Hear her voice

Volume 2

This artwork as a whole represents the journey we must go on as a community to protect and better the lives of women and girls and make the world a fairer place for them.

It represents **the mountains we must climb,** and the perseverance and determination it takes to make this a reality.

Part 1

The mountains we must climb

In part 1, the Taskforce reflects on the mountains we must climb to protect women and girls.

We hear the voices of brave women and girls across Queensland who have shared their experiences with the Taskforce. They have shared harrowing experiences of being victims of coercive control. They have shared how the police and legal system made them feel on their journey to justice. They have shared stories of hope.

This part hears from family members, friends, organisations and professionals about how Queensland currently responds to coercive control. This includes the police, legal system and

support services.

Finally, part 1 examines what the Taskforce heard from the community about different options for legislating against coercive control.

The mountain represents resilience, strength and perseverance.

Chapter 1.1

How is coercive control affecting women and girls in Queensland?

This chapter seeks to explore what we mean by coercive control by examining the stories shared by people with lived experience. It will also draw on the insights of those working alongside victims to identify the impact this violence has on victims across diverse populations and the broader community.

'Looking back, I can see the coercive control started the day I met my ex. It is death by a thousand paper cuts. After a few years, you look around and realise that you are bleeding to death and there is no way out.' [1]

What is coercive control?

Coercive control constitutes a pattern of behaviours or 'course of conduct' perpetrated against a person to create a climate of fear, isolation, intimidation, and humiliation. Perpetrators use physical and non-physical forms of violence and abuse against the victim.[2] Their use of violence and abuse vary in frequency and range and can occur across space and time.[3] Perpetrators rely on these dominating and oppressive behaviours to ultimately restrict their victim's freedom and deprive them of their autonomy.[4]

> 'Coercive control is not simply an action within a list of other actions that may constitute domestic and family violence. Coercive control is the context in which domestic and family violence occurs.' [5]

First emerging in the 1970s and later popularised through the influential work of Evan Stark, a central feature of coercive control is its enactment and reinforcement through gendered inequalities.[6] As Stark observed, women who were subjected to coercive control become entrapped in violence:

> … in coercive control, the victim's susceptibility to injury is a function of the degree to which her capabilities for defence, resistance, escape or to garner support have been disabled by a combination of exploitation, structural constraints, and isolation.' [7]

Coercive control differs from other forms of conflict that may occur between intimate partners. It often involves a *pattern* of behaviours. For example:

- perpetrators use a range of strategies to coerce and control victims including physical and non-physical forms of violence and abuse, surveillance, and acts of deprivation and degradation. These strategies ruthlessly dominate[8] their victim, entrapping them[9] in a position of compliance and submission, limiting freedoms and opportunities to safely leave
- perpetrators' behaviours are deliberate and rational, rather than impulsive or erratic[10] [11]
- the abuse is cumulative, rather than a one-off or incident-based act. Every act of abuse performed is intended to 'punish, hurt or control the victim'[12]
- the victim might use violence in resistance to the perpetrator's abuse and violence — however, the impact of violence on each member of the couple is not the same (that is, in a coercive and controlling relationship, one partner is fearful of the other).[13]

> Coercive control can … be described as a set of behaviours used strategically by a perpetrator to create a one-sided power dynamic in an intimate relationship, which allows them to exercise significant control over that person. While this can be accompanied by physical violence … it is in reality more likely to be psychological … behaviour that forces an individual to bend to the other's will. [14]

Broader understanding and awareness of coercive and controlling behaviours has only just started gaining traction in public and professional debates, with discussions on domestic and family violence continuing to progress.

Coercive control as part of our evolving understandings of violence and abuse against women

In less than half a century, domestic and family violence has shifted from the private realm into the public sphere, placing this issue firmly on the social and policy agenda.[15]

Until the nineteenth century, there were few legal constraints to protect victims (usually women) from violence in the home.[16] Domestic violence as a private matter pervaded community attitudes at the time, and the police rarely intervened unless incidents 'spilled over' from the private to the public domain (e.g. as public nuisance matters).[17] In the mid-1970s and early 1980s, women's activists' groups campaigned for more protection for women and equality.[18] Under growing pressure from these groups, States and Territories across Australia and elsewhere undertook inquiries and investigations into the nature and extent of domestic violence, subsequently putting into place policies and legislation in response to this social problem.[19]

Early standalone domestic violence legislation offered some level of protection to victims. However, domestic and family violence was narrowly defined and reflected the traditional view of violence as a physical act.[20]

As community awareness of this violence evolved, so too did greater recognition of its harms and impacts.[21] Following early reform, domestic violence policies and legislation broadened the definition of harm to encompass non-physical forms of abuse including economic and psychological harm. Past legislation was restricted to married couples. Under the new reforms, other types of relationships were also recognised including intimate and family relationships and informal care relationships.[22] As stated by the National Council to Reduce Violence against Women and Children (NCRVWC) in 2009:

> '… a central element of domestic violence is that of an ongoing pattern of behaviour aimed at controlling one's partner through fear (for example, by using violent or threatening behaviour) … the violent behaviour is part of a range of tactics used by the perpetrator to exercise power and control … and can be both criminal and non-criminal in nature.' [23]

Traditional ways of defining domestic and family violence as a private matter and one based largely on physical forms of violence continues to influence criminal justice approaches to what is essentially a social issue. This, combined with an incident-based approach in policing and service responses, complicates how domestic violence is defined, named, and identified. Clearly, this has implications on how experiences are made visible, how risk is assessed, and the types of responses enacted.[24]

Early reforms acknowledged the limitations of the criminal justice system as being a predominantly incident-based model ill-equipped to address the range, extent, and dynamics involved in domestic and family violence.[25] In the resolution of these concerns, a hybrid approach favoured by policymakers led to reforms supporting both civil and criminal approaches in legal sanctions against domestic and family violence. Civil protection orders have been in place in Australia for the last 30 years.[26] The civil branch of a hybrid system was seen as offering a wider range of protection for victims not covered by 'traditional criminal law'.[27] Through the use of civil protection orders, it was intended that victims would be provided greater access to legal responses.[28] For example, victims of domestic and family violence could independently seek a civil protection order without police assistance.[29]

The hybrid approach intended to 'promote the safety and protection of the victim through deterrence for non-compliance with the Domestic Violence Order [DVO]' and provide options when a victim sought non-punitive responses.[30] In this way, Domestic Violence Orders were seen to be future-focused. They protected victims from further acts of harm by laying criminal charges against the respondent where breaches occurred.

However, an ongoing criticism of responses to domestic and family violence is the propensity of the criminal branch of the hybrid system to favour predominantly tangible definitions of harm, such as physical violence and abuse, and continued reliance on an 'incident-based framework'.[31] As a result of the prevailing traditional views and attitudes towards domestic and family violence and existing criminal justice approaches, patterns of coercive and controlling behaviours are missed. This is because incident-based approaches fail to understand aspects of coercive control in the context of other patterns of controlling and abusive behaviour, especially when violence is absent. Professor Heather Douglas explains this existing gap in criminal law in the following terms:

> '... offences that criminalise one-off incidents of violence or criminal damage are available across Australia and may be relevant in some cases of [domestic and family violence], but they cannot reflect the pattern of coercive and controlling behaviours that are often at the heart of [domestic and family violence]. Behaviours that may fall outside traditional offence categories may include emotional abuse, reproductive coercion, isolating behaviours and economic abuse.' [32]

These discussions draw attention to a misalignment between understanding victims' experiences of domestic and family violence, on the one hand, and criminal justice approaches, on the other.

The Taskforce's examination of 731 submissions[33] about domestic and family violence and its wide community consultation have informed the following description of what coercive control looks and feels like for those victim-survivors who shared their stories with us.

Recentering victims voices: the context of examining coercive control in Queensland

Reforms in Queensland have continued to place domestic and family violence at the forefront of public health, human rights, and criminal justice responses (as discussed throughout this report). Despite these efforts, criminal justice responses have not met victims' expectations.

The way we define domestic and family violence is fundamental to understanding how 'abuse is lived and survived'.[34] Sadly, significant limitations in our existing systems are often only revealed or brought to the forefront of community consciousness when victims are killed within the context of domestic and family violence. Recent deaths prominently reported in the media have called into question Queensland's responses to domestic and family violence.[35]

Quantitative studies usefully estimate the prevalence of this issue in the community, but not the depth and type of harm experienced nor the impact on victims.[36]

The submissions we received at the Taskforce have given a voice to community members who have survived coercive control or witnessed its effects on those close to them. We have heard directly from victims about their experiences and insights across diverse sexualities and genders, ages, races and ethnicities. These included both recent and historical accounts of violence and abuse, often occurring over weeks, months or years.

Together with our consultations, the submissions provide a rich understanding of coercive control to inform our response to our first Term of Reference, which is to examine and make recommendations concerning coercive control and review the need for a specific offence of 'commit domestic violence'.

We appreciate that the views of those who have provided a submission or met with us may not represent the experiences of all victims of coercive control in the community. But, reassuringly, the picture they provide is consistent with the understandings of coercive control reflected in existing evidence from respected national and international research. Importantly, they give a largely Queensland perspective into the context and devastating (and costly) impact of coercive control.

Their stories — the lived experiences of victims

The Taskforce heard from hundreds of victims of domestic and family violence who bravely shared their stories in the hope of raising awareness of this form of violence and enhancing the system response so that others do not have to experience the same fate. The following sections outline these experiences, showing the types of abuse they suffered and the impact on them, their children, and the broader community. Unless indicated otherwise, the stories relate to the experiences of female victims at the hands of a male perpetrator of coercive control. The terms 'domestic and family violence' and 'coercive control' are used interchangeably throughout this report.

Gendered differences

Domestic and family violence is a pervasive social problem that can affect anyone, regardless of socio-economic status, gender, culture, faith, or age. The literature, however, acknowledges that although 'situational violence may be perpetrated to some degree by both men and women, coercive control is highly gendered'.[37] This is because much of the abusive behaviours evident in coercive-controlling relationships are founded in gender inequality and aim to denigrate and deny a person autonomy over daily life choices.[38]

Emerging research has also highlighted the prevalence of domestic and family violence committed against people who identify as LGBTIQA+, particularly those who identify as transgender.[39] These differences in gendered experiences of violence and abuse (explored below) are also evident in national and international research.[40]

There are ongoing arguments in the public domain about whether males and females commit domestic and family violence at much the same levels. Situational violence is almost as likely to be initiated by a female as it is by a male partner.[41] This form of violence may include physical assault and can lead to serious injury.

However, this form of violence, used by both men and women, does not occur within the context of power or control.[42] Rather situational violence can occur due to ongoing relationship stressors or external stressors, with violence used more as a means of ending the argument than as a way to dominate or intimidate the other partner.[43]

It is this form of domestic violence that seeds misconceptions that women are as violent as men in intimate relationships.[44] These arguments fail to recognise the context in which this violence occurs or consider the differences between situational violence as a response to single incidents and ongoing patterns of coercive control.

Studies are more likely to report gender symmetry (that is, where both sexes commit domestic and family violence at similar rates[45]) if they focus on counting *incidents* of violence or if they rely on self-reported use of violence within a previous 12-month period.[46]

These studies fail to acknowledge that violent male respondents have engaged in more frequent violence during the previous 12 months and that their female partners are far more likely to be physically injured, to fear for their safety, and to experience negative psychological consequences from the violence.[47]

Current means of measuring violence have been criticised for measuring physical violence without examining the impact it has on victims.[48] Many measures also fail to acknowledge the nature and impact coercive-controlling behaviours have on victims of abuse,[49] often ignoring the levels of fear associated with victimisation and loss of self-agency.[50]

Disregarding the impact of non-physical forms of violence and how physical violence is used to reinforce non-physical coercive-controlling behaviours is dangerous. A failure to understand coercive control in the context in which it is used can leave victims vulnerable to ongoing abuse, fail to hold perpetrators accountable, and limit the availability of appropriate interventions. It also leads to public misconceptions of domestic violence and ill-informed stereotypes that can weaken the criminal justice response.

Some argue that rather than focusing on discrete acts of violence, we need to better understand domestic violence as a patterned form of abuse experienced over time.[51] This view has been supported through the large number of submissions to the Taskforce. A shift from quantitative measurements based on inappropriate scales to a qualitative approach is required.[52] This would provide greater context to the patterns of abuse experienced and allow the victims to describe the impacts of their abuse in their own words.[53]

Both male and female victims of domestic and family violence, including those who identified as LGBTQIA+, shared their experiences with the Taskforce. Whilst some similarities in the types of violence used by both sexes was evident, limited details were provided of the male experience. In the very small number of male victim submissions, experiences diverged significantly from those of female victims when describing patterns, severity, and impacts of violence.

Females often described ongoing fear, violence, intimidation, micromanagement, entrapment, and sexual violence at the hands of the male perpetrator. The few submissions from male victims tended to describe single incidents of general violence such as physical, verbal, or emotional abuse and ongoing use of the court system to control access to children.

Male victims who noted experiencing coercive control from a female perpetrator described feeling isolated within the relationship. However, compared to females, male victim submissions lacked detail about the characteristics of abuse or the impact it had. For heterosexual men who described experiencing violence throughout the relationship, the violence generally related to verbal abuse and physical violence. These submissions did not describe feelings of fear,[54] intimidation, or micromanagement. Men who reported coercive control in submissions were usually not experiencing loss of their self-agency, nor were they in constant fear.

These reports appeared to be consistent with the literature where the context of gender and power shapes how coercive control is best understood in terms of the patterns of behaviour and the context of power relations.[55] Here it is important to distinguish clear issues in dysfunctional relationships where men may nevertheless experience abusive behaviour, but it does not constitute a climate of fear and danger.

As the Taskforce and the wider research into domestic abuse have established, context matters. Submissions to the Taskforce show that while both males and females can experience violence and abuse, they do not experience it in the same way.

Female victims of coercive control

In line with existing literature on coercive control, and from the submissions and our consultations to date, it is evident that coercive control is largely understood and experienced as a gendered issue. Female victims shared their experiences of ongoing serious impacts on their daily life, sense of safety, and sense of self.

Research shows that perpetrators control their victims through deprivation, exploitation, monopolisation of resources, removal of support networks, and limiting the victim's decision-making.[56] To outsiders, this behaviour may be quickly dismissed as that of an overly concerned or invested partner when, in fact, it is more revealing of the perpetrator calculatingly restricting the victim's independence and liberty.

These factors were highly evident across the submissions received by the Taskforce from female victims of coercive control. These women identified how quickly they became entrapped in violence. In some cases, it followed whirlwind romances, moving in together within days or weeks of meeting, early marriage and pregnancy, and moving away from the victim's support networks.

Often the perpetrator was considerably older than the victim:

> 'A whirlwind romance, spending every minute together, making commitments fast, being wrapped up in each other's world, of course your opinion counts more than anyone else, of course I will make small changes to the way I live my life, then comes the mind games, turning me against family and friends until no one I can confide in, take control of the money, pregnant and no way out.' [57]

> 'I was young and he was older and showed me a lot of attention. Within months he was talking about having children.' [58]

The experiences shared by women reinforced the fact that domestic and family violence can happen to anyone. As the following example shows, even professionals trained in the dynamics of domestic and family violence can fall prey to a coercive and controlling perpetrator:

> 'We had a short relationship before getting engaged, and I started to see red flags during our engagement when I experienced a lack of opportunity to negotiate and he had difficulty in compromising … I felt like I lost myself. I would hold back and compromise my identity to keep him happy and prevent arguments.' [59]

The submissions made clear that, for women, coercive control was cumulative rather than incident-specific. Perpetrators relied on a variety of coercive and controlling tactics, including overt or implied threats, acts of violence, surveillance, degradation, and humiliation, to force their victim to submit to their commands:

> 'Nothing I could do was right, I was told how to dress and what to wear… When we ate dinner I was made [to] sit at his feet …On one night I had said something wrong and he got up in front of the kids and kicked my dinner plate across the room. Another night he got angry with me — it was the middle of winter and he locked me out of the house so I could not get back into my kids. He would rip the phone out of the wall so I couldn't call for help. I was terrified a lot of the time. He raped me … he started calling me and saying he was going to kill himself.' [60]

A single act of physical violence may be used to establish an ongoing credible threat of harm within coercive-controlling relationships.[61] As noted in the literature and the submissions received, coercive control does not necessarily need to involve explicit acts of violence to be effective.[62] Coercive control is 'a strategic course of oppressive conduct that is typically characterised by frequent, but low level physical abuse and sexual coercion'[63] that can lead victims to experience 'hostage like levels of fear combined with a state of entrapment and subordination that is almost always grounded in material exploitation, deprivation, regulation'.[64]

Submissions provided by female victims outlined an extensive range of behaviours experienced as a form of domestic, family, or sexual violence, or all three. These included but were not limited to physical, verbal and sexual violence, technology-facilitated abuse, animal cruelty, use of weapons, systems abuse, and micromanagement of routine daily activities, all designed to coerce and control the victim (refer to Appendix 3: *Codebook* for full explanation).

Males as victims

The Taskforce received a total of 503 submissions from people with lived experience of domestic violence, with 18 submissions from men who self-reported as victims of a female perpetrator[65]. In consultation, one male victim recounted violence at the hands of a male perpetrator in the context of an LGBTQIA+ relationship.

Given that the Taskforce Terms of Reference were designed to examine the experience of women and girls, this may have deterred male victims from making a submission. Therefore the low number of submissions from males should not be viewed in terms of prevalence.

Although their accounts did not include extensive details of the male victim experience, they did outline physical and verbal abuse and behaviours described by men as coercive or controlling. Coercive control in the LGBTIQA+ context included public outbursts to cause embarrassment, jealousy, physical abuse, and the perpetrator's failure to take responsibility for their actions.[66] One example also described the victim 'walking on eggshells' and adapting their behaviour to lessen the potential for abuse.[67]

Whilst not diminishing the experiences of men who were brave enough to share their stories with us, it is noteworthy that the coercive-controlling behaviours described by these men were less detailed when compared with those provided by female victims. The behaviours described by most male victims were related to the female perpetrator manipulating the system to limit child contact or uttering threats to falsely accuse the male of perpetrating violence against the female. These examples did not fall under the current definitions of coercive control in the literature.[68] The

submissions from male victims also did not imply an ongoing, continuous pattern of abuse but were isolated incidents that sometimes occurred during verbal abuse and physical violence.

Submissions from two witnesses who shared stories of male experiences of domestic and family violence described the male victim as 'being subjected to coercive control',[69] explaining the male 'was forced to isolate from friends and family'.[70]

In line with the literature on situational violence, it was evident from the small number of submissions from male victims that some men can and do experience single episodes of high-level physical violence at the hands of female perpetrators.[71] The physical violence described by male victims included slapping, scratching, kicking, or punching the victim or children (or both), throwing objects at the victim and, in one case, stabbing the victim. This violence, however, did not appear to form part of a pattern of abuse over time. The verbal abuse encountered by male victims included yelling, threats to withhold children, and making belittling or humiliating comments. Two men described their experiences in the following terms:

> M1: 'She was able to use the police to lie to them and remove me to back up her threats and I had to be good and see my kids or she would call the police again.'[72]

> M2: 'My ex-wife still attempts to control me…via the child support system and by withholding children and making access difficult and expensive.'[73]

A few male victims also described their experience of reporting the abuse to the police. As with many female victims, males felt the police failed to respond appropriately to their abuse. As one male said, 'police ignored my pleas for help'.[74] Another male victim described reporting a physical assault by a female perpetrator to police but said 'they were not interested in charging her'.[75] Although the extent, severity, and frequency of violence against men were not clear from the submissions, two male victims did describe threats to their life.

The Taskforce, of course, condemns all abusive behaviours. However, given the limited details provided to the Taskforce of men's experiences of coercive control and our clear Terms of Reference, it is not our role to delve further into that issue. Rather a comprehensive understanding of male victims would require its own focused investigation, which is outside the scope of the Taskforce's Terms of Reference.

Protective measures taken by victims of coercive control

> 'Women employ tremendous efforts to resist violence in their relationships.' [76]

The resilience and strength shown by the victims of domestic and family violence who shared their stories with the Taskforce are remarkable and must be acknowledged. These women reported drawing upon a range of measures to keep themselves safe, reduce the harm caused by constant abuse, and seek help to minimise further risk to themselves and their children. These protective measures must be understood and considered.

A common misconception about victims of coercive control is that, between periods of abuse, the victim has access to effective safety options, such as calling the police, applying for protection orders, or leaving the relationship.[77] This assumption fails to acknowledge the hold coercive and controlling perpetrators have over their victims — how the constant put-downs, micromanagement of daily life, isolation, threats of physical/sexual violence, and financial control dramatically reduce the options available to victims.

As demonstrated through their stories, a victim's ability to leave a violent or coercive relationship requires resources such as finances, support networks, and safe housing options — all of which are frequently denied to victims.

To manage risks, victims of coercive control become highly attuned to the perpetrator's moods, desires, and movements. They often live in a state of fear and do everything in their power to minimise upsetting the perpetrator, even at the expense of their own freedom.[78] This may mean the victim complies with the perpetrator's demands, such as limiting the time they spend away from home, changing their appearance to abide by the perpetrator's whims, and giving in to the perpetrator's unrealistic and often degrading and inhuman treatment.

> 'I knew I wasn't in a good relationship, I just kept my ears and eyes open while living with him.' [79]

The strategies victims use in an attempt to reduce risk may seem counter-intuitive to outsiders as well as counter-productive. For example, a victim does not always act in the way a 'real victim' is expected to act. Some victims:

- verbally or physically attack police responding to a call for service
- withdraw police statements/complaints[80]
- ignore or punish children in front of the perpetrator
- refuse or dissuade family or friends from visiting.

Victims may also use what is sometimes called 'violent resistance' within the coercive-controlling relationship to protect themselves or their children.[81] Violent resistance is, in essence, a form of self-defence that may include hitting, kicking, pushing, or biting the perpetrator to make them release their grip on a victim or stop the perpetrator's violence.[82]

Other forms of resistance include cognitive resistance, whereby the victim deploys various strategies to keep herself safe and survive the violence, such as help-seeking, hiding, or in some cases, separating from the perpetrator.[83] Victims may also use other means of resistance such as reasoning with the perpetrator, crying,[84] locking themselves in a room to put distance between themselves and the perpetrator, and fighting to access sexual and reproductive healthcare.[85]

The need for women to use safety strategies is not restricted to the relationship but continues post-separation. The Taskforce was provided many examples of women who had left abusive relationships but constantly had to create new strategies to keep themselves and their children safe over many years and sometimes over many decades. These strategies included moving interstate (or constantly moving throughout the State or Territory),[86] changing locks and adding security measures such as cameras or doors,[87] having bills and accounts placed in other people's names so the perpetrator could not track the victim,[88] and going to a shelter.[89] Sometimes it involved remaining within the relationship until financially able to leave.[90]

Unseen and unheard: a lack of community understanding causes further loneliness and isolation for victims of coercive control

> 'Coercive control is very exhausting, debilitating, emotional, scary and abusive. But it is very hard to explain the abuse that has taken place to an outside person as it makes me sound crazy. It is very hard to live through and heal from.' [91]

Victims described their experiences of coercive control as being a silent form of violence and abuse. One victim spoke of the impacts caused by the silence (or a lack of awareness of coercive control) on victims. She stated, '*coercive control is silent for the most parts. You are dismantled, piece by piece. One day you look in the mirror and you don't know who you are*'.[92] This loss of self, described in some of the submissions, highlighted the psychological (but invisible) damage caused by perpetrators:

> 'I was the classic frog in hot water, not realising the danger until I felt, trapped, weak and could see no way out.' [93]
>
> 'The volume of my voice turned down, almost to mute.' [94]

Coercive control is not only silent but also unseen. One victim described this experience of not being heard or understood by family, friends, and service providers:

> 'It's hard to explain the power coercive control holds over a person's life unless you've experienced it. Coercive control is not something that you can feel or touch so a lot of victims are even unaware that this type of control/abuse is happening to them. If explained to friends or family it is usually followed up with, "well if he says things like that, why wouldn't you just leave?" or "I never pictured you to put up with something like that, you're usually such a strong person". You lose all self-confidence, and when you finally do get the courage to seek help and receive the treatment from police that I did, it solidifies the thought of what they have spent all of this time and effort in making you fear and completely stops you from feeling safe to reach out again.' [95]

A lack of awareness or understanding from family, friends, and colleagues about the impacts of coercive control on victims may inadvertently lead them to hold victims accountable for their experience of abuse and violence. An unintended consequence of such a response to coercive control may mean that victims cease seeking help through these informal networks.

In some cases, victims themselves did not recognise that they had been subjected to coercive control. For some, this realisation occurred years later. One victim shared her story:

> 'I always thought my marriage was a fairy-tale, normal marriage. I didn't realise until years after it finished that I was in a coercive control situation. This realisation happened through speaking with others about the things they were allowed to do in their relationship, and it was very different to my own experience ... I never knew how much he earned. I didn't know how to pay the household bills. He did everything. I didn't even know that we had a car loan as he told me he bought it outright. He tracked my spending and he received a text message whenever I spent money and would question me. He also tracked my iPhone. He told me it was because he cared about me and needed to know if something happened to me … When we were with friends he would speak for me and not let me speak. I knew this was bad, but I couldn't speak out. Sometimes when we were together, he hurt me. When I complained he would say "love hurts". He would hold me very tightly and when I told him he was hurting me, he said he was holding me tightly as he loved me. Again, he would say "love hurts". Anytime I complained about his behaviour when he hurt me or was abusive, he would say "love hurts". ... He never hit me ... One time, he got very angry when I stood in his way. He held me by the neck. Then he felt regret and said he would never do it again. He did it again 7 years later. I did not realise this was DV.' [96]

In their submission to the Taskforce, the *Small Steps 4 Hannah Foundation* identified limitations in community awareness of coercive control and the impact this lack of awareness can have on the lives of loved ones:

> 'We believe there has been a very significant upswing in community awareness of coercive control, and support for its prohibition, in the 16 months since Hannah, Aaliyah, Laianah and Trey were taken from us. We have to admit that we did not understand coercive control, even as our family was dealing with it on a daily basis. We knew that something was wrong with the behaviour, and we certainly knew that Hannah deserved so much better from her husband. We didn't understand that this bad behaviour had a name, could be codified and should be illegal. And, of course, we didn't know where it was leading. Even Hannah was not fully aware of the term coercive control, even though she was fully aware of its consequences. She feared for her safety, and her fears were proved correct. But she didn't believe she was a victim of violence because "he never hits me". As a community we are able to look, in hindsight, at what happened and agree it was coercive control. But we can't be as confident that — even had Hannah spoken out — the perpetrator's actions would have been recognised by the community as anything more than "bad behaviour".' [97]

Limited understanding of coercive control in the community contributed to victims' feelings of loneliness and isolation. In her submission, one victim stated '*I lost my ability to trust people and trust myself and my ability to trust my decisions*'.[98] Across a number of submissions received by the Taskforce, it became apparent that victims' often had to rely on their own sense of resilience to continue managing the risks and impacts of coercive control.

Trapped: Perpetrators' pattern of violence and abuse against female victims

The following section examines the variety of conduct used by perpetrators to coerce and control victims into compliance. It is important to recognise that each of the forms described in detail below may be used in combination to abuse the victim, instil a sense of fear in the victim, and assert control over the victim.

Perpetrators' abuse and violence against victims

Perpetrators use a combination of physical and non-physical violence and abuse to control their victims. Submissions to the Taskforce confirmed other research indicating that perpetrator tactics may change over time. The perpetrator may test and apply different forms of abuse and violence to identify which strategies are effective in controlling the victim.[99]

Acts of abuse experienced by victims of coercive control are usually frequent and often seemingly minor when looked at in isolation. Routine and everyday events are seized upon by the perpetrator as opportunities to incite high levels of fear in their victims.[100] For example, a failure to answer a phone call within a certain number of rings or complete household chores in a particular order[101] can result in severe and terrifying repercussions for victims who do not abide by these 'rules'.

The context in which acts of violence and abuse occur becomes key to understanding its impact on victims. That is, the impact of individual incidents of abuse and violence cannot be weighted accurately according to the severity of the incident itself when, outside of its context, it may appear innocuous to others.

The Taskforce identified various acts of abuse and violence used by perpetrators from submissions received, reports of Queensland's Domestic and Family Violence Death Review and Advisory Board (DFVDRAB), and available research.

Manipulation and abuse

Emotional and psychological abuse is prevalent within domestic and family violence incidents, homicides, and suicides related to domestic violence.[102] In Queensland, emotional and psychological abuse was present in just over 30% of suicides related to domestic and family violence between 2015–16 and 2019–20.[103] It was also present in over half of all such homicides (51.0%) committed in Queensland between 2006–07 and 2018–19.[104] These forms of abuse are difficult to address, despite the high prevalence, as noted in the submission extract below:

> 'The years and years of grooming and manipulation to become a passive and almost willing participant of domestic violence; you cannot police emotional manipulation.' [105]

Emotional and psychological abuse can take on many forms and can include behaviours unique to a relationship. Some perpetrator tactics identified in the literature and the submissions shared with the Taskforce include:

- preventing the victim from contacting friends, family, or support networks
- monitoring the victim's movements
- restricting access to social media, communication and other technology
- restricting the victim's movements (for example, leaving the house, going to work)
- impeding the victim's opportunities to gain or maintain employment
- exhibiting jealous behaviours (including jealousy of children)
- behaving in a way that impedes or reduces the victim's ability to socialise (including making friends or family feel uncomfortable and embarrassing the victim in public)[106]
- destroying the victim's relationship with her children[107]
- depriving the victim of sleep to disorient and confuse the victim, making her less able to fight back
- threatening to self-harm if the victim does not remain within the relationship
- blaming the victim for the violence
- showering the victim with gifts, love, and affection and then withholding them
- gaslighting (see meaning below)
- threatening secure housing options.[108]

The fear engendered by non-physical forms of violence is difficult for victims to put into words. Initially, many victims do not even recognise their experiences as abuse. This was highlighted in the following submissions:

> 'She feared for her safety, and her fears were proven correct. But she didn't believe she was a victim of violence because "he never hits me …"' [109]

> 'He would start arguments that had the same topics and then keep her awake for hours, following her into the kids bedroom when she tried to go to sleep. Or he would repeatedly wake her up so he could argue more or ask for sex. She couldn't say no to it, he would just keep asking.' [110]

Other behaviours identified by organisations that work closely with victims and perpetrators who have children include the abusive parent:

- exposing children to persistent, derogatory and demeaning words about the other parent[111]
- alienating children from the non-abusive parent[112]
- demanding more time with children to minimise child support payments[113]
- absconding with, or withholding, children from the non-abusive parent[114]
- denying children contact with the non-abusive parent[115]
- undermining the personal and professional identity and relationships of the victim[116]
- controlling access to finances, resources and health[117]
- using technology to monitor and surveil the victim's movements.[118]

These forms of violence often occur alongside other types of abuse such as physical, sexual, verbal, financial, child abuse, and animal cruelty. The ongoing use of emotional and psychological abuse is evident during the relationship and long after separation. As a result, many victims require sustained intervention to help them deal with the impacts of abuse.

> 'I feel like I am one of the lucky ones. I had the resources, money and support of my family to make sure I never saw him again. It took me years to recover, years of psychological sessions and there are still times now that I am triggered.' [119]

Prevalent perpetrator tactics include making excessive and persistent demands of the victim and constantly changing them to create uncertainty for the victim, followed by periods of sulking, temper tantrums, and silent treatment when these demands are not met or not met to the standard required.

> 'I got the courage to leave him … but from constant hounding as he would use the kids as an excuse to contact me I eventually gave in and went back.'[120]

Victims become worn down over time. They often feel they have to give in to the perpetrator's demands to make life more bearable for them and their children. These demands, when accompanied by physical and sexual violence, lead victims and their children to be in a constant state of fear and hypervigilance.

> 'I would leave and then he would promise me the world, wear me down and I was silly enough to go back. He had me in such a hold that I had absolutely no self esteem.'[121]

> 'I finally found the courage to leave. After …years of experiencing physical, sexual and financial abuse, it was a date I remember clearly…son was dry retching and pleading with his dad not to hurt me. He had hid his [younger sibling] upstairs … so he didn't see anything. He was trying to get my clothes, car keys and phone so we could escape from the house. His dad told him he was going to smash his face in too.'[122]

Between bouts of sulking or silent treatment, the perpetrator will shower the victim and children with affection, promising to change his behaviour and making the victim the centre of his world. These periods of grace are followed by further violence and abuse.

> 'He never hit me, but he would be in my face, shouting or holding my arms so I couldn't get away. But an hour later, you could go out to dinner with his friends and he would be charming and attentive to me, and telling them how happy we were, complimenting me. It was always better when others were there.' [123]

Gaslighting was a common theme throughout the submissions received.

Gaslighting refers to a form of psychological abuse designed to make victims seem 'crazy' to others and themselves, creating a surreal interpersonal environment.[124] It is said to be rooted in social and gender inequality and used within relationships characterised by power imbalance.[125]

This was evident in the relationships described in the many submissions provided by people with lived experience, as highlighted in the following example:

> 'He would secretly move things and make me think people had been in the house, so I was scared … I still question myself and ask my friends if they think I am crazy.' [126]

Gaslighting is an effective means of isolating and manipulating victims into abiding by the perpetrator's demands. It is also highly effective at making female victims appear irrational when seeking help by relying on the gendered stereotype of females as irrational beings.[127]

> 'Then there was the instance where I found out that he had been cheating on me. This resulted in another beating. It was my fault! I did something wrong and the next day; he'd tell me a different story and manipulate the situation, that I would question my thoughts — that my mind had been playing tricks on me. That was constant — he was always playing mind games or moving things and when I would go to find the item, it was gone. It would reappear after I spent time looking or turning the house upside down.' [128]

The domestic and family violence literature describes gaslighting as the way perpetrators intentionally 'spin tales' to distort the victim's sense of reality and distort their perceptions of everyday life (and sometimes their entire biographies) in an attempt to redefine the victim's reality.[129] As seen from the submissions, this form of abuse is often committed alongside other forms of violence, including micromanagement of the victim's daily activities, stalking, monitoring and surveillance, and physical violence.

Jealous and obsessive behaviours

Jealousy and obsessiveness were common themes throughout submissions to the Taskforce.

The prevalence of these behaviours has been noted in domestic violence death reviews,[130] domestic violence literature, and the stories of women who sought help from specialist services.[131] Jealousy has also been identified as an indicator of lethality within domestic violence homicides.[132]

Sexual jealousy, in particular, was evident in just over half of the domestic violence homicides (53.8%) reviewed in Queensland between 2011 and 2017.[133] Jealous and obsessive behaviours are diverse and often used in conjunction with other forms of abuse.

Characteristics of jealous and obsessive behaviours within violent relationships may include the following:

- preventing the woman from talking to other people (particularly males)
- preventing the woman from befriending people within the workplace or social settings
- jealousy towards children and other family members
- restricting access to connect to social and support networks
- insisting on shared social media or phone accounts
- restricting access to transport to minimise the potential for a victim to socialise.[134]

Sexual jealousy was a significant form of abuse identified from the submissions received by the Taskforce, with victims constantly accused of infidelity. For a number of these victims, sexual jealousy led to ongoing sexual assaults and violence throughout the relationship.

> '[He] Made me have sex even though I didn't want to. He didn't care if I was sick or tired — I still had to have sex with him … If I had marks on my body, he told me it was from having sex with another person. I got used to this behaviour.' [135]

Sexual jealousy also involved additional behaviours such as:

- continuously accusing the victim of infidelity
- repeatedly interrogating the victim on their whereabouts
- searching for evidence of victim infidelity
- testing the victim's fidelity
- stalking the victim.[136]

As noted in submissions to the Taskforce, jealousy and obsessiveness can present very early on and continue to worsen throughout the relationship:

> 'The seriousness of our relationship had escalated quite quickly and the first red flags I noticed and ignored were how he was very jealous and possessive and immediately began to alienate me from my support network and start manipulating our relationship to appear a certain way to the outside world.' [137]

> 'When I first met my partner, he was a typical abuser … charming and appearing to be "Prince Charming". He was all I could want a man to be. As I got more involved with him, little things started to happen — out of the blue he would be jealous of something and call me a name and say we were finished, and this would really upset me. Then he would apologise, call me back and act like nothing had happened.' [138]

Jealousy not only involved accusations of infidelity but a persistent campaign to isolate the victim and reduce her sense of self-worth through the use of put-downs that belittled and devalued her, as shown in the next example.

Early on in our relationship he would be very jealous. He would run my family down continuously. He persistently and determinedly would try to make me turn against my family, constantly telling me that they don't want me, don't love me, can't help me, [I] am not important, they won't want anything to do with you because they have their own lives.' [139]

Jealous behaviours could be unrelenting within relationships, as highlighted in the following example:

> 'One weekend it all got [too] much. I told him [I] wanted to go and stay with an older girlfriend overnight. He accused me of going to sleep with someone else.' [140]

The behaviours described above are frequently associated with stalking, the perpetrators' desire to control a victim, and as a motivating factor for physical violence.[141]

Stalking, monitoring, and surveillance

Stalking is a well-known risk factor for intimate partner homicide, recognised as a significant form of abuse within coercive-controlling relationships.[142] Although stalking is commonly perceived as a crime committed by a fixated fan against a celebrity, in reality, it occurs most often within intimate relationships.[143] Stalking may begin during the relationship alongside other behaviours such as monitoring the victim's communications and movements.[144] In extreme cases, such as in a story shared with the Taskforce, the perpetrator may even monitor the victim's body by conducting a 'physical examination every time the victim returns home to ensure she is not cheating'.[145]

Common behaviours identified in the literature and throughout the submissions provided to the Taskforce include constantly:

- monitoring emails, text messages, and phone calls throughout the day
- monitoring or regulating the use of social media
- keeping track of how the victim spends their time
- monitoring or regulating the victim's expenses
- interrogating the victim about anything that might involve contacts external to the relationship
- demanding the victim 'check in' regularly by telephone or text or send photographs to prove their location.[146]

> 'He would sit across the room and would somehow be hacking into my social media from his phone. He would ask who I am talking to and then if I told him no one because it's not his business he would go on to recite something that he could see in my conversation with my friend.' [147]

In some cases, a perpetrator may also demand the victim 'chart' their movements at designated times or refuse the victim privacy when bathing or using the bathroom, as seen below:

> 'He watched my every move … Whilst I showered or went to the toilet, he watched through windows.' [148]

The majority of victims in their submissions to the Taskforce described ongoing stalking, monitoring, and demands to know where they were and who they were with, sometimes hiring private investigators,[149] using third parties such as family or friends,[150] or using electronic surveillance to monitor or track victims, or all of the above.[151] These behaviours led to a heightened state of fear and hypervigilance, as highlighted in the following example:

> 'I was understandably always on edge — I would jump at the smallest sound and be scanning the street for his face every single time I was out in public. This first stalking stint lasted for one year but there were subsequent stalking periods.' [152]

This stalking, monitoring, and surveillance sometimes included the victim's children, extended family, and friends.[153] In many cases, reports of violence stretched over many years, meaning victims had been subjected to countless incidents of abuse, intimidation, and harassment.[154]

A common theme throughout the submissions was the perception of the perpetrator's constant presence during the relationship and after separation.

For victims who shared their stories, the end of a relationship did not always signify an end to their abuse, with victims often describing an escalation of abuse after separation. One victim[155] described the following post-separation abuse:

- the perpetrator covertly recorded her
- demanded proof that she was alone
- threatened suicide as a result of her leaving
- turned up unannounced at her family home
- bombarded her with text messages and emails.

Another victim who had been separated from the perpetrator for more than a decade described the fear she felt when he followed through with his threat to always find her:

> 'I kept a silent phone number for many … years later. I always paid [others] for bills in their name so that he wouldn't find me because the 'I will always find you' was omnipresent. [More than a decade] later he did exactly that. He hired a private investigator to find me. I know this because when he knew where I lived, he sent me a letter … boasting … For the next twelve months I live[d] in utter and total fear. He would send me letters regularly, leave parcels (with the craziest of contents) at my … door and turn up at my house at random times of the day and night. I was absolutely terrified because I knew that he was dangerous. I would freeze. I shut down. I would rock and shake uncontrollably.' [156]

For victims who experienced extensive surveillance, monitoring, and stalking, the fear associated with the abuse remained. For a few victims, a reprieve from the ever-present fear of the perpetrator only came after his death.

Micromanagement

Research on coercive control often discusses tactics used by perpetrators to manage aspects of a victim's life.[157] This includes the perpetrator setting rules that must be obeyed and controlling the victim's self-expression and day-to-day activities.

Submissions to the Taskforce revealed how male perpetrators extensively micromanaged women's lives. Examples included the perpetrator having access to or control of the victim's phone — such as ensuring password authenticator notifications went to the perpetrator's phone — as well as continuous monitoring of phone records, mail, and social media.[158]

Other methods involved restricting the victim's movements, such as forbidding her to leave the house or telling her when to exercise or where to go. Examples provided to the Taskforce included:

> '[the perpetrator] checking bags whenever the family went somewhere.' [159]
>
> '[I was] only allowed to exercise with him or on my own.' [160]
>
> '[He] told me I should exercise but only after the kids were in bed and the housework completed.' [161]
>
> '[He] decides everything on where we go and what we do.' [162]

Submissions also described how the perpetrator controlled many aspects of daily life that we all take for granted. This included:

- regulating what food the victim ate
- regulating how much food the victim ate and when to eat
- demanding receipts for every cent spent by the victim (including for bread/milk)[163]
- deciding what the victim wore, how she looked, the length and colour of her hair
- regulating when the victim went to bed (including where she was allowed to sleep) and what time she woke up
- regulating what the victim was permitted to watch on television
- controlling who the victim could talk to.[164]

Below is just one example of the experiences victims shared with the Taskforce:

> 'He controlled what I wore, he chose what I bought and wore. [He] controlled every aspect [of home life], what I watched on television, who visited the house. I was given chores to do [timed] to prevent me from leaving the house, if it was not done, it indicated I had been doing something else.' [165]

In extreme cases, victims described the perpetrator setting down house rules and timeframes for the victim to complete chores to an exceptionally high and unreasonable standard.[166] These behaviours aligned with research on coercive control.[167]

For a small number of victims, micromanagement extended to the perpetrator measuring the distance from the house to where the victim was going:

> '[I was] timed to ensure I was not cheating on him on the way back.' [168]

Threats of self-harm or threats to kill

The literature and various death reviews have recognised perpetrator threats of suicide as a potential risk of lethality to a victim and her children.[169] The New South Wales Death Review Team found that 25% of men who killed an intimate partner suicided following the murder and 26% of male homicide perpetrators suicided after killing children.[170] In Queensland, 53 domestic and family violence deaths included suicide in 2018–19, with suicides comprising the largest portion of all deaths related to domestic violence in Queensland each year.[171] Male perpetrators of domestic and family violence were overrepresented in these suicide deaths.[172]

When examining the lethality risk factors identified in intimate partner homicides between 2010 and 2018, prior threats to kill the victim were evident in a significant portion of deaths (41.3%), including filicides (30.8%).[173]

> 'Coercive control where a man attempts suicide and continues to threaten suicide if a woman tries to leave or end a relationship should not have blame put onto the woman for making his mental health unstable.' [174]

Evident in the stories shared with the Taskforce was that perpetrators used suicide threats as an effective tactic to control the victim's actions and to abuse them emotionally. Victims were made to 'choose' between the life of the perpetrator and undertaking everyday activities (such as visiting family). Some submissions referred to perpetrator threats of suicide or threats to kill the victim if they refused to comply with perpetrator demands for control.

One victim said that after a disagreement:

> 'He disagreed and stormed out of the room. He refused to answer the phone. Eventually, we found him ... He then stormed off and walked to a bridge, where he threatened to commit suicide; I was terrified.' [175]

Victims described an escalation in suicidal threats and threats to kill after they indicated their desire to end or slow the relationship:

> 'The first time my now former partner threatened me was when he told me he was going to kill himself after I wanted basic personal boundaries respected.' [176]

Victims told us that whilst threatening to kill themselves, the perpetrator would simultaneously threaten to kill the victim, her children, or other members of her family.

> '[He] threatened to kill my child and I if I left.' [177]

> 'The night I told him I was leaving he held a knife to my neck and told me he was going to kill me and my sleeping children.' [178]

Many of the victims who shared stories with the Taskforce described being threatened by the perpetrator throughout the relationship and post-separation.

Verbal abuse

Verbal abuse was a constant theme throughout the submissions reviewed by the Taskforce. It was used effectively by perpetrators to coerce, control, and threaten victims, their children, and in some instances, bystanders and extended family members. Verbal abuse correlates with physical aggression and sexual coercion[179] and is one of the most common forms of abuse experienced by victims reporting to the police.[180]

Verbal abuse targeted towards women and their children included name-calling and insults (both in public and private settings) and using words designed to belittle, humiliate, intimidate, and otherwise bully victims.

> 'Our relationship was incredibly intense and manipulating. I was physically assaulted on occasion but the mental assault and threats of retribution were relentless and paralysing.' [181]

The Taskforce heard from victims who described perpetrators conducting public smear campaigns against the victim's character, yelling abuse, screaming and threatening to harm or kill the woman, child/ren, other family members, or pets. Even without physical violence, the use of verbal abuse instilled fear in victims. This is evident in the following example:

> 'When the explosions came, he never punched me, but if I ever answered back he would fling me into a wall, floor or send me flying across the room, it was safer to ride it out curled up in a foetal position somewhere soft while he stood over me in a terrifying rant.' [182]

Technology-facilitated abuse

Research on technology-facilitated abuse (TFA) within domestic violence relationships has gained traction over recent years, although understanding the impact of this form of violence on victims is still limited.[183]

TFA may be described as coercive and controlling behaviours used to stalk, track, intimidate, impersonate (victims), humiliate, threaten, or harass victims.[184] It may also be used as a form of sexual abuse (for example, through sharing of intimate images without consent).[185]

A study of domestic violence practitioners identified technology-facilitated abuse as a powerful tool to:

- engage outsiders to the relationship to amplify and facilitate ongoing abuse
- control the victim
- amplify a victim's level of fear and sense of the pervasiveness of the perpetrator.[186]

Another study exploring the impact of technology-facilitated abuse found perpetrators regularly used technology to abuse, coerce, and control victims.[187] Perpetrators used a range of behaviours to achieve these aims through:

- harassing victims via mobile phone by making multiple calls and sending multiple texts
- sending abusive and threatening messages and intimidating or embarrassing photographs
- monitoring the victim's mobile phone, deactivating accounts, destroying phones
- installing tracking and spyware applications without the victim's consent
- misusing social media and web-based platforms to monitor, stalk, or sexually abuse victims.[188]

TFA was also prevalent across the submissions received with perpetrators using social media, spyware, and tracking devices to victimise their partners during the relationship and post-separation. This included creating fake profiles on social media platforms in an attempt to keep track of victims or their children (or both) via their social media accounts, and creating profiles on sexually explicit sites in order to upload images of the victim and organise meetings between the victim and strangers without the victim's consent. For example:

> 'My ex-husband posted naked photos of me on [social media] with a public setting. I was humiliated.' [189]

Some perpetrators committed a range of offences including illegally accessing the victim's online government accounts (for example, Medicare/Centrelink).

These victims' accounts often detailed perpetrators installing spyware and other tracking devices on mobile phones, electronic devices, and vehicles as well as installing cameras (sometimes covertly) to maintain constant surveillance of the victim and her children:

> 'He had tracking devices on my mobile, followed me by turning up at locations where I was at …' [190]

> 'In the weeks before I was about to leave he had hidden a microphone in the house to record every conversation.' [191]

Another form of technological post-separation abuse was to make many tiny deposits to a victim's financial accounts accompanied with a threatening or abusive message. This form of abuse has recently been recognised and addressed by banking institutions.[192]

Many submissions described the perpetrator making excessive phone calls to the victim during the relationship, designed to disrupt her whilst at work, maintain control over her movements, and monitor any contact she might have with anyone outside of the relationship.

> 'He became more and more erratic. Some days he would call me 60 times on the mobile phone, then hide his number. He would call my friends to see if I was there with them. I had to change my phone number 6 times as he would ring the mobile phone provider and get my number.'[193]

Some submissions told the Taskforce that perpetrators commenced or increased the number of excessive phone calls, messages, text messages, and emails post-separation to maintain control, harass, intimidate, or stalk the victim.

Some victims also described how perpetrators used technology to foil their attempts to record the abuse:

> 'I was storing notes about the incidents on my … Phone, and one day he reacted after I had made a note. I later found out he had created an … account where he could see everything on my phone. He told me he would watch and knew everything I did and I would never get away from him.' [194]

Financial and economic abuse

Financial abuse, also referred to as economic abuse, is a highly effective form of control that covers a wide range of behaviours. Although this form of abuse often remains invisible, its impacts on the ability of victims to live day to day cannot be understated. Financial abuse is defined as a *deliberate pattern of control to interfere with a victim's ability to acquire, use, and maintain economic resources*.[195] It can also be used to sabotage a victim's efforts to achieve economic security, gain employment, and become financially self-sufficient.[196]

For example:

- refusing or purposely missing child support payments
- asking for a reassessment of child support payments
- providing false income statements
- using missed payments as a means to contact the victim and continue the abuse
- buying goods or placing bills in the victim's name without their consent[197]
- withholding family intellectual property (including bank statements, bills, wills, mortgage documents, payslips, and access to government platforms such as MyGov).[198]

Additional forms of economic/financial abuse identified in the literature and through the many submissions received by the Taskforce included the perpetrator:

- demanding to know how money was spent (requiring receipts for every cent spent)
- deciding how money was to be spent without giving the victim a choice
- stopping the victim from earning her own source of income (limiting opportunities for employment)
- keeping financial information from the victim
- demanding the victim quit her job

- making important financial decisions without talking to the victim
- making the victim ask for money.[199]

From the submissions received by the Taskforce, it was evident that financial control was a significant and highly effective element of entrapment. Despite many victims entering the relationship with their own assets and financial capital, perpetrators reduced victim's access to their own money over time, as shown in the following examples:

> 'Despite being wealthy I was unable to purchase anything myself without permission.' [200]

> 'I sought legal aid and Centrelink assistance. I wasn't eligible as I had assets in my name, but no access to them or funds.' [201]

Another victim explained how the perpetrator manipulated her into surrendering her financial independence:

> 'I had my own business … and owned my own home, life was great … once I was living with [my partner] he told me to give up my business. He did it in such a way I felt like I had to show I was committed and wanted a life together. I had sold my home and given up my business, I was financially under his control.' [202]

Tactics to gain financial control included:

- convincing or guilting the victim into opening joint bank accounts that the perpetrator then took control of
- taking the victim's money and only providing a stipend to the victim for household expenses
- forcing/coercing the victim into taking out large and often unnecessary loans for the perpetrator
- placing all assets in the victim's name so the perpetrator would appear to have limited financial resources (for tax purposes and later used in court proceedings to limit the victim's ability to access legal aid)
- demanding the victim cease work or making it difficult for her to work (such as refusing access to vehicles/public transport or constantly calling at work)
- selling the victim's mode of transport so she was even more reliant upon the perpetrator.

The devastating implications of financial abuse were highlighted by one victim who explained:

> 'He stole my financial independence by burying us in debt and the only way I could escape him was to buy my way out of the relationship by paying off [debts] and giving him the major share of money that was left after all other debts mostly incurred by him was paid off …' [203]

The case study below, provided to the Taskforce by the North Queensland Women's Legal Service, shows how government agencies can unwittingly facilitate this abuse:[204]

> Mary is a young woman with five children and Centrelink debts of [more than] $100,000 raised in her name due to a re-assessment of her relationship status.
>
> Mary has had 25 changes of address since the age of 15, some shared with the father of her children, but the majority being relatives' homes, motels and women's shelters until she secured government housing. During this time Mary endured relentless coercive control from the father of her children, who threatened constantly to tipoff Centrelink about her 'relationship status'. He used these threats as Mary had been forced to either return to him on many occasions to avoid homelessness or had at times relied on him to provide emergency care in her home for the children as her health deteriorated and she required periods of hospitalisation.
>
> A tipoff was eventually made by her abuser, and Mary's home was raided. She was investigated, charged and convicted of fraud by Centrelink. Her appeal to the Administrative Appeals Tribunal was unsuccessful and she now has a criminal conviction that will impact her future employability for life, and she is burdened with a debt she is never likely to repay. This is despite evidence of domestic violence, homelessness … spent in women's shelters and financial hardship. Meanwhile her abuser received no penalty, no criminal record and continues to abuse, harass and disrupt Mary's life.

It is evident from the examples provided here that financial and economic abuse can significantly hinder a victim's ability to leave a violent relationship and to maintain a sense of self-agency and independence. In some of the examples provided to the Taskforce, financial abuse can also destroy a victim's future economic security, leading to homelessness, poverty, and insurmountable debts created by the perpetrator.

Animal cruelty

There is a growing body of literature on the connection or 'link' between domestic violence, child abuse, and animal abuse (evidence of this connection dates back to the early 1800s).[205]

This connection has led some countries (including Australia) to review existing legislative penalties for animal abuse.[206] Although the prevalence of this form of violence is difficult to determine, one Australian study found a significantly higher rate of actual and threatened animal abuse in families characterised by domestic and family violence when compared to those that were not violent.[207]

Studies in the United States have also identified high levels of animal abuse within domestically violent relationships, with 57% of victims interviewed on this topic reporting pets being harmed or killed by a male perpetrator and 71% reporting threats of or actual pet abuse.[208]

More recently, women interviewed at domestic violence shelters in the United States were found to be 11 times more likely to report their pets being hurt or killed by a violent partner than those who had not experienced domestic violence.[209]

Evidence of animal cruelty as a form of coercive control was identified in a small number of submissions to the Taskforce. These submissions described perpetrators using acts of animal cruelty as a means to intimidate and control victims and their children.

One woman told the Taskforce in a submission:

> 'I was pregnant and he was in one of his moods. He chased me … and grabbed me by the hair to pull me back. I got away and when he couldn't catch me, he grabbed my pet, picked it up and threw it … My pet lay there fitting but I wasn't allowed to go to it …' [210]

These victim accounts included the perpetrator making threats to harm or kill family pets, actually harming family pets in front of the victim (and sometimes the children), regularly abusing family pets (such as kicking, punching, restraining, and even killing them).[211] The use of excessive violence towards family pets was not only traumatic to the animal but also severely affected the victims and their children who had to witness this abuse:

> 'He shot our pet … because [it] annoyed him … he killed a pet … cooked it and tried to force me into eating it.' [212]

> 'I had a pet. she was my world. I would go and sit down and pat her and spend time with her. She was my friend at home. [He] would tell me I loved 'that [pet]' more than him. One day he got my children and shot her, strung her up in the tree and got the kids to help him cut her up. He made me cook her and eat her. He sat and watched …' [213]

> 'He abused our dog. He would use the choker aggressively if they disobeyed him, he would kick and punch the dogs. He even held my puppy's head under water as a punishment.' [214]

On occasion, the perpetrator left dead animals in the vicinity of the victim's home or left animal parts throughout the victim's property as a warning to the victim. [215]

The significance of animal abuse and cruelty cannot be understated. Victims have described perpetrator threats and abuse of their pets as a form of psychological abuse.[216] The impact of children and victims witnessing the abuse of beloved family pets can lead to long-lasting trauma.[217]

Dynamics of coercive control and children

Use of children as a tactic of coercive control

A significant number of submissions to the Taskforce highlighted the particular difficulties faced by victims with children, both while in a coercive-controlling relationship and post-separation.

The strong desire to protect children from abusive fathers was an all too common theme in submissions from mothers. Some victims reported staying in a relationship to protect their children from potentially unsupervised contact with the abusive perpetrator:

> 'I felt I could protect my children better if I was with them all the time, and that's the only reason I stayed and put up with the abuse.'[218]

One woman, subjected to extreme physical and sexual violence by her partner, told the Taskforce about being undermined as a mother by her partner making false allegations to Child Safety and refusing to let her leave with the children.[219]

The submissions to the Taskforce confirm that both victims and manipulative perpetrators perceive the current family law system in Australia as privileging the maintenance of relationships between perpetrators and their children. The view that a 'deadbeat' father is better than no father[220] is assumed at the expense of the child's safety[221] and at great financial cost to victims.[222] Many victims spoke of a disconnect between the state-based civil domestic violence system and the family law system.

Where the family law system was involved, submissions commonly reported a deep sense of fear at the prospect or reality of handing children over to abusive fathers to comply with family law orders. Many submitters felt that perpetrators had used the family law system against them as a way to facilitate further abuse and coercive control.[223] One submission described their experience:

> 'I'm trapped by the system. I have to deal with ongoing abuse via my children until they're 18 … I am not able to escape the abuse completely because of the systems in place that support the abuser…. It's a life sentence of ongoing abuse even if you manage to leave the relationship.'[224]

Submissions also highlighted the economic impact and emotional toll of delayed family law proceedings concerning children. Excessive legal proceedings and delaying tactics such as these are often referred to as 'systems abuse'. Some women even went as far as to say that, had they known of the extent of the perpetrator's post-separation systems abuse, they would have remained in the abusive relationship until the children were old enough to decide on maintaining a relationship with the abusive parent.

This abuse, coupled with tactics designed to manipulate children, can include buying expensive gifts, turning the child against the other parent or relatives,[225] or forcing/tricking the child into 'spying' on the other parent (such as disclosing movements or new contact details).[226] Perpetrators stalk the family unit and continually threaten anyone who attempts to support the family until few safe options are left.[227]

Coercive-controlling perpetrators may create a public persona of a charismatic, caring father, designed to manipulate not only the child/ren and ex-partner but also professionals they come into contact with.[228] This is particularly so when child custody and co-parenting arrangements are sought through the family court system. Children may experience extreme fear of the perpetrator, become increasingly distraught and emotional in the lead up to hand-over with the perpetrator or be confused by his behaviours.[229] This behaviour can lead children to live in a constant state of fear, unable to participate in usual childhood activities, interfering with schooling, and creating ongoing generalised instability.[230]

Perpetrators also use emotional abuse towards the child, such as blaming the child for the perpetrator's current mental state or suggesting that the child does not see or care for the abusive parent enough.[231]

Coercive control against children and its impact

The Taskforce did not hear directly from children exposed to coercive control. These experiences were retold to the Taskforce by caregivers, often mothers, fearful of their children's exposure to violence and abuse.

