



Commonwealth Director of Public Prosecutions



WOMEN AS VICTIMS

The Commonwealth's practical responses to supporting victims of human trafficking participating in the Australian Criminal Justice System

Presented by Megan Voller
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at the
CLANT, 14th Biennial Conference:
Victims of the System



The Call for Help

Overview of presentation

This presentation provides an overview of the Australian Government's response to human trafficking with emphasis on victim support through the ***Support for Trafficked People Program*** and the ***Human Trafficking Visa Framework***.

The Support Program is delivered nationally by the Australian Red Cross and is divided into the following streams:

- Assessment Stream
- Extended Assessment Stream
- Justice Support Stream
- Temporary Trial Support Stream

The Human Trafficking Visa Framework enables foreign nationals who are suspected of being trafficked to remain lawfully in Australia if they do not already hold a valid visa. It is supported by 3 types of visas.

Overview of presentation

The Commonwealth Director of Public Prosecutions has implemented its own measures to assist victims of human trafficking with the publication of a Victim's Policy, supported by Witness Assistance Support officers.

<http://www.cdpp.gov.au/Publications/Victims-of-Crime-Policy/>

Bali history

November 2006

Representatives of Indonesia & Australia met to co-host:

The Bali Process Workshop on Human Trafficking: Victim Support.

35 nations were represented

IOM; UNHCR; ARTIP; UNODC; Asia Foundation and national NGOs participated.

The Objective of the Bali Process Workshop

“...was to provide a forum for participants to exchange information on government policy and best practice in managing the victims of human trafficking with an emphasis on how destination states can support victims; how destination and source states ensure victim support during repatriation arrangements; and what constitutes best practice in the reintegration/rehabilitation of victims in their home country. The workshop was guided by the definition of trafficking outlined in the *Protocol to Prevent, Suppress and Punish Trafficking in Person, Especially Women and Children* (the People Trafficking Protocol) – underscoring that the crime of trafficking was fundamentally a crime of human exploitation for profit or gain.”

Co-Chairs' Summary Bali Process Workshop on Human Trafficking: Victim Support Bali, Indonesia, 7 – 9 November 2006, para 2

Victim Identification and Support

“Participants discussed how to build effective and proper victim identification and support, particularly in destination countries. Practical suggestions discussed included: creating a victim identification check list (as used by COMMIT countries – Coordinated Mekong Ministerial Initiative Against Trafficking); training frontline law enforcement officials (Police, Border Agents, Immigration officials) to use this checklist to identify potential trafficking victims; increasing the capacity of source countries’ diplomatic missions in destination countries to identify and assist victims of trafficking; forming joint taskforces among destination country agencies to share information about possible places of exploitation; forming associations of migrant workers; setting up comprehensive victim-centred support programs; enacting domestic legislation and procedures; recognizing and facilitating the role of civil society and NGOs in caring for victims and providing support services; and increasing the awareness and capacity of all relevant agencies and stakeholders. It was emphasised that in determining whether someone was a victim of trafficking it was useful to take as a point of departure the exploitation that had been suffered.”

Strengthening cooperation in the return and repatriation of victims

“Participants discussed how to strengthen cooperation in the return and repatriation of victims. Practical suggestions discussed included: concluding MOU’s between destination and source countries to set out protocols assisting the return and repatriation of victims; networking between law enforcement agencies; establishing Ambassadors for Trafficking in source countries who would travel to destination countries to assist the return and repatriation of their citizens; reviewing visa arrangements in destination countries to enable victims of trafficking where appropriate to stay and assist law enforcement officials pursue convictions against traffickers; considering victims’ rights before their repatriation to ensure it was safe for them to return home; not prosecuting victims for offences committed as part of their exploitation; encouraging early ratification of relevant international instruments by all countries; and, setting up national Standard Operational Procedures (SOP).”

Building proper and effective victim support: return, recovery and reintegration

“Participants discussed how to build proper and effective victim support addressing return, recovery and reintegration. Practical suggestions discussed included: developing a holistic approach among Government, NGOs, health providers and others to ensure full assistance to victims from the point of identification through to return and reintegration (medical, psychological, legal, counselling, vocational, shelter, security of the victim, etc); ensuring victim protection if required; implementing preventative measures to ensure victims were not re-traumatized upon return; ensuring victims were not prosecuted for offences they might have committed when being trafficked; sensitizing communities and families to the plight of trafficking victims to aid their return; monitoring victims’ needs after their return; and, ensuring victims were not exposed to circumstances that might make them vulnerable to being re-trafficked.”

