling, having navigated NSW's criminal legal system, and for her involvement with her adult child's release into community. Julie and Chris live in regional community and were also concerned with stigma and discrimination within the community, as legal proceedings were highlighted in local NSW media.

Julie advised the CRC Family Worker that character references were provided during the sentencing process for Chris, which Julie felt help reduce sentencing as Chris was provided with a Conditional Release Order. However, Julie is aware that other mitigating factors may have contributed to sentencing. These include Chris' age, as he was 18 years old when the offence occurred, and the arrest took place 14 months after. During the bail period, Chris also attended men's behaviour change program and had forensic psychological support.

Chris has sought restorative justice to make amends, and further rehabilitate himself, however he has been facing barriers and delays within NSW in being able to access or begin this process.

### *Restorative justice in NSW*

There is a very limited restorative justice response in NSW to sexual violence offending. The NSW Government does offer voluntary restorative justice processes however this is only available post-sentencing and generally excludes offences such as sexual assault from conferencing techniques (Corrective Services NSW, 2023). Restorative justice is also embedded in the *Youth Offenders Act 1997 (NSW)* which allows for youth justice conferencing in NSW. The NGO, Transforming Justice Australia (TJA) also offers a restorative justice service in NSW for sexual abuse cases.

### *The need for restorative justice and therapeutic programs*

People convicted of sexual offences are often the subject of intense media focus and public attention, sometimes ostracised from family and community and pushed to the margins of society (Ilea, 2018). As McNeill and Graham (2019, p. 11) note, unless we intend on permanently removing or exiling people who have offended, we must be concerned with their social reintegration following their release from prison. It is our experience as an organisation working with people who have been convicted of sexual offences, that they are less likely to return to prison if they receive reintegration support in the community.

Evaluations of community cognitive behavioural programs in the US, Canada, New Zealand and other jurisdictions have shown that there is a reduced level of reoffending for sexual assault and child sexual assault after participation in these programs (Bravehearts, 2025). The studies presented showed overall greater success with adolescents, that community based treatments have a greater effect in reducing recidivism, and that cognitive behavioural therapy (CBT) was shown to be effective including for people who have committed child sexual offences (Bravehearts, 2025).

Restorative justice, especially for those convicted of sexual offences, is not widely supported by the community. Societal views still label people convicted of sexual offences as individuals that lack the ability to be rehabilitated or reintegrated into communities (Ilea, 2018). This permeates into societal ideas against restorative justice with fears and challenges that:

- Justice conferencing may retraumatise victims and reinforce unequal power dynamics.
- Punishment from restorative justice may not be proportional to the offence.
- People may not be willing to accept responsibility for their actions (Naylor, 2010).

However, with proper trauma-informed and victim/survivor centred practice and program design, these challenges can be mitigated. For example, First Nations women have expressed that if a restorative justice process is community led, then it is a preferred primary response to violence. This is as it allows them to retain power in the process and they see it as a more effective response than the western criminal legal system (Nancarrow, H. 2006). In addition, the National Outcome Standards for Perpetrator Interventions “recognise that perpetrator interventions must be designed to respond effectively to perpetrators from diverse cultures, communities and circumstances and must engage effectively with perpetrators with diverse needs” (ANROWS, 2021, p. 16). For marginalised groups, these interventions are more likely to be effective when they are community led (ANROWS, 2021, p. 17).

Any implementation of restorative justice in NSW must be done with consideration and collaboration with victim survivors to make sure their views are upheld. We maintain that there needs to be more investment into restorative justice and broader public knowledge on what restorative justice processes look like. The positioning must show these processes as an important response which can achieve the aims of victim/survivors and deliver accountability for people who have committed crimes.

*Ways to implement restorative justice and therapeutic programs for people who have committed sexual violence*

The following are examples of programs that are currently in operation (Table 1), that can be expanded and referred to for people who have been convicted of sexual assault and child sexual assault offences. CRC advocates for the expansion of any therapeutic programs that works with people convicted of sexual violence on the basis that they are effective at administering restorative justice.

