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The Secretary
House Standing Committee on
Social Policy and Legal Affairs
Inquiry into the Arrangements
Surrounding Crimes Committed at Sea
PO Box 6021
Parliament House
CANBERRA ACT 2600

Office of the
Director-General

Department of
Justice and Attorney-General

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Dear Secretary,

The Queensland Department of Justice and Attorney-General notes that the House of Representatives Committee Inquiry into the Arrangements Surrounding Crimes Committed at Sea requested formal submissions addressing the Terms of Reference for the Inquiry to be submitted by 23 November 2012. It has come to our attention that there is a public hearing of the Committee scheduled to be held in Brisbane in February 2013. The following information relating to support available to victims of crime in Queensland (which is part of the terms of reference for the Inquiry) provides a general overview of support for victims of violent crime in Queensland for the Committee's consideration.

Support for Victims of Violent Crime in Queensland Including Crimes Committed at Sea

Victim Assist Queensland is part of the Queensland Department of Justice and Attorney-General and was established to provide victims of acts of violence committed in Queensland with financial assistance and access to specialised support services to help victims recover from the physical and psychological effects of violent crime. Victim Assist Queensland operates under the *Victims of Crime Assistance Act 2009* (VOCAA).

Financial Assistance

VOCAA establishes a scheme for the payment of financial assistance to a victim of an act of violence or to a person who incurs, or is likely to incur, funeral expenses relating to the death of a victim of an act of violence. An act of violence is defined in VOCAA as a crime committed in Queensland that directly results in an injury to a person.

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Pursuant to the *Crimes at Sea Act 2000* (Cth) and the *Crimes at Sea Act 2001* (Qld), Queensland's criminal law applies extraterritorially in the areas adjacent to the Queensland coast. Offences committed in such areas are considered to have been committed in Queensland and therefore subject to VOCAA (if the offence involves an act of violence).

Financial assistance can be provided regardless of whether or not the person who committed the act of violence has been identified, arrested, prosecuted or convicted in relation to the act of violence (section 25 VOCAA).

VOCAA provides for financial assistance to be granted to the following victim types:

- Primary victim – a person who is injured as a direct result of an act of violence being committed against them;
- Related victim – a close family member, or dependant, of a person who has died as a result of an act of violence;
- Witness secondary victim – a person who is injured as a direct result of witnessing an act of violence;
- Parent secondary victim – a parent:
 - of a child who is injured as a direct result of the act of violence being committed against them; and
 - who is injured as a result of becoming aware of the act.

A primary victim of an act of violence can apply for a package of financial assistance up to a maximum of \$75,000. Related and parent secondary victims can apply for financial assistance of up to \$50,000. Assistance available to a related and parent secondary victim forms part of a pool of assistance available to all related victims (\$100,000) or parent secondary victims (\$50,000) of an act of violence. Witness secondary victims can apply for up to \$50,000 for a more serious act of violence (murder or manslaughter) or up to \$10,000 for all other acts of violence.

All eligible victims are granted a package of assistance that is tailored to best meet their needs and can include:

- Medical and counselling expenses;
- Travel expenses incurred to obtain medical or counselling services;
- In certain circumstances, the cost of medical or counselling reports;
- Loss of earnings up to \$20,000 (primary, parent secondary and witness secondary victims);
- Payment for damage to the victims clothing (primary victims)
- A special assistance payment of up to \$10,000 depending on the offence (primary victims);
- Up to \$10,000 in recognition of the distress suffered as a result of a primary victim's death (related victims);
- Up to \$20,000 that the related victim would have received but for the death of the primary victim;
- Up to \$500 for legal expenses incurred in applying for assistance (primary, parent secondary, related and witness secondary (more serious) victims)); and

(3)

- Other expenses that might be required to significantly assist in recovery (e.g. relocation, security upgrades) (primary, parent secondary, related and witness secondary (more serious) victims).

The composition of assistance available under VOCAA varies according to the victim type under the Act.

Assistance of up to \$6,000 is also available for any person that has incurred or is likely to incur the funeral expenses for the death of a primary victim of an act of violence.

In order for a person to be eligible for assistance, they must meet certain requirements set out in VOCAA. Section 81 of VOCAA states that a person can not be granted assistance in relation to an act of violence if:

- a. the act of violence has not been reported to –
 - i. a police officer; or
 - ii. for an act of violence against a special primary victim - a police officer or the victim's counsellor or psychologist or doctor; and
- b. the government assessor is reasonably satisfied there is no reasonable excuse for the report not being made.