> 'It is very difficult to walk away from when you feel you have nowhere to go and no financial means to do so; my children have had to go through many things that a young child should never have to deal with; I have watched women been torn down and then at their lowest point with very little left struggle through a system that further takes a toll on them with very little to no support through the process; It is a very sad system that is failing so many women who really are at breaking point; Women have to be guided step by step getting counselling, personal direction, health advice and financial support. They are really at the end of their lives when they leave and if they have children this is all they focus on. Not themselves.' [232]

Children are often overlooked as victims of coercive control.[233] Recent research has challenged the view that children are passive observers of violence and abuse in familial contexts.[234]

In these settings, children's experiences may involve being the direct targets of violence and abuse by the perpetrator, or indirectly as victims witnessing violence and abuse between two adults or when intervening to prevent or stop the perpetrator.[235]

In families impacted by coercive control, children are immersed in an environment of fear, abuse, and intimidation. They hear, see, and feel the impacts of coercive control whether they are directly or indirectly the targets.[236]

Children are resilient and develop coping mechanisms in response to their environment.[237] However, children's exposure to coercive control has immediate and long-lasting impacts that often, but not always, result in negative outcomes for their life.[238] Children exposed to coercive control may experience behavioural issues, poor mental and physical health, and problems at school.[239]

As with adult victims, coercive control directed towards children may involve physical or sexual violence, threats, intimidation, stalking, emotional abuse, micromanagement and manipulation.[240]

Evidence on the impacts of domestic and family violence on children continues to grow.[241] Children become vulnerable to developing complex trauma from sustained and severe exposure to violence during their formative years.[242]

Complex trauma can affect the neurological development of the brain and lead to impairments in cognitive, emotional, social, and arousal functions of the brain.

Symptoms of complex trauma may present as 'problems with mood regulation, impulse control, self-perception, attention, memory and somatic disorders'.[243] Outwardly, these symptoms may manifest as self-harm, suicidal behaviour, anger, despair, engagement in conflictual relationships, and lack of self-efficacy, amongst others. One victim outlined the ongoing psychological impact on her children:

> 'I have healed enough that I no longer live absorbed by the awfulness of what he did to me, however, I live every day with my children, whose complex Post Traumatic Stress Disorder & extreme social, emotional & mental health issues remain the collateral damage often forgotten.'[244]

Children exposed to violence and abuse are more likely in adulthood to experience poor social and health outcomes (for example poor mental health and problematic substance misuse) compared to those without experiences of violence and abuse in childhood.[245]

Image management

Image management is a relatively unknown tactic used by coercive-controlling perpetrators. The term generally refers to the way perpetrators manipulate the victim and those around them. This can sometimes incorporate acts such as 'gaslighting'.

Victim submissions and media have described perpetrators early on in the relationship as charming, charismatic, thoughtful, and putting the victim at the centre of their world.[246]

As one prosecutor explained, '*perpetrators can fly under the radar for years because they are able to disarm with charm — clothing themselves with (misplaced) trustworthiness and credibility*'.[247]

Image management is also used to manipulate the police, with media reports of almost half of women killed in Queensland by an intimate partner being misidentified as the perpetrator prior to their death.[248]

It is only the subtle red flags that slowly reveal the aggression behind the façade.[249] Tactics used by perpetrators to manage their public image can include:

- insisting on happy family photographs whenever the family go anywhere, including photos with family pets
- constantly posting 'happy family images' on social media
- open displays of affection (such as giving gifts, flowers in public or posting images/comments on social media)
- buying expensive items in the victim's name but publicly giving the item as a 'gift'.

As the following case study[250] highlights, image management can play a part in the perpetrator's ability to erode the financial stability of the victim, whilst simultaneously appearing as generous:

> Not long after [the perpetrator] moved in [he] started saying that my house was not big enough … I remember starting to feel the financial pressure even at this time because [he] was not bringing much money into the finances. [We] opened a joint bank account …at the suggestion of [the perpetrator] because it made more sense to put everything together. ... From there, financially got worse because [the perpetrator] wanted better cars and stuff. He purchased [an expensive car] that was put in my name because he was showering me with gifts that I had to pay for. These gifts included jewelry, flowers and all that kind of stuff and he would make a public display of giving me these gifts so people would see him giving me these gifts.

Physical violence and abuse directed at victims

Sexual violence

Sexual violence is a broad term that incorporates a range of behaviours including, but not limited to, sexual assault (unwanted touching, kissing), rape, and incest. Reproductive coercion has also been included under sexual violence as it undermines an individual's autonomy over reproductive control.

Children by Choice outlined the risk factors and behaviours identified in a sample of their clients' accounts over several years. Analysis of the sample identified that reproductive coercion and abuse involved a range of other coercive and controlling behaviours perpetrated by men and extended family members. These behaviours were aimed primarily at diminishing a person's autonomy and control over their bodies and lives.[251] Behaviours were described by clients as either intending to cause pregnancy (removing a condom, denying access to contraceptive aids) or to convince or force a person to continue with or terminate a pregnancy.[252]

These behaviours, also identified in organisational submissions received by the Taskforce, included:

- sexual assault causing pregnancy (non-consensual sex, sex with victim whilst they were unconscious, asleep, or drugged, or as a pattern of ongoing assault)
- forced sex (including giving in to persistent demands for sex)
- contraceptive sabotage (including destroying a person's script, disposing of medication, or denying access to medical support)[253]
- 'stealthing' (removal or non-use of a condom despite an agreement to use it)[254]
- forcing or coercing another person into sterilisation.[255]

These behaviours often occurred alongside other forms of coercion, for example:

- emotional manipulation (pressure, guilt, silent treatment)
- threats to kill or harm the victim or children
- threats to take legal action if pregnancy is continued (such as taking full custody of children, child removal)
- refusal to discuss or support pregnancy options
- coordinated pressure from family members
- physically preventing the victim from accessing healthcare (including attending appointments)
- perpetrator threats to self-harm or commit suicide
- physical violence, emotional persuasion or blackmail.[256]

Similar behaviours were identified in a number of submissions from people with lived experience. Perpetrators used a range of methods to inflict sexual violence on victims: sexual assault of the victim in a public place whilst the victim was asleep, intoxicated, or drugged; incest, rape and other types of sexual abuse of children.[257]

> 'If I didn't agree to be intimate with him he would throw a violent tantrum and scream names at me, even if it was late at night. He was so angry he would shake, I was very frightened. He didn't care that it could wake up the children, or what the neighbours would think. I thought of calling the police some nights but I was too embarrassed and didn't want to scare my [kids] to see a police car pull up …' [258]

Sexual coercion was an all too common theme in the submissions, both from people with lived experience and in organisational submissions. DV Connect, a nationwide service that provides support to victims of domestic and family violence, provided this example of sexual coercion:

> 'One woman's experience was that of being "checked" every time she returned home from the store or [took] the children to school. The abuser would insist that she remove her underwear and that he would internally "check" her to see if she had been with another person while running errands.' [259]

Often sexual violence occurred in conjunction with physical violence. As described by one victim:

> 'He grabbed my head and smashed my face into a [door] I was knocked unconscious. I was naked and he raped me on the floor of my bedroom.' [260]

Some women described how the perpetrator would agree to wear a condom only to remove it during sex and then continue without the ongoing consent of the victim.[261]

Victims told us that some perpetrators became violent during sex, at times covertly recording the victim and then threatening to share, or actually sharing, these images online.[262]

Victims told us about perpetrators who created online accounts with sexually explicit websites and uploaded images of the victim without their knowledge or showed the images and videos to friends and strangers.

In these victim accounts of abuse, perpetrators pestered them to perform sexual acts, demanded they perform dehumanising and degrading sexual acts with the perpetrator or with strangers, demanded they have sex and refused to stop unless the victim did as the perpetrator wished, and constantly pressured, forced, or expected sex.[263]

Victims described perpetrators using multiple forms of sexual violence in the context of ongoing violence and intimidation. It is important to acknowledge that the sexual violence described by victims was not an isolated single incident but occurred throughout the relationship.

> '[the perpetrator] posted intimate photos of me onto various websites without my knowledge or consent … He would use intimidation and coercive behaviour to make me comply.' [264]

> 'He would sexually harass me leading to assault because I would tell him repeated times that I don't feel like doing it or that I don't want to do it. If I wouldn't go to the room he would literally carry me to the room. When I would tell him I said no he would disregard it and say that no means yes and that yes means [yes] in other words there was never an option of No so just have to put up with it.' [265]

> 'On 2 occasions he forced me to engage in sexual encounters with men I did not know just to please him and to stop the intimidation and anger from him.' [266]

In a small number of cases, victims told us about perpetrators raping them in front of their children.[267]

The use of pornography[268] by perpetrators was a key theme identified by the Taskforce, with some perpetrators described as having an addiction to extremely graphic and violent pornography. Some

victims told the Taskforce that their perpetrator forced them to watch pornography, and in some instances, forced children in their care to watch pornography.

Non-lethal strangulation

Strangulation has been identified within the research and in the experiences of victims as a significant form of violence used within intimate relationships as a means to exert power and control.[269] Studies examining the prevalence of strangulation have found women are 10 times more likely to experience strangulation than men, with one in 10 women experiencing it at the hands of an intimate partner.[270] Strangulation is associated with serious physical and psychological injury and an increased risk of being killed by an intimate partner.[271] As a tactic, strangulation is used by a perpetrator to send a clear message to a victim that he is able and willing to take a life.[272] Coupled with the fear, pain, and realisation that one's life is about to end, strangulation is an extremely effective tool to ensure a victim abides by the rules set down by the abusive partner.[273] The use of non-lethal strangulation within the context of domestic and family violence is now recognised as a key indicator of future lethality.[274]

> 'Non-lethal strangulation is one of the most significant red flags to homicide and premature death from strokes and other health issues.' [275]

Strangulation is a particularly difficult form of physical violence to prove because roughly half of all strangulation events leave little or no visible injuries.[276] The difficulty in proving strangulation, and in reporting domestic and family violence more broadly, is evident in the following example where the perpetrator not only strangled the primary victim but also strangled his children:

> 'I eventually one day was present for a strangulation that occurred to my child … I took the children to the police station after they all reported to me that he strangles all of them when they are naughty ... The police ruled there was not enough evidence and that it was probably raised by me out of anger due to separation.' [277]

Strangulation is a particularly severe form of abuse frequently used by perpetrators alongside other forms of abuse.[278] Research often notes that non-lethal strangulation is used by a perpetrator as a clear and real statement of their willingness and ability to kill the victim.[279]

It is evident from the many submissions received by the Taskforce that strangulation is often used in conjunction with other forms of physical violence, threats, and intimidation.

> 'I was strangled, kicked, hair pulled and told I was going to be murdered ...' [280]

> 'I was hurt, hit, pushed, kicked, stood on and strangled. He would stand over me with a knife ...' [281]

Weapons

As would be expected, the use of weapons in a domestic violence context is a risk factor for increased severity of harm to a victim, including the risk of lethality.[282] Recent studies in the United States found that the risks associated with domestic violence homicide when coercive-controlling behaviours (including stalking) are used increases when the perpetrator has access to firearms.[283] Research also notes that domestic violence homicides often involved coercive control throughout the relationship.[284] Given the heightened risk of lethality in this context, it is important for police and support services to adequately identify and address coercive control and perpetrator access to firearms and other weapons when developing safety strategies and assessing risk.

For domestic violence homicides in Queensland between 2011 and 2017, 23.1% involved prior threats with a weapon and 20.5% involved prior assault with a weapon.[285] Although the use of firearms is regarded as rare within domestic violence,[286] a small number of submissions described the perpetrator's use of firearms to threaten the victim either overtly or subtly. A small number of victims explained how the perpetrator would clean his gun in front of her in a threatening manner or make offhanded comments about how he could harm someone close to her:

> 'He would clean his guns on the … table … and tell me he could use [my friend] as target practice …' [287]

Other victims described the perpetrator holding a gun to their head and threatening to kill them:

> 'One day he turned up to my house with a gun and put it in my face in public.' [288]

As described in the section on animal cruelty, weapons were also often used as a form of violence to intimidate, terrify, and control victims. The use or threat of weapons was sometimes coupled with physical, sexual, and verbal abuse.

Firearms were not the only type of weapon used by perpetrators. Perpetrators use of vehicles as weapons appeared in some submissions. Victims recounted fearing for their lives when the perpetrator drove erratically whilst they were in the vehicle, attempting to run them off the road, or tailgating and otherwise driving dangerously whilst following them. As one victim recounted:

> 'He completely lost it at me screaming and speeding … saying I was driving him crazy and making him want to kill himself. He refused to let me out of the car and at one stage sped around a corner towards a pole saying we were going to die together. He then proceeded to scream at me all the way home and speed telling me he was going to hang himself …' [289]

Another victim who described extensive abuse throughout the relationship explained:

> 'Flashbacks come back now the time when myself and the children were in the car and he purposely swerved, hitting several road markers, because he was going to "end us all right now ..."' [290]

Perpetrator threats with a knife were also prevalent within the submissions. These threats included explicit threats to kill the victim, pets, or others. In some cases, perpetrators made explicit threats to harm children:

> 'He threatened to strangle my [child] … He was in my face screaming at me, telling me he was going to smash the phone I bought and yelling at me that all I do is call the police and then grabbed a knife and said he was going to gut people like sheep.' [291]

Even when the perpetrator had no weapon in sight, the threat of the perpetrator having access to a weapon could still cause the victim to fear:

> 'At one stage [the perpetrator] drove alongside of [the victim's] car and motioned with his hand, cutting [her] throat if he had a knife.' [292]

Physical violence

Physical violence is arguably the most recognised form of domestic and family violence. As noted in the submissions, it is the easiest form of abuse for victims (and the police) to prove. Physical violence occurs on a continuum of severity and can involve a range of behaviours (see Appendix 3 *Codebook* for a comprehensive list). For example:

- choking, strangulation, suffocation
- beating, biting, kicking, punching, hitting
- throwing objects
- pushing, grabbing, shoving
- using a weapon to hit, stab, shoot, or otherwise harm a victim.[293]

Physical violence may be used alone or in the context of other forms of abuse such as sexual violence, verbal abuse, financial abuse, or other behaviours that are coercive or controlling.[294] The cost of experiencing physical violence, sexual violence, or emotional abuse in Australia is upwards of $21.7 billion per year.[295] The prevalence of this form of abuse and in submissions is extensive. Physical violence, used alongside non-physical forms of abuse, was evident in more than half of the domestic violence homicides (57.8%) reviewed in Queensland between 2006 and 2020.[296] This suggests that the context for physical violence, when used alongside other forms of abuse, is vital for identifying and assessing risk.

Physical violence described by female victims varied in severity and frequency. It often occurred in the context of other behaviours that caused the victim to be in a heightened state of fear. For example:

> 'Physical abuse … was increasing over time & included smashing my property, ie mobile phone, broke my [things] over my head, kicks, punches, throwing objects at me, quite often in front of my terrified [child], threats to kill my [child] & myself 'I will chop you up & throw you in the … River' … He also chased me several times … with a [weapon]. One night I was raped & strangled until I almost passed out & then I realised I was going to die if I didn't leave.' [297]

Victims described receiving extensive injuries as a result of the violence perpetrated by their intimate partner, including black eyes, broken bones, burns, partial blindness, internal organ damage, and unconsciousness.[298]

> 'The first time he hit me, it was a slap across the face. The second time (with months between assaults), he fractured my [head] and left me covered head to toe in bruises, burns and marks ... In the end, my assaults have been in the hundreds.' [299]

Victims mentioned being punched continuously in the stomach or pushed down the stairs whilst pregnant.[300] Some victims told the Taskforce they received death threats while a weapon was being held against them or after being doused in fuel.[301]

Many victims explained that alongside actual physical violence was the ongoing threat of physical violence. Victims explained that once the perpetrator had shown themselves to be capable of violent outbursts, the slightest movement from the perpetrator, whether through a clenched fist or particular 'look', was enough to make them comply with the perpetrator's demands.

Victims described physical violence that included being bitten by the perpetrator, restrained, having objects thrown at them, forcible removal of permanent contraceptives, and the perpetrator hurting himself and then blaming the victim. Victims did what they could to minimise the violence. They appeared to fear the threat of what the perpetrator could do more than the physical violence itself.

As one victim explained:

> 'Although the level of physical violence was not as extreme as it could have been … The threats as well as his physical size … were enough to be scared of him. There was no doubt that I knew he could hurt or kill me. I stayed as I thought I would be safer with him, then risk an escalation or further stalking if I was to leave. I knew that it could be a possibility that he could kill me within a few months of being in a relationship with him and … my family and friends had also become quite scared of this risk.' [302]

Even without physical violence, the ever-present threat caused victims to fear for their safety and that of their children:

> 'I was never hit. I was tormented with comments, I started to go crazy, I lost myself, I wasn't me anymore. All I was doing was trying to keep the household calm.' [303]

Systems abuse

Systems abuse has been recognised within the Australian and international legal systems as an 'abuse of processes that may be used by perpetrators in the course of domestic and family violence related proceedings to reassert their power and control over the victim'.[304]

This abuse also includes the way perpetrators manipulate frontline police responding to a domestic violence call for service.

There is a growing body of research on the role police perceptions play in victim outcomes.[305] This includes the way police perceive victim reliability and credibility based on preconceived notions of the 'ideal victim'.[306] It also shows the way perpetrators manipulate the situation, leading to police misidentifying the person most in need of protection.[307]

These findings were also noted in the Taskforce submissions that discussed the way the perpetrator manipulated the police into misidentifying the primary victim. A common theme noted in a small number of submissions involved the perpetrator having a minor visible injury caused by a victim's attempt to defend herself during an assault, as indicated in the next example.

> 'Police believed his story that I attacked him (he had a scratch on his neck where he had grabbed and pinned me by my throat and lower jaw and I was fighting for my life and scratching at his face and neck). This officer took a photo of the scratch on him but not of my injury.' [308]

Research in the field of domestic and family violence has identified systems abuse as a frequent tactic used by perpetrators to maintain or regain control over the victim and any children.[309]

> 'The police put the DVO on him and he assaulted the police. And he pleads not guilty. So the next 2 cases he doesn't even turn up and yet [the victim] and the [witness] have been called to be witnesses and have wasted their arranged time off work to be in court and he doesn't show up. She hears nothing and months later learns he eventually pleads guilty and fined … years down the track and he cannot file any responses, not turn up to court, not do any tax returns, keep on abusing her.' [310]

Systems abuse can take on many forms such as abuse through the criminal justice system, the welfare system and other government institutions.[311] The nature of systems abuse can have long-lasting and devastating results on victims and their children. Conduct that could be classed as systems abuse includes:

- false accusations of abuse or neglect to Child Safety
- bogus notifications or tipoffs to police, the tax office, Centrelink or a victim's employer (for example, where the victim requires a blue card for employment)
- misuse of the court system (including family law courts)
- challenging child support assessments and refusing to disclose financial information
- continued delays to court proceedings
- making applications for cross orders (against the victim) when the victim has a protection order in place.[312]

Systems abuse was also noted in many of the submissions received by the Taskforce, both from people with lived experience and the services that support them:

> 'The property settlement is still pending … and he has indicated that he will continue appealing to ensure that any settlement she receives is used up in legal fees. He (appears to have) deep pockets and she does not. He is on at least his 5th lot of lawyers since legal proceedings began, and my friend is onto her second also, as he fabricated a complaint about her first lawyer.' [313]

> 'The barrage of false allegations that I constantly have to defend and it seems like I am the only one constantly having to prove I am a good mum, whilst the evidence of all that the abuser does, is conveniently swept away.' [314]

> 'My ex-husband has dragged me through months of court appearances, and not once been bothered to attend with any legal counsel. It has so far cost me $5000 to have my solicitor attend for me. The magistrate just keeps allowing this to continue. My ex-husband has not shown one shred of proof, yet I have pages of proof on him and his actions.' [315]

> 'The papers could not be served, I had a total of 4 mentions before the Magistrate dropped my protection order. The court liaison told me that my ex contacted them eventually and advised them that he was a [foreign] Citizen and had no plans to return to Australia.' [316]

Systems abuse not only led to extensive financial hardship for victims (including bankruptcy), this form of abuse also increased the risk of primary victims being misidentified by police and the criminal justice system (see chapters 3.4 and 3.5 for further discussion).

For some, systems abuse was used to such an effect that it meant children were taken from the protective parent and placed into the care of the abusive father. The repercussions of this on children were severe, with women describing ongoing psychological, emotional, physical, and sometimes sexual harm to children, and children's attempts at self-harm and suicidal ideation as an attempt to escape their abuser.

> 'The current system sent my children with this man, no matter how much they begged not to be sent. They were returned bruised externally, but the biggest damage was internally. They still speak about telling "professionals" that their Dad was hurting them, and not being heard.' [317]

Their stories — the lived experiences of women impacted by intersecting layers of structural inequality

Coercive control and diversity

The concept of intersectionality is useful for bringing to the forefront experiences of women from diverse backgrounds that may be overlooked through the singular lens of gender.[318] By acknowledging the multiple and intersecting layers of structural inequality (such as sexism, racism, ageism, and ableism), the diverse experiences of women subjected to coercive control can be represented.

Whilst the experiences described in the previous pages were from women of all backgrounds, the submissions below provide an additional nuanced understanding of diversity.

The following sections describe submissions received from Aboriginal and Torres Strait Islander victims, victims with disability, LGBTIQA+ people, older women, and victims from culturally and linguistically diverse (CALD) backgrounds.

Although there are universal themes and significant commonalities amongst all victims, these groups face additional problems, which add to their vulnerability.

Aboriginal and Torres Strait Islander victims

The Taskforce heard from 36 people who identified as Aboriginal or Torres Strait Islander as well as from relevant organisations.

These submissions noted that, too often, Aboriginal and Torres Strait Islander women's violence and abuse was overlooked or not taken seriously. This cannot continue.

In their submission, Sisters Inside and the Institute for Collaborative Race Research spoke of the legacy of colonisation as continuing to reverberate through the generations and manifesting in ways that contribute to the ongoing discrimination and trauma Aboriginal and Torres Strait Islander women experience.

Understanding the experiences of Aboriginal and Torres Strait Islander women requires recognition of the interacting factors of sexism and racism at systemic and structural levels.[319] This is important because these factors maintain and perpetuate these women's experiences of marginalisation and oppression, which keeps them entrapped in violence.[320]

There are clear disparities between non-Indigenous and Aboriginal and Torres Strait Islander women's experiences of violence and abuse that must be urgently addressed.

Research shows Aboriginal and Torres Strait Islander women experience higher levels of domestic and family violence compared with non-Indigenous women.[321]

In a 2003–2004 study by the Australian Institute of Health and Welfare[322] (AIHW) on hospitalisation due to assault in Australia, Aboriginal and Torres Strait Islander women were hospitalised at 38 times the rate of hospitalisation of other women for assault inflicted within a domestic and family violence context.

More recent research shows Aboriginal and Torres Strait Islander women are also more likely to be overrepresented in the Domestic Violence Order system compared with non-Indigenous women (particularly where police have issued the order) as a victim, a perpetrator, or both.[323] This is despite them being up to 35 times more likely to experience domestic and family violence compared with non-Indigenous women.[324]

These factors contribute to Aboriginal and Torres Strait Islander women's reluctance to involve the police. They are compounded by their feelings of fear and distrust in the police that have historical roots and, more recently, by the possible removal of children exposed to violence.

When Aboriginal and Torres Strait Islander women do seek help, they are often, at best, made to feel invisible.[325] One woman spoke of this below:

> 'I arrived at the station ... the female constable was rude and had passed judgement from the minute I walked in ... She made it seem like a chore that she had to talk to me ...' [326]

No person should feel unsafe accessing support when they are a victim of violence and abuse. Yet this is the reality for many Aboriginal and Torres Strait Islander women.[327]

It has been suggested that rather than involve the police, Aboriginal and Torres Strait Islander women should use resistive violence to protect themselves, but this places them at risk of an escalation of violence by the abuser and subsequent involvement of the police.[328]

In their submission to the Taskforce, Dr Marlene Longbottom and Dr Amanda Porter raised concerns about Aboriginal and Torres Strait Islander women misidentified by police as the ones using violence, after being physically assaulted themselves by the perpetrator.

They state how Aboriginal and Torres Strait Islander women's experiences of violence are misunderstood:

> 'Indigenous women are the fastest growing population group incarcerated. We are aware that more Indigenous women using violent resistance as a result of defending themselves against a person who is abusive and violent over a period of time. From this standpoint we witness Indigenous women who are under protected or not protected at all by the system, where they fight back and possibly cause injury, with some fatal consequences. The trajectory of being the person who experiences(ed) violence to the person who uses violence is being witnessed more regularly as noted in the violence theory. What is often misunderstood and non-contextualised to the Indigenous woman's lived experiences is the ongoing nature of this violence and how the only way out [for] an Indigenous woman may have been to cause harm to the person who is being violent towards her, or self-harm. This phenomena [sic] is particularly concerning as we see many Indigenous women incarcerated at alarming rates who have experienced enormous amounts of trauma and violence prior to entering the carceral system.'[329]

A one-size-fits-all approach will not work in responses to domestic and family violence involving Aboriginal and Torres Strait Islander peoples.

In their submission, the Aboriginal and Torres Strait Islander Legal Service (ATSILS) (QLD) identified the need to address the root causes of domestic and family violence, including intergenerational trauma and entrenched disadvantage:

> 'A holistic approach is required to address these issues including more culturally competent services and programs designed and delivered by Aboriginal & Torres Strait Islander people to their own communities ...'[330]

This view is shared by those at the Lena Passi Women's Shelter located on Thursday Island. In consultations with the Taskforce, workers from Lena Passi spoke of placing culture at the centre of responses to violence and abuse in Aboriginal and Torres Strait Islander communities.[331] This is because every island in the Torres Strait has a unique culture and language and must be empowered to address domestic and family violence when leading a response.

The Taskforce also heard of specific issues arising in these communities, adding to the complexity of domestic and family violence. The Taskforce heard of perpetrators using remoteness and isolation as a form of abuse due to the difficulty of accessing help in remote areas. The shame and backlash from the community against victims who report violence is an added factor that deters victims from seeking help.

Cultural norms add another layer that must be addressed in domestic and family violence strategies involving Aboriginal and Torres Strait Island communities. Workers from the Lena Passi Women's Shelter explained how carefully this had to be navigated, and how the use of community leaders skilled in supporting victims of domestic and family violence ('champions') can be positive protective factors in addressing this issue in the community:

> '... there are clear traditional roles for men and women and relatives in the kinship structure. We do not want people to feel shame or to misunderstand the difference between how they have always lived and what is abuse. It is important that information about [domestic and family violence] is respectful and relevant. Champions have been skilled to recognise, respond and refer people to relevant services that can provide expert assistance ...'[332]

The Taskforce also acknowledges the experiences of Aboriginal and Torres Strait Islander peoples who have had positive experiences when reporting violence to public services. This story was shared with the Taskforce by an Aboriginal and Torres Strait Islander woman:

> 'I am a highly educated woman and I believe part of the reason for my lack of understanding is the mythology that persists in society about what romance is. These myths need to be busted wide open because they are exactly what perpetrators prey on and manipulate to make you hooked on their abuse; I called [service name removed] and they literally saved my life by doing a risk assessment and saying … 'You're in the highest risk category possible … many women in your situation have died'; I believe perpetrators are supported and encouraged by certain social institutions such as boxing clubs and football teams that encourage violence against women; He always said … 'if we ever break up … I'll always keep my eye on you'. Their ability to get inside your head and instil fear cannot be underestimated.' [333]

Victims with disability

People with disability are at greater risk of experiencing violence than the general population.[334]

In 2016, almost one in two people with disability (47%) reported experiencing physical violence and one in six experienced sexual violence.[335] Women with disability are also around 1.8 times more likely to experience violence from a current or former partner.[336]

Limited research on prevalence suggests people with disability are at greater risk of victimisation from a range of perpetrators over their life course.[337]

Research suggests that people with disability experience the same types of abuse within the domestic violence context as others. However, they also experience unique forms of abuse, influenced by systemic or structural inequalities. These include:

- devaluation of the person with disability (e.g. treating them like an infant)
- reliance on others for care needs
- failure to identify support needs when attempting to report abuse
- abuse being viewed as 'rough caregiving'.[338]

Additional forms of abuse have also been identified in 21 Taskforce submissions from people with disability.[339] Submissions from victims with disability and the specialist services that support them highlighted the pervasive sense of ownership perpetrators held over their victims, a theme echoed by women from all backgrounds.

Coercive control is not the same for every victim with disability but organisational submissions to the Taskforce highlighted experiences often observed by service providers amongst clients. WWILD[340] outlined common forms of coercive control used against people with disability:

- withholding or sabotaging mobility aids (wheelchairs, hearing aids, guide dogs)
- withholding assistance — for example, leaving women in physically uncomfortable positions for a long time or withholding food and medications
- making threats that leaving the relationship will result in institutionalisation for the woman[341]
- making plausible threats of child removal as in some cases the parent using violence and control is seen as a more capable parent by child welfare authorities
- using emotional and psychological abuse based on the woman's disability
- financially controlling their partner, using their disability as an excuse
- blocking access to support services, such as medicating the woman so she is frequently asleep when services arrive and hence they are cancelled, or coercing her to cancel them.

Additional risk factors for women with disability include an impaired ability to safely leave the situation because this depends on other factors — such as changing carers or support services, navigating systems, or following complex plans.

The following case study from WWILD provides an example of how perpetrators use some of the above tactics to coerce and control women with disability:

> 'J. had a partner D. who took on the official carer role. For him this also meant he was the decision maker in the relationship. He isolated J. from her family and friends to gain greater control. D. would decide what support arrangements and what appointments she would attend. He used excess medication as a restraining practice, or under medication as a punishment. D. told J. he was the only one who would put up with her and threatened institutionalisation if she complained.' [342]

WWILD observed perpetrators' use of threats to incite fear, isolate the victims, and remove their autonomy. As convincingly demonstrated by WWILD, perpetrators do not always rely on physical violence to coerce and control victims.

Perpetrators may rely on perceptions of people with disability as having limited capacity in their own decision-making and autonomy in their own lives. This disguises the perpetrators' offending, presenting their actions as caring rather than controlling. When this occurs, the experience of people with disability who are subjected to coercive control is that they become invisible, further isolating them and taking away their opportunities to report abuse.

Coercive and controlling behaviour by perpetrators can be overlooked and misinterpreted as 'caring' because of negative stereotypes and misconceptions about people with disability. As WWILD pointed out in their submission, controlling behaviours can become normalised by others. This is summarised in the case study below:

> 'J. temporarily moved in with her mother and step-father after a relationship break-up. She had lived independently prior and was in her late 20s. J's step-father was controlling and had put a tracking app on her phone which she did not want. When J. and her support person tried to discuss this with police, the officer considered this as 'normal' because J. had a (mild) intellectual disability.'[343]

This is consistent with studies of media narratives of homicides against people with disabilities by caregivers, which are frequently presented as more 'justified' than other murders — even as 'mercy killings'.[344]

Women with disability experience greater rates of intimate partner violence than women without disability[345] and are at risk of experiencing severe levels of violence, including sexual violence.[346]

In their submission, WWILD identified the following factors as increasing risk of violence against women with disability:

- social isolation, leaving them more vulnerable to abusive relationships
- being reliant on the abusive partner and/or caregiver for support
- control and compliance may have been unjustly normalised during the lifespan
- control by caregivers is often seen as normal or justified by police and others, meaning their complaint is less likely to be believed/less likely to be acted upon
- the person's [intellectual disability] is not recognised or taken seriously as an accessibility issue when police are taking a statement

- less likely to have received accessible sex and respectful relationships education, and therefore less likely to have the language to describe/allow for disclosure
- less likely to have received accessible information about their legal rights in relation to sexual assault/sexual activity and other forms of violence e.g. justice and safety
- more likely to be financially dependent on perpetrators therefore social isolation may be intensified
- likely to have limited capacity organise/access supports in a crisis
- finding mainstream supports inaccessible and difficult to navigate.[347]

In another submission to the Taskforce, one woman with disability spoke of her frustrations in attempting to disclose her partner's controlling behaviour to a staff member at a bank and even to her own counsellor. Apparent here is the victim's feeling of not being heard, and a failure of bystanders to support her in making informed, independent decisions concerning her finances, or in deciding whether to take the matter further by reporting it to the police.

> 'But I do feel if there were laws in place to stop coercion, those times I sat in the bank, with the finance manager or with my counsellor telling them how he was controlling me, perhaps they could have had somewhere to report it, and I may have gotten out sooner. It's very difficult to leave these situations when you really cannot report it to police, and the behaviour doesn't qualify for a DVO, because support isn't available without that proof ...' [348]

Another woman with disability shared her feelings of not being heard or listened to as a victim of coercive control and astutely commented:

> '... victims of crime need to be taken seriously. … the kids witnessing it or at the hands of it need to be protected as well ...' [349]

The Taskforce's consultations with people with disability mirrored the experiences in the submissions described above. In line with recent literature, findings from consultations and submissions also noted the increased likelihood of women with disability being incorrectly identified as the primary aggressor within a domestic violence context.[350]

Victims from culturally and linguistically diverse backgrounds

The Taskforce received 25 victim submissions from people with a culturally and linguistically diverse (CALD) background. The Taskforce also received submissions from organisations that support CALD people and held consultations with CALD representatives.

Women from CALD backgrounds can experience violence from an intimate partner, family members, extended family, and the community.

The violence and abuse experienced by CALD women can include many of the same forms of abuse as the general population. However, they are also at risk of unique, culturally contextualised forms of violence. The number of women from CALD backgrounds subjected to coercive control and domestic abuse is difficult to determine due to gaps in the way data is currently collected.[351]

Although research remains limited in the area of CALD experiences of domestic and family violence, unique forms of abuse have been identified. These include:

- forced marriage through coercion, threats, or deception (including young people and people with limited mental capacity to understand)
- visa abuse by way of threats to revoke sponsorship
- forced medical procedures for non-medical reasons[352]
- whole-of-community victimisation (for example shun victims).

Women from CALD communities may also be threatened by the perpetrator when attempting to seek help. This is especially so when the woman is not fluent in English and the perpetrator threatens to frame the woman as the aggressor.[353] The availability of appropriate interpreters when police respond to incidents involving a non-English speaker (or non-proficient English speaker) can affect the outcome. This is because the police may sometimes request a witness (such as a child or family member) to act as an interpreter to address any immediate concerns.[354] Issues can also arise due to a 'conflict when the interpreter deems the client is making choices that are not seen as culturally appropriate'.[355] In some instances, the police may also have to rely on the word of the perpetrator as the only English-speaking person present.[356] The unintended consequence of this is the increased likelihood of misidentification.[357]

In a consultation session organised by Multicultural Australia, the Taskforce heard from CALD women of frustrations around reporting coercive control.[358] These experiences often involved repeating their stories many times and delays in reporting breaches or court proceedings due to limited availability of interpreters — in one case, a woman waited for an hour at a police station before an interpreter was available. CALD women also spoke of perpetrator-instigated delays to court proceedings by requesting a different language from the woman's.

In their submission to the Taskforce, Emerson Family and Migration Law identified the influence of cultural and religious drivers in CALD women's reporting of domestic and family violence and abuse.[359] A woman's ethnicity, gender, sexual orientation, migration status, education, and English level shape her experiences of violence and abuse, and her ability to seek help.[360] Understanding CALD women's experience of coercive control requires recognising the different realities of oppression and marginalisation that can shape their lives.[361]

Multicultural Australia in its submission to the Taskforce cautioned against treating CALD communities as a 'monolithic whole' and reminded us that violence against women may take place across any culture or faith group. This submission noted that case managers had observed that in CALD communities, controlling behaviours can sometimes occur within the broader family context, and individuals in communities may also experience other forms of violence such as forced marriage and dowry abuse.[362]

Immigration abuse and associated visa uncertainty, particularly for CALD women seeking asylum, can present unique challenges to victims resisting coercive control, as the case example from Multicultural Australia shows:

'A family (i.e. husband, wife and daughter) awaited their refugee status determination in Australia (as asylum seekers). The wife reported threats from the husband — including to kill her. She approached her Case Manager seeking help to leave. With a specialist DFV service, QPS contacted her in order to get a retrieval order for the woman's possessions. When QPS interviewed her and asked her to take out a Domestic Violence Order, she became frightened that this could impact on their family's asylum claim. Specifically, she was concerned that her husband would be detained under a breach of his Behaviour Code. She made the decision to return to her husband, and did so.' [363]

A case study provided by Emerson Family and Migration Law also highlights the complexities CALD women experience when attempting to navigate experiences of coercive control.

Saira is an overseas national who was sponsored on a provisional partner visa by her husband. They have one young son. Saira had suffered severe domestic violence throughout the course of her marriage when she and her husband travelled back to their original home with their son to see their families.

When they arrived at the airport, Saira's husband abducted her son — Saira had no idea where they had gone, and only later learned her husband had taken their son to his village. Her attempts to resolve matters peacefully with her husband and see her son were met with threats. She was eventually forced to return to Australia to take her Australian citizenship test. Her husband encouraged her to go, reassuring her that he would bring their child to Australia. However, when she returned to Australia, he demanded a divorce and a financial settlement as conditions for returning the child.

Saira applied for a domestic violence order against her husband and was granted a temporary protection order. However, Saira's husband did not attend court hearings, and as a result the court dismissed her application. She was forced to go back overseas to start proceedings at a local court. Her husband was summoned to the police station where he was required to surrender her son's Australian passport to the authorities. Following this, Saira's husband brought a group of men to the station and forcibly took her son's passport and fled to another airport.

Saira was later notified by police that her husband and child had returned to Australia. She was still overseas at the time. When Saira returned to Australia her case was transferred to the Family Court due to the complex cross-jurisdictional dispute. The Family Court accepted the interim-parenting contact arrangement.

Now, Saira only sees her son unsupervised for a few hours four days a week. Although she is ecstatic to be in her son's life once again and to have the opportunity to make up for lost time, she is devastated that she missed many months of his life. For a young child, this is a considerable amount of time. His time apart from his mother has unfortunately meant that primary care has remained with the father with only some time with Saira.

Victims who identify as lesbian, gay, bisexual, transgender, gender diverse, intersex, queer, asexual or questioning (LGBTIQA+)

> 'Domestic violence isn't just a heterosexual issue; it's a human issue.' [364]

Coercive control in LGBTIQA+ relationships remains an under-researched area, reducing our ability to gain insight into the dynamics of this abuse.[365] Of the limited studies on this topic, one suggested coercive control behaviours within LGBTIQA+ relationships was based on unequal power relations.[366] Additional studies have also suggested coercive control is experienced in similar ways across LGBTIQA+ relationships.[367] As with heterosexual domestic violence, the severity and impact of experiencing abuse increases with the number of events and types of abuse used.[368]

Intersectionality plays an important role in understanding domestic violence within these relationships. This includes structural inequalities, discriminatory and oppressive attitudes, and difficulties accessing supports.[369]

Although the Taskforce received 27 submissions[370] from individuals identifying as LGBTIQA+, details of their experience were scant. This has made it difficult to identify the characteristics of abuse experienced within these relationships. One submission, however, did highlight a unique form of abuse experienced within an LGBTIQA+ relationship:

> 'I have identified as a bi-sexual from an incredibly young age … way before it was publicly acceptable to be. This also was a secret shame I carried to my marriage; my husband was the first one I disclosed my sexuality to. He then used this against me and outed me to everyone he knew throughout our marriage.' [371]

In one submission, the individual spoke of the trauma of reporting their experience to the police:

> 'I reported his behaviours to the police. The police would generally eventually arrive but over the course of twelve months, I had to relive my experiences and the trauma over and over again because each time new officer/s arrived, I had to tell them my story again; I had to make them understand the gravity of the situation, I had to convince them that this was a real thing, I had to effectively fight for my life over and over; When I think of all the police that attended to my calls, I finally found one that really tried to understand and had genuine empathy for my case — I hold that individual in the highest esteem because, without him, I wouldn't have been listened to and given the tools to initiate my first and subsequent DVOs. In a sea of police, he gave me hope and support.' [372]

Experiences of violence and abuse in LGBTIQA+ relationships are not uncommon. Violence and abuse are likely to be as prevalent in LGBTIQA+ relationships as they are in heterosexual relationships, if not higher.[373]

In a recent national survey[374] on the health and wellbeing of lesbian, gay, bisexual, transgender, intersex, and queer (LGBTIQA+) people, participants provided insight into their experiences of domestic and family violence.

Findings from this survey demonstrated unacceptably high levels of violence and abuse in LGBTIQA+ relationships:

- more than two-fifths (41.7%; n = 2,846) reported having been in intimate relationships where they felt they were abused in some way by their partner/s[375]
- almost two-fifths (38.5%; n = 2,629) reported having felt abused by a family member[376]
- of those who reported having experienced intimate partner or family violence, 28.0% (n = 1,325) reported the incident to a relevant service at the most recent time this occurred[377]
- almost half (48.6%; n = 3,314) of participants reported having been coerced or forced into sexual acts. For 8.9% (n = 607) of participants, this occurred in the past 12 months.[378]

Barriers to seeking help prevent LGBTIQA+ victims of violence and abuse from accessing support. Some of these barriers include:

- an inability by support services/practitioners to view intimate partner violence outside of a heterosexual framework[379]
- an assumption that intimate partner violence is mutual in LGBTIQA+ relationships[380]
- insensitivity to or lack of awareness of the specific needs/issues of the LGBTIQA+ population[381]
- discrimination, or fear of discrimination, particularly from the police and the criminal justice system[382]
- stigma.[383]

As the submission above illustrates, LGBTIQA+ face additional barriers to accessing help. These barriers include not having their experiences of violence and abuse acknowledged as 'real'. From the limited details provided in submissions, it appears more work needs to be done to ensure people identifying as LGBTIQA+ are treated with dignity and empathy in a trauma-informed way.

Older people

The experiences of older women as domestic violence victims are sometimes lost due to structural inequalities or 'cohort' exclusion regarding data collection and analysis.

Cohort exclusion refers to the exclusion of older women, for example, in surveys examining personal violence.[384] Despite this, some studies have explored the prevalence and characteristics of domestic violence experienced by older women.[385]

Older women can experience abuse (such as physical, sexual, verbal) at the hands of an intimate partner and within the broader family context.[386] Abuse committed by adult children (also termed 'elder abuse') shares many similarities with abuse in intimate relationships. Elder abuse is often used to explain financial or economic abuse,[387] but along with forms of abuse outlined in the previous sections, elder abuse can also include:

- making the person believe they have cognitive decline
- deliberately withholding medication, access to health services, or meals
- threatening neglect or placement in aged care
- threatening to alienate the person from grandchildren
- deliberately making the person feel like a burden
- socially isolating the person from friends and family[388]

- forcing the older person to allow adult children to stay with them (rent-free)
- forcing the person to sign end-of-life documents
- threatening to use Power of Attorney against the older person's wishes.[389]

For older people who also experience a cognitive decline (e.g. dementia), additional forms of abuse may include:

- controlling access to and information about support services
- controlling all financial matters and access to financial services
- controlling all legal matters and access to legal representation
- monitoring telephone calls
- manipulating social contacts (e.g. saying family or friends no longer want to engage with the older person)
- over-medicating or administering inappropriate medication to the older person.[390]

The case study[391] on the next page provides a clear example of violent, coercive-controlling behaviours experienced by an elderly woman, the police response, and the outcome. It demonstrates how older people can face similar barriers in reporting abuse as other victims. These include poor police response and lack of access to information and support.

They also face unique barriers when experiencing family violence such as:

- guilt and sense of parental failure
- fear of creating familial conflict
- concerns regarding grandchildren
- dependency on care
- (regarding reporting) limited language, transport[392]

Within intimate relationships, older women may be further barred from accessing safety due to their role as a caregiver.[393] Additional factors for older women may include:

- feelings of self-blame, powerlessness, and hopelessness
- the perception that family matters are private
- lack of awareness of where to seek help or information
- minimisation of abuse could affect seeking help.[394]

It is clear from the examples provided above that people from diverse backgrounds experience the same violence as the general population, but also unique forms of violence. For people with intersectional diversity (e.g. Aboriginal and Torres Strait Islander women with disability, CALD people who identify as LGBTIQA+, older women with disability), the impacts of this abuse can be further compounded. Women living in rural, regional and remote locations face geographical barriers.

Kate, aged 80, had agreed for her daughter, Mary, together with her partner and daughter, to temporarily move in with her for a few months. Mary and her family remained in Kate's home rent-free for six years. Mary was emotionally abusive towards Kate, constantly calling her names, belittling her and isolating her from friends. Mary's partner observed this behaviour but never intervened.

After Kate had an operation, Mary's behaviour towards her worsened. Kate had trouble completing her post-operation rehabilitation exercises, so Mary taunted her and called her a 'cry baby'. Occasionally, when Mary was angry at Kate, she refused to make her dinner. On a regular basis Mary would deliberately make Kate feel like a burden and would say things to Kate to make her believe she could not survive without Mary. When a friend of Kate's became concerned that Kate was not answering her phone she called the police and requested a welfare check. When the police arrived Mary told them that Kate had dementia and police consequently took no action. Kate was so disturbed by this baseless allegation of dementia that she went to her GP to complete a Mini-Mental Examination and scored 29 out of 30.

Over the years Mary had never been physically violent towards Kate, until one day things escalated and she pushed Kate over. Shortly after this incident Kate's friend again became worried when she had not heard from Kate for a while, so she went to Kate's house to check up on her. When she arrived, Mary blocked the door and would not let Kate leave. This incident was the final straw for Kate having already endured years of coercive control. With the help of her friend, she left the home and stayed at friends' houses for six months, effectively homeless. She was still reticent to take legal action because Mary had threatened that she would never see her granddaughter again if she kicked them out of the house.

Eventually, after nearly six years of coercive control, Kate worked up the courage to seek help from the police to obtain a protection order against Mary. The police declined to take action. They advised Kate to apply for a protection order herself. With the help of our service Kate succeeded in obtaining a protection order with an ouster condition to remove Mary from the home, after which she and her family left. Upon Mary's departure from the home in compliance with the ouster order, she stripped Kate's house of all her furniture, wrote derogatory messages on the walls in black marker and deliberately left the bathroom and toilet in a state of filth, as her final acts of coercive control.

Impacts of coercive control on victims

> 'I was abused not only physically, but mentally, stays with you, for ever and ever.' [395]

The impacts that domestic and family violence has on victims, their families, and the broader community are extensive.

Domestic violence not only harms an individual physically but also breaches a person's fundamental human right to live a life free from harm.[396]

The prevalence of domestic and family violence in Queensland is high with more than 107,000 calls to the police in 2020 alone.[397] Calls for service that resulted in the completion of a risk assessment (further discussed in chapter 1.3) included all the forms of abuse discussed above.[398]

When examining violence across Australia, domestic violence costs more than $21.7 billion a year.[399]

As well as the financial cost is the human cost, with approximately one woman killed each week and one man every 29 days as a result of domestic and family violence.[400]

When examining the role of coercive control in these figures, it is clear that this form of violence takes a high toll on victims' health and social and economic wellbeing.

Evidence from recent death reviews has identified coercive control as a significant indicator of risk. In its 2017 –2019 report, the New South Wales Domestic and Family Violence Death Review Team identified homicide cases where coercive and controlling behaviour was clearly present, regardless of the presence of physical violence.[401] Almost all cases — 99% of homicides reviewed in New South Wales — involved coercive-controlling behaviours.[402]

The Queensland Domestic and Family Violence Death Review and Advisory Board found evidence of coercive-controlling behaviours in nearly all deaths reviewed in 2016–17.[403] Findings from the Board also identified coercive control as a factor in almost a quarter (24.4%) of suicides related to domestic violence between 2015–16 and 2019–20.[404] This included relationships of less than 12 months' (14.1%) duration through to 10 years and more (18.8%), highlighting the early onset and enduring pattern of abuse over time.[405]

Troublingly, cases involving coercive control were not likely to be reported unless physical violence was present.[406] When cases came to the attention of services, nonphysical forms of violence, such as threatening behaviour, social isolation, and verbal abuse, were less likely to be recognised as indicators of coercive control.

Coercive control does not only affect adults but also children who either witness or suffer from this form of abuse. Coercive control can 'impact a child's self-worth, limit their resistance and lead to emotional and behavioural problems'.[407]

Children are also over-represented in domestic homicide statistics, with children comprising 32% of all homicides in Queensland in 2019–20 alone.[408]

There is little research on the effects of coercive control used without elements of physical violence,[409] despite the significant harm it does to victims both during the relationship and post-separation.

Whilst the impact of physical violence is clear, the effects of coercive control are only starting to be understood. Serious and long-term mental health impacts can include depression, anxiety, post-traumatic stress, chronic stress, suicidal ideation/attempts, and self-harm.[410] Studies have reported higher levels of harm caused by non-physical abuse, with victim reports also supporting this finding.[411] The long-term health costs associated with the impacts of non-physical violence were estimated at more than $617 million in 2014–15 alone.[412]

Alongside the statistics of domestic violence are the stories of people with lived experiences. These stories bring to life the experiences of victims and their children in a way raw numbers cannot. The examples provided throughout this chapter have highlighted the extensive, diverse, and ongoing forms of abuse women and children suffer at the hands of the perpetrator. In the following section, we examine the impacts of this abuse over time.

Impacts of coercive control in the words of those with lived experience

Taskforce submissions provided extensive examples of the impact of coercive control on the lives of women and their children.

In these cases, perpetrators used extreme forms of manipulative behaviour, sometimes refraining from using physical violence to minimise any evidence of injuries and preventative intervention from police.

Victims were not always aware of the risk controlling behaviours presented, mistaking these acts as part of 'ordinary relationship dynamics'. In some cases, family and friends also believed the relationship to be 'normal' from the outside.

For victims, the lack of action resulting from abuse was difficult to comprehend:

> 'If a stranger had done the things to me that my ex did, they would be in jail for many years, however because it was a personal relationship, there are absolutely no consequences for his actions.' [413]

As noted earlier, victims of coercive control often submitted that they were made to feel invisible when attempting to report or share their experiences with others. Some described not being believed[414] or taken seriously.[415] Others reported feeling isolated,[416] helpless,[417] and alone.[418] Current awareness of the impacts led one woman to feel as though she was not a 'real' victim, due to a lack of obvious signs of physical violence:

> 'In my case, physical violence was not frequent, nor severe, it was the psychological abuse, and damage to my quality of life … which I suffered most. The incidences where physical violence did take place, would be carried out in such a way that no visible bruise was left, or the violent action could be excused as an automatic reaction to my "constant nagging". On occasions where I found the confidence to call these actions out, I was met with the response that I was "an insult to 'real' battered women". A phrase that still haunts me to this day.' [419]

Although non-physical impacts of coercive control may not be visible, the harm that it imprints on victims is as damaging as physical violence. In many of the cases shared with the Taskforce, non-physical violence was far more devastating. Victims often described a loss of self and identity. As one woman explained:

> 'I am a strong woman, but I became a shell of myself; I wished that I had been a victim of physical violence so that people would take my claims seriously.' [420]

Another woman described the relentless nature of coercive control, particularly around psychological abuse:

> 'It is hard to pinpoint particular stories because the coercive control and intimidation was ongoing and relentless. The more I tried to fight back, the more he would up the ante on the psychological stuff. This was the scary part and I am still paying the price for this now.' [421]

The documented detrimental health manifestations of coercive control are many. As well as the mental health problems described earlier, the World Health Organisation[422] has identified several adverse health conditions resulting from domestic abuse. These include difficulty sleeping, eating disorders, headaches, pain syndromes, gastrointestinal disorders, and problematic substance misuse.[423]

The Taskforce heard from many victims of coercive control who described living in a constant state of anxiety, fear, and exhaustion, even after separation.

> 'To this day I'm afraid he will find me.' [424]

> 'My abuser was smart enough not to leave bruises. I still have anxiety 20 years later.' [425]

> 'The controlling and unpredictable behaviour continued for over a year in varying forms. I felt completely unsafe in my own home. As a result, I started to have panic attacks and developed anxiety. I had to start a mental health plan and see a psychologist weekly to learn strategies to recover from this illness.' [426]

Victims were always fearful of the perpetrator successfully fulfilling threats made during the relationship or post-separation, particularly threats to children. One victim described how her partner had sexually abused their children and then made the following threat post-separation:

> 'I won't stop until I've destroyed you and taken the girls away from you …' [427]

In some cases, victims disclosed self-harming and previous suicidal attempts made by them or their children[428] as a means of escaping abuse.

Research indicates women who have been abused by a partner are more vulnerable to suicidal behaviour compared with women who have not been abused.[429] Disturbingly, in its 2019–2020 report, the Queensland DFVDRAB found one in four victims of cases reviewed during this period experienced coercive control before an apparent domestic and family violence suicide.[430]

Post-traumatic stress disorder (PTSD) is often associated with military veterans and emergency services due to the nature of their work. This is because PTSD often occurs after experiencing a traumatic event or series of events. Symptoms may include anxiety, memory disturbances, intrusive thoughts, mood regulation problems, and loss or decline in functioning.[431] However, some submissions also described the experience of victims dealing with the ongoing effects of PTSD resulting from coercive control in a relationship:

> 'The whole ordeal has left me severely traumatised with lifelong severe PTSD and mental illness.' [woman with disability][432]

> 'Having been subjected to this crime for 30 years, I am badly affected by PTSD to the point where I can barely even do my … work and I live in a different sort of underground to where I used to.' [433]

The impacts of coercive control can last a lifetime. In a typical submission, one woman mentioned the devastating effects of coercive control, describing it as a rot that spread across all areas of her life with lasting impacts:

> 'It has been 20 years since I was in that relationship and whilst time passes the memories are vivid and the triggers remain; it characterises you and without the proper support and assistance, it controls your every being; Initially (in my situation) I stood up to it and fought back, over time the behaviours peeled away at my core and rotted the external elements of my life; work, family, friendships, social … activities …' [434]

Another woman described the aftermath of decades of trauma:

> '… the grief and trauma just start to bank up to the point where it isn't possible to stay balanced and sane, such was the enormity of it all, especially going through 30 years of being mentally destroyed on purpose.' [435]

Dealing with coercive control not only damages a person's health, but also their ability to work, access adequate housing, and keep their children safe:

> 'I stayed, and I couldn't see any alternative to that because of his particularly nasty streak whereby he would use coded threats that he would traumatise our children to control me, which was something I would never have risked happening. I couldn't leave if there was any chance he would get co-custody …'[436]

The stories victims have generously shared with the Taskforce show the ongoing harm and trauma that perpetrators cause. They highlight how inadequate and inappropriate responses further compound that harm, which can lead to long-lasting health impacts, as chillingly described by a support person for a victim of coercive control:

> '… [the victim] rang and said she was going to just give in because she was completely worn down and … was just sitting around waiting for her ex to come and murder her because he was so angry and just will not agree to anything.'[437]

The impacts of coercive control as described through the voices of victims are devastating. The long-term effect of abuse on the lives of people who experience coercive control is difficult to understand for those who have never been in that position.

The resignation of long-term sufferers of coercive control is clear in the following example:

> 'It seems like a really cruel sting in the tail, almost like cruelty begets cruelty. I think it was a hope I carried all those years that has slowly become extinguished. Hope is a necessary and natural thing to keep a human going. I am not suicidal, just depressed but medicated. I used to be such a bright optimistic vibrant woman who [was] deeply values driven. I thought I would return to that, but without some sort of natural or otherwise justice it just won't happen.' [438]

Conclusion

This chapter has given voice to the experiences of victims, witnesses, and organisations from their submissions to, or in consultation with, the Taskforce about the detrimental effects of coercive control.

These experiences demonstrate how extensive, wide-ranging, and harmful this behaviour is, exposing the commonalities of coercive-controlling behaviour, such as isolation leading to the victim's loss of identity, feelings of invisibility, not being heard, and an inability to make free and informed decisions.

These experiences, in different ways, are often further compounded by structural and systemic inequalities that keep women entrapped in abusive relationships.

Coercive control and its insidious impacts are the reason so many victims do not leave their perpetrators. Victims are often left so damaged that they are unable to make rational decisions. Sometimes they may not have the means to leave the relationship. On too many occasions, they stay to protect themselves and their children. Mostly they do not leave because of a combination of one or more of these reasons.

Aligned with the extensive domestic violence literature, the voices of people with lived experience and the people who support them have highlighted the gendered context of coercive control.

A pattern of coercive control emerges as a series of ongoing and escalating behaviours used as a means of destroying a woman's self-agency, sense of safety, and opportunities to seek help. These behaviours are supported through structural inequalities that continue to place women as subordinate to men.

Contrary to popular belief, the violence does not end when the woman leaves but can escalate in severity and frequency, with perpetrators using children and the criminal justice system as weapons in their arsenal. This use of children adds to the ever-present nature of harm, fear, and futility that victims feel. Systems abuse ensures these victims and their children are continuously revictimized because of a lack of understanding and awareness of perpetrator tactics.

The Taskforce has used the experiences of these articulate and insightful victims to shape its recommendations throughout this report.

In the following chapters, the Taskforce addresses Queensland's legal and service system response to coercive control with evidence drawn from the literature and Taskforce submissions.

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Chapter 1.2

The service system response

Coercive control cannot be adequately addressed with legal responses alone. It is estimated that 82% of victims of partner violence do not seek help from the criminal justice system about the abuse.[1]

The issue of coercive control and other behaviours associated with domestic and family violence more broadly is incredibly complex, and open to much confusion for individuals and families impacted as well as the professionals working with them.[2]

The Taskforce has conducted extensive consultation about how best to design, implement and successfully operationalise legislation to deal with coercive control. Stakeholders across the state have told us what is working and what could be improved about how Queensland addresses coercive control.

This chapter examines what the Taskforce has learnt about how the service system can better respond to domestic and family violence and coercive control.

It includes the Taskforce's consideration of primary prevention efforts, and whether our schools and the media should have a bigger role in awareness-raising and prevention.

It considers what the Taskforce has heard about services provided by government agencies, specialist domestic and family violence services, and mainstream services such as doctors, teachers and hairdressers including points of contact, support, and intervention for victims and perpetrators.

It also discusses whether Queensland could do more to rehabilitate and change the behaviour of perpetrators of domestic and family violence to stop the cycle of abuse.

The Taskforce's examination of service system responses is framed by the need to design the system to include a clear public health approach to domestic and family violence. As outlined in chapter 2.3, this approach involves population-wide mechanisms that address the drivers of domestic and family violence (primary prevention), mechanisms for early intervention through early detection (secondary intervention), and mechanisms that respond to violence and abuse in ways that prevent it from recurring (tertiary intervention).

Primary prevention, community awareness, and education

While there is no single cause of violence against women, the evidence tells us that it is not an inevitable social problem, but a 'product of complex yet modifiable social and environmental factors'.[3] From the formal structures of our society through to how we approach roles and responsibilities in our homes, prevention involves a comprehensive approach to address the gendered drivers of domestic and family violence.

> 'Any option [to address coercive control] should address first and foremost that education is a critical component. Primary prevention is critical.' [4]

Primary prevention: preventing harm before it occurs

The Taskforce heard a clear message that Queensland needs to do more to address the root causes of domestic and family violence if women and girls are to be safe.

We heard about the significant and unsustainable demand across the domestic and family violence service system. While this demand pressure might, to some extent, be explained by increased awareness, reporting, and confidence in the system, it does reflect the high levels of domestic and family violence in the community. Service demand for crisis responses often takes precedence over targeted early intervention and prevention, even though all are crucial.

A public health approach to domestic and family violence incorporates a focus on primary prevention to address the underlying drivers of domestic and family violence and prevent it from happening in the first place. Available evidence tells us that this requires a sustained and dynamic commitment to cultural and societal change.[5] It requires positioning violence against women and girls as a human rights issue[6] and, as such, everybody's business to be part of the solution. This requires wide community engagement and participation to ensure empowerment and ownership of the change process.[7] The Taskforce has learnt communities are ready to do this across Queensland.

