



16 July 2021

Women's Safety and Justice Taskforce
GPO Box 149
BRISBANE QLD 4001
Submitted via online form

Dear Women's Safety and Justice Taskforce

Submission on Discussion Papers 1 and 2

I am writing in response to Discussion Papers 1 and 2, released by the Women's Safety and Justice Taskforce (the Taskforce) during 2021.

It was good to meet with members of the Taskforce during May of this year, and discuss the very broad scope of work assigned to the Taskforce, looking into:

1. Coercive control and a review of the need for a specific offence of 'commit domestic violence'.
2. The experience of women across the criminal justice system.

This submission responds to the specific issues raised in discussion papers 1 and 2. I understand that further issues may be raised by the Taskforce in further discussion papers.

Discussion paper 1 - Options for legislating against coercive control and the need for a standalone domestic violence offence

Since Premier Anastacia Palaszczuk announced the government would look into criminalising coercive control in February of this year, the complexity of the issue has become clear. With that in mind, the Taskforce has taken a broad interpretation of the various ways that law reform could occur.

As I am sure the members of the Taskforce have, I have had the benefit of hearing some views which reflect deep experience and understanding of the issues.

It is clear that coercive control is an insidious form of domestic violence, and has been identified as a risk factor for death by domestic violence. Frontline services, women's organisations and experts have articulated the need for a dramatic shift in funding, policy settings, culture and values, in order to reduce the scourge of domestic violence in Australian society.

However, much of the evidence also suggests that formally criminalising coercive control could have drastic unintentional consequences, many of which would compound existing inequities in the justice system. These concerns must be taken into account.

The joint submission by Sisters Inside and the Centre for Collaborative Race Research highlighted this to great effect. It makes clear the violent experiences that Aboriginal and Torres Strait Islander women have when in contact with the criminal legal system, and the impact that criminalising coercive control will have on them.

With this in mind, I am concerned that the creation of a new standalone ‘coercive control’ offence, without the significant investment into primary prevention, frontline services and first responder training that are already urgent, will not sufficiently address the very serious issue of coercive control, and I would support further exploration of other options that the Taskforce has provided.

In relation to the twelve other options outlined in the paper, which range from using existing legislation more effectively to facilitating the admissibility of coercive control evidence in court, I would like to submit that the following policy settings must be updated in conjunction with law reform:

- 1. There must be a much larger investment in domestic violence prevention, including frontline services and primary prevention initiatives**

Primary prevention works across the whole population to address the attitudes, practices and power differentials which drive domestic and family violence. These could include schools-based programs, comprehensive public education and social marketing campaigns and workplace initiatives promoting positive bystander responses.

On 30 June, the Queensland women’s sector, including the Queensland Domestic Violence Services Network, Women’s Health Service Alliance, the Combined Women’s Refuge Group, the North Queensland Women’s Services Network, the Queensland Sexual Assault Network and Ending Violence Against Women Queensland wrote to the Attorney-General urgently seeking an increase in core funding for specialist women’s services. This is in order to increase the number of frontline workers and women’s specialist counsellors.

It’s clear that frontline as well as primary prevention services are drastically underfunded in Queensland, and reversing this is essential if we are to support victim-survivors of domestic violence and their children.

- 2. There must be wholesale training for those involved in the legal management of domestic violence, including the legal system and first responders, especially the Queensland Police Service (the QPS).**

Police

Your paper highlights some international examples where police services have been resourced in training on identifying coercive and controlling behaviours, understanding the dynamics of domestic violence, and perpetrator tactics which manipulate victims and first responders.

The examples of where the QPS has failed victims of domestic violence are tragic.

When Senior Constable Neil Punched hacked into a confidential database to leak the address of a domestic violence victim to her violence former partner, the ultimate outcome last year was a suspended prison sentence and community service. This was after his suspension on full pay, and full legal support from the police union.

In the weeks before Kelly Wilkison was doused in petrol and burnt to death by her estranged husband this year, she sought help from the police almost every day. When her police issued a protection order the month before, an officer told her: 'We just need to give him space.'

Reporting by the ABC last year showed that Queensland Police reject 20 per cent of sexual assault reports. This contrasts with other jurisdictions, such as Tasmania which rejects only five per cent. In Bundaberg and on the Sunshine Coast, police rejected 25 per cent in the 10 years to 2018. Nearly one in three sexual assault reports are withdrawn in Queensland, compared with one in 10 in Tasmania.

Last month it was reported that there is a concerning increase in the number of police accused of domestic violence, with 84 Queensland police named as a respondent to a domestic violence protection order.

The need for a renewed police culture, comprehensive training and specialised officers could not be starker than in Queensland, and it is essential that these policy settings are prioritised over the creation of new offences, or further criminalisation.

