

# Seeking answers, being heard

a resource guide  
for the victims  
of mentally ill  
offenders



Queensland  
Government







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In 2006, Queensland Health committed to undertaking a review of the forensic mental health system. As part of the review conducted by Mr Brendan Butler AM SC, a key term of reference focused on the needs of the victims and families of offences committed by mentally ill offenders. The subsequent report *Promoting balance in the forensic mental health system – Final Report – review of the Queensland Mental Health Act 2000* was released in December 2006.

In his report, Mr Butler recommended the creation of a comprehensive kit to assist victims, their families, and the general community with a step-by-step and plain English explanation of the forensic mental health system and the range of services available.

I am pleased to present this resource to further support the work undertaken by Queensland Health and a range of other agencies to support victims of mentally ill offenders as they navigate the forensic mental health system.



Koonarang Nunuccal is an innovative indigenous artist based in Redcliffe, just north of Brisbane. In this painting, the swirls in the symbol of the QHVSS have become helpers, reaching out across the void to support the needs of the community.

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## Why me?

As the victim of a crime committed by an offender diverted to the forensic mental health system, this is probably the first question that you have asked yourself. Whether you are a family member, a neighbour, a friend, a work colleague, or someone injured in undertaking your work duties the question remains a difficult one to answer. If the crime was random and unprovoked, it may be a question you will continue to ask for a long time.

It can be very difficult to make sense of a violent act made against you, and it is natural to feel a range of emotions and feelings before you begin to do so. Others who have experienced being a victim talk about feeling anxious, that they no longer feel safe or able to tell if something like this could happen again. Others feel angry, that they believe the offender was able to commit the crime when they should have been in treatment or under supervision. A large number of victims are family members who are caught between caring for the offender and needing to manage their own and their family's safety. All victims speak about the frustration they feel, that no one is listening to them.

The first thing to remember is that you are not alone. Apart from those close to you who will stand beside you, you will find kindness and understanding in sometimes the most unexpected places. Talk about your feelings, speak to those who will support you, and never be afraid to ask for help.

What can make things easier for you is becoming aware of what may be happening to the offender who committed the crime against you, and understanding the judicial and treatment pathways that the offender may take under Queensland legislation. That way, you can be prepared to navigate the complexity of the forensic mental health system and get the best outcome for yourself and others.

## Why this resource guide?

The guide will take you step by step through the processes of the forensic mental health system, and the steps that the person who committed the offence may progress through. There are shared stories from other victims, highlighting that what you are feeling is normal, and that you are not alone.

The guide will provide you with information about your rights and your eligibility to access information about the offender under Queensland legislation, as well as provide information from your point of view. There is also a section about counselling services, support groups and other resources that can assist you. Definitions of terms you may not be familiar with can be found in the glossary at the end of the guide.

What do I do now?

## First steps

As a victim of any crime, you are likely to have strong emotions related to the crime and the offender. It is important to be able to recognise these emotions, to help you avoid personal problems that may outlive and be more destructive than the actual crime.

You may also find yourself in a situation where you need to put your emotions on hold to focus on dealing with other matters relating to the crime or just coping with your day-to-day life. Organising a funeral, undergoing medical treatments, or even just preparing statements for police, the courts or insurance can be draining experiences, and prolong the emotions you may be feeling.

It is important to take care of yourself as well as others who may be affected by the crime, and don't be afraid to seek help. There are a variety of support groups that exist, often facilitated by people who have gone through similar experiences to you, and who can complement your own personal network of friends and family. You can also seek free counselling through the Victims Counselling and Support Service managed by Relationships Australia or visit your GP for advice and support through these difficult times.

## Trauma

When confronted with a significant threat to your physical safety, your coping mechanisms may be overwhelmed. Emotional responses of helplessness, intense fear and horror may be triggered resulting in trauma. Almost always resulting in a sense of loss, trauma has the capacity to change the way you view the world. This exposes you to feeling vulnerable. The world becomes a place in which neither you nor your understanding of how the world works will ever be the same.

What you may experience:

- difficulty sleeping
- irritability and anger outbursts
- hyper vigilance and anxiety
- poor concentration
- easily startled and exaggerated response
- the event may be re-experienced in dreams, memories and flashbacks
- feelings of being detached, numbing
- feelings of guilt or shame.

Trauma changes your perception of the world and all there is in it. You lose your ability to trust without question and may struggle to find meaning.

To help you move beyond feelings of trauma, you should seek the help of a qualified counsellor or healthcare professional. Relying on self-medication, drugs or alcohol will only delay the process, and can often make things worse. Support services that can help you are listed on page 8.

## Grief

Grief goes hand-in-hand with trauma, the feeling that something important to you is gone forever, and that it can never return to how it originally was. However, grief generally lasts longer, once the trauma of the incident may have long passed. Grief as a human emotion exists to help you learn from past experiences, but the process of feeling grief is so powerful and overwhelming that you may be feeling incapacitated and unable to function mentally and physically.

You can feel grief over any situation, not just the loss of a loved one, but the loss of innocence, the loss of personal freedom, even the loss of trust in the goodness of humanity.

What is important is that it's okay to grieve. Studies have shown that if you bottle it up, it may stay with you forever, but if you release it, you can grieve on your own terms, and ensure that good memories remain. Talking about your feelings with compassionate friends or family members will allow you to let go of the grief and make sense of the world again.



## Shared stories

### Marjorie's story

*"Over ten years ago, my brother was murdered. In the final judgement, his murderer was found to be of unsound mind at the time of my brother's death.*

*After the murder, there were a lot of questions. What was the motive - we were told by the police there was no motive. Even if I'd been told my brother had been murdered for 10 cents, it would have given me a focus for my anger, but to try to get my brain around 'no motive' was too confusing. The next logical step would be to focus on the murderer, but what murderer? We're told there isn't one, that he is a patient.*

*My grief has led me and my family through trauma and breakdowns, confused by the depths of our pain. But there is no need to feel sorry for us as we have survived and we are all growing stronger. In fact, our strength is so palpable now, that we have been able to help others.*

*By asking questions about what happened to my brother and the person who murdered him, I moved from being a victim to having some control back in my life, and the answers gave me something to hang on to."*

### Kellie's story

*"My son was a kind, courteous, down-to-earth man with a beautiful smile. He loved his family and always wanted to marry and have a family of his own. That opportunity was taken from him nine years ago when he was murdered by someone who the Mental Health Court found was of unsound mind.*

*They were dark days for me and it was very difficult to understand the system, and why my son's murderer was not goaled but instead sent to a hospital for rehabilitation.*

*The system has changed a lot now and there is much more support for the victims. There are services like QHVSS and QHVSG who can explain the system, give you support or just call or pop in to check you are OK. To be able to tell your story is so important, and these people don't judge you. They accept you and your story just as they are.*

*It is not about "getting over it" or moving past it, it is about accepting what has happened and realising that there is no turning back. Coming to this realisation has meant I can laugh with my grandchildren, enjoy a cappuccino, and gain pleasure from my gardening.*

*Now when I think about my son and visit him at the cemetery, I look upon his resting place and I can remember all the good times. My heart knows that although this journey has not been easy, I can still get up every day, remember my son and enjoy the wonders of life again."*

## What is a mental illness?

Research estimates that 1 in 10 Australians at any time will suffer from a mental illness, and that 1 in 5 will experience a form of mental illness at some stage in their lifetime\*. However, for an illness that affects more Australians than cancer or heart disease, public perceptions of mentally ill people are often a long way from the truth. The media and entertainment industry often portray mental illness in a strongly negative fashion to promote a headline or build a compelling movie script, but almost always this portrayal is far outside reality.

Under Queensland's *Mental Health Act 2000*, a mental illness is defined as:

*"a condition characterised by a clinically significant disturbance of thought, mood, perception or memory."*

There are three primary groupings of mental illness: anxiety disorders; mood disorders; and psychotic disorders with any number of associated disorders and sub-types. Some people may experience a combination of these illnesses, for example experiencing depression and anxiety is quite common. These disorders can be permanent, episodic, or temporary in nature and those affected can experience either a fairly rapid onset of symptoms or a more gradual deterioration of their mental health.

The most important thing to note is that mental illness is an illness, just like epilepsy or diabetes. The causes can be genetic, the result of a chemical imbalance or environmental factors, or a combination of these three. The use of illicit drugs has been known to trigger psychotic episodes that may develop into a serious mental illness, such as schizophrenia, in someone with predisposing factors. Taking certain non-prescription medications, alcohol, or drugs can have a major effect on mental illness, removing some symptoms while magnifying others.

The brain is the most complex and least understood organ in the human body, and though medical advances in treating mental illness occur all the time, the goal of curing these illnesses remains a long way off. Until then, combinations of medication, therapy, and support offer the best long-term treatment and recovery outcomes available for those suffering from a mental illness.