The Taskforce has received over 450 submissions from women and girls with lived experience of domestic and family violence. These submissions are predominantly from Queensland, although some have come from across Australia. They are from women from all walks of life, including those with disability, First Nations women, and women from culturally and linguistically diverse backgrounds. They come from wealthy and well-educated professional women, including lawyers and doctors. They also come from highly vulnerable women, including those with multiple and intersecting layers of disadvantage. The Taskforce's window of opportunity to hear the voices of women and girls has been brief, but the submissions make clear that domestic and family violence and coercive control are issues that have no social or economic boundaries and impact widely across Queensland. These women want their voices heard and acted on.

In discussions with community members, service providers, and stakeholders around the state, the Taskforce heard time and time again about the need to address the underlying drivers that cause coercive control and all forms of abuse against women. The message was clear — there needs to be an escalation of efforts to prevent the abuse, and the harm it causes, before it begins.

Dr Joseph Lelliott and Ms Rebecca Wallis of the TC Bierne School of law told the Taskforce in their submission:

> New offences alone are unlikely to substantially reduce rates of DFV, increase women's safety, or address systemic problems in the policing and prosecution of such behaviours.[8]

Models of violence prevention in Australia and around the world recognise that domestic and family violence and other forms of violence against women are outcomes of 'a complex interplay of individual, relationship, community, institutional and societal factors'.[9] This 'socio-ecological' model is helpful for understanding individual behaviour in a social context and is key to framing opportunities for prevention.

Underpinning the drivers of violence and abuse is gender inequality. There is a consensus in international research that 'the way in which gender relations are structured is key to understanding violence against women'.[10] While gender inequality may have its roots in historical laws and policies that framed gender relations, they continue to influence our lives through social norms, practices and structures.

According to Our Watch, the national leader in the primary prevention of violence against women and their children in Australia:

> Such norms, practices and structures encourage women and men, girls and boys to adopt distinct gender identities and stereotyped gender roles, within a gender hierarchy that historically positions men as superior to women, and masculine roles and identities as superior to feminine ones.[11]

While the gendered drivers of violence against women are 'deeply entrenched in our culture, society, communities and daily lives,'[12] the 'evidence tells us they can be shifted — through specific prevention actions, together with sustained efforts to progress gender equality more broadly'.[13]

> 'I am a highly educated woman & I believe part of the reason for … my lack of understanding is the mythology that persists in society about what romance is. These myths need to be busted wide open because they are exactly what perpetrators prey on and manipulate to make you hooked on their abuse.' [14]

Actions that prevent violence against women include:

- challenging the condoning of violence against women
- promoting women's independence and decision-making
- challenging gender stereotypes and roles
- strengthening positive, equal and respectful relationships that promote and normalise gender equality in public and private life.[15]

Preventing violence, therefore, involves working across all levels, from the individual through to the societal.

As pointed out by the Queensland Department of Education:

> While community awareness raising campaigns are important, legislation, equal access to resources, gender equal workplace practices, actions that challenge violence and supportive attitudes and behaviours in the community need to be addressed by government, business and community organisations.[16]

Furthermore, it is important to note that while gender equality is a factor in all violence against women, it may not be the only, or most prominent, factor. Other forms of discrimination and disadvantage intersect with gender inequality and may increase risk[17] and create added barriers to accessing support. For Aboriginal and Torres Strait Islander women, for example, the ongoing impacts of colonisation are key to understanding drivers of violence against women.[18] Approaches to violence prevention in individual communities, therefore, need to be driven by people in those communities so that the unique factors that may be contributing to violence can be addressed.

In Queensland, actions to prevent domestic violence carried out by government agencies and across the community are primarily guided by the whole-of-government *Domestic and Family Violence Prevention Strategy 2016-2026*. This Strategy and its supporting Action Plans incorporate primary prevention elements targeted at achieving 'a significant shift in community attitudes and behaviours'. This has included implementing a *Domestic and Family Violence Prevention Engagement and Communication Strategy*. Actions have included:

- campaigns to raise awareness of domestic and family violence among all Queenslanders and targeted cohorts, and encouraging active bystanders, with the most recent campaign 'Domestic and Family Violence General Awareness non-physical abuse campaign 2021' focusing on increasing community awareness of non-physical domestic and family violence
- supporting local prevention activities through annual grants programs

- supporting workplaces to adopt domestic and family violence policies and giving domestic and family violence leave to government employees
- awareness-raising across Queensland Government departments through the process of achieving White Ribbon Workplace Accreditation
- the Queensland Government undertaking a range of activities to engage the corporate sector in domestic and family violence prevention and increase support for victims through safe and aware workplaces and organisations
- supplying funding to specialist domestic and family violence services to do prevention work, including training and awareness-raising in the community and workplaces
- measuring beliefs and attitudes associated with domestic and family violence through the Queensland Social Survey.

Queensland's approach to achieving gender equality is set out in the *Queensland Women's Strategy 2016–2021.* Its vision is that 'the Queensland community respects women, embraces gender equality and promotes and protects the rights, interests and wellbeing of women and girls'. Actions focus on four priority areas: participation and leadership, economic security, safety, and health and wellbeing. The successor to the Strategy is currently under development and is an opportunity to strengthen Queensland's approach to primary prevention of all forms of gender-based violence.

Queensland's Framework for Action — Reshaping our approach to Aboriginal and Torres Strait Islander domestic and family violence[19] sets out the Queensland Government's commitment to 'a new way of working with Aboriginal and Torres Strait Islander peoples, families and communities in the spirit of reconciliation to address the causes, prevalence and impacts of domestic and family violence'.[20]

Primary prevention activities are also found in the *Queensland Violence against Women Prevention Plan 2016–22,*[21] and actions to address the drivers of sexual violence (many of which are common to those of domestic and family violence) are set out in *Prevent.Support.Believe: Queensland's framework to address sexual violence*.[22]

The Domestic and Family Violence Prevention Council, co-chaired by Vanessa Fowler of The Allison Baden-Clay Foundation and former Queensland Police Commissioner Bob Atkinson AO APM, also plays a role in promoting community action to address domestic and family violence.

Nationally, primary prevention activities have been led by the Australian Government, supported by state and territory governments under the *National Plan to Reduce Violence against Women and their Children 2010–2022*. These have included a range of community campaigns such as 'Stop It at the Start' and other activities carried out by Our Watch.

There is currently no dedicated agency or statutory body for primary prevention in Queensland. In contrast, Victoria has an independent statutory authority, 'Respect Victoria', set up to 'prevent all forms of family violence and violence against women before they happen by driving evidence-informed primary prevention'.

The Taskforce acknowledges the range of work that has been done over recent years by government, community organisations, businesses, and individuals, particularly in relation to awareness-raising and the promotion of opportunities for help and support. As discussed elsewhere in this report, the increased rates of reporting and help-seeking are likely to, at least in part, reflect this increase in general community awareness.

Similarly, there appears to have been some progress in levels of support for gender equality. Findings from the 2017 National Community Attitudes towards Violence against Women Survey (NCAS) suggest that there was an increase in support for gender equality, although there is still some way to go.[23]

Although most NCAS respondents supported gender equality, a significant minority (between 24 and 34%) believed it was acceptable to make sexist jokes about women and for a man to 'appear to control' his partner in front of male friends. A small but still noteworthy number believed men should hold positions of power rather than women (10%) and a man should take control or be in charge of the household (between 16 and 25%). Many respondents believed that women either exaggerated the inequality they faced (40%) or misinterpreted innocent remarks as sexist (50%).[24]

The Queensland Social Survey, first undertaken in 2017 and conducted annually ever since, measures perceptions and attitudes towards domestic and family violence in Queensland. The 2020 survey included new questions to measure awareness of different forms of domestic and family violence, beliefs and actions regarding bystander responsibilities, and attitudes towards domestic and family violence and gender equality.[25] Of note, while 83% of the estimated adult population agreed or strongly agreed that 'an attitude of gender superiority in a domestic relationship can increase the likelihood of domestic and family violence', only 67.5% agreed or strongly agreed that reducing gender inequality in society would help reduce domestic and family violence in Australia.[26]

While a focus on attitudes and behaviours at the societal level is crucial, this does not necessarily translate into changing attitudes towards gender equality in the private sphere.[27]

Researchers examining the results of the NCAS, for example, suggest there is a lower level of support for gender equality in the private sphere compared with support for equality in public life.[28] They noted that low support for gender equality in the private sphere correlates with attitudes that support violence against women.[29] Their findings suggest a need for policy and programming in Australia to have 'a distinct emphasis on equality in intimate, family and household relationships'.

Research like this points to where prevention efforts should focus for maximum impact. For instance, its findings support a focus on initiatives that address those aspects of gender relationships most strongly linked to violence against women, including 'reducing adherence to rigid gender roles in negotiations of sexual consent, or challenging male peer relations that tolerate hostility toward women'.[30]

Findings

There is a need to extend and intensify efforts to prevent domestic and family violence and other forms of violence against women in Queensland through a comprehensive approach to prevention that addresses the drivers across the 'spectrum of prevention' — at the individual, relationship, community, institutional, and societal levels.

This approach should draw on, and contribute to, the growing body of research and evidence about what forms of prevention are most effective. It needs to include a concerted effort to evaluate the effectiveness of primary prevention activities to decide what is and is not working and where there is value for money.

Prevention activities at the community level should be developed and implemented by, or in partnership with, local communities to ensure they are tailored to suit the needs of those communities.

Raising community awareness and understanding of coercive control

> 'I just didn't know it wasn't normal.' [31]

The whole community needs to understand what domestic and family violence and coercive control are and the damaging impact they have on victims. This is critical for prevention, early intervention, improved safety for victims, and perpetrator accountability.

So many women who experienced domestic and family violence have told the Taskforce that they did not realise the abuse they were experiencing was domestic and family violence or the high level of risk they faced. Families and friends have also told the Taskforce that if they had understood the signs of abuse, they would have intervened earlier to offer support and help victims reach safety. Juries who are required to interpret and make decisions based on the information and evidence before them in criminal trials should also understand the nature and impact of all forms of domestic violence.

The Brisbane Domestic Violence Service submitted:

> Our work with women, children and perpetrators indicates a lack of understanding of what constitutes domestic and family violence in the broader community and the service system. A lack of understanding of domestic and family violence as … patterned behaviours that constitute coercive control currently serves to promote a sense of isolation for women and children and perpetuates the occurrence of domestic and family violence. Domestic violence is mainly construed as violence and physical abuse, and more needs to be done to continue to educate the broader community regarding the pattern of abuse inherent in coercive control within domestic violence behaviours and consequences.[32]

A consistent theme heard by the Taskforce was that there is a lack of understanding in the community that domestic and family violence includes non-physical forms of violence that cause great psychological, emotional and physical harm. Efforts to improve the system response to all forms of domestic and family violence needs, therefore, to be supported by community awareness of what these behaviours entail, and why they are unacceptable.

Dr Joseph Lelliott and Ms Rebecca Wallis said:

> If accompanied by appropriate education and public information campaigns, a coercive control offence may assist in improving community awareness of [domestic and family violence] and the forms it takes. It also communicates condemnation of such conduct.[33]

As outlined above, considerable work has already been done to improve community awareness of domestic and family violence, including non-physical forms of abuse. Indeed, there are some indications that community awareness of all forms of domestic and family violence is increasing, and attitudes towards gender inequality are improving. Compared to 2013 results, the 2017 NCAS results suggest a positive change in knowledge and attitudes of violence against women.[34] This indicates a better understanding of what constitutes violence against women, such as the behaviours that aim to control another person and threaten, harm or cause fear.[35]

NCAS results were mixed in terms of attitudes towards violence against women. Most respondents showed greater awareness of the difficulties victims face when leaving violent relationships but a continued lack of trust when it came to women reporting domestic, family or sexual violence. A large percentage of respondents believed women accused men of sexual assault as a form of payback (42%) and exaggerated claims of domestic and family violence to improve their custody case (43%).[36] One-fifth of respondents excused male-perpetrated violence as a reaction to stress (20%) and blamed the victim for the violence (21%).[37]

The Queensland Social Survey indicates an increased understanding of non-physical forms of domestic and family violence. Compared with 2019 results, the survey indicated that Queensland adults in 2020 were significantly more likely to say that 'trying to control a partner by denying them access to money was always a form of domestic and family violence' (65.7% versus 57.4%) and 'that harassing a partner via phone or electronic means was always a form of domestic and family violence' (70.7% versus 62.1%).[38] Concerningly, the survey data indicated that females were more likely than males to think that it was very or quite serious to share intimate, nude or sexual images of a partner without their permission (99.0% versus 97.1%), try to control a partner by denying them access to money (97.4% versus 90.6%), and harass a partner by repeated phone or electronic means (97.9% versus 93.0%).[39]

Despite this apparently strong awareness of non-physical forms of violence across the general population, the Taskforce has received submissions demonstrating a lack of understanding of non-physical forms of domestic and family violence and the profound impact this can have on victims, both at the time and when the victims try to seek help. These submissions refer to victims:

- not seeking help for non-physical abuse, with many not reporting at all or only after they experienced physical violence. Many felt that assistance was only available for more serious and urgent cases or that they wouldn't be taken seriously
- not being taken seriously by the police when they do report unless they can produce evidence of physical violence
- identifying the need for better awareness of non-physical violence and its impacts among mainstream service providers — paramedics, general practitioners, lawyers, emergency department workers, nurses etc.
- suggesting courts were more likely to downplay evidence of non-physical abuse — for example, through low sentences for 'non-contact' breaches of Domestic Violence Orders.

The Taskforce has reviewed many media reports about the sentencing of perpetrators for breach offences. These reports stated that the court considered the conduct to be less serious or at the lower end of the scale because it 'only' involved the sending of text messages or other forms of 'contact breaches' — conduct that could involve coercive-controlling behaviours. While the Taskforce recognises that judicial officers are required to consider the seriousness of the offending and the harm that it causes as part of sentencing decisions,[40] these reports appear to reflect a lack of understanding in the criminal justice system about how these seemingly minor breaches may be contributing to an overall pattern of serious abuse (as discussed in chapter 1.4).

The media reporting of such cases can also contribute to the incorrect assumption that non-physical abuse is less harmful and dangerous.

Many submissions referred to a lack of understanding about the term 'coercive control' across the community, as indicated by Brisbane Domestic Violence Service:

> Men participating in perpetrator programs currently do not use the term 'coercive control', however they can recognise the tactics and patterned behaviours inherent to coercive control.[41]

Stakeholders talked about the need for a comprehensive education and awareness campaign to improve community understanding of domestic and family violence and coercive control.[42] Some submissions noted the additional work required for specialist domestic and family violence service providers to support their clients to understand the impact of any legislative amendments. [43]

Several submissions raised the need to increase awareness about the help available for particular groups in the community. For instance, stakeholders reported that among some culturally and linguistically diverse communities, there is a lack of awareness about non-physical forms of domestic violence and the unacceptability of those behaviours in Australian society.

> Due to a lack of understanding of the Australian legal system, both men and women in migrant and refugee communities may not know and/or recognise that family violence is prohibited and that it extends beyond physical violence (to include financial, emotional, or psychological abuse). This can mean people may not easily identify themselves as victims of domestic and family violence, control, or know whether/how to report and seek assistance. [44]

Other groups identified a need for targeted awareness campaigns for older people, people with disability,[45] and young people.

The Youth Advocacy Centre submitted:

> YAC has observed young people (both aggrieved and respondent) tend to have a limited understanding of what domestic violence means, associating the term with physical violence rather than non-physical acts, and therefore did not report the coercive control behaviours.[46]

Some submissions advocated for campaigns targeted and accessible to these audiences[47] or noted that existing entry-points for help and support were not well known, particularly among older people and people with disability.[48]

> Many awareness campaigns produced are not accessible to women with intellectual or learning disabilities. WWILD encourages any community awareness campaigns to highlight this and also use plain language and concrete communication that is accessible for all people.[49]

Stakeholders such as ADA Australia pointed out the urgent need for community awareness about the coercive control of older people and people with disability. Their reliance on the care and support of others may make it harder to identify when they are being coercively controlled.

> Older women and women with disability who experience coercive control by a person who they are dependent upon for care, such as a partner, family member or support person, are at a significantly heightened risk. Without substantial improvement in the community understanding of coercive control, the risk that abusive and violent behaviours will be misread or dismissed as 'genuine care' will remain significant.[50]

ADA Australia also points out that these concerns can be exacerbated for those who face additional barriers to accessing and receiving support — such as where cultural norms and expectations influence community responses and the understanding of what is and is not acceptable.[51]

Findings

Many Queenslanders do not understand the nature, prevalence and causes of domestic and family violence (including coercive control) or have the skills required to assist in early community-driven interventions.

The successful implementation of legislative reform, including the introduction of criminal sanctions for coercive-controlling behaviour in a domestic relationship, depends on improving the level of community understanding about what constitutes coercive control, its unacceptability, and its potential impact.

A community-awareness campaign should be implemented with clear and consistent messages tailored to communicate effectively, including with First Nations peoples, people with disability, people from culturally and linguistically diverse backgrounds, and LGBTIQA+ people. It should help *victims* identify when and how to seek assistance, *bystanders* identify violence and intervene appropriately, and *perpetrators* understand that their behaviours will not be tolerated and must change. More broadly, it should lay the foundations for recognising how culture and attitudes about gender inequality underpin coercive control.

Respectful relationships education in schools

The Taskforce heard that working with children and young people was critical not only for addressing drivers of domestic and family violence over the long-term but also for the shorter-term goal of raising awareness of coercive control and its unacceptability.

> Sometimes as young people we don't realise that the abuse we are experiencing is [domestic and family violence] especially if it is not physical. [52]

The Taskforce heard significant concerns about the increase in young people using coercive control[53] and disturbing rates of domestic and family violence among young people, both in intimate and family relationships.

Service providers who work with young people told the Taskforce that they saw normalisation of 'rough' intimate relationships in children as young as 11 or 12.[54] They also spoke of young people who, due to their life experiences, had no concept of what a healthy relationship looked like.[55]

Exposure to coercive control can influence children's and young people's vulnerability to both victimisation and later offending.[56] The Taskforce heard about the need to increase young people's understanding of coercive control to influence both protective and respectful behaviour among young people.[57]

The Taskforce received overwhelming support for prevention programs in schools and other education settings to address the drivers of gender-based violence. Many stakeholders feel that educating children and young people is key to preventing domestic and family violence from the outset.[58] This aligns with the findings of the Queensland Social Survey in 2020 with 97.3% of respondents agreeing or strongly agreeing that 'teaching children about respectful attitudes and behaviours in relationships will help DFV in the future'.[59]

This is consistent with evidence that respectful relationships education is one of the most promising strategies to prevent gender-based violence.[60] Gendered roles and expectations appear in early childhood and are heavily reinforced during a child's formative schooling years when their focus shifts from the family towards their peers. Many adolescents experience their first intimate relationships at high school. Early childhood is a significant time for addressing gender stereotypes,[61] and schools are important settings for promoting respectful relationships, non-violence, and gender equality.[62]

The Taskforce heard from young people that strengthened education programs addressing healthy sexual relationships should be consistently available and are key to preventing coercive control.[63] They also told the Taskforce that the key messages of these programs can easily be undermined by inconsistent behaviour or messaging from teachers and other adults. [64]

Current approach to respectful relationships education in Queensland

Respectful relationships education in schools is a key element of the Queensland Government's approach to primary prevention. Respectful relationships education refers to school-based primary prevention of gender-based violence. It looks to effect generational and cultural change by engaging schools to offer programs for students that address the drivers of gender-based violence. This includes a focus on:

- individual attitudes towards gender
- relevant institutional cultures and practices
- the structures and norms that inform how people behave and what is acceptable.[65]

All Queensland state schools are required to supply health and wellbeing education, including respectful relationships education, as part of either the school's pastoral care program or the Australian Curriculum — notably, the Australian Curriculum is currently under review to strengthen its coverage of respectful relationships and consent issues.[66] This is also a requirement for independent schools implementing the Australian Curriculum (this excludes those schools that follow the Steiner or Montessori curriculums or the International Baccalaureate).

Queensland's Department of Education designed a prep to Year 12 Respectful Relationships Education Program (RREP), which 'provides students with age-appropriate information on domestic and family violence … including information that examines power imbalance and gender inequality within relationships for senior student*s'.*[67] Schools can choose to implement the RREP or similar programs. It is still, however, up to individual schools to decide how this part of the curriculum is implemented. Some schools choose private providers to deliver this part of the curriculum. For schools that engage a private provider, the Department of Education is developing tools to assist in procuring a suitable provider.

The Department of Education is also working across the non-government and state education sectors, parents and citizens associations (P&Cs), and school communities 'to explore whether current Australian curriculum and respectful relationships education adequately address all issues, including consent and reporting'.[68]

Evidence suggests that short-term and ad hoc inputs in classrooms and schools tend to be unproductive in bringing about change.[69] A whole-of-school approach to respectful relationships education is seen as the best way to maximise its effectiveness.[70] According to Our Watch, this approach means:

> addressing the overlapping domains that shape the social climate surrounding students and staff, including curriculum, school policy and practices, school culture and ethos, the working conditions and culture experienced by staff, and the relationships modelled to students by their school community, including staff, parents, guardians and community groups.[71]

The Taskforce heard that families play an important role in influencing attitudes and beliefs of children and young people about what to expect from healthy relationships. Classroom education can be reinforced or undermined by the values and experiences children see in their home environment.[72] A whole-of-school approach can include engaging with the school community to encourage the reinforcement of classroom messages at home.

In 2017, Our Watch engaged in a pilot with 18 Queensland and Victorian primary schools to evaluate a whole-of-school approach to respectful relationships education, focusing on Years 1 and 2 (students aged five to seven years). The evaluation also explored opportunities for the continued take-up of respectful relationships education.[73] It identified the need for sustained effort over time to pursue a whole-of-school approach, beyond teaching and learning. It also identified the importance of providing teachers and non-teaching staff with opportunities for 'professional learning' to explore their personal positioning regarding the content.[74] The evaluation of the pilot found that this professional learning was an enabler to implementing respectful relationships education as it helped build commitment and knowledge and supported teacher confidence in delivering the curriculum.[75]

Schools are required to report annually to the Department of Education on the activities they have implemented. But there is no minimum requirement for the elements covered or how they are delivered. Concerningly, the content, and indeed the quality, of the respectful relationships education that students receive depends on the decisions of the school they attend. Programs are not consistent across the state.

Schools may choose to engage private providers to deliver respectful relationships education. But there is no accreditation of these programs to provide quality assurance.[76] While the Queensland Government has committed to developing a list of recommended programs to support schools to implement respectful relationships education,[77] this will only go part way towards providing schools, parents, and the community with certainty about the quality and efficacy of the programs.

Enhancing Queensland's approach to respectful relationships education

Overwhelmingly in discussions with stakeholders, the Taskforce heard that young people's views and perceptions about healthy relationships and expectations about sex and what is safe and appropriate are being influenced from a very early age by social media and access to readily available pornography.

The Taskforce heard that children as young as seven are accessing pornography, some depicting violent, degrading, and non-consensual sex. This is happening on mobile phones, even while they are at school. Such readily accessible and available material can be highly influential on children, who do not yet have the information or skills to counter the messages. The Taskforce has heard of girls and young women expecting to be strangled as part of normal sexual activity with no idea of the extreme physical danger to them.

Boys and girls are being bombarded with unhealthy messages about relationships. This is why it is so important that families and schools give them consistent information, from an early age, about respectful relationships — including healthy sexual relationships and the dangers of relying on pornography for sex education.

These issues are likely to be difficult and uncomfortable for schools and families who are not used to having such conversations with children and young people. However, if we are to meaningfully work towards preventing domestic and family violence and coercive control in future generations, it is critically important to acknowledge that vulnerable children and young people are already accessing harmful material that is negatively informing their values and attitudes.

We must design and implement contemporary approaches to provide our young people with the knowledge and skills to counter these degrading, harmful, and dangerous messages. A promising example of this type of contemporary approach is the *Keep It Real Online* public awareness campaign by the New Zealand Government.[78]

Young people told the Taskforce that respectful relationships education needs to start earlier, be more consistent throughout schools,[79] and be given more time and attention: 'It needs to be more than a short PowerPoint presentation where a police officer shows up or there is an assembly'.[80]

Education in schools was seen as equally necessary to prevent young people from being violent and abusive themselves:

> We need more education about what actions we take could fall within coercive control. Then we might be able to reflect on our own behaviour about when we might have been coercive controlling.[81]

Many state and independent schools are implementing quality programs suited to their local school environment. There is, however, limited ability to assess the quality, consistency or effectiveness of these programs. Several stakeholders raised concerns about the adequacy of the programs and perceptions that the principal often exercised their discretion to prevent specific content from being delivered and programs from being appropriately implemented.

Research by Our Watch into the implementation of respectful relationships education in both primary and high schools 'points to the importance of age-appropriate gendered curriculum, comprehensive professional learning, effective workforce support for schools, clear and proactive communication, and a long-term approach to implementation and increasing take-up of programs within and across schools'.[82]

The findings of the Our Watch pilot in primary schools indicates that the success of respectful relationships classroom education relies heavily on the ability of teachers to implement the program confidently and that professional support was needed to achieve this. The Queensland Department of Education acknowledged this in its submission to the Taskforce and at a later meeting:

> a strategy to build teacher capability to deliver respectful relationships education that examines domestic and family violence, including coercive control and sexual violence and addresses the gendered-drivers of violence against women, has been identified as a priority.

While the Taskforce heard about the need for greater consistency about topics covered in respectful relationships education, it also heard that the key messages in school programs need to be delivered in culturally appropriate ways. For instance, on Thursday Island, stakeholders said there was support for gender-specific wellbeing programs about relationships that involved Elders and were embedded in culture.

The Taskforce also heard that respectful relationships education should be inclusive of diverse genders and sexualities and that LGBTIQA+ young people didn't feel the sex education provided was relevant to them.[83]

The Taskforce notes that it may sometimes be advantageous to:

- engage local specialist domestic and family violence and sexual violence services to build alliances with other local services
- support schools to manage incidents arising
- strengthen the capability of schools to implement an effective and culturally appropriate approach.

Many stakeholders raised the need to expand and enhance the content of respectful relationships education programs to emphasise that coercive control and domestic and family violence involve a pattern of behaviour over time. This would provide a deeper understanding of what constitutes all types of abuse.[84]

> You aren't taught about the more nuanced circumstances and so we aren't aware of what is coercive control.[85]

The Department of Education identified that there is an opportunity 'to include additional content on coercive control within the enhanced RREP and/or within additional supporting resources or training materials'.[86]

There is also a need to consider, as part of the core features of respectful relationships content, how inequality intersects with other forms of social discrimination and disadvantage through an intersectional approach to primary prevention.[87]

The need for boys to participate in respectful relationship education programs as a way of engaging them in issues such as toxic masculinity and sexism was also raised with the Taskforce.[88] Such initiatives need to be culturally appropriate and, where possible, delivered in partnership with community members and peers.[89] This approach considers gender inequality in the context of the 'social systems and structures, norms and practices that contribute to discrimination and privilege and can influence the perpetration and experiences of violence'. Key to this approach, according to Our Watch, is 'addressing the intersections between sexism and racism, and between the impacts of gender inequality and the legacies and ongoing impacts of colonisation for Aboriginal and Torres Strait Islander peoples and non-Indigenous people'.[90]

Young people themselves, as well as other stakeholders, highlighted the importance of respectful relationships education for young people in youth detention or who otherwise are unable to access formal education in schools. This is critical given the high numbers of vulnerable young people under youth justice supervision or who are involved in the child protection system and have experienced or been affected by domestic and family violence.[91]

A suitable mix of educational programs and therapeutic interventions are clearly needed, considering the concerning rates of young people engaging in violent and abusive behaviours within intimate-partner relationships.

> Youth Justice workers often note young people under supervision are both victims and perpetrators of coercive control – having learnt coercive control behaviours and tactics from adults, they then recreate these dynamics in their own intimate relationships or against their own parents, lacking the maturity or life experience to appreciate the harm they are causing.[92]

Beyond young people in detention, stakeholders also raised the need to find different ways to communicate about respectful relationships with those who are not engaged with mainstream education. For instance, they suggested that programs, including those aimed at Aboriginal and Torres Strait Islander young people, should be delivered in community youth centres where such young people are likely to meet up. This would provide a safe environment for further embedding positive messages through work already happening there.[93]

There is evidence that early childhood years are a 'critical period' for combating gender stereotypes[94] because children as young as 18 months are aware of gender roles and select behaviours based on their gender.[95] This supports the nurturing of respectful relationships education in an age-appropriate way in early childhood education. Following recommendations of the Victorian Royal Commission into Family Violence, the Victorian Government provided free professional learning for early childhood educators in government-funded kindergarten programs. This program aimed to strengthen the capacity of early childhood educators to promote respectful relationships and positive attitudes and behaviours.[96]

Ensuring that school staff (both teaching and non-teaching) are equipped with the right knowledge and skills is fundamental to effective education. It is also vital in implementing the required whole-of-school approach.[97] Ongoing professional development is essential to support educators in dealing with the inevitable newly emerging and complex issues.

The Taskforce noted that the Department of Education supports schools to implement respectful relationships education. This includes resources to assess the quality of these education programs and to strengthen professional development.[98] There may be a need to expand this support, particularly when implementing a whole-of-school state-wide approach. Importantly, Our Watch found that the work of primary prevention and gender equality experts from within the education department was critical in addressing components of the whole-of-school approach.[99]

The Taskforce has heard and is continuing to consult stakeholders about awareness of and education into sexual violence against women and will further discuss this important issue in the second report on women's experience of the criminal justice system.

Findings

Respectful relationships education in Queensland is not being delivered with sufficient consistency, frequency, quality, or oversight to fulfil its potential to address the drivers of domestic and family violence and coercive control. Decision-making and resources for such initiatives are often decentralised, resulting in a fragmented approach across the state.

All children and young people — regardless of the school they attend or their level of schooling — should have access to high-quality, respectful relationships education, delivered and embedded through a whole-of-school approach. It must contain minimum core elements to address the causes of domestic, family, and sexual violence (including coercive control), as well as age-appropriate information on: respectful relationships, the impact of colonisation on First Nations peoples, cultural respect and diversity, gender equality, age-appropriate information about sexual relationships, pornography and consent, and ways to seek help. Educators in early childhood education through to Year 12 teachers should receive ongoing professional development that helps them deliver respectful relationships education as part of a whole-of-school approach.

Young people who are not engaged in formal education have limited opportunities to receive respectful relationships education, despite their likelihood of benefitting from it. Hence, respectful relationships education should be made available in schools in youth detention centres, residential care facilities and flexible schooling environments. Youth support services should also be helped to deliver programs modified to their clients' needs.

Respectful relationships education must be delivered in a culturally safe way relevant to a young person's home life and community. It should provide realistic expectations about relationships and encourage young people to seek the advice of Elders, trusted adults, and local domestic and family violence service providers.

Appropriate governance and accountability mechanisms should provide transparency about what state and non-state schools have done to implement respectful relationships education from a whole-of-school perspective. These mechanisms should also support professional development for educators within the school environment.

Role of the media and restrictions on reporting

The media is uniquely positioned to educate and shape community understanding of domestic and family violence. It can be part of the solution to violence against women and children.

ANROWS (Australia's National Research Organisation for Women's Safety) research has found a clear link between media reporting and attitudes and beliefs about violence against women.[100] This can negatively affect attitudes, as evidenced by recent Australian research on the reporting of domestic violence homicides where there was a tendency to shift blame and exclude the social context in which violence against women occurs.[101] Conversely, media coverage can raise community awareness and encourage help-seeking. This is consistent with what the Taskforce heard about the role of the media. For example, one victim of domestic violence told us:

> 'I was a victim of domestic violence though I didn't know it until Allison Baden-Clay's detective said on TV you don't have to have a black eye to be a victim.' [102]

The Department of Education told us:

> The media's role in accurately highlighting the gendered-nature of this form of violence, its prevalence, in not perpetuating stereotypical gendered-attitudes and in ensuring accountability is placed on perpetrators and not victims, is important in shaping the views of the community.[103]

Stakeholders that made submissions to the Taskforce noted the important role media can play in reinforcing messages about healthy relationships, healthy communication, and strategies to raise concerns about others' safety.

> We have … heard of overseas examples of popular television shows weaving a coercive control narrative through one or more episodes. Given the support that this issue has received from media organisations, we would encourage Australian television producers to also put their support behind it.[104]

> We believe social media can be used to better educate and empower woman. For example, Instagram accounts such as Tinder Translator, help to identify concerning behaviour by men on dating apps in a non-serious way. This is an important education tool as it uses humour to highlight profiles of people who display the early warning signs of a perpetrator of domestic violence such as behaviour that is discriminatory or sexist.[105]

> More documentaries about domestic abuse and coercive control could complement or form the basis of community education programs. Evidenced-based information could also be incorporated as an educational component of media stories about domestic violence or incorporated into the plots of popular entertainment shows. These representations in the media should not sensationalise or normalise this coercive control or other forms of domestic abuse.[106]

The media's approach to reporting violence against women and children

The media has the power to influence community attitudes and beliefs and so can shape community understanding of domestic and family violence. In recent years, as knowledge about domestic and family violence has matured, the media has sometimes faced criticism for its reporting on these matters.

> Current media reporting about domestic and family violence incidents needs significant redress. For instance, consider how many DFV murders of women are categorised as someone dying or being killed, at the same time as the predominantly male perpetrator is portrayed as the 'loving Dad who was just pushed too far'.[107]

The Taskforce received numerous submissions that commended journalist Jane Gilmore's seven-year 'FixedIt' campaign. She amends headlines and posts them on social media to highlight how sensationalist reporting of men's violence against women uses victim-blaming language, erases male violence, and reports mere allegations as fact.

> The only context in which I have seen the lies told by criminals regularly repeated (without context) in headlines is in reports about men's violence against women.[108]

Our Watch[109] and the Queensland Government have produced guidelines to help media improve their reporting of violence against women. In response to recommendation 70 of the *Not Now, Not Ever* report, the Queensland Government created the *Domestic and Family Violence Media Guide* to support improved reporting of domestic and family violence and seek the media's support in changing community attitudes towards domestic and family violence.[110] Use of the guide is neither compulsory nor enforced, and it is unclear how widely it is used within the industry.

In response to increasing awareness in media organisations, it appears that coverage of violence against women and their children is slowly improving (albeit inconsistently). Pleasingly, there are now more examples of outlets examining the causes of violence and avoiding language that can inadvertently blame victims, excuse decisions made by perpetrators, or incorrectly suggest that factors like alcohol or mental health are principal drivers or excuses.[111]

As Jane Gilmore notes:

> 'When I started this six years ago there were multiple headlines to fix every day. That's dropped to a couple each week. This would not have happened if it was just me shouting alone in the wilderness. It's due to the strong public response and journalism's (albeit slow) adaptation to the need to listen to their audience's rejection of traditional forms of reporting men's violence against women.' [112]

Problematic media reporting is nonetheless continuing. The Taskforce has been disappointed to read articles that trivialise abuse. Examples are:

- stalking behaviour in an apparent breach of a Domestic Violence Order being described as a 'run-in'[113]
- a headline describing the perpetrator as a 'tearful man kept in custody' when reporting on a story of rape, stealing, common assault, and strangulation in a domestic setting.[114]

Media reporting also continues to be incident-based and demonstrates a lack of understanding of coercive control as a patterned form of non-physical violence committed over time. When reporting on a case where a perpetrator breached a Domestic Violence Order 177 times after physically assaulting his partner, the *Toowoomba Chronicle* referred to the defence lawyer's argument that 'there was no suggestion of violence in the breaches'.[115]

To some extent, media reporting on domestic and family violence reflects the broader community's lack of understanding of the nature of domestic violence and coercive control. This shortcoming points to a broader need for community education.

The Taskforce heard concerns from some stakeholders about the potential risks associated with domestic and family violence reporting. Academics from the University of Queensland's TC Bierne School of Law noted that perpetrators may use media reporting as 'leverage' over victims and that the reporting of specific detail may have detrimental consequences:

> They may, for instance, reference horrific incidents to instil fear. This can include sending copies of news reports to make an implicit threat. In the context of dousing (as a form of domestic and family violence), there is evidence that perpetrators have used the killings of Hannah Clarke and Kelly Wilkinson to make threats against and control partners and ex-partners. Some anecdotal evidence in our research further suggests that media reporting may lead to 'copy-catting' by perpetrators.[116]

The 'leverage' of previous reports to intimidate has also been anecdotally backed up by other submissions to the Taskforce:

> Following news coverage of intimate partner homicides, LAQ staff experience an increase in reports from victim survivors where their abuser has threatened to do to them what was done to the deceased in publicised cases. [117]

Perpetrators sometimes use messages reported in the media to reinforce their intimidation and control of victims. For example, when media outlets report victim-blaming stories — or give air to assertions that women fabricate or exaggerate claims of domestic and family violence or child sexual abuse to gain an advantage in family law proceedings[118] (despite research debunking this myth)[119] — perpetrators may use these stories to downplay the reality of domestic violence and discredit victims who are seeking safety and support.

The Taskforce is unaware of any confirmed direct link between reporting domestic and family violence and copycat behaviour, though submissions have indicated this evidence may be emerging.[120] In recent years, however, several women and children have been notoriously killed in fires deliberately lit by perpetrators. The risks associated with reporting these incidents are high in terms of impact on victims and their families.

Stakeholders consulted by the Taskforce have called for more research into the potential copycat nature of domestic violence incidents. They suggest that the way the media report suicides may provide a best-practice approach to reporting domestic and family violence.[121]

Micah Projects:

> There do need to be controls around how Media report, as reporting of recent domestic violence incidents and homicides has led to an increase in high-risk behaviours, and threats of high-risk behaviours, such as petrol dousing, threats to set [a] partner on fire, and setting house fires with the partner inside. Implementation of a similar approach to the reporting of suicide needs to be considered to prevent 'copycat' behaviours. Current reporting approaches, while highlighting the significance of the issue to the broader community, has served to increase risk of serious injury for women.[122]

Broken to Brilliant:

> We feel that research is needed to determine if the reporting of the methods of domestic violence used by the perpetrator increases copycat domestic violence e.g., women being burned Hannah Clarke and her children, Kelly Wilkinson — are there others?[123]

The QPS:

> The QPS would also welcome research on whether there are further ways the media can minimise any potential risk of harm to victims of DFV, including whether there is any link to imitation offending via media reporting.[124]

Media coverage also has the potential to erode the effectiveness of primary prevention initiatives. For example, the Our Watch pilot of respectful relationships education in primary schools found that media coverage and misinformation about respectful relationships education could undermine the key messages and take-up of these programs.[125]

The submission from the QPS suggested that sensationalist media reporting of domestic and family violence may 'be dissuading some victims from seeking support' by creating an impression of futility in seeking help.[126] The submission also highlighted the importance of responsible media reporting in raising awareness and influencing perceptions and social attitudes, including supporting help-seeking.

Research on suicide prevention has shown that the presentations of suicide in news and information media can influence copycat acts in particular circumstances.[127] The Australian press, commercial television, and commercial radio outlets adhere to industry standards when reporting suicides. These standards provide useful guidance — for example, reporting a suicide should only occur when it is in the public interest, the method or location of the suicide should not be reported, and the report should not sensationalise, glamorise or trivialise suicide.[128]

While further research would clarify the link between reporting and perpetrator behaviour, the recent high-profile, horrific and very public deaths of victims make it clear that there is an urgent need for national media industry standards on the reporting of domestic and family violence. These standards should operate like those already in place for reporting suicides and should include a trauma-informed approach aimed at mitigating risks associated with reporting on domestic and family violence for victims and their families. The 2015 *Not Now, Not Ever* report did not go as far as to recommend industry standards be developed. While there has been some improvement since 2015 on the reporting of domestic and family violence, more needs to be done. The prevalence and impact of high-profile cases do not yet seem to be decreasing, and the media industry must responsibly and appropriately report on these cases in the future.

The Taskforce appreciates the critical importance of independent and robust media reporting of matters of public interest like domestic and family violence. To do this responsibly, however, the media must ensure reporters understand the pervasive and serious nature and consequences of all forms of domestic and family violence, including coercive control. Improving awareness and implementation of available resources, including the media guide discussed above, could support this important work.

Reporting on proceedings

While media organisations have an important role to play in raising community awareness about domestic and family violence, there are legal restrictions in Queensland on reporting these proceedings. On 20 August 2021, the Taskforce received a letter from the Hon. Shannon Fentiman, Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence, requesting that the Taskforce consider these legislative restrictions in both domestic violence and sexual violence proceedings.

Queensland has an open justice system — that is, Queensland criminal and civil courts (other than the Childrens Court) are generally open to the public and the media unless the court orders otherwise.[129] Journalists are generally free to report on proceedings provided they abide by legislative prohibitions, such as not identifying victims of or evidence about sexual assault and not reporting various matters said in the absence of the jury.[130]

In Queensland, civil proceedings involving an application for a Domestic Violence Order under the *Domestic and Family Violence Protection Act 2012* (DFVP Act) are ordinarily held in closed court,[131] and access to the records of proceedings are restricted.[132] The court has some discretion to open proceedings to the public, including when in the public interest.[133]

The DFVP Act also restricts the publication of any information given in evidence, or that identifies or is likely to identify a party, witness or child in a proceeding.[134] There are exceptions to this restriction, such as where a publication is authorised by the court or where everyone to whom the information relates (for example, both applicant and respondent) consents to its publication.

The Explanatory Notes to relevant provisions in the DFVP Act indicate that the Parliament's intention in imposing these restrictions was to protect individuals from the publication of highly sensitive and personal information while providing discretion to open a court or enable publication of information about proceedings in appropriate circumstances.[135] This occurs in other protective jurisdictions, such as child protection proceedings. It reflects the principle that victims of domestic violence and their children should be able to seek a Domestic Violence Order safely without their personal information being made public.

Some submissions to the Taskforce argued that these restrictions need to be reconsidered. One victim felt that:

> 'Our justice system is currently geared at protecting respondents, including by not treating domestic violence like other proceedings which follow the open justice principle and are part of the public record.' [136]

In its submission, Australia's Right to Know (ARTK), a coalition of media organisations, recommended that Queensland cease 'the complete ban on publishing the evidence in [Domestic Violence Order] applications' and that 'consent be sufficient to allow any one person to authorise identification of themselves'. The submission stated:

> ARTK submits that it is vital that both sexual violence and family violence cases are fully reported because they are both forms of abuse that commonly occur behind closed doors. Like sexual violence survivors, family violence survivors need to know that they are not alone and that something can be done to stop whatever form of domestic abuse they are experiencing before it escalates.[137]

ARTK noted that Queensland is the only jurisdiction that forbids the publication of any information given in evidence in civil domestic and family violence proceedings. Most jurisdictions have no restrictions on publishing non-identifying information on proceedings, although some enable the court to make an order restricting publication.[138]

The requirement that civil domestic and family violence proceedings be held in closed court unless ordered otherwise is also unique to Queensland.[139] Principles of open justice generally require that court proceedings should be open to the public.[140] In all other Australian jurisdictions, proceedings are held in open court unless particular circumstances exist (such as the involvement of children) or the court orders otherwise (such as to prevent undue distress or embarrassment).[141]

Several jurisdictions restrict the publication of identifying information about victims and witnesses in proceedings without their consent.[142] Among jurisdictions where victims can consent to be identified, Queensland is the only jurisdiction that appears to require the respondent to consent also. Indeed, most jurisdictions have minimal restrictions on the identification of perpetrators in proceedings.[143]

While Queensland's restrictions are intended to protect individual privacy and safety, the Taskforce notes that Queensland's approach is out of step with the rest of the country and accepts there are persuasive arguments for increasing the transparency of proceedings under the DFVP Act.

The majority of domestic violence reporting currently focuses on murders, violent offences, and criminal law proceedings. The Taskforce heard there would be value in more reporting on 'everyday' cases of non-physical, non-fatal domestic and family abuse.[144]

> 'The deaths are awful, but they are the tip of the iceberg. I would like to see a lot more reporting and consideration of the 2.2 million women who don't end up dead, but who end up broken, traumatised, without a home, without an income, with psychological injuries that will last a lifetime.' [145]

The Taskforce acknowledges that increased reporting on civil proceedings may increase public awareness of the nature of abuse and coercive control. Enabling victims to consent to be identified in reporting, without requiring the consent of the perpetrator, may provide opportunities for them to tell their stories and be heard. Similarly, enabling perpetrators to be identified may be one way to hold them to account and publicly expose the seriousness of their actions.[146]

It is also arguable that by closing proceedings to the public and preventing publication of their details, the state may be reinforcing ideas that domestic abuse is a 'private matter' and somehow does not involve the same level of criminal culpability as violence that occurs in the public domain.

During consultations and in some submissions, the Taskforce learned of inappropriate behaviour in closed hearings by judicial officers, lawyers, and police prosecutors. Publication of proceedings in some form would better support public accountability of the justice system and those working in it.

Equally, there are significant risks for the safety of victims and their children in opening courts and reducing publication restrictions. Some of the risks of holding civil domestic violence proceedings in open court are that:

- victims may feel exposed, uncomfortable, or even retraumatised at the prospect of strangers witnessing proceedings
- child victims or witnesses may be more likely to be identified or retraumatised
- perpetrators may use the opportunity to intimidate victims through the presence of threatening individuals or family members in court
- it may prevent victims from seeking the protection they need by making an application for a Domestic Violence Order
- where a victim has been misidentified as a perpetrator, they could be shamed even if later accepted as the victim
- if publicly identified, perpetrators may be motivated to challenge an application rather than consent.

Even if victims are not identified by name, ensuring that published information does not lead to their identification or that of their children against their wishes is a significant challenge. Some jurisdictions provide detailed legislative guidance on this issue.[147]

One possible solution to the various competing considerations may be to allow media and interested persons to apply to courts for deidentified transcripts of proceedings. While resource-intensive, this would allow the media and public to have some knowledge of and scrutiny over court proceedings while protecting the privacy of victims and their children.

Issues relating to the current closed court and confidentiality provisions in the DFVP Act were referred to the Taskforce by the Attorney-General at a time that did not allow this issue to become a major subject of consultation for this report. Given the need to engage more comprehensively with all stakeholders before considering any changes to the current approach that some may view as sound practice, the Taskforce will consider this issue in more detail as part of our broader examination of women and girls' experiences across the criminal justice system.

Findings

Problematic media reporting of domestic and family violence is continuing.

Media industry stakeholders have a responsibility to minimise the potential harm to future victims while remaining independent and robust in their public interest reporting and raising community awareness about domestic and family violence.

The industry must first ensure all staff and reporters understand the nature and consequences of domestic and family violence, which includes coercive control. It can do this by raising staff awareness and encouraging their use of available resources.

The fact that domestic violence civil proceedings are held in closed court without public reporting warrants further consideration.

Mainstream services: an opportunity for early intervention and support

Well before a victim seeks assistance from a specialist domestic and family violence service or the police, they may make disclosures to friends, family, colleagues, doctors, teachers, lawyers, accountants, or bank employees. Sometimes disclosures are made to people providing unrelated services, such as hairdressers or tattoo artists. On other occasions, real estate agents or tradespeople see evidence of domestic and family violence. The Taskforce heard of a salesperson who happened to see, through an open front door, a woman chained in the kitchen. Shocked, he called a crisis helpline, which then contacted the police.[148]

Many people experiencing non-physical abuse may not recognise the behaviour as domestic and family violence. Manipulative forms of abuse, for example, gaslighting, or sleep deprivation, may lead the victim to question herself and her perceptions of reality.

From the submissions the Taskforce received, many victims did not seek help until the behaviour escalated to physical violence (sometimes waiting years or even decades). Those working in mainstream services can play an important part in minimising harm by helping victims to access support earlier.

> Death reviews consistently show that people using and experiencing domestic and family violence (and who have co-occurring needs) have multiple points of contact with the service system, each of which provides an opportunity to recognise and respond. In many cases, regardless of the death type, contact with services commenced many years before the death.[149]

Perpetrators of domestic and family violence also regularly encounter a spectrum of human services agencies, including those related to mental health, alcohol and other drugs and child protection services. Researchers have identified how some of these agencies render men who are perpetrators of family violence invisible, or do not appropriately identify the support needs they require. [150]

The Taskforce has heard that these agencies often operate outside the domestic and family violence service system, despite knowledge of domestic and family violence impacting, or being perpetrated by their clients.[151] For these agencies to be recognised as essential parts of broader perpetrator intervention systems, a conceptual shift is needed.[152]

Some researchers have advocated creating a 'web of accountability' to monitor perpetrators and the risks associated with their violence over time. [153] This would involve human services agencies sharing information and collaborating to manage risk and thus would contribute to the conceptual shift mentioned above.

For some parts of the community, certain services may be considered a safe entry point for getting assistance — for example, Aboriginal and Torres Strait Islander community-controlled health services.[154] Supporting these organisations in their role in the response to domestic violence can be an effective way to reach people that may not otherwise seek help.

Finally, and critically, the use of systems to track, intimidate and control victims is a defining feature of coercive control. As discussed in chapter 1.1, perpetrators of coercive control will go to great lengths to manipulate or access systems and processes to continue their campaign of abuse. Victims' workplaces and colleagues can be targeted. Perpetrators may trick businesses into unwittingly providing the victim's whereabouts or contact details. Misinformation may be spread to undermine the credibility of the victim. Conversely, often perpetrators of coercive control use the system to avoid detection and accountability.[155] The more aware the broader service system is — across both private and public spheres — of the dynamics and impacts of coercive control, the better able they are to detect abuse and protect victims from harm.

The Taskforce heard from stakeholders about the importance of widespread awareness-raising and training across the service system, including mainstream services, to increase their understanding and awareness of coercive control, how to identify it, and how to respond. This will improve early detection and intervention for victims who may themselves not identify abuse as coercive control or be unable to seek help. For example, the Taskforce heard about the importance of training for disability workers to assist them in identifying abuse and taking appropriate action where victims face obstacles in accessing care.[156] The Taskforce understands that a training package has recently been designed and implemented as part of 'Queensland's plan to respond to domestic and family violence against people with disability'.[157] It is not clear, however, how consistently these online modules are included in general training for workers in this field.

> The practitioners' responses across all systems need to be, not only trauma informed, but trauma sensitive practice that understand the impact of fear due to coercive control and how these impact on the choices and decisions that women make to deal with their situation.[158]

Queensland Government agencies

Significant work has been done across Queensland Government agencies since the release of the *Not Now, Not Ever* report in 2015. This work has been guided by the *Domestic and Family Violence Prevention Strategy 2016–26* (and supporting Action Plans) and in response to the recommendations of the Domestic and Family Violence Death Review and Advisory Board (DFVDRAB) in its annual reports. There appears to be increasing recognition of the important roles different government agencies play in preventing, recognising and responding to domestic and family violence across the service system. The Taskforce does not attempt to outline the scope of work already done but reflects on relevant areas of reform in response to what we heard during our consultation.

Many Queensland Government agencies that made submissions to the Taskforce described actions they have taken to improve understanding and awareness of domestic and family violence among their staff and to improve responses.

The Department of Education, for example, now have face-to-face training for staff about domestic violence and its impact, as well as on how to identify and respond to it.[159] School staff are also given training and resources on identifying and responding to suspected harm to students from domestic and family violence.[160]

The Taskforce has also heard that rolling programs of mandatory domestic and family violence training, online refreshers, and trauma-informed approaches have been provided to support staff delivering frontline housing services.[161] These staff play a vital role in informing victims of their options in domestic violence situations — for example, a tenant's ability to legally end tenancy agreements and minimise break-lease costs or change locks under the *Residential Tenancies and Rooming Accommodation (COVID-19 Emergency Response) Regulation 2020*.

Beyond staff training, many agencies have reviewed internal policies and procedures to identify opportunities to improve safety for victims of domestic and family violence. One notable example is relaxing the requirement to provide documentation substantiating domestic and family violence before accessing housing assistance.[162] Many agencies have completed internal reviews and audits as part of the White Ribbon accreditation process.

Significant work has been done in other government agencies to increase staff awareness and better equip them to respond to people impacted by domestic and family violence. Some of these agencies also play an important part in integrated responses, either as part of a core High Risk Team (for example, agencies responsible for child safety, police, health, housing and corrective services[163]) or as associate agencies assisting as needed (for example, agencies responsible for education or disability services).

The overarching feedback received by the Taskforce about these government agencies is that while there has been significant progress, further work is needed. This work needs to consolidate reforms (for example, to information-sharing and integrated responses, discussed below), increase awareness and understanding of coercive control, and strengthen the ability of the service system to recognise and respond to patterns of behaviour over time rather than focusing on individual incidents. The Taskforce also heard suggestions about how particular parts of the service system could work better together to prevent victims and perpetrators with special needs from falling through the cracks.

Child safety services

Domestic and family violence too often co-occurs with child abuse, including child sexual abuse.[164] As described in chapter 1.1, the Taskforce heard numerous accounts of how the child safety system is used by perpetrators to threaten and control victims and children.

There appears to have been improvement in the ability of Child Safety officers to understand the dynamics of domestic and family violence, with many stakeholders commenting positively on the results of specialist training such as the Safe & Together™ model. Some stakeholders reflected that, where this training had been implemented well and included the participation of partner non-government organisations, there were shifts in culture and practice towards working in partnership with the safe parent to hold perpetrators of abuse more accountable.

One of the key changes being pursued because of this training was a gradual shift in report writing and affidavits towards more accurately describing who was causing harm to children and how. This is a departure from the tendency to render the perpetrator invisible — for example, through statements like 'the relationship is characterised by domestic violence' and a focus on the victim's actions (or her failure) to protect her children rather than the perpetrator's decisions to use violence or abuse.[165]

However, some stakeholders felt that more work was needed. Lack of skills in identifying the primary aggressor and partnering with the parent most in need of protection were some of the areas stakeholders highlighted for further improvement. The Domestic Violence Action Centre suggested more specialist domestic, family and sexual violence skills in dedicated roles within Child Safety Services and non-government family support services were required. It also suggested that specialised case consultation and supervision support should be used as mechanisms to achieve better capability across the service system.[166]

Submissions from victims repeatedly described their fear of Child Safety involvement as a barrier to their reporting domestic violence or seeking assistance. This was especially so with Aboriginal and Torres Strait Islander and culturally and linguistically diverse stakeholders and those with intellectual disability. There is work to be done to continue to build credibility and trust with families if they are to perceive services and Child Safety as sources of help and assistance rather than as solely focused on intervening to remove children.

Although the Taskforce heard positive reflections of the impacts of the Safe & Together™ model, it is aware that there may be some inconsistency in the rollout of training and implementation. This has resulted in inconsistent responses across service centres. The Taskforce also notes that while the model has been the subject of research focused on workers, with promising results about their practice, there has been little research on the impact of the model on outcomes for women and children.[167] Further work is required in this area.

The Taskforce also heard from stakeholders about the need for further work to develop the understanding of all frontline service providers so that they could identify and respond to non-physical forms of domestic and family violence and coercive control. This training would ensure that agencies play their part in keeping victims safe and holding perpetrators accountable. As outlined elsewhere in this chapter, the Taskforce heard about the importance of building the cultural capability of agencies involved in integrated responses to Aboriginal and Torres Strait Islander peoples affected by domestic and family violence.[168]

Health and mental health services

The Taskforce heard a range of feedback about the role health and mental health services play in identifying and responding to domestic and family violence. Generally, we heard that many victims disclose first to health practitioners and at hospitals and that the quality of the response to such disclosures varies considerably.

Professionals that provide mental health services can provide excellent clinical care and support. But some may not be as informed about domestic and family violence (or as skilled at offering support) as others. This is a problem given the frequent co-occurrence of mental health concerns and domestic and family violence.

In particular, the Taskforce heard that there was a need to expand the awareness and understanding of psychologists, counsellors, and others who come into contact with perpetrators and victims.[169] One specialist domestic violence magistrate suggested to the Taskforce that there should be better links between the specialist domestic violence court and mental health services.

> At [the Domestic Violence Action Centre] we regularly see victim survivors who have a diagnosis of anxiety and depressive disorders [and a] history of engaging with public and private mental health professions and being medicated, sometimes for years. However, victims report that mental health service responses are not cognisant of the abuse and trauma that predicates the mental health crisis and do not respond with this intersectionality in mind, therefore not addressing the primary driver of their ill mental health.[170]

This mixed feedback aligns with the recent non-inquest findings into the deaths of Ms Karina May Lock and Mr Stephen Glenn Lock. The findings noted concerns about the response of health and mental health service providers, particularly around their ability to understand and assess risk and the need to educate clinicians about the possibility of violence.[171] Similarly, the non-inquest findings into the deaths of Ms Teresa Bradford and Mr David Bradford noted the failure of health and mental services to adequately assess risk to Ms Bradford and factor this into planning for her care and that of her abusive husband.[172]

Queensland Health, a core member of integrated service responses and High Risk Teams across Queensland, is implementing initiatives to enhance understanding and professional capability in this area among the 16 Hospital and Health Services. The employment of a network of specialist domestic and family violence clinicians across the Hospital and Health Services, for example, is one key initiative. This complements other initiatives to increase service delivery in relation to sexual assault and the health response to non-lethal strangulation.[173]

While the deaths of Mr and Mrs Lock and Mr and Ms Bradford occurred in 2015 and 2017, respectively, the Taskforce has not received sufficient information to indicate that there have been adequate reforms to address the concerns identified in these coronial investigations.

Drug and alcohol services

While substance abuse does not cause domestic and family violence, it can be a contributing factor and can exacerbate its impact.[174] It can also be an element used in the perpetration of coercive control. For instance, a perpetrator may use their partner's substance use as a form of control by threatening to disclose drug abuse. They may use it to cajole a victim into committing criminal offences such as drug trafficking. The victim may also be worried about the impact of stigma and discrimination arising from substance abuse if they seek and receive help. [175]

According to the Queensland Network of Alcohol and Other Drug Agencies, a more joined-up approach involves not only alcohol and other drug treatment services having a nuanced understanding of the complexities of domestic and family violence but also police, domestic and

family violence specialists and other services increasing their understanding of how drugs and alcohol interplay with domestic and family violence.[176]

In its 2016–17 Annual Report, the DFVDRAB made recommendations concerning treatment services for people affected by domestic and family violence. This included improving the access and availability of alcohol and other drug treatment services for high-risk parents experiencing domestic and family violence. It also recommended routine mandatory domestic and family violence screening in mental health and alcohol and other drug services. In response, the Queensland Government has undertaken a range of activities outlined in its implementation updates, including funding a new alcohol and drug service in Rockhampton with integrated family support services to enable parents to attend the residential program.[177] The Queensland Network of Alcohol and Other Drug Agencies suggested, however, that further work is required to 'fully actualise' the intent of the recommendations.

