



Dear Sir/Madam

We would like our submission to form part of the two topics being investigated by the Taskforce.

1. There needs to be a specific offence of “commit domestic violence”, and
2. The experience of women across the criminal justice system.

I have written this submission on behalf of my step daughter (referred to as “daughter” throughout this document) and step granddaughter. After several terrifying years and a lot of hard work we firstly managed to help her understand that we were ready, willing and able to help her escape from her torment and facilitate her building a new life for herself and her daughter.

She is aware of and has had input into the compilation of this document and is also willing to talk about her experiences with the view to helping improve the system so that there will be a better less traumatic pathway out of domestic violence for future users.

I believe that there is among other things a need for domestic violence to be a specific offence that can appreciate the specific needs and impact on families, partners and children. As a psychologist I know how difficult it is to prevent the behaviour passing down the generations. Victims model and inadvertently teach enabling behaviours and perpetrators model and teach violent, and coercive behaviours to their children. A three year old told me that you have to keep daddy happy so that he doesn't hurt mummy and then I watched her pander to and try and please other men. She thought it was up to her to protect her mother. What future does she have in her relationships as an adult if we don't improve the system?

Secondly, our experience, as women using the criminal justice system, was exceedingly difficult and traumatic. We were forced to contact members of parliament for assistance on two occasions during the process because we were so horrified and appalled by the treatment we received. Basically, the attitude we repeatedly were confronted with was “If you are not dead, you are okay”.

The information in our submission is based on events that occurred between 2018 and now.

We hope that all the time and effort we have put into writing this submission will provide you with some meaningful information and suggestions for improvements to a failing system.

Yours sincerely



SUBMISSION TO THE TASKFORCE ON COERCIVE CONTROL AND WOMEN'S EXPERIENCE IN THE CRIMINAL JUSTICE SYSTEM

After [] years of tolerating domestic violence in her relationship with her partner and a lot of advice and encouragement from her parents, my step daughter came to the realization that if she didn't escape from him that he would kill her. She believed that the processes were in place within the police force and the Justice system to provide her and her daughter with the protection she would need. However, in reality, at every level the system let her down and it is only with extensive family support and a lot of luck that she and her little daughter have survived.

1. The police lost the offender's file – so they didn't charge him
2. The police failed to collect all the evidence relating to the choking charge (they failed to ask the victim if she stopped breathing during the attack and they failed to measure the height of the hole in the wall where her head was rammed through it which would have proved that her feet were well off the ground when this happened – so the Prosecutor used this to eliminate the choking charge.
3. When she went to report an earlier assault to the police, she was kept waiting at the police station for a couple of hours and she had to leave because she was frightened her partner would find out what she was doing and there could be serious repercussions. Hence it was never reported!! Can you imagine how many hours her parents spent trying to get her to the point of being willing to lay charges after [] years of abuse and it was all for nothing!!!!
4. The police who have access to cars, but expect victims with no money or transport to travel extensive distances to make statements etc.
5. The statements signed at police stations reveal the victim's general location because they specify which police station it was signed at.
6. The police failed to consider stalking charges for the first breach of the DV order. The police were reluctant to take the first breach because there was no overt threat. This shows a lack of understanding of the context of the texts and the escalating factors in the cycle of abuse.
7. The police's disregard of the 4th breach prevented tracing evidence being able to be collected because it took 8 weeks for them to start to investigate it. By this time, it was impossible for Google to give them the necessary sender's IP address because they only keep them for 30 days!!!!
8. The hospital doesn't have a procedure (like the one with rape victims) for investigating choking injuries to assist with assessing the extent of the injuries and collecting evidence for the criminal case against the offender.
9. Centrelink failed to offer her the \$300 emergency assistance grant and took ten weeks to process her claim for a single parent benefit even though they were aware that she was a victim of domestic violence and had no money and a very young child to care for,
10. The service provider offered counselling for her 4 year old daughter but when she ran up to book it she was advised that they hadn't employed a children's counsellor yet, but they were going to!!
11. The service provider had told us they could arrange for temporary help with caring for her pets but when we asked about it, we were advised it wasn't possible.
12. Victims of Crime lost/misfiled her application and it took months to resolve this problem. She was applying to them for funding for counselling for herself and her daughter but it took more than a year for the money to come through.
13. The Family Court process to request custody of her young daughter cost \$100,000 and it was settled before trial.
14. To abide by the DV Order was a condition of Bail, but was never enforced. Even though he breached his DV Order repeatedly, he was given bail after being on remand for three weeks and it was never revoked. This reinforces the victim's belief that they are of no consequence and the process is all about protecting and supporting the offender.

15. The condition to abide by the DV Order was not a condition of Parole. It should be mandatory in for any person who has been incarcerated for criminal offences relating to Domestic Violence. Once again, the victim is left feeling unprotected.

16. Breaching Family Court orders does not affect bail or parole but does affect victims and their children.

1. REPORTING DOMESTIC VIOLENCE COMPLAINT

The first attempt

The first time her father managed to persuade her to go to the police and report the domestic violence was in [redacted] 2017. After she had discharged herself from hospital because she was too frightened to stay there, her father drove her to the [redacted] Police station to report the incident. After waiting for a couple of hours in the reception area to be seen by a police officer. Our daughter was very agitated as she was concerned about what her partner would do if he knew she had gone to the police and she didn't have her daughter with her. Her father asked the person behind the counter how much longer would it be until they could see someone. He was informed that it could be a very long wait as there was only one person doing interviews and there were still others in front of them in the queue. They were told that it would be better if they came back tomorrow.

After such a negative experience, it was not possible for us to persuade her to go back the next day. We rang and spoke with Policelink and they said they would arrange for the police to check on her. Four days later a policeman went to see her but by then she had no faith in their ability to help. We were left knowing that next time he punched her in the head, he could kill her but we were powerless to help! Hence, it was left to us to keep trying to get her to have enough confidence in the police to get the help she needed.