\*The World Health Organisation has identified depression as the second most serious illness impacting on people in the ages of 15-44 in the world today: [www.who.int/mental\\_health](http://www.who.int/mental_health).

## Mental illness and violent offending

Significant research has been carried out in Australia and overseas into the relationship between violent crime and those suffering from a mental illness. Studies have shown that people with a serious psychotic mental illness who remain untreated are at a slightly higher risk of committing a violent act when unwell than the general population. On the other hand, there is also strong evidence that the mentally ill are quite vulnerable and are significantly more likely to be the victims of crime than the perpetrators.

The research shows that there is statistically very little difference in the prevalence of violence in people with a mental illness undergoing treatment, when compared to others in the community. Substance abusers and people with severe personality disorders have a much higher risk of committing acts of violence.

Finding the right medication at the right dosage with the least side effects is vital to a person's recovery and maintenance of their mental wellbeing. Once the appropriate treatment is started, although this often takes time, the majority of people respond well. The risk of the person re-offending is greatly reduced while they are receiving effective treatment and being appropriately monitored and supported in recovery.

*Contrary to the view created in the media, the majority of victims of violent offences are family members, carers or have some form of relationship with the offender. Many offenders will have difficulty understanding or reconciling their past actions when unwell once their mental state is stabilised.*



What happens when someone enters the forensic mental health system?

Questions that people commonly ask are: "what happens when an offender leaves the criminal justice system and enters the forensic mental health system?" or "will they get away with their crime?" You may also be thinking, "are they able to 'fake' their illness?"

Under Queensland's *Mental Health Act 2000*, a number of interlocking processes ensure that an offender who has symptoms of mental illness is thoroughly assessed and receives the appropriate treatment. It also ensures that the system cannot be manipulated by offenders seeking to escape the criminal justice system. The fact that someone has a diagnosed mental illness does not mean that they will automatically get a mental health defence.

Once someone has been arrested and charged and there are concerns that the offender may be suffering from a mental illness, or they already have a diagnosed mental illness, the offender may be transferred from custody to a mental health facility for a psychiatric assessment. In this case, the offender becomes a "classified patient".

The psychiatric assessment is conducted by qualified professionals with significant experience in the diagnosis of mental illness, particularly in people who have committed criminal offences. Ongoing psychiatric assessments may be made for the entire time that an offender is detained, and will likely include observations over a long period of time for behaviour consistent with the assessed diagnosis.

If the psychiatric assessment determines that the offender has a mental illness requiring treatment, and there is a medical opinion that the person was significantly unwell at the time of the offence, then the case may be referred to the Mental Health Court.

The Mental Health Court is presided over by a Supreme Court Judge who has two forensic psychiatrists to assist the court in an advisory capacity. The Mental Health Court determines whether the patient was of 'unsound mind' at the time of the crime, or of 'sound mind' but 'unfit for trial.' Fitness for trial may be considered in circumstances where the person's mental state has deteriorated since the offence was committed or there are findings of mental incapacity.

Under the Queensland forensic mental health system, it would be extremely difficult for an offender who is found 'not of unsound mind' to evade the criminal justice system. On the other hand, the system assists those people with legitimate mental incapacities to receive treatment and rehabilitation.

## Unsound mind

(modified from Queensland Health: Mental Health Act 2000 – resource guide)

The definition under the Queensland Criminal Code is that an offender is of unsound mind and as such is not *criminally* responsible for an offence if at the time of the offence the offender was in such a state of mental disease or natural mental infirmity that they were completely deprived of the capacity to:

- understand what they were doing
- control their actions
- know that they should not do the act or make the omission.

The offender does not receive an 'unsound mind' finding merely on the basis that they were mentally ill at the time of the offence. The Mental Health Court must be satisfied that the mental illness was of a sufficient degree to deprive the person of at least one of these three capacities.

The court must also take into account the impact of any intentional alcohol or drug intoxication. That is, the 'deprivation of capacity' must result from the mental disease or natural mental infirmity, and not from intoxication.

To make the assessment that a person is of unsound mind, the court considers police and investigation material, victim statements and a number of independent assessments by experienced psychiatrists who may also appear as expert witnesses for cross-examination by the court. The court has broad powers of inquiry, and is not bound by the rules of evidence, allowing it to consider material that would not normally be admissible in standard Supreme Court proceedings.

What this all means is that while there is no dispute of the fact that the person actually committed the offence, because of the deprivation of capacity due to mental illness and a verdict of unsound mind, the person is found to be not criminally responsible for the offence. The criminal proceedings against them are discontinued and they can not be prosecuted in the criminal courts for this particular offence.

Unsound mind does not mean free to go. The court may make a forensic order requiring the person to be detained in an authorised mental health service at which point they become a forensic patient. Patients who committed serious offences, for example murder, manslaughter, rape or dangerous driving causing death become Special Notification Forensic Patients (SNFP), and these patients are required to have additional conditions and monitoring by the authorised mental health service.

If no forensic order is made the Mental Health Court may, on request, make a 'non-contact order' prohibiting the offender from making any contact with a victim, or going to a specific place.

## Unfit for Trial

If an offender is found to be not of unsound mind at the time of committing an offence and the matter is to be returned to the criminal justice system, the Mental Health Court will first determine fitness for trial. An offender can be considered fit for trial based on three attributes: their ability to plead; their ability to instruct their legal counsel (lawyer); and their ability to endure a criminal trial; all without serious adverse consequence to their *current* mental state.

If the offender is assessed as *permanently* unfit for trial, the criminal proceedings are discontinued. A forensic order may be made in regards to:

- the seriousness of the offence
- the offender's treatment needs
- the protection of the community.

If the offender is assessed as being *temporarily* unfit for trial, the criminal proceedings are suspended and a forensic order must be made by the court. This requires the offender to be detained to an authorised mental health facility until they can be returned to the criminal justice system. If the offender remains unfit for trial for a specific period (7 years for offences with a maximum term of life imprisonment, 3 years for all other offences), the criminal proceedings are discontinued.

The forensic order made by the court may also outline conditions for limited community treatment (LCT).

## Treatment and therapy plans

If the Mental Health Court makes a forensic order, the patient will be assessed and the court may decide that the person requires treatment in an authorised mental health service, with due consideration to the appropriate level of security required to ensure community safety. An authorised doctor will prepare a treatment plan for the patient aimed at stabilising their mental condition, managing the risk for re-offending, providing rehabilitation opportunities, and therapeutic support for recovery.

The Mental Health Review Tribunal (MHRT) is an independent body, which periodically reviews the patient's forensic order (at least every six months) and has the authority to order, change, approve limited community treatment, or revoke the forensic order. For more information about the MHRT, see page 21.

## Limited community treatment and discharge

The authorised doctor and treatment team may assess that the progress of the patient's rehabilitation may benefit from re-exposure and limited integration within the community. Alternatively, in less serious offences, an offender may have posted bail prior to attending Mental Health Court.

The Mental Health Review Tribunal may make a decision to approve limited community treatment (LCT), allowing the patient to engage in community rehabilitation opportunities whilst remaining under the care of the authorised mental health service. In making the decision, the tribunal will balance the rehabilitation of the patient with the risk to the victim and safety of the community.

The patient must abide by very strict conditions that apply when LCT is granted, and it can be cancelled by the treating doctor or the tribunal if these conditions are breached, or the patient's mental health or public safety is in question.

LCT options may include allowing the patient to have escorted or unescorted access to the grounds of the mental health service or a designated area, approval to stay overnight at a designated address, or approval to undertake paid or volunteer employment. This is usually a gradual process, in line with the patient's current mental condition and successful periods of prior approved community treatment if any. The amount of leave approved by the MHRT is the maximum level of leave that can be accessed by the patient, and this is reassessed at each tribunal review.

If a patient has been assessed by the treating team as mentally well and has been compliant with all aspects of LCT consistently and over time, the tribunal may approve the patient leave to live in the community. This does not mean they are simply released back into the community without any follow-up, as they must continue to be regularly monitored, assessed and receive treatment under the forensic order.

In reviewing the ongoing mental health of the patient over a period of time, balanced with the safety of the community, the tribunal may decide to *revoke* the forensic order. Extensive risk assessments by the treating team and independent reports from forensic psychiatrists must be obtained prior to this decision. If the forensic order is revoked, the patient will continue to be offered voluntary treatment and support from the mental health service. The patient may otherwise be the subject of an 'Involuntary Treatment Order' (ITO) which requires the patient to submit to ongoing treatment and may include conditions of LCT similar to a forensic order. The tribunal may make non-contact orders when a forensic order has been revoked.