Stakeholders noted the need for a shared clear understanding of coercive control, supported by significant education and training to support all professionals working with clients impacted by domestic and family violence. [178]

Private sector companies and organisations

There are also many encouraging examples in the private sector of businesses playing their part to educate and raise awareness of this issue among their staff. This has seen large employers, both government and non-government, requiring staff to undertake training and education through suppliers such as MATE Bystander Program[179] or Our Watch.[180]

Increasingly, workplaces in Queensland are recognising violence against women, whether it occurs during work hours with issues such as sexual harassment or in their personal lives, and the role that employers can play in prevention and support for victims. Many have reviewed their policies and procedures to ensure victims are supported, whether they be staff, customers, or clients. Many have even introduced domestic and family violence leave,[181] which enables victims to take time off work to make arrangements for their safety, appear in court, or go to appointments with police and specialist services.

The Queensland Government has undertaken a range of initiatives to support action in the private sector. This includes convening forums to bring corporate and community leaders together with domestic and family violence specialists to:

- learn about best practice for workplaces
- share ways to change attitudes and behaviours
- act against domestic and family violence.[182]

The Queensland Government *Not Now, Not Ever, Together* website[183] provides many examples of private businesses, sporting clubs, community groups, schools, universities and local government activities speaking out to raise awareness and prevent domestic and family violence.

The Taskforce heard about one promising initiative that involves working with hairdressers:[184]

Hairdressers with Hearts (HWH) is a volunteer organisation launched in 2019 that recognises the special relationship between hairdresser and client. It takes a proactive approach against domestic and family violence by empowering hairdressers. It provides resources and training to help them link clients to the services and support they need to be safe.

In addition to providing peer-led training, HWH is currently advocating for domestic and family violence training to be incorporated into the syllabus for all apprentice hairdressers. As of July 2021, HWH have provided 50 individual hairdressers with domestic and family violence training and are partnering with local councils throughout Queensland to provide online training to many more — 80 in Gladstone and over 70 in Brisbane.

I've had clients say to me, 'I don't know why I'm telling you this' or 'I can't believe I just told you all that', and while trends may come and go in this industry, what stays the same is the unique client-hairdresser connection.

Sonia Colvin — Hairdressers with Hearts founder

These efforts to respond to domestic and family violence across the mainstream service system are encouraging. But the Taskforce heard that there is still much to improve awareness, better protect victims and hold perpetrators accountable, particularly in relation to non-physical domestic and family violence.

Findings

Mainstream service providers, including government and non-government agencies and some parts of the private sector, are improving their understanding of domestic and family violence. The goal is to identify and respond early to domestic and family violence, whether it affects their staff, clients, patients, or customers. This effort should be expanded to include coercive control and an understanding that domestic and family violence, rather than being incident-based, is a pattern of behaviour over time and should be considered in the context of the relationship as a whole.

Mainstream service providers, including government ones, should have the awareness, knowledge, and skill to identify and respond appropriately to people impacted by domestic and family violence, including perpetrators. This includes knowing about coercive control and its insidious impacts.

Health, mental health, and drug and alcohol services could do more to respond to patients and their families holistically, including identifying domestic and family violence, assessing risk, and working as part of integrated service responses to ensure victim safety.

Private industries should be encouraged to create industry-specific awareness programs to help improve responses. This may include industry associations requiring members to undertake industry-relevant periodic training.

Ideally, there should be a widespread understanding of coercive control and its unacceptability across the community (including the private sector), supported by clear pathways to safety.

Specialist Service System Responses

Specialist domestic and family violence services provide a range of support for victims and perpetrators of domestic and family violence. These include:

- crisis telephone counselling for victims and perpetrators
- shelters with emergency short-term accommodation and support
- specialist domestic and family violence services
- perpetrator interventions such as perpetrator programs
- recovery services that help victims re-build their lives.

These services are usually delivered by not-for-profit and charitable non-government organisations funded by the Queensland Government. Community legal services, court support services, Legal Aid Queensland, and legal services funded by the Australian Government (such as the Queensland Indigenous Family Violence Legal Service) also offer specialist legal information and advice.

For many women, it may not be safe to contact the police. Women may not think their case warrants police involvement. Some choose not to contact the police. They may not want to have the perpetrator charged or involved in the criminal justice system. Women may not trust the police because of past negative experiences or may fear losing their children. Women may fear being shamed and ostracised by their own families and the wider community. Specialist services provide a vital means of safety and support regardless of whether victims contact police.

> The trajectory of family violence is not linear. Women living with family violence may not seek help until their situation reaches crisis point; they may never seek help; they may leave and return to a violent partner multiple times; and they may not recognise or acknowledge that their experience is family violence.[185]

The Taskforce heard about the importance of generally respecting the right of women to choose pathways that do not involve the criminal justice system and to 'work through specialist domestic violence services, their workplaces and friends and family'.[186] This is particularly relevant for Aboriginal and Torres Strait Islander women, who, as discussed elsewhere in this report, may have legitimate concerns about the response they may receive in the criminal justice system.[187]

In October 2021, the Queensland Government reported that it had invested more than $600 million on domestic, family and sexual violence programs, services and strategies since 2015.[188] Other jurisdictions are also investing considerable funds to address domestic and family violence. In its 2020–21 budget, the NSW Government announced a record $538 million over four years, supplemented by an additional $90 million announced in 2021.[189] The Victorian Government has invested more than $3 billion to implement the 227 recommendations of the 2016 Victorian Royal Commission into Family Violence.[190]

Investment in the domestic and family violence service system in Queensland has effectively doubled since 2015. This has resulted in a large-scale expansion of the number and size of organisations receiving funding, increased the number and types of services offered, and driven growth in demand for a specialist workforce.[191]

New service types and investment streams introduced since 2015 include:

- integrated service system responses and High Risk Teams
- mobile support, introduced to support women placed in motels or other temporary accommodation in the community — recognising that demand for shelter places remains consistently high with minimum vacancies
- women in custody — recognising that many incarcerated and criminalised women have experienced significant trauma and violence
- women's health and wellbeing services — addressing a gap in post-crisis services for women to recover from violence.[192]

Specialist domestic and family violence services are funded to undertake activities across a continuum of support — prevention, early intervention, crisis response, and recovery. However, as demand has increased, services are increasingly focused on clients in crisis. The Department of Justice and Attorney-General (DJAG) also acknowledges that the bulk of funding is allocated to crisis responses, reflecting the need for expanded specialist domestic and family violence and sexual violence responses.[193]

The domestic and family violence service system comprises diverse organisations — from small entities delivering a single service (for example, small shelters) to large specialist organisations delivering multiple service types (for example, crisis support, counselling, health and wellbeing). Some large entities deliver domestic and family violence services as part of a generalist service (for example, aged care or generalist counselling). Many organisations deliver services in multiple locations. While this market diversity is a strength, the rapid and significant investment in the domestic and family violence service system over recent years has rapidly expanded community expectations beyond the maturity of the system.

Service system capacity: meeting growing demand

The Taskforce heard that the specialist domestic and family violence service system has faced increasing demand over recent years, at least in part due to increasing community awareness of domestic and family violence. For instance, calls to domestic and family violence women's and men's lines increased more than 50% from 84,221 to 128,829 between 2018–19 and 2019–20.[194]

Referrals made through the electronic police referral system (Redbourne) are steadily increasing each year. There was a total of 122,315 referrals to domestic and family violence services in the 2020–21 financial year, including 32,309 for aggrieved (victims) and 15,529 for respondents (perpetrators).[195] QPS referrals can also happen informally on the ground through local networks and connections.[196]

Referrals to specialist domestic and family violence services also come from a range of other sources such as:

- self-referrals
- statutory child protection services
- Queensland Corrective Services
- legal services, such as Legal Aid Queensland and the Women's Legal Service

- health services and hospitals
- the Queensland Civil and Administrative Tribunal.

The Queensland Government funds or operates two key mechanisms for victims and perpetrators to find appropriate services directly:

- DVConnect (Womensline, Mensline and Sexual Assault Helpline)
- Domestic and Family Violence Portal, established following the *Not Now, Not Ever* report.[197]

Due to current demand, the Taskforce heard that DVConnect is limited in its ability to provide referrals beyond crisis response services such as shelters and safety planning.[198]

The Taskforce heard that demand is putting increasing pressure on the domestic and family violence service system.[199] These pressures have increased considerably during the COVID-19 pandemic,[200] with existing clients experiencing increased complexity and severity of abuse and new forms of hardship.[201] New clients are seeking support for domestic and family violence for the first time.[202] The restrictions associated with the COVID-19 pandemic created novel challenges for women seeking support and safety. Domestic and family violence services had shift practices at an organisational and individual level in response to these challenges.

The Taskforce heard from many stakeholders that the limited availability of safe and appropriate emergency accommodation continues to be a barrier to safety for women seeking to escape, or gain respite from, abusive relationships.[203] At our Brisbane consultation forum, for example, stakeholders told us that women are being transferred away from their communities and support networks due to backlogs at local shelters.

The Taskforce also heard that young people (including teenage children), women with complex trauma and co-morbidities, and transexual women are often not accepted into refuges.[204] When there are no places in shelters, many women are provided accommodation in motels, described by some service providers as an unsafe alternative given their easy public accessibility and lack of security.[205] There is also a shortage of housing stock throughout Queensland both for families (especially with pets) and single perpetrators subject to ouster conditions as part of Domestic Violence Orders. As a result, the Taskforce heard that many women remain or return to the violence and abuse.[206]

In Mount Isa and the Torres Strait, stakeholders emphasised the lack of accommodation, especially for perpetrators, and the impact this has on the safety of women. When there is a Domestic Violence Order in place in the Torres Strait, for example, it can be very difficult for the perpetrator to find accommodation elsewhere. This can pressure women to remove the order so he can go home.[207] The lack of accommodation also poses challenges for men required to attend court. The court sits infrequently, which leads to the perpetrator pressuring extended family to provide accommodation, in turn pressuring the victim to remove the order.[208]

The Taskforce has heard that a lack of adequate and safe longer-term housing for women and children escaping domestic and family violence means they can be stuck in crisis accommodation or shelters for longer than they should be. In one location, the Taskforce heard of a woman remaining in a shelter for about four years.[209]

Domestic and family violence is one of the main reasons that women and children leave their homes.[210] It disrupts housing security and is the leading cause of homelessness for women.[211] The Taskforce notes that the recently released *Queensland Housing Strategy 2017–2027* supported $1.908 billion over four years and a $1 billion Housing Investment Growth Initiative. This would significantly expand the availability of social housing across the state by 2025.[212] The Taskforce heard, however, that social housing is often not an option for women whose income is above the eligibility threshold.[213]

The Taskforce heard about useful products and services for people impacted by domestic and family violence being delivered under the *Queensland Housing and Homelessness Action Plan 2021–2025*.

Under this plan, the Queensland Government has invested $20 million to provide additional Flexible Assistance Packages of up to $5,000 per household for people experiencing domestic and family violence for goods and services needed to maintain or access safe housing.

The Department of Communities, Housing and Digital Economy told the Taskforce about new and more flexible approaches being implemented that enabled services to be tailored to a victim's particular needs and increased coordination with other services and supports. This includes specialised frontline housing services through Domestic and Family Violence Specialist Response Teams that support frontline housing staff and multi-agency High Risk Teams to identify safety issues, tailor housing assistance, and coordinate with the broader service system. [214]

The Taskforce welcomes these promising approaches to addressing the housing needs of women and children forced to flee their homes because of domestic and family violence. The Taskforce notes, however, that it has not heard about those services and products from women who have used them, perhaps because they have only recently been provided. The Taskforce also heard about particularly chronic shortages in housing stock in some locations, exacerbated by COVID-19, which may be diminishing the effectiveness of those services and products.[215]

Many stakeholders were concerned about the increased demand that criminalisation of coercive control may create on the domestic and family violence service system and the capacity of services to meet further demand.[216] Stakeholders advocated for increased investment in specialist services to meet these likely increased demands.

Those involved in the consultation made clear that specialist domestic violence services have enormous expertise in the patterned nature of domestic violence and the complex dynamics of power and control. As many service providers pointed out, coercive control is not a new concept. The power and control that underpin all domestic violence have been a foundation for how these services have understood and responded to domestic and family violence for decades.

In submissions to the Taskforce, specialist service providers gave examples of the complex and nuanced array of coercive behaviours perpetrated by abusers, the harm caused to victims, and how victims may react or resist. From their training and years of experience, they provided a contextual understanding of the impact of this abuse on victims' engagement with the justice system and their general safety and wellbeing. The specialist domestic and family violence service system is well-positioned in terms of knowledge and expertise to support an enhanced response to coercive control. This capacity, however, is likely to be hampered by the existing high levels of demand for services and the probable increases in demand as women become better informed about the issue.

Distribution of specialist services across the state

The Taskforce noted, with concern, the lack of available services in regional and remote areas of the state, hearing that there are ongoing challenges to delivering services outside urban centres.

In Mount Isa, for example, the Taskforce heard that the inability to attract and retain an appropriately qualified worker meant that for some time, no one had been delivering a funded intervention program for perpetrators in the region. Generally, the inability to attract suitably qualified staff was attributed to the limited pool of qualified applicants, partner career opportunities, lifestyle choices, the high cost of living, relatively low salary, and limited availability of safe and appropriate housing. The high staff turnover meant that services in Mount Isa were struggling to have time to provide basic training in responding to domestic and family violence, let alone drilling down into patterns of abuse amounting to coercive control.

This has a direct impact on service delivery and continuity, as well as on how services work together in an integrated way to meet client needs. High staff turnover makes it hard for relationships to develop. It also has a deleterious effect on information-sharing and cultural competency training.[217] There was a view, too, that government departments, in their service contracts and tenders, are not recognising the high cost of delivering those services in remote and rural locations. This failure has compromised service accessibility and quality.[218]

On Palm Island, the Taskforce heard that current funding and services are not sufficient to meet the significant needs of this community despite the dedication of those working in the service sector, both paid and unpaid. For example, the Family Wellbeing Centre has only two youth support workers to support almost 50 children, many of whom experience multiple levels of disadvantage, including being exposed to domestic and family violence.

The Taskforce also heard of the significant need for 24/7 services on the island. For example, the diversionary service funded to provide a 'safe place for intoxicated clients to sober up'[219] to reduce the risk of harm of being taken into police custody is currently unstaffed overnight, the very time of increased risk of domestic violence. The Taskforce heard that educating children and young people about healthy relationships and the dangers of pornography should also be priorities.

Although the perpetrator program, based on culture, healing and making perpetrators accountable, was working well, the limited number of skilled workers meant that perpetrators often had to join a program part-way through, and insufficient programs could be conducted. Many of the strong and dignified Palm Island female Elders the Taskforce met were offering services voluntarily to their community, carrying on the work started by their mothers to end the concerning public and private violence experienced on their beautiful island. Some had lost loved ones to domestic violence. They were disappointed that police often did not break up large street fights, even outside the church after Sunday mass. Paid workers were struggling to cope with heavy workloads and were at risk of burnout. The lack of suitable housing on the island for both victims and perpetrators was also flagged for the Taskforce as a significant factor in why women found it hard to leave their abusers safely.[220]

In 2016–17, the Queensland Productivity Commission (QPC) conducted an inquiry into service delivery in remote and discrete Aboriginal and Torres Strait Islander communities. It found that despite high levels of investment, outcomes for people living in remote and discrete communities remain far behind the rest of the state,[221] and many services are not meeting community expectations or delivering value for money.[222] The report found strong commitment from government, service providers, and communities to address the complex and longstanding issues facing remote and discrete communities. But it noted 'the system they are operating under is fundamentally broken'.[223] In its response to the Productivity Commission Report, the Queensland Government did not commit to implementing the 22 recommendations of the QPC, making only a general commitment to working with the community to implement the QPC reform proposal.[224]

Ultimately, these issues erode the safety of community members who experience domestic and family violence and interfere with their access to the rule of law and other fundamental human rights.

The presence of multiple-risk factors in remote communities increases vulnerability to domestic and family violence and increases the complexity of delivering services locally.[225]

There is limited capacity for individual service providers to resolve challenges and issues with service performance on a service-by-service basis. This is particularly so where funding is limited — for example, where funding has only been provided for a specific position that cannot be filled.

The Taskforce observed similar issues with service delivery across the state. Recent machinery of government changes transitioned the Office for Women and Violence Prevention (responsible for domestic, family and sexual violence services) to DJAG. The absence of a regional management structure within DJAG means there is less capacity for government to provide the required state-wide support and oversight of the service system.

While the Taskforce acknowledges the much-needed expansion of available services over the past six years, considerable service system gaps remain. A long-term investment plan could help measure and monitor demand in each region. It could also incorporate the ability to flexibly structure investment to meet emerging trends and better meet the actual costs of service delivery to improve service continuity across the state. The Taskforce notes that there is a review of domestic and family violence specialist services underway by the Office for Women and Violence Prevention within DJAG to target communities and services with the highest need and to address gaps.[226]

The recruitment, development and retention of skilled practitioners to undertake these challenging roles require planning as well as resources, particularly in (though not limited to) regional and remote areas.[227] As discussed below regarding interventions for perpetrators, including perpetrator programs, strategies to increase the number of skilled practitioners should accompany any service system expansion.

Service system composition: meeting the needs of Queensland's diverse population

The Taskforce heard from several stakeholders about population groups that are not currently well serviced within the existing specialist domestic and family violence service system.

Aboriginal and Torres Strait Islander Peoples

Addressing the impact of domestic and family violence on Aboriginal and Torres Strait Islander peoples requires considering it in the context of colonisation, intergenerational trauma, and racism.

The Taskforce met with many powerful and courageous Aboriginal and Torres Strait Islander women and men around the state working hard to prevent and address the impacts of domestic and family violence in their communities. The Taskforce heard consistently about the importance of culturally embedded, community-led approaches that address underlying intergenerational trauma and impacts of colonisation.[228]

> Addressing the root causes of domestic violence requires more than a one-size-fits-all approach ... A holistic approach is required to address these issues including more culturally competent services and programs designed and delivered by Aboriginal & Torres Strait Islander people to their own communities.[229]

The need for flexible services that address a range of service requirements was also a common theme. This recognises that the experiences of family violence or child and family vulnerability are not linear and that risk is dynamic, so people accessing the services will connect with or leave them at different points.[230]

The Taskforce met with and heard from impressive organisations run by and for Aboriginal and Torres Strait Islander peoples that were delivering flexible, culturally centred services in various innovative ways.[231] Some organisations were providing holistic support that considered the needs of the whole family impacted by domestic and family violence (through services for victims, perpetrators and children). It was clear, however, that there were not enough of these types of services given the prevalence of domestic and family violence in Aboriginal and Torres Strait Islander communities, and the additional barriers in accessing support, particularly in regional and remote areas where the need is often greatest.

The Taskforce also heard about a lack of cultural capability across the service system, interfering with the ability of both mainstream and specialist services to provide appropriate and effective responses to victims and perpetrators of domestic and family violence. In regional areas, this was exacerbated by the high turnover of staff, which limited the ability of workers to build the required level of local cultural awareness and connection. This applied to both non-government services and agencies such as police and health workers and hampered their ability to develop trust between services and the community. [232]

The Taskforce also heard of the need for more understanding of the impact of trauma not only on victims and their children but also on perpetrators of domestic violence.[233] This includes the ongoing intergenerational trauma caused by colonisation, racism, and structural disadvantage, as well as the impacts of domestic and family violence.

For Aboriginal and Torres Strait Islander peoples living outside urban areas, remoteness was a significant issue hampering access to services for female victims of domestic violence seeking help.[234] In smaller communities, a lack of privacy was a problem, with the women's shelter highly visible and its location well known to the community.[235] Because of the close-knit nature of these small communities and the lack of privacy, women often have to move away from their home community and then find their own way back once it is safe to do so.[236] Stakeholders and victims also raised as lack of availability of shelter accommodation and the inability for boys over 13 years or even younger to remain with their mother.[237]

Consultations raised practical considerations such as the need to tailor language and place it in a cultural context to suit community needs, to ensure effective communication and to avoid 'lost in translation' moments.[238] If language and culture are recognised, services are more accessible, and the tailored response is more likely to succeed.[239]

Overall, the Taskforce heard that there was a need for more services by and for Aboriginal and Torres Strait Islander peoples that provided culturally safe support, drawing on the strengths of culture to support safety and healing. These services need to be led, developed and delivered by the community. There is an urgent need to increase the cultural capability of the entire service system to provide more cultural safety at every point in the system.

Young people

As noted above, the Taskforce was shocked to hear stories about the prevalence of domestic and family violence between young people in intimate-partner relationships.[240]

Stakeholders across Queensland have described serious violence, including biting and branding, strangulation, sexual assault and coercive-controlling behaviours.

Young people on the Queensland Family and Child Commission Youth Advisory Council told us that adequate support for young victims and perpetrators of domestic violence is difficult to access.

Specialist domestic and family violence services may not have the skills and expertise to communicate effectively with young people or respond to their multiple and complex needs. They are unlikely to provide services to young men. Youth services often lack the knowledge and skills to provide specialist domestic and family violence support and assistance. Disappointingly, this seems to be an emerging service system gap and one that needs addressing urgently.

> YAC has observed that for young people, increased education and information about domestic violence, and comprehensively funded and resourced support services (including access to legal support, therapeutic support, support to transition to independent living, intervention programs and educational programs) will have more of an impact in ending domestic violence than further criminalising young people, which will do little to divert a young person perpetrating violence away from a trajectory towards adult perpetration.[241]

Male victims

While the terms of reference for the Taskforce are focused on women and girls, the Taskforce observed that some men experience domestic and family violence and are deeply affected by it. The embedded gendered framework that understandably underpins the work of many services to ensure women feel safe means that male victims may feel unable to access the help and support they need. Services need to mature and develop offerings that better meet the needs of male clients without diminishing the vital services they provide to women.

LGBTIQA+ people

The Taskforce has also heard of the need for services that better meet the needs of the LGBTIQA+ community. There is alarming emerging evidence about the prevalence of domestic and family violence experienced by LGBTIQA+ people.

A recent survey of over 6,000 LGBTIQA+ people in Australia found more than two-fifths (41.7%) reported having been in an intimate relationship where they felt abused in some way by their partner. Almost two-fifths (38.5%) reported abuse from a family member. Of the participants who reported having experienced intimate-partner or family violence, only 28% said that they reported the incident to a relevant service at the most recent time this occurred. [242]

The understandably gendered approach of service providers, which is focused on making women feel safe, and a deeply ingrained fear of widespread community homophobia and transphobia, leaves many LGBTIQA+ victims feeling unable to seek help.

In addition to the barriers that exist across the service system that prevent victims reporting the abuse and seeking support, the Taskforce heard about perpetrators using sexuality and gender identity as a coercive control tactic.

The survey identified further barriers to reporting including that LGBTIQA+ people might 'feel that sufficient support is not available to them or they are unaware about services they could access'.[243] It noted that 'a large proportion of participants expressed a preference for LGBTIQA+ inclusive services or services that cater only to lesbian, gay, bisexual, transgender and/or intersex people if they were to require support relating to family violence in the future'.[244]

The Taskforce learned of the important work of the LGBTIQA+ Domestic and Family Violence Awareness Foundation in raising awareness of domestic and family violence amongst the LGBTIQA+ community and that members were often limited to specialist medical services for support.[245]

The Taskforce heard that some domestic and family violence services welcome LGBTIQA+ victims to their service, at least in principle. However, an inability to tailor responses to the specific needs of these victims in the context of broader societal and community issues means some LGBTIQA+ people may be reluctant to access support beyond a specialist medical service.[246]

People with disability

The Taskforce heard about the challenges victims with disability face accessign the domestic and family violence services they need. While mainstream services are working to improve accessibility and meet the needs of these clients, there are still gaps in accessibility. For example, women with intellectual disability find phone communication difficult and often disengage if that is their only means of support.

The Taskforce also heard about gaps in case management support. This can result in female victims with intellectual disability arriving at court for a hearing of a police-initiated Domestic Violence Order without support. This can lead to difficulties in understanding the process and in communicating and giving instruction. These victims are sometimes forced to turn to the perpetrator as the person most able to understand their communication and other support needs.

Disability support service providers work on the frontline and often provide home visits, assisting people experiencing domestic and family violence. However, these workers often have minimal training and supervision. They may lack the knowledge and skills to identify domestic and family violence and take appropriate action. As noted above, the Queensland Government has funded tailored training for this workforce, but it is unclear how and to what extent this is being implemented.

> [M]any of the functional impacts of cognitive disability in this cohort are highly complex and are often misunderstood by those without specialised knowledge. This means that appropriate responses to the support needs of this cohort generally do not occur in systems where young people are expected to self-identify their disabilities, and where the skills and knowledge of those responding are inadequate.[247]

Developing the capacity of mainstream services to better understand domestic and family violence is also important for people with disability, who often seek help through their general practitioner. As noted elsewhere in this chapter, mental health support systems play an important role, and manipulative perpetrators can use them to continue their abuse. The Taskforce heard from a woman with disability whose perpetrator falsely told attending paramedics that she had been diagnosed with a borderline personality disorder. This was recorded on her health record, detrimentally affecting her later interaction with health services. She reports that she has so far been unable to remove this notation from her health records.[248]

While there is a clear need for all domestic and family violence services to ensure they are accessible and have the knowledge and skills to meet the needs of people with disability, there is an important role for specialist disability services, including advocacy services, around the state. Some clients require specialised support to engage with the system at all. Disability services play an important role in advocating for and increasing the overall capability of services to respond to the needs of people with disability.

People from culturally and linguistically diverse backgrounds (CALD)

The Taskforce heard about barriers victims from CALD backgrounds face when trying to access help and support. Stakeholders reported a high level of reluctance to report domestic and family violence for a range of reasons, including fear of extended family and community reaction, potential impact on visa outcomes, and distrust of authority figures.[249]

> Often women in migrant and refugee communities will not seek action on [domestic and family violence] and control, through the criminal justice system ... this could be from a general fear/mistrust of police and systems, and a genuine concern around the interface of the [domestic and family violence] and child protection systems. [250]

Once disclosure is made, victims expressed to the Taskforce that their overarching concern was a lack of specialist CALD services and a deficiency in cultural knowledge or a diverse workforce across all service providers. This was a barrier to victims and perpetrators seeking help. For those who do seek help, it diminished the effectiveness of the response they receive. [251]

Challenges include:

- lack of knowledge of processes and systems
- difficulty accessing trained and impartial interpreters
- an absence of culturally appropriate and safe living spaces for migrant and refugee women and their children leaving abusive relationships.[252]

Refugee victims (and perpetrators) are likely to have prior experiences of trauma that influence how they present to support services and the complexity of their needs. [253] Unfortunately, this can negatively affect the response they receive and increase their likelihood of being misidentified as a perpetrator.[254] When the perpetrator speaks English better than the victim, police and courts should take particular care to ensure the perpetrator is not using the system as a form of coercive control.

CALD victims told us of the need for recovery services for women who have left abusive relationships to help them rebuild their lives.[255]

They also told the Taskforce of the important role of community leaders including male change agents play in supporting families impacted by domestic and family violence. Multicultural Australia noted the potential for these leaders to be resourced, supported and assessed to provide cultural advice and assistance to build better cultural capability across the service system.[256]

Older women

The Taskforce heard about challenges identifying and responding to older victims subjected to coercive control. Their dependence — or assumed dependence — on the perpetrator, as well as suggestions of cognitive decline (often used manipulatively as a tactic by a perpetrator)[257] are challenges to them accessing appropriate support. When abuse is perpetrated by a family member (for example, an adult child) the feeling of parental responsibility can also be a barrier to reporting.

The Queensland Government operates an Elder Abuse Helpline and conducts regular campaigns to raise awareness of this type of abuse (which is not limited to domestic and family violence). Given the time constraints on the Taskforce, we could not assess whether the current service system response is adequate and accessible for older people experiencing coercive control by intimate partners or family members.

The submissions the Taskforce received on this issue suggest that there is a need for further work to consider whether the makeup of the current domestic and family violence service system includes the appropriate mix of services to cater for Queensland's diverse and vulnerable aging population.

Victims with complex needs

As noted in chapter 1.1, women exposed to coercive control experience trauma, increasing their risk of developing post-traumatic stress disorder, suicidal ideation and behaviour, self-harm, problematic substance misuse, depression, and anxiety. Multiple and repeated exposures to interpersonal trauma increase susceptibility to mental health problems and experiences of poverty and disadvantage. Integrated service responses can help coordinate safety planning measures to protect victims and their children. The Taskforce heard about the need for integrated service responses across the continuum of risk to assess victims' experiences of trauma and to put in place appropriate responses.[258]

The Taskforce has observed that service system responses are limited in their capacity to address victims with complex needs. These intersecting and complex needs can be overlooked or negatively impact the response provided. The Taskforce consultation with the Brisbane Domestic Violence Service revealed women with complex needs such as homelessness, post-traumatic stress disorder, and borderline personality disorders are often 'locked out of the service system'.

The Brisbane Domestic Violence Service explained that woman experiencing complex trauma and co-morbidities are sometimes deemed unsuitable for the more attractive options available to victims. For example, they are more likely to be given less suitable accommodation in poor quality and less safe motels rather than stable housing. This group is also at increased risk of sleeping 'rough' in public spaces or is left with little option but to stay with the perpetrator. As a consequence of not receiving wrap-around or holistic support, these complex-needs victims are at risk of ongoing violence and abuse.

Multi-agency responses: Integrated Service Responses and High Risk Teams

The Taskforce heard widespread positive reflections about Integrated Responses and High Risk Teams as mechanisms to coordinate efforts to keep victims safe and hold perpetrators accountable.[259]

Integrated service response models incorporating High Risk Teams were trialled in Logan/Beenleigh, Mount Isa/Gulf, and Cherbourg in 2017. These trials were then made permanent and rolled out to a further five locations (Brisbane, Ipswich, Cairns, Mackay, and Moreton) in 2018–19. While based on a common framework,[260] each location engaged in a co-design process so that the model was informed by the local context, existing local networks and services, and the needs of the local community. Additional non-government agency-led integrated service system responses exist in Gold Coast, Toowoomba, and Townsville.

High-risk teams operate in the eight formalised integrated service response locations listed above. These teams support government and non-government agencies to identify and plan responses in high-risk cases. Multi-agency members coordinate the immediate actions taken by government and non-government agencies to improve the safety of victims and hold perpetrators to account.

The Office for Women and Violence Prevention, DJAG (formerly the Department of Child Safety, Youth and Women) have responsibility for Integrated Service Responses and High Risk Teams.[261] The teams consist of staff from government agencies such as the QPS, Child Safety, the Department of Health, Queensland Courts, Queensland Corrective Services, and the Department of Housing and Public Works. Non-government members may include specialist domestic and family violence services, local

support services, and culturally specific services. Coordination of these teams is led primarily by a non-government specialist domestic and family violence service.

In addition to formal, integrated service response, there are locally also initiated multi-agency high-risk responses. An example of such a team is the Coordinated High Risk Response Team (CHaRRT) in Rockhampton.[262]

The Taskforce heard that, for the most part, High Risk Teams were working successfully to provide a joined-up response to high-risk cases by coordinating efforts across agencies and information-sharing. Such was the support for the model that stakeholders raised the need for these teams to be established in other high-demand areas.[263]

The Taskforce has heard about and observed several key limitations of the current approach to integrated responses.

First, the Taskforce heard that there was limited cultural capability in the current approach to integrated responses, including High Risk Teams. This lessened the ability of these models to provide culturally appropriate and culturally informed responses to Aboriginal and Torres Strait Islander peoples.[264] There have been efforts to address this. The Taskforce spoke with dedicated Senior Project Officers employed by the Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships to support the High Risk Teams. Their role is to advise the teams to deliver a culturally informed response. However, the Taskforce heard that in some locations these officers are under-used, with few de-identified cases shared with them. The Taskforce appreciates that the administrative burden of providing de-identified cases may contribute to this. It, therefore, seems opportune to review the processes to better use this important cultural expertise resource, among other strategies to build the cultural capability of integrated responses.

Secondly, the Taskforce heard that a key weakness is a lack of focus on perpetrators, particularly where they are not subject to supervision under a community-based order.

> [T]the [integrated response] model struggles to engage the perpetrator at all unless he is either incarcerated or on probation/parole. The women can be totally surrounded by supports, yet without the ability to engage the perpetrator nothing will change. The immediate risk may be avoided but in many cases the risk is just being kicked further down the road.[265]

As discussed below and in chapter 3.4, a major reason for this is the critical shortage in perpetrator intervention programs across the state. To keep victims safe, however, there is a need for integrated service responses, including High Risk Teams, to increase their capacity to assess and manage risk through joined-up services to make perpetrators accountable. They should not focus solely on victims.

There is also the need for a more consistent understanding of risk, or aligned assessment processes across agencies involved in integrated responses, and for further strengthening of information-sharing. These are discussed in detail below.

The Taskforce notes that this feedback is consistent with the findings of an evaluation of the integrated service response in the three trial sites of Cherbourg, Mount Isa/Gulf, and Logan-Beenleigh, including the High Risk Teams, completed in July 2019.[266] The evaluation noted faster and more targeted service responses for victims and perpetrators referred to these teams, stronger relationships between participating service providers especially government agencies, and better accountability.

Challenges identified included:

- the common approach to assessing risk has developed differently than intended in that participating agencies assess risk differently, broadening the scope of work for High Risk Teams
- confusion about the separation of roles and responsibilities of the High Risk Teams and the broader integrated service system response
- confusion around information-sharing outside the role/functions of High Risk Teams, and a perception among many stakeholders that the High Risk Teams were the only mechanism for sharing information
- the need for more culturally appropriate processes and services for Aboriginal and Torres Strait Islander participants and those from CALD backgrounds
- the significant focus on improving victim safety already achieved should be complemented by a greater emphasis on holding perpetrators to account.[267]

The Taskforce understands that work is underway to respond to the evaluation's findings. Nevertheless, we have made recommendations to improve key elements to ensure improvements in system capacity to respond to coercive control.

Assessing and managing risk

Risk screening and assessment are essential components of the domestic and family violence system and justice system processes. Risk screening is a routine process for identifying whether domestic and family violence is occurring and to inform further actions, which may involve referral and intervention.[268] Assessment is a comprehensive evaluation to determine the level of risk and the likelihood and severity of future violence.[269] Both are used to inform decisions around what action services take when responding to domestic and family violence and what degree of intervention is needed — for example, a warm referral or intensive wraparound support.

The Taskforce heard that different parts of the domestic and family violence service system continue to assess risks differently and do not always trust each other's risk assessments.[270] The Taskforce has observed that across the system, agencies often use the term 'risk' without identifying what risk, for whom, and when. Risks might differ depending on the role of the agency and whether the focus for that agency is on the victim (for example, the safety risk based on the victim's characteristics and situation) or the perpetrator (for example, the safety risk based on whether the perpetrator is likely to commit further offences).

The Taskforce also observed that risk assessments are often based on the primary client of a service or the main target of service initiatives. An example of this is an offender-based initiative that assesses the risk of re-offending while making a cursory assessment of the victim's risk. Another example is a service response where the primary caregiver is held accountable for managing the child's risk in a domestic and family violence context when the caregiver may also be a victim of violence and abuse.

When the risk is narrowly assessed in the absence of aligned approaches to enable the different aspects of risk assessment to be brought together, certain aspects of risk may be overlooked or pushed to the periphery. This can increase the risk to the victim and fail to make perpetrators accountable.

It may also create barriers to timely and effective provision of services — for example, requiring a victim to tell her story multiple times.

The Taskforce is also aware that what one service provider may assess as high-risk domestic and family violence requiring immediate safe accommodation another will assess as homelessness, thus shifting the service response away from domestic and family violence needs. This lack of consistency can affect how referrals are managed and prioritised. Victims can be 'bounced' from service to service, requiring them to re-tell their story multiple times. This can result in victims believing they have no other option than to return home.

Indeed, the Taskforce heard that referral pathways were ad hoc in some locations. Their effectiveness relied on good relationships between services and an understanding by government agencies and service providers of what services were available.[271] For example, Micah Projects explained to the Taskforce that they had needed to establish referral agreements separately with multiple hospitals in the area.[272] The Taskforce also heard that some services were being overwhelmed with referrals from multiple sources and that there was no clear contact point for people needing help other than when they were in crisis.[273] While this issue is broader than risk management alone, it points to the need to strengthen common approaches across the service system to streamline the ways different parts of the system work together.

The increased implementation of multi-agency responses means there is a need for consistency across risk assessment frameworks and a greater understanding of individual agency roles and responsibilities. For this reason, the Queensland Domestic and Family Violence Common Risk and Safety Framework (CRASF) was developed to support the trial of Integrated Service Responses and High Risk Teams. It aims to provide a consistent framework for government and non-government services to assess risk and develop safety plans. Implementation of the CRASF is optional outside the operation of High Risk Teams.

The Taskforce heard that some service providers were not using the CRASF because they considered it inferior to other available tools, with limitations in assessing cumulative risk one of the reasons cited.[274] The Taskforce also heard that an assessment using the CRASF nearly always resulted in a person being assessed 'high risk', whereas an assessment of the same client using other tools enabled a more nuanced understanding of their risk.[275] However, the CRASF does allow users to use their professional judgement when determining risk and referral to High Risk Teams.

The CRASF is currently being reviewed following an independent evaluation in 2019, discussed in more detail later.[276] The Taskforce understands that a key principle underpinning the review is the need for risk assessments to consider the cumulative effect of patterns of abuse rather than assess isolated incidents.[277]

Stakeholders told the Taskforce that a common approach to assessing risk would enable agencies to be confident that they were using shared language and a common understanding of risk. It would also assist agencies to work collaboratively to identify cases requiring urgent intervention to reduce the risk of harm to a victim. A common approach to assessing risk would also support better information-sharing and improved safety planning.

If different parts of the domestic and family violence service system align their risk assessment tools to a common approach, integrated response agencies working collaboratively could apply their own agency perspective and information to the framework and build a more comprehensive picture of risk over time. This is particularly important when developing an understanding of patterns of abuse over time in cases involving coercive control to strengthen safety planning for victims and accountability for perpetrators.

Information-sharing

Queensland's integrated service response and High Risk Teams are supported by the information-sharing provisions in the DFVP Act[278] and the accompanying *Domestic and Family Violence Information Sharing Guidelines*.[279] The information-sharing provisions and guidelines were created in response to recommendations 78 and 79 of the *Not Now, Not Ever* report. The provisions, which came into effect in 2017, provide legislative support for information-sharing between prescribed entities to assess and manage domestic and family violence risk.[280] The provisions also specifically enable police to refer both victims and perpetrators to specialist domestic and family violence service providers.[281]

> Challenges do arise due to a lack of understanding of responsibilities of different services within the broader integrated service system and information sharing legislation.[282]

The Taskforce heard there have been improvements in the sharing of information, particularly between members of High Risk Teams — but the culture of some organisations needs to shift to enable more timely information-sharing, which will improve safety outcomes.[283]

During a meeting with High Risk Team members in Cairns, the Taskforce heard that individual representatives from agencies have a good understanding of domestic and family violence, the responsibilities of their agency, and how and when information can be shared. However, they faced challenges within their individual agencies, pushback when they tried to improve policy and practice about responses to domestic and family violence.

This suggests further guidance on developing internal policies for each organisation may be beneficial. The Taskforce noted that this was also an issue identified by the DFVDRAB.[284]

Much information relevant to keeping victims and their children safe was not being shared in the way envisaged by the *Not Now, Not Ever* report or subsequent amendments to the DFVP Act.

Despite the information-sharing provisions in the DFVP Act applying to relevant government agencies, members told the Taskforce that different government agencies operated under different legislation according to each agency's permitted information-sharing and privacy requirements, and this led to confusion.[285] The Taskforce heard that some agencies felt the need to seek Crown Law advice before applying potentially conflicting legislation. They felt that greater legislative clarity might be required to ensure victims were protected.[286] These challenges, however, may be more due to how particular agencies are operationalising the legislative provisions than to a lack of legislative clarity.

> The siloing of prior domestic and family violence related information within other government departments and in some parts of the sector, remains an inhibitor to the development of a whole of system approach to the prevention of domestic and family violence homicide and serious domestic and family violence harm within our communities.[287]

Stakeholders noted a lack of clarity and some myths and misunderstandings about the provisions in the DFVP Act enabling information-sharing outside High Risk Teams.

Despite the provisions applying broadly and not being limited to any particular type of integrated response, there was uncertainty about when information could be shared, with whom, and for what purpose.

Agencies were not aware of the information-sharing guidelines developed under the DFVP Act. Echoing findings of the evaluation, the Taskforce heard about the need to clarify understanding of the roles and responsibilities of government and non-government agencies to better support systems collaboration, inform planning and response across different parts of the system.[288]

During discussions with High Risk Teams, the Taskforce also heard that communication and coordination between the teams could be improved. The benefits of greater coordination would include better sharing about what works and what needs to be improved.

Findings

The specialist domestic and family violence service system has considerable expertise in recognising and responding to the patterned nature of coercive control. It has long been responding to non-physical forms of violence and has powerfully advocated for greater awareness of this violence across the broader service system and community. It has a vital role to play in increasing awareness and understanding of coercive control and non-physical violence.

The expertise across the domestic violence service system should be used to develop and deliver training about coercive control.

As a result of increased demand for service, including but not limited to the impacts of the COVID-19 pandemic, the specialist domestic and family violence service sector is under considerable pressure. As community awareness grows, expectations increase about accessible, consistent, high-quality services. Services must meet community expectations so that the service system maintains credibility and victims can confidently report violence and seek safety. Further awareness-raising, including education about legislative changes, is likely to exacerbate this pressure.

The distribution of specialist services (including service types) is uneven and does not always equitably reflect demand. There are gaps in service provision in regional and remote areas, impacting the safety of women and children. In particular, there are only a few funded specialist and culturally appropriate services delivered by Aboriginal and Torres Strait Islander community-controlled organisations. This is surprising, given that some of these services visited by the Taskforce seem particularly effective, with potential learnings for mainstream service providers. One example is the Stronger Fathers Stronger Families perpetrator program delivered by Uncle Charlie Rowe through Carbal Medical Services Toowoomba and Yumba Meta in Townsville.

The Queensland Government should develop a long-term investment plan for the state-wide delivery of specialist domestic and family violence services, shelters, sexual violence services, and perpetrator intervention services. This should include mechanisms to measure and monitor demand in each region, flexibly design and structure the investment to meet emerging trends, and come closer to meeting the actual costs of service delivery and continuity across the state. This should provide greater transparency and accountability regarding the use of public money.

Multi-agency responses, including Integrated Service Responses and High Risk Teams, are working well, and this way of working should be embedded further across the state. However, there are limitations in the current approach to integrated responses, including gaps in service delivery and consistent practice. There is limited cultural capability in the current approach to integrated service responses, with limited availability of appropriate responses for those First Nations peoples most in need of them. There is also a lack of focus on perpetrators and a limited understanding of the impact of trauma.

Risk assessment practices are not consistent across agencies. A victim classified as high risk by one part of the service system may be classified differently by another. This has implications for victim trauma and effective referral processes. Referral pathways are ad hoc and currently rely on existing relationships between services to operate effectively. Integrated service responses would benefit from shared understanding and awareness of coercive control and the associated risk to a victim's safety.

Information-sharing provisions are particularly useful for integrated service responses. However, information-sharing practices and culture are inconsistent between agencies. Uncertainty around the use of these provisions indicates further work is needed to provide legislative and practical guidance to agencies.

Service system capability: leadership and workforce development

As community awareness has grown and more victims have reported abuse, there is the expectation that services will be widely available to deliver consistent quality responses. This requires a skilled workforce with the necessary qualifications, knowledge and experience to provide evidence-based quality support.

There are efforts underway to increase workforce capability and capacity. In 2019, the Queensland Government provided $1.85 million per annum over a five-year period to WorkUp Queensland, a partnership between The Healing Foundation and ANROWS, established as a capability and capacity building service for the domestic and family violence and sexual violence service system. It works with services to identify strengths, needs and opportunities to enhance the workforce for the service system by providing:

- state-wide and region-by-region sector workforce planning
- capability framework development
- training and professional development, particularly around responding to diverse cohorts
- knowledge sharing and action research to transform evidence into practice

The Queensland Centre for Domestic and Family Violence Research, under the auspices of CQUniversity, is also regularly commissioned by the Queensland Government to undertake research and sector development projects responding to the changing landscape of gendered violence. The Centre delivers education and training aimed at skilling the current and potential workforce.[289]

There are currently a wide range of networks, alliances and organisations representing domestic, family, sexual violence and related women's health services in Queensland, including Queensland Domestic Violence Services Network, Combined Women's Refuge Group, Queensland Sexual Assault Network Inc., North Queensland Women's Services Network, Domestic Violence Court Assistance Network, Women's Health Services Alliance, and the Services and Practitioners for the Elimination of Abuse, Queensland.

In addition, Ending Violence Against Women Queensland Inc. (EVAWQ) was launched in 2014 by service providers to bring together sexual violence, women's health, women's shelters and domestic and family violence services under the one peak body.[290]

While EVAWQ member services are generally funded by government, the Queensland Government, unlike many other jurisdictions in Australia, does not currently fund EVAWQ (or any other body) as a peak for the domestic, family, sexual violence and women's health service system. However, the Taskforce notes funding was recently announced for the Queensland Sexual Assault Network to support its secretariat function across the network of specialist sexual assault services.[291]

EVAWQ and the other networks and alliances coordinate their members for advocacy and information-sharing and, to a certain extent, give voice to the experiences of their clients. However, this work is performed on top of the already demanding roles of their member organisations, with no positions dedicated positions to fulfilling this role. The lack of a funded peak body limits what these services achieve in developing and implementing innovative programs and reform. It also creates challenges for meaningful and efficient communication between government and service providers necessary for the effective implementation of reform.

The Taskforce has identified a valuable opportunity to strengthen capability, capacity and integration of services at the local and state-wide level to advocate for and resolve workforce issues and to improve industry performance. There is a need to improve service system capacity to collect and analyse administrative data to demonstrate service outcomes and identify service system gaps. Services could better understand the delineation between each other's roles and assure the public that they are adequately supported to use their limited resources efficiently.

The Taskforce observed variable organisational capability and capacity across the service system, especially outside the south-east corner of the state. There is an opportunity for independent, strategic and systemic advocacy for the equitable distribution of resources so that those in need can access quality services irrespective of where they live in Queensland. These issues were also identified in an independent analysis of the domestic, family and sexual violence service system conducted in 2016–17. [292]

These observations are not a criticism of the fine work of providers currently working across the service system. Rather they are a constructive reflection on the growing maturity of the service system in Queensland, the need to build upon the significant public investment since the *Not Now, Not Ever* report, and the desirability of all states having a peak body.

Domestic and family violence service peaks in other Australian jurisdictions are active in leading practice and systemic reform improvements. They play a strong role in identifying and addressing issues affecting their members and provide an external voice to government to represent the needs and views of the sector and its clients. The involvement of Women's Aid Scotland, a charity with a similar representative role to a peak body, was also one of the key strengths of Scotland's introduction and implementation of a criminal offence of coercive control.[293] Examples of peak bodies from other jurisdictions are discussed further in chapter 3.3.

Domestic and family violence services in Queensland will have a key role in supporting the implementation of legislative reforms against coercive control. This will include improving how the system identifies and responds to patterns of non-physical abusive behaviour within the whole relationship over time. It will also continue providing critical victim supports and perpetrator interventions tailored to individual cases. A strong peak body can assure the community that the largely publicly funded services of its member organisations are adequately supported and efficiently delivered.

Quality assurance

While the Taskforce heard many favourable accounts of the support and assistance provided by the specialist domestic and family violence service system, the experiences of people accessing these services were not always positive. There were indications of variable levels of quality between providers and across the state. Stakeholders also raised questions about whether the current mode of operation was the most effective for meeting client needs. For example, they queried whether there were sufficient services available outside business hours.

Specialist domestic and family violence services funded by the Queensland Government under the *Community Services Act 2007* are contractually required to comply with the Human Services Quality Framework (HSQF). For many domestic and family services, this requires obtaining HSQF

certification. Certification requires organisations to be assessed by an independent, third-party certifier to identify whether their systems and practices meet the Human Services Quality Standards, which set a benchmark for the quality of service provision.[294]

There have been recent changes aimed at improving practice consistency across the domestic and family violence service system. On 1 January 2021, revised *Practice principles, standards and guidance* (Practice Standards) came into effect, and the Queensland Government is establishing for the first time a regulatory framework and audit process to ensure compliance with the Practice Standards.[295]

The Regulatory Framework is 'a monitoring and compliance mechanism to ensure a high standard of service delivery across domestic and family violence services that demonstrates compliance with the Practice Standards'.[296] The Framework works through the HSQF. From 1 January 2022, all domestic and family violence services seeking or maintaining HSQF certification must demonstrate they meet the domestic and family violence specific requirements, as well as other common requirements.

As a result, all specialist domestic and family violence services funded by the Queensland Government will now be part of a three-year audit cycle that assesses services against specific domestic and family violence criteria aligned to the Practice Standards. Audits will examine whether an organisation has enough systems and practices to comply with the criteria and document non-conformities, with serious issues reported to the funding body. Where there are non-conformities, a plan for corrective action is developed and then reviewed within the required timeframes. Failure to comply may constitute a breach of contractual funding obligations.

While the Taskforce appreciates that such changes create more work for already busy service providers, they are an important step in monitoring and improving practice to ensure that victims and perpetrators alike receive a consistent and high-quality service. They also provide accountability and transparency by reassuring the public that their money is being spent delivering value for services. Given some of these reforms do not fully come into effect until the new year, the Taskforce is unable to comment on their effectiveness.

Findings

The absence of a funded integrated peak organisation for domestic and family violence services across Queensland limits the potential for improving consistency, capacity, capability building, and innovation across the industry. It also limits the role services play in developing and implementing service system reform across the state. The expertise of Queensland's domestic and family violence services in identifying and responding to domestic violence to keep victims safe and hold perpetrators accountable could be better supported through the leadership of a funded peak body. The Taskforce considers that such an organisation is critical to lead the necessary systemic education and reform to support the implementation of legislative reform against coercive control.

Domestic and family violence services should be better empowered and supported through a strong peak body to participate in — and where appropriate, lead — system education about and implement domestic and family violence reforms, including changing regulatory requirements.

An integrated peak body should be established and funded by the Queensland Government to support specialist domestic and family violence services, shelters, and perpetrator intervention services. In leading systemic education and reform, it could also develop symbiotic relationships with specialist Queensland community legal services that provide targeted or specialist legal and other support in domestic and family violence matters.

The Taskforce is pleased to note the establishment of a new regulatory regime with specific requirements for domestic and family violence service providers. Given that these new requirements have not yet taken effect, it is not possible to tell whether they will prove successful in their aim of supporting improved consistency and quality of practise across service providers.

Interventions to respond to men using violence and coercive control

As long as perpetrators continue to use violence, women and children will not be safe. Even if a woman manages to escape from an abusive relationship, her abuser may go on to abuse other women. It is only by intervening effectively with perpetrators to hold them to account and stop them using violence that we can keep women and children safe, now and in the future.[297]

Many women who wrote to the Taskforce about their experiences of abuse had carried the heavy burden of managing their own safety, that of their children, and making decisions about whether and how to hold their abuser accountable. They became experts in reading their abuser's behaviour — their safety and the safety of their children depended on it. Their responsibilities included:

- seeking support and assistance
- disclosing and reporting the abuse
- applying for a Domestic Violence Order
- escaping the violence
- reporting breaches and often advocating for the prosecution of the perpetrator.

Effective perpetrator interventions seek to shift the burden from victims onto the systems and services that support them[298] and, critically, onto perpetrators themselves.

Some women avoided seeking help. They didn't want their partner (or the father of their children, or the person they were dependent on) to get into trouble with the police, risk losing his job, or be ostracised by the community — they just wanted him to get help so the violence would stop.

Some women, while suffering abuse, worked incredibly hard to get help for their perpetrator partner for related concerns like substance and alcohol problems or mental health concerns.

Intervening to change a person's attitudes and abusive behaviour and to support healthy parenting choices can help end the cycle of abuse and reduce harm to children.

Research consistently links childhood exposure to domestic and family violence with future perpetration.[299] However, it is noteworthy that many children who experience abuse or family violence do not go on to become perpetrators or victims.[300] Indeed, many work hard to ensure they do not become abusers. Similarly, not all perpetrators have a history of childhood violence or abuse.[301]

Evidence does not support a direct causal link between exposure to domestic and family violence as a child *alone* and the later perpetration of domestic and family violence.[302] The correlation may, however, be explained by a child's internalisation of gender roles, stereotypes, and violence-supportive attitudes.[303]

Intervening for change: engaging perpetrators across the spectrum of interventions

There are multiple points across the justice and service systems for perpetrators who commit domestic and family violence and coercive control to be held accountable and supported to stop the abuse. Ideally, this should occur as early as possible — for example, intervening with young men at points when they have problematic attitudes and behaviours in relationships.

Opportunities for engagement with perpetrators occur when:

- they come into contact with the police
- are referred to services for support
- are served with an application
- appear before a court or are served with a Domestic Violence Order
- they are charged with an offence, convicted or sentenced, incarcerated, and given conditions of parole.

These all provide points at which a perpetrator can be held accountable for their actions and engaged in change.

> Each part of our perpetrator accountability system must be part of the solution, including our police, courts, corrections, perpetrator and offender programmes and services, child protection agencies and a range of community services.[304]

When implemented effectively, perpetrator interventions partner with integrated service responses to focus on victim safety as the prime objective. Here, improving women's and children's safety, and linking them to services, is paramount, but there is also a focus on accountability. Perpetrators are given an opportunity through program content and delivery to change their behaviour.

Interventions keep perpetrators in view so that services supporting women know where the perpetrator is and can monitor the risk. Most interventions are designed to challenge perpetrators' views and beliefs through a feminist-informed psychosocial approach. This aims to facilitate insight into the impacts of their behaviour. It can start a process of accountability by locating violence, abuse and coercive control as active decisions. Attention is given to understanding and addressing other issues, such as drug and alcohol misuse and mental health, which may exacerbate their risk of violence.[305]

Different theoretical perspectives inform numerous therapeutic and psychosocial education models used in interventions with perpetrators. The effectiveness of these theoretical foundations is the subject of debate in the literature.[306] As discussed further in chapter 3.4, the Duluth model has strongly influenced the design of Australian program content and orientation as part of an integrated response.[307]

While most publicly funded programs in Australia would claim that they adhere to standards of practice (such as safety of women and children and processes of accountability),[308] Australian evaluations have shown considerable variability in the consistency of how standards and policy are applied.[309] This has been evident in research on programs in Queensland.[310]

The Taskforce acknowledges that international literature on the effectiveness of perpetrator interventions[311] is contested, with at best mild or moderate levels of change and little data on whether behavioural change is sustained in the long term. Furthermore, there are gaps in evaluations on perpetrator intervention programs in understanding both the influence of contextual factors and how outcomes are achieved (not just if outcomes are evident).[312]

However, as discussed further below, and in chapter 3.4, there must be an increased focus on understanding what works in interventions to change perpetrator behaviour to keep victims safe in the short, medium, and long term.

The Taskforce observed there tends to be a one-size-fits-all approach to perpetrator programs in Queensland (and indeed nationally), with few treatment options beyond group-based behavioural-change programs. This weakens the ability to ascertain what works, when, and for whom. For example, this is especially the case for perpetrators with substance abuse problems.[313]

International research is unequivocal in supporting proactive responses to pilot and evaluate programs that better address the diverse population of perpetrators of domestic and family violence. This is particularly relevant to the current context in Queensland. Nevertheless, there is consensus among experienced domestic violence professionals that poorly implemented interventions could have disastrous implications — emboldening the abuser, re-traumatising the victim, exacerbating his abuse, creating false hope, and deterring the victim from further help-seeking.

There is a clear need for innovation, combined with an unwavering focus on risk management, victim safety, and thorough program assessment.

There is currently no *comprehensive* approach to guiding perpetrator interventions in Queensland. Stakeholders reflected that the current approach is patchy, disjointed, and inconsistent.

International research suggests that programs should be adapted to tailor individual needs. Targeting the right interventions at the right time according to the relevant issues in each case, such as cultural sensitivities or mental health and substance abuse concerns, is essential. So, too, is the regular and consistent assessment of levels of risk and the perpetrator's readiness to change. This is both the best chance of improving victim safety in the short and long term and prudent use of limited state resources in ensuring perpetrators are held to account.

As part of our work to fulfil our terms of reference, the Taskforce sponsored Griffith University to hold a panel discussion on perpetrator interventions in August 2021.[314] Professor Donna Chung, Professor of Social Work and Social Policy, Curtin University, Western Australia, noted that to date, perpetrator interventions have largely relied on a justice response triggered by a threat to physical safety. She identified two main responses over the past 30 years: restraining orders (Domestic Violence Orders) and perpetrator programs. While many policy frameworks (Queensland's included) are based on the principle of holding perpetrators accountable, Professor Chung suggested this has not been well explained or operationalised. In Professor Chung's view, we need a perpetrator intervention strategy that incorporates the full range of responses to perpetrators, including primary prevention and the involvement of mainstream services.

The DFVDRAB also supports this approach. In it*s* 2019–20 Annual Report, it recommended 'a standalone, system-wide strategy for responding to all perpetrators of domestic and family violence, regardless of their level of risk, with a focus on early detection, intervention, accountability and prevention'.[315] The Queensland Government has accepted this recommendation and has agreed to develop a 'strategic, long-term framework to guide the Queensland Government's work in strengthening responses to all perpetrators of domestic and family violence'.[316]

The key challenges to the success of a whole-of-system approach to perpetrator intervention and accountability in Queensland are:

- addressing the shortage of programs and the associated considerable waiting periods to receive intervention
- the lack of available measures to ensure perpetrators comply with referrals and orders to attend interventions
- the 'one-size-fits-all' offering of perpetrator programs.

These key themes heard by the Taskforce are discussed in more detail next.

Supporting changes in attitudes and behaviours: perpetrator programs

Perpetrator programs are one part of the continuum of perpetrator interventions and may prove to be the key one. Programs for perpetrators can include a suite of ongoing interventions, including:

- group programs
- one-on-one counselling
- case management
- support for perpetrators on wait lists
- follow up with perpetrators who have completed a program.[317]

However, stakeholders often referred to group perpetrator programs exclusively, perceiving them as the primary intervention to support behaviour change and as a tool for increasing safety.[318] For this reason, this report refers to group programs as 'programs' and uses the term 'interventions' to refer to the broader suite of interventions.

There are currently 26 perpetrator programs delivered by 17 services funded by the Queensland Government across the state. This includes an additional five perpetrator programs funded since 2015.[319] Between 2015 and 2021, investment in perpetrator intervention programs by the Queensland Government has more than doubled.[320]

Currently, the pathways into perpetrator programs in Queensland include voluntary participation following self-referral or referral by an agency or organisation, court-mandated participation as part of a community corrections order, or a voluntary intervention order made by a court under the DFVP Act.

Referrals may also be made as part of the voluntary bail-based Court Link program (see chapter 1.5).[321] Recent investment will enable some prisoners to access a program in custody.

In addition to government-funded perpetrator programs, there are also community programs that are privately funded or provided on a fee-for-service basis. These programs operate outside government funding and contractual requirements, including the Human Services Quality Framework, compliance with practice standards, and government oversight.

