

Senate Legal and Constitutional Affairs References Committee inquiry into the adequacy of existing offences in the Commonwealth Criminal Code and of state and territory criminal laws to capture cyberbullying

Following the committee's hearing on 9 February 2018, the committee received a response to questions taken on notice from Ms Vanessa D'Souza, Acting Director, Policy, Analysis and Reporting, National Mental Health Commission. Ms D'Souza stated:

The National Mental Health Commission provided a joint submission with the Mental Health Commissions of Australia (submission 9), which includes the Queensland Mental Health Commission.

At the hearing I took two questions on notice, which are on page 56 and 60 of the proof/draft Hansard. Both questions relate to feedback received from the Queensland Mental Health Commission in relation to cyberbullying perpetrated by people with a mental illness.

- On page 56, Senator Patrick asked about statistics on this issue.
- On page 60, the Chair asked about possible safeguards.

Ms D'Souza stated that she sought a response to these questions from the Queensland Mental Health Commission, which she forwarded to the committee. This response is below:

The Commission notes the significant negative impacts that cyber bullying and other bullying behaviours can have on the mental health and wellbeing of those who are victims of this behaviour (1). The Commission also recognises that people living with a mental illness are more likely to be the victims of violence, harassment and other criminal behaviours than other members of the community (2). The association between mental illness and criminal behaviour is generally weak at the population level (3). The Commission also makes the observation that there are some circumstances where a person's mental illness could directly contribute to them engaging in behaviour that is deemed online harassment or bullying. For example, if they are experiencing acute symptoms of mania, delusions, impulsivity or emotional dysregulation. In these circumstances, it is important that people receive an appropriate therapeutic response, and are not unfairly subject to criminal sanctions.

(1) Cross, D., Shaw, T., Hearn, L., Epstein, M., Monks, H., Lester, L., & Thomas, L. (2009). Australian Covert Bullying Prevalence Study (ACBPS). Perth: Child Health Promotion Research Centre, Edith Cowan University.

(2) Sarah L. Desmarais, Richard A. Van Dorn, Kiersten L. Johnson, Kevin J. Grimm, Kevin S. Douglas, and Marvin S. Swartz. (2014). Community Violence Perpetration and Victimization Among Adults With Mental Illnesses. *American Journal of Public Health: Volume 104*(12), pp.2342-2349.

(3) Peterson, J., Kennealy, P., Skeem, J. Bray, B. and Zvonkovic, A. (2014). How Often and How Consistently do Symptoms Directly Precede Criminal Behavior Among Offenders With Mental Illness?. Columbia University; Law and Human Behavior