## What are my rights and responsibilities?

As the victim of a crime committed in Queensland, your rights are protected under the *Victim of Crime Assistance Act (2009)*. The Act makes a declaration of the fundamental principles of justice afforded to victims within the criminal justice system and access to financial assistance.

These principles include;

- dignified and fair treatment,
- privacy of the victim
- information about services
- information about investigation of the offender
- information about prosecution of the offender
- victim to be advised on role as witness
- contact between victim and accused to be minimised
- giving details of impact of crime on victim during sentencing
- information about the convicted offender

As the victim of a crime committed by a mentally ill offender, you may be eligible to receive information about the offender under the *Mental Health Act 2000*. You may be contacted by the Queensland Police or other government and non-government agencies to seek your consent to give your contact details to the Queensland Health Victim Support Service (QHVSS).

Should you choose to receive support from QHVSS, a victim support coordinator will be in touch to provide you with information about the services that can be provided to you. A primary role of the QHVSS is to provide awareness of and support you to access your rights and responsibilities under the *Mental Health Act 2000*, and relevant Queensland Health policy.

### Privacy and confidentiality

You have the right to expect that any information you provide to any Queensland Government agency will be kept private, and will not be given out to any third parties without your consent except under very limited (legal) circumstances.

### Your rights

- You have the right to be treated with respect, dignity, and consideration regardless of your age, gender, sexual preference, religion, and culture.
- You have the right to a free interpreter.

- You have the right to a person of your choosing to accompany you to meetings and act on your behalf.
- You have the right to make a complaint (or compliment) on any service, or appeal any action you receive.

### Your responsibilities

- Keep relevant agencies up to date with your correct information if you change your contact details, or no longer require services.
- Abide by legislation not to publicly disclose any information you may receive under a classified or forensic patient information order.

Children and minors under 18 who are the victim of a mentally ill offender are eligible to receive information under information orders. Under the *Mental Health Act 2000*, applications for Information orders are made on their behalf by a parent or guardian, but can also be made by the minor in specific circumstances. Speak to a victim support coordinator for more details.

#### Colleen's story

*"...I am the sister of Brian, and one of five siblings who loved him dearly. My brother's death (murder) has changed our lives forever. Also in the same incident, there was the attempted murder of my nephew, Brian's oldest son.*

*I must say I find it hard to say murder as it was another nephew (Brian's youngest son) who was the perpetrator. Our family members are divided as far as forgiveness goes, some have forgiven and some never will.*

*I know in my heart that my nephew loved his family but because of his drug induced state he was unaware of what he was doing. I also know that Brian would want us to forgive him so we can move on and live a more peaceful life, even though we are not the same people we were before Brian's death.*

*Coming from a very large family, we have found that supporting each other is the best way to heal a broken heart. As time has past we have found that each one of Brian's siblings have contributed one way or another to help those, who have followed in our footsteps, with the loss of their loved one.*

*My healing process now is in supporting families that go through a tragedy.*

*My nephew will never stand trial for the murder of his father and the attempted murder of his brother as he has been declared mentally unstable. My sister and I have visited our nephew, who is incarcerated indefinitely, to tell him that we have forgiven him.*

*Now, two and a half years later, we can share with all Brian's dry sense of humour and witty ways with love."*

## What services can assist me?

### Primary agencies and roles:

To help you make sense of the forensic mental health system, a number of Queensland Government agencies exist to provide you with specific services based on your current circumstances.

Important secondary agencies will be discussed in the *Where can I get help?* section. Contact details for each agency is provided at the back of this booklet on page 42.

### *Queensland Police Service*

[www.police.qld.gov.au](http://www.police.qld.gov.au)

Following an offence, the police are likely the first contact you will have. You should look to the police who respond (the arresting officer) as your initial contact for assistance and advice. They may ask you to make a statement and provide them with physical evidence of the offence. Inside the front cover of this resource guide you should enter the names of the police who are investigating your matter for easy reference.

### *Victim Assist Queensland*

[www.justice.qld.gov.au/5263.htm](http://www.justice.qld.gov.au/5263.htm)

This is the new assistance scheme introduced December 1, 2009, to provide financial assistance and referral advice for all victims of crime. VAQ provides an individual tailored, needs based response and allows for earlier intervention in the victim's recovery.

### *Office of the Director of Mental Health*

[www.health.qld.gov.au/mentalhealth](http://www.health.qld.gov.au/mentalhealth)

The Office of the Director of Mental Health (DMH) is responsible for public mental health policy, strategy, and service delivery in Queensland. They are responsible for monitoring and undertaking specific functions under the *Mental Health Act 2000*.

The DMH has powers and functions in relation to people with mental illness who are, or have been, subject to criminal justice system processes, and decides applications for classified patient information orders. The DMH also manages the Victim Register by providing information to the QHVSS for approved victims of classified patient information orders and forensic patient information orders.

*Queensland Health Victim Support Service*

[www.health.qld.gov.au/qhvss](http://www.health.qld.gov.au/qhvss)

Phone: 1800 208 005

The Queensland Health Victim Support Service is a statewide service for the victims of offences committed by people who are identified as having a mental illness and are diverted to the forensic mental health system from the criminal justice system. The service was established in 2008 in response to concerns raised about the level of consultation and involvement afforded to victims of crime committed by mentally ill offenders. The service can assist you with:

- information and support in understanding and navigating the forensic mental health and criminal justice systems
- Mental Health Court support
- supportive counselling
- information and referral to specialist services
- information and assistance to enable you to understand and make informed choices and decisions
- information about the legislative rights of victims of crime
- making applications for classified and forensic patient information orders
- preparing statements to Mental Health Court and submissions to the Mental Health Review Tribunal
- providing information to registered victims/family members in relation to classified and forensic patient information orders.

The QHVSS is a team of allied health professionals with experience in the forensic mental health system. We can assist you in person, by phone, or any way you choose to receive information. The QHVSS reports to the Queensland Chief Health Officer and, as such, is not part of the Queensland mental health service.

*Office of Director of Public Prosecutions*

[www.justice.qld.gov.au/450.htm](http://www.justice.qld.gov.au/450.htm)

The Office of the Director of Public Prosecutions (ODPP) acts on the community's behalf to prosecute people charged with serious criminal offences in Queensland. The ODPP plays a lead role in representing victims and the community at the Mental Health Court.

The Director of Public Prosecutions is an independent statutory officer, which means the position is created under law to be separate from the government. The independence of the Director and their office ensures that criminal prosecutions are free from any improper influence or interference.

The ODPP has established a specialist chamber specifically dedicated to matters proceeding through the Mental Health Court, which includes a specialist victim liaison service.

The ODPP has a role to monitor MHC and MHRT proceedings to represent the public interest, and may advise the Attorney-General in making an appeal against decisions regarding changes to forensic order conditions or revocations.

*Legal Aid Queensland*  
[www.legalaid.qld.gov.au](http://www.legalaid.qld.gov.au)

Legal Aid Qld can provide you with free legal advice regarding your rights as a victim of a serious crime committed in Queensland. Legal Aid Qld may also be able to provide you with referrals for other services (which may be means-tested).

*Mental Health Court*  
[www.courts.qld.gov.au/4428.htm](http://www.courts.qld.gov.au/4428.htm)

The Mental Health Court was established to decide, among other things, the state of mind of persons charged with criminal offences. If there is reasonable cause to believe that an alleged offender is or was mentally ill or has an intellectual disability of a degree that the person's mental condition should be considered by the Mental Health Court then a criminal case may be referred to that court.

The Mental Health Court is made up of a Supreme Court judge, assisted by two experienced psychiatrists who advise the judge on clinical matters. There is no jury and rather than an adversarial system, the Mental Health Court is an inquisitorial body. This means that the court seeks to establish the truth with the assistance of clinical experts. A criminal case can be referred to the Mental Health Court by a number of different pathways.

Mental Health Court sessions are usually open to the public, and anyone may attend. The offender may attend the court in person or via video link, or may not attend (eg. when the offender remains unwell) and be represented by their legal counsel.

A case would be referred to the Mental Health Court to have the following questions answered:

- was the alleged offender of unsound mind at the time of the offence?
- if not of unsound mind, is the alleged offender unfit for trial?
- is the unfitness for trial permanent?

- if the charge is murder and the alleged offender is determined to have been significantly impaired in capacity (not deprived), would this have diminished responsibility at the time of the offence? (see glossary for definition)

### *Mental Health Review Tribunal*

[www.mhrt.qld.gov.au/](http://www.mhrt.qld.gov.au/)

The Mental Health Review Tribunal (MHRT) is a single, statewide, independent statutory body established under the *Mental Health Act 2000*. The tribunal consists of the President (a lawyer with at least 7 years experience) and other part time members including lawyers, psychiatrists and other persons with relevant qualifications and/or experiences. It is not answerable to the Director of Mental Health or Department of Corrective Services.