The Taskforce was told consistently that there are insufficient perpetrator intervention programs to meet existing demand. Long waiting lists and the unavailability of programs in certain areas were concerns for many stakeholders.[322] For example:

- The Queensland Law Society reported that it can take at least four to six months for a respondent who is the subject of an intervention order under the DFVP Act to access a program and that for those who want to participate voluntarily there are delays of up to 12 months.

- Prisoners Legal Service noted that they have worked with many clients to obtain a place on a wait list, only to have their client returned to custody for parole suspensions before being able to access the community-based program.[323] It is impossible to know whether the offending behaviour could have been avoided had the program been available.
- The Taskforce heard that the waiting time for participants engaged in the Court Link program sometimes extended beyond its 12-week duration. In Brisbane, it is approximately 6 to 12 months for self-referrals, although referrals from the court or a High Risk Team may be prioritised.[324] To improve Court Link participants' access to programs for perpetrators, a pilot 'men's domestic violence education program' was developed in partnership with the Brisbane Domestic Violence Service, DJAG (Court Link) and the Brisbane Northside Vulnerable Persons Unit in the Queensland Police Service. Participants can attend from a range of Court Link sites.[325]
- High demand is resulting in lengthy days, particularly in regional areas, for perpetrators on supervised orders (probation or parole) to commence court-mandated programs. Furthermore, Queensland Corrective Services notes that there is variable competency and capability as well as differing eligibility requirements among these services[326]

Although there is currently no requirement for services to report waiting times, consultation in 2019 indicated that the mean waiting time was 45 weeks before commencing a program. Anecdotal evidence suggests that current waiting times may be equal to or longer than this.[327]

The Taskforce notes that inconsistent levels of attendance and time delays in perpetrators entering intervention such as a behaviour change program are likely to be significant impediments to men making changes and not re-offending. There is reasonably strong research evidence over the last two decades that the length of time lapse between initial occurrence of violence and attendance at the program along with a shorter duration of treatment are significant predictors of noncompletion and recidivism. Deciding to reach out for support, or admitting you have a problem with family abuse and violence, is one of the most difficult steps. A delay in a space becoming available in a program can be the difference between a perpetrator staying engaged with support or disengaging again.[328]

Consistent with the difficulties in delivering services in regional and remote areas discussed elsewhere in this chapter, the shortage of intervention programs is even more pronounced in these areas.

This shortage appears to be thwarting efforts for early intervention. The Taskforce heard that after media coverage of high-profile domestic and family violence incidents, the DV Connect crisis response line for men often receives a spike in calls from men seeking help for their abusive and controlling behaviours. However, these men were often unable to attend programs because of limited availability and long waiting lists.[329] This is an unfortunate missed opportunity, particularly given the experience of No to Violence that self-referred men are most prepared to change their abusive behaviours[330] and evidence that a long waiting period impacts the likelihood of program completion and recidivism.[331]

> A system that recognises the harm and seriousness of coercive control must provide every opportunity for interventions (particularly early interventions) to reduce abusive behaviours, decrease the likelihood of domestic homicide, and offer recovery support for victims.[332]

Submissions called for a wider variety of interventions so that perpetrators could receive the right type at the right time. The submission from No to Violence advocated for early intervention, citing research indicating that perpetrator programs have more success for those perpetrators who have had less interaction with the police and justice responses.[333] No to Violence representatives told the Taskforce about the benefit of regular risk assessment. It should occur:

- before a person is accepted into a program (to assess their suitability)
- during the program
- after the program.

Stakeholders pointed out that perpetrators are not a homogenous group. The most effective interventions are the ones tailored to the needs of the individual rather than those that adopt a one-size-fits-all approach.[334] This finding echoes one of the findings in the 2017–18 annual report of the DFVDRAB, which noted the need for flexible programs, accessible across settings, and 'in a modality that suits an individual's learning needs'.[335]

As noted above, there are limited opportunities for tailoring programs given so few are available and the overwhelming demand on those that are.

In particular, the Taskforce heard or observed that there is currently a deficit in programs run in ways that are accessible and effective for:

- people from culturally and linguistically diverse backgrounds, including programs that understand domestic and family violence in the context of refugee trauma and settlement challenges[336]
- people who identify as LGBTIQA+, noting that the patriarchal social structures and other drivers of domestic and family violence manifest differently in these relationships, and programs need to respond to this to be effective
- people with disability, including programs that are accessible and tailored for the different communication and learning needs of people with intellectual disability[337]
- women who use force, acknowledging that many women identified as perpetrators may be victims themselves.[338] An absence of programs for females can make them ineligible for diversionary options.

> [Perpetrator] programs aren't targeted at men with intellectual disability and there are not enough accessible programs available.[339]

The shortage of culturally appropriate programs for Aboriginal and Torres Strait Islander perpetrators was a concern raised by multiple stakeholders.[340]

The Taskforce heard about a need to rethink the appropriateness of widely applying perpetrator interventions based on 'talking therapies' framed by Western psychology and social science, often suited best to white middle-class people. These programs do not necessarily resonate with people of other cultures and classes.[341]

The need for programs designed and delivered by First Nations people for their own communities was often highlighted to the Taskforce.[342] Such programs can take advantage of the protective strengths of culture and community,[343] including through family and community approaches to accountability.

Historic injustices against Aboriginal and Torres Strait Islander people have led to high levels of systemic mistrust, distrust of the police, and resentment and anger among Aboriginal and Torres Strait Islander men. These factors all detrimentally impact on both perpetrator and victim engagement with the criminal justice and support systems.[344]

At the Taskforce's community discussion at Griffith University, Keenan Mundine, Co-Founder and Ambassador of Deadly Connections, gave a powerful keynote address. He reflected on the impact of childhood trauma on his early life trajectory, a journey that traversed homelessness, drugs, crime and violence, including domestic and family violence. His personal experiences have proven useful in enabling him to positively engage with perpetrators. Key amongst his useful insights was the inability of many available services to identify and address the underlying causes of offending behaviours. Mr Mundine once attended a mandated behaviour-change program that did not respond to his needs, including for cultural connection. Learning from those shortcomings, he now works with perpetrators by drawing on the experiences of community Elders and challenging the normalisation of violence in our community.

The need for tailored interventions suited to the needs of individuals was also a key theme for participants at the Perpetrator Interventions Community Discussion. Panellist Dr Heather Nancarrow reflected on the need to question whether perpetrators affected by mental health concerns or foetal alcohol spectrum disorders — or confronting the impacts of intergenerational trauma — are best served by interventions that attempt to engage them by talking about male privilege. Approaches that combine service system and legal interventions and work to build trust, or consider the need for medical interventions at the outset, may be worth considering.

Flexibility in lengths of intervention, modes of delivery, and outcome expectations is likely to maximise positive results The Taskforce has heard of promising examples of programs developed and run by Aboriginal and Torres Strait Islander services that embed a healing approach, teach non-violent strategies to cope with stressful situations, emphasise the importance of positive fathering, and are community-led and culturally authoritative. Many of these programs are not funded by government and have grown from necessity. The Taskforce visited one such innovative and successful program in Toowoomba that calls for particular attention (see next page).

Case study: Carbal Medical Services — Strong Fathers, Strong Families program

Carbal Medical Services (Carbal) is an Aboriginal and Torres Strait Islander community-controlled health-care organisation providing primary medical care across the Darling Downs, Southern Downs, and Goondiwindi regions. It was established in 2002 and now employs over 130 staff.

Carbal delivers 23 funded programs on behalf of local, state and national government and supplements these programs from its own revenue stream. 'Strong Fathers, Strong Families' was established by community outreach manager Charlie Rowe in 2012 to help Aboriginal and Torres Strait Islander fathers, grandfathers, uncles, and carers contribute to the health and well-being of their children. While men can self-refer or be referred by medical services, the primary pathway for referral since 2016 has been the Toowoomba Murri Court. Matters are adjourned for three months to allow participation in the seven-week program, which works in conjunction with the Toowoomba Community Justice Group, Elders, and support services to change offending behaviour. Participants must agree to a medical assessment, providing a pathway to primary health care. They also participate in three-hour weekly group and one-on-one sessions focused on breaking the cycle of alcohol, drugs, and domestic violence. They visit Country and sacred places with a focus on connection, belonging and improving spiritual and mental wellbeing.

According to the 2020 Carbal Annual Report, the centre has had hundreds of offenders referred to their services in past years and the re-offending of those who have completed the programs is less than one per cent.

The Taskforce considers that elements of the 'Strong Fathers, Strong Families' program warrant attention for the design of other culturally appropriate programs and some mainstream programs. These include a focus on health issues, fatherhood and family, respect, self-control, and self-determination. The program also recognises the strength in connection to culture, extended family, and community. It includes personalised case management and effective referrals to address underlying health and wellbeing issues. The program utilises both planned and unplanned home visits, so the program coordinator has a first-hand opportunity to monitor how things are going at home for participants and their families. It includes regular contact with victims and is connected to women's support services so that ongoing victim safety can be monitored. Importantly, although the program officially runs for seven weeks, it includes ongoing follow-up for an indefinite period. Some participants come back to participate again or maintain contact for years.[345]

The Taskforce heard about two other perpetrator programs developed by First Nations peoples in Townsville and Palm Island, which have had positive outcomes.[346] Mainstream programs may be able to benefit from elements of programs like these.

Stakeholders often noted the lack of perpetrator programs available in regional and remote areas.[347] During the Griffith University panel discussion, Professor Chung observed that the current group model was 'highly metro-centric', leaving women in regional areas more at risk given their geographic isolation.[348] Group programs may not be appropriate in less populated areas where people know each other — it is difficult to maintain confidentiality and privacy.

Furthermore, the Taskforce learnt about the skill and resource shortages for behaviour-change programs, affecting many programs. There are workforce challenges across Queensland, especially in regional and remote areas, to recruit suitable professionals to manage perpetrator intervention programs.[349] Most perpetrator programs rely on employing casual group facilitators. This can leave programs in a precarious position when casual employees are unavailable or where there is a need for further follow-up to manage risk or pass on information as part of an integrated service response.

There have been longstanding calls in Australia for a better-qualified workforce for domestic and family services — that is, one that understands the gendered and cultural context of domestic violence and is also representative of Indigeneity and community diversity.[350] This needs a workplace structure that has support help workers to cope with the high intensity of working in such a crisis and trauma-laden context.

Case management

It is clear to the Taskforce that more innovation is needed in perpetrator interventions to cater for this diverse group. Many existing programs do not align with other services aimed at addressing issues intersecting with domestic and family violence, such as mental health, drug and alcohol addiction, unemployment, poverty, and housing insecurity.[351]

Some stakeholders highlighted the need to explore perpetrator interventions that address domestic and family violence alongside other co-morbidities — particularly, the abuse of alcohol and other drugs and mental illness.[352]

The Taskforce notes the recent, though limited, research into trials of combined interventions.[353] While not all perpetrators will require a case-management approach, it may benefit those:

- with multiple and complex needs for whom addressing issues of gendered violence could depend on other basic needs being met
- those who do not currently engage in intervention systems.

> We have seen young people become enmeshed in the web of courts, police, prisons, and probation; and have observed how these systems often fail to appropriately understand and respond to the needs of people with cognitive disabilities.[354]

Case management is often employed as a whole-of-family approach, especially in the co-occurrence of domestic violence and child protection matters.[355] This acknowledges a strong correlation between the two. Curiously, however, it has only been relatively recently that specialist domestic violence and child protection services have worked together closely in case managing families.[356] There have been positive developments in interagency working and case management in Queensland, but these usually focus on women and children. Efforts to engage the perpetrator have often been fraught[357] with noncompliance and difficulties with referral pathways and information-sharing.

In high-risk situations, Queensland research indicates[358] and the Taskforce has heard that victims are often left in the invidious position of having to contact the perpetrator because the system has lost contact with him and she needs to know where he is so she can manage her family's safety. This highlights an area where the service system could better support victims in high-risk situations by case managing perpetrators, especially when they are poorly engaged or actively avoiding system involvement.

Partner contact work, risk assessment, and monitoring

Perpetrator interventions should always prioritise the safety of victims and children, and this should be the primary indicator of the success or otherwise of a particular program. Contact with victims of domestic violence is an essential component of perpetrator intervention for risk and safety monitoring, accountability, understanding context and impact, linking women to services, and program evaluation.[359]

The Taskforce heard that engaging with victims and their support services is necessary to manage expectations from perpetrator interventions. It enables information to be imparted about the realistic likelihood of change, how long it may take, and what it might look like, including the variability of outcomes for perpetrators.

Professor Chung noted that many victims of men engaged in perpetrator intervention programs are isolated women with no knowledge of how perpetrator interventions work or their likelihood of success. Involving victims from the beginning lessens the risk that perpetrators will misrepresent what is going on during the program by, for example claiming significant change, which is unverified by the woman, or suggesting to the woman that the program has presented information that blames the victim.

Some service providers observed that many women engaged through partner contact work had not previously been seen by services, so this was a valuable opportunity to support them.[360]

While all publicly funded perpetrator programs in Australia require contact with perpetrators, victims and partners, this can be challenging in practice and is often not consistently achieved.[361] There are many reasons for this.

Sometimes the contact details of the victim are not easily accessible, or the perpetrator withholds them. The woman may be reluctant to engage or be hampered by her own circumstances such as insecure housing. In many cases, men are attending a behavioural-change program for the violence perpetrated against a former partner and are now with a new partner. Where the new partner is not the subject of a Domestic Violence Order or a request for service, the perpetrator cannot be compelled to disclose or provide contact details for their new partner, even though program facilitators may encourage them to do so. Practices also vary among perpetrator programs as to contacting the partners of victims attending behavioural-change programs.[362] This may be as a result of workload pressures on victim advocates or protocols for follow-up where victims initially decline to be involved — or there is simply a change in contact details. In some instances, victims may be referred to another service with little or no communication between the specialist women's services and the perpetrator program.

There is general agreement from stakeholders, backed up by the literature,[363] that a failure to engage with partners during perpetrator interventions can lead to a decrease in their safety and an increase in the abuse. Partner contact work can be labour-intensive and is usually the most underfunded and overlooked part of perpetrator interventions.[364] Without adequate resourcing of the partner contact component of perpetrator interventions, facilitators can be described as 'working with only half a deck of cards'.[365] They have few ways to hold perpetrators accountable and avoid collusion, a key part of perpetrator interventions.

Additionally, perpetrators often have new partners who might be unaware of his attendance in a behavioural-change program or the reasons behind it. In such cases, there is a need for perpetrator interventions to be better empowered to compel the man to disclose and engage with new partners. This would help stop a cycle of violence where perpetrators commit domestic violence against multiple women, sometimes simultaneously.

In Queensland, the new Perpetrator Intervention Services Requirements mandate that services engage a victim advocate (either internal or external to the service) to enable risk assessment and

safety planning, information-sharing, and referrals.[366] They also specify a range of minimum requirements for victim advocates.

As the Requirements come into effect 1 January 2022, it is too early to determine whether these requirements and other quality assurance measures under the new *Domestic and Family Violence Services Regulatory Framework* will improve the consistency of practice in partner contact work.

As elements of partner contact work, risk assessment and monitoring tools play an essential role in perpetrator interventions by providing a mechanism to track changes in perpetrator behaviours over time and, most critically, changes in risk to the safety of victims, including children. Ideally, these tools should be employed for both perpetrators and victims at multiple points during perpetrator interventions and continue after an intervention has ceased. A consistently used framework for understanding and assessing risk would strengthen a whole-of-system approach to perpetrator intervention and accountability.

Programs for children and young people using violence

The perpetration of domestic and family violence by young people is an emerging issue of concern raised by several stakeholders. [367] As noted above, there have been significant recent increases in young people, including females, appearing in the Childrens Court as alleged perpetrators of domestic and family violence.

Stakeholders raised extremely concerning cases of children as young as 11 or 12 years old abusing their intimate partners. In addition, young people are using violence and abuse in their homes against their parents, carers or siblings.[368] Substance abuse and mental health problems are common contributors. The likelihood that these young people have themselves been victims of domestic violence is widely recognised, with research suggesting that adolescent violence against family members may be the 'missing link' in understanding the intergenerational transmission of domestic and family violence.[369]

These anecdotal reports appear to be supported by data indicating that domestic violence offences by young people (aged 12 to 18) have increased over the past five years, with 103 males and 21 females convicted of domestic violence offences in 2020–21 (compared with 37 and 11, respectively, in 2016–17).[370] However, the inclusion of 17-year-olds in youth justice data from February 2018 may have contributed to this apparent increase. There also appears to be an increase in the number of Domestic Violence Orders made against young people, particularly against 14 year-olds in 2018-19 and 2020-21.[371] Overall numbers remain low, however, making trends difficult to identify.

Other jurisdictions also report concerning levels of young people perpetrating domestic and family violence. In Victoria, one in 10 individuals reported to the police for incidents of family violence in 2019 was between 10 and 19 years old.[372] This is consistent with estimates by the Victorian Royal Commission in 2016, which noted few targeted responses or prevention efforts at the time and recommended reforms targeting specialist trials, programs, and responses.

As with most figures relating to domestic and family violence, these figures are probably only a small proportion of the total domestic and family violence involving young people. Families are often reluctant to report violence and abuse in the home perpetrated by children. Equally, there is a range of barriers for young people reporting violence in intimate relationships, including stigma, peer influences, and lack of awareness about domestic and family violence.

A survey in 2016–17 of over 400 high school students aged between 14 and 18 in Melbourne found that 25–28% of respondents had experienced physical violence in their 'most difficult relationship'. A concerning 19–25% admitted to being physically violent. When emotional violence was examined, estimates of victimisation and perpetration increased to 75%.[373]

During a meeting with the Townsville Stronger Communities Action Group — a multi-agency group that provides intensive coordination of services for vulnerable families and young people to reduce the risk of youth offending — the Taskforce heard of a strong correlation between young offenders coming from families where domestic and family violence is being perpetrated.[374]

While there are similarities between adults and young people in the patterns of perpetrating domestic and family violence, there is a need to consider what responses are best for young people, given their stage of brain development, the potential harm from contact with the criminal justice system, and their individual circumstances — for example, the risk of homelessness if removed from the household.[375]

There are links between childhood exposure to domestic violence perpetrated by an adult male and later violence towards mothers. Evidence indicates this is particularly the case for boys.[376] The impact of trauma from domestic violence on both children and their mother's wellbeing and attachment is well documented in the literature.[377] Role modelling and the gendered nature of domestic violence goes some way to explaining the overrepresentation of sons committing violence against their mothers.[378] This, combined with other adverse events, is a common characteristic among children and adolescents who commit violence against their mothers. It is not uncommon for mothers to report experiences of coercive control committed by their adolescent children.

> Adolescents as perpetrators of violence against their mothers is becoming a growing area of concern and requires increased understanding. Police responses often fail to recognise the issue and [incorrectly] determine that violent behaviours are a result of poor parenting on the mother's behalf.[379]

According to the Department of Children, Youth Justice and Multicultural affairs, approximately 60% of young people under youth justice supervision have experienced or been affected by domestic and family violence.[380]

A few stakeholders questioned whether criminal justice responses are the most effective and appropriate interventions for young people using violence and abuse.[381] Stakeholders often highlighted the importance of a therapeutic approach to address this behaviour in young people.

> The current pathway of holding the young person accountable for their actions by reporting matters to police, having the young person engage with police and potentially the courts, does not address the issues which may be causing these behaviours and does not provide the young person with the skills to engage in positive behaviours in the future.[382]

The Taskforce heard concerns about young people with a cognitive disability (often undiagnosed) being pulled into protracted contact with the criminal justice system without any responses that addressed their underlying trauma or their inability to understand the consequences of their actions.[383]

The Taskforce supports the view that, in line with the approach to other offending by young people, a different approach is needed for young people using violence. In line with the principles of youth justice in the *Youth Justice Act 1992* and the United Nations Convention on the Rights of the Child, this approach should focus on a therapeutic response that diverts young people away from the criminal justice system and addresses the underlying causes of their behaviour, while also paying close attention to the safety of victims.

The Taskforce notes that there are a small number of programs in South East Queensland that specifically address the needs of young people perpetrating domestic and family violence.[384] There are also a limited number of trial programs underway. [385]

Despite these initiatives there appear to be insufficient programs and interventions to meet emerging demand. Intervening early with this cohort is likely to yield significant long-term future benefits by preventing harm and decreasing the demands on the health, welfare, and justice systems.

According to the Department of Children, Youth Justice and Multicultural Affairs, options for assisting young people in detention using domestic and family violence include:

- individual counselling for domestic and family violence perpetrators
- development and delivery of a domestic violence small group program called 'Men's Project' at the Brisbane Youth Detention Centre
- delivery of the Love Bites (healthy relationships) program
- referral to specialist services such as the North Queensland Domestic Violence Resource service
- access to legal educational sessions delivered by agencies such as the Youth Advocacy Centre
- access to a specialist domestic and family violence solicitor from the Youth Advocacy Centre for legal advice and representation
- youth justice specialist counselling for young people charged with sex offences.[386]

The Brisbane Youth Detention Centre is developing a program targeted at young people who have committed serious intimate-partner violence. The program includes 23 workshops incorporating topics on power and control, intimate-partner violence, sexual consent, pornography and sexual expectations, building intimate connections, and Cognitive Behavioural Therapy.

The Youth Advocacy Centre submission refers to the *NSW Domestic and Family Violence Youth Justice Strategy 2019–22.* It focuses on providing young people who are victims of domestic violence or use violence in the home (other than in intimate-partner relationships) with specialist support.

The strategy was informed by data analysis by the NSW Bureau of Statistics and Research (BOSCAR), which noted that around 40% of all assaults committed by juveniles were related to domestic and family violence.

The strategy notes that the key differences between domestic and family violence experienced by young people compared with that experienced by adults includes:

- juvenile offenders are often victims of domestic and family violence themselves and have experienced trauma
- juveniles re-offend at double the rate of adults
- substantially more juvenile females charged compared with adult females
- most victims of adolescent violence in the home are mothers and younger siblings

- young offenders are highly likely to be victims and witnesses of domestic and family violence, historically and currently
- juveniles using violence in the home are likely to be experiencing mental health problems and trauma
- a lack of awareness about adolescent violence in the home, which has an impact on the availability of services and the representation of children and young people in domestic and family violence strategies.[387]

The Taskforce notes that Queensland does not currently have a specific policy to guide actions to address young people harmed by or perpetrating domestic and family violence. Nevertheless, in committing to developing a framework that will guide work to strengthen responses to perpetrators, the Queensland Government has said that 'developmental and age-appropriate strategies will be considered for young people, noting that they can be both perpetrators and victims of domestic and family violence'.[388]

To prevent the perpetration of domestic and family violence by young people behaviour from continuing and escalating into adult relationships, tailored interventions responding to the specific needs of young people are urgently needed.

Any introduced legislative reforms against coercive control will apply to young people, subject to the principles in the *Youth Justice Act 1992*. This makes it imperative that domestic and family violence and the use of coercive-controlling behaviours by young people are identified and addressed early so that young people are safe in their relationships and are held accountable in ways that appropriately respond to their offending behaviour and development.

Opportunities for perpetrators to participate in programs while in custody

The Taskforce heard that opportunities for rehabilitation through participation in programs while in custody are few, with many people released from custody without any form of rehabilitation.[389] The absence of opportunities for rehabilitative programs for people on short sentences or remand was identified in the 2016 review of the Queensland Parole System.[390] Stakeholders told the Taskforce that the situation has not improved.[391]

> We have been advised there is [a] dearth of evidence-based programs available to perpetrators of [domestic and family violence]. Most prisoners are not currently getting access to programs they need that will support them to change and ensure their reintegration is safe.[392]

The only domestic and family violence program available for those in custody is the Disrupting Family Violence Program developed by Queensland Corrective Services (QCS) and delivered by QCS staff and trialled at Woodford, Wolston, and Maryborough correctional centres in 2019–20. Queensland Corrective Services (QCS) told the Taskforce that the program had a high completion rate of between 40 and 50%, higher than for programs in the community. A process evaluation conducted by Griffith University noted positive feedback by participants and QCS staff involved, but it identified inadequate victim engagement.

The 2021–22 Queensland Budget provided funding for the procurement of an external expert victim advocacy service to complement the Disrupting Family Violence custodial program and enable the recommencement of the program trial at the Woodford, Wolston, and Maryborough correctional centres.

While the availability of programs for sentenced prisoners in some facilities is a positive step, the Taskforce heard there is an urgent need to expand the availability of perpetrator interventions, for both sentenced offenders and those on remand, across all correctional facilities. The completion of programs before release would better support the safety of victims. The Taskforce appreciates the challenges in engaging prisoners on remand in programs, particularly if they intend to plead not guilty[393] but does not consider these challenges insurmountable.

Ideally, perpetrator programs delivered by QCS, whether in custody or under supervision in the community, should be linked to an integrated service system response to provide continuity of intervention and engagement with victims, including after perpetrators are released from custody.

Quality assurance and building the evidence base

Perpetrator interventions are an essential component of the overall response to domestic and family violence because women and children harmed by this abuse often continue to have direct or indirect contact with the perpetrator, or the perpetrators go on to form new intimate relationships. The perpetrator service system is strongly influenced by the incident-based bias across the sector, where reasons for referral to intervention most often stem from specific incidents of physical violence.

While coercive control is addressed in most programs, it is not conceptualised by perpetrators as the key issue to be addressed given the incident-based preponderance with physical violence. Mostly, measures of success are based on victims' feelings of safety and the reduction in physical and verbal violence. It is, therefore, unsurprising that evaluations of perpetrator interventions do not have strong data on their effectiveness in addressing perpetrator acts of coercive control.[394]

There is an urgent need for perpetrator interventions to better address and evaluate their impact on coercive-controlling behaviour.

In Queensland, most perpetrator interventions, such as perpetrator programs, are funded by the State Government and delivered by non-government organisations. Most report they are compliant with State and Commonwealth Standards of Practice that prioritise the safety of women and children; however, verification of their compliance mostly relies on self-reporting rather than independent audits.

There is a large variance in how different programs approach components in terms of:

- content and delivery of curriculum
- therapeutic approach
- assessment for suitability
- risk assessment
- partner contact
- duration of intervention
- staffing
- evaluation methods
- post-program follow-up.

The Taskforce notes the inclusion of specific requirements related to domestic and family violence, including for perpetrator intervention programs as part of the HSQF certification process and the new Perpetrator Intervention Services Requirements (discussed above). These may go some way to addressing these concerns. It is too early to tell, however, whether this will improve consistency and quality across perpetrator intervention programs. There may need to be adjustments to these regulatory requirements to align with the reforms recommended in this report.

Additionally, there are a few private and community-based interventions for perpetrators of domestic violence. Some of these are run by private practitioners, allied and primary health providers, and faith-based communities. It is not known the standard of practice or the theoretical orientation that most of these private services use. In some instances, there is evidence they offer a viable alternative to the limited services available. However, in other instances, the approach can be problematic because promises of relationship reconciliation form part of their profile. These factors make public oversight of private perpetrator interventions quite vexed.

There is a growing body of evidence on perpetrator interventions. In Australia, there has been a tendency to focus on behaviour-change programs. However, evaluating these on a comprehensive and large scale is fraught because of the substantial variance in approach, format, practices, duration, and format.

A recent program of perpetrator interventions research from ANROWS also holds valuable learning. It highlights areas of promising practice and the need for system integration and retention. These give direction for the design of perpetration intervention systems including the need to pilot differential intervention options at early and advanced stages, as well as for specific populations such as First Nations and CALD perpetrators.

There is substantial potential for perpetrator interventions to improve the safety of women in the short, medium and long term. Building an evidence base for interventions that specifically target coercive control is an important priority. It will need to blend perpetrator intervention knowledge with what is learned from justice system responses and will require a clear strategy for continuous monitoring and evaluation. Chapter 3.4 discusses these issues in further detail.

Findings

There are insufficient domestic violence perpetrator programs to meet current demand across Queensland. This is especially true in regional and remote areas where programs need to be accessible to all perpetrators.

Demand for perpetrator programs is likely to increase as a result of any legislative reform against coercive control. This will require greater innovation in the perpetrator intervention system so that responses are prompt and promote safety at the earliest possible stage in referral. Consideration needs to be given to the initiatives that use technology, online formats and resources, alternative modes to group behavioural-changes programs, and case management.

There are a limited range and suite of programs available. They are primarily based on group programs requiring a mix of feminist-informed psychosocial education and cognitive behaviour therapy. Programs vary in factors such as duration, partner contact, and level of integration with other services. Evaluation results are mixed and show the most measurable impact on physical violence. Further work is needed to evaluate their effect on coercive control.

Available programs are not tailored to individual needs. In some cases, they are not long enough or provide insufficient pre-program assessment and support and after-program monitoring to change embedded attitudes and beliefs and associated abusive behaviours, especially coercive control.

Queensland does not have sufficient funded perpetrator interventions to meet the needs of Aboriginal and Torres Strait Islander peoples. These programs should be healing-focused, based on connection to culture and community, and delivered by Aboriginal and Torres Strait Islander community-controlled organisations. They should be designed by and for First Nations peoples.

Programs should be available and accessible across Queensland and tailored to meet the needs of Aboriginal and Torres Strait Islander peoples, culturally and linguistically diverse peoples, those that identify as LGBTIQA+, and those with intellectual disability.

A range of interventions is needed that cover both voluntary and mandatory participation with various modalities to respond to varying degrees of risk. A continuum of interventions should be available to align with the level of assessed risk and other associated needs, such as mental health or drug and alcohol misuse. Programs for perpetrators in custody are being trialled and will require integration and referral on these men's release into the community. Case management for high-risk perpetrators could provide a basis to improve safety and keep the man in the view of the system.

Perpetrators should be able to access an intervention about their behaviour from their first contact with authorities. Appropriate interventions or programs should be available at all stages of the court process, including for perpetrators convicted and sentenced for offences related to domestic and family violence. There should be programs for men who attend voluntarily rather than being referred by authorities. Men who are respondents to Domestic Violence Orders but not criminally charged for domestic violence offences should be directed to programs. As these programs are at the frontline of keeping women and children safe, consideration needs to be given to measures that will ensure the perpetrator attends and is monitored.

There should be a whole-of-system approach to perpetrator accountability and behaviour change that prioritises victim safety and perpetrator accountability and is responsive to the different levels of risk posed by perpetrators, their differing levels of readiness to engage, and their individual needs.

At present, interventions, such as they are, do not adequately meet the needs of young people, people with disability, people from CALD backgrounds, and members of the LGBTIQA+ community. As a result, these people are even more likely than other perpetrators to be unsupported in addressing their behaviour.

There should be sufficient diversity in interventions and programs to cater for the needs of different population groups so that all people using violence and abuse — including children and young people, LGBTIQA+ people, people from CALD backgrounds, First Nations peoples, and those with special needs — can access support to stop using violence and abuse.

In practice, it is not clear whether programs have a primary goal of changing behaviour or keeping women and children safe by holding perpetrators to account. This requires programs to be subject to both regular independent audits and evaluations in line with supporting their capacity to better link practices to evidence.

Some perpetrators with multiple and complex needs require a case-management approach to help them change their behaviour so that their other needs (such as alcohol and other drugs, mental health, housing, or disability support) can be met. Interventions should be available to support perpetrators to address underlying factors, including alcohol and other drugs, mental health and other relevant issues. In instances where perpetrators are not suitable or fail to attend the intervention, case management should be considered as part of any court orders.

The evidence base about what works is still emerging and should be supported to build a better understanding of the efficacy and value for money of interventions. There is currently a lack of

diversity in the range of perpetrator interventions and programs. As a result, current offerings are insufficient to meet the needs of Queensland's diverse population. They do not effectively target different levels of perpetrator risk and readiness to change or manage factors contributing to risk, including substance abuse and mental health issues. There is substantial scope for developing, piloting, and evaluating innovative interventions that offer a suite of options to respond to the heterogeneous population of perpetrators.

Services struggle to attract, recruit, and keep appropriately qualified staff to run programs and interventions, particularly in remote and regional areas. The casualisation of the workforce and difficulties retaining staff present challenges for facilitating behavioural-change programs.

Queensland needs a strategy to address workforce shortages in perpetrator interventions and programs and other service system responses. This should include:

- identifying the qualifications and skills needed to deliver perpetrator interventions and programs
- mechanisms to attract, recruit, and keep qualified staff.

Approaches to risk assessment and partner contact work are inconsistent across intervention programs. They do not enable close monitoring of victim safety and fear, or program outcomes, during and after programs. Involvement of women and children in perpetrator program delivery is integral for safety and accountability, as is the need for all programs to be embedded in an integrated services response.

Monitoring, evaluation and data

Measuring activity and impact

The Taskforce has observed there is limited capability to measure the progress of domestic and family violence reforms against key objectives — namely, the impact on victim safety, perpetrator accountability, and the reduction of domestic and family violence. This makes it difficult for government to measure. monitor and demonstrate the achievement of outcomes.

There have been recent efforts across government to strengthen the data collection and measurement of impact under the *Domestic and Family Violence Prevention Strategy 2016–26,* as set out in the current Evaluation Framework[395] and Revised Indicator Matrix.[396]

However, there is a clear need for further work. The Taskforce notes that the Revised Indicator Matrix contains many indicators and methods of measurement that are yet to be developed. Indicators are missing for a range of significant intermediate outcomes such as:

- service responses are appropriate to meet the needs of victims from diverse population groups[397]
- perpetrators are more accountable for their actions[398]
- local justice authority structures appropriately respond to domestic and family violence. [399]

Data sources or methods are also still under development for several other important indicators, including:

- domestic and family violence victims report feeling safe and supported[400]
- victims report improved feelings of safety as a result of accessing a service[401]
- students model respectful relationships behaviour at school.[402]

Where indicators and measures have been developed, some are not yet being reported against as the status of the data source is indicated as 'proposed for further exploration'. This includes vital indicators about recidivism after the completion of a behaviour change program.[403] Concerningly, most indicators relating to perpetrator programs fall into this category, limiting the information available about this part of the service system. There is a critical need to focus on future data collection capability in relation to perpetrator interventions (discussed further in chapter 3.4).

In past reforms, there appears to have been a focus on the activities undertaken (the outputs) rather than whether this work has been achieving desired outcomes. A key limitation appears to be the availability and integration of relevant data across the system.

The Taskforce notes that the Queensland Audit Office is currently examining the government's progress in funding and implementing domestic and family violence initiatives and assessing the effectiveness of its governance of the program of reform.

While the Queensland Audit Office's report about domestic and family violence has not been finalised and released, the Office has commented that a focus on outputs over outcomes was identified as an issue in other audits undertaken across government.[404]

Data for measuring and monitoring impact

There appear to be significant limitations in the data that is collected and made regularly available across the domestic and family violence service system.

The Taskforce observed or heard during consultation and research that:

- recidivism data from the Queensland Wide-Interlinked Courts system (QWIC) is not readily available. For example, QWIC does not capture: repeat convictions for breach of Domestic Violence Orders
- it is problematic to obtain court data that spans the civil and criminal justice systems or state and commonwealth jurisdictions. For example, the number of offenders convicted of criminal offences who were also respondents to Domestic Violence Orders and the number of people seeking Domestic Violence Orders where family court matters were disclosed to the court
- Data on cross-orders is not routinely publicly reported[405] and extracting disaggregated data such as number of cross-orders involving Aboriginal and Torres Strait Islander women is labour-intensive
- police data is generally incident-based with a limited ability to provide a picture of outcomes for either perpetrator or victim beyond how a particular incident was dealt with
- police and court data do not readily link with each other to provide information about the impact of interventions across systems. This can also limit the availability of information to support decision-making by judicial officers
- administrative data maintained by service providers is used for the primary purpose of record-keeping as part of their day-to-day work, rather than for research purposes and is therefore of variable quality. The data captured varies between services and indicators that may usefully inform outcomes are not always captured or reported
- administrative data maintained by government agencies often does not systematically record the desired information, for example a person's disability or LGBTIQA+ status

- data from service providers is currently focused on outputs (such as the number of counselling hours provided) with limited reporting on outcomes (such as behaviour change for perpetrators or level of safety for victims, or data to indicate levels of demand — for example, there is no requirement for services to report wait-list times)
- data related to young people perpetrating domestic and family violence was not readily available, with civil, criminal and youth justice data held across different systems with no existing process for automatically collating that data
- published data on domestic and family violence is reported differently across agencies due to different counting rules and data collection methods, meaning comparisons cannot always be drawn between published data. For example, there are differences in the recording of Aboriginal and Torres Strait Islander status, which can create challenges with analysis.
- Queensland Corrective Services reportedly publish information on recidivism rates; however, the Taskforce understands this data has a two-year lag and does not capture data specific to domestic and family violence.[406]

The Taskforce appreciates that it may not always be possible or appropriate for information to be linked. However, there is a significant need for more integrated data systems, with the appropriate safeguards.

While QPS is one of the more capable agencies in relation to the collection and analysis of data, there are opportunities to strengthen the type of information collected and the integration of that data with throughout the system to enable cross-system analysis. There is also a need for a feedback loop to be provided to the QPS — for example, data to indicate how referrals from the police referral system, Redbourne, are actioned, and the outcomes of any engagement.

The persisting limitations in the data outlined above create challenges in obtaining a full picture of victim and perpetrator touchpoints with services and their pathways through systems. As a result of these limitations, one of the few mechanisms available to get a comprehensive understanding of a person's contact with different parts of the service system and the impact of this contact on a victim's or perpetrator's trajectory is obtained through the DFVDRAB. This data is useful for presenting systemic issues in the service system and has informed system reforms. However, it is based on the experiences of victims and perpetrators in the context of homicides and suicides related to domestic and family violence. The trajectories of victims and perpetrators may differ in non-lethal domestic and family violence contexts. This is an unsatisfactory situation.

Domestic and family violence data deficits are not limited to government agencies. The Taskforce has heard that there are considerable shortfalls in the data collected across the service system, including by non-government service providers. As outlined in chapter 3.4, there appears to be very sparse information about existing perpetrator programs and the outcomes for participants in those programs (including the important perspective of victims). There also appear to be little:

- information to inform an understanding of the demand on different parts of the service system
- evidence to provide an understanding of how victims and perpetrators are experiencing the service system, including outcomes achieved.

There is also a need for enhanced data on underuse or drop-out rates of services, particularly by different population groups. Underuse or high rates of disengagement with services may point to the appropriateness of services and accessibility. Understanding who is not using services is as important as understanding who is. For example, better data is required to fully understand how people attempting to access safe accommodation are experiencing the service system and the outcomes.

Transparent, accurate data from services on the number of women requiring refuge, with those accepted and those declined, is required. Ideally, data should be collected from multiple sources to ensure accuracy, transparency, and accountability of government investment.

The Taskforce recognises that gaps in data relating to domestic and family violence are not a challenge unique to Queensland. There are inherent problems relating to violence and abuse that are underreported and sometimes unrecognised. Identified data gaps at the national level include:

- limited information about vulnerable populations who come into contact with justice, health, welfare, and other support services (for example, primary health care; emergency department care; drug and alcohol services; mental health services; corrections, or income support)
- lack of data about pathways, impacts, and outcomes for victims, perpetrators, and their children.

The Taskforce notes that these gaps also appear to be reflected in Queensland data. There is also work underway at the national level seeking to address these data gaps.[407] There is a clear need for further efforts to:

- strengthen data capability across the system in support of system capability
- embed evidence-informed processes of continual improvement.

Findings

There is insufficient robust data to enable monitoring of the progress of reform against the desired results. Tracking the progress of implementation efforts is vital to accountability, but there is a need for increased focus on setting and achieving outcomes.

Domestic and family violence data is fragmented across the different parts of the service system, with critical aspects not readily available. Efforts to enhance the capacity to capture data, particularly outcome-oriented data, have begun; however, further work is needed to provide the necessary tools for government to measure, monitor, and evaluate outcomes across the service system.

Currently data available is particularly limited in its ability to:

- capture patterns of abuse over time
- measure outcomes such as the impact of interventions on perpetrators and victims
- reflect the experience of victims and perpetrators
- reflect the unique experiences of Queensland's diverse population.

The capacity of agencies and service providers to collect and analyse data, including through conducting robust evaluations, varies. This lessens the overall quality of evidence available across government to inform important policy decisions.

There is a need for robust mechanisms to measure, monitor, and evaluate the effectiveness of activities and interventions aimed at preventing and responding to domestic and family violence.

There is also a need for an approach to measuring, monitoring and evaluating the impact of reforms, developed before reform implementation, to establish baselines, provide evidence of impact and inform decision-making.

There is a need for an integrated whole-of-system approach to managing domestic and family violence data in Queensland. This enables government and the service system more broadly to measure the success or otherwise of activities, to monitor for unintended consequences, and to make decisions about value. Data captured across different parts of the service system should be

enhanced in its capacity to reflect patterns of behaviour over time, measure outcomes, reflect the experiences of victims, and perpetrators and be disaggregated to capture diversity.

Conclusion

This chapter has covered a wide range of service system responses to coercive control in Queensland and reflects some of the most consistent messages that the Taskforce has heard in our consultations throughout the state, including the need for:

- increased emphasis on primary prevention, particularly by raising whole-of-community awareness
- quality compulsory education about domestic and family violence in Queensland's schools
- improved early intervention through increased knowledge and understanding across mainstream services
- improved service system capacity and capability in the specialist service system to meet demand across the state and to provide innovative, contemporary, and integrated responses
- a continuum of perpetrator interventions tailored to respond to individual needs and assessed risk
- strengthened data collection mechanisms and a focus on measuring outcomes, including the outcomes of perpetrator programs.

Queensland has made commendable efforts to address the drivers of domestic and family violence — particularly, through awareness-raising. It has also made a promising start to respectful relationships education in our schools. However, much remains to be done.

Access to a high-quality and respectful relationships program for a child in Queensland is far too dependent on whether individual school principals support such a program.

The Taskforce supports a renewed and concentrated effort on primary prevention of domestic and family violence. This includes:

- a focus on raising awareness and understanding of coercive control
- respectful relationships education for children and young people throughout the state.

Increasing community awareness and understanding of coercive control is an essential part of any strategy. This includes supporting bystanders and mobilising key groups such as faith-based communities and sporting organisations to support community change.

The media has a greater role to play in increasing awareness about domestic and family violence. While improvements are noticeable, there is more work to do to support careful and sensitive reporting of domestic and family violence. The price of sensationalised media can be too high for victims and their children. The role of media reporting in 'copycat' domestic and family violence homicide and abuse needs to be further explored. So too does the issue of media and public access to domestic violence civil proceedings.

The staff of mainstream services need to be trained and appropriately equipped to recognise and respond to coercive control. Many victims of coercive control will never make a complaint to the police, so the response from these organisations can literally be life-saving. There are promising signs that both the government and non-government sectors are beginning to meet this challenge, but further work is needed, including work to improve awareness of and prevent systems abuse.

Queensland's specialist domestic and family violence service system has experienced considerable growth since the delivery of the *Not Now, Not Ever* report, rightly supported by significant investment by the Queensland Government. However, demand continues to outstrip supply in many parts of the state. The needs of many Queenslanders for key services remain unmet. Significant work needs to be done to ensure equal access to these vital services across the state.

The service system is at a crucial point in its maturity where appropriate quality assurance measures and peak sector leadership are now required. The Taskforce notes that in Scotland the success of the implementation of their highly regarded domestic abuse legislation has been driven by a successful partnership with the peak body, Women's Aid Scotland. The Taskforce considers a comparable peak body in Queensland is now required.

Perpetrator programs in Queensland, whether self-initiated or ordered through the justice system, are currently inadequate to meet the needs of victims, perpetrators, and the community. Perpetrator intervention programs not only serve the needs of perpetrators but also the needs of victims and families who not only want to be safe but also want, as the Taskforce has heard, their parent, sibling, child or partner to return to their community and stop their abuse. They also serve the needs of the community to hold perpetrators accountable in a way that keeps victims and their children safe and in the most cost-effective way. Even the most violent perpetrators may return to the community eventually — without supervision and, if possible, rehabilitation, they are much more likely to abuse the same or another victim.

Effective early interventions and perpetrator programs should be a cost-effective use of scarce public resources. There is a need to develop a range of intervention options for perpetrators beyond the current narrow scope of behavioural-change programs. It needs to be based on evidence that uses resources such as technology and case-management expertise innovatively. Access to perpetrator interventions and programs throughout the state must be improved as a matter of urgency. To ensure they do more good than harm, they must meet appropriate minimum standards and be regularly assessed for effectiveness to build a body of evidence for best practice.

There is a need to strengthen the current approach to monitoring and evaluation of domestic and family violence system reforms. It needs to be supported by improved system-wide data so that impacts on victim safety, perpetrator accountability, and the service system as a whole can be better measured, and unintended consequences can be identified early.

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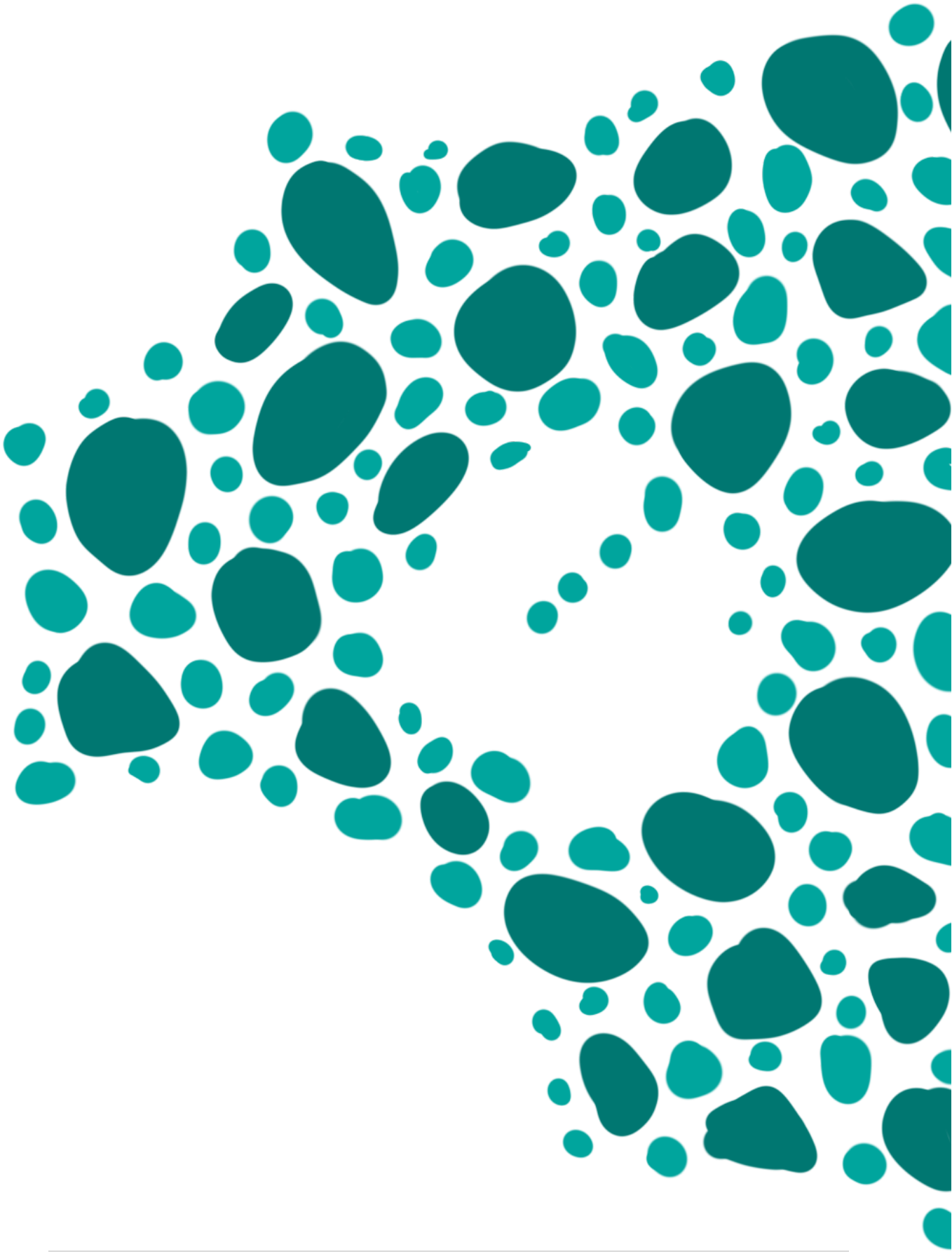


Chapter 1.3

How police respond to coercive control and what women and girls have told us

From victim protection to perpetrator accountability, the actions of frontline and specialist officers tasked with investigating allegations of coercive control can have life-or-death consequences.

'It feels like police don't listen; you have to tell your story to get them to see patterns and even then they send you away; Policelink told me to report an incident to the station; the station told me not to worry about it; I have had police ask me if charging him will make it worse; I am listed as high risk yet this seems to have little bearing on the way police react' [1]

The Queensland Police Service (QPS), like the rest of the Queensland and Australian community, is only just beginning to comprehend and respond to the scale and nature of domestic and family violence.

In 2015, following the *Not Now, Not Ever* report, a dedicated Queensland Police Domestic, Family Violence and Vulnerable Persons Unit, led by the State Domestic and Family Violence Coordinator, was re-established to drive change across the service.[2] As an organisation traditionally dealing with complaints about discrete incidents, the QPS is still grappling with how to combat the patterned-based abuse of coercive control. The Taskforce is pleased to note the QPS's recent creation of a dedicated Domestic, Family Violence and Vulnerable Persons Command in 2021, a sign that the QPS is committed to prioritising an enduring response to domestic and family violence.[3]

In this chapter, which contains confronting examples of negative police responses to victims of domestic and family violence and coercive control, the Taskforce honours the victims who share their experiences of their contact with the police. Their stories expose the limits in police approaches and highlight the areas where progress is most needed.

Change begins with listening to the voices of victims and respecting their views and experiences. In submissions to the Taskforce, victims often spoke of not being heard or believed when coming into contact with the broader justice system. Although this was a prevalent theme in the Taskforce's consultations, the QPS was not the only criminal justice agency criticised. In chapter 1.4, we detail accounts of negative victim experiences with lawyers and judicial officers.

The chapter is organised into three parts. First, it explores the work carried out by the QPS to confront the scourge of violence and abuse and outlines the principal challenges officers, especially first-responders, experience in policing domestic and family violence. Second, it talks about why victims don't report domestic and family violence to the police. Finally, it identifies factors hindering the QPS from moving forward in its attempts to best address domestic and family violence, including coercive control.

QPS responses to domestic and family violence

The changing landscape of policing responses to domestic and family violence

Over the last decade, the rates of domestic and family violence incidents reported to the police has increased significantly.[4] This means domestic and family violence is now a core part of policing and occupies an increasing proportion of police time.[5] Broad-ranging reviews on policing of domestic and family violence have been conducted throughout Australia, including the Victorian Royal Commission into Family Violence[6] and the Special Taskforce on Domestic and Family Violence in Queensland.[7]

In its submission to the Taskforce, the QPS furnished these statistics:

- In the five years to June 2020, domestic violence-related occurrences increased by over 20%, and breaches of Domestic Violence Orders increased by over 52%.[8]
- In 2021, 'approximately 40% of all police time is expended responding to and investigating domestic and family violence.'[9]
- In the 2020–21 financial year, the QPS investigated 119,876 domestic and family violence-related occurrences and made 21,193 police applications for a protection order.[10] These applications were in addition to the 79,285 Domestic Violence Orders already in place as at30 June 2020.[11]

The 2019 Greenfield Review of the QPS found that 'non-traditional calls for service', such as domestic violence and mental health, have risen.[12] The review noted the length of time taken to respond to domestic and family violence and the increase in complexity of these matters. It also noted that 42% of calls for service were unmet in 2018–19, suggesting a further review of existing structures, policies, and processes is required.[13]

The core role of policing agencies across the world is prevention, detection, and protection.[14] Rapid response is a significant part of the policing role, with officers rostered 24 hours a day, 7 days a week, to respond to calls for service.[15] These calls for service are triaged[16] through the police communications centre, and officers are tasked to respond to a range of incidents. In principle, these first-response officers attend, secure the scene, conduct a preliminary investigation, and identify whether further investigation is required. If so, detectives from the relevant specialist unit (such as a sexual offences unit, the youth offenders' unit, the criminal investigation branch, or the homicide squad) take charge of the incident.[17] This process enables officers first on-scene to return to patrol quickly.[18] The process worked in the past because complex crimes, such as those involving sexual violence or homicide, were smaller in volume than nowadays. The specialist and investigative units could easily handle the workload.

Barriers specific to the Queensland context include the expansive size and decentralised nature of the state. These increase the cost of services and decrease their accessibility in many remote and rural areas. The close-knit nature of regional and remote communities and the lack of anonymity this closeness brings make reporting domestic violence and effective police responses more problematic.[19] Additional barriers specific to rural communities identified in the literature include 'rural masculinity' (that is, placing strength and stoicism over help-seeking), normalising male violence, and not holding perpetrators to account.[20]

The Queensland Police Union of Employees (QPUE) informed the Taskforce that a first-response police officer could take an entire eight-hour shift to respond to an initial domestic and family violence call for service.[21] That excludes time taken for follow-up, service of documents, and court preparation.[22] This has a flow-on effect in terms of the capability and capacity of first-response officers to keep up with demand and their ability to move quickly from one service call to the next to maintain community safety.

Current serving police who met with the Taskforce described the time taken as reasonable given the complexity of these matters and the need to prepare documents to support civil protection order proceedings:

> Demands on police service delivery are growing and changing. This is caused by changes in criminogenic behaviours, increases in the complexity of social issues and increasing community expectations about responses to DFV, among other factors.[23]

This changing landscape of policing was reiterated in a meeting between the Taskforce and representatives from the QPUE, one of whom noted:

> … domestic and family violence and mental health are now the two big calls for service and the whole role of policing has changed. It is no longer purely about crime, it is about community safety and protection and those social skills.[24]

Expectations about the required allocation of resources for responding to domestic and family violence matters play out in the frustrations of police with the paperwork involved.[25] Taskforce submissions about the attitudes of some Queensland police support research that domestic and family violence paperwork is a source of frustration for police officers. Officers are also frustrated with the additional political and organisational scrutiny surrounding policing responses to domestic and family violence.[26]

The Taskforce heard that there seemed to be pressure on first-response police to minimise time spent on domestic and family violence complaints. This is despite research noting the need for police to develop positive, collaborative, and understanding relationships with the victim.[27] The Taskforce also heard that some police were reluctant to describe cases as domestic and family violence in an attempt to avoid paperwork.[28] In one instance, supervisors purportedly directed the police not to report calls for service as domestic violence matters to avoid additional paperwork. Taskforce submissions from victims said some police officers made no attempt to hide their frustration with the amount of paperwork required. This made victims feel as if they were an unwanted 'administrative burden':

> 'I was upset and distressed, and so I couldn't tell my story coherently. One police officer complained about how long it would take him to write it up and asked "do I really need to write this up?"' [29]
>
> 'Through work I have encountered police officers casually talking to offenders as if what they have done is not a big deal and a DVO means nothing. I have seen officers shrug and tell offenders that it's just a piece of paper and it's just a process that they have to follow now.' [30]
>
> 'The officer said "Oh, you are one of those. You are going to make me do all this paperwork, not go through with it and then you will be back here again in a few months".' [31]

There can be little doubt that increased community awareness of domestic and family violence has had significant resource implications for the QPS. The Taskforce notes that when comparing 2012–13 with 2017–18 figures, police now spend, on average, 45 minutes more on each contravention of a Domestic Violence Order and one hour more on each police application for a Domestic Violence Order.[32] While this additional time spent on domestic violence may be a necessary step forward, it does add pressure to already overburdened first-response officers, affecting their capacity to respond to other calls for service.

The QPS's submission to the Taskforce mentioned the perception of domestic and family violence work being an administrative 'burden' for the police and suggested this work is diverting 'finite police resources from victim support, prevention, investigation and disruption'.[33] QPUE representatives also raised this issue, noting 'the extra reporting and internal compliance has put a lot of work on officers'.[34]

The response of some police officers to reports of domestic violence may be due in part to a culture that operates on quick-fix solutions. For example, police working within road policing may use the number of tickets issued as a form of self-motivation. When officers achieve this goal, it gives them a sense of accomplishment. The same cannot be said for officers responding to domestic violence. This is because victims may reach out for help many times before feeling safe and confident enough to leave or follow through with a criminal complaint.

The time taken by police attending domestic violence calls, coupled with a sense that they haven't accomplished anything, may erode their sense of accomplishment overall and make them question their purpose.

Specialist police responses to domestic and family violence

There is a growing body of evidence on the value specialist policing teams can bring to the domestic and family violence context.[35] This includes collaborative and integrated multi-agency response teams and internal specialist units within police agencies.

To better address domestic violence, including coercive control, Taskforce submissions have called for specialist units within the QPS.[36] These calls are supported by recent reviews. Based on recommendations from the *Not Now, Not Ever* report, the QPS reinstated the role of the State Domestic and Family Violence Coordinator to provide strategic direction and operational guidance to District Domestic and Family Violence Coordinators.[37] Additional recommendations also called for increased allocation of Domestic and Family Violence Coordinators across the state.[38]

While the bulk of domestic and family violence incidents are responded to by frontline police, specialist domestic and family violence coordinator positions are funded in each of the QPS's 15 districts. The QPS also established eight Domestic and Family Violence and Vulnerable Persons Units.[39] The purpose of these units is to offer ongoing support to victims, assist with reducing repeat calls for service, and help to keep people and families safe.[40] The units differ in size and makeup and may include a mix of detectives, specialist domestic and family violence coordinators and practitioners,[41] mental health workers, and general duties police. These units are currently in South Brisbane, North Brisbane, Sunshine Coast, Gold Coast, Logan, Maryborough, Townsville, and Cairns.

In addition to these units, there are formal and informal integrated service responses throughout Queensland to support collaborative work with other government and non-government agencies across the service system. These include collaborative partnerships between the QPS and domestic violence specialist services and multi-agency partnerships led by the Office for Women and Violence Prevention within the Department of Justice and Attorney-General (chapters 1.2 and 3.5).

In March 2021, the QPS established the Domestic, Family Violence and Vulnerable Persons Command (the Command).[42] As the central point of contact for all strategic and policy matters relating to domestic and family violence, the Command oversees QPS systems, training, and processes through a domestic and family violence and vulnerable persons lens. It also aims to improve understanding of, and outcomes for, victims of domestic and family violence and vulnerable Queenslanders.[43]

The QPS Domestic and Family Violence Coordinator Network

The QPS funds 54 positions to support an internal domestic and family violence coordinator network.[44] These coordinators work with district officers[45] to ensure the overall district response to domestic and family violence is appropriate. They also offer training to operational officers and help other government and non-government agencies address domestic and family violence.[46] In some districts, these coordinators are the only specialist officers responding to domestic and family violence. The QPS has called for Domestic, Family Violence and Vulnerable Persons Units to be rolled out across the state to support coordinators in those locations.