Our prison system

Queensland's prison population has doubled over the past decade, with First Nations women and men massively over-represented. The numbers of First Nations women in prison in Queensland has more than tripled over the past 15 years, despite drops in offences.¹ Folks engaged in supporting those in the prison system are clear: in Queensland, prison is not an environment conducive to rehabilitation. There are minimal services available in prison for behaviour change and rehabilitation programs, and the environment itself hinders their effectiveness even when available. People incarcerated under expanded domestic violence orders have no chance of behaviour change in the current prison environment.

¹ <https://www.abc.net.au/news/2021-04-01/indigenous-incarceration-report-released/100043816>

The stakeholders I have consulted about this issue are clear that while properly funding domestic violence services and primary prevention, and reforming the culture of first responders, are absolute pre-conditions before law reform is considered, these are urgent priorities now. Criminalising coercive control might be a neat announceable for the government, but it is clear what the urgent priorities actually are.

Discussion paper 2: Women and girls' experience of the criminal justice system

I'd like to take this opportunity to also highlight other issues associated with women and girls' experiences in the criminal justice system, that have been brought to me by South Brisbane constituents and other members of the community.

Affirmative consent

Under theme 3 - Legal and court process for sexual offences - from page 18 of the Discussion Paper onwards, the Taskforce notes the important discussions now occurring about sexual consent. Legislation passed in March 2021 updated the law relating to sexual consent in Queensland. The Paper notes concerns from stakeholders that this reform does not go far enough, particularly in that it did not legislate an 'affirmative consent' model.

I note the Taskforce is considering:

- That it considers whether additional legislative reform is desirable.
- Whether it's appropriate for the Taskforce to consider the adequacy of Queensland's current sexual offences including provisions about consent and the operation of the excuse of honest and reasonable mistake of fact in the prosecution of sexual offences.

My submission in relation to these is an unequivocal yes. It's clear from the experiences of victim-survivors, modern community attitudes and the extensive work done by researchers in this area that the March 2021 updates to consent law were inadequate. Based on what I have heard from survivors, frontline workers and experts, the government's reforms this year did very little to improve the safety of women and other groups at risk of sexual assault in Queensland.

I brought amendments to the government's legislation in March that would have introduced an affirmative model of consent, which were based on in-depth research and advocacy conducted by Rape and Sexual Assault Research and Advocacy (RASARA). Groups including QCOSS, Women's Legal Centre and others were calling for an affirmative model of consent.²

I urge you to consider further legislative reform.

Children in the justice system

² <https://www.qcross.org.au/wp-content/uploads/2021/03/FINAL-Open-letter-to-Premier-on-consent-laws.pdf>

In Queensland, children as young as 10 are able to be incarcerated. First Nations young people are severely over-represented.³ Queensland has a recent history of mistreatment of children in detention, and the number of children being kept in adult police watch houses has shot up.⁴ There is also limited support for children once they leave the justice system, including troubling reports of children not being welcomed back to State schools. Research shows that chronic youth offenders are “likely to have been exposed to significant cumulative disadvantage and adverse life events” (poverty, mental health issues, drug and alcohol abuse) and responses that do not address these underlying causes drivers “are unlikely to encourage desistance or more prosocial behaviours among this offending group, and may inadvertently contribute to their repeated recidivism”.⁵

Women’s experiences of sexual assault and abuse in the Defence Forces

Women in the Defence Forces face unique barriers that make it difficult for them to come forward to report offences, and seek justice. Evidence suggest that only a small proportion of sexual assault victims in the Defence Forces are likely to report. Opening pathways for justice, as well as deep cultural change, is imperative.

Failings in the Family Court system, and the Child Support system

Women have reported to us the ways in which gaps and failings in the Family Court system and the Child Support system exacerbate experiences of domestic violence. Women have reported that the Family Courts are unable to intervene when children are taken by ex-partners, despite custody findings to the contrary. Women have also reported failings in the child support system, which can at times lead to women dropping child support claims.

Thank you for the opportunity to make this submission to the taskforce. Please do not hesitate to contact my office on 3724 9100 if you would like to discuss any of these matters in more detail.

Kind regards,



Amy MacMahon
Member for South Brisbane

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https://www.abc.net.au/news/2021-06-23/youth-justice-indigenous-children-over-represented-report-finds/100235336?fbclid=IwAR0BpU9KMI3d3Sgo30MqoOP7mBUoxMP2nON4q_rgfDN5kWMVML_vHB2ItBs

⁴ <https://inqlid.com.au/news/2021/06/28/youth-crackdown-leads-to-watch-house-where-half-of-inmates-are-under-14/>

⁵ https://www.griffith.edu.au/_data/assets/pdf_file/0026/1091069/Final-report-Youth-Offending-Trends-2008-to-2017.pdf