The *Mental Health Act 2000* provides for the involuntary assessment, treatment, and detention of people with a mental illness. The role of the MHRT is to review persons subject to the Act to ensure the involuntary processes are appropriately applied. As such, the MHRT represents a critical safeguard in protecting the rights and interests of those individuals.

The jurisdiction of the MHRT includes:

- reviewing the application of treatment criteria for involuntary patients at six weeks and thereafter every six months
- reviewing the detention of young patients in high security units
- reviewing the mental condition of forensic patients every six months or upon application for review
- reviewing fitness for trial in relation to persons found unfit for trial by a jury or the Mental Health Court (excluding those found permanently unfit)
- deciding applications for Forensic Patient Information Orders and confidentiality orders
- deciding ECT treatment applications for those who do not have the capacity to give informed consent
- deciding applications for approval of patients to move out of Queensland
- deciding appeals against decisions to refuse persons to visit an involuntary patient.

The review of involuntary detention and/or treatment of persons is done through the establishment of three member tribunal panels. In cases of a

contentious or complex nature, five-member panels may be constituted and will include the tribunal president.

## How Can I Have a Voice In The Forensic Mental Health Process?

Let's go back to the beginning, and follow the pathways that you can take to provide information to the courts, and to have information provided to you about the offender relevant to you and your family's safety.

- Classified Patient Information Orders

When the offender is taken into custody, or if an offender already in custody becomes mentally unwell, and an assessment of their mental condition is required, they may be transferred to an authorised mental health service. The offender is now a 'classified patient' until an assessment or ruling is made otherwise.

If the classified patient continues to need treatment beyond four weeks, the Director of Mental Health (DMH) will make a determination on providing specific information to the victims of the classified patient. This assessment is based on the seriousness of the offence and the likely duration of an admission of the classified patient into an authorised mental health service.

Based on this assessment, the DMH will provide basic information about the classified patient and any identified victims to the Queensland Health Victim Support Service (QHVSS). The Police may contact you, the victim, to seek



your consent to provide the QHVSS with contact details.

Once the identity of a victim has been confirmed, the QHVSS will contact you to inform you of the admission of the patient into an authorised mental health service, and your right to seek a classified patient information order (CPIO).

To apply for a CPIO, you must fill in an application form, available from the QHVSS, and submit it to the DMH who will make the decision. Parents or guardians would generally make the application on behalf of minors who are victims. The QHVSS can assist you in filling out the application and understanding your rights and responsibilities in seeking an order.

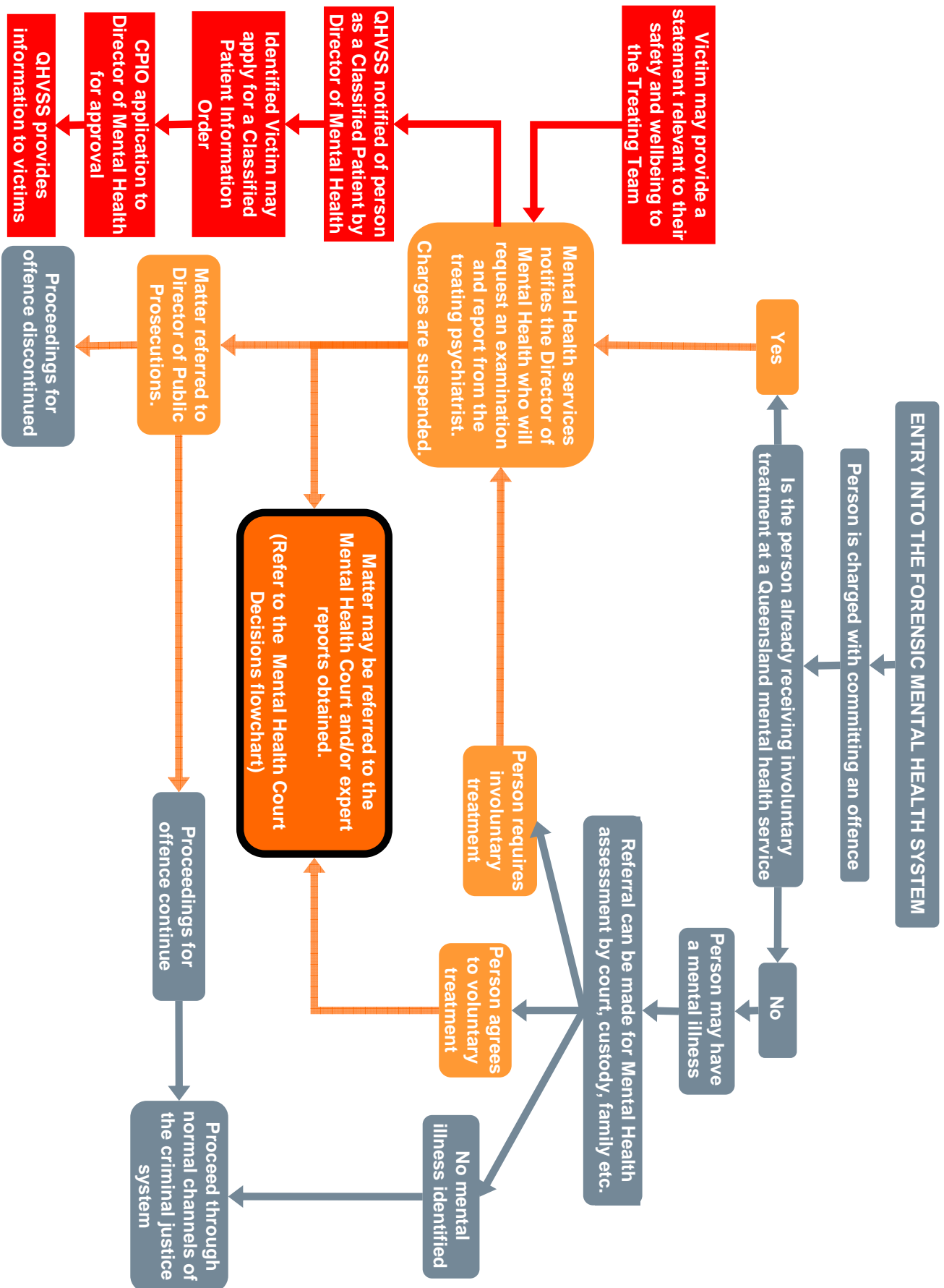
A CPIO enables an approved person to receive the following information about the classified patient:

- the patient's admission to an inpatient mental health service as a classified patient
- an approval, or withdrawal of approval, for limited community treatment for the patient including conditions relevant to the applicant and/or victim
- the patient's absence without permission, or return from absence, if the fact of the absence is relevant to the applicant and/or the victims
- the patient's transfer from one mental health service to another, and the date of the transfer
- the patient has ceased to be a classified patient and the reason and date the patient ceased to be a classified patient.

As part of your application, you can also seek a confidentiality provision to protect your identity and any information you have written in your application from the patient. If you have concerns about the confidentiality of your application, you should discuss them with the QHVSS victim support coordinator.

Once the DMH has made a decision about the granting of the CPIO, the QHVSS is advised and will contact you as soon as possible to advise you of the outcome. If the CPIO is granted, you will be added to the DMH Victim Information Register and the QHVSS will provide you with the information granted under the CPIO. If your CPIO application is not granted, the QHVSS will give you the reasons, and assist you if you would like to resubmit your application.

**FLOWCHART A:** Entry into the forensic mental health system and application for patient information orders.



## Making a statement for the Mental Health Court

The classified patient may have their case referred to the Mental Health Court to determine their state of mind at the time of the offence. Proceedings in the criminal justice system are suspended until the Mental Health Court makes its determination. Other patients under treatment orders, but who are not classified patients may also come before the court to have their case heard.

Because this court has wide ranging investigative powers, as a victim you are able to make a victim statement if you have relevant information not already known to the court. These can include information about the mental state of the patient at the time of the offence, or information about the risks you believe the patient continues to pose to you or your family.