Domestic and family violence coordinators — Police Communications Centre

The QPS recently embedded six domestic and family violence coordinators within the Brisbane Police Communications Centre (BPCC). This initiative aims to provide close to 24-hour coverage across Queensland. The coordinators are available to offer timely support to frontline officers and QPS staff with matters related to domestic violence when the local coordinator is unavailable.[47]

The BPCC coordinator can provide advice to officers on the way to or at the scene of an incident — for example, about relevant domestic violence histories, police protection notices, and Domestic Violence Orders that are in place (including interstate orders).[48]

This BPCC initiative, based on an existing mental health model, posts a mental health clinician to the communications centre to give immediate support to officers at incidents involving people in a mental health crisis. The capacity to provide timely support to officers about domestic and family violence matters should lead to better outcomes for victims. Further evidence and an independent evaluation of the results achieved are required to ensure the model is based on best practice and meets its aims.

High-risk and recidivist domestic and family violence offenders

The Taskforce heard about two QPS 'focused deterrence' initiatives targeting high-risk recidivist offenders. On 15 August 2020, the QPS commenced Operation Sierra Alessa, a two-month state-wide coordinated response targeting high-risk and high-harm domestic and family violence perpetrators.[49] The operation was founded on a focused-deterrence approach, which means it was designed to monitor and proactively disrupt prolific, serial domestic and family violence offenders (classed as those with three or more previous Domestic Violence Orders).[50]

According to the QPS, over 300 perpetrators (involving more than 1100 victims) were monitored.[51] Officers attended perpetrators' homes and told them they were being monitored.[52] According to the QPS, a preliminary evaluation of the operation's first phase suggests it led to a 26%[53] reduction in domestic and family violence criminal charges and other violence-related criminal charges.[54] When looking at reduced offending for domestic and family violence charges alone, the QPS reported the number of reductions for these charges was 56%. However, as QPS clarified in its report this finding is skewed:

> An identified outlier of charges against one respondent skewed outcome data. During the operation one respondent was charged with 41 breaches of a DVO. Thus, when results were analysed there was a decrease of 56% after a focussed deterrence strategy was implemented. This identified outlier is disproportionate and not reflective of the entire cohort. However, when this outlier is removed a decrease of 31% in DFV related charges remained.[55]

The QPS was not able to provide information about safety outcomes for victims of these offenders during or after the operation.

Following Operation Sierra Alessa, the QPS launched Operation Tango Alessa, based on the same principles. The QPS used a new Harm Ranking and Evaluation Tool (THReT), which it developed with experts in data science and behavioural psychology.[56] It is not yet clear whether this operation was a success in terms of perpetrator accountability and victim outcomes. However, the QPS has already flagged the potential for more focused-deterrence operations.[57]

QPS risk assessment tools

The QPS developed a Domestic Violence Protective Assessment Framework (DV-PAF) in 2013 to improve how frontline police officers make decisions when assessing the needs of families experiencing domestic and family violence.[58] The DV-PAF is publicly available as part of the QPS Operational Procedures Manual, Chapter 9, Appendix 9.1.[59] It consists of 22 evidence-based risk assessment items, victim level of fear, and risk level. It includes risk factors relating to previous conduct by a perpetrator, including stalking, controlling behaviour, sexual violence, strangulation or suffocation, suicidality, violent threats (including threats to kill), child abuse, and animal abuse.

The DV-PAF has been independently validated and re-evaluated, and changes are under consideration.[60] On 3 August 2021, the QPS piloted new functionality on 100–200 of 7,200 portable Q-lite devices to allow officers to complete the DV-PAF report at the scene of an incident. It has advised that this technology has since been rolled out to approximately 7,000 devices.[61]

DV-PAF assessments are recorded separately in the QPS information management system (QPRIME), which means physically accessing each one is time-consuming — the system is only fully accessible at police establishments. QPRIME access on portable Q-lite devices at the scene is limited. Not all police have access to a Q-lite device, and state-wide internet access is patchy.

If on their own (such as in one-officer stations), officers cannot review QPRIME when they are mobile or at the scene.

While the DV-PAF has been assessed as quick and easy for police to use and may improve the quality and thoroughness of police investigations, there are some drawbacks. Notably, it does not predict the future risk of re-offending, unlike assessment tools used by police in other jurisdictions. It is used by police to determine an immediate course of action.

It also does not allow information to be updated. All domestic violence incidents are treated and recorded separately, as they are observed at a particular point in time rather than as part of a pattern or as cumulative harm.[62] This limit lessens its usefulness for cases of coercive control.

The Taskforce heard criticism of the DV-PAF during consultation. The Domestic Violence Action Centre suggested that it 'needs to be completely redesigned to acknowledge or assess coercive control based on evidence of abuse and the risk that this presents to victims'.[63]

Some submissions to the Taskforce described risk assessment processes used in the service sector as effective in identifying coercive control.[64] One victim suggested how risk assessment could be used more effectively:

> 'I believe specialist policing involving highly trained officers in specialist facilities will provide an environment where risk assessment tools identifying coercive control can be most effective.' [65]

One Taskforce submission also outlined the difficulty in assessing all behaviours that could be coercive or controlling generally:

> … behaviours that are experienced by a victim/survivor as coercive and controlling are … likely to change over time. In some contexts, giving flowers might be experienced as controlling and the situation may be dangerous, although giving flowers is of course not always coercive controlling …The need for coercive control to remain open ended and understood within each individualised experience … makes risk difficult to assess in some situations.[66]

Care must be taken to avoid an assessment tool becoming a 'tick and flick' exercise rather than an informed decision-making process. Police must assess domestic and family violence as a pattern of violence over time in the context of the relationship as a whole.

While the DV-PAF assesses a victim's level of fear and risk, the Taskforce is concerned that it focuses primarily on the perpetrator's conduct and history and overlooks the victim's risk and safety needs. This may result in a misalignment with other risk assessment processes used throughout the service system that assess level of risk to a victim. It is problematic, for example, when agencies refer to assessing 'risk' rather than clarifying *what* risk, *who* for, and *what the level of impact* might be.

Any tool must help police exercise appropriate decision-making rather than replace it. Officers will require additional training in domestic and family violence, using frameworks such as social entrapment (a framework for looking at different evidence of disadvantage and barriers to help-seeking to understand victims' experiences of coercive control)[67] to increase their understanding of structural inequalities that can add to the risk of harm, the dynamics and complexities of coercive control, and the long-term damage to children.[68]

The QPS also advised the Taskforce that it is developing other initiatives to assess risk. For example, it has recently partnered with the RSPCA to identify opportunities to prevent and investigate domestic and family violence when responding to animal cruelty reports.[69]

It has also introduced localised risk assessment guides (these vary across districts, and not all have a guide). Generally, guides incorporate a range of open-ended questions that officers from Vulnerable Persons Units can use to follow up with a victim after the initial frontline police response. These questions gather further context about the violence and identify factors that may influence the level of risk.

The QPS has also developed an automated risk assessment tool supported by machine-learning capability to identify high-harm domestic and family violence relationships.[70]

The Taskforce acknowledges that a small number of perpetrators are responsible for significant amounts of harm. However, it is essential for police and other agencies to address offending and victimisation at all levels of risk using a public health model of prevention and intervention. As outlined in the *QPS Strategic Plan 2021–2025*, the QPS has committed to 'prevent crime together, by connecting our people, community and relationships to collectively build a community culture of prevention and harm minimisation'.[71]

Artificial intelligence to predict and prevent domestic violence incidents

The QPS recently announced a trial of an artificial intelligence (AI) system to identify high-risk domestic violence offenders.[72] The actuarial tool, developed using data from QPRIME aims to support a proactive policing approach. According to a QPS spokesperson, police will use the information from the AI tool to 'knock on doors' before an offence is reported.[73]

Actuarial tools are likely to play a role in the future of policing. They could give police a better understanding of the context of the abuse and the pattern of behaviour over time. Automating this history into a current risk assessment could help police determine the best course of action to keep victims and children safe, hold perpetrators to account, and potentially reduce misidentification of the person most in need of protection.

The role of AI in policing domestic and family violence is an under-researched area of study. Further evidence-based research is required to determine the viability and legitimacy of this approach. This research should incorporate the voices of victims. It needs to assess victim outcomes, perpetrator accountability, potential unintended consequences, and ease of use for police. To avoid perverse outcomes, tools must not remove the use of professional judgement as part of the decision-making process and the proper collection of evidence. Appropriate training must also accompany any new advancements in risk assessment.

Referrals to specialist services

Police can play a vital role in linking both victims and perpetrators of domestic and family violence with specialist support at an early stage.

For example, the QPS shared with the Taskforce information about a trial where officers successfully engaged with medium-risk perpetrators to refer them to support services. The officers in the trial were skilled communicators, some with a background in negotiation, and 'the evaluation highlighted how important effective police communication is when engaging with perpetrators'.[74]

The DFVP Act[75] includes a provision for police officers to share information to help specialist domestic and family violence service providers assist in the referral process.[76] In recent years, and in line with the recommendations of the *Not Now, Not Ever* report, police have devoted more time and energy to referring people to support services. Making a referral to a service or multiple services has become an embedded strategy in frontline policing,[77] with a 57% increase in referrals and an average increase of 18 minutes spent making referrals between 2012–13 and 2017–18.[78]

QPS referrals to service providers are facilitated by a state-wide Queensland police referrals service (known as Redbourne). This is linked to QPRIME so police can access referral history. The system comprises over 530 service providers and 67 different issues — grouped broadly into 22 referral categories and linked to 10 themes. Themes include domestic and family violence (victim and perpetrator); homelessness; health and wellbeing; mental health; seniors; and victim support services.[79] Consultation with service providers noted that an additional system in police communications allows referrals to be made directly from police communications.[80]

QPS analysis of 2019 referral data suggests there is a significant reduction in both recidivism and revictimization rates for those people who accept a referral. Of the total number of unique offenders who did not accept a referral, 25.87% (n=24,511) re-offended in less than three months. This compared to 4.27% (n=4,041) who had accepted a referral in the same period.

Similarly, of the total number of unique victims who did not accept a referral, 20.39% (n=19,716) were revictimized in less than three months compared with 6.88% (n=6,647) unique victims who had accepted a referral.[81] It is not clear how many of these perpetrators and victims were already connected to a service before a police referral was made.

Service providers told the Taskforce that they were now receiving many police referrals through the QPS automated referrals service. Some service providers noted deficiencies and a lack of consistency in the quality of the referrals. For example, some police may provide detailed information about the incident, while others may only provide one or two lines. A lack of information makes it difficult for workers to form an initial assessment on the type of support needed or the level of risk involved. Insufficient information included in the referral sometimes made it difficult to triage cases or even to contact the client.

The QPS expressed frustration about the lack of information provided from service providers to the QPS and courts following referrals. The QPS noted there was a 'limited feedback cycle' about whether the perpetrator accepted the referral, agreed to participate in any counselling or behaviour-change program, and whether the intervention had any positive outcome.

As discussed in several other areas of this report, service availability is not consistent across the state — some areas have no domestic and family violence specialist or generalist service support. This is the case for most remote and rural areas, particularly outside business hours.

The lack of available services severely limits the options for police to:

- support victim or perpetrator engagement with services in these areas
- protect victims and bring perpetrators to account.

Specialist domestic and family violence services triage cases that require a response. A referral from the police may not necessarily be considered to be of the highest risk or need.

What victims told us about police responses to domestic and family violence

Domestic and family violence as incident-based physical violence: 'It's not like you've been hit — now, that would be taken seriously'[82]

The Taskforce has heard many stories of inadequate police responses to coercive control as well as some stories of excellent police responses that made victims feel believed and contributed to their safety.

The Taskforce received 479 submissions from individuals who identified as victims of domestic and family violence. Of those, 240 (46.8%) submissions were from people who shared stories about their interactions with the QPS.[83]

Of those submissions, only a small percentage (7.9%) described their interactions with the police as positive. A significant percentage (55.0%) discussed negative experiences and just under one-quarter (21.3%) described their interactions with police as a mixture of negative and positive experiences. The remainder of the submissions did not state whether the interaction was positive or negative (15.8%). Similar rates were evident when describing interactions with the broader justice system, as discussed in chapter 1.4.

The Taskforce acknowledges the exceptional service provided to victims by some police. It is this 'exceptional service' that makes victims feel believed and supported. The Taskforce wants this to be the 'normal' experience of victims of domestic and family violence when dealing with the QPS.

The *Domestic and Family Violence Protection Act 2021* (DFVP Act) recognises that domestic and family violence 'usually involves an ongoing pattern of abuse over time' and includes non-physical abuse. However, in reality, police (and, as discussed elsewhere, the broader criminal justice response) has tended to focus primarily on individual incidents of domestic and family violence and physical assaults.

Many victim submissions to the Taskforce reflected this. Victims have told the Taskforce of their desperate attempts to convince police about the seriousness of their situation. It was most evident in cases where perpetrators relied on non-physical forms of violence to intimidate and control the victim.

> 'Verbal and Psychological Abuse is so hard to prove with the current system. I was turned away multiple times from police stations telling [me] it wasn't bad enough or not enough evidence.' [84]

In some cases, victims told the Taskforce they had tried to gather their own evidence. For example, one victim spoke of an attempt to report ongoing stalking and surveillance by an ex-partner. This victim believed police were too overworked to investigate non-physical forms of abuse.

> 'Following police advice, we spent time and money to record, watch weeks of footage and report him driving past the house. Still the police do not act on this. It is not their fault as it's clear they are over worked as they are reluctant to address these kinds of breaches. Waiting until "it's more serious" or "you are actually physically threatened" may be too late.' [85]

Research into the policing of domestic and family violence suggests that some police perceive verbal arguments as a private matter when physical violence is absent.[86] The submissions received by the Taskforce confirmed that finding. For example, when attempting to report ongoing abuse — including being kicked out of the house and away from her children with no keys — one victim said the police told her there was nothing they could do because the perpetrator 'had not hit her'.[87]

Another victim described receiving mixed responses from police. This victim and child had experienced frequent sexual and physical violence as well as non-physical violence.[88] The victim recounted that the first police station response was very supportive despite a lack of action to ensure perpetrator accountability over the criminal offending.[89] However, when attempting to report extensive breaches to police at a second station, the victim was 'told to just get over it all and move on'.[90]

Submissions repeatedly indicated a lack of police understanding about non-physical violence and abuse. Overall, the Taskforce found that the police response to domestic and family violence was less about overworked police or a lack of evidence and more about the widespread misunderstanding of domestic and family violence.

Victims voiced their frustrations at having their experiences of violence assessed as separate incidents rather than patterned behaviours. Yet context is everything. In chapter 1.1, the Taskforce acknowledges that the tactics used by perpetrators may not appear significant when viewed in isolation. However, when viewed in context and over time, the perpetrator's intent to intimidate and incite fear in the victim becomes clear.

Victims said they felt confused, angry, and let down when the police appeared uninterested in their attempts to give context to their experiences of violence and abuse. In some cases, they were even made to feel responsible for the perpetrator's behaviours. Some police interpreted the perpetrator's behaviour as isolated explosions of anger in response to the victim's actions:

> '... after he assaulted me I was giving the female police officer my side of events when she asked me, 'don't you think you were being antagonistic?' [91]

Victims also talked about police making them tell their stories over and over again. This happened because different first-response officers may attend to a call for service with no knowledge of previous incidents and patterns of abuse. It reinforces the Taskforce's view that police responses to domestic and family violence are still incident-based and do not allow examining the relationship as a whole — including after a relationship has ended.

Victims told us about police officers and police staff members failing to recognise and understand non-physical forms of violence as harmful:

> '… my ex found a colleague online … and enquired into my whereabouts … She alerted me to this and that he mentioned he now lived in [Queensland]. I rang Policelink, the guy who took my call was wonderful. He said to go to the Police Station … and arranged a time … for me to see a QPS member … During this conversation I was visibly and extremely upset, some might say hysterically upset. She told me there was nothing they can do — the temporary order I had was not even an order. There was no protection order. She was not interested and made me feel that this was a feeble attempt to stop my ex seeing my son! This was about my safety and that of my son. After … years of physical and mental abuse and the departing words of a man wanting to find and kill you — safety was my concern — for the both of us! But this lady was not going to help me at all.' [92]

A key concern of the Taskforce is that when domestic and family violence is framed as individual acts of physical violence, victims whose experiences 'fall' outside this understanding of violence are left to 'manage' the perpetrator's behaviour on their own. As a result, victims feel isolated and scared:

> 'Trying to convince police officers that you are being abused through coercive control is disheartening, discouraging, and ultimately leaves you feeling that you are not protected or supported at all. For a victim of coercive control, who is already struggling with the mental and psychological impact of manipulation and control, this is devastating …' [93]

When police fail to recognise the pattern and cumulative harm of coercive control, victims are denied safety and protection and are at risk of 'falling through the cracks'. It also fails to hold perpetrators to account and has the potential to misidentify primary victims as perpetrators.[94]

The 'undeserving' victim: 'She belittled me and made me feel like I was wasting other people's time'[95]

Victims rarely call the police the first time they experience domestic and family violence.[96] When they do call, they are generally seeking one or a combination of the following:

- protection from immediate harm
- prevention of future harm
- rehabilitation for the perpetrator
- justice for the ongoing abuse they have experienced.[97]

Contrary to popular belief, victims do not usually call the police because they want the perpetrator punished.[98] As service providers and advocates can attest, most women just want the violence to stop.

Many victims described the police response as judgemental and dismissive of their fears. Officers victim-blamed and generally had poor attitudes towards victims. Victims spoke of being made to feel like they were wasting police time and resources:

> 'The officer (receptionist) was very rude. She asked me how many breaches there had been and what they were. She did this in front of other people at the front desk. She belittled me and made me feel like I was wasting other people's time.' [99]

Victims also described feeling humiliated and shamed after their interaction with some police.[100]

> 'Every time I called the police it was the same story … 'awww she will go back.' They made me feel like I deserved this.' [101]

In one submission, the victim reflected on how her appearance on two different days elicited very different responses from the same officer:

> 'I had to go to the station one time and saw the same officer who had let me down the day I was assaulted. [On] the day I was assaulted I looked like any new mother — unkempt, tired, vulnerable and had a crying baby. I was not supported. I was looked down upon. The day I went into the station I was dressed in my work attire. The same police officer who looked down on me in my home was only too willing to chat and laugh with me as he was no longer seeing someone unworthy of his time. This will have the biggest impact on me. I needed them on that day and literally felt like the scum of the earth.' [102]

The women's and girls' voices heard by the Taskforce confirm recent research. A qualitative study of women who had experienced domestic and family violence (n=65) in Queensland, conducted at three different points between 2014 and 2017, found a mixed response to police contact.[103] Some

participants felt police had treated them with respect, listened to what they had to say, and followed up on their safety.[104] However, although some individual officers responded well, women overall reported police:

- failed to investigate
- failed to identify relevant criminal charges
- failed to act appropriately to reports
- blamed women for the abuse
- sided with the perpetrator.[105]

In victims' submissions to the Taskforce, there were numerous examples of police perceiving the victim as acting to spite the perpetrator or exaggerating events:

> 'The police officer called me and told me he had spoken to my ex and that I was keeping him from his children.' [106]

> 'I was asked if I perhaps thought after all the stress that perhaps I was seeing things that weren't really there.' [107]

Given the poor response some victims receive — and continuous problems with police culture (discussed later in this chapter) — one victim suggested that 'some police shouldn't handle domestic violence calls because they are biased to the situation [and instead] there should be specially trained units who handle this.'[108] Another suggested that 'if these new laws are to be introduced, a specialised, well-trained branch of police will be needed to conduct interviews with traumatised victims … as a "blame the victim mentality" is well ingrained in areas of the legal process'.[109]

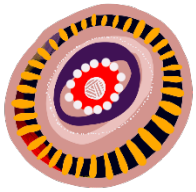
The Taskforce recognises that perpetrators can manipulate how the police respond to victims — an example of systems abuse (as discussed in chapter 1.1). Domestic and family violence perpetrators are skilled at manipulating aspects of the justice system in their favour to undermine the credibility of the victim. The Taskforce received submissions illustrating tactics used by perpetrators to manipulate police officers into taking their side:

> 'Just because someone comes across as polite and quiet when the police arrive doesn't mean he is not violent and dangerous. It just means he knows how to manipulate officers and it worked. Blaming the victims only leads to us losing complete faith in the system and feeling very alone and isolated trying to deal with someone who could kill us; the male officer that had been talking to my ex came over to me and said "I believe this is all your fault".' [110]

> '... two policemen turned up and concentrated on him as they felt I was the one who had started it. No attention was given to me and they asked me very superficial questions. One officer started joking with [the perpetrator] ... I just sat there and watched these men and all they did was joke ... while I sat there distressed after what had happened.' [111]

Perpetrators were shown to be skilful in discrediting the victim and manipulating police into colluding with them:

> 'I experienced seclusion from friends and family, financial abuse, put-downs, intimidating moods etc. coercive control is something that when you try to explain doesn't come across sounding too serious; periods of sulking, accusing me of not putting him first in my life. And usually 1-2 days of silent treatment. I would be walking on eggshells constantly. The police officer tells me to pull myself together so we can have a conversation. I tell him what happened. I had the voice recorder on my phone going so he listened to that. He escorts me to my house. The other officer [who] was talking to my ex comes in and tells me he said I had depression, was making all this up, was a drama queen and just doing it to get full custody of our son; [police] tell me they have asked him to leave but he wants to say goodbye to his son; I go out and they [police] are laughing and joking with him.' [112]



Aboriginal and Torres Strait Islander peoples: 'Racism and cultural exclusion in the police service'[113]

Aboriginal and Torres Strait Islander peoples, including leaders and Elders, have told the Taskforce they reject domestic violence and abuse and it is not their traditional cultural way.[114] Yet First Nations women are disproportionately affected by domestic violence. Over twenty years ago, the Aboriginal and Torres Strait Islander Women's Task Force on Violence reported the following to the Queensland Government:

> Indigenous women's groups, concerned about their disintegrating world, have been calling for assistance for more than a decade. While their circumstances may have been recognised, their pleas have not always been met and in some cases, deliberately ignored. At times, Government representatives appeared to regard violence as a normal aspect of Indigenous life, like the high rate of alcohol consumption. Interventions were dismissed as politically and culturally intrusive in the newly acquired autonomy of Indigenous Communities. Moreover, the 'Aboriginal cause' attracted little interest or sympathy in the broader Australian community, which seemed oblivious to the mayhem that was happening, even though the plight of Indigenous people had been described in numerous reports. The violence being witnessed can only be described as immeasurable and Communities, pushed to the limit, are imploding under the strain.[115]

Aboriginal and Torres Strait Islander peoples continue to experience structural barriers, entrenching communities in violence, marginalisation, and overrepresentation as both victims and perpetrators of domestic and family violence.

Due to historical or continuing negative relationships with police, some First Nations peoples may avoid contacting the police.

> In Aboriginal and Torres Strait Islander communities and family networks, perceptions of historical injustices, especially the forced removal of Aboriginal and Torres Strait Islander children from their families, have shaped a generational lack of trust towards police services and the criminal justice and social service systems and, in the light of the Stolen Generations, a lack of trust in child protection services. These are primary factors in a reluctance to report violence and to access the services available for all Australians.[116]

If the police become involved, their interactions with the police may be especially distressing.

The Aboriginal and Torres Strait Islander Women's Legal Service has called for 'intense [QPS] training to support cultural competency and trauma-informed practice'.[117]

The reluctance of Aboriginal and Torres Strait Islander peoples in Queensland to seek police assistance is influenced by the effects of colonialism and historically discriminatory policies,[118] along with more recent policies[119] that appear to reinforce past injustices.[120]

> Community participants' biggest concern seemed to be their fear that when a husband and wife fight and the Police are called the children are at risk of being taken by child safety. Some participants reported cases in the community that when the children were taken, they may not come back. Someone else raises the child. The child loses any relationship with their parents and family. All participants expressed that this grieved the community.[121]

For some stakeholders, the QPS is intrinsically linked to past brutality[122] and continuing discrimination perpetrated by the state against Aboriginal and Torres Strait Islander peoples.

> From the earliest times Native police, mission controls, child removal systems, incarceration in dormitories, police harassment, deaths in custody and hyper incarceration in the prison system have been a central mechanism of Indigenous dispossession and colonial control. This traumatic and politicised relationship with the criminal legal system continues today.[123]

These stakeholders challenge the notion that expanding police powers to respond to coercive control will benefit Aboriginal and Torres Strait Islander women.[124] They point to rates of misidentification of these women as perpetrators of domestic and family violence, high rates of arrest and incarceration, and deaths in custody as examples of how the criminal justice system is perpetrating state-sanctioned violence against First Nations people. [125] These stakeholders suggest that responses to domestic and family violence should lie outside the criminal justice system.

The Taskforce met with the Queensland First Children and Families Board.[126] The Board has responsibility for overseeing the implementation of *Our Way: A generational strategy for Aboriginal and Torres Strait Islander children and families 2017–2037.* This strategy aims to improve life outcomes for Aboriginal and Torres Strait Islander children and reduce their overrepresentation in the child protection system. Members of the Board discussed with the Taskforce the over-policing of First Nations people in Queensland as an ongoing effect of colonisation.

Police are not solely responsible for the historical injustice towards Aboriginal and Torres Strait Islander peoples; however, it is vital to understand this historical and continuing context when considering interactions between police and those communities seriously affected by domestic and family violence.

Sisters Inside and the Institute of Collaborative Race Research submitted:

> … while training options for police to better address domestic abuse in general terms are canvassed, there is no mechanism for dealing with significant and documented problems of racism and cultural exclusion in the police service.[127]

Groups with particular needs when dealing with police — people with disability, people from culturally and linguistically diverse backgrounds, LGBTIQA+ people, and children

The ability and willingness of victims to report their experiences to police can depend on a range of additional factors. These include:

- impacts of historical injustice and effects of intergenerational trauma
- structural inequalities (including gendered norms and attitudes towards women)
- access and availability to police and other services
- perceived discrimination
- cultural factors
- mistrust of authority in general (discussed above).

Victims may also be reluctant to call the police until they have suffered significant physical violence or severe, ongoing abuse.[128] They may think the abuse must incorporate elements of criminality and danger acute enough to threaten their safety and that of their children.[129] They are more likely to report the matter to the police once they perceive the abuse as serious.

People with disability, women from culturally and linguistically diverse (CALD) communities, and LGBTIQA+ communities experience additional barriers to reporting and engaging with the police. One submission to the Taskforce stated:

> Indigenous people are also part of the LGBTIQ+, gender diverse and disability community who require specific service due to the potential points of discrimination that they can experience by First Responders and the legal system.[130]

Research has reported various discriminatory police practices, including accounts where police have refused to take reports from people with disability experiencing violence and questioned the victims' credibility because of their disability.[131]

For victims with intersectional disadvantages, such as an Aboriginal and Torres Strait Islander woman with disability, willingness to report violence to police may be further hindered.[132] Not only do people from diverse backgrounds experience barriers based on personal police officer bias or police culture, but they also face barriers accessing suitably trained and educated officers to interview them.[133]

Multicultural Australia has called for the QPS to 'prioritise an accessible program of education, training and awareness-raising with stakeholders, police, and frontline services … and regular training of frontline staff in developing their cultural capability'.[134] The North Queensland Domestic Violence Resource Service (NQDVRS) has also called for 'culturally appropriate, regular and ongoing training about the nuances and complexities involved with domestic and sexual abuse … for all QPS staff, including police prosecutors'.[135]

Concerns over the present mode of QPS training are also featured in submissions. As NQDVRS stated:

> Given the high number of callouts and Police attendances to domestic and family violence, some real time and money needs to be put into education and training — more expansive than a few online training modules or one course. This needs to be an ongoing commitment of upskilling a workforce.[136]

WWILD Sexual Violence Prevention Inc. (WWILD) is an organisation that provides support to women with intellectual disability experiencing violence, abuse, exploitation, and sexual violence.[137] It believes cultural change is required, including:

> … significant training for police and the judiciary on women with disability, how they experience coercive control and how to support them. … police need further training in identifying the primary aggressor in situations of intimate partner violence with particular attention to the circumstances of coercive control. Police at all levels [should also] receive training regarding women and girls who have been victims of coercive control and more generally about this group to help overcome barriers to reporting within the police.[138]

The Taskforce received submissions from victims who described police as minimising the experiences of children in domestic and family violence situations. One victim shared her story about how police responded to her reports of the perpetrator's continuing abuse more than a decade after separation:

> 'Over the years I continued to be harassed by my ex-husband but was told by police that although I had a [Domestic Violence Order] there was nothing criminal in his behaviour and the absence of bruises and broken bones meant that it was harder for them to breach him.' [139]

This victim went on to describe the police officer dismissing reports of child abuse:

> '[the perpetrator] pushed [the child] down and held his hands over her mouth and nose and she was unable to breathe. She told me she was very scared and distressed. As she was a named person on my [Domestic Violence Order] I took her to the police station. After relaying what had occurred, I was separated from my daughter and taken into another room in the police station. The police officer sat me in a chair and he sat on a desk over the top of me. He told me that it was clear that I had coached my daughter and that if I wasn't happy with the court orders I had, that I needed to go back to court and seek new ones. I was treated with disregard bordering on disdain.' [140]

This report was not isolated. Other submissions provided similar examples of a woman attempting to report child abuse to police only to have police dismiss these reports as an attempt to get back at the perpetrator:

> Officers who have limited understanding of intimate partner violence may fail to appreciate the weight of these concerns [reluctance to end relationship, economic dependence, fear of reprisal] for … victims.[141]

Poor police communication

Good communication skills are essential for police officers dealing with the public. The way police communicate with the public has been the subject of previous reviews and recommendations[142] accepted over the years by the QPS.

Despite a large number of QPS employees undertaking communication training in 2017[143] and ongoing training in the use of communication models for operational police, Taskforce submissions highlighted continuing problems. The Taskforce acknowledges that some submissions recounted experiences with police some time ago and that the QPS may have since implemented initiatives to address these issues. A substantial number, however, reflected very recent police–victim interactions. These make clear that communication from both police officers and police staff could be much better,[144] particularly at first contact with victims.

Poor communication can leave a victim feeling isolated, invisible, and unworthy. It can also put victims in danger:

> 'The police should be required to record what has happened and look into it. They need to think about how they talk to the other party and [Domestic Violence Order] process so that they do not increase risk.' [145]

Poor police communication is not just about ineffective responses to victims but also about the failure of the criminal justice system to hold perpetrators accountable. This failure revictimizes victims and risks further harm to their children.[146]

Victims of domestic and family violence, like other victims of crime, want to have their experiences validated.[147] Validation is vital for victim engagement with support services, perpetrator accountability, and victim safety and wellbeing.[148] Submissions from people with lived experience and those from support organisations provided a range of suggestions for enhancing the police response to domestic and family violence. These included the need for ongoing communication between police and the victim, based on a trauma-informed approach:[149]

> '[There needs to be] follow up and ongoing communication with victims to advise of progress.' [150]

> 'I think a focus on trauma informed policing would make a huge difference. Even some basic training in regards to speaking with people, interactions and even believing people would go a long way.' [151]

> 'Trauma informed practice opportunities. Currently police and courts … rely heavily on testimonies and affidavits provided by victims, which is not necessarily trauma informed practice.' [152]

Even the body language used by a police officer can make a difference. The community on Palm Island told the Taskforce that when women attended the police station and were met by officers with folded arms and a resigned expression, it deterred victims from pursuing assistance.[153]

Inconsistencies in policing

A consistent theme heard by the Taskforce was how police responded when people sought help for domestic and family violence. Some stakeholders described this as a raffle. For example:

> Victim/survivors and their advocates have very little confidence in the outcome of a report to police, due to the significant inconsistencies of police responses to domestic violence. This variability and unpredictability occurs within stations and across the state, whether it is seeking a protection order or reporting a breach. Poor police responses unfortunately lead to a reluctance to involve police in future incidents, increasing risk and isolation for the victim/survivors.[154]

> It seems the police have a wide lens of discretion to minimise and dismiss the experience of a victim of [domestic violence] by imposing a subjective interpretation of the law and their own prejudices as to what [domestic violence] is. The net effect is a lack of consistency across the force at the front line.[155]

In some cases, victims were confused by conflicting information from police. One victim said that 'the spectrum of responses from police are so staggeringly different'.[156] Another victim had concerns that receiving conflicting information from police affected her safety:

'I have been given conflicting information from different Police officers regarding my rights as a victim. One of these instances put my life in direct danger and emboldened my ex-husband to continue to harass me with no ramifications from Police.' [157]

Findings

The current QPS response to domestic and family violence is inconsistent and inadequate. It does not meet the safety and justice needs of victims or hold perpetrators accountable.

The QPS policing approach, like many areas of the system, is framed by an incident-based approach to domestic and family violence, placing more importance on the presence of physical violence.

Police do not know enough about the dynamics, complexities, and types of domestic and family violence — including the nuances and dynamics of coercive control — and lack the skills to deal with them.

Police lack sufficient levels of cultural capability to respond to domestic and family violence involving First Nations people. This includes a failure to understand the cultural and historical barriers they face to reporting and cooperating with police.

The Taskforce finds the QPS is consistently failing to identify perpetrator tactics. This failure places victims at risk, and the risk extends to children exposed to or experiencing domestic violence.

Poor police communication skills lead to misidentification, misinformation, and ongoing harm. Police need to:

- improve their investigation techniques when handling domestic and family violence cases, including coercive control
- gain a better understanding of the evidence requirements for civil and criminal matters related to domestic and family violence, including coercive control.

Keeping victims safe — why aren't we there yet?

Police culture

The Taskforce recognises that the QPS has delivered a range of initiatives to address domestic and family violence. However, the issue of police culture has received less attention.

The *Not Now, Not Ever* report (2015) recognised the impact of police culture on victim outcomes. The report noted the need for investment in cultural change and strong leadership to 'remove any last vestiges of a culture that does not value women nor understand the costs to us all of allowing domestic and family violence to continue'.[158]

The QPS is attempting to change police culture through the QPS Cultural Enhancement Workshop and Culture Change Coaching Initiative.[159] However, despite the best efforts and commitment of the QPS senior executive to bring about cultural change, the Taskforce is concerned by persistent and widespread cultural issues within the QPS. Without addressing culture, initiatives implemented by the QPS are likely to produce minimal or short-term success.

Victims' experiences, as reported to the Taskforce, raise concerns about deeply ingrained problems in police views and attitudes towards victims of domestic and family violence:

> 'Hearing a police officer say that in their area if they have a fatal crash and [domestic and family violence] case and that have [two] cars available, the officers would rush to the fatal crash then go to the [domestic and family violence] case as it is a waste of their time.' [160]

> 'In my experience the police still have a long way to go to respond appropriately to victims of DV. Many of them are cynical and make the victim feel like they are at fault. I understand the need for process and protocol, but many officers reach the point of being officious or treat you like you are an annoyance. And if you've experienced domestic violence [you] will avoid situations that make [you] feel even worse.' [161]

As acknowledged above, the QPS leadership is attempting to introduce positive change through the Cultural Enhancement Workshop, a one-day program delivered to all QPS members.[162] The workshop is designed:

> to improve awareness of behaviours and attitudes towards domestic and family violence, and to enhance the culture and policing response to [domestic and family violence].

The Culture Change Coaching Initiative,[163] first delivered in 2019, aims:

> to promote positive cultural and attitudinal change to [domestic and family violence] across the Service through leadership and mentoring by Senior members.

The QPS advised that additional Culture Change Coaching initiatives are expected to be delivered before the end of 2021, with the expectation the initiative would be delivered across police districts by local QPS Culture Change Champions.

The QPS is not the only police organisation with widespread cultural issues about domestic and family violence. The Taskforce acknowledges these problems are also in the broader community.

Other jurisdictions are grappling with the challenge of implementing effective police responses to domestic and family violence and overcoming individual and organisational attitudes and culture,[164] including views that domestic and family violence is not 'real' police work.[165] Research shows officers feel a sense of frustration, futility, and disillusionment when 'attending the same address for the same people and never achieving a different outcome'.[166]

The Taskforce recognises responding to domestic and family violence is complex, time-consuming, unpredictable, and sometimes dangerous work for the police. As the QPS stated in its submission to the Taskforce:

> … police are confronted with a complex matrix of issues which are often entwined with emotion and other characteristics of vulnerability.[167]

The Taskforce also acknowledges that police are in a role that provides them with considerable powers and responsibility to keep the community safe. The 1987 report of the Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct (the Fitzgerald Inquiry) noted the importance of police culture to the community. This is because police are the gateway to the criminal justice system. Police have a certain amount of discretion in how, when, and to what extent they execute these powers.[168]

Organisational culture influences police discretion on matters such as the level of priority given to a complaint, the acceptability of using resources, and the expectations about an individual officer's demeanour or treatment of a victim or perpetrator.

The Taskforce has observed a level of community cynicism and weariness towards police responses to domestic and family violence that is not only disconcerting but raises concerns for victims seeking safety.

> 'There is a big gap between what police see and report when walking and driving around the community and what is actually happening. The victims are everywhere. The gap is caused by a massive lack of trust in the police. It cannot be denied, people just do not trust the authorities anymore. I know, they tell me every day. Unless there is a massive change among us, the abuse will not stop, it will get worse.' [169]

> 'Coercive control is terrifying and the impacts arguably as significant as physical violence. Survivors do not make these things up, their concerns must be taken seriously and police must do everything possible to put these perpetrators before the court to be held accountable, or women and children will continue to die. I have felt the judgement and scathing looks from officers convinced I am nothing more than a trouble-making woman tainting the reputation of a great bloke.' [170]

The Taskforce has been overwhelmed by the scale and nature of widespread police cultural issues towards victims permeating its consultations with the community. In chapter 3.5, the Taskforce proposes ways forward to address this underlying issue in the police service. As noted elsewhere in the report, the Taskforce also recommends changes to improve attitudes and beliefs concerning domestic and family violence throughout the community, not only in the justice system.

Two sides of the same coin: risk and safety

A police officer's role when attending a domestic and family violence incident can be complex. If not adequately trained to perform this role, they may consider only limited options when deciding how best to hold a perpetrator accountable or keep a victim safe.

For example, if they learn of alleged criminal behaviour, they naturally expect to arrest and charge a perpetrator. This, however, may not be the best option to keep a victim safe in the immediate or short term and may contribute to an escalation in violence in the longer term.

Domestic violence support service workers are trained to take a more nuanced approach. Their focus is on keeping victims safe. They understand when assessing the safest course for victims that they must listen to the victims. The Taskforce heard some examples of police successfully addressing the risk by not immediately dealing with the perpetrator's behaviour, where this was the safest course for the victim and the community. To best keep victims safe, police need to consider both the risk of harm to a victim and their safety, as well as the risk that a perpetrator will continue to use violence.

The Taskforce received multiple submissions where victims voiced concerns about police focusing on managing the perpetrator's risk of continuing to use violence without understanding how this action might endanger the victim. The quote below illustrates this point:

> 'I went to the police station that afternoon. It was a horrific experience. I brought [evidence of the assault] with me, along with a timeline of events leading up to the assault. I spoke to a young female police officer and explained my concerns. I was left to stand in the main corridor of the station and try to explain the situation through the plexiglass. I was incredibly distressed and told her I was in fear for my life. I thought he was going to kill me as he had nothing left to lose …The police officer said she would send a squad car round to his [residence]. I told her this would inflame the situation, and did not want him approached … I wanted to put in a police report, in case something were to happen to me that night. The police officer flatly refused, and said [she] would need to tear up my statement if I wouldn't agree to him being confronted by police that night. She would not listen to my reasoning, even though I knew what would keep [us] safe in the short term. I agreed that she should tear up my statement, and I left incredibly distressed and horrified at my treatment at the police station … I did not engage again with police after that experience.' [171]

Victims also raised concerns about how police assess risk:

> 'The way I was treated by the police officer … was not right — she should have had a better understanding of a risk assessment. It showed a lack of judgement.'[172]

> 'I was "egg-shelling" when I gave the police my information to avoid triggering my ex. I had to get things re-written so it didn't inflame the situation. If my ex had read it the way the police had written it, he would have freaked out. He may have hurt my dogs or damaged my house.' [173]

While victims were sometimes anxious about police taking action against perpetrators that would make them unsafe, far more often we heard that the police's failure to take action left victims and their families to take responsibility for their own safety:

> 'I attended the police station a number of times, initially whilst my daughter sought her [Domestic Violence Order] and then when her ex breached the orders. The response from the majority of police at the station was at best dismissive and at worst, they did not believe my daughter. She was treated as the criminal. Again, as a result of poor treatment by police and the judiciary, my daughter and I took her safety and that of her children, into our own hands. I paid for all her windows and doors to have crim safe installed, installed security cameras inside and out and a panic alarm inside the house. From our experiences there are two outstanding issues that, where domestic violence is concerned, are both "in the too hard basket" These are:
>
> 1. The police who don't believe or aren't interested in domestic violence victims, especially women and who do little (either because they can't or don't want to) to assist women in their efforts to keep themselves and their children safe.
>
> 2. The judiciary and their processes, make keeping domestic violence victims safe next to impossible. Fines, good behaviour bonds for perpetrators of [domestic and family violence] are a joke and ineffective at best.' [174]

Earlier, this chapter discussed the QPS use of AI to identify high-risk offenders. The Taskforce notes that a significant limitation of AI is that it relies on the quality and quantity of information stored in QPRIME and does not include matters not reported to and recorded by police. According to the QPS, the AI system is intended to support, not replace, the exercise of professional judgement, education, training, and experience of police officers.[175] The Taskforce acknowledges the importance of the QPS exploring and evaluating innovative approaches like AI but notes concerns. These include doubts about reliability, potential incompatibility with the *Human Rights Act 2019*, and limited research into the benefits and costs of this approach.[176]

The risk assessment tools police rely on draw on data about previous police interactions between perpetrators and victims. There is a particular risk that Aboriginal and Torres Strait Islander peoples may be unfairly targeted due to their acknowledged overrepresentation in the criminal justice system.[177] A further risk is that victims, particularly those with any previous contact with the criminal justice or domestic and family violence systems, could be more prone to misidentification as perpetrators. The Taskforce is concerned that AI and current risk assessment systems would also fail to capture cases involving patterns of violence that are not reported to the police. Perhaps the biggest concern is that the current risk assessment system may not result in — and is not necessarily focused on — greater safety for victims and their children.[178]

Child Safety services within the Department of Children, Youth Justice and Multicultural Affairs have used structured decision-making tools to help their officers assess when a child needs protection, as well as the risk of harm. These are also actuarial-based tools that help guide decision-making. In that context, it has been found that removing professional judgement can be detrimental to victim outcomes and undermine the development of professional expertise.[179]

Structured decision-making tools that do not incorporate professional judgement may also lead to inconsistency or using them in a way other than intended.[180] This is also true of tools used by people who have not been adequately trained in their use. When untrained workers use a risk assessment or structured decision-making tool without understanding the purpose, processes, or practices involved, unintended consequences may ensue.[181] Quick-fix options such as structured decision-making tools can sometimes be attractive to busy people.[182] However, it is important to ensure that any measures designed to identify risk are only used by people capable of exercising professional judgement. This training should be ongoing and enhance the professional development of those who undertake it. A supportive organisational culture should run alongside evidence-based training practices to encourage sound practice and embed best practices into day-to-day processes.[183]

The Taskforce acknowledges recent QPS efforts to tackle serious and recidivist perpetrators. This chapter has discussed police programs, such as Operation Sierra Alessa and Operation Tango Alessa, which focus on high-risk perpetrators to prevent future offending. The Taskforce also met with officers from the Gold Coast Vulnerable Persons Unit during a visit to the Southport Specialist Court. We were advised that officers attending a high-risk perpetrator were careful to make it clear that their attendance was not related to any request from the victim and stemmed from police concerns based on their previous behaviour.

Nevertheless, the Taskforce is concerned about the potential unintended consequences of proactively checking on high-risk perpetrators and the role police should play in prevention.[184] Proactive police door-knocking may increase the risk of harm to a victim or result in a victim being charged because they have reacted negatively to the police intervention.

It is also unclear whether the primary focus of the approach is to reduce recidivist behaviour by perpetrators who are suspected of being involved in other serious criminal behaviour beyond domestic violence or to improve victim safety.

All police interventions should prioritise and primarily focus on victim and community safety. They should include a thorough assessment of potential safety risks and consider the victim's views about their own safety before a police visit.

The Taskforce is also concerned about the potential human rights implications of an approach that targets suspects before any wrongdoing. If the target is attempting to reform, this approach could be counterproductive. In any case, any police activities designed to address domestic and family violence must remain firmly focused on victim safety.

Addressing intersecting complexities

Although the creation of Domestic and Family Violence and Vulnerable Persons Units throughout Queensland is a positive step forward, the Taskforce heard some concerns regarding the way they are funded, established, and operate.

Representatives from the QPUE raised their members' concerns that these units are 'achieving nothing'.[185] They explained that officers in charge of a station 'give up staff' to work within the units but are then frustrated that the units do not support them when dealing with repeat domestic and family violence calls for service. The QPUE's feedback from members was that the units 'only deal with high risk whereas identified high risk offenders are not necessarily the perpetrators committing murders'.[186] Moreover, the QPUE was concerned that the units had not been funded properly and were providing little or no support for stressed frontline officers.[187]

The Taskforce has also heard concerns that:

- police working in the units may lack specialised skills and knowledge to deal with domestic and family violence, including detectives who can investigate cases and make decisions about criminal charges[188]
- the units lack autonomy and would benefit from having their own officers in charge with the power to override the decisions of police stations — for example, where a local station has incorrectly determined the person most in need of protection[189]
- the units deal with too broad a category of people — for example, vulnerable persons with mental health problems should be dealt with by another part of the QPS[190]
- the role and function of the units vary across the state depending on local views and attitudes about resource allocation.

While the belief that the units should only focus on domestic and family violence is understandable, research has continually established links between domestic and family violence with other vulnerabilities, such as substance misuse and mental health.[191] Including mental health coordinators in these units is designed to address these intersecting complexities and ensure the appropriate individually tailored response. This may also reduce the wrongful criminalisation of people in mental health crises and provide a greater understanding of how domestic and family violence damages a victim's mental wellbeing.

The Taskforce has repeatedly heard that the police response to domestic and family violence should be part of a co-located or co-responder response. A co-located model could involve embedding specialist domestic and family violence practitioners within police stations or embedding police officers in domestic and family violence specialist services.[192]

Drawbacks identified with the co-located model include that co-location does not always extend to a co-responder model. In a co-responder model, specialist domestic and family violence practitioners attend call outs with police after the situation has been made safe.

Specialist domestic and family violence practitioners in police stations also face significant challenges with the culture and attitudes of police who do not always treat them with sufficient professional respect.

Brisbane Domestic Violence Service described the benefits of a co-responder model currently operating in Brisbane, saying that it helps police to collect evidence, assess risk, and determine the most appropriate response for the individual. It also improves the general understanding and expertise of the police over time. One leading service provider colourfully described its positive flow-on effect to the QPS as akin to 'a truffle in an egg carton'.[193]

Greater use of a co-responder model would enable specialist domestic and family violence practitioners to help police provide information and referrals to the people involved, observe the scene, and assess risk.

First-response officer understanding of coercive control

The level and quality of domestic violence training police receive can significantly affect victim outcomes and perpetrator accountability.[194] Domestic and family violence is a highly complex and dynamic form of violence that requires a thorough understanding of coercive control in the relationship as a whole.

Police also interact with victims of domestic and family violence for other related concerns (such as suicidal threats or attempts).[195] For example, homicide data from the Domestic Family Violence and Death Review and Advisory Board (DFVDRAB) show a high level of interaction between police and victims of coercive control when accounting for other related concerns, not only domestic and family violence.

The 2020–21 DFVDRAB report indicates that, in homicide cases where prior contact with a service could be established, approximately 84% of victims (77 of 91) of an intimate-partner domestic and family violence homicide had prior contact with the police (similarly, just over 88% (77 of 87) of perpetrators had prior contact with police). Findings from the DFVDRAB report also show:

> Recorded contact may have been in relation to a victim or perpetrator's experiences of violence within current and/or former intimate partner and/or family relationships. In some instances, while contact was not explicitly recorded by police as domestic and family violence related, the qualitative review of all available information identified that the behaviour disclosed to attending officers was indicative of domestic and family violence. For example, this may have included disclosures in relation to destruction of property, expressed suicidal ideation within the context of a relationship separation, a verbal altercation where a relevant relationship was disclosed or, in some instances, physical violence. On occasion, this contact was recorded on the police system as a 'street check', 'welfare check', 'child harm report' or 'community assist', instead of a domestic and family violence occurrence. In other instances, the initial call for service may have been for assistance for another issue, and the victim and/or perpetrator made disclosures about domestic and family violence to responding officers.[196]

This means that, before their deaths, victims of domestic and family violence homicide interact with police for reasons that appear to be other than domestic abuse. These encounters were opportunities for police to detect patterns of violent behaviour — including, had they the skills and competency to identify it, non-physical violence. The current incident-based approach, lack of training about the nuances and patterned nature of coercive control, and the limited time provided for general duty officers to consider and assess the situation mean these opportunities are often not realised.

As one person told the Taskforce:

> 'The QPS places an enormous amount of pressure on front line police to quickly finish the job they are currently on and attend the next one. Couple this with the pressure of completing the vast number of daily tasking, it is inevitable that police officers will cut corners to avoid the wrath of scrutiny of their superiors. This exposes women to harm in our community and does not facilitate the scrutiny of potentially violent and lethal males.' [197]

Complaints and oversight

Recent media reports have suggested complaints against Queensland police are rising.[198] In April 2021, the killing of Kelly Wilkinson by her estranged husband prompted police to convene an internal review of policing responses. Findings from the review are expected to be reported internally to the Police Commissioner. Two months before Kelly Wilkinson's killing, the death of Doreen Langham in a suspected domestic violence murder also resulted in an internal QPS review with findings reportedly completed in August.[199] Media reports in June claimed that the QPS has made changes to practices following independent reviews, including the use of body-worn cameras in every interaction at domestic and family violence incidents wherever possible.[200]

The Taskforce heard the concerns of victims of domestic and family violence about:

- poor practice in the way police communicate with victims
- The police not taking their complaints seriously
- the police not collecting evidence.

The sheer volume of these complaints in submissions to the Taskforce suggests that poor policing responses to domestic and family violence victims are not isolated events.

> 'You have no support, and the victim is never taken seriously even if there is a mountain of evidence and constant breaches.' [201]
>
> 'When we finally arrived at the police station (we had to taxi) we walked in & she told the officer at the desk that she wanted to press charges against her partner, to my absolute shock & horror, the policeman replied "why would I want to fill out all that paperwork when you're just going to go back to him anyway?"' [202]
>
> 'My experience with the QPS was on the whole positive except for Sgt ... who didn't even come down to see me but let me know through the Senior Constable that my assault photos were not enough proof of my assault as you couldn't see my face … a horrible and traumatic experience in itself. When of course it was me … bruises and all! So the mental trauma was just added to by this senior officer.' [203]

Victims of domestic and family violence told the Taskforce it is difficult for them to make a formal complaint to the QPS. For every complaint made, there are usually a host of complaints not made.[204] People who have had a bad experience with police will not always take the next step of making a formal complaint.[205] Victims of domestic and family violence may be hesitant to make a complaint against the police, with the majority of domestic and family violence incidents not even reported to police in the first place.[206]

Substantiation rates for formal investigations of all types of complaints, not only those related to domestic and family violence cases, are typically between 10 and 20%, whether undertaken by a police organisation or an independent body.[207] Such low figures may be due to high rates of vexatious complaints or lack of evidence and witnesses to substantiate claims.[208] Low substantiation rates may deter individuals from coming forward to make a complaint.

The process of devolution under which the Crime and Corruption Commission (CCC) refers most complaints against police back to the QPS has increased the number of complaints dealt with internally by the QPS itself. Complaints concerning police misconduct may be devolved to the Ethical Standards Command within the QPS for investigation, with oversight by the CCC.[209] Whilst some of these investigations result in legal action,[210] most are dealt with through internal police disciplinary processes, including investigation and possible action. The QPS Ethical Standards Command Complaint Resolution Guidelines outline the various pathways for investigation, including disciplinary, managerial, and criminal conduct.[211] These guidelines also outline appropriate action when conflict or perceived conflict of interest arises between an officer assigned to investigate and the complainant (the officer complained about).[212]

The CCC, in discussions with the Taskforce, has expressed a high level of confidence in the QPS Ethical Standards Command when overseen by the CCC. The Taskforce, however, received submissions from victims confused by and unhappy with the complaints process against QPS officers. One submission concerned a police officer who was a perpetrator of domestic and family violence:

> 'I was told that "he has been made accountable" by resigning from the police service. How can this be holding him to account for the years of domestic and family violence my family had endured and for me to still be receiving mental health counselling for trauma and anxiety? To date, how is my ex-husband been made accountable for the years of abuse towards my children and me? I don't understand how my ex-husband has been made accountable and although I cannot stop him from committing domestic and family violence against another victim how is it that he has been "let off" with an undertaking agreement that I had not agreed to? Nor did I request to withdraw the matter.' [213]

Media reporting[214] and Taskforce submissions[215] also question the police complaints and disciplinary process, as shown in the case study below.

Case study — high-profile recent case [216] [217] [218]

Senior Constable Neil Punchard was sentenced in 2019 to two-months jail wholly suspended for 18 months after pleading guilty to misusing the Queensland Police Records and Information Management Exchange (QPRIME) to obtain the details of a domestic violence victim and leaking that information to the perpetrator, his childhood friend.

Despite the officer pleading guilty to the charge of computer hacking, he continued to be employed (although stood down) on full pay for more than five years while a series of appeals were held. He ultimately resigned in September 2021 after being served a 'show cause' notice for suspension without pay. The Taskforce has heard that this case has significantly damaged public confidence in the QPS, particularly for victims of domestic and family violence. The victim has reportedly called for an overhaul of the QPS internal discipline system.

Police officers who commit domestic and family violence

Some police officers, like people in the general community, are perpetrators of domestic and family violence. Few studies have examined the prevalence of police officer involvement. Of the limited studies available, most have been conducted in the United States.[219] To date, there appear to be no published studies on Australian police officers who commit domestic and family violence.

In a recent media article, national data on the number of police officers charged with domestic and family violence in 2019 was reported after being obtained under the freedom of information process.[220] The QPS recorded the third-highest number of officers charged (14) of the seven states and territories for which data was obtained. The Taskforce observes that the New South Wales Police Service reported a lower number of officers charged with domestic and family violence (11) despite having a larger-sized service (17,111) compared to the QPS (12,000), at the time of reporting.[221]

The QPS advises that, on 4 May 2021, there were 42 police protection notices or Domestic Violence Orders in place naming a QPS police officer or staff member as the perpetrator.[222] It is unclear whether these orders relate to 42 unique perpetrators or whether some perpetrators have multiple orders. There were four recorded breaches, although it is unclear whether they refer to single or multiple orders. There were six criminal charges pending before the courts. These included two charges for common assault, two charges for assault occasioning bodily harm, strangulation in a domestic setting, and stalking.[223]

During a visit to the Southport Specialist Domestic Violence Court in April 2021, the Taskforce was shown a separate safe area for victims to use when the respondent was a police officer. During a meeting with the Taskforce, one specialist domestic and family violence service noted that, at any one time, the service was working with approximately 15 to 20 victims whose abusers were current serving officers. The service observed that victims in these cases rarely reported the abuse or applied for an order. This suggests that statistics held by the QPS may not accurately reflect the scale of the issue in Queensland.

Some Taskforce submissions were critical of the policing response to QPS officers named as domestic and family violence perpetrators.[224] These victims said officers used a range of behaviours, including coercive control, stalking, intimidation, systems abuse, and conspiracy to murder.[225] Victims told the Taskforce that police officer perpetrators with knowledge of weapons and trained in the use of force are particularly effective at intimidating and threatening their victims. These perpetrators are also more knowledgeable about justice and police processes, so they are more skilled at manipulating and managing the systems and undermining the victim's credibility.

The seriousness of the victims' allegations would usually warrant a thorough investigation, risk assessment, and police action to protect the victim and hold the perpetrator accountable. Concerningly, the victims instead described a lack of support, a failure to investigate allegations, and a refusal to ensure victim safety and hold the perpetrator to account. Victims were left with the impression that the police 'club' was protecting the perpetrators.

The Taskforce is also aware of current and former police officers who hold concerns about how allegations of domestic and family violence against serving police officers are investigated but who indicated they were afraid to place their concerns on the record or in a submission to the Taskforce.

The QPS submission detailed policies and procedures it already has to ensure officers who commit domestic and family violence are held accountable.[226] These included 'mechanisms to ensure applicants [to join the QPS] hold a high level of integrity prior to joining the QPS', with policies and procedures routinely reviewed 'to ensure practices continue to meet the standards of the community and established best practice approaches'.[227]

The submission stated that 'all allegations of [domestic and family violence] made against a QPS member are thoroughly investigated and, if required, action is taken under the DFVP Act. Where there is enough evidence, criminal charges will be laid'.[228] Investigation of complaints against QPS members is based on the *Police Service Administration Act 1990*, *Public Service Act 2008*, *Crime and Corruption Act 2001*, Criminal Code, DFVP Act, QPS Operational Procedures Manual and QPS Complaint Resolution Guidelines.[229]

Despite these operational policies, one submission suggests that these processes are not always followed:

> '… the "boys club" controlled all aspects of the DV complaints, breach of DV complaints, and inaction complaint to protect a suspected male perpetrator of DFV … The "boys club" had effectively enabled the perpetrator to retaliate using the DFV system and internal QPS complaints system.' [230]

When asked about conflicts of interest with police investigating police, the QPS provided the following information:

> When responding to domestic and family violence, attending police officers must apply the SELF — Self-reflection (scrutiny), Ensure compliance, Lawful and Fair — test and follow the two-tier test when addressing conflicts of interest.[231]

The first tier of this approach applies when there is a call for service to the Police Communications Centre (PCC) or a report made to a station. Supervisor oversight is required to confirm and finalise all domestic and family violence matters, regardless of whether the perpetrator is identified as a police officer. When a police officer is identified as the perpetrator, a supervisor at the rank of a Senior Sergeant or Inspector will provide oversight.[232]

The second tier applies where a complaint identifies a member of the QPS as the perpetrator. Those complaints are referred to the professional practice manager of the relevant district or command to identify an investigator.[233] The investigator is allocated based on their skills and consideration of any conflict of interest.[234]

When an actual or perceived conflict of interest does arise, section 5.1 Conflicts of interest of the Ethical Standards Command Complaint Resolution Guidelines clearly state the steps required. These include:

- a case officer is to notify the case manager at the earliest opportunity
- the case manager should consider the circumstances of the conflict and whether an alternative case officer should be appointed
- where practicable, case officers should not be appointed to investigate subject members they supervise.[235]

A former police officer told the Taskforce about several instances of domestic and family violence allegations against serving police officers in a particular location not being progressed as either an application for an order or a breach of an existing order. The former officer also provided information about an officer being named as an investigating officer in a domestic and family violence complaint against a fellow police officer with whom it was commonly known he was friendly. He did not declare any conflict and remained involved in the investigation, which found, 'no domestic violence'. After a complaint was made about the finding, the same investigating officer became the Ethical Standards Officer who investigated the complaint.