The Australian Government Response: FAHCSIA

The Australian Government Response

The Australian Government remains committed to working with other governments domestically and internationally, and with international and non-government organisations, to prevent human trafficking in all its forms, prosecute the perpetrators, and protect and support victims.

Australia's response to human trafficking reflects Australia's obligations as a party to the *United Nations Convention against Transnational Organized Crime* (UNTOC) since 2004 and its supplementary *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* (the Trafficking Protocol) since 2005.

Australia has taken a comprehensive, whole-of-government approach to combating human trafficking since instituting its strategy to eradicate human trafficking in late 2003. Since then, the Australian Government has committed more than \$150 million to support a range of domestic, regional and international anti-trafficking initiatives, including:

<http://www.fahcsia.gov.au/our-responsibilities/women/programs-services/reducing-violence/anti-human-trafficking-strategy>

The Australian Government Response: multi-agency

- specialist teams within the Australian Federal Police (AFP) to investigate human trafficking and slavery-related matters and an Australian Policing Strategy to Combat Trafficking in Persons
- legislation to criminalise human trafficking, slavery and slavery-like practices, including forced labour and forced marriage
- a victim support program that provides individual case-managed assistance to eligible trafficked people, including access to accommodation, financial assistance, legal and migration advice, training and social support
- visa arrangements to enable suspected victims and witnesses of human trafficking and slavery to remain in Australia to support the investigation and prosecution of offences
- specialist immigration officers posted in Thailand, China and the Philippines who focus on human trafficking issues and aim to prevent trafficking in source countries
- support for the Commonwealth Director of Public Prosecutions to prosecute human trafficking and slavery-related matters, including funding and training
- regional activities to deter human trafficking and slavery, train law enforcement officials and assist the victims under Australia's overseas aid program; and
- research into national and regional trafficking activities by the Australian Institute of Criminology.

<http://www.fahcsia.gov.au/our-responsibilities/women/programs-services/reducing-violence/anti-human-trafficking-strategy>

The Australian Government Response: The Agencies

Australia's anti-human trafficking strategy is overseen by an Interdepartmental Committee (IDC), chaired by the Attorney-General's Department (AGD), with membership from the following agencies:

- AusAID
- Australian Crime Commission
- Australian Federal Police (AFP)
- Australian Institute of Criminology
- Commonwealth Director of Public Prosecutions (CDPP)
- Department of Education, Employment and Workplace Relations
- Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA)
- Department of Foreign Affairs and Trade
- Department of Immigration and Citizenship (DIAC)
- Department of the Prime Minister and Cabinet
- Fair Work Building and Construction, and
- Fair Work Ombudsman.

<http://www.fahcsia.gov.au/our-responsibilities/women/programs-services/reducing-violence/anti-human-trafficking-strategy>

The Australian Government Response: the 4 pillars

These initiatives reflect the four central pillars of the Australian Government's Strategy to Combat Human Trafficking and Slavery:

prevention;

detection and investigation;

criminal prosecution;

and victim support and rehabilitation.

Together these measures address the full cycle of trafficking from recruitment to repatriation and give equal weight to the critical areas of prevention, prosecution and victim support.

Human trafficking and people smuggling

Human trafficking is a very different crime from people smuggling.

Human trafficking is the physical movement of people domestically or across borders through deceptive means, coercion or force. Importantly, human traffickers are motivated by the prospect of exploiting their victims once they reach the destination country. People smuggling is the organised, irregular movement of people across borders, usually on a payment-for-service basis.

Prevalence:

Human trafficking is a serious but underreported problem as victims are unwilling to come forward.

Australia's Commonwealth human trafficking offences include the offences of slavery, sexual servitude, deceptive recruiting, trafficking in persons and debt bondage. These offences are contained in Divisions 270 and 271 of the *Criminal Code*.

While the majority of prosecutions to date have focused on trafficking for the purposes of sexual exploitation, labour trafficking is an emerging issue.