To help you make your statement, an ODPP Victim Liaison Officer or QHVSS Victim Support Coordinator can assist you in drafting your statement, considering the following points:

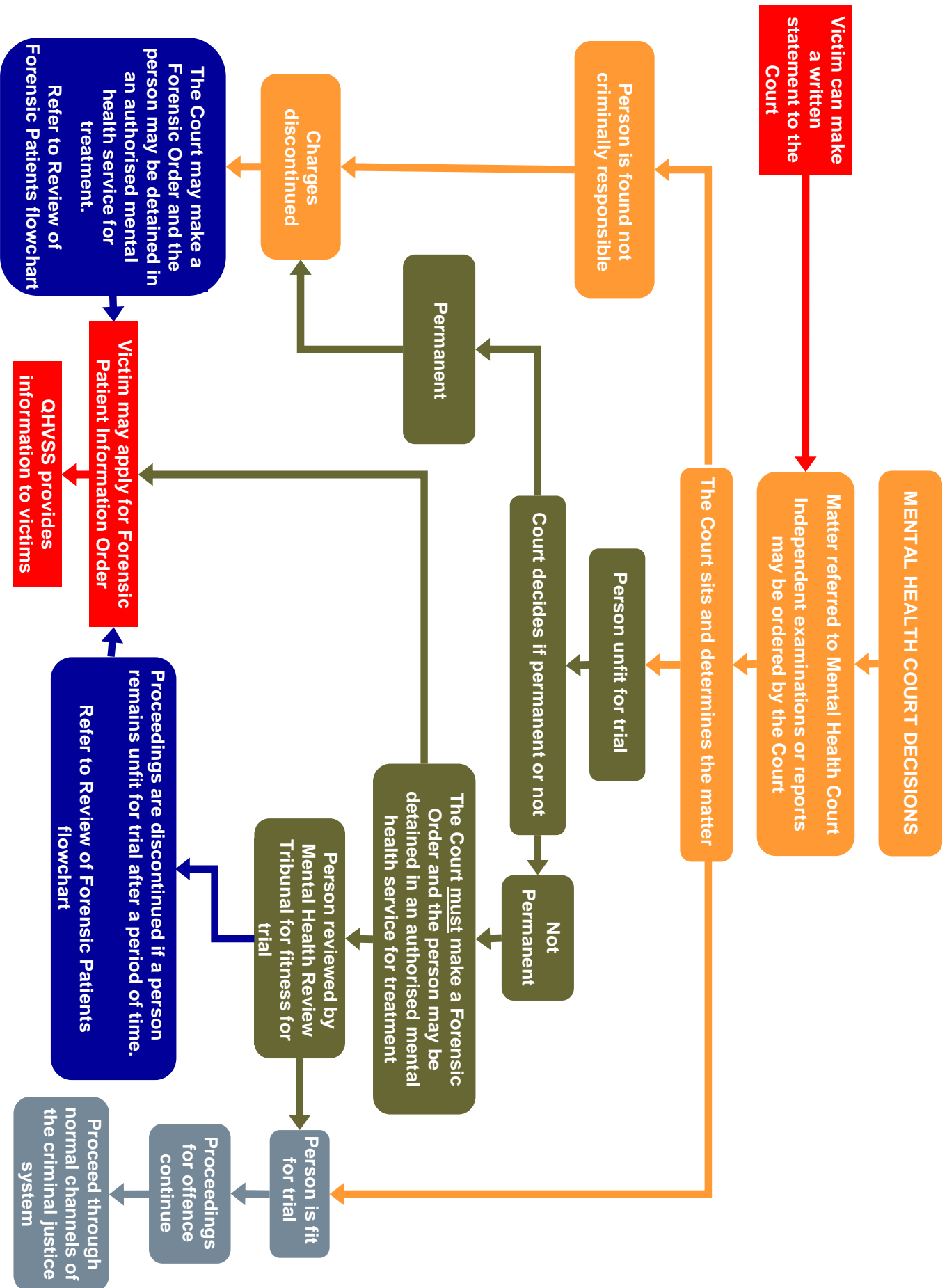
- the behaviour of the patient and the impact of that behaviour on you
- the present and ongoing risk you believe you face from the patient
- any other matter you believe is relevant to the court's decision.

Your statement must be sworn or affirmed before a Justice of the Peace, a Commissioner of Declarations or a lawyer, and is the same as if you were giving evidence in a court. Your statement should be honest and objective, and not make any claims that are not true or that you cannot back up.

The statement will be provided to the Prosecutor, and the information made available to the patient's legal team and the patient. You can also apply for a confidentiality order regarding your statement, if you believe that your statement would cause harm to the patient's health, or put yours or someone else's safety at serious risk.



**FLOWCHART B:** Victim involvement in the Mental Health Court.



- Forensic Patient Information Orders

Once the Mental Health Court has made a decision that the patient was of unsound mind, or temporarily unfit for trial, the court may make a forensic order and the patient becomes a forensic patient. If the court finds the patient to be not of unsound mind and is fit for trial, then the offender would return to the criminal justice system.

As the patient is no longer a classified patient, any CPIO you may have will automatically be cancelled. However, you may make an application to the Mental Health Review Tribunal for a forensic patient information order (FPIO).

An FPIO enables an approved person to receive the following information about the forensic patient:

- when a Mental Health Review Tribunal review for the forensic patient is to be carried out
- the revocation or confirmation of the forensic order for the forensic patient
- an approval, or withdrawal of approval, for limited community treatment for the forensic patient including conditions relevant to the safety of the applicant and/or the victims
- the forensic patient's absence without permission, or return from absence, if the fact of the absence is relevant to the applicant and/or the victim
- the forensic patient's transfer from one mental health service to another, and the date of the transfer
- the forensic patient has ceased to be a forensic patient and the reason and date the patient ceased to be a forensic patient.

You must apply to the MHRT for an FPIO by completing an application form. Parents or guardians generally make applications on behalf of minors who are victims. The QHVSS can assist you in filling out the application and understanding your rights and responsibilities in seeking an order.

As part of your application, you can also seek a confidentiality order to protect your identity and any information you have written in your application from the patient. An application for a confidentiality order will be taken into consideration but may not be automatically approved. If you have concerns about the confidentiality of your application, you should discuss them with the QHVSS victim support coordinator.

Once the MHRT has made a decision about the granting of the FPIO, the QHVSS is advised and will contact you as soon as possible to advise you of the outcome. If the FPIO is granted, the QHVSS will provide you with the information granted under the FPIO and advise you about your review



entitlements. If your FPIO application is denied, the tribunal must provide reasons for the decision, and the QHVSS will forward these to you and assist you if you would like to resubmit your application.

The QHVSS will remain in regular contact with you to offer continued advice and support whilst the forensic patient remains under a forensic order.

The application for the FPIO does not need to be renewed unless you seek a change to the conditions of the order.

The FPIO will cease if you request the tribunal president to revoke the order.

The FPIO will also be revoked if any of the following happen:

- the forensic patient dies
- the person for whom the order is made dies
- the patient stops being a forensic patient or
- the forensic patient is transferred interstate under an interstate agreement.

There are other situations that could lead to the FPIO being cancelled. For example:

- if you or your nominee can not be located
- if you breach the order by causing the information to be publicly available
- if you have not complied with the conditions of the order.

## Submissions to the Mental Health Review Tribunal

In addition to seeking an FPIO, you (or any concerned person) may also make a submission to the MHRT as part of a forensic patient's periodic review. You can make a submission at any time and regardless of whether you have an FPIO or not.

Any statements you may have already provided to the Mental Health Court will have also been provided to the MHRT, so your submission should only include new and relevant information. This can include:

- your knowledge of the patient's illness or behaviour
- how the patient's behaviour has, or may affect you
- whether you feel at risk of harm from the patient
- how you could be at risk (for example, severe stress, anxiety, threats, violence, stalking, harassment)
- whether there are specific conditions that should be put in place to protect your safety
- whether you are concerned about coming into contact with the patient, and why.

To ensure your submission remains current you will be required to provide a new submission to each review of a patient's forensic order. The victim support coordinator will assist you to complete all submissions in a timely manner.

As part of your submission, you can also seek a confidentiality order to protect your identity and any information you have written in your submission from the forensic patient. If you have concerns about the confidentiality of your application, you should discuss them with the QHVSS victim support coordinator.

- Limited community treatment and discharge

If the MHRT approves limited community treatment (LCT) for a forensic patient and you have an FPIO, you will be notified by the QHVSS as soon as possible. As explained previously, LCT is usually a very gradual process, and rigorous assessment and safety processes will be put in place prior to the patient leaving the authorised mental health service.

You will continue to receive information under your FPIO, and can also make further submissions to the MHRT about the conditions of the patient's LCT through the QHVSS. You should also discuss longer-term options with a victim support coordinator should the MHRT decide to revoke the forensic order.

After a period of treatment and assessment, the MHRT may decide that the patient can rejoin the community fully whilst still receiving treatment. Over time if this is considered successful, and the patient's mental state is stable the MHRT may decide the patient should no longer remain under a forensic order. Once the patient's forensic order is revoked however, the patient can continue to receive treatment voluntarily. In some circumstances, the patient will be placed under a separate involuntary treatment order but you will not be

able make further submissions to the MHRT or to request information about conditions to the patient's community treatment .

During the lead-up period to this, you will be given the opportunity to make submissions to the MHRT about the patient, including requests for a non-contact order should the forensic order be revoked.