Where conflicts of interest or failure to comply with policies and processes are evident, members of the public and QPS employees can make an official complaint to the CCC.[236] Unfortunately, as the following case study from a Taskforce submission shows, this may not always mean victims receive an appropriate response.[237]

Case study — Police officer as the perpetrator

> My ex-partner was a police officer with the QPS at the time of our separation … Due to his employment and relationship with the QPS, I was unable to obtain a protection order despite numerous reports and specific information around ongoing coercion and control … I again made a further application in [month] after my ex-partner began to stalk my home and send threatening and intimidating emails to me, all whilst still employed as a police officer.
>
> I made a complaint to the CCC in relation to my ex-partner obtaining confidential information about me; this resulted in re-referral back to the QPS for investigation which was carried out by the very officer I was concerned had shared the information originally. I was contacted by this Senior Sergeant (in a VPU) who not only did not have the courtesy to learn my name, treated me as though I was the person in the wrong and used language which attributed blame to me.
>
> I am an educated woman … and I have a thorough and in-depth knowledge in relation to domestic and family violence. I would expect the same of a person in a role responsible for dealing with survivors. Had I not been a strong advocate for myself and my children I believe I would not be alive as the level of stalking and threat toward me escalated very seriously and at this time I was not supported by the police.
>
> Finally … my ex-partner was breached on the temporary protection order (which I had to seek) and only after I physically confronted and filmed him attending my home and provided this evidence and statement to police. This did not cease the behaviour and there were a number of further charges in relation to breaches, computer hacking (QPS system) and most recently Stalking.

Recruitment and promotion processes

QPS promotion practices recently came under the spotlight with a Supreme Court case that found the QPS's 'appointment decisions were affected by an error of law'.[238] In other words, promotions did not follow the requirements set out in legislation, and the QPS failed to promote on merit.

Given the poor policing response provided across some locations in Queensland, middle management and those in a supervisory role must possess the right level and type of skills required to support frontline officers responding to coercive control. This includes strong communication and collaborative skills, a broad understanding of the complex and social nature of coercive control and domestic violence, and the ability to partner with experts and the local service sector to better respond to domestic violence.[239]

The timeframes governing this Taskforce were such that it was impossible to explore QPS recruitment, promotion, and retention practices in depth. Therefore, it would be highly beneficial (as part of ongoing cultural QPS reform) for the QPS and the Queensland Government to explore how to improve these promotion processes to reflect the diversity of Queensland society and maximise the skills of employees to best effect.

Taskforce submissions have identified key features that support more effective policing responses to coercive control. These are:

- a focus on victim and community safety by providing victims with an opportunity to have their say
- understanding the needs of the victim[240]
- being fair and equitable in their treatment
- (most importantly) believing the victim.[241]

People recruited as police officers in Queensland must possess the right skills, attitudes, mindset, and commitment to supporting an effective response to coercive control and domestic and family violence, which will form such a significant part of their future work.

The QPS has made attempts to strengthen diversity within the service through campaigns to draw more women into policing and increase the number of Aboriginal and Torres Strait Islander peoples and people from CALD communities.[242] This includes general recruitment of sworn and non-sworn officers and police liaison officers.[243]

Before being accepted as a police recruit, applicants 'undergo rigorous assessment of past conduct, including full criminal history checks and vetting processes'.[244] This can result in applicants being deemed ineligible or given an exclusion period.[245] Additional recruitment screening, based on education, health, and integrity, is also conducted.[246]

In addition to this screening, one service provider has suggested:

> [that the] Queensland Police Service develop strategies to better identify appropriate attitudes and values in relation to violence against women at the point of recruitment and only induct people who meet service and community standards of behaviour.[247]

Some victims said that access to more female officers to report domestic and family violence to would be beneficial.

The QPS has faced hurdles in its attempts to attract more diverse recruits to reflect the diversity of the Queensland population. These obstacles were laid bare in the CCC report into historical recruitment strategies targeted at increasing the rates of females within the service released earlier in 2021.[248] The CCC found the implementation of a gender quota strategy within the QPS was based on flawed and discriminatory practices.[249]

The Taskforce notes, however, that the Queensland Human Rights Commissioner does not agree with this finding.[250] As well as attempting to introduce a 50/50 female quota, the QPS has developed other initiatives to recruit for diversity, including:

- QPS Aboriginal and Torres Strait Islander Recruitment Strategy (2020) developed in consultation with the QPS Indigenous Recruiting Officer
- QPS Indigenous Entry Pathway and Indigenous Recruit Preparation Program — a 10-week, full-time course delivered at the Queensland Police Service Academy, with acceptance based on several criteria
- CALD Recruit Preparation Program, an optional short course completed before recruit acceptance and training, with several criteria to be met before acceptance
- Indigenous Police Recruitment Our Way Delivery Program is a TAFE Queensland-owned program that is currently unfunded. Should funding be provided, the QPS states this would be another referral pathway for First Nations people to enter the QPS.[251]

Concerns have been raised with the Taskforce about the lack of culturally considered policing responses to coercive control and domestic violence. As at 31 May 2021, approximately 2.3% of QPS employees identified as Aboriginal or Torres Strait Islander and 6.6% identified as being from a CALD background.[252] These rates are reflective of the broader Queensland population.[253]

When examining diversity across Police Liaison Officer positions, the majority (68%) identified as First Nations persons, followed by 32% from CALD backgrounds.[254] The separation rate — police leaving the force — for First Nations police officers was 3.1%, slightly higher than the overall police separation rate.[255]

Due to the Taskforce's short timeframe, it did not seek reasons for separation. It would be helpful to understand why people from diverse backgrounds join the QPS and then leave, including the average length of service, roles undertaken, and locations served.

Once police recruits graduate from the Queensland Police Academy, they complete first-year constable training before continuing in a tenured general duties position for up to three years. They can then apply for specialist roles.[256] It is unclear whether people joining the QPS with highly relevant professional skills such as forensic specialists, lawyers, or psychologists who join as sworn police officers are subject to these rules or afforded opportunities to use their skills to most effect sooner. It would be beneficial to explore this further to determine whether the QPS is making the best use of its employee skillsets.

This report notes that remote and regional Queensland had the highest level of applications for, and breaches of, Domestic Violence Orders. The QPUE spoke to the Taskforce about the difficulties in attracting police officers to work in remote and regional areas of Queensland. The QPUE told the Taskforce that:

- the perception of their members was that remote and regional service was not highly valued in selection criteria for promotional opportunities
- initiatives to encourage regional and rural service, such as a remote area incentive scheme[257] or accelerated transfer points scheme[258] (used by the Department of Education for state school teachers), had been dismissed as unworkable by QPS senior leadership in the past.[259]

Findings

The widespread cultural issues within the QPS repeatedly heard by the Taskforce need to be investigated and urgently addressed. The Taskforce has heard that some police officers' perceptions of victims are often shaped by:

- negative attitudes and beliefs about women and domestic and family violence
- 'real victim' stereotypes
- a lack of cultural capability
- A lack of awareness or understanding of coercive control.[260]

Widespread negative culture, values, and beliefs across the QPS are undermining the efforts of the QPS leadership team to improve responses to domestic and family violence. This was evident in submissions to the Taskforce about victims' experiences of police conduct that include inadvertent colluding with manipulative perpetrators, disbelieving victims, not accepting their complaints of violence, and putting their safety at risk. The Taskforce has heard about failures of police to:

- properly investigate
- disclose and mitigate conflicts of interest relating to claims of domestic and family violence perpetrated by, and complaints against, police officers.

The QPS has carried out a range of activities to enhance the rollout of domestic and family violence training across the service. However, much more needs to be done to ensure victims, including Aboriginal and Torres Strait Islander peoples, people with disability, children, older people, people from culturally and linguistically diverse backgrounds, and LGBTIQA+ people, are heard and kept safe.

The Taskforce also acknowledges concerns raised by the QPUE about the increasing pressure general duty officers are under to address domestic and family violence as awareness of coercive control in the community evolves. General duty officers need to be better supported and skilled to understand the complexities of domestic and family violence.

The Taskforce has found that, across the state, police are not uniformly sufficiently aware of, or competent to respond appropriately to, domestic and family violence, including coercive control. Police generally lack the skills and expertise to recognise and respond to domestic and family violence as a pattern of behaviour over time and to consider the context of the relationship as a whole. This can contribute to the misidentification of the person most in need of protection in the relationship and the misidentification of the victim as a perpetrator of violence.

The Taskforce acknowledges that the QPS DV-PAF is both effective and easy to use. However, it has limitations. Beneficial modifications would be to include:

- automated actuarial-based information[261]
- non-physical forms of violence as a pattern of behaviour over time — 'incorporating an offender's history in a coherent way, rather than treating each domestic violence incident as a separate event'.[262]

In these ways, it may be possible to strengthen police ability to assess risk. Tools like these can only be aids to informed decision-making and must be constantly assessed and reviewed. Certainly, the voices of victims seeking help to stay safe should not be ignored solely because of a risk assessment tool.

The evaluation of the recent QPS operation, Sierra Alessa, targeting high-risk domestic violence perpetrators may not adequately consider the safety of victims. The Taskforce is concerned that this type of approach may not adequately address the potential safety impacts for victims of police attendance at a high-risk perpetrator's home. This is a limitation that may make the success of these types of operations hard to reliably assess.

The Taskforce is concerned at the rates of police misidentification of the person most in need of protection. It suggests that some officers do not have the skills or understanding to assess risk in domestic and family violence cases involving coercive control. It also questions whether officers are equipped to identify and deal with manipulative perpetrators who use systems abuse as a form of coercive control over their victims.

The QPS needs to review whether its organisational structure and allocation of resources best meet the increasing demands of domestic and family violence. The Taskforce is satisfied that the established specialist units improve the QPS response to domestic and family violence across police districts. Those currently operating should be assessed and their best aspects rolled out across the state.

Further work is required to consider whether current police recruitment processes are geared towards finding people with the skills and attitudes to respond to complex social issues. Further, the QPS needs to examine its recruitment, appointment, and promotion processes to ensure a diverse workforce. Independent review and analysis are required to ensure that the QPS recruitment and promotion processes are providing Queenslanders with a law enforcement service that responds to the diversity of the needs of the community it serves.

QPS processes to manage allegations of domestic and family violence perpetrated by police officers are not adequate to maintain public confidence in the fairness and independence of the investigation. The Taskforce has heard that police are not disclosing and mitigating conflicts of interest in those investigating these complaints. When a police officer is an alleged domestic violence perpetrator, some within the service may still be enacting the 'code' or 'club rules' to stop the victim from seeking the help to which they are entitled and protect the perpetrator from accountability.

Conclusion

The Taskforce acknowledges the commitment of the senior leadership of the QPS to improve the service's response to domestic and family violence and the fine work done by the specialist teams and many individual QPS officers in addressing domestic and family violence.

However, six years after the delivery of the *Not Now, Not Ever* report, it is clear that the widespread negative culture within the QPS continues to prevail and undermine the good work and intentions of QPS change leaders. The Taskforce is also concerned about how the QPS is handling allegations against police perpetrators of domestic

More independent, open, and accountable work needs to occur to transform police culture so that all officers can respond to claims of coercive control and domestic violence appropriately. There are significant opportunities for improvement in how the QPS recruits, trains, resources, and manages its staff to best address domestic and family violence, including coercive control. violence, including whether it is having them investigated independently.

The Taskforce explores these issues further and makes recommendations in chapter 3.5.

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Chapter 1.4

Judicial officers, courts, and lawyers

The community expects that the civil and criminal courts in Queensland will produce fair, expeditious, and consistent application of the law, offering protection to victims of domestic and family violence and holding perpetrators to account.

'My ex continues to have immense control over me. He is legally allowed to drag out our financial settlement and send vexatious letters through his lawyer to my lawyer for ridiculous reasons.' [1]

As a major point of contact for those experiencing domestic and family violence, the courts must be a place of safety for victims. All lawyers in Queensland have an overriding duty to the court to act independently in the interests of the administration of justice and they need to understand how best to represent both victims and perpetrators of coercive control.

Yet victims of coercive control struggle to find safety in an under-resourced justice system that produces inconsistent results. The Taskforce has received mixed feedback about the adequacy of the response by judicial officers, courts, and lawyers across the state and federal systems. We acknowledge that many judicial officers, court staff and lawyers in Queensland do their best every day in difficult circumstances to ensure that justice is delivered fairly. However, the extract below from a victim's submission describing a chaotic atmosphere in which stressed judicial officers, court staff, and lawyers struggled to provide a trauma-informed response to victims of coercive control is a consistent theme in the submissions we have received.

'I was refused help by a duty lawyer as she said my case was too complicated this made me cry as I realised I had to speak to the judge myself. I had to represent myself as I had spent so much money on the appeal and original DV trial.

I took a support person to be there with me and the judge asked me who they were. I said they are my support person, the judge said "you only need a support person if you have a mental illness. Do you have a mental illness?"; I was in shock at that but agreed to let the support person leave. He then told me that even though I had won the appeal I did not have a temp protection order in place and I would have to apply for a new one he gave me one month to apply for a new one.

I attempted to file a new one in the magistrates court a few weeks later. However the clerk at the desk refused to accept my new application. She told me that I had an application already. I explained the judge had asked me to do this and the next court date was for the TPO. She went and spoke to a registrar and they also agreed based on the appeal I already had an application. I explained that it was from [year omitted] and I had many more things to add and I needed temporary protection asap. She refused. I asked her for her name so I could explain to the judge why I hadn't filed anything. She refused to give me that too.' [2]

Judicial officers

The Taskforce received some good feedback about judicial officers. One example was a magistrate allowing the victim to give a presentation about their experiences.[3] Some victims wanted us to know about an individual judicial officer or a specific court that made a real difference to them:

> 'The magistrate at [court name] Court Magistrate [magistrate's name] has been awesome, looking after us and believing me when I applied for a [DVO].' [4]
>
> '... the support for vulnerable women provided by the Magistrates Court is a wonderful service.' [5]

Unfortunately, we also received many submissions about judicial officers who had a limited understanding of the nature of coercive control, did not acknowledge the impact of non-physical violence, and did not provide a trauma-informed response. Victims told us that courts are not applying the law in a way that holds perpetrators to account for their behaviour[6] and judicial officers are not being informed by evidence, best practice, and an understanding of the nature of domestic and family violence.[7]

Of significant concern to the Taskforce was consistent feedback about one judicial officer whose behaviour towards both victims and lawyers in the courtroom was so aggressive and rude that victims refused to return to that court to seek protection. They found the judicial officer's behaviour was reminiscent of the domestic violence they were enduring in their own relationship.[8]

Other examples of unsatisfactory treatment of victims by judicial officers the Taskforce heard:

- judicial officers refusing to grant protection orders and instead, telling victims to go to the family courts[9]
- judicial officers refusing to put any protection orders in place unless the respondent came to court and then placing the burden on the victim to go away and collect further evidence to get protection[10]
- a judicial officer requiring victims to provide a letter from a medical practitioner before they would allow the victim to make an application under section 151 of the *Domestic and Family Violence Protection Act 2012* (DFVP Act) that the victim not be cross-examined by the perpetrator[11]
- judicial officers applying the law inconsistently, including in relation to coercive control.[12] The inconsistent application of the law has been described as so great that the legal advice of duty lawyers was seen as having to be tailored to suit the magistrate presiding over the court on a given day[13]
- a judicial officer who described a perpetrator placing surveillance cameras throughout the house to watch the movements of the victim as merely being signs of an unhealthy relationship breakdown rather than domestic violence[14]
- a victim making her own application felt unable to pursue it due to a lack of support and inconsistent guidance from the judicial officer[15]
- a judicial officer who, without speaking to the aggrieved, dismissed an application for a protection order on the basis that the respondent had contacted the court to advise that they were overseas and unlikely to return.[16]

The Brisbane Domestic Violence Service told the Taskforce that:

> … court support workers see a range of responses from magistrates that perpetuate systemic violence and fail to address patterns of behaviours by perpetrators. Women's experience of the court system is often dismissive of their experience, doesn't recognise the ongoing trauma they have experienced, and serving to retraumatize them.
>
> They [the victim] are required to sit in the same room as the perpetrator, which can cause significant levels of distress, and are seated in a position where they are looked down upon by the magistrate. This experience can be extremely intimidating and adds to the trauma of needing to tell and re-tell their story. [17]

A need for training and education for judicial officers about coercive control

> 'On the day of my [DVO] hearing I was told by the Magistrate "well there aren't any bruises on you."' [18]
>
> 'The [magistrate] said he [the perpetrator] was a pest and wasn't violent enough to be locked up; He breached bail & [DVO] 7 times, and I know he's not finished with me.' [19]

Judicial officers play a crucial role in keeping victims safe from abuse and holding perpetrators to account. To do so, they must understand the nuances of domestic and family violence and patterns of coercive and controlling behaviours. They must also take a trauma-informed approach free from bias. The reality is that the decisions made in the courts have a flow-on effect well beyond the courtroom, and can influence community confidence in the courts, police practice and decision-making, the culture of the legal profession, the willingness of victims to come to court to seek protection, and public expectations about how the justice system treats victims and perpetrators of domestic violence.

Overall, however, the Taskforce has received a clear and consistent message from victims (and those who support them) that judicial officers in all jurisdictions dealing with domestic and family violence would benefit enormously from trauma-informed training and education. There is a particular need to better understand the dynamics of coercive control and issues such as unconscious bias.[20]

The Brisbane Domestic Violence Service called for the following:

> Increased accountability for magistrates, and implementation of comprehensive training to foster understanding of domestic and family violence, including coercive control, and the pattern of behaviours perpetrators use would reduce, and optimally eliminate women's experience of systemic abuse, and reduce the ability for perpetrators to manipulate the system. [21]

Recommendation 105 of the *Not Now, Not Ever Report* was that the Chief Magistrate ensures that magistrates receive intensive and regular professional development on domestic and family violence issues, including their impact on adult victims and children, from domestic and family violence practitioners who have expertise working with adult victims, children and perpetrators.

The Queensland Government accepted the recommendation and since that time magistrates have received professional development dedicated to domestic and family violence. Professional development dedicated entirely to domestic and family violence has been included in the Annual Conference.

In September 2021, newly appointed magistrates attended a specialist two-day Domestic Violence conference with a focus on 'A Protective Jurisdiction: Current Issues and Practice'.[22] The program covered a range of topics relevant to this area and included a presentation by the Taskforce. The remaining magistrates are to be rotated through the conference on a five-yearly basis.[23]

The District Court of Queensland's and Supreme Court of Queensland's Annual Reports for 2019–20 supply few details about the nature and quality of judicial training undertaken by judicial officers in those courts. Judicial officer training and education are covered in greater detail in chapter 3.6.

Complaints about judicial officers

On several occasions as the Taskforce travelled around Queensland, communities gave examples of unsatisfactory behaviour by judicial officers. The Taskforce would always advise these communities that they could make a complaint about unsatisfactory behaviour by a judicial officer to the head of the relevant court jurisdiction. The opportunity to make a complaint to a judicial officer's senior colleague was not always seen as desirable. One community expressed fear that the judicial officer they complained about would seek to punish their community for making the complaint.[24]

Making a complaint to the head of the jurisdiction is the only avenue available to complain about judicial misconduct in Queensland, although there is a provision in the Queensland Constitution to deal with exceptionally serious complaints warranting removal by the Governor in Council on the address of the Legislative Assembly.[25] The general process of a judicial officer's senior colleague investigating a conduct complaint has raised some criticism, particularly concerning transparency.[26] Judicial commissions and commissioners who deal primarily with complaints about the conduct of judicial officers may provide a higher level of judicial accountability and greater transparency.[27]

The judicial commission model used in New South Wales, Victoria and South Australia

While Queensland does not have a judicial commission, various commissions and commissioners operate in New South Wales (NSW), Victoria and South Australia. The Northern Territory is currently setting up a judicial commission to focus on dealing with complaints about judicial officers as well as non-judicial members of the Northern Territory Civil and Administrative Tribunal.[28]

While the three operating commissions are independent statutory bodies set up to deal with complaints about judicial officers, the NSW model also performs the function of providing legal education to judicial officers.

New South Wales

The Judicial Commission of NSW (the NSW Commission) was set up by the *Judicial Officers Act 1986* (NSW) in the wake of public concern about the administration of justice after two prominent members of the judiciary had been tried the preceding year with attempting to pervert the course of justice.[29]

The work of the NSW Commission is designed to enhance public confidence in the judiciary by promoting the highest standard of judicial behaviour in decision-making by:

- providing a continuing education and training program for NSW judicial officers
- publishing information about the criminal law to aid the courts to achieve consistency in sentencing and the conduct of criminal proceedings
- examining complaints about judicial officers' ability or behaviour.[30]

The Commission is an independent statutory corporation reporting to the Parliament of NSW and is made up of 10 members:[31]

- six 'official' members — the heads of each of the state's five courts as well as the President of the Court of Appeal[32]
- four 'nominated' members:
    - three appointed by the Governor of NSW on the basis that they, in the opinion of the Attorney General, have 'high standing in the community'[33]
    - one legal practitioner appointed after consultation between the Attorney-General and Presidents of the Law Society NSW and the Bar Association of NSW.[34]

In the years after it was established the NSW Commission was the subject of some criticism. This included that it was based on the Californian model, which had been inappropriately transposed into the NSW legal system without consideration of the vast differences between the systems — not least that Californian judges are elected and subject to influences that did not exist in Australia.[35] Despite misgivings and criticisms, at the Commission's 20th anniversary was said to have the effective and highly regarded work of the Commission had resulted in the disappearance of any controversy surrounding its establishment.[36]

According to its 2019–20 Annual Report, overall satisfaction with the 26 events making up the judicial education program run by the NSW Commission was excellent, with 92% of judicial officers reporting satisfaction and 97% of magistrates reporting a prominent level of satisfaction.[37]

In the same period, 46 people made 56 complainants about 48 judicial officers. Of these complaints, 48 were examined. Most (45) of the 48 complaints were summarily dismissed and 3 were referred to the head of the jurisdiction. None of the complaints examined was referred to the Conduct Division. One complaint was withdrawn.[38]

Victoria

The Judicial Commission of Victoria was set up under the *Judicial Commission of Victoria Act 2016* (Vic) with the sole function of investigating complaints about the conduct or capacity of judicial officers and Victorian Civil and Administrative Tribunal (VCAT) members.

Like NSW, the Board of the Judicial Commission is made up of 10 members — six judicial and four appointed by the Governor in Council.

Complaints can be made by any member of the public,[39] the legal profession, a professional body on behalf of a member,[40] or the Independent Board-based Anti-corruption Commission in Victoria (IBAC).[41] Referrals can also be made by the head of jurisdiction of a court,[42] the President of the Victorian Civil and Administrative Tribunal (VCAT),[43] or the Attorney-General.[44]

Upon receiving a complaint, the Commission must either:

- dismiss the complaint (examples include those that do not call for further consideration or the judicial officer's removal from office; are trivial; vexatious; relate to a person who is no longer a judicial officer or VCAT member; or relate solely to the correctness of a decision)

- refer it to an investigating panel if it is a profoundly serious complaint that, if true, calls for removal from office on grounds of misbehaviour or incapacity, or
- if it is a less serious complaint, refer it to the relevant head of jurisdiction with recommendations about the future conduct of the officer.[45]

The investigating panel has two former or current judicial officers or VCAT members and one community member of high standing.[46]

Investigating panels may deal with a referral in the following ways:

- dismiss the complaint
- refer it to the relevant head of jurisdiction
- draft a report recommending the removal of the officer from office if there is proven misbehaviour or incapacity.[47]

Neither an investigating panel nor the head of jurisdiction has the power to remove a judicial officer from their position. A special majority of both Houses of Parliament must agree before a judicial officer can be removed from their position.[48] A judicial officer includes magistrates or reserve magistrates and judges or reserve judges of the Supreme Court, appointed or assigned to VCAT.[49]

According to its 2019–20 Annual Report, during that period the Victorian Commission received a significantly higher number of complaints than the NSW Commission for the same period.[50] In total, the Victorian Commission received 252 complaints and had 61 still open from the previous period. The outcome of these was that 196 were dismissed, three were referred to the head of the jurisdiction, four were withdrawn, and 114 remained open.[51] None was referred to an investigating panel.

It was reported that complaints were taking longer to deal with because of an increase in more complex complaints and a change in the process requiring all complaints, unlike in NSW, to be considered and finalised by the Commission's Board.[52]

In Victoria, judicial education is undertaken by the Judicial College of Victoria (the College). The College was set up in 2002 by the *Judicial College of Victoria Act 2001* (Vic).[53] It works to curate learning experiences for judicial officers to maximise their time spent on education while also bringing together judicial officers so they might share their collective wisdom.[54]

The College delivered 60 education programs across Victoria in 2019–20, with a significant proportion of these either related to domestic and family violence or referencing domestic and family violence.[55]

Several new regional family violence specialist courts have received multi-disciplinary training from a range of presenters including magistrates from the Southport Domestic and Family Violence Court in Queensland.[56] Judicial officers from all jurisdictions including the higher courts have benefited from the training, including a twilight session on sentencing for family violence with a focus on the impact that language can have on how a perpetrator perceives his actions.[57]

The College publishes a number of benchbooks referencing the interplay between family violence and the courts. These include the Family Violence Bench Book,[58] the Charter of Human Rights Bench Book,[59] the Disability Access Bench Book[60] and the Personal Safety Intervention Orders Bench Book.[61] The College publishes family violence resources on its website including checklists on the key steps of order processes,[62] guides to significant legislative amendments,[63] and a library of essential resources exploring family violence and coercive control.[64]

South Australia

The South Australian Judicial Conduct Commissioner was set up under the *Judicial Conduct Commissioner Act 2015* (SA)[65] with the sole function of dealing with complaints about the conduct of serving judicial officers. Unlike Victoria, the Commission in South Australia does not apply to the South Australian Civil Administrative Tribunal (SACAT) senior or ordinary members.

A complaint may be brought by a person or their legal representative as long as they have not been declared vexatious.[66] Matters may also be referred by the Attorney-General or a jurisdictional head[67] or instituted by the Commissioner on their own initiative.[68]

After a complaint is made, a preliminary examination is conducted and the Commissioner will decide whether to:

- refer the complaint to the Office of Public Integrity (where corruption is reasonably suspected)[69]
- refer the complaint to the jurisdictional head and recommend the action that should be taken[70]
- recommend to the Attorney-General the appointment of a judicial conduct panel to investigate the complaint[71]
- make a report to parliament[72]
- take no further action and dismiss the complaint.[73]

The Commissioner has no power to investigate beyond a preliminary examination. Their role is to decide what should be done with the complaint and does not extend to making findings or taking disciplinary action. Should the matter be referred to the jurisdictional head, the jurisdictional head must report back to the Commissioner within 28 days of the referral on the action taken to deal with the complaint.[74]

Should a judicial conduct panel be appointed, this — like the Victorian panel — consists of three members: two eligible judicial officers (one being of equal or higher seniority than the officer the subject of the complaint) and one lay member.[75] Similar to Victoria, eligible judicial officers can be current or former South Australian judicial officers. They may also be current or former Federal Court judges, judges from other states, or former High Court judges.[76]

Should the panel conclude that the removal of a judicial officer is justified, depending on the office they hold, the Governor may remove them. However, similarly to Victoria, if they are a judge they can be removed only on address from both Houses of Parliament.[77]

According to the 2019–2020 Annual Report, during this period the South Australian Commissioner received a total of 60 complaints, including two started on the Commissioner's own initiative.

Most of the complaints were received from members of the public, with only two coming from legal practitioners on behalf of clients. A further 13 complaints from the previous period were also finalised. Like Victoria and New South Wales, most complaints were dismissed or required no further action.[78]

It was noted that a considerable proportion (20) of the complaints related to the decisions of judicial officers and that many complainants misunderstood the role of the Commissioner. A further 11 complaints related to judicial officers outside the Commissioner's jurisdiction.[79]

Of the complaints received, six were referred to jurisdictional heads — a greater number than referred in either NSW or Victoria. None was reported to parliament or required a judicial conduct panel.[80]

A judicial commission for Queensland?

Before the 2020 Queensland state general election, the Labour Party made an election commitment to explore the establishment of a Judicial Commission.[81]

There are some differences between the roles and responsibilities of the various commissions working in each of the three jurisdictions discussed above. NSW and Victoria have set up independent statutory bodies (Commissions) while South Australia has appointed an independent statutory officer (Commissioner).

While all three deal with complaints about judicial officers, the NSW Commission goes further by providing education for judicial officers.

The NSW Commission and the Victorian Commission Board are each made up of 10 members, while in South Australia an individual Judicial Commissioner officer is appointed. Despite the differences between the jurisdictions, it is of note that in 2019–20, they each referred a similar number of judicial officers to their respective heads of jurisdiction (six in South Australia, three in both Victoria and NSW).

The Judicial Officers Committee of the Judicial Conference of Australia (Judicial Conference) considered the issue of judicial complaints handling between 2009 and 2010. The committee recommended that the Judicial Conference support and promote a structured system of dealing with complaints against judicial officers, based on the NSW Commission with such modifications as appropriate for each Australian jurisdiction given differences in size and financial circumstances.[82]

In 2010, the judges of the Supreme Court of Queensland, through the Chief Justice, informed the then Queensland Attorney-General that they supported the establishment of a body that offered both judicial education and dealt with complaints against judicial officers, based on the NSW Commission with any necessary adaptations.[83]

Submissions to the Taskforce from victims and their advocates suggest a need for judicial officers to have more education and professional development about domestic and family violence. This must include training about coercive control, its impact on victims (including as witnesses), risk factors for victim safety, and available custodial and noncustodial rehabilitative perpetrator programs.

The Taskforce also heard that some victims were unhappy about the conduct of judicial officers but either did not know how to make a complaint or were fearful to complain to the head of jurisdiction.

There is a significant lack of transparency about the program of judicial education and professional development in the District and Supreme Courts and about the process for complaints against judicial officers.

Findings

There is currently no mechanism to evaluate whether there is sufficient training for magistrates or judicial officers and how effective this training is. Judicial officers should receive ongoing training and education about domestic and family violence, including the need for those who work regularly in this traumatic area to ensure they remain physically and mentally well. The nature and extent of training undertaken by judicial officers in Queensland should be transparent and publicly available. An understanding of domestic and family violence should be considered part of the selection criteria for the appointment of judicial officers.

There needs to be a process independent of the courts, such as a judicial commission, where victims can feel safe to bring complaints about judicial officers.

Courts

> 'I was rung by X on the morning of the attack, Police clearly had identified the situation as dangerous, and yet I don't think the pink manila folder was even opened that day as my ex partners name was read out in court ... And yes the trolley was bursting with pink folders but surely there must be a process for identifying high risk cases that require immediate action. It almost cost me my life and it showed no one cared. I was on my own.' [84]

The experience of attending court can be confusing, daunting and frightening for anyone. But for victims of domestic and family violence, who may have to confront, or at least be near the person from whom they are seeking protection, these fears can be drastically increased.

The Taskforce has heard some positive stories from victims about experiences where courts have supported victims and delivered outcomes that have helped them to feel safer — by, for example, granting domestic violence orders,[85] including ouster orders making the perpetrator leave the home of the aggrieved. [86] Victims also praised staff at Queensland's Magistrates Court who had clearly received specialist domestic and family violence training. [87]

However, overwhelmingly the Taskforce has heard that Queensland courts are not as safe as they need to be for victims of coercive control and domestic and family violence.

The most recent Domestic and Family Violence Death Review and Advisory Board Annual Report 2020–21 recognised the importance of the Magistrates Court as a point of contact for both victims and perpetrators of domestic and family violence.[88] The Magistrates Court in most instances is second only to police as the most common point of criminal justice system service contact.[89] This means that Queensland's courts should not only be seen as locations where justice is delivered, they should also be recognised as important sites for domestic and family violence intervention, referral and diversion.

Queensland's courthouses must be locations where victim safety is prioritised.

Under-resourcing of Queensland courts is affecting victim safety

The Department of Justice and Attorney-General (DJAG) has told the Taskforce that it is working to improve service delivery to the victims of domestic and family violence through Court Services Queensland (CSQ) but concedes that foundational investment is needed to achieve lasting and transformational change.[90]

Justice delayed can mean justice denied to victims

The Taskforce heard that there is sometimes significant delay in matters being listed and heard. This causes unnecessary stress to victims and can mean that they have difficulty accurately remembering evidence.[91] In some cases in regional Queensland, the Taskforce heard that delays can be caused by insufficient resourcing of judicial officers on regional circuits.[92] When talking to women from culturally and linguistically diverse communities in Toowoomba, the Taskforce heard that there can be multiple adjournments because there is no interpreter available. Women from culturally and linguistically diverse communities in Toowoomba told the Taskforce that they felt this lack of resourcing sent a message to perpetrators that domestic and family violence is not serious. These women also told us that the delays often meant they were unsafe in the meantime.[93]

Lack of remote witness rooms, safe rooms, and court security means victims aren't safe at court

Remote witness rooms and safe rooms

Witnesses have told the Taskforce that they were surprised to find that the configuration of the courtroom has the witness stand directly next to the dock, which means that they have had to tell their story close to their abuser.[94]

Under section 21A of the *Evidence Act 1977* (the Evidence Act), domestic violence complainants are special witnesses and courts have the discretion to order certain measures to help them to give evidence. These provisions are designed to protect vulnerable witnesses. For example, a witness may be able to give their evidence from behind a screen or from a remote room.

As chapters 1.1 and 1.2 show, perpetrators can be skilled at using legal processes to manipulate and continue their coercive control over a victim. The provisions in section 21A of the Evidence Act, particularly the ability of a witness to give evidence from a remote room, are important to preventing a perpetrator from getting the opportunity to gain sight of and manipulate a victim.

Information provided to the Taskforce by DJAG on the availability of remote witness rooms and safe rooms is summarised in the table below.

Availability of remote witness rooms and safe rooms

	Safe room		Safe room also used for other purposes		Remote witness access from the safe room		Remote witness capacity	
	n	%	n	%	n	%	n	%
Brisbane	1	1.2%	0	0.0%	0	0.0%	1	1.2%
Gold Coast	2	2.3%	1	1.2%	1	1.2%	1	1.2%
Sunshine Coast	3	3.5%	4	4.7%	2	2.3%	1	1.2%
Other	49	57.0%	32	37.2%	9	10.5%	37	43.0%
Total safe rooms	55	64.0%	37	43.0%	12	14.0%	40	46.5%
Total courthouses	86	100.0%	86	100.0%	86	100.0%	86	100.0%
Data provided by DJAG Court Link Program								
Brisbane (Brisbane Magistrates Court)								
Gold Coast (Coolangatta, Southport)								
Sunshine Coast (Maroochydore, Noosa, Caloundra, Nambour)								
Other (all other locations)								

This information shows that less than half (46.5%) of Queensland courthouses currently have remote witness capability. Sadly, this makes one of the most important protections available under section 21A of the Evidence Act redundant in many Queensland courthouses.

The *Not Now, Not Ever* report acknowledged that court processes and environments can cause victims more angst if they are not provided with a safe room or if they have to sit near the offender in court.[95] It did not, however, make any recommendations about providing safe rooms in Queensland courts.

The courthouse data shows that 64% of Queensland courthouses have safe rooms. This still leaves more than a third of Queensland's courthouses without this important capacity. Moreover, DJAG advises that even in courthouses in large metropolitan areas that have safe rooms, those safe rooms are not adequate to meet demand, including courthouses in Cairns, Mackay, Rockhampton Maroochydore, Caboolture, and Toowoomba.[96]

Security

The Taskforce has heard from victims who have experienced stress and discomfort at having to sit in the same room as the perpetrator while waiting to go into court.

Victims have told the Taskforce that they were harassed or intimidated by the perpetrator and the perpetrator's supporters when approaching and walking through the courthouse.[97] One victim told us that their perpetrator threatened those sitting with them at court and would line up to enter the courtroom just behind them so that the perpetrator would get a seat nearby.[98]

DJAG told the Taskforce that it is aware that when court security is inadequate the safety of victims is compromised.

In 2018, DJAG engaged consultants to assess security risks in Queensland's courts to inform a business case for improved security around the state into the future. DJAG says that it would cost an additional $2 million per year in recurrent funding[99] for extra security in high-risk centres.

DJAG also notes that, unlike other Australian jurisdictions, Queensland's courts are still heavily paper-based. This means vulnerable people must physically attend courthouses during opening hours. The Queensland Magistrates Court is not currently resourced to create a suitable portal to allow an online form to be filed electronically on the Queensland Court database.

Court-based support

The Taskforce received submissions from victims about their positive experiences in courts where staff had speciality domestic and family violence training:

> 'I was fortunate to present to Magistrate court where all staff had specialty training in domestic abuse.' [100]

> '[Place name] Mags Court protocols and procedures to support DFV victims are good.' [101]

There is an increasing expectation that registry staff, as a system touchpoint, scan for, identify and refer risks of domestic and family violence.[102]

Queensland courts and their registries are currently under-resourced by around 50 full-time positions based on the CSQ workload management tool.[103]

This places increased pressure on existing staff (many of whom are junior administrative officers) to carry out their service delivery to the public, which includes acting as a system touchpoint to identify and refer potential victims and perpetrators of domestic and family violence to support services.[104]

It also means that judicial officers are not receiving proper support and this unnecessarily adds to their difficult role.

The Queensland Government funds services to provide court support to both victims and perpetrators, with $4.3M allocated to 23 court support services in the 2020–21 financial year.[105]

Court responses specific to domestic violence include DJAG-funded specialist domestic and family violence court support workers. These workers provide information, referral, and support integration and information sharing.

Victims shared positive stories with the Taskforce about court support workers who helped them prepare for hearings by explaining what to expect and how things worked.[106] However, support organisations have told the Taskforce that there is so little court support currently available that victims making their own applications for protection orders often give up. They tell us that if coercive control is to be criminalised, more court support for victims will be needed.[107]

Taskforce members are aware of women with intellectual disability arriving at court without support for police-initiated domestic violence protection applications. Unsurprisingly, they had difficulty understanding the process and were unable to effectively communicate and give instructions. Some of these women were forced to turn to the perpetrator as the person most able to understand their communication and other support needs.

In our remote and regional consultations, the Taskforce heard about the particularly difficult challenges facing these areas to deliver support services. A major difficulty is recruiting and keeping qualified staff. Another is the lack of affordable accommodation for both staff and victims.[108]

Court-based services provide support to victims and perpetrators who have domestic and family violence matters before a Magistrates Court. They aid those navigating the court to be aware of the court processes and to understand court orders and directions.[109]

These services do not provide legal advice but:

- use their specialist domestic and family violence knowledge to provide information about the court process
- assess risk and help victims prepare applications for domestic violence orders, variations, and revocations to existing orders
- explain the conditions of domestic violence orders and their implications to victims and perpetrators
- debrief victims and perpetrators after court and give information and referral to other support services
- link with court staff and police, and provide advocacy on behalf of victims and perpetrators
- network with local and state-wide agencies
- develop and promote resources specifically designed for victims and perpetrators regarding applying for protection orders and understanding court processes
- assist victims to access safe rooms where available[110]

In its submission, DJAG cautioned that this support is already oversubscribed and limited to coordinating information and referrals to services on call-over days (when matters are mentioned to set hearing dates and hear short applications like adjournment applications). The support to prepare for hearings so valued by some victims who gave us submissions is not included in funding for court-based services. As DJAG submitted, increased court services for victims and perpetrators would ensure better information provision and referral to specialised support services[111] and greater safety for victims and the community.

Specialist domestic and family violence courts

Specialist domestic and family violence courts demonstrate the significant role that courts play as a touchpoint to refer victims and perpetrators to further support. As well as applying appropriate sanctions and holding perpetrators accountable, these courts aim to enhance victim safety and encourage an end to violence through using support services and court orders.[112]

Key features of the specialist courts are as follows:

- dedicated magistrates with expertise in domestic and family violence issues
- collaboration between the Queensland Police Service, Legal Aid Queensland, the Queensland Department of Corrective Services, Child Safety, and non-government service providers
- a DJAG court coordinator to oversee court operations, including stakeholder engagement
- a specialist domestic and family violence court registry where specialist court staff offer support and information
- dedicated specialist prosecutors
- domestic and family violence duty lawyers to provide advice and representation for both parties
- court support workers for the aggrieved
- support/liaison workers for the respondents
- access to domestic and family violence perpetrator programs
- referral services for both the aggrieved and respondents.

Southport became Queensland's first permanent domestic and family violence court in 2017 following a two-year trial incorporating elements from successful Australian and international court models.[113] It receives the highest volume of initiating domestic and family violence applications across the state.[114]

An external evaluation of this jurisdiction by ARTD commenced in July 2019 and will conclude this year. The goals of this evaluation are to:

- decide whether the court is operating according to the intended specialist model
- measure progress in implementing the recommendations of the 2016–17 process evaluation[115]
- measure social and economic impacts connected with the court
- identify areas for improvement in court response and outcomes for victims, their families, and perpetrators[116]

Specialist domestic and family violence courts are currently found in Southport, Beenleigh, Townsville, Mount Isa, and Palm Island. The Taskforce notes, however, that only three of these specialist courts — Southport, Beenleigh and Townsville — are in courthouses that are purpose-built to accommodate a specialist domestic and family violence court (that is, they have safe rooms and specialist registries).

Specialist domestic and family violence courts deal with all civil and criminal domestic and family violence matters in their region. The specialist court model is not currently funded on a demand basis and so increased demand is not met with additional funding.

Significantly, several large population centres that the Taskforce considers would benefit from this model — Brisbane, Toowoomba, Ipswich, Rockhampton, Maroochydore, Mackay, and Cairns — do not yet have specialist domestic and family violence courts. Any expansion to additional locations is contingent on the allocation of further funding.

DJAG is currently exploring options to expand the existing specialist domestic and family violence court program in three additional high-volume locations: Brisbane, Ipswich, and Cairns. This would give them specialist domestic family violence registries and wrap-around support services.[117]

DJAG notes that this will require significant extra investment across government, including in the Queensland Police Service, Queensland Corrective Services, Legal Aid Queensland, DJAG, and Queensland courts — particularly the Magistrates Court.

Findings

As awareness of coercive control and the nuances of domestic and family violence increases and more people seek help and are referred to the specialist courts, demand on the courts will continue to increase. With increasing knowledge of the complexities of domestic violence, including coercive control and systems abuse, magistrates will have to spend more time preparing and determining domestic and family violence matters. More magistrates and greater investment in court infrastructure will be required. Current funding arrangements do not recognise the inevitability of this increased demand.[118]

At this stage, not all courthouses are equipped with safe rooms or remote witness rooms, or even the technology to take evidence remotely. As a result, victims are more vulnerable to intimidation from perpetrators and supporters. This jeopardises their safety and their ability to tell their story as best as they can in court. In a worst-case scenario, some may choose not to be a witness at all. It also places junior court registry staff in a position where they try to put in place workarounds to respond to the safety needs of individuals. Victims seeking protection and justice in Queensland courts should have access to court support services, safe courtrooms and remote witness facilities regardless of where they live.

Courtroom architecture does not always support the safety of victims. The Taskforce heard from a victim of domestic violence who was further traumatised by giving evidence from a witness box next to the dock where the perpetrator sat glaring at her. Consideration needs to be given to the current configuration and design of all courtrooms in Queensland to ensure that they maximise victim safety and trauma-informed court practice. Courts need to be funded to provide adequate security, particularly on days when civil and criminal domestic and family violence matters are considered.

Long-term under-staffing and under-resourcing of court registries have reduced the capacity of court staff to support victims of domestic violence to keep safe and navigate the sometimes complex and frightening court system. Court staff are often carrying out stressful responsibilities well beyond their salary level. This problem will become more pronounced if the recommendations of this report are implemented without adequate funding of agencies to support them, including courts.

Court support services are not supplied equally to victims across Queensland, particularly those in rural and remote areas. Further, court-based services are over-subscribed and limited in the help they can provide to victims and perpetrators, particularly in terms of preparing for substantive hearings. Quality information, support and referral to specialist services should be available to all those navigating the Queensland courts.

Funding for specialist domestic and family violence courts is not apportioned evenly between all Queensland jurisdictions. Funding does not increase with demand and no funding is allocated to expand the specialist court model to new locations, including several large population centres that would benefit from it: Brisbane, Toowoomba, Ipswich, Maroochydore, Rockhampton, Mackay, and Cairns. While the Taskforce is pleased that DJAG is considering expansion of the specialist court model to Brisbane, Ipswich, and Cairns, any future expansion must be driven by data showing where the services are needed most (the Taskforce again notes the data from the Queensland Government Statistician's Office presented in chapter 1.2, which shows higher levels of Domestic Violence Order applications and breaches in regional and remote Queensland).

Lawyers

Lawyers engaged with victims and perpetrators across the criminal and civil law systems play a significant role in keeping victims, including children, safe and holding perpetrators to account.

The Ontario Domestic Violence Death Review Committee's (Canada) coding system has been used to identify lethality risk indicators associated with intimate partner homicides where a history of domestic and family violence was able to be proven. Through its review of hundreds of cases and examination of the evidence base, the Ontario Committee has found 39 factors prominent in intimate partner homicides.

The coding system is used by the Queensland Death Review and Advisory Board due to similar demographics between Queensland and Canada.[119] Significantly, one of those risk factors is when a victim takes a step towards separating from their abusive partner, which often involves contacting a lawyer to seek advice. Lawyers are therefore an important touchpoint where victims of coercive control can be recognised and referred.

It is not just family lawyers who need to understand coercive control and domestic violence. A wide variety of lawyers work in the domestic and family violence space, including duty lawyers, prosecutors, legally aided and private criminal defence lawyers, family lawyers, and independent children's lawyers.

Regardless of their practice area, every lawyer may work with clients affected by domestic and family violence at some time.[120] It is vital that all lawyers are properly trauma-informed and equipped to recognise and respond to domestic and family violence, including coercive control and its impacts.

The pressure on lawyers acting for victims can be enormous. As the Red Rose Foundation noted in its submission to the Taskforce, nothing strips a woman's dignity and confidence more than not having a successful outcome in court — whether that is an application for a protection order in criminal proceedings or in the family law system.

The Taskforce heard positive stories of lawyers providing fine legal representation to help victims be safer and more secure.[121]

But we also heard about:

- prosecutors not telling judicial officers about the relevant criminal and/or domestic violence history of perpetrators and any outstanding warrants[122]
- lawyers acting as agents for perpetrators and allowing them to use the court system to continue their coercive control of the victim by:
    - requesting and obtaining multiple adjournments
    - sending unreasonably aggressive correspondence
    - making manipulative, distressing demands

  all calculated to lead to delays and increased legal costs for victims. [123]
- lawyers routinely recommending that victims accept shared custody agreements or to remove children from domestic violence order applications despite continued coercive control and serious child safety risks[124]
- lawyers representing victims in domestic violence order applications not looking for obviously necessary conditions or orders (such as property orders)[125]
- defence lawyers being hesitant to place persuasive evidence of domestic and family violence before the court because they are not confident about how the judicial officer will react[126]

The Gold Coast Centre Against Sexual Violence submitted that prosecutors and defence lawyers:

> ... could more effectively introduce evidence of coercive control under the current law by building a better context about the incident/s that are being prosecuted and by identifying or resisting retaliatory violence in the context of ongoing abuse and victimisation.[127]

The Centre further submitted that defence lawyers:

> ... could better apply the existing defences and excuses in the Criminal Code in circumstances where a person's criminal offending is attributable to being a victim of coercive control.[128]

Lawyers as instruments of abuse

We think about lawyers involved in domestic and family violence matters as professionals supporting clients to obtain protection and resolve disputes relating to separation.

In submissions received, the Taskforce has heard about how perpetrators use lawyers and the justice system to continue their coercive control of a victim of domestic violence and protect each other:

'I would like to flag the legal service's role in perpetuating coercive control against me on behalf of my abusive ex partner through numerous letters outlining demeaning, belittling, demonising & untrue allegations & observations about me as a mother ... They write anything, they are happy to sign letters which ensure that the coercive control, the humiliation, the belittling, the self-esteem stripping continues on behalf of abusive [ex-partners]. Where is the accountability in this? Reading these letters written by this law firm, forwarding my abusive ex partner's lies, made up character assassinations, untrue allegations belittling my parenting, my role as a mother, my professional reputation — this firm is as abusive as me ex-partner & are misusing their role, actually extending my abusive ex-partner's coercive control & power. How is this ok?' [129]

'At [Law firm B] I was told that their legal services will be provided if I do not complain about [Law firm A previously used with poor results] to the Legal Services Commission, otherwise I would be considered as "a difficult client" (client no one wants to work with).' [130]

Training for lawyers about domestic and family violence

Throughout the consultation, the Taskforce has heard concerns expressed by various organisations that training is needed for lawyers about domestic and family violence, the drivers of gendered violence, and the patterned nature of coercive control.[131]

Some concerns pointed to a lack of understanding about the gendered nature of violence and a failing of practitioners to understand how to effectively lead relationship evidence in court.

The Taskforce received strong feedback that lawyers (including defence, prosecutors, and family lawyers) need to build knowledge and skills through education and training around domestic and family violence and coercive control to better present their cases in court.

There is currently no requirement that students studying law or legal practitioners undertake any study in domestic and family violence to earn a law degree, gain admission to the legal profession, or continue to hold a practising certificate.

While best practice[132] tells us of the need for trauma-informed practice when working with those affected by domestic and family violence, there is no requirement that lawyers or student lawyers be educated about trauma. The requirements for legal education and training are covered more broadly in chapter 3.6.

Findings

There is a lack of knowledge and understanding by some in the legal profession about the nature of domestic and family violence as patterned offending. As a result, some lawyers are not using the current law effectively when they lead evidence of abuse and make submissions. Competency in domestic and family violence law is not required for graduate lawyers or as part of continuing legal education for lawyers admitted to practice. Lawyers in Queensland practising in the domestic and family violence field need to ensure they meet their ethical and professional responsibilities of competence in this critical area of the law.

Some lawyers lack the confidence and competence to place all relevant evidence of domestic violence and coercive control before the court. This can mean lawyers are unable to make effective submissions about domestic violence at sentencing, whether as an aggravating or mitigating feature. Even some lawyers practising in the domestic and family violence field lack a sound understanding of the provisions of the key legislation — the DFVP Act — resulting in poor service to clients, the courts, their profession, and their community.

Prosecutors are not always providing magistrates with all relevant and available information needed to make informed decisions. Victims are also suffering unnecessary stress because of prosecution failures to make prompt applications for victims to give their evidence from remote witness rooms.

Lawyers are not consistently using trauma-informed practice when providing services to victims of domestic and family violence. Some lawyers, perhaps unwittingly, are even acting as agents of the perpetrator to further abuse the victim. Lawyers in Queensland practising in the domestic and family violence field need a sound understanding of trauma-informed practice and the patterned nature of domestic abuse. Lawyers who work regularly in this traumatic field of practice also have a professional obligation to ensure they remain physically and mentally well.

Conclusion

Public confidence in the justice system is essential if the Queensland Government wants more women and girls to feel confident to seek the protection of the law against perpetrators of domestic and family violence (including coercive control).

Based on what the Taskforce has heard, neither judicial officers nor lawyers are responding with consistency to coercive control's patterned form of abuse. This is not to minimise or trivialise the significant judicial education efforts, particularly in the Magistrates Court, that have been made since the delivery of the *Not Now, Not Ever* report. As our understanding of domestic and family violence evolves, the scale of the change that needs to be made has simply become clearer. Better education is vital for lawyers and judicial officers to improve their understanding of coercive control and address cultural myths and misunderstandings about the nature of domestic and family violence.

Of significant concern to the Taskforce is the current state of funding of Queensland's court system, which is struggling to keep up with the current demands to keep victims of domestic and family violence safe whilst seeking justice. Without substantial additional investment, the court system may not be able to cope with the increased demands of new legislation to address coercive control.

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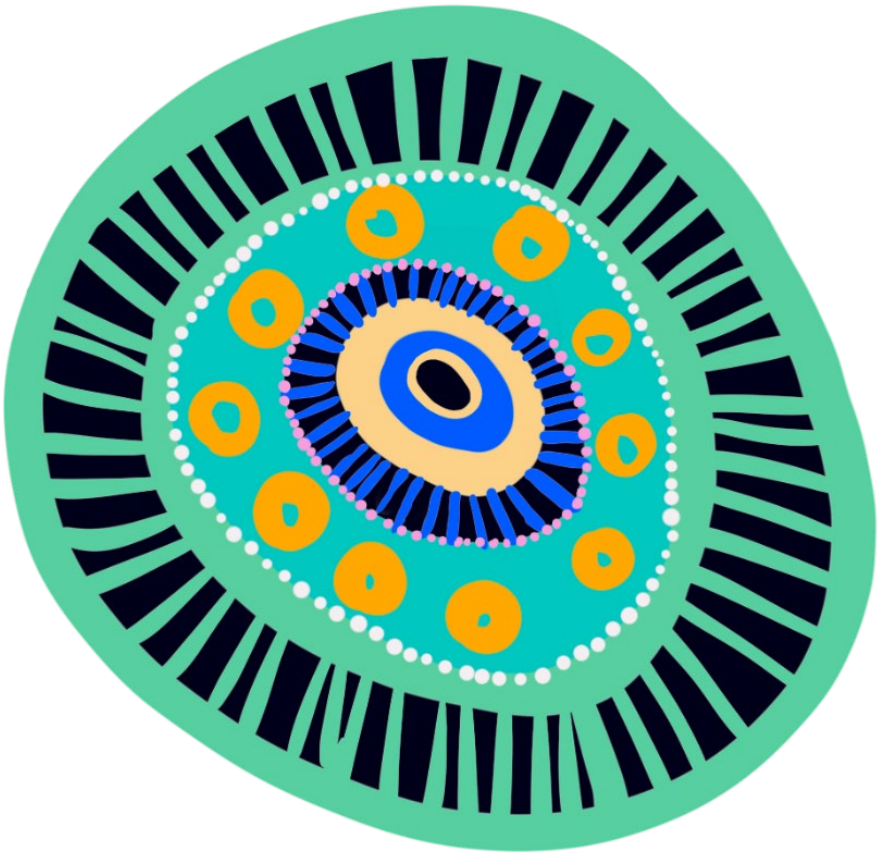

This symbol represents women and girls, their communities and how we must protect them.

Chapter 1.5

State and Commonwealth legislation

Legislation is the legal backbone of Queensland's response to domestic and family violence and coercive control. It provides an important public statement of the community's values and expectations about the way every Queenslander should behave towards each other within the domestic and family sphere.

'I lived in an abusive relationship for 10 yrs. After leaving, my ex breached his [DVO] 9 times, one of which was whilst on probation. After 9 breaches, the worst sentence he has been given to date was 2 yrs with immediate parole.' [1]

As a matter of fairness, legislation should be written and then applied by the police and interpreted by the courts in a way that communicates to all members of the community what our values and expectations are and the consequences they can expect if they breach them.

The Taskforce has found that Queensland's current legislative response is not responding effectively to what is now recognised as the patterned nature of coercive control. In some instances, the legislation is being used as a tool of abuse by perpetrators.

Under Australia's federal system of government legislative power is divided between the states and the Commonwealth. The Australian Constitution provides the Commonwealth Government with the power to make laws concerning marriage and the custody of children[2] — therefore, family law is a Commonwealth legislative responsibility. However, as the Australian Constitution provides no direct power to the Commonwealth to legislate for criminal matters, it is the state governments — not the Commonwealth government — that have the responsibility for law enforcement in relation to policing and prosecuting instances of domestic and family violence.

Queensland's legislative response to coercive control

Queensland, like other Australian jurisdictions, has a dual civil and criminal response to domestic and family violence.

Civil orders, or Domestic Violence Orders, are orders of the court designed to protect victims from future harm. They can be applied for by the victim themselves, the victim's guardian, or by the police on behalf of the victim. The standard of proof to which facts much be proved in these proceedings is the 'balance of probabilities'.

Criminal proceedings, on the other hand, are designed to punish a perpetrator for their past criminal behaviour and are always started by the state (either by the police or the Director of Public Prosecutions). The standard of proof to which facts much be proved in these proceedings is the 'beyond a reasonable doubt'.

Queensland's *Human Rights Act 2019* provides that all parties to criminal and civil proceedings have the right to a fair hearing[3] and a person who is charged with a criminal offence has certain rights in criminal proceedings.[4] This includes the right to be presumed innocent until proven guilty, to be tried without unreasonable delay, to receive legal representation, and not to be compelled to testify against themselves.

In our first discussion paper, the Taskforce asked Queenslanders what they saw as the benefits of a dual civil and criminal response. Most responses saw benefits in a flexible approach that would allow varying degrees of state intervention to protect the safety of victims and hold perpetrators accountable for their behaviour. For example, the Women's Legal Service said:

> The current civil option available to victims of [domestic and family violence] can cause less serious consequences to the perpetrator, and by extension, their family. Clients often state that they do not want the perpetrator to receive criminal and custodial penalties, especially if they have parenting responsibilities, and/or are the primary financial provider for the family. Maintaining the existing civil domestic violence protection order options has the advantage of being known, easy to obtain and does not carry the stigma of a criminal record, therefore making it easier for the perpetrator to 'consent without admissions' without his initial legal outcome having a significant detrimental effect on his life.[5]

Queensland civil legislative response to coercive control

Domestic and Family Violence Protection Act 2012

Domestic Violence Orders

The current definition of 'domestic violence' in the *Domestic and Family Violence Protection Act 2012* (DFVP Act) includes the concepts of coercion and control.

The prelude of the DFVP Act recognises that domestic violence 'usually involves an ongoing pattern of abuse over a period of time.' Section 8 of the DFVP Act broadly defines domestic violence to mean:

> 'behaviour perpetrated by one person against another, where two people are in a relevant relationship, which is: physically or sexually abusive; emotionally or psychologically abusive; economically abusive; threatening; coercive, or in any other way controls or dominates the second person and causes the second person to fear for their own, or someone else's, safety or wellbeing or that of someone else.'

'Relevant relationship' under the DFVP Act is defined to include an intimate personal relationship, a family relationship, or an informal care relationship.

The DFVP Act focuses on providing protection for a person who fears or experiences domestic violence by placing court-ordered restrictions on a perpetrator's actions. The mechanism for this protection is a Domestic Violence Order.

A Domestic Violence Order is a court order setting out conditions that the 'respondent' perpetrator must follow. It is designed to keep the 'aggrieved' (the person seeking protection) safe by making it illegal for the respondent perpetrator to behave in certain ways. A Domestic Violence Order is a civil order and, as such, will not appear on the perpetrator's criminal history; however, any contraventions (breaches) of the order are criminal offences.