Prevalence

Since the commencement of Divisions 270 and 271 of the *Criminal Code*, 15 people have been convicted of human trafficking related offences. Ten of those defendants were convicted of slavery offences, three of sexual servitude offences and two of trafficking in persons. As at 30 June 2012, five human trafficking matters, involving six defendants, were before the courts. Two of those five matters (relating to three defendants) were at the appeal stage.

<http://www.cdpp.gov.au/Publications/Annual-Reports/CDPP-Annual-Report-2011-2012.pdf>

Between January 2009 and June 2011 there were 73 police investigations in Australia and 145 trafficked people entering the government's victim support program—slightly more than in the previous period. Victims continue to be overwhelmingly from south-east Asia, one-third from Thailand alone.

Abstract from Trafficking in persons monitoring report: January 2009–June 2011

<http://www.aic.gov.au/publications/current%20series/mr/1-20/19.html>

The AIC: Community Awareness

Since 2008, the Australian Government has increased the tempo on investigating and understanding these crimes, and the Australian Institute of Criminology's research and monitoring program is part of this effort.

Community awareness and attitudes survey

Examining Australians' awareness of trafficking and their perceptions of who the victims of trafficking are, is valuable for informing policy and practice in the area. The knowledge that members of the community possess is important for two reasons:

- Members of the community are more likely than the authorities to come into contact with trafficked persons and their knowledge may assist in identification and reporting.
- Such cases are likely to be tried before juries drawn from the wider community, and an understanding of the facts of human trafficking in Australia is important in reaching just trial outcomes.

The AIC: online survey

Assessing community awareness of human trafficking, as well as attitudes to related issues, such as people smuggling, can also shape future awareness-raising activities and shed light on issues that may have a significant impact on trial outcomes. To that end, the AIC developed an online survey of respondents' understanding of trafficking and their attitude to a range of related issues, including people who are unlawfully in Australia, labour exploitation, sex work and the notion of 'deserving' victims.

The survey was run nationally in mid-2009 and had 1,617 respondents. The majority (63%) of respondents were female, 46 percent were aged between 30 and 49, 76 percent were born in Australia (96% of respondents indicated they were Australian citizens), 75 percent were living in the eastern states of Australia and 50 percent were in full-time employment.

http://www.aic.gov.au/publications/current%20series/mr/1-20/19/04_exec_summ.html

The AIC: Community Awareness

Results from the survey revealed respondents to be confused about the distinction between human trafficking and people smuggling. This is likely to have influenced other findings, including the assumptions that international organised crime networks are primarily responsible for human trafficking, that over 1,000 people are trafficked into Australia each year and that most trafficked persons come from Afghanistan.

Many beliefs about the nature and extent of human trafficking were based on misconceptions commonly found in popular media and were conflated with the issue of people smuggling. This highlights the need for further work in raising awareness and providing factual information to the community. Yet, survey participants were, by and large, reasonably well informed about trafficking and held quite humane attitudes. There was strong support for the notion that the human rights of trafficked persons are paramount and that trafficked persons require support regardless of how they arrive in Australia.

The Australian Government Response: 1 July 2009

On 1 July 2009 the Government implemented changes to the *Support for Victims of People Trafficking Program* (the Program) and the *People Trafficking Visa Framework* (the Visa Framework). These changes mean that victims of trafficking in Australia now have access to a more flexible support framework for themselves and their families.

Under the previous arrangements, the Program comprised three phases:

- Assessment Stream, which provided intensive support for the first 30 days after a victim was identified.
- Justice Support Stream, which provided ongoing support until the finalisation of the trafficking. investigation and/or prosecution.
- Temporary Trial Support Stream which provided intensive support for clients who returned to Australia to give evidence in a trafficking-related prosecution.

The Australian Government Response: 1 July 2009

The Visa Framework consisted of four visas:

- Bridging F visa.
- Criminal Justice Stay visa.
- Witness Protection (Trafficking) (Temporary) visa.
- Witness Protection (Trafficking) (Permanent) visa.

Previously, victims of trafficking were required to hold a visa under the Visa Framework to access the various streams of support under the Program.