The final incident

Even though she was injured she ran down the street with her young daughter in her arms, she flagged down a passing motorist to get to the police as she had no money, no phone, and no means of transport. On arriving at [redacted] Police Station at about 5:30pm to find it closed. She rang on the out of hours phone and waited for the police to arrive a short time later. She made a complaint to the police officers and they did an incident report and took photograph of her facial injuries. Because she had obvious head injuries the police called an ambulance to take her to hospital but as she was still clutching her young daughter the ambulance agreed to wait for the grandparents to arrive to care for the traumatized, little girl.

One of the police officers gave her some brochures about some of the services available including DV Connect and with her permission they passed on her details to Centrelink and DV Connect and advised her that they would ring her. The police also made an application for a Temporary Protection Order against her partner which they served on him later that night but they didn't charge him.

Choking, grievous bodily harm and common assault charges.

- Choking charges should be treated as more significant than most other charges because they are proven indicators that the person is highly (7 times more) likely to be killed in the future. As the police have a duty to protect, surely this is the best indicator that the police need to put additional measures in place to protect the victim or ensure that the victim can protect themselves from future attacks.

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Not dead, not important

- Greater importance and attention appear to be given to death than choking even though with choking there is still a chance to save a life.

Choking minimized rather than highlighted

- The attitude my daughter received repeatedly from members of the police force was “if you’re not dead therefore you are okay”. This minimizing the seriousness of the implications of a choking event is another form of abuse and sends a message to the victim that their problems are not important enough for the police to care about them. This makes it harder for the victim to rebuild their self esteem and cope so that they can effectively participate in the legal process and rebuild their lives and their children’s lives. They have been demoralized and controlled in my daughter’s case for 20 years. How is she going to learn to rebuild her life and more importantly to learn that her circumstances can be changed and improved if the police repeatedly let her down?

Willing and capable witness

- Police complain that they are frustrated by domestic violence cases because something like 95% of victims subsequently recant their complaints against their partners. Have you ever wondered, how much of this is due to the police not doing their job well enough and not making the victim feel safe enough to have the courage to follow through especially when they know they are risking death if they antagonize their partner/ex-partner. However, our daughter was well presented, polite, articulate and willing to testify but she thwarted every step of the way.

2. CHARGES NOT LAID AND FILE MISLAID

Three days after the attack we went to court to have a Domestic Violence Order put in place. The Duty Solicitor working on that day told us that her partner should have been remanded after committing such a violent attack and asked us why he hadn’t been charged.

Through our family contacts we were able to check with the wife of a Police officer at [redacted] to get her to ask her husband to find out what had happened. We subsequently followed it up and found out, after three weeks, that [redacted] Police had lost the file on the incident. After some pressure from us, it was subsequently found to have been misfiled.

- This suggests that the police aren’t doing their job to the best of their ability.
- There is no indication that the choking charge is receiving the importance it deserves.
- This undermines my daughter’s confidence in the police’s ability to take her and her family’s safety seriously and that she could rely on the system to protect her.
- This further undermined my daughter’s confidence in the police’s processes and their ability to protect her.

SUGGESTIONS FOR IMPROVEMENT:

1. Checklist of questions for police

Police are given a check list of questions relating to the necessary elements of the charge to ask and steps to complete to ensure that, particularly with choking charges that they fulfil their part of the process effectively. Prosecutions told us that because they didn’t ask if she stopped breathing or not and this was a mandatory element of the charge, they wanted to eliminate the choking charge. By the way she did stop breathing and at the time her feet were about 6 inches off the ground and her head had been rammed through a Gyprock wall. The Police failed to measure the height of the hole in the wall. As you need a strong weight of evidence for a choking charge to be pursued in the courts, the police need to be more precise in their evidence collection and questioning of victims. In this case, there was sufficient evidence but the police failed to collect it. Added to this they had the luxury of a willing witness who was well educated and articulate.

2. Red Flag Choking Charges

Choking charges be given a priority because they are strong indicators of future violence. His ex-partner believes that if he should ever find her, he is likely to kill her. As leopards don't change their spots, his next partner will also never know his history and her life could be at risk.

3. Hospital – Set Protocol for Choking Victims

Police should automatically refer the victim to hospital and the emergency need an agreed protocol for examining choking patients, (just as they do in rape cases) that includes all the appropriate testing to verify that the patient has been choked and also ensure that the appropriate evidence is available for subsequent court cases.

Two tests that were likely to reveal the true extent of damage to her neck and useful evidence for the legal case were not done.

- i. Endoscopic inspection – An Ent specialist advised that they should have done a CT with dye to check for narrowing of the carotid arteries in the neck. Research has shown that in cases of attempted strangulation this type of damage can lead to stroke or death up to 12 months later and therefore this test should be done as a matter of course.
- ii. CT of neck to check for neck damage. In [redacted] case a subsequent CT revealed that she had a disc protrusion.

A second review should occur a couple of days later as many of the symptoms are often not apparent immediately eg swelling of the neck, changes in voice, development of blood clots. (Two detectives told a client of mine that she should go home because there was no reason to believe her choking claims because she didn't have bloodshot eyes or marks on her neck. This client's partner used to choke frequently until "until she went floppy"). There is medical research to show that the physical effects of choking don't always reveal themselves for some time but there can be fatal consequences up to two years later. Therefore, this testing is necessary both for the patient's ongoing care and subsequent legal proceedings.