The importance of the protective approach of Domestic Violence Orders is well recognised. Domestic violence orders aim to protect the physical safety and security of the aggrieved victim and provide an element of control and stability to help victims safely carry on with their lives.[6]

In reality, the Taskforce has heard that the level of protection and safety provided by Domestic Violence Orders varies significantly and depends on the response and support of the Queensland Police Service (QPS).[7]

Three types of mechanisms for protection be made under the DFVP Act:

1. temporary protection order
2. protection orders
3. police protection notice

Domestic Violence Orders include both protection orders and temporary protection orders.[8]

Temporary protection order

A temporary protection order is a type of Domestic Violence Order. It has a similar effect to a protection order but is put in place only until a court can hear an application for a 'full' protection order. Section 44 of the DFVP Act provides that a temporary protection order can be made in the following circumstances:

- when the court adjourns any of the above proceedings for a protection order
- when an applicant seeks temporary protections before serving an application for, or variation of, a protection order; or
- when a police officer seeks a variation of a protection order.

Protection order

A protection order is a Domestic Violence Order made by a court to protect people in domestic and family violence situations. A protection order can remain in force for any period the court considers necessary or desirable to protect the aggrieved from domestic violence but not less than five years unless the court is satisfied that there are reasons for this and has said what those reasons are.

An aggrieved person, their authorised representative, or their guardian, or a police officer who reasonably believes domestic violence has been committed[9] can apply for a protection order.

A court can make a protection order when hearing an application for an order, convicting a person for a domestic violence offence,[10] or if it is a Childrens Court hearing a child protection proceeding.[11] The court may make a protection order against the respondent perpetrator if it is satisfied that there is a relevant relationship between the parties, that the respondent perpetrator has committed domestic violence against the aggrieved victim, and that such an order is necessary or desirable to protect the aggrieved victim from domestic violence.[12]

Similar civil protection order schemes exist across all Australian jurisdictions. Part 6 of the DFVP Act recognises similar orders made in Australia and New Zealand as part of the National Domestic Violence Order Scheme, and other jurisdictions recognise Queensland orders.

After the release of the *Not Now, Not Ever* report in 2015, Queensland saw a substantial increase in Domestic Violence Order applications.[13] This increase was likely attributable to 'a greater willingness of people to report and seek support for [domestic and family violence]' and 'a more supportive system'.[14]

Police protection notice

When the police attend a place where domestic violence is occurring or is reasonably believed to have occurred, and the perpetrator is present but is not going to be taken into custody, they have the power to issue a police protection notice (PPN) if no Domestic Violence Order or notice is already in place.[15]

This notice at once requires the perpetrator to be of good behaviour and not commit domestic violence against the victim or other named person.[16] If the PPN names a child, the perpetrator must also not expose that child to domestic violence.[17]

The police may also include other conditions such as a 'cool-down condition', which requires the perpetrator to leave the home and not contact the victim or other named person for 24 hours.[18] A copy of the PPN must be filed by the police officer at the local magistrates court[19] and is taken to be an application for a court-issued protection order by the police officer.[20] The PPN remains in force until a protection order is made by the court and served on the perpetrator or is adjourned or dismissed.[21]

What the statistics tell us about the operation of the civil system under the DFVP Act

The tables below show the numbers of Domestic Violence Orders applied for and made between 2016–17 and 2020–21 in Queensland.[22] Across this five-year period, Domestic Violence Order applications and orders made have remained relatively stable.

There was a decrease in initiating applications for Domestic Violence Orders in 2019–20, which may have been partly attributable to early COVID-19 responses. While there has been an increase in applications and orders made in 2020–21, this has not yet reached the numbers made in the years before the pandemic. Despite this, some research shows an increase in domestic and family violence in the community during COVID-19 lockdowns.[23] In Queensland, services such as DV Connect report increased calls for service since the deaths of Hannah Clarke and her children in February 2020.[24]

Table 1. Domestic violence order applications (state-wide)					
Application Type	**2016–17**	**2017–18**	**2018–19**	**2019–20**	**2020–21**
Initiating	32,097	30,403	30,303	28,313	28,797
Vary	10,146	10,286	10,303	9,512	12,016

Queensland Courts' domestic and family violence statistics

Table 2. Domestic violence orders made					
Order Type	**2016–17**	**2017–18**	**2018–19**	**2019–20**	**2020–21**
Protection	26,496	24,828	24,976	20,966	25,368
Temporary Protection	14,265	13,896	14,420	14,487	14,569

Queensland Courts' domestic and family violence statistics

Examination of Domestic Violence Order applications lodged in Queensland courts between 1 July 2008 and 30 June 2018 found:

- most Domestic Violence Order applications (74.3%) listed a woman as the aggrieved
- Domestic violence order applications rarely involved same sex intimate relationships (2.4% of Domestic Violence Order applications relating to intimate relationships listed both parties as being of the same sex)
- Aboriginal and Torres Strait Islander people are overrepresented in applications for Domestic Violence Orders, making up 16.8% of aggrieved and 17.5% of respondents listed on Domestic Violence Order applications (noting Aboriginal and Torres Strait Islander adults represented only 3.3% of the Queensland adult population during the reporting period)
- about three in four Domestic Violence Order applications (77.6%) related to intimate relationships although the share of Domestic Violence Order applications relating to family relationships has increased since 2010-11

- based on lodgement location, rates of Domestic Violence Order applications (per 100,000 adults) are higher in remote and very remote locations in Queensland and much higher than in Queensland's major cities
- Domestic Violence Order applications were much less likely to be dismissed or withdrawn if they were made by the police (13.5%) than if made privately (54.3%).[25]

How the statistics reflect what the Taskforce has heard

These statistics reflect a great deal of what we have heard about the gendered nature of coercive control and domestic and family violence and the intersectional disadvantages victims of abuse may face because of their race, abilities, socio-economic status, or where they live (see chapter 1.1). The Taskforce has also heard about:

- instances in which police advised victims to make a private application without taking the time to assess the safety of the victim[26] or despite a victim making several reports of abuse to police[27]
- victims who must make a private application face delays significantly longer than those who have the benefit of a police-initiated application[28]
- instances where perpetrators have the financial means to bring private applications whilst withholding funds from their former partner to prevent her from obtaining legal representation and to further commit domestic violence and coercive control against her.[29]

Standards of proof and rules of evidence in the civil law response

Section 145 of the DFVP Act makes clear that the court is not bound by the rules of evidence and can inform itself in any way it considers appropriate. To make an order under the DFVP Act the court need only be satisfied with the matter to the civil standard of proof — namely, on the balance of probabilities — and does not need to hear the personal evidence of an aggrieved.

In practical terms, this means that a magistrate may be satisfied based on information included in a written application. This may be supported by other information such as video footage from a police body-worn camera, text messages, photos, or affidavit material from other witnesses. This would mean the victim does not have to give evidence as a witness and be subjected to cross-examination as they would be in a criminal trial.

Personal service of documents under the DFVP Act

Under the DFVP Act, both PPNs and Domestic Violence Orders (including temporary protection orders) must be served personally to the respondent (the perpetrator) by a police officer before they come into effect.[30] For Domestic Violence Orders, personal service is a requirement unless the respondent was present in court when the order was made or varied.[31] Police officers must also serve copies of applications for[32] or applications to vary[33] Domestic Violence Orders on the respondent or the aggrieved (the victim) (depending on who is making the application).

Requiring police to personally serve applications is necessary because it may not be safe for the aggrieved to serve the application, and because a court may hear and decide the application in the absence of the respondent.[34] The aggrieved may also ask that an application be heard before it is served for the purpose of applying for a temporary protection order.[35]

Once made, PPNs and Domestic Violence Orders must be served on respondents as soon as is reasonably practical. These documents do not take effect until they have been served, so any delays in service extend the time during which the victim (aggrieved) is unprotected.

To serve a document under the DFVP Act personally, a police officer must find the respondent, explain the document, application or notice, and give the respondent a copy.[36]

Personal service by police is more than mere process serving — it is intended to give the police an important opportunity to intervene, disrupt, and hopefully de-escalate domestic violence. When a police officer serves a document, a person in a position of authority within the justice system engages directly with a respondent to make sure they are aware that the behaviour they have been using is domestic and family violence and needs to stop.

Personal service is also an important part of procedural fairness. It makes sure that the respondent understands the document including any conditions they must follow and that if they don't follow those conditions, they will commit a criminal offence.

The DFVP Act already allows for a police officer to tell the respondent about the existence of a document in any way, including by telephone, email, SMS message, a social networking site, or other electronic means.[37] These are known as the 'tell provisions'.

The QPS submission to the Taskforce says that in 2019 the QPS served over 44,000 domestic and family violence-specific documents, with each estimated to have taken at least 90 minutes.[38] QPS noted that while the average time for service is 90 minutes, it can take anything from 'a few minutes to days or weeks', with the time taken increasing when a respondent is not easily located, 'or does not confirm receipt of a message'.[39]

The Taskforce has also heard about situations where respondents to orders have not been able to be served for reasons such as transience[40] or being outside Queensland.[41] As a result, there have been instances where orders have either not been made or have not come into effect or victims have been told to find perpetrators themselves or not expect protection.[42] In other cases, victims have not been informed about whether service has occurred.[43]

In its submission, the QPS advocated for changes to service requirements and a re-drafting of the 'tell provisions' to 'overcome the evidentiary difficulties' that the QPS suggests have stopped them from being widely used.[44] The QPS also advocated for Queensland adopting legislation based on Victorian provisions to enable a court to order police, in certain circumstances, to serve a document on a person other than personally.[45]

The Taskforce has heard strong advocacy from the QPS and Queensland Police Union of Employees (QPUE) to amend legislation to remove the requirement for personal service and to allow electronic service of documents, including orders and notices.[46] They suggest technology such as Skype, Facetime, and Zoom could be suitable methods of service, with the existing provisions in the DFVP Act[47] that require the documents to be explained to the respondent continuing to apply.

In particular, the QPS advocated for greater use of electronic service when the person is in the physical presence of the police officer and consents to the electronic service by providing the police officer with a unique email address. The QPS notes that the documents would be explained, consistent with current practice.[48]

Although preferring personal service, Legal Aid Queensland (LAQ) proposed that enabling the applicant to apply to the court for substituted service (via email, text or social media) may be appropriate 'only in circumstances where personal service is unable to be effected would assist in the efficient and effective progress of Domestic Violence Order applications before the court'.[49]

Tailoring personal service of documents under the DFVP Act

In advocating for tailored personal service of PPNs, No to Violence referred to recent research conducted in conjunction with Victoria Legal Aid, which found that perpetrators respond better to criminal justice processes when they understand the charges, the conditions of their order, and the consequences (of breaches) and can receive information based on their specific circumstances.[50] No to Violence advocated for the service of PPNs to be tailored to meet the particular circumstances of respondents, including allowing for language requirements, illiteracy, or cognitive impairment.[51]

Currently, domestic and family violence documents may only be served by police officers — namely, a person appointed to a position as a commissioned or non-commissioned police officer or a constable, as defined by the *Police Service Administration Act 1990*.[52]

While the QPS also employs various Police Liaison Officers and Cross-Cultural Liaison Officers who aid in policing indigenous and multicultural communities, these officers do not have the powers of police officers. As such, they are not currently able to serve documents such as applications, PPNs and Domestic Violence Orders.

During discussions in the Torres Strait Islands, the Taskforce heard how difficult it is for the police to serve documents on outer islands given the time and expense caused by their remoteness.[53] It can also be difficult for the police to explain documents including conditions in language and within a cultural context.

Torres Strait Islander Police Support Officers (TSIPSOs) play a significant role in supporting the QPS to engage with communities across the Torres Strait. This includes supporting the police to respond to domestic and family violence in a culturally appropriate way.[54] There is a TSIPSO position on each island, held by a local person with knowledge of the culture and language on the island.

The Taskforce heard that it may be of benefit to extend the powers of TSIPSOs so they can serve domestic and family violence documents. The Taskforce noted, however, that there could be challenges for TSIPSOs when conflicts of interest arose with domestic and family violence such as where family members or close friends are involved.[55] TSIPSOs could generally manage these conflicts, however, by asking a TSIPSO without a conflict, perhaps from another island, to step in.

It may be worth further considering whether the role of TSIPSOs and potentially other Police Support Officer positions could be extended to include serving domestic and family violence documents. Their knowledge and expertise could improve service outcomes, for example, by being better able to explain the order or notice and the consequences of a breach. If these roles were extended, the support officers would need more training and clear guidelines would need to be put in place, noting that failure to properly serve and explain documents may result in ongoing violence and abuse.

The Taskforce acknowledges that there have been some concerns raised during consultation that caution should be taken in extending the role of police liaison officers to ensure that their trusted position within the community is not jeopardised.[56]

Conditions of orders made under the DFVP Act

The standard conditions of Domestic Violence Orders are laid out in section 56 of the DFVP Act. All orders must include the condition that the respondent be of good behaviour and not commit domestic violence against the aggrieved or any other named person. Further, if the order includes a named person who is a child, additional conditions are required, including that the respondent perpetrator must not expose the child to domestic violence.[57]

The court making an order must also consider whether imposing any other condition is necessary or desirable to protect the aggrieved victim or other named persons and children.[58] The paramount principle for a court in imposing any conditions is the wellbeing of people who fear or experience

domestic violence, including children.[59] These additional considerations allow a court to tailor the order to suit the individual circumstances of the aggrieved and any named person.

One condition that the court must consider making is an 'ouster condition' on the respondent in relation to the aggrieved person's usual home.[60] Other possible conditions are to require that a respondent leave the home they share with the aggrieved even if they own the property or are named on the lease for the property.

Before making or varying a Domestic Violence Order, a court must consider any family law order that it has been informed about. If the family law order allows contact between a respondent and a child that may be restricted under the proposed Domestic Violence Order or variation, the court must consider whether to exercise its power under the *Family Law Act 1975* (Cth), section 68R, to revive, vary, discharge or suspend the family law order (section 78). The court must not diminish the standard of protection given by a Domestic Violence Order for the sake of consistency with a family law order.

Despite the intent that Domestic Violence Orders be tailored to meet the individual protective needs of an aggrieved, the QPUE told the Taskforce that a substantial proportion of orders have only the standard conditions. The QPUE also told the Taskforce that, because the perpetrator has a right to contest temporary orders with only standard conditions, victims are still being required to give evidence and be cross-examined to get the protection of a basic order.[61]

The Taskforce has heard positive stories about conditions being tailored for Domestic Violence Orders to help victims to be safe.[62] Unfortunately, the Taskforce has also been told about inadequate orders being made that have enabled further abuse. One victim reported being forced to return to court to add further conditions only to be scolded by the magistrate for 'wasting the court's time'.[63]

Intervention orders under the DFVP Act requiring perpetrators to attend programs and counselling

Under sections 68–75 of the DFVP Act, if a court makes or changes a Domestic Violence Order, it can also make a *voluntary* intervention order requiring a respondent (the perpetrator) to attend an intervention program or counselling to address their behaviour.[64]

This order can only be made if:

- an approved provider is available to supply the program or counselling[65]
- the respondent to the Domestic Violence Order is present at court[66]
- the respondent to the Domestic Violence Order agrees to the order being made or changed and agrees to comply.[67]

The provider of the intervention program or counselling must assess if the respondent is suitable to attend and notify the court and the police commissioner if not. If the respondent is considered suitable, the provider must give details about the start date of the program/counselling and estimate how long it will take.[68]

Providers are obliged to notify the court and the police commissioner if the respondent contravenes the intervention order (unless the contravention is minor and the respondent perpetrator has remedied it).[69]

If a perpetrator breaches a Domestic Violence Order or is convicted of another offence related to domestic violence, they may be sentenced to a community-based order such as probation. As part of a probation order, a perpetrator may need to take part in a specific domestic violence intervention or men's behaviour change program.

Research suggests that during civil proceedings for a Domestic Violence Order application, and during criminal proceedings, judicial officers have limited access to information about whether previous civil orders (including Domestic Violence Orders and intervention orders) have been made about a particular perpetrator or victim.[70] While a criminal history or compliance report with prior community-based orders might be tendered at a civil or criminal proceeding, a criminal history will not show prior Domestic Violence Orders unless there has been a conviction for a breach offence. Further, reports about earlier community-based sentences vary greatly in terms of their detail, such as the programs or interventions a perpetrator needed to take part in.

Cross applications for Domestic Violence Orders under the DFVP Act

> Cross orders can be a mechanism for systems abuse by the perpetrator by falsely alleging violence or used in retaliation for a protection order by the victim.[71]

A respondent to an application for a Domestic Violence Order may bring a cross application for a Domestic Violence Order against the aggrieved. Police can also make cross applications. The Taskforce has heard this often occurs when both parties seem to have committed an act of domestic violence during a single altercation, such as a fight between them where the police have not considered whether there was domestic violence in the context of a pattern of behaviour over time. This can be particularly problematic when a victim of violence, after experiencing coercive control for many years, retaliates violently in self-defence and has an order made against them.

Investigation of Domestic Violence Order applications lodged in Queensland courts between 1 July 2009 and 30 June 2018 showed that 86.9% of cross application pairs (that is, when considering the original application and related secondary application together) involved people in an intimate personal relationship. Most cross application pairs involved a man and a woman, and for cross application pairs where the applications were lodged on different days, 54.7% had a woman listed as the aggrieved on the original – or index – application. While data shows that the proportion of all Domestic Violence Order applications that are cross applications (either the index application or the secondary application) has varied over time, overall 15.4% of Domestic Violence Order applications during the reporting period related to cross applications. Other analyses showed that police lodge the majority of cross application pairs where both applications were lodged on the same day, and the rates of cross applications (per 100,000 adults) are higher for courts in remote and very remote areas.[72]

The Taskforce has heard from victims[73] and support services[74] that cross applications and resulting cross orders are used by perpetrators as a means of continuing to intimidate, control, and terrify victims. In some instances, victims have said they were so intimidated by the perpetrator's cross application that they withdrew their own application[75] for protection and later experienced negativity and a lack of support when seeking help after the violence escalated.[76]

> 'During the court visit I was made to feel like I had also done the wrong thing by the magistrate just because I had a counter DV claim against me.' [77]

It is a principle of the DFVP Act that in circumstances where there are conflicting allegations of domestic violence or indications that both persons in a relationship are committing acts of violence,

including for their self-protection, the person who is most in need of protection should be identified.[78]

Cross applications must be heard together unless it is necessary to hear them separately for the safety and well-being of the aggrieved in the original application.[79] This requirement was introduced into the DFVP Act in response to a *Not Now Not Ever* report recommendation that was concerned with the large number of orders being made against both applicants for cross applications.[80] However, some victims have told the Taskforce of the fear and discomfort they have experienced at having to sit in the same court as the perpetrator during cross application hearings.[81]

The Magistrates Court of Queensland Benchbook: *Domestic Violence and Family Protection Act 2012* provides guidance on cross applications and notes the need for identification of the person most in need of protection.[82] The bench book includes excerpts from the explanatory notes to the DFVP Act, flagging the potential use of cross applications by respondents to continue victimising an aggrieved.[83]

The Taskforce has heard that deciding who is the person most in need of protection is challenging for some magistrates who, in some instances, misidentify the true victim as the perpetrator. This may occur particularly when a woman does not present as the 'ideal victim'.[84]

Several submissions called for programs or risk assessment tools to help magistrates determine the person most in need of protection.[85] While Queensland's Common Risk and Safety Framework can be used by specialist court staff,[86] it is not designed for use by judicial officers. Further, the bench book does not offer specific guidance on how a magistrate might best identify the person most in need of protection. In comparison, the Judicial College of Victoria's Family Violence Bench Book has extensive helpful guidance for judicial officers on family violence, including risk indicators for family violence and content to address myths about family violence.[87]

The Taskforce has heard that Magistrates Courts have long and demanding domestic violence lists with limited time to determine each matter. In this context, there may not be the opportunity to read affidavit material and consider all evidence before the court. Magistrates may rely on the parties to take them through the issues. This can be problematic for victims who are self-representing, terrified of being in the presence of their abuser or have limited understanding of the process and how best to advocate for their own safety.

Orders being made in favour of both applicants in cross applications

The DFVP Act does not prohibit making domestic violence cross orders in favour of both parties. The legislative intent was to require the court to always consider the principle of identifying the person most in need of protection while providing the courts with the flexibility to issue a Domestic Violence Order in relation to both applications in rare circumstances.[88]

There have been two recent District Court appeal cases in Queensland in which the principle of identifying the person most in need of protection in cross applications was considered.[89] In both cases, the principle was not considered to prevent the court from making a cross order naming the person most in need of protection (and the aggrieved in the original order) as the respondent.

While making orders against the person most in need of protection is currently allowed by the legislation, the Taskforce is concerned that such orders are being routinely made. This seems inconsistent with the intent of the DFVP Act and is not likely to keep the primary victim safe. As highlighted in the explanatory notes of the DFVP Act, the routine making of cross orders 'is inconsistent with the notion that [domestic and family violence] is characterised by one person being subjected to an ongoing pattern of abuse by another who is motivated by the desire to dominate and control'.[90] The Taskforce also notes Recommendation 2 in the *Domestic and Family Violence Death Review and Advisory Board Annual Report 2020–21* that the DFVP Act be strengthened to make sure the person most in need of protection is properly identified.[91]

In most cases, a genuine and thorough examination of all the circumstances relevant to a relationship over time, rather than merely examining a particular incident of violence (as is required by the DFVP Act), should reveal that one person is in greater need of protection than another.

Although cross applications may show a relevant relationship and that domestic and family violence has been committed by each party,[92] the Taskforce considers that circumstances where it would be necessary or desirable[93] to make a cross order naming the person most in need of protection as the respondent would be rare.

Cross orders made against persons most in need of protection have significant deleterious effects on the safety and prospects of victims. The Taskforce heard examples of victims who had cross orders made against them being fearful of seeking police help,[94] unable to access Victim Assist financial help, find accommodation, keep their jobs, or hold on to the Blue Card they need to do their jobs.

Use of private investigators and others to circumvent protection offered by the Domestic Violence Orders

It is an offence for a perpetrator to contravene a Domestic Violence Order by continuing to commit domestic violence or breaching the conditions of the order.[95] However, this offence only applies to the perpetrator's behaviour.

The Taskforce heard from victims whose perpetrators hired private investigators to find or follow them in circumstances where the Domestic Violence Order would have prevented the perpetrator from doing it.[96]

Private investigators are a type of security provider who may be hired for a number of reasons, including to find out private information about a person or to conduct surveillance for obtaining private information about a person, without the knowledge of the person who is the target of the investigation. The *Security Providers Act 1993* and the *Security Providers Regulation 20*08 regulate the activities and licensing of private investigators. But they do not prohibit private investigators from monitoring, tracking, and following victims of domestic and family violence, even where there is a Domestic Violence Order in place.

The Taskforce is aware that surveillance of a partner is a specific service offered by some private investigators as a form of 'legal surveillance'.[97] Perpetrators may do this to find evidence of the victim having an affair or to track and watch the victim. It may also be used to support a cross application or to appeal orders made against them. This conduct, if carried out directly by the perpetrator, could constitute domestic violence as defined in the DFVP Act. If an order is in place, this conduct could also be in contravention of a Domestic Violence Order.

The Taskforce has also heard about other third parties undertaking actions on behalf of perpetrators that further the abuse and intimidation of the victim. This can include family members or friends contacting or monitoring[98] the victim on behalf of the perpetrator, encouraging her to return to the relationship, or making derogatory comments, including on social media. In one case, the Taskforce heard of an in-law posting on social media asking friends to share information about the whereabouts of a victim who had managed to escape the perpetrator and was in hiding.

Findings

While the DFVP Act acknowledges coercive controlling and intimidating behaviours as part of the definition of domestic violence — and the Act's introduction refers to patterns of behaviour over time — more can be done to consider the context of the relationship as a whole, to identify power and control, and to recognise the cumulative impact of patterns of behaviour over time.

The civil Domestic Violence Order scheme is designed to provide victims with a legal mechanism for protection. It requires a respondent to be served with an application to enable procedural fairness and for the scheme to take effect. Rather than merely being a burdensome process, the service of applications provides an important intervention point before a final order is made to make clear to the respondent what domestic violence is — that it is serious and will not be tolerated.

If an order is made, it allows the court the opportunity to reinforce to the respondent that their behaviour is domestic violence and should stop. A Domestic Violence Order is a mechanism for the court to put restrictions on a respondent's future conduct to prevent ongoing violence and to protect the victim. For this to occur, the order must be served in a way that enables the police to explain the order authoritatively, reinforcing its nature, importance, and implications. This is another intervention point for police to help prevent violence and abuse in the future.

Perpetrators often deliberately evade the service of documents and can be hard to find. The powers that enable police to direct a person to stay where they are or to move to another place can help police serve documents when a respondent is found — for example, if they are pulled over while driving. However, police must still physically find the perpetrator to serve an application, order or notice. Perpetrators are aware of this and use the system to frustrate the protection and safety being provided to the victim.

It is clear from the submissions received by the Taskforce that perpetrators of domestic and family violence also use court processes as a mechanism to continue to commit violence.

Delaying matters by evading service or repeatedly seeking adjournments is a way of further inflicting power and control. This means a victim is not given the safety and protection of an order and remains connected to the perpetrator through the prolonged justice process.

Courts need to be more aware of this behaviour, understand the ongoing safety implications for victims, and be better able to identify it and stop it. Perpetrators must not be allowed to use court processes as a mechanism of power and control. Magistrates need to be supported to manage proceedings in a way that prevents perpetrators from using the process to prolong the abuse of the victim. Where this behaviour is identified, matters must be prioritised so that they can be finalised and victims better protected.

The impacts of systems abuse are particularly heightened in relation to the use of cross applications for Domestic Violence Orders. Perpetrators of domestic and family violence use cross applications to diminish the protection given to a victim under an order and undermine the credibility of the victim. This has serious consequences for the victim. It can intimidate them into withdrawing their own application and limit their future credibility, especially when they need support and help to prevent the continuing violence against them. It can also have significant impacts on children's safety in later family law proceedings.

The DFVP Act makes it clear that a protection order should only be made when a court is satisfied that it is necessary or desirable to protect the aggrieved from domestic violence. When cross applications are made, the court should determine the person most in need of protection. Recent District Court decisions, however, show that the legislation is not sufficiently clear that cross orders should only be made when both parties need protection from an ongoing pattern of behaviour over time.

In Queensland, perpetrators may legally use private investigators to continue to hound their victims. This undermines community messaging that emotional and psychological abuse is a form of domestic violence. Perpetrators should not be able to use third-party agents to continue the abuse of their victims.

Proceedings under the DFVP Act are difficult for all involved — the aggrieved party, the respondent, police, lawyers, and judicial officers. Proceedings occur in the already busy Magistrates Court jurisdiction, with many self-represented parties all claiming to be aggrieved. Some police, lawyers, and judicial officers have not yet realised that the DFVP Act has moved away from a solely incident-based approach to domestic and family violence and now requires an examination of each incident within the context of the entire relationship. The evidence placed before the court is often insufficient to allow the court to make an informed decision about who the person most in need of protection really is. Some police, lawyers, and judicial officers lack the training necessary to identify that there may be gaps in the evidence requiring exploration, which is discussed later in this report.

Queensland's criminal legislative response to coercive control

Bail

In Queensland, the granting of bail is governed by the *Bail Act 1980* (the Bail Act).

Bail involves the release of a person charged with a criminal offence from custody. This occurs when a person signs a written promise, known as a bail undertaking, to attend court to face the charges in the future. To obtain bail, a person must agree to any conditions imposed by a police officer or the court, such as regular reporting to a police station and living at a particular residential address. The granting of bail acknowledges the presumption of innocence until the criminal offence is proved beyond a reasonable doubt and of the inevitable delay in concluding the matter.

A person can be granted bail in different ways. The police can give a person bail at a police watch-house, which is known as watch-house bail. If a person is not granted watch-house bail, they can apply for bail in court. If bail is granted, a bail undertaking must then be signed that lists the conditions of bail.

There is a general presumption in favour of granting bail for most offences.[99] However, the Bail Act says that bail shall be refused if certain conditions are satisfied. These include when there is an unacceptable risk that the defendant if released on bail:

- would fail to appear and surrender into custody; or
- would commit an offence or endanger the safety or welfare of a person, including a victim or anyone else, or interfere with witnesses or otherwise obstruct the course of justice, whether for the defendant or anyone else; or
- the defendant needs to remain in custody for the defendant's own protection.[100]

When a defendant is charged with a domestic violence offence or an offence against the DFVP Act and a police officer or a court is assessing whether there is an unacceptable risk in any of the matters outlined above, they must also consider the risk of the defendant committing further violence or associated domestic violence under the DFVP Act.[101]

Further, the Bail Act provides for the reversal of the presumption in favour of bail for persons charged with 'relevant offences' relating to domestic violence, which could include when an offence involves behaviours associated with coercive control.

'Relevant offences' include, for example, when a person is charged with an offence under section 315A (Choking suffocation or strangulation in a domestic setting) or section 359E (Unlawful stalking). When a person is charged with a 'relevant offence', they must 'show cause' or demonstrate why their detention in custody is not justified.

Amendments to the Bail Act that started in March 2018[102] allow a court to require the defendant to wear a tracking device while on bail.[103] This was not limited to bail granted for domestic violence offences. The QPS told the Taskforce that between 31 March 2018 and 31 May 2021, 615 court orders granting bail have had this condition and 175 of those concerned charges related to domestic and family violence.

Charter of Victims' Rights

The Taskforce has heard from victims who have told us that they have not been informed when perpetrators are released from custody.[104] The recent non-inquest findings by the Coroners Court of Queensland into the deaths of Teresa Bradford and David Bradford[105] identified this as a problematic issue within the criminal justice system's responses to domestic and family violence.

The *Charter of Victims' Rights* contained in schedule 1AA of the *Victims of Crime Assistance Act 2009* has the following purposes:

- advancing the interests of victims by stating rights that are to be observed by prescribed persons in dealing with victims
- informing victims of the rights the victims can expect will underlie the conduct of prescribed persons in dealing with the victims.[106]

The *Charter of Victims' Rights* states that a victim will be informed about the outcome of a bail application and any arrangements for the release of a perpetrator, including conditions that may affect a victim's safety.[107] It also states that a prescribed person (explained below) must not, in dealing with the victim, engage in conduct that is inconsistent with the victims' rights.[108] As 'eligible persons' under the *Corrective Services Act 2006,*[109] victims are to be kept informed of a perpetrator's period of imprisonment, transfer between correctional facilities, or escape.[110] They are also to be given an opportunity to make written submissions to the parole board about granting parole to the perpetrator.[111]

A prescribed person is defined as a government entity; non-government entity; or an officer, member or employee of a government or non-government entity.[112] This provision is quite broad in terms of who is responsible for ensuring that a victim is informed. The Act also says that the rights in the victim's charter are not enforceable by criminal or civil redress. However, it notes that this does not prevent disciplinary action against a prescribed person who contravenes processes for implementing the rights in the victims' charter, as adopted by the respective entity responsible for the prescribed person's conduct.[113]

A new system to alert victims of domestic violence of bail applications and release from custody was proposed in the *Bail (Domestic Violence) and Another Act Amendment Bill 2017.* However, the amendments in this Bill relating to this specific issue were not passed by the Queensland Legislative Assembly.

Should police be able to grant bail for offences related to domestic violence?

After a person has been arrested and charged, police may grant them watch-house bail (defined earlier).[114] If the police refuse to grant watch-house bail, a person can apply to the court for bail. If the court refuses to grant bail, a person can apply for bail to the Supreme Court of Queensland. Where the offence is profoundly serious, a person can only apply for bail in the Supreme Court of Queensland.[115]

LAQ raised a number of risks in restricting bail decisions to courts, including:

- unreasonable detention of people in custody and deprivation of their liberty
- watch-house overcrowding
- increased court appearances leading to delays and backlogs.[116]

In her submission to the Taskforce, Professor Heather Douglas from The University of Melbourne Law School raised concerns that decreasing access to bail would disproportionately affect marginalised groups, including Aboriginal and/or Torres Strait Islander peoples[117] and people from culturally and linguistically diverse backgrounds.[118]

Professor Douglas pointed out that perpetrators in custody on remand are generally unable to access behaviour change programs, even private programs.[119] She said that the effect of incarceration can be dangerous and toxic and increase the tendency of a criminal to re-offend, making the community less safe.[120]

The concept of early interventions and assessments to learn on what conditions those on remand could be safely released on bail is deserving of further urgent consideration. This is especially so given the high cost of incarceration, an issue the Taskforce will discuss further in our second report.[121]

The implications of the operation of the Bail Act for women and girls, as both victims of crime and offenders in the criminal justice system, will be explored in a wider context as part of the Taskforce's work on the second part of its Terms of Reference.

Programs to support perpetrators of coercive control while on bail — Court Link

Court Link is a program run by the Department of Justice and Attorney General (DJAG). Participation is voluntary and people on bail for charges before the Magistrates Court are eligible. The program aims to have participants reintegrate into the community as healthy, productive, positive members of society as soon as possible.[122]

Referral can be made by the individual, their family, police, the magistrate, or a lawyer.

The program is open to anyone regardless of whether they intend to plead guilty or not guilty, including in relation to domestic violence offences. It aims to connect participants with treatment and support services relating to substance issues, physical or mental health, housing, employment, and social needs.

It is unclear whether participants are flagged as domestic violence perpetrators or victims and whether targeted referrals for support and intervention are available in these cases.

Those entering the program have a condition added to their bail requiring participation in the program, and Court Link officers provide the court with updates as the matter progresses. The matter is paused for 12 weeks to allow Court Link case managers to provide support to achieve a positive change of lifestyle.

Court Link participants who are identified as having a Domestic and Family Violence need are referred to existing location-based community services.[123] Special characteristics such as cultural identity and gender are taken into consideration. Court Link prepares a report for the court at the final mention of the matter. This report follows the participant as they continue through the court system.[124]

Participants who show engagement in the program (as demonstrated by rehabilitation and positive lifestyle changes) may be considered favourably by the court should the participant plead guilty to, or be found guilty of, the charges. Lack of satisfactory engagement might result in removal from the

program but does not result in penalty and has no impact on the participant's ongoing bail.[125] If the participant is found not guilty, the report remains unused.

The program is available in centres throughout Queensland, including Brisbane, Cairns, Ipswich, Southport, Caboolture, Redcliffe, Maroochydore, and Mount Isa.[126]

DJAG said it does not require referral forms to be completed for admission to the Court Link program. This means their data may not provide a comprehensive picture about how many Court Link participants may need domestic and family violence interventions.

Their data shows that in 2020–21, 13% of Court Link referrals had been charged with at least one domestic violence offence, and 12% of those admitted to case management under Court Link reported one of their goals was to address domestic and family violence as part of their management plan.

DJAG was unable to provide data on the number of case-managed participants referred to specialist domestic and family violence programs or the proportion of that cohort who complete the Court Link program. However, DJAG said they were exploring opportunities to improve future data collection and reporting.[127]

DJAG did advise that there is a general lack of available places and long waiting lists for Court Link participants to access perpetrator behaviour change programs — in some cases those wait times extend beyond the 12-week Court Link program.

In Brisbane, there is a waiting time of approximately 6 to 12 months for self-referrals, but referrals through the justice system may be prioritised in some circumstances.[128]

The Taskforce heard during consultations that the Court Link program varies significantly from location to location. We were told that in some regional areas there is limited awareness of Court Link. The number of available programs in such areas is small and those programs vary in quality.[129] Areas of regional Queensland, such as Townsville, were disappointed that the program was not available there.[130]

Findings

While there are obligations under the *Charter of Victims' Rights* to inform a victim about a perpetrator's bail application and release, and to have regard to their safety when considering bail, some victims are not being informed. This places them in danger by keeping them ignorant of risk and unable to prepare to be safe. Victims must be consistently informed so they make preparations to keep themselves and their children safe. Victims of domestic and family violence who are the aggrieved party under a current Domestic Violence Order or the victims of a domestic violence offence should be told of the potential release of the perpetrator from custody for any reason. The Taskforce will further consider compliance with the *Charter of Victims' Rights* by prescribed persons in our second report.

The law enables the courts and the police — when deciding whether an alleged perpetrator of domestic violence is an unacceptable risk for bail — to consider any evidence of coercive and controlling behaviours and the risk of further domestic violence and (if there is a risk) the level of that risk. Police and judicial officers need to undertake continuing professional development to ensure they are aware of the latest evidence about these issues.

Queenslanders need to have equal access to programs when on bail regardless of where they live. The Court Link program's quality and availability vary considerably throughout Queensland. It is not available to all people who would benefit from participation, particularly in regional and remote Queensland where rates of domestic and family violence applications and breaches are higher. The program could have significant diversionary benefits for people charged with offences related to domestic violence. Better data collection systems would help DJAG provide and fund programs that would target the offender population in each location.

Contravening a Domestic Violence Order under the DFVP Act

A person who contravenes a condition of a Domestic Violence Order made under the DFVP Act commits a criminal offence punishable by a maximum penalty of three years imprisonment.[131]

If the defendant has been convicted of another domestic violence offence within the five years preceding the breach, including an earlier breach, the maximum penalty rises to five years imprisonment and the offence becomes an indictable offence.[132] This may mean it has to go ahead 'on indictment'[133] in the District Court, for example, if the court considers the defendant may need to be sentenced to a term of imprisonment exceeding three years.[134]

Examination of Domestic Violence Order breaches charged by police in relation to respondents named on Domestic Violence Orders in Queensland between 1 July 2008 and 30 June 2018 found that:

- 75.7% of respondents never breached the order/s made against them
- for the quarter (24.3%) of respondents who did have a Domestic Violence Order breach recorded, just under half (48.7%) breached once and the rest breached more than once
- of those respondents who breached a Domestic Violence Order, those who re-breached five or more times (8.2%) accounted for 28.3% of all breaches
- the majority of Domestic Violence Order respondents who breached more than once (91.9%) solely re-breached against the same aggrieved, but a small, yet not insubstantial group of re-breachers (4.6%) re-breached against multiple aggrieved
- re-breaching varied by socio-demographic characteristics and was more common among men Domestic Violence Order breachers (53.6%) than women Domestic Violence Order breachers (39.2%), particularly Aboriginal and Torres Strait Islander male Domestic Violence Order breachers (63.6%).
- frequent Domestic Violence Order re-breaching (five or more re-breaches) was more common for Domestic Violence Order breachers living in remote and very remote locations in Queensland (the rate of frequent Domestic Violence Order breachers per 100,000 adults was 4.5 and 5.0 times higher in remote and very remote locations respectively than for all of Queensland).[135]

In 2020–2021, there were 30,538 'Contravene Domestic Violence Order' charges lodged in Queensland Magistrates courts.

Courts sentencing an offender for a conviction for the contravention of a Domestic Violence Order have a range of penalties to choose from. The following table of Queensland Court statistics outlines the number of defendants convicted of contravening a Domestic Violence Order and the penalties imposed.

Table 3. Defendants convicted of contravention Domestic Violence Order offences, listed by penalty imposed						
Penalty	**2015–16**	**2016–17**	**2017–18**	**2018–19**	**2019–20**	**2020–21**
Imprisonment/Detention	4,173	4,542	4,835	4,852	4,763	6,195
Custody in the Community	56	63	71	52	52	80
Community Service Order	329	403	352	279	250	310
Probation	2,380	2,944	2,735	2,842	2,269	3,887
Monetary Order	3,763	4,049	4,132	3,986	3,330	6,023
Good behaviour/Recognisance	693	933	890	899	637	1,080
Other	479	598	730	790	733	1,054
Total	11,873	13,532	13,745	13,700	12,034	18,629

Queensland Courts' domestic and family violence (DFV) statistics[136]

These statistics — while useful indications of trends — must be treated with caution. Submissions to the Taskforce make clear that the number of breaches reported, charged, and convicted do not reflect the true scale of breaches of Domestic Violence Orders.

Victims consistently told the Taskforce that they did not report or stopped reporting breaches for various reasons, including that those previous reports did not result in charges being laid.[137]

During a visit to the Southport Specialist Domestic Violence Court, the Taskforce heard about a recent case where a victim with visible injuries who was accompanied by a worker from a domestic violence specialist service was turned away from a police station while trying to make a complaint about the breach of a Domestic Violence Order.

For some victims, the potential criminal repercussions of breaches for perpetrators may deter them from making a report. The Taskforce heard that many victims are willing to use existing civil orders as a strategy to prevent (and reduce the risk of) future violence but feel reluctant to report breaches due to the criminal penalties.[138]

The Taskforce also heard from the Queensland Law Society (QLS)[139] that police may charge a person with breaching a Domestic Violence Order despite the wishes of the victim.

When criminal charges for a contravention are progressed, the Taskforce heard examples of courts issuing fines and not recording convictions for what they considered 'minor breaches'.[140]

During the Taskforce's consideration to date, many media reports of court outcomes show that 'contact breaches' involving the perpetrator making unlawful contact with the victim, including by text message, phone, or social media, are treated as less serious breaches. This is despite the conduct being in breach of a court order and likely to constitute coercive control. Many victims felt that the perpetrator should have received harsher penalties for breaching court orders to protect victims.[141]

The high number of repeat breaches identified by victims in submissions to the Taskforce were of particular concern. We heard that the courts are dealing leniently with multiple breaches; also, that the courts are considering multiple behaviours, each constituting a breach, as a single contravention despite the serious, cumulative, and compounding effect on victims.[142]

Many breaches of Domestic Violence Orders are criminal offences. However, police may go ahead solely with a breach charge even though a more substantive serious criminal offence, such as stalking, strangulation, or serious assault, has been committed and could also be charged (see discussion of the use of police discretion later in this report). This can result in apparently low penalties for what is serious criminal behaviour subject to higher maximum sentences.[143]

Inconsistent application of the law, particularly for acts of non-physical violence

A major theme in the submissions received by the Taskforce is inconsistency in how breaches of civil Domestic Violence Orders are dealt with by police and courts throughout Queensland. Outcomes for victims are highly dependent on where they seek protection and the skills and interests of the individual police, lawyers, and judicial officers involved.[144]

The Taskforce heard it can be difficult to get the police or the courts to act on the abuse unless severe physical violence has occurred.[145]

LAQ submitted to the Taskforce that:

> While the current legislation allows for extensive preventative interventions to be taken against perpetrators of physical and non-physical violence and control, the efficacy of these orders is compromised by QPS, courts and legal practitioners who do not respond to breaches of these orders or minimise breaches as "technical". Non-physically violent breaches must be regarded as risk indicators of escalating harm. They may be tests by the perpetrator of what, if any, legal consequences will arise, or indicative of a disregard for legal consequences … Greater knowledge and understanding by key stakeholders is essential to enable the DFVPA to operate as intended. [146]

The Taskforce notes that the *Domestic and Family Violence Death Review and Advisory Board Annual Report 2020–21* reports examples of inconsistent responses (often amounting to no response at all) to breaches of domestic violence. In particular, the Taskforce notes the case example of 'Sandra', who reported the breaches of an order by way of verbal threats. Police took no action. When Sandra was encouraged to contact the police if there were further acts of violence, she responded *'What's the point*?'. In the context of lack of response to the breach, Sandra expressed suicidal ideation that was not addressed or assessed by the responding officer, and Sandra died by suicide the following day.[147]

Perpetrators can face literacy and cultural barriers to compliance with orders

Many respondents who breach Domestic Violence Orders believe they are justified in their actions and entitled to continue to use the prohibited behaviours. Some do not understand the seriousness of a Domestic Violence Order or the effect of the conditions of their order. This lack of understanding may contribute to an increased risk of breach.[148]

Inadequate explanation of Domestic Violence Orders and conditions may be a contributing factor to the over-criminalisation of Aboriginal and Torres Strait Islander Queenslanders.[149] Some stakeholders said that the detailed and highly technical language on the order itself is difficult to understand. Submissions to the Taskforce have raised concerns about the over-criminalisation of Aboriginal and Torres Strait Islander peoples, including concerning Domestic Violence Order-related charges and convictions, suggesting that criminal responses are unequally affecting First Nations Queenslanders.[150]

Similarly, for victims and perpetrators from culturally and linguistically diverse backgrounds who do not speak English or are not fluent in it, the investigation and hearing of an application for a Domestic Violence Order without effective use of an interpreter or translation service may be putting victims at risk of future violence and perpetrators at risk of unknowingly breaching the order.[151]

The QLS argued for the need for Domestic Violence Orders to be worded consistently across Queensland and in plain English with attention paid to the need for culturally sensitive wording.[152] This would also help perpetrators with a cognitive impairment who may have difficulties with comprehension and communication.[153]

Special project officers from the Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships suggested drafting orders in easy-read, plain English, including simple explanations and pictures to communicate the impact to respondents in a way they can grasp effortlessly.[154]

The Taskforce notes that the New South Wales Police Force has produced an easy-read version of their apprehended violence order, which is available on their website.[155] During consultations, there was also support for laminating orders to give them more authority and make them less liable to be lost or damaged (deliberately or accidental).

Findings

A significant majority of respondents who have a Domestic Violence Order made against them never have a recorded breach of that order. The unknown statistic of concern to the Taskforce is the number of breaches that are never reported to police or those breaches that are reported and are never actioned
by police.

The reported statistics do offer important signposts for the Queensland Government when considering the most effective way to deploy resources to fight coercive control and domestic and family violence.

There is a higher prevalence of breaches and re-breaches of Domestic Violence Orders in regional and remote Queensland. This suggests that specialist resources and funding for programs for those areas need to be prioritised.

Analyses of Domestic Violence Order breaches charged by police in relation to respondents named on Domestic Violence Orders between 1 July 2008 and 30 June 2018 points to a relatively small group of frequent Domestic Violence Order breachers being responsible for a disproportionate share of breaches, which suggests that a useful point of diversion may be at the first breach of a Domestic Violence Order. It is worth considering the possibility that if a perpetrator's behaviour could be de-escalated at that time, further breaches by that perpetrator may be able to be prevented.

These analyses also show that a small proportion of re-breachers re-breached against multiple aggrieved. This suggests it may be useful to look at means of preventing serial offending by this cohort.[156]

Perpetrators who breach an order do so for various reasons. A contributing factor may be a lack of understanding about the seriousness of the order and the nature of the conditions. In the interest of clear communication, the information printed on orders needs to be simple and to the point.

Other factors that may contribute to breaches of orders include perpetrators not taking orders seriously, believing that they are entitled and justified to deliberately continue a behaviour or conduct prohibited by the order, and not having been held to account by police or the courts for previous breaches.

Domestic and family violence orders are an important proactive intervention to stop future violence and keep victims safe as well as hold perpetrators accountable. Courts, police, and the community need to take and be seen to take them seriously.

Contraventions of orders need to be prosecuted. Contact or so-called technical breaches for non-physical forms of violence need to be treated seriously.

Police, lawyers, and the courts must better understand domestic and family violence as a pattern of behaviour in the context of a relationship as a whole. Coercive control can include individual incidents that, when viewed in isolation, may misleadingly seem small and insignificant. Non-physical or 'contact breaches' of Domestic Violence Orders can be part of an ongoing pattern of behaviour in blatant disregard of a court order made to prohibit this type of conduct.

These types of breaches should not be considered less serious, warranting less significant sanctions for a perpetrator. Doing so risks colluding with the perpetrator by showing that this ongoing behaviour is acceptable. Police, courts, and lawyers need to better understand the nature and impact of domestic and family violence, including the psychological and emotional harm to victims and the potentially significant risk of non-physical forms of violence as an indicator of lethality.

Many victims feel that breaches of Domestic Violence Orders do not result in penalties that sufficiently reflect the gravity of the perpetrator's coercive control, particularly if the breach relates solely to non-physical acts of violence. They are deterred from reporting further breaches or seeking additional police or court protection because their experience is not taken seriously and the fear and intimidation they experience is not validated. Victims feel that their safety is not prioritised, and they do not feel that reporting is worth their time, cost, anguish, or the risk of triggering further abuse. The cumulative impact is that victims continue to suffer and their safety continues to be at risk. Meanwhile, perpetrators are emboldened to continue their abuse without ever being adequately held to account.

Offences under the Criminal Code

Unlawful stalking

Chapter 33A of the Criminal Code provides that *unlawful stalking conduct* consists of one or more of the following acts or acts of a similar type:

- contacting a person in any way, including by email or via the use of any technology
- leaving offensive material where it will be found by, given to, or brought to the attention of the person
- giving offensive material to a person directly or indirectly
- an intimidating, harassing or threatening act against a person, whether or not the act involves violence or a threat of violence

- following, loitering near, watching, or approaching a person
- loitering near, watching, approaching or entering a place where a person lives, works or visits
- an act of violence or a threat of violence against the property of anyone.

To convict a person of this offence, the prosecution must prove beyond a reasonable doubt that the defendant engaged in unlawful stalking conduct that:

- was intentionally directed at the stalked person; *and*
- occurred on at least two occasions, or one occasion if the conduct is protracted; *and*
- *would cause* the stalked person apprehension or fear, reasonably arising in all the circumstances, of violence to the person, or against the property of the stalked person or another person (it is *irrelevant* whether apprehension or fear is caused to the stalked person); *or*
- *causes* detriment, reasonably arising in all the circumstances, to the stalked person or another person (it is *irrelevant* whether the defendant *intended* to cause the detriment or fear of the threatened detriment).[157]

Detriment is defined broadly to include:

- fear of violence to property, the stalked person or another person;
- serious mental, psychological or emotional harm;
- prevention or hindrance from doing any lawful act; or
- a compulsion to do an act a person is lawfully entitled to abstain from doing.[158]

A court dealing with a charge of stalking can impose a restraining order against the charged person, even if the person is acquitted of the offence or the prosecution of the offence is discontinued.[159] A breach of that restraining order is a separate offence punishable by a maximum penalty of 40 penalty units or one year's imprisonment.[160]

The link between Unlawful stalking and domestic violence is expressly acknowledged in the definition of domestic violence at section 8(2) of the DFVP Act, and this offence has been used in Queensland to successfully prosecute acts of coercive and controlling behaviour.[161]

In 2019–20, stalking offences accounted for 1.8% of all reported offences against the person.[162]

During the same period, Queensland Courts data shows stalking charges related to domestic and family violence made up approximately two-fifths (40%) of all stalking charges.[163]

Between 2016–17 and 2019–2020, charges for Unlawful stalking in Queensland increased by 4.23%.[164] In comparison, during the same period, Unlawful stalking in a domestic and family violence context increased by 17%.[165]

In our first discussion paper, the Taskforce noted that research on community perceptions of stalking shows many people mistakenly believe a stalking offence to be behaviour that occurs after a domestic relationship has ended.[166] It has been suggested these unconscious mistaken beliefs may be held by police and prosecutors and contribute to coercive and controlling behaviours being under-prosecuted as Unlawful stalking.[167]

Submissions to the Taskforce show that many frontline and front-counter police lack the skills, experience, and confidence needed to take a complaint and detailed statements for 'course of conduct' type offences like stalking or to identify Unlawful stalking as an offence that may apply in a circumstance of domestic and family violence. On occasions, victims will instead be advised to make a private application for a Domestic Violence Order.[168]

The QLS told the Taskforce that the offence has been underused in a domestic and family violence context because of narrow preconceptions about when the offence applies.

The QLS pointed out that, relevant to acts of coercive control, the term **detriment** for the offence of Unlawful stalking includes:

- prevention or hindrance from doing an act a person is lawfully entitled to do, and;
- a compulsion to do an act a person is lawfully entitled to abstain from doing.[169]

LAQ submitted that police needed better training to identify the kind of behaviours that constitute Unlawful stalking and the extent to which it can be used to prosecute coercive and controlling behaviours.[170]

A submitter to the Taskforce echoed these concerns, telling the Taskforce that her daughter had received 180 text messages from the daughter's partner. Sending her even one text message was a breach of the Domestic Violence Order, but in sending her 180 text messages he caused her serious mental, psychological or emotional harm and was engaging in Unlawful stalking:

> 'Our daughter went to the [station name removed] 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 … 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 e.g., 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.' [171]

The offence of stalking prohibits some forms of coercive control. For example, an individual act may appear innocuous (or at least not serious enough to result in a perpetrator being charged). However, it may be an offence of Unlawful stalking when it forms part of a broader pattern of similar conduct over time if those behaviours fall within the definition of unlawful stalking. It does not cover all forms of coercive control amounting to domestic and family violence.

Submissions from a number of legal stakeholders say the current offence of stalking uses some outdated concepts and language. They suggest it could be modernised to ensure it reflects contemporary surveillance techniques and to add a circumstance of aggravation for conduct committed in the context of domestic and family violence.[172] We explore this further in chapter 1.6.

Findings

The offence of Unlawful stalking is not being used by police as it could be in circumstances of coercive controlling behaviours in a domestic violence context. In some instances, victims have been advised to pursue civil protection through a private application for a Domestic Violence Order when a criminal charge of Unlawful stalking may have been appropriate.

The offence of Unlawful stalking uses outdated concepts and language and needs to be modernised to better reflect contemporary tactics used by perpetrators. This includes electronic or digital monitoring and surveillance on mobile phones and tracking devices on cars.

Police and prosecutors need to better understand that the offence of Unlawful stalking can apply in circumstances of domestic and family violence, particularly coercive and controlling behaviour. They need to be skilled and competent enough to take a complaint and detailed statements about 'course of conduct' type offences such as Unlawful stalking.

Torture

Section 320A of the Criminal Code provides that a person who tortures another person commits a crime punishable by a maximum penalty of 14 years imprisonment.

To convict a person of this offence, the prosecution must prove an act of 'torture' as defined beyond a reasonable doubt.

Torture means 'the intentional infliction of severe pain or suffering on a person by an act or series of acts done on more than one occasion'.

Pain and suffering are defined to include 'physical, mental, psychological or emotional pain or suffering whether temporary or permanent'.

Torture in this context is an offence unique to Queensland. It was introduced in response to the 1996 case of Shane Paul Griffin,[173] who inflicted electric shocks on his five-year-old stepson as a form of punishment.[174] A lack of physical injury or evidence of adverse effects on the child's mental health left the prosecution with common assault as the only available charge. At that time this carried a maximum penalty of only one year's imprisonment.[175]

The potential application of the offence of Torture to domestic violence was first found by the Queensland Taskforce on Women in the Criminal Code in 2000. Professor Heather Douglas (formerly of the University of Queensland and now the University of Melbourne) has more recently shown its usefulness in the coercive control context.

Professor Douglas argues the offence can capture the 'ongoing nature of abuse and the emotional impact of the degradation experienced by the victim'.[176]

In her research and submission to the Taskforce, Professor Douglas found a number of Queensland cases where this offence was prosecuted successfully. In those cases, the behaviour of the offender aligned with behaviours found in research and described in submissions to the Taskforce as coercively controlling behaviours.[177]

In her submission to the Taskforce, Professor Douglas notes that while the offence of Torture can be used (and has been used) to prosecute coercive control in a domestic violence context, it has limitations. These include:

- pain and suffering must be '*severe*' and '*intentionally inflicted*' and may, as a result, exclude less serious forms of domestic violence, and the required subjective element of intent may be difficult to prove[178]
- some of the more subtle, but still devastating, patterns of emotional and financial abuse that can form part of coercive and controlling behaviour, in the absence of physical abuse, may present difficulties for the prosecution to prove beyond a reasonable doubt[179]
- the term 'torture' may discourage police and prosecutors from applying the provision as it may be understood to be directed at more public or political forms of torture[180]
- the offence of Torture cannot be heard summarily.[181]

Data from the Queensland Court Service shows that the offence of Torture is being used successfully to prosecute some serious domestic and family violence. At the District Court level, a total of 54 individuals were convicted of Torture between 2016–17 and 2019–2020.[182] Amongst these cases, Torture in a domestic and family violence context made up 52% (28) of convictions.[183]

Findings

While the offence of Torture is being used to effectively prosecute domestic and family violence — including circumstances that involve coercive controlling behaviours — it could be more actively pursued in serious cases. The offence has some limitations in its ability to hold perpetrators to account for acts of coercive controlling behaviours, particularly in the absence of physical violence. It does not include emotional and financial abuse as components of domestic and family violence.

Defences and excuses under the criminal law that are available to victims of coercive control

In its submission, the Queensland Law Reform Commission stated:

> Coercive control is not a legal defence or excuse in its own right. Coercive control may form the backdrop or context to certain defences (such as duress, provocation and self-defence), although it is not the defence. Again, it will be a matter for criminal defence lawyers to ensure that comprehensive instructions are obtained to properly present any defence or excuse which incorporates coercive control.[184]

The criminal law does not only punish; it also protects. Defences and excuses have the effect of exculpating or excusing a person from criminal responsibility where this is justified.

The prosecution must prove that a person committed each element of a criminal offence beyond a reasonable doubt. If they do not prove one of the elements, the accused person is found not guilty. A person charged with an offence may also defend the charge by raising a defence or excuse.

The 'burden of proof'[185] is the extent of the obligation that rests on a party looking to have an issue decided in their favour. In Queensland law there are two types of burdens of proof:

- *legal burden* — this is the burden of satisfying a court to the appropriate standard, or level, of proof on a particular issue
- *evidential burden* — this is the burden of providing enough evidence on a particular issue to warrant a court at least considering it. It is sometimes also called 'the burden of passing the judge' (to get the issue into the jury's area of decision-making).[186]

As a rule, under Queensland criminal law, the ultimate burden rests with the prosecution to prove the accused guilty 'beyond a reasonable doubt.'[187]

Despite this, there are some circumstances when the accused bears the legal burden on a particular issue, such as the defence of insanity. The Criminal Code provides for the 'presumption of sanity' — namely, that every person is presumed to be of sound mind until the contrary is proved.[188] The legal requirement that the contrary be proved means that the accused person (usually through their lawyer) must prove their own insanity to rebut or disprove the presumption of sanity in a particular case.[189]

It is also a general rule in criminal cases that the prosecution bears all the evidential burdens for proving the offence that an accused person has been charged with.[190]

On the other hand, the accused person bears the evidentiary burden on all defences that either:

- suggest a mental impairment — for example, insanity; or
- provide the accused with a lawful excuse or justification for their behaviour — for example, self-defence, duress, and honest and reasonable mistake of fact.

This is the case regardless of whether the accused also bears the legal burden on the relevant defence.

Once the accused person has discharged the evidential burden on an issue on which they do not also bear the legal burden, the prosecution must then disprove the defence beyond a reasonable doubt before the accused can be convicted. For example, if a person accused of an offence says they were acting in self-defence and puts credible evidence before the court to support that claim, it is then up to the prosecution to prove that they were not acting in self-defence beyond a reasonable doubt.[191]

Sometimes evidence about the possible existence of a defence or excuse can arise on the facts themselves without the defendant providing any evidence. In these circumstances, the burden remains with the prosecution to disprove the defence or excuse beyond a reasonable doubt.

As explained in chapter 1.1, coercive control often involves a perpetrator using credible threats to control a victim. Over time, the victim becomes familiar with the perpetrator's pattern of control and 'rules' and comes to understand that to resist will have negative consequences.[192] The threat may not include physical violence and may affect the victim's day-to-day movement and activities, including withholding finances or isolating her from friends and family. As the power imbalance increases, the victim becomes less capable of fending for herself and more reliant on the perpetrator.[193] This leads to victims of coercive control feeling trapped, helpless, and terrorised.[194]

Recent research by the Australian National Research Organisation for Women's Safety (ANROWS) suggests that the two theories of violence most used in the legal context when victims are charged with killing perpetrators are:

- *'the battered women syndrome'* — the theory[195] that intimate-partner violence