Changes to the operation of the Program and Visa Framework include:

1. De-linking victim support from visas.

Victims of trafficking were previously required to hold a particular type of visa under the People Trafficking Visa Framework to access victim support. From 1 July 2009, victims of trafficking on any valid Australian visa are able to access support under the Program. This change offers greater flexibility to victims of trafficking and ensures that victims who hold valid visas on referral to the Program are not disadvantaged by having to request cancellation of their visas in order to receive the second phase of support.

Changes to the operation of the Program and Visa Framework include:

2. Extension of the Assessment Stream and Bridging F visa from up to 30 days to up to 45 days.

In the past, victims of trafficking were issued with a Bridging F visa which was valid for up to 30 days and entered the **Program on an initial Assessment Stream, also for 30 days. Support under the Assessment Stream** of the Program is now available for 45 days to all suspected victims who hold a valid visa. If the person is unlawful they can be granted a Bridging F visa for 45 days.

This provides an extended recovery period and time for victims to assess their options. The full Assessment Stream is now also available to all victims of human trafficking, irrespective of their willingness and ability to assist with an investigation and prosecution of a human trafficking offence.

Changes to the operation of the Program and Visa Framework include:

3. A period of up to 90 days assistance to victims who are willing, but not able to assist with an investigation and prosecution of a human trafficking offence.

Previously, victims who were not able to assist with an investigation and prosecution of a human trafficking offence were assisted to return to their country of origin, unless they could satisfy criteria of another visa enabling them to remain in Australia. Under the new arrangements, victims of trafficking who are willing, but not able, to participate in the criminal justice process may be eligible for up to 90 days support under the Program (45 days support under the Assessment Stream and 45 days support under a new Extended Intensive Support Stream). This extended period of support is provided on a case-by-case basis and is designed to provide additional assistance to victims suffering from medical conditions like trauma. If the suspected victim of trafficking does not hold a valid visa, a second Bridging F visa for up to 45 days may also be granted.

Changes to the operation of the Program and Visa Framework include:

4. A 20 day transition period for victims leaving the Program.

Under the previous arrangements, victims of trafficking who left the Program were provided with transitional assistance on an informal basis. This arrangement has now been formalised to ensure a consistent level of service is provided to all victims on the Program.

Changes to the operation of the Program and Visa Framework include:

5. Collapsing the temporary and permanent Witness Protection (Trafficking) visas into one permanent visa and including immediate family members both inside and outside Australia.

In the past, a victim of trafficking may have been invited to apply for a Witness Protection (Trafficking) (Temporary) visa if they had significantly contributed to, and cooperated closely with, a trafficking-related investigation or prosecution and would be in danger if they returned home. Their immediate family members in Australia could be included in the invitation and the temporary visa was granted for a period of three years with processing for the permanent visa commencing in the third year. The temporary visa has now been removed from the Visa Framework and victims of trafficking can instead be invited to apply directly for the permanent visa. Their immediate family members, both inside and outside Australia, can now be included in the invitation.

Changes to the operation of the Program and Visa Framework include:

6. Lowering the threshold for issuing a Witness Protection (Trafficking) Certificate from having made a “significant contribution” to making a “contribution” to an investigation.

Previously, victims of trafficking had to be issued with a Witness Protection (Trafficking) Certificate by the Attorney-General to be eligible for the Witness Protection (Trafficking) visa. A Certificate could be issued where a person had made a significant contribution to, and cooperated closely with a prosecution of a trafficking offence, or an investigation of a trafficking offence that did not proceed to trial. Under the new arrangements, the threshold for issuing the Certificate has been reduced from making a ‘significant contribution’ to a ‘contribution’.


Changes to the operation of the Program and Visa Framework include:

7. Commencing the process for a Witness Protection (Trafficking) visa earlier than at the completion of a prosecution process by setting an independent trigger.

Under the previous arrangements, victims of trafficking and their immediate family members inside Australia were invited to apply for a Witness Protection (Trafficking) visa after the prosecution process was finalised. From 1 July 2009, victims of trafficking and their immediate family members both inside and outside Australia can be invited to apply for a Witness Protection (Trafficking) visa earlier in the criminal justice process under an independent trigger.