3. BREACHES

Once we had the no contact Order in place, we told the Duty Solicitor that her ex-partner was already breaching the Order while he was in Court and later while we were talking to the Duty Solicitor by repeatedly sending my daughter text messages. He advised her to send him one message to tell her ex that she is with her lawyer and that if he didn't stop sending the messages he would get into a lot of trouble. This had no effect on him and he continued to send text messages. In one message he was saying how good it was that nothing bad happened when he got the Domestic Violence Order against him because he didn't get a fine or a criminal record against him or anything! There was in excess of 180 text messages over three days. The Duty Solicitor advised us to go to the police and report the breach.

1st Breach

The 180 text messages. Our daughter went to the [redacted] Police Station to report the Breach. The young police officer who took her complaint was not very interested and could not understand the seriousness of the texts, telling her that they didn't contain any threats of violence. When my daughter offered her the opportunity to take copies of the texts as evidence. She told her that this was not required. After a few days, my daughter was called by the station and told that she had to come back and give them her mobile so they could take copies of the text messages.

Impact of Breach on Victim

The attitude of the police officer taking the advice of a Breach showed no appreciation of the impact of the texts on the victim. Firstly, each text in itself is a threat from the victim's perspective. Every time a text comes through from her ex-partner, it is a painful shock that she believes indicates that the cycle has started again and she will be hurt again soon and without help from the police she will

be powerless to avoid it. How would you feel if you were whipped 180 times in 3 days? That's what it feels like to the victim. This emotional pain is just as painful, but lasts longer. Add to this coercive control that is associated with these incessant messages. However, the legal system calls this one breach, not 180.

No consideration was given to making it a stalking charge! Then it can take over a year for them to be brought up in court because priority is given to the criminal charges relating to the initial assault. And then there is no real punishment.

This makes the victim feel that there is no protection for them and because nothing happens to discourage the perpetrator from continuing to disregard the Order. Their bail is not revoked. Their parole is not cancelled. To all intents and purposes the perpetrator believes they can get away with it. If it's a narcissist this feeling that they can get away with it makes them bolder and makes their victims even more frightened because they know that the cycle has started and the threat level had increased and based on his past history, he would be looking to kill her. He had repeatedly told her that he would hunt her down forever and kill her.

i. Under estimation of the threat level.

The police officer's attitude was that the text messages were unimportant because they didn't contain any overt threats. It is not possible for the police officer to arrive at that conclusion without first finding out what the effect on and interpretation is by the victim. (Long term victims of domestic violence have been conditioned by extensive pain and/or punishment to interpret their partner's behaviour in specific ways. Just as a hypnotist can make you react in specific and out of character ways to a sound or a word, so can a violent partner condition a partner to fear certain outwardly innocuous words and behaviours as threatening).

ii. Lack of understanding by the police of the cycle of abuse

In minimizing the effects and importance of the multiple texts by focusing on whether the content was considered violent or not, the police officer doesn't appear to understand the psychology of abuse. Any increase in activity directed towards the target such as innocuous messages is of itself a threat because they show that the cycle of violence has started again. It is not content, but rather context that is important. With this perpetrator, initially his messages will be nice (this is when he is high) and expecting his bait to get a positive response, then when he gets no response, he will start to get frustrated and abusive and the paranoia sets in, then the behaviour changes to threats, and he starts to think that she is and has ruined his life and then he gets physically abusive and threatens her life. This was explained to the police officer but they disregarded it and sent her on her way.

iii. Lack of belief that the police were willing to assist her.

When he had done this previously, she had been unable to go the police for help because she didn't have any faith in the police's willingness to protect her. She knew she couldn't afford to fail. If he found out she had gone to the police to lay charges against him, he would punish her with physical violence if not death.

iv. No stalking charge.

The police did not give any consideration to charging him with stalking for the 180 text messages.

- As my daughter says each text message is extremely painful eg like being physically hit each time. Each one is such a shock that it shuts your brain down and you have to reset yourself to understand what is happening.
- The words don't have to refer to violence to be violence.
- The breach was minimized.

v. Red Flag Choking Charges

If there is a choking charge involved or you are dealing with a known violent narcissist nothing should be considered insignificant!

vi. Additional difficulties for DV victims to deal with police

The police appear to have no understanding of how difficult it is for the victim to come and lay the complaints because, in my daughter's case,

a. Physical and psychological injuries

She was still recovering from her physical injuries and trying to care for her highly traumatized 4 year old daughter;

b. Fear of reprisal

She was terrified of what her ex will do to punish her if he can find her. Therefore, leaving the safety of her parents' home takes a lot of courage as she is scared that he could be watching and/or following her. As one of the many measures we used to try to protect her from further harm, we had the windows of her car tinted the darkest shade of black, to help reduce her anxiety when out in the car. Even though it reduced it, it didn't eliminate it.

c. Lack of money and transport

Because of the cost and logistics involved with actually getting to a police station. In my daughter's case she had no car, no mobile, no bank account and no money. Added to this she was still recovering from her physical and psychological injuries as well as trying to care for and protect her young daughter and knowing that every time she left the house she could be putting her life in danger. However, she was expected to go to various police stations all over the coast to fulfill the police processes associated with the case, ie making a statement, reporting breaches, bringing her phone so that they could copy the messages etc. As the police have cars, maybe the police should consider coming to the victim rather than making the victim come to them. Or alternatively, maybe the police should organize for the victim to go to the station nearest to them to fulfil these commitments.

d. Tramatised daughter and seriously ill father.

She and her daughter were now living with her parents and her father was seriously ill and in hospital with advanced cancer at the time.

e. Child care

She had to arrange for someone to care for her young daughter while she was at the police station. She couldn't take her daughter with her as this would further add to her trauma. She had been socially isolated by her partner for years so there were no friends that could help her and her only available support was her step mother because her father was seriously ill in hospital.

2nd and 3rd Breach

He subsequently tried to get my daughter's friend to pass on messages to my daughter on three occasions a few months apart. These breaches were reported to [redacted] Police Station.