Once a forensic order is revoked, your FPIO will be automatically revoked and you will receive notification of this from the QHVSS

This does not mean an end to your support from QHVSS, you can continue to receive client services from the QHVSS and other support agencies for as long as you require them.

- Notifiable events

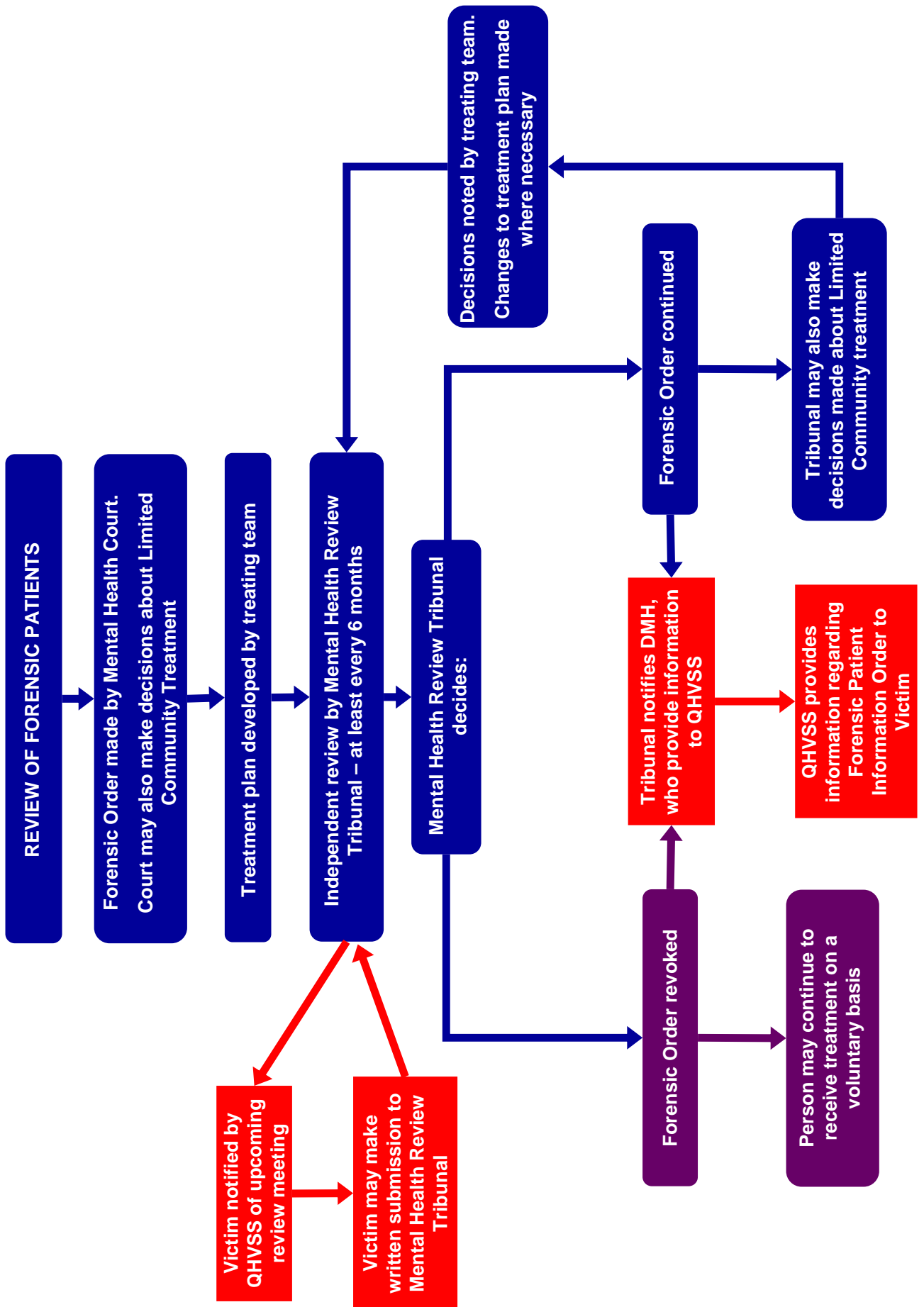
The Director of Mental Health maintains constant oversight of offenders who are classified and forensic patients. It is the Director's responsibility to notify the QHVSS of a *notifiable event* involving a patient, who will then contact you as soon as possible. Notifiable events are:

- the patient's admission to an inpatient mental health service as a classified patient;
- an approval, or withdrawal of approval, for limited community treatment for the patient;
- changed conditions of limited community treatment that are relevant to the safety of you and your family
- the patient's absence without permission, or return from absence, if the fact of the absence is relevant to you or your family
- the patient's transfer from one mental health service to another, or moved interstate, and the date of the transfer
- the patient has ceased to be a classified/forensic patient and the reason and date the patient ceased to be a classified/forensic patient.

- Emergency issues

If at any time you feel unsafe, the police advise to contact them immediately on **000**. You can also contact the police arresting officer or the QHVSS to discuss any concerns you may have about the former patient and your non-contact order.

**FLOWCHART C: Review of forensic patient flowchart**



## Where else can I get help?

While coming to terms with the offence that was committed against you, and in dealing with the forensic mental health system, you can be reassured that there are people and support agencies that are available to assist you.



- **Counselling**

The QHVSS can provide a referral for you to meet with a counsellor from the *Victims Counselling and Support Service (VCSS)*, a Queensland Government initiative managed by Relationships Australia. Alternatively you can contact VCSS directly on **1300 139 703** to arrange an appointment.

The VCSS runs a 24-hour telephone referral service and information line for those affected by crime. In addition, they can provide you with free counselling and support sessions to discuss your feelings and help you cope with your situation. They can also assist your friends and family, and provide them with the resources they may need to help you.

VCSS has offices throughout Queensland, and can provide face-to-face or telephone counselling support. For more information go to [www.vcss.org.au](http://www.vcss.org.au) or [www.relationships.com.au](http://www.relationships.com.au).

At your request, QHVSS can also provide referrals to local area mental health services or private counsellors, to assist these health care professionals understand quickly what you are going through.

- **Compensation, information and referral**

Under the *Victims of Crime Assistance Act (2009)*, you may be eligible to receive compensation if you were the direct victim, or a parent of a child victim, of a serious violent crime, or financially dependant upon a direct victim of a crime resulting in murder or manslaughter. Secondary witnesses such as those harmed through witnessing a serious act of violence may also be eligible under this scheme.

Victim Assist focuses on victim recovery by paying for, or reimbursing the costs of goods and services that the victim requires to help them recover from the physical and psychological effects of the crime. You can claim for financial assistance on the grounds that an act of violence has been reported. There

does not need to have been a court conviction. Victim Assist will also provide information and referral relevant to your needs. Contact Victim Assist on **1300 546 887**.

- Support and advocacy Groups

There are a number of dedicated support groups who provide a wide range of services to people who are victims of crime. Many victims find these services invaluable in helping them cope, and navigate the legal system.

You can contact all of these services directly based on your needs, or you can ask the QHVSS to make a referral on your behalf.

#### Queensland Homicide Victim's Support Group

The QHVSG provides support to families and friends of victims of homicide with 24-hour phone support, meetings, and seminars, assistance with seeking compensation and writing victim impact statements and more. Visit [www.qhvsg.org.au](http://www.qhvsg.org.au) or call them on **1800 774 774**.

#### Lifeline

Lifeline's free **13 11 14** service offers a counselling service that respects everyone's right to be heard, understood and cared for. Lifeline telephone counsellors are ready to talk and listen no matter how big or how small the problem might seem.

#### Court Network

The Court Network offers a free support service to anyone going to court, including victims and witnesses providing evidence to the Mental Health Court. Visit [www.courtnetwork.com.au](http://www.courtnetwork.com.au) or call **1800 681 614**.

#### DV Connect/sexual assault

*DV Connect* provides a statewide domestic, family violence and sexual assault telephone service across Queensland, with separate services for women and men. Visit [www.dvconnect.org](http://www.dvconnect.org) or call **1800 811 811** (women) or **1800 600 636** (men).

#### Protect All Children Today Inc (PACT)

PACT provides support to children and minors who are required to give evidence within the Criminal Justice system as victims or witnesses. Visit [www.pact.org.au](http://www.pact.org.au) or call **(07) 3290 0111**.

#### ARAFMI

ARAFMI provides support for families and carers of people with a mental illness. Visit [www.arafmiqld.org](http://www.arafmiqld.org) or call **(07) 3254 1881**.

## Dealing with media attention

Depending on the seriousness of the crime, there may be attention from the media regarding what happened to you. You may choose to speak to the media directly, appoint a lawyer or friend to act as your spokesperson, or you may simply prefer to maintain your privacy. Whatever you choose, you should remember that you always have the right to say no to an interview or a particular question.