Human Trafficking Visa Framework: Further information

http://guidesacts.fahcsia.gov.au/guides_acts/ssg/ssguide-9/ssguide-9.1/ssguide-9.1.2/ssguide-9.1.2.130.html



Australian Government

Guide to Social Security Law

Version 1.195 - Released 13 May 2013

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9.1.2.130 People Trafficking Visa Framework (PTVF)

Introduction

The People Trafficking Visa Framework (PTVF) forms a part of the whole-of-government strategy to combat

- Bridging visa F ([subclass WF 060](#)),
- Criminal Justice Stay visa ([subclass ZB 951](#)),
- Witness Protection (Trafficking) (Permanent) visa ([subclass DH-852](#)).

Bridging visa F - visa subclass 060

Unlawful non-citizens who have been assessed by the Australian Federal Police (AFP) (or other law enforcement) for a period of 45 days. The purpose of this visa is to allow the visa holder sufficient time to rest and recuperate. This support, the visa holder must be referred to the STP case management service provider by the AFP.

Support for Trafficked People Program: 1 July 2009

Australia provides a comprehensive range of support services for suspected trafficked people through its Support for Trafficked People Program (the Support Program).

Possible trafficked people may be identified through a number of avenues, including immigration officials, law enforcement agencies, NGOs, hospitals, medical practitioners, consulates and government departments. The AFP determines a person's eligibility for the Support Program.

The Support Program is delivered nationally by the Australian Red Cross. Case managers are responsible for ensuring the appropriate delivery of support services to meet clients' individual needs, which may include:

Support for Trafficked People Program: 1 July 2009

- suitable accommodation that meets the AFP's security requirements
- income support
- medical treatment (through Medicare and the Pharmaceuticals Benefits Scheme, or as approved)
- counselling
- legal and migration advice
- skills development training, including English-language classes and vocational guidance, and
- social support.

Support for Trafficked People Program: 1 July 2009

Clients who have dependent children living with them may receive assistance with arranging child care, schooling, counselling and medical support, if required. They can also be assisted to access parenting support or education, as needed.

The Support Program Streams

The Support Program is divided into the following streams:

- Assessment Stream
- Extended Assessment Stream
- Justice Support Stream
- Temporary Trial Support Stream

Support for Trafficked People Program: Assessment Stream

Assessment Stream

– intensive support for up to 45 days to all trafficked human determined by the AFP to be eligible for the Support Program, irrespective of whether they are willing or able to assist police. If the person does not have a valid visa, they may be granted a Bridging F visa for 45 days. This provides a recovery and reflection period and time for clients to assess their options. Clients have access to the following support as needed: secure accommodation; a living allowance; an amount for the purchase of essentials such as clothing and toiletries; access to health care, including counselling; access to interpreters; and access to legal services.

Support for Trafficked People Program: Extended Assessment Stream

Extended Assessment Stream

– this provides access to a further 45 days support for clients who are willing, but not able, to assist with an investigation and prosecution of a human trafficking offence. This extended period of support is provided on a case-by-case basis and is designed to provide additional assistance to clients suffering from medical conditions and trauma. If the client does not hold a valid visa, a second Bridging F visa for up to 45 days may be granted.

Support for Trafficked People Program: Justice Support Stream

Justice Support Stream

– support until the investigation and prosecution of a human trafficking matter is finalised. Clients have access to the following support as needed and if eligible: Special Benefit, Rent Assistance and a Health Care Card; assistance with securing longer-term accommodation; assistance to purchase essential furniture and household items; access to Medicare and the Pharmaceutical Benefits Scheme; access to legal services and interpreters; assistance to obtain employment and training (including English-language training) if desired; and links to social support.

Support for Trafficked People Program: Temporary Trial Support Stream

Temporary Trial Support Stream

– intensive support (similar to that provided under the Assessment Stream) for trafficked human who return to Australia to give evidence pertaining to a human trafficking prosecution. Recipients are entitled to short-term accommodation and a weekly living and food allowance.

Support for Trafficked People Program: The Role of NGOs and the Red Cross

<http://www.redcross.org.au/support-for-trafficked-people.aspx>



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Support for trafficked people

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People who have been trafficked are amongst the most isolated members of our community, facing systemic barriers to identification and in accessing services. Many people who have been trafficked may have experienced trauma, physical and psychological abuse and have complex and individualised needs.

Red Cross aims to meet these health and welfare needs as they recover from their trafficking experience through the provision of the Support for Trafficked People Program.