4th Breach

Over two and a quarter years after the Order was put in place. He sent my daughter an email with a photo of a document that he knew would be threatening to her and let her know that he was being true to his threat that he would hunt her down forever.

Reported at ^A [redacted] Police Station

My daughter reported this Breach to ^A [redacted] Police Station.

Complaint passed to ^B [redacted] Police Station

The officer there took her complaint and passed it to ^B [redacted] Police station because that was where he was now living. The officer at ^A [redacted] Police advised her to follow it up with the police at ^B [redacted]. She followed it up weekly for four weeks and each time she made officers aware as to the seriousness of his threats. She was initially told it wasn't allocated to anyone and they were very busy; the next time she was told it had been allocated but the officer was on leave and it would be dealt with when they came back from leave. Then after four weeks she was told that they had attempted to phone him and he had refused to answer their calls or return messages and was advised that this was common practice with people that break the law. Unhappy with this response, she rang

the DV Taskforce and made a complaint about what she felt was the lack of inaction by Surfers Paradise police to contact him. When speaking to both A [redacted] and B [redacted] police, my daughter advised them that he was still on parole and reporting to a parole officer and therefore, if they corresponded with Corrections, they could easily coordinate a way to locate him and communicate with him.

Complaint passed to C [redacted] Police Station

The next time she rang B [redacted] she was advised that it had been passed to C [redacted] Police Station. She rang C [redacted] Police and was told that they had been to his place of residence but he wasn't at home. She was told again that they are hard to track down because they don't return calls and are often not at home. She rang the DV Taskforce again to complain again and ask that they chase it up with C [redacted]

Complaint handed back to A [redacted]

Then, the original policeman at A [redacted] was handed the file back and so my daughter rang him and he advised her that they finally contacted him and he denied sending the message. They asked him if it was his email address. They asked if it was the email address he had during their relationship. They asked him if my daughter knew the password to his email account. The officer told her that this line of questioning opened the window to create a doubt as to who had sent the email. (They didn't ask him if he had changed his password during the last three years. During the time my daughter lived with him, he frequently changed passwords and pins due to bouts of paranoia and therefore is highly likely to have changed them several times since). The police officer at A [redacted] rang D [redacted] CIB and asked how they could trace an IP address. He was advised by CIB that he would have to make contact with Google which would be difficult.

8 weeks later was too late.

The police officer contacted Google and was advised that that information is only held for 30 days and as it was now 8 weeks later there was nothing that could be done. So, the breach went nowhere.

A. Police process favours the criminal and fails to protect the victim.

The implications of this go beyond the fact that the process helps to protect the criminal and failed to protect the victim,

i. 4th Breach would have shown that the offender hadn't moved on with his life as she was still the target 2 ¼ years later

It also means that it is no longer apparent that he is still fixated on his victim after all this time. One of the threats he repeatedly made to my daughter during their long [redacted] history was that she could not escape as he would hunt her down forever. She believed him as he has carried out other threats he has made in the past. By not being able to complete this breach the enduring nature of his behaviour is lost and the risk he still poses to her is also hidden.

ii. Police inaction aggravates her anxiety

This inaction from the police and as he once again appears to have got away with doing the wrong thing also further entrenches her beliefs that she is unsafe and the police will not protect her. This also makes it less likely that she can be treated for and overcome her anxiety, which makes her more vulnerable to threats and relationship difficulties in the future.

iii. Police inaction increases likelihood of recidivism.

He who, in my opinion is an extreme narcissist and he is strengthened and emboldened by getting away with doing the wrong thing yet again. For example, in the past he lost his driver's licence for [redacted] years but when he went to court to challenge the duration of his punishment. He got his licence back because the computers were down for the day and his driving transgressions couldn't be checked. The magistrate decided to give him the benefit of the doubt. So, he continues to have a disregard for the law and just changes the number plates on his car and drives unlicensed if he loses his licence due to an accumulation of points.

The process strengthens his antisocial, self-serving behaviour. In one of his 180 text messages he said about the Domestic Violence Order been issued “This isn’t bad, I don’t even get a record for this”! Now he gets away with breaching the Order because of police inaction.

iv. Punishment for breaches is too little and much too late.

Because the impact of the breaches is extensively delayed until after the criminal matters are heard and then the punishments are trivial to the narcissist like him, in my opinion, the process makes him feel more invincible and also more likely to reoffend.

v. Victim not in the communication loop.

Police don’t keep the victim informed. The victim has to chase them all the time.

DV Breaches need to be treated as a more serious offence and the penalty needs to be applied faster so that it has some deterrent effect but also to let the victim know that their need for protection is part of the process. In our case, the hearing for breach matter was delayed until after the criminal charges had been dealt with. It was over a year before the breach matter was heard and the punishment was a sentence to be served concurrently. From the offender’s perspective there was no punishment because it makes no difference if you are serving a month in jail for one offence or two offences. It’s still the same period of time. Secondly, if they are free on bail for a year between breaching the Order and being punished with a concurrent sentence, there is no deterrent from breaching the Order again. How is this process protecting the victim?

vi. The Police process fails to protect victim’s privacy as it indicates the victim’s whereabouts to her attacker

The other factor of concern is that the by filing a complaint the victim in hiding from their violent ex-partner is forced to release information about their whereabouts which is increasing their risk of harm. When the complaint is drawn up and signed by the victim, they are forced to reveal the location of the police station where they signed the document this information then becomes part of the evidence to which the perpetrator may become privy to in the future.