You should be aware that speaking to the media can have adverse affects on the police inquiry and the prosecution of the case. It is recommended that you talk with the police or a lawyer prior to speaking to the media.

You should also be aware that the media may gather information from different sources, and the final reported story may be different from what you expected. Although you have the right to ask the media to correct any information that is wrong, damage to the court case or your reputation may be harder to reverse.

Remember, any information you receive under a classified or forensic patient information order is confidential, and by law you must not discuss it with the media, or release

the information to the public. Serious penalties can apply, and you may lose your right to receive further information.

### Can I give feedback or make a complaint?

You are encouraged to provide feedback at all stages of interaction with Queensland Government and non-government services. Feedback assists to review current services, develop new practices, and ensure clients are getting the services they require.

If you feel that you have cause to make a complaint about any aspect of service you have received from an agency or support service mentioned in this guide, you should expect that the complaint will be handled objectively and fairly. If you have feedback or would like to make a complaint, speak directly to the agency involved or contact Victim Assist Queensland.

## Frequently Asked Questions

Below are some commonly asked questions that may help you in understanding the forensic mental health system. Please feel free to contact QHVSS if you have any questions or concerns you would like to discuss.

### *Will the mentally ill offender be punished for their crime?*

The mentally ill offender's case will be heard in the Mental Health Court and may be involuntarily detained in an authorised mental health service facility for treatment and rehabilitation. If not found of unsound mind or unfit for trial the offender will be diverted back to the criminal justice system. See the section "What happens when someone enters the forensic mental health system?" on page 12 for more details.

### *How long will the mentally ill offender/patient remain in a facility?*

There are no set periods for how long a mentally ill offender will receive treatment from an authorised mental health service. This is determined by the nature of the illness, how well the patient is responding to treatment and the severity of the crime. The treating team and the Mental Health Review Tribunal make continuous assessments on these issues and will only allow a patient to undertake limited community treatment or be discharged if they are certain that the patient does not represent an unacceptable risk to the safety of themselves, their victim(s) or the general public.

### *What happens if the offender is released back into the community?*

The process of treatment and rehabilitation for mentally ill offenders, particularly those charged with serious crimes, can be long and release into the community is not assured. For minor offences, the offender may receive bail and receive approval for limited community treatment much earlier. The patient's treating team and the Mental Health Review Tribunal recognise the responsibility they have in ensuring the safety of the community as a whole, and will not approve LCT or revoke a forensic order without comprehensive assessments of the patient's continuing mental state and the risks to victims and the community.

To be notified of a patient's approved limited community treatment you can contact the QHVSS to apply for a classified or forensic patient information order. If at any time you feel at risk of harm, you should contact the Police immediately on 000.

### *Do I need to be a client of QHVSS to receive information under a CPIO or an FPIO?*

Yes. Under the *Mental Health Act 2000*, you will receive information from information orders via QHVSS only.

*I have an information order. What information can I receive about a mentally ill offender/patient? What can't I receive?*

The information you can receive under an information order is balanced to provide you with some peace of mind regarding yours and your family's personal safety, whilst also ensuring the basic right to privacy of the patient is maintained. For details of what information you can receive under an order, see the "How can I have a voice in the forensic mental health system" section on page 22.

Under an information order, you cannot obtain information about where a patient is receiving treatment or residing on limited community treatment, what treatment they are receiving or the names of any relatives of the patient.

*Does the QHVSS provide support to all victims of crime?*

No, the QHVSS was established to support victims of mentally ill offenders diverted from the criminal justice system. Victims of offenders who are not mentally ill should contact the Office of the Director of Public Prosecutions, who may also refer you to specialised victim services.

*Is QHVSS part of Queensland Health mental health services?*

No. QHVSS was established to support victims of mentally ill offenders, and is separate from Queensland mental health services. QHVSS does not provide specialised services to mentally ill patients or community programmes for mentally ill offenders.

*How can I refer victims to QHVSS?*

QHVSS does not directly contact victims of mentally ill offenders without their consent. If you wish to refer a victim to us, please seek their consent first or encourage them to contact us directly on our freecall number **1800 208 005**.

*How do you protect my information?*

All information provided to the QHVSS is confidential, and is kept in a separate and secure area. Information may not be provided to any government or non-government agency without your consent except under very specific circumstances.

*I am not a direct victim of a mentally ill offender, but a concerned person. Can I receive services from QHVSS?*

Yes, QHVSS can provide relevant support and referral to anyone to assist them in understanding the forensic mental health system. Please contact us for further details.

*Where does QHVSS operate?*

QHVSS is a statewide service and has two offices, one in the Brisbane and the other in Townsville.

*How long can I receive QHVSS services?*

QHVSS will work with you through the entire forensic mental health process. You can seek QHVSS services at any stage and continue to receive assistance for as long as you require it.

*How can I receive compensation if I am a victim?*

From December 1, 2009, under the *Victim of Crime Assistance Act (2009)* you may be eligible to receive compensation if you were the direct victim, or parent of a child, of a serious violent crime, financially dependant upon a direct victim of a crime who was killed by murder or manslaughter or a witness to a serious crime of violence. Contact Victim Assist Qld for further information on 1300 .....

*What happens if a classified or forensic patient is returned to the criminal justice system?*

If a patient is determined to be not of unsound mind and fit for trial, they may be returned to the criminal justice system. If they were detained, they may be transferred from the authorised mental health service to a correctional facility or prison.

If you have an information order, you will be informed of the patients return to the criminal justice system. You may also be eligible to apply to receive information from the Queensland Corrective Services Victims Register. For more information, call 1800 098 098 or visit [www.dcs.qld.gov.au](http://www.dcs.qld.gov.au).



## Glossary of Commonly Used Terms

**Authorised mental health service** means a mental health service declared by the Director of Mental Health and may be a high secure unit, an inpatient unit or a community based service.

**"Butler Review"** is the unofficial title for the Queensland Government's review in 2006 into the *Mental Health Act 2000*. The Review was led by Brendan Butler AM SC, and resulted in the final report "*Promoting Balance in the Forensic Mental Health System*", commonly called the Butler Report.

**Classified patient** means a person who, under section 69, *Mental Health Act 2000* is a classified patient. This translates to a person who has been admitted to a mental health service for inpatient treatment from a court or place of custody.

**Classified Patient Information Orders** are approved by the Director of Mental Health and allow an approved person to receive specific information about a classified patient.

**Confidentiality orders** and decisions protect your identity and some or all of the information you provide when you make a statement, submission or information order application from being given to an offender or classified/forensic patient. The deciding authority must be satisfied that the disclosure of the information would cause serious harm to the health of the patient or put the safety of someone else at serious risk.

Even if you are granted a confidentiality order, all information you provide in applications, statements, and submissions will still be made available to the patient/offender's legal counsel or agent, but will not be given to the patient/offender themselves.

**Criminal justice system** comprises entities involved in apprehending, prosecuting, defending, sentencing, and imprisoning those involved in crimes, including courts of law, police and corrective services.

**Diminished responsibility** may only be raised when a person is charged with murder. If the Mental Health Court finds that a person charged with murder was not of unsound mind, it will consider whether the person was of diminished responsibility. Having determined that the person was not 'deprived' of one of the three capacities, the court considers whether one of the capacities was 'substantially impaired'.

If the court determines that a person should be afforded the defence of diminished responsibility, the charge is reduced from murder to manslaughter. Provided that the person is fit for trial, then the charges will proceed through the normal court process. The degree of mental impairment

required for a defence of diminished responsibility is less than is required for a finding of unsound mind.

**Director of Mental Health** means the statutory officer appointed by the Governor-in-Council, responsible on a statewide basis for ensuring that the assessment and treatment of involuntary patients complies with the *Mental Health Act 2000*.

**Fit for trial** for a person, means fit to plead at the person's trial and to instruct counsel and endure the person's trial, with serious adverse consequences to the person's mental condition unlikely.

**Forensic Mental Health** is the interface between the mental health and criminal justice systems, providing treatment and support for offenders assessed as having a mental illness.

**Forensic Mental Health System** consists of components of the mental health and the criminal justice systems, which respond to people with a mental illness who have been charged with an offence. For example: secure inpatient units of authorised mental health services; specialist forensic secure inpatient and community mental health services and staff; court liaison services; Prison mental health services; Mental Health Court; Mental Health Review Tribunal.

**Forensic order** is an order made by the Mental Health Court if the court decides a person was of unsound mind at the time of the offence, or that the person is unfit for trial. This order authorises a person's detention to an authorised mental health service for involuntary treatment and care. A forensic order can only be revoked by the Mental Health Review Tribunal. However, a forensic order can also be revoked by the Mental Health Court on appeal against a tribunal decision.

**Forensic patient** means a person who is, or is liable to be, detained in an authorised mental health service under a forensic order.