The Program is funded by the Federal Department of Families, Housing Community Services and Indigenous Affairs and Red Cross has been managing the Program since 2009. The Program provides assistance to people who have been trafficked who are assisting the Australian Federal Police in people trafficking investigations.

Red Cross adopts a client directed, strengths-based casework approach - where clients' strength and capacities are recognised and built upon and their resilience acknowledged. Red Cross sees the importance of delivering a service that is responsive and flexible to client needs and directed by their own voice.

Support for Trafficked People Program: Guidelines for NGOs



Australian Government
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Human trafficking

Human trafficking guidelines and factsheets

[Australia's response to human trafficking](#)

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Human trafficking guidelines and factsheets

This page contains resources on human trafficking, including guidelines and fact sheets in English and translated into six community languages.

Guidelines for non-government organisations working with trafficked people

The guidelines for non-government organisations working with trafficked people are an important resource for organisations working with trafficked or enslaved people.

- [Human Trafficking - NGO Guidelines - English \[DOC 195KB\]](#)
- [Human Trafficking - NGO Guidelines - English \[PDF 534KB\]](#)

Support for Trafficked People Program: Guidelines for NGOs

2010

Guidelines for NGOs

Working with trafficked people
Second Edition

A publication by the Working Group of the National Roundtable on People
Trafficking to assist
Non-Government Organisations working with trafficked people

<http://www.ag.gov.au/CrimeAndCorruption/HumanTrafficking/Documents/PeopleTraffickingNGOGuidelines-English.doc>

ANTI-HUMAN TRAFFICKING COMMUNITY RESOURCE

Anti-Human Trafficking Community Resource

The Anti-Human Trafficking Community Resource was released in 2011. It is the product of an Achieving Collaborative Awareness exercise held by the Australian Federal Police. This exercise was designed to foster greater understanding of the most effective approaches to prevent, deter and disrupt the serious crime of human trafficking, and to assist trafficked people.

This resource provides a comprehensive reference guide to all government agencies, non-government organisations, unions and industry groups with a role to play in the fight against trafficking. It will help stakeholders to better understand each other's roles in preventing human trafficking offences and caring for trafficked people. The Anti-Human Trafficking Community Resource is available at:

[Anti-Human Trafficking Community Resource \[DOC 7.14MB\]](#)

[Anti-Human Trafficking Community Resource \[PDF 8.1MB\]](#)

COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS

The CDPP provides advice and conducts prosecutions arising from briefs of evidence referred from investigating agencies, alleging offences of slavery, servitude, forced labour, deceptive recruiting, forced marriage, trafficking in persons, organ trafficking, harbouring a victim and debt bondage. Related referrals may include offences involving migration agents and the giving of migration assistance, the making of false or misleading statements in relation to non-citizens, employer sanction offences of allowing a non-citizen to work in breach of a visa condition and money laundering offences.

In order to provide an independent assessment of the evidence and discharge our obligations as prosecutors, it is essential for the prosecution team to maintain independence from the witnesses that are to give evidence in prosecutions conducted by the CDPP. In practice this requires that there be as little direct contact as possible between victims who are witnesses and the lawyers, counsel and other staff involved in the prosecution. However, this principle is balanced against the need for CDPP to engage with its partner agencies in providing support and referral services for those adversely affected by this crime type.

COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS

CDPP has in recent years released a Victims of Crime policy which sets out obligations in relation to consultation with victims, and in the reporting of case specific information to victims as the cases progress.

<http://www.cdpp.gov.au/Publications/Victims-of-Crime-Policy/>

CDPP also has 2 dedicated Witness Assistance Officers, based in Sydney, who have experience and training in dealing with victims of crime, and who operate independently from the prosecution team. These officers provide support and referral services for victims, and liaise with the prosecution team and investigating agency in relation to issues raised by victims. The Witness Assistance Officers also communicate, to the level and in the manner requested by the victim, updated case related information. Other victim support agencies which have liaised with CDPP staff on these cases in the past include the Australian Red Cross, and other non-government organisations such as Project Respect and the Scarlet Alliance.

The Call for Help

Who she was?

What happened to her?

What happened next?

Going Forward

New offences

Vulnerable witnesses