SUGGESTIONS

1. **Minimum mandatory sentencing for violent, high risk offences in a DV setting**
Certain high risk, very violent, specific offences in a DV setting (eg choking, GBH, torture etc) should attract minimum mandatory sentences with minimum mandatory period of “actual” custody as already exists for offences such as Evasion and certain weapons offences. This would not cover DV breach offences though.
2. **Mandatory Imprisonment for aggravated DV breach offences involving violence**
Instead, all aggravated DV breach offences (per s177(2)(a) DFVPA) which also involve violence towards a person should attract mandatory imprisonment as part of the sentence, although not necessarily actual custody (similar to current provisions for Dangerous Operation of a Motor Vehicle s328A(3) of the Crimes Act).
3. **Safer Breach Reporting Method**
To protect the victims and to facilitate their ability to report breaches a safer and less expensive method of reporting breaches needs to be put in place.
 - a. Rather than victims with no resources (no money, no car etc) having to go to the police station, the police should go to the victim or, alternatively make arrangements for them to go to the nearest police station to their current residence.
4. **Universal Police Stations**
Make police stations universal and eliminate the need to go back to the same police station about a matter.
5. **Eliminate Police Station Location on forms**

Eliminate any reference to location of police stations on documents that relate to DV clients who are hiding from their attackers, so that the police don't inadvertently learn the general location of their victims.

6. Electronic Reporting of Breaches

Develop an electronic method of reporting breaches and making statements from the safety of the victim's home either using Zoom or Facetime etc.

4. PROSECUTIONS

i. Victim bullied by prosecutor to sign an invalid document

A junior officer in the prosecution's office handling the case rang my daughter to tell her that she wanted her to come in and sign a document that was her ex-partner's untrue version of events so that they could arrange a plea deal to reduce the charges against him and avoid going to trial. My daughter explained that she couldn't sign the document because it was not a true reflection of events and she had already put in a affidavit to the Family Court re custody of her daughter with the true description. She further explained that signing a false document would be interpreted as lying and jeopardise her case in the family court. The Prosecutor and Victim Liaison Officer tried to bully her into signing the false document. The prosecutor said the reason for doing this was to protect the police! They gave her a day to think about it. When she rang back the next morning to advise them that she hadn't changed her mind and would not sign the false statement and stressed that she wished them to proceed with the choking charges they had been trying to drop. The prosecutor told her that she would just accept the offer without her consent!

ii. Prosecutor blames the police's poor evidence collection for dropping the choking charge.

Ultimately, we had a meeting with a second Prosecutor at the Southport office of Public Prosecutions and he advised us that the reason they wanted to drop the choking charge was that the police when taking her statement had failed to asked my daughter whether she stopped breathing or not when her ex was trying to strangle her. Therefore, because the lawyer for her ex-partner had recognized this omission in the evidence, they were going to drop the choking charge. Secondly, as the police had failed to measure the height of the hole in the wall that her head had been pushed through when she was being choked there was no proof that her feet were off the ground when she was being choked. (She is petite and he is taller and more than twice as heavy as her). Because of these two factors the prosecutor wasn't willing to proceed with the choking charge and there was nothing we could do to change his mind.

5. CHOKING CASES SHOULD BE HIGHLIGHTED AND NEVER MINIMISED

As there is ample research to show that choking indicates how dangerous a person is, it is unfathomable that a police officer or a police prosecutor doesn't pay extra attention to ensuring that the correct questions and answers recorded in the victim's statement and secondly no prosecutor should be able to downgrade a choking charge in a plea bargain when they know that a person who chokes their partner is 7 times more likely to subsequently kill their partner.

SUGGESTIONS:

i. No plea bargain for choking cases.

Unless the perpetrator pleads guilty, the choking charges should go to trial and their voracity should be determined by the court.

ii. Register of choking offenders

Those convicted of committing choking offences should then go on a formal register, like sex offenders, so that their threat to future partners is apparent.

6. PHOTOGRAPHS OF INJURIES -

On advice of a friend who had previously also been a victim of a severe domestic violence, our daughter telephoned the police three days after the attack and asked if someone could come and take photos of injuries now that the bruising and swelling was clearly apparent all over her body. This was arranged and the photographer came to her parents' house to take the photographs. The police had only taken a head shot that first day and this failed to show the extensive nature of her injuries. During the attack her partner had picked her up by her neck and rammed her through a Gyprock wall.

SUGGESTIONS

i. Day 3 photographs by Police

Where physical violence has accessioned bodily harm, a police photographer should be organized to as a matter of course to go to the victim's residence, or hospital, two or three days later and take photographs of injuries that may not have been apparent immediately after the attack.

ii. Welfare Checks

The day after a serious DV incident, the police (or a case manager for DV victims) should go and do a welfare check on the victim the day after the complaint is reported and also verify that the victim is able to get the necessary medical support that they need. Many victims who are also caring for traumatized young children as well as themselves, will not be aware of the medical risks etc that may be associated with their injuries and therefore not be suitably monitored by a health professional and other unexpected difficulties.

7. BAIL ONLY TO BE CONSIDERED AFTER SERVED TIME EQUIVALENT TO EXPECTED PENALTY

Currently as soon as you are remanded, as long as you can afford the \$5000 legal fee, you can apply to the Court and request Bail on the basis that you might end up spending more time in custody than you are likely to get as your sentence for the crimes committed. In our case, he was freed after [redacted] weeks. [redacted] weeks was not an indication of the sentence he was likely to get. Her partner was charged with choking, causing grievous bodily harm, and common assault. Bail was initially refused, so he applied to Supreme Court for bail and was released immediately. The prosecutor of this matter had no involvement with the initial proceedings in the [redacted] Court and no consultation with the victim, or the CIB officer who charged him, to assess his level of risk. We had previously been advised by the police that he was in their opinion a serious threat to both our daughter and granddaughter and we should do what we could to ensure that he had no contact with them.