A special primary victim means -

- a. a primary victim of an act of violence –
 - i. involving a sexual offence; or
 - ii. committed by a person who was in a position of power, influence or trust in relation to the primary victim when the act was committed; or
- b. a primary victim of an act of violence who –
 - i. was a child when the act was committed; or
 - ii. has an impaired capacity, whether or not it existed when the act was committed; or
- c. a primary victim of an act of violence who is being threatened or intimidated by the person who committed the act, or by someone else.

Section 82(1) of VOCAA states that a person can not be granted assistance in relation to an act of violence if the person has not given reasonable assistance to police in the arrest or prosecution of the person who allegedly committed the act of violence. However, section 82(2) states that section 82(1) does not apply if the government assessor is reasonably satisfied that the person had a reasonable excuse for not providing the assistance.

Section 80 of VOCAA states that no grant may be made if the primary victim's activities caused the act of violence and if the government assessor is satisfied that the only reason, or the main reason the act of violence was committed against the primary victim was due to the victim's involvement in criminal activity. Section 80(1) (a) & (b) provide that this includes circumstances where the victim was involved in criminal activity at the time of the act of violence; or because of the victim's previous involvement in criminal activity, whether or not the victim is currently involved in the criminal activity.

VOCAA also provides that where an applicant has received or is likely to receive assistance from another source (e.g. compensation, civil claim, insurance) a government assessor must take the payment into account and reduce the financial assistance grant accordingly. A grant of financial assistance may also be reduced in situations where a government assessor has determined that the applicant's conduct has contributed to their injuries.

Other Types of Support for Victims of Crime

Victim Assist Queensland provides other services to victims of crime including information and referrals, administering the Fundamental Principles of Justice for Victims of Crime in Queensland and the provision of victim support, including court support. The Queensland Government also funds specialist non-government services to assist victims of crime in Queensland including Relationships Australia (Qld) Inc which provides free counselling to victims of violent crime.

- **Victims LinkUp**

Victim Assist Queensland's Victims LinkUp service is a telephone information and referral service that can provide information and referrals to government and non-government support services to help victims recover from the physical and psychological effects of violent crime. Support services include specialist counselling services, sexual assault and domestic violence services and specialist court and victim support agencies across the State.

Victims LinkUp also assists victims to apply for financial assistance including providing help to complete application forms.

Victims LinkUp does not provide legal advice.

- **Fundamental Principles of Justice for Victims of Crime in Queensland**

All Australian jurisdictions have enshrined victims' rights in either administrative charters or in legislation. The Fundamental Principles of Justice for Victims of Crime in Queensland are set out in Chapter 2 of VOCAA and outline the treatment victims of crime can expect to receive from all government agencies. The Justice Principles include:

- the right to fair and dignified treatment;
- privacy of a victim's personal information;
- the provision of information about relevant services available for victims of crime;
- the provision of information about the investigation and prosecution process including a victim's role as a witness;
- the right to minimal exposure to and contact with the offender; and
- the right of a victim to give details of the impact and harm caused to them, via a victim impact statement.

Victim Assist Queensland is responsible for the promotion of the Principles and can, where requested, facilitate complaints. If a victim of crime feels a government

agency, person or persons within the agency have engaged in conduct that is not consistent with the Fundamental Principles of Justice, they have a right to complain.

A victim can complain directly to the relevant government agency, or alternatively can make the complaint to Victim Assist Queensland to refer on to the government agency on their behalf. The government agency is then responsible for conducting an investigation into the complaint and Victim Assist Queensland informs the victim of the final outcome.

- Victim support including court support

Victim Assist's Local Coordination and Capacity Building Program is located in the Ipswich, Cairns, Rockhampton and Townsville courthouses. Local Area Victim Coordination Officers (VCOs) can, where no other service provider exists, support victims of crime with high and complex needs as they go through the criminal justice system. Support may include assistance in completing a Victim Impact Statement, assistance in applying for financial assistance, supported referral pathways to specialised organisations and other intensive court support services.

VCOs additionally work with the local support services to promote victims' rights and build capacity within the sector to provide effective and appropriate service provision to victims of crime.

Summary

While financial assistance is available under VOCAA for victims of acts of violence that occur in Queensland, victims of violent crime committed at sea, outside of Queensland's jurisdiction are not eligible for assistance under VOCAA. Victim Assist records indicate that to date, no applications have been lodged under VOCAA from victims of acts of violence committed at sea within Queensland. However, should applications of this kind be received in future, identifying whether an act of violence committed at sea has occurred within Queensland may raise some complex issues particularly where the act of violence has occurred at a location not clearly adjacent to the Queensland coast.

If the Committee requires any further information on support available to victims of crime in Queensland, please contact Ms Nicola Doumany, Director, Victim Assist Queensland on [REDACTED] who will be pleased to assist.

Yours sincerely



John Sosso
Director-General