**Forensic Patient Information Orders** are granted by the Mental Health Review Tribunal and allow an approved person to receive specific information about a forensic patient.

**Information Register** – a confidential register of people who can receive information under classified and forensic patient information orders, and managed by the Director of Mental Health.

**Involuntary Patient** – means a person –

- who is , or is liable to be, detained, under chapter 2, part 4 in an authorised mental health service for assessment; or
- for whom an involuntary treatment order is in force; or

- who is a classified or forensic patient.

**Involuntary Treatment Order (ITO)** is an order authorising a patient's involuntary treatment at an authorised mental health service – can be either inpatient or community category.

**Limited Community Treatment Plan** is required before the patient can access limited community treatment. The plan is completed by the doctor and details the amount and type of community treatment that the person can access.

**Mental health examination** - When an involuntary patient has been charged with an offence, a mental health examination must be completed by a psychiatrist. The psychiatrist will ask extensive questions relating to the person's psychiatric history and their current mental state. The psychiatrist will also consider police material relating to the applicable offence and makes recommendations in a report to the Director of Mental Health.

**Non-contact order** - an order made by the Mental Health Court or the Mental Health Review Tribunal requiring the patient to not contact the victim or their family, or go to a specific place. A non-contact order expires after two years but may be renewed.

**Non-contact provision** – a condition of limited community treatment requiring the patient to not contact the victim or their family, or go to a specific place. Non-contact provisions are reviewed by the Mental Health Review Tribunal every 6 months.

**Not of unsound mind** – This is a legal term that does not have the same meaning as being 'of sound mind' i.e. does not have a mental illness. The Mental Health Court's interest lies in finding if a person *does* have a mental illness that deprived them of an essential capacity resulting in the offence – making them of unsound mind. A person not of unsound mind may have a mental illness, but was not deprived of an essential capacity (see unsound mind).

**Special Notification Forensic Patient** is a person on a forensic order who has been found of unsound mind or not fit for trial in relation to the most serious offences. These offences include murder or manslaughter, attempted murder, rape, assault with intent to rape and dangerous driving which results in the death of another person. The purpose of this category is to enable a higher level of scrutiny and monitoring to protect the interests of the person, victims and the community.

**Treating team** is the team of mental health professionals involved in treating a patient. The treating team may include psychiatrists, nurses, and allied health professionals.

**Unfit for trial** means a person does not meet the criteria for being 'fit for trial'. The *Mental Health Act 2000* defines 'fit for trial' as meaning that a person is fit to plead at the person's trial and to instruct counsel and endure the person's trial, with serious adverse consequences to the person's mental condition unlikely.

**Unsound mind** means the state of mental disease or natural mental infirmity described in the *Criminal Code*, section 27, but does not include a state of mind resulting, to any extent, from intentional intoxication with alcohol or other substance use alone or in combination with some other agent at or about the time of the offence. Section 27 provides:

*A person is not criminally responsible for an act or omission if at the time of doing the act or making the omission the person is in such a state of mental disease or natural mental infirmity as to deprive the person of capacity to understand their actions, control the person's action, or of capacity to know that the person ought not to do the act or make the omission.*

**Victim Liaison Officers (VLO)** work closely with the Crown Prosecutors and lawyers who help prepare matters for prosecution through the Mental Health Court and criminal justice systems. The VLO also provides information and support to victims of crime as well as referral to relevant support and counselling agencies. The ODPP is governed by the *Victims of Crime Assistance Act 2009* to treat victims with courtesy, compassion, and respect for personal dignity; and in a way that is responsive to age, gender, ethnic, cultural and linguistic differences or disabilities or other special needs.

**Victims Register** (previously called the Concerned Persons Register) provides victims of violent or sexual offences with information about an offender currently within the criminal justice system who has been sentenced to a term of imprisonment for offences committed against them. Information that may be provided to a registered victim includes:

- an offender's eligibility dates for release,
- the correctional centre in which an offender is accommodated,
- the results of applications for parole and any exceptional events relating to an offender, such as escape or death.

If an offender who has been sentenced to more than three years imprisonment lodges an application for parole, registered victims will be notified that they are eligible to make a written submission to the Parole Board about the offender's potential release to parole.

**Victim Support Coordinator** refers to the staff of the QHVSS who provide broad support, coordination, and assistance to victims of mentally ill offenders.

## **Useful Websites**

Queensland Health - [www.health.qld.gov.au](http://www.health.qld.gov.au)

QLD Health Victim Support Service - [www.health.qld.gov.au/qhvss](http://www.health.qld.gov.au/qhvss)

Forensic Mental Health Website - [www.health.qld.gov.au/forensicmentalhealth](http://www.health.qld.gov.au/forensicmentalhealth)

Mental Health Branch – [www.health.qld.gov.au/mentalhealth](http://www.health.qld.gov.au/mentalhealth)

The Park - Centre for Mental Health - [www.health.qld.gov.au/the\\_park](http://www.health.qld.gov.au/the_park)

Transcultural Mental Health Centre -  
<http://www.health.qld.gov.au/pahospital/qtmhc/>

Queensland Government – [www.qld.gov.au/](http://www.qld.gov.au/)

Victim Assist Queensland - [www.justice.qld.gov.au/5263.htm](http://www.justice.qld.gov.au/5263.htm)

Legal Aid QLD - [www.legalaid.qld.gov.au](http://www.legalaid.qld.gov.au)

Office of the Director of Public Prosecutions - [www.justice.qld.gov.au](http://www.justice.qld.gov.au)

Mental Health Court – [www.courts.qld.gov.au](http://www.courts.qld.gov.au)

Mental Health Review Tribunal - [www.mhrt.qld.gov.au](http://www.mhrt.qld.gov.au)

QLD Criminal Justice Centre - [www.qcjc.com.au/](http://www.qcjc.com.au/)

QLD Corrective Service - [www.correctiveservices.qld.gov.au](http://www.correctiveservices.qld.gov.au)

### **Support and Advocacy Groups**

QLD Homicide Victim's Support Group - [www.qhvsg.org.au](http://www.qhvsg.org.au)

Relationships Australia – [www.relationships.com.au](http://www.relationships.com.au)

Victims Counselling and Support Service (VCSS) - [www.vcss.org.au](http://www.vcss.org.au)

Beyond Blue – [www.beyondblue.org.au](http://www.beyondblue.org.au)

Lifeline - [www.lifeline.org.au](http://www.lifeline.org.au)

ARAFMI – [www.arafmiqld.org](http://www.arafmiqld.org)

Mindframe - [www.mindframe-media.info](http://www.mindframe-media.info)

## Forms

You may need to fill out specific application forms to receive information or make an application. Some are available online, others can be provided to you on request via the QHVSS.

### QHVSS

- Classified Patient Information Order Application
- Forensic Patient Information Order Application
- Victim or Concerned Person Submission to the Mental Health Review Tribunal
- Request for Confidentiality Form
- Feedback Form

### MHRT

- Forensic Patient Information Order Application
- Request for Confidentiality Order form
- Victim or Concerned Person Submission to the Tribunal Form
- Compliments and Complaints Form

### Victim Assist QLD

- Application for financial assistance

## Sources

Promoting Balance in the Forensic Mental Health System – Final Report (2006)

Mental Health Act 2000 Resource Guide (2008) – Queensland Health Publication – Available at

[www.health.qld.gov.au/mha2000](http://www.health.qld.gov.au/mha2000)

Queensland Health Privacy Plan 2005 - Available at:

[http://www.health.qld.gov.au/privacy/privacy\\_docs/PrivacyPlan2005.pdf](http://www.health.qld.gov.au/privacy/privacy_docs/PrivacyPlan2005.pdf)

Queensland Health Code of Conduct – available at

[http://www.health.qld.gov.au/about\\_ghhealth/conduct2006.pdf](http://www.health.qld.gov.au/about_ghhealth/conduct2006.pdf)

"Your Rights and Responsibilities" – Queensland Health Publication

Mental Health Act 2000

Health Services Act 1991

Johnson, S.M. (2005). Emotionally focused couple therapy with trauma survivors: Strengthening attachment bonds. Guilford Press

*Victims of Crime Assistance Act 2009*

Mental Health Branch Fact sheets – available at

[www.health.qld.gov.au/mentalhealth](http://www.health.qld.gov.au/mentalhealth)

Mental Health Court Fact sheet C12

Mental Health Review Tribunal Fact sheets – available at [www.mhrt.qld.gov.au/](http://www.mhrt.qld.gov.au/)



You are not alone.

When you have been the victim of an offence committed by a person with a mental illness, there are people who will listen to your story and answer your questions.

This resource guide will take you step by step through Queensland's Forensic Mental Health System and explain how you can have your voice heard.