The decision to give him bail was based on a future prediction that the delay in his case getting to court was likely to be longer than the time he would serve if he got found guilty. However, as no one knows what the future holds that was just a guess!!! This mitigating circumstance of whether or not the time spent on remand is greater than the penalty he is likely to get should not be able to be used to ask for bail until he has been remanded for a time period close to the expected sentence. He had only been in custody for three weeks. Keep in mind that the focus of police work, DVO's and the court decisions in domestic violence cases is meant to be to provide protection. In our case we were trying to protect the lives of our daughter and our young [redacted] granddaughter. He had already breached the DVO many times. Surely that gives some indication that he is likely to flout the law and should be restrained. Secondly bending the rules in his favour, adversely affects the safety and confidence of the recovering victim. If our daughter hadn't had access to considerable financial and social support from her family, she would not have been able to protect herself from him. She wasn't notified when he got bail and couldn't even be told what general area he was living in so that she could protect herself by avoiding that area.

SUGGESTIONS:

- i. **With all choking charges the level of threat should be considered before bail considered.**
In Domestic Violence cases or at the very least, when there are choking charges, bail should not be considered until the perpetrator of the crimes has served at least a significant proportion of the expected sentence, and more attention should be given to the circumstances and level of threat the person poses to his victim and others.
- ii. **More consideration should be given to refusing bail in a young child is involved.**
In our case we had been advised by an experienced police officer that we should do everything we could to make sure that her father did not get access to his child as he could hurt her to get back at her mother. It is not possible to teach a young child how to protect themselves should they see or come into contact with their father.
- iii. **Greater liaison between courts**
At the moment it appears to be a case of if you have the money to apply for it, you will get it because prosecutions is understaffed and the different courts don't communicate with each other. Prosecutors handling bail cases at the District Court level should be required to communicate with those involved with laying and pursuing the charges in the Magistrates/ DV Court, so that a united front is presented and there is no conflict between their goals or waste of effort by either party.
- iv. **Victims to be advised of offender's release from custody and area of residence.**
Victims of physical harm through Domestic Violence and particularly choking should always be notified of the release of their attackers from custody and informed as to what area they are living. So that the victim can have the ability to avoid the area and thereby also reduce their risk and anxiety.

8. THE POLICE AND REPRESENTATIVES OF THE MAGISTRATES COURT NEED TO UNDERSTAND THE PROCESSES OF AND LIAISE WITH FAMILY COURT RE PROTECTION OF THE CHILDREN

As the Family Court processes to determine the custody and care of the children are often running concurrently, it is necessary for the police and the justice system to be able to interface with and appreciate the needs and processes of the Family Court. For example, as in our case, the prosecutor tried to force the victim into signing a false statement in a plea bargain that was contrary to her sworn affidavit in the Family Court. If she had done so it could have adversely impacted on her ability to obtain custody of her child in the Family Court. This is another example of abusing the victim and should be seen as unconscionable. The legal representatives in the Courts and police complain about victims recanting their testimony but its practices like the overuse and abuse of plea-bargaining powers that make the victims efforts to seek both justice and more importantly protection for themselves and their children appear futile.

SUGGESTIONS:

- i. **Greater interaction between DV Courts and Family Court**
As one of the main goals is protection of partners and children, there needs to be greater multi skilling and understanding between the Domestic Violence Courts and the Family Court and their differing legal processes and requirements.
- ii. **Victims need legal representative or case manager**
Victims need a legal representative/case manager to assist them have a worthwhile voice and to protect them from bullying by the prosecution process.

9. BREACHES OF ORDERS IN THE FAMILY COURT AND PARTICULARLY FAILURE OF DRUG TESTS ORDERED BY THE FAMILY COURT SHOULD ADVERSELY IMPACT ON PAROLE.

As we knew that our DV attacker was aware that you can buy “clean” urine for drug testing purposes, we asked our lawyers how we could get drug tests that were reliable. We were advised to insist on having hair tests as well as urine tests for drug usage. While he was on parole, he was ordered by the Family Court to undertake hair and urine tests on a regular basis. With these tests he consistently passed the urine test but failed the hair test for both Ice and marijuana even though both tests were done at the same time and on the same day. These failed drug tests should have impacted on his parole because his drug usage was contrary to his parole conditions and indicates an increased level of risk of future violence.

SUGGESTIONS

i. Breaching DV and Family Court Orders should cause Bail or Parole to be revoked immediately.

As the legal process is supposed to be about protection of the victim and not the offender, adhering to Domestic Violence Orders and Family Court Orders should be a condition of Bail and if they are breached Bail should be revoked immediately and not a punishment, or lack thereof, determined a year to 18 months later. The delay in the impact of the breach both leaves the victim vulnerable and does nothing to teach the offender that their behaviour needs to change. Alternatively, there needs to be much harsher penalties so there is at least some deterrent to persecuting their victims!

ii. Breaching DV and Family Court orders should be a criminal offence

Breaches of both Domestic Violence Orders and Family Court Orders should be a criminal offence.

iii. Failed drug tests should cancel bail or parole as indicate greater risk.

As failed drug tests indicate greater emotional instability and paranoia, and increased risk of repeated violence in DV cases, every effort should be made to protect the victim not the offender. Therefore, failed drug tests in both the criminal justice system and the Family Court should cause the bail or parole conditions to be revoked and the offender should be returned to custody.

iv. Drug testing must include hair testing.

As it is easy for the people to get clean urine from a range of sources and the urine collection is not supervised, it is easy to get a clear drug test result even if you are using drugs regularly. Therefore, drug testing in the criminal justice system should include both urine and hair testing so that the result can be relied upon. Alternatively, the collection of urine samples needs to be done under supervision (they do it with athletes) and also DNA checked to ensure it is from the specified person. The cost of the drug testing should be paid for by the offender.