Table 1. Restorative justice and therapeutic programs

Program	Description
<b>Transforming Justice Australia</b>	CRC auspices Transforming Justice Australia (TJA), which currently provides specialist restorative justice services to people who have experienced sexual abuse. At present this is a voluntary service that is not government funded, however is achieving positive outcomes and feedback for clients. This is highlighted by case studies on the TJA website which describes people in custody taking ownership of the actions, victim survivors expressing that their feelings have been heard and finally having the confidence to access the help that they needed following their experiences. We recommend expansion of specialist services such as TJA who already hold expertise in the restorative justice space.
<b>Circles of Support and Accountability (CoSA)</b>	<p>Circles of Support and Accountability (CoSA) are a community-based initiative which assist people released from serving a prison sentence for sexual offences. The CoSA model was developed in Canada in the mid-1990s and is now used throughout Canada, parts of the US, the UK, Western Europe and first began operating in South Australia in 2015 (Richards, 2020).</p> <p>Randomised controlled trials and quasi-experimental research have found CoSA's have a statistically significant impact on reducing recidivism (Bates et al., 2014; Duwe, 2013, 2018; Wilson et al., 2009). Research also indicates CoSA's may enhance outcomes across a range of social, emotional, economic and health outcomes relating to housing, employment, education, prosocial attitudes, and relationships (Richards, 2020, p. 2).</p>
<b>Men's behaviour change programs (MBCPs)</b>	There are varying types of therapeutic programs in community for people who have committed or are at risk of committing sexual violence offences. Men's behaviour change programs (MBCPs) are the most common of these programs however their approach and outcomes vary widely in Australia (ANROWS, 2021). The main access point for these programs in Australia is the Men's Referral Service which also offers a brief intervention service of specialised phone counselling. This sector however is underfunded and often overlooked in being able to create change and accountability of people who have committed offences. At present in NSW, the waitlist for MBCPs is on average 3 to 5 months (No to Violence, 2024).
<b>Justice conferencing</b>	Justice conferencing involves a meeting between those who have been convicted of sexual violence and those who have been impacted by the crime mediated by a third party. In conferences, victim/survivors get a chance to tell their story and have their feelings heard by the person who has been convicted and third parties. Outcomes may include an apology, questions answered, and feeling heard overall. The key benefits of justice conferencing are that it gives a genuine voice to the victim survivor in a non-adversarial approach, emphasises accountability of people who have been convicted and has been found to also reduce re-offending (Centre for Innovative Justice, 2014, p. 6).
<b>Project Restore</b>	Project Restore in New Zealand is an example of an effective justice conferencing model that takes referrals directly from community or from police during the pre-trial phase and as such is available independent of criminal legal system responses such as police reporting (Project Restore NZ, n.d.).

### *Considerations for the implementation of restorative justice*

To be an alternative to the criminal legal system, restorative justice needs to be offered pre-sentencing and potentially pre-trial for victim/survivors of sexual violence. This would circumvent issues of victim/survivors not wanting or being able to report to police, and the trauma caused by the reporting, investigation and trial process. Further, 85% of reported sexual

assaults have no legal action taken, meaning that the majority of reports go without any recourse for the victim/survivor (Gilbert, 2024).

Of particular importance for CRC's clients is the need to make restorative justice processes accessible to all and explore options for them to be a true alternative to the criminal legal system. CRC supports existing research on pathways to implementing restorative justice which advocates for the introduction of a comprehensive and well-resourced restorative justice framework that is embedded in legislation (Centre for Innovative Justice, 2014; KPMG, 2023).

CRC endorses the range of recommendations and principles already reported about the application of restorative justice including in the National Plan to end violence against women, the NSW sexual violence plan 2022-2027 and the 2021 Victorian Law Reform Commissions report into improving the justice system response to sexual offences.

## 4. Education and Trauma Informed Practice

### *Increase education around prevention of sexual violence*

Early intervention and prevention of sexual violence in Australia is lacking. We too often see men who are at risk of causing sexual harm needing to wait until the last minute, or until an offence has occurred, before they are able to access any help. As such, there should be further investigation and funding of programs that contribute to early intervention and culture shifts such as programs in schools, therapeutic supports for people who have not yet committed offences.

### *Trauma informed practice in courtrooms*

CRC supports strengthening trauma-informed practice and safety for people who are victim/survivors of sexual violence and child sexual offences. CRC commonly gets calls from people involved in sexual violence cases seeking access to support while in the courtroom. We commend that some jurisdictions do offer social workers part of an intermediary scheme and the Justice Advocacy Service and Legal Aid in NSW does offer support to people within courtrooms who have a cognitive impairment or who have experienced domestic violence. However, this does not seem widespread or accessible enough for present levels of need. Ideally, all victim survivors involved in a sexual violence case or at the very least those with complex needs, including those who have a history of criminal legal system involvement, should have the option of a well-trained and trauma informed intermediary as part of their proceedings. Ideally, this would be built in as part of specialist wrap around support for people who require extra help.

### *Trauma informed language*

CRC supports the recommendation, made by the NSW Law Society Young Lawyers in their preliminary submission for this review, to change the language of 'good character' to 'prior character' (or a similar term), recognising that the use of the word 'good' may be invalidating and harmful for people who have experienced child sexual offences (The Law Society of NSW Young Lawyers 2024, p. 7). The word 'good' also elicits a good/bad binary that can be unhelpful in representing people's character generally and further stigmatises individuals.

CRC also supports training of all court staff including judicial officers, lawyers, sheriffs, registrars, around using trauma-informed language and be sensitive to the impact of their interactions with people who may be carrying trauma and mental health conditions from previous engagement with the criminal legal system.

## 5. Recommendations

CRC recommends that:

1. No changes are made to s21A(5A) of the *Crimes (Sentencing Procedure) Act 1999*.
2. 'Good character' be reworded to 'prior character' (or similar).
3. Evidence based diversionary programs and practices for offences related to sexual violence are developed and funded.
4. Restorative justice approaches are implemented to provide a strong alternative way to uphold victims wants and needs in a justice process.
5. Programs for people who have committed sexual violence, which utilise principles of restorative justice and therapeutic and behaviour change principles, should be funded and implemented in response to cases involving sexual violence, including child sexual violence. These would need adequate resourcing and political messaging to ensure effectiveness.
6. Preventative and early intervention measures should be developed and implemented to stop sexual violence before it occurs.
7. Consistent support to people, especially victim survivors, within courtroom proceedings through intermediaries, and specialist wrap-around support, should be provided.
8. Courts should embed trauma-informed practices and processes which enhance the emotional wellbeing of people attending court.

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