10. CASE MANAGERS

In our case we had problems and failures at every level of the process and no reliable person to turn to for advice or support

17. The police lost the offender’s file – so they didn’t charge him

18. The police failed to collect all the evidence relating to the choking charge (they failed to ask the victim if she stopped breathing during the attack and they failed to measure the height of the hole in the wall where her head was rammed through it which would have proved that her feet were well off the ground when this happened – so the Prosecutor used this to eliminate the choking charge.

19. When she went to report an earlier assault to the police, she was kept waiting at the police station for a couple of hours and she had to leave because she was frightened her partner would find out what she was doing and there could be serious repercussions. Hence it was never reported!! Can you imagine how many hours her parents spent trying to get her to the point of being willing to lay charges after years of abuse and it was all for nothing!!!!

20. The police who have access to cars, but expect victims with no money or transport to travel extensive distances to make statements etc.
21. The statements signed at police stations reveal the victim's general location because they specify which police station it was signed at.
22. The police failed to consider stalking charges for the first breach of the DV order. The police were reluctant to take the first breach because there was no overt threat. This shows a lack of understanding of the context of the texts and the escalating factors in the cycle of abuse.
23. The police's disregard of the 4th breach prevented tracing evidence being able to be collected because it took 8 weeks for them to start to investigate it. By this time, it was impossible for Google to give them the necessary sender's IP address because they only keep them for 30 days!!!!
24. The hospital doesn't have a procedure (like the one with rape victims) for investigating choking injuries to assist with assessing the extent of the injuries and collecting evidence for the criminal case against the offender.
25. Centrelink failed to offer her the \$300 emergency assistance grant and took ten weeks to process her claim for a single parent benefit even though they were aware that she was a victim of domestic violence and had no money and a very young child to care for,
26. The [redacted] DV??? offered counselling for her young [redacted] daughter but when she ran up to book it she was advised that they hadn't employed a children's counsellor yet, but they were going to!!
27. The [redacted] DV had told us they could arrange for temporary help with caring for her pets but when we asked about it, we were advised it wasn't possible.
28. Victims of Crime lost/misfiled her application and it took months to resolve this problem. She was applying to them for funding for counselling for herself and her daughter but it took more than a year for the money to come through.
29. The Family Court process to request custody of her young daughter cost \$100,000 and it was settled before trial.
30. To abide by the DV Order was a condition of Bail, but was never enforced. Even though he breached his DV Order repeatedly, he was given bail after being on remand for three weeks and it was never revoked. This reinforces the victim's belief that they are of no consequence and the process is all about protecting and supporting the offender.
31. The condition to abide by the DV Order was not a condition of Parole. It should be mandatory in for any person who has been incarcerated for criminal offences relating to Domestic Violence. Once again, the victim is left feeling unprotected.
32. Breaching Family Court orders does not affect bail or parole but does affect victims and their children.

Injured with no possessions or money

Our daughter left her partner with her daughter and the clothes she had on. She had suffered physical injuries and had difficulty talking. She had no money, no bank account or credit card, no mobile phone, and no transport.

DV services of limited assistance

She tried to access all the DV services she had received information on but found that once they knew that she had a safety plan in place there was little that they could do to help her. There are a lot of organisations doing basic things but there is no obvious coordination between them and they all seem to be falling over each other and, in our case achieving little.

Family support

However, she was fortunate in that she had a lot of family support to assist her with the care of her [redacted] young [redacted] daughter and the rebuilding of her life. Secondly, our daughter had good work skills and a university level education to assist her in navigating the process. However, every step of the process was exceedingly difficult and required hours of research and follow up phone calls. As she said repeatedly: "If she hadn't had the family support she had, she would have had to go back to her violent

partner because it would have been impossible for her to hide from him and take care of her daughter and herself.

Process very stressful

With all the stress and frustration in the processes she had to follow, she ended up in hospital with physical health problems which were compounded by an allergy to the prescribed antibiotic. Secondly, she was coping with the strain of having to burden her father for support when he was having treatment for advanced [redacted]. To facilitate the process, he bought her a car but then we had to get the windows tinted because she was too frightened to go anywhere alone in case her ex-partner saw her and followed her. I know of other victims of domestic violence who will only go places lying on the floor in the back of the car so they can't be seen. We also bought her a new mobile phone to facilitate communication.

Lack of support or understanding of the process.

When you have never been through the process before, you don't know what to expect and you don't have an appreciation of what things are important particularly from a legal perspective. Secondly, you don't know what help you can ask for or who to ask. Therefore, you tend to ask for the minimum.

Convicted felons get more support than their victims.

Convicted felons have far more support than their victims. They have a case manager contacting them, checking that they are okay and assisting them get access to counselling, housing etc. We know that her ex-partner said in his reports to the Family Court appointed Social Worker that he received regular phone calls and assistance after he was released from jail. As stated earlier, the whole process seems to be slanted towards protecting the offender and for the victim the attitude is "if you are not dead, you are okay".

SUGGESTIONS

i. Case Managers

If one person has many problems with the process as our daughter did, it suggests that there is a need for support for victims of Domestic Violence. Each victim needs to be assigned a case manager to guide them through the process. Many victims of Domestic Violence have been isolated from friends and family for a long time and they have been controlled by their partners and therefore lack experience in making healthy decisions.

a) Skills and training for Case Managers

These case managers need training in how to interact with the police, prosecutions and Family Court procedures and responsibilities because they are difficult to navigate and many of the decisions these traumatized victims will have to make will have negative consequences, if not handled correctly. The case managers will also need good interpersonal and motivational skills as well as practical skills and knowledge of the resources available in the local area associated with medical and allied health services, housing, schooling, transport etc.

b) Source of advice and information on the process and resources available

There appears to be a lot of funding and resources available for victims of Domestic Violence but there is a lot of confusion about who can do what and no one seems to take responsibility for guiding the victims and their children. Case Managers could help to facilitate this process but also provide victims with a reliable and ongoing source of advice and information.

c) Identification of needs and trends

Case Managers would quickly become aware of trends and common problems faced by victims of domestic violence. This would help to clarify which organisations and resources are available and worthwhile. As happens after natural disasters, everyone offers clothes and household items, but the logistics of storing and transporting them just create more

problems. Similarly with Domestic Violence organisations and charities, they are all well meaning but there is a lot of confusion about who does what and much of the advice given is unreliable or incomplete. For example, DV [redacted] told us that the RSPCA would provide temporary assistance with the care of the pets. When we tried to access this, we were told that the service wasn't available. We were also told that the police would attend the house and provide protection, when we went back there to get her clothes etc. However, the police can't guarantee this because it depends whether they can supply an officer and they don't know until the time comes. In our case they couldn't!

d) Future requirements

Case Managers will also help us to develop a better understanding of the common problems and needs of victims which could also lead to better allocation of resources and data collection in the future.

Advantages

a. Coordinated management and referral base

- The Case Manager will become a hub through which the victim can gain access to the full range of services and supports. This rather than the current haphazard approach which works on the "if you don't ask you don't get" theory. People can't know what they don't know.
- Overtime the case manager will gain an in-depth understanding of the victim's circumstances and be able to guide the victims to rebuild their lives in a healthier and safer manner and better equip them to manage their relationships in the future.

b. Provide improved support to victims.

Having one person to call on to ask for guidance in identifying resources, interacting with those resources, troubleshooting problems and feeling supported. A one stop shop makes it cheaper and easier for victims to find and access the support services they need and dealing with one person makes the process far less traumatic.

c. Better, cheaper and eliminates duplication of services

Case managers would enable a better and cheaper interface between victims, support services and the legal system

d. Better monitoring of needs and resources.

For example, if public housing is not available, it may be possible to access cheap motels for short term stays, backpacker hostels, Airbnb accommodation or volunteer accommodation etc. These alternative solutions may not be recognized by those dealing with an issue on an intermittent basis.

e. Facilitate research and data collection.

Facilitating research and data collection could assist with future prevention and improved outcomes for victims. Data collection could help to highlight common needs, resources and effective solutions to difficulties commonly confronted by victims.

11. PSYCHOLOGY OF DOMESTIC VIOLENCE

The police, prosecutors and magistrates require a better understanding of the patterns of behaviour in domestic violence cases. Only by considering the back history of the behaviours in the relationship can the level of threat be revealed. Often what seems innocuous in a normal relationship is part of a sophisticated mechanism of control and intimidation. The nature of the specific relationship gives context to what has happened and how the violence is triggered. For example, in the cycle of violence in our daughter's relationship, an increase in the number of emails, phone calls or questions indicates the cycle has started again and his frustration is starting to build. The next step is paranoia which means that he will start to see her as the devil, then the physical abuse will follow. Text messages don't have to contain overt threats to be threatening and indicate potential violence.

12. PREVENTATIVE, RETRAINING FOR VICTIMS AND/OR FAMILIES

Psychological counselling availability too limited and too expensive

Psychological counselling for both victims and children is far too limited to be of significant help. It is nearly impossible to get an appointment with a bulk billing psychologist. Most charge over \$100 above the Scheduled fee and victims like our daughter cannot afford this service. Secondly, the type of counselling needed requires specialized skills.

Course for DV Victims to prevent reoccurrence and to aid recovery

As relationships are like a dance and once you learn one way of doing it you tend to duplicate those behaviours in your next relationship. Unfortunately, if you have survived living with domestic violence over a long period you will have unwittingly learnt a lot of very dysfunctional and destructive interpersonal skills and so will your children through witnessing these interactions. To prevent the perpetuation of violence and unhealthy relationships, these victims need extensive retraining to learn to have healthy, equitable and pleasurable relationships.

Course for parents or family members or friends of the victims

In most cases where women have been seriously hurt or killed, that I have information on both through the media and personal contacts, there are family members who have tried hard for years to help the victims, recognize that they are experiencing domestic violence and trying to encourage them to leave their persecutors. Just as Alcoholics Anonymous have Al-anon to educate and assist family and friends deal with the challenges of alcoholism, we need a course, or training program, for friends and family to assist them in understanding Domestic Violence and developing effective strategies to safely support their family member/friend.

We repeatedly rang the [redacted] Domestic Violence Prevention Centre and PoliceLink to try to get information and support to assist our daughter in escaping from her dangerous relationship with her ex partner. It was very difficult to get useful help and much of the information we got, turned out to be wrong or unreliable. Her partner was a very volatile and unpredictable "Ice" user, so we couldn't afford to be too heavy handed as he had shown that he was liable to do anything. If we had sent the Police to do a welfare check (not that anyone suggested this) he could have retaliated against her or their little daughter. We felt our hands were completely tied.

It was very difficult to watch her repeatedly hiding the bruises on her face with makeup and not be able to persuade her to leave him because she believed he would hunt her down and kill her if she did. It wasn't until he nearly killed her in the final beating that she realized that he would kill her if she stayed, that she found the courage to escape. Therefore, as a parent a course or support group would be useful and hopefully provide not only support but some safe strategies and resources.

SUGGESTIONS

i. Course For DV Victims

Course outline

- What is a healthy relationship and how to have one
- Conflict resolution strategies
- Effective strategies for PTSD and anxiety
- Helping children to recover
- How to rebuild your life and resources available to help
- Understanding the legal processes and your responsibilities
- DV court
- Family court.

ii. Course For Family Members And Friends On How To Safely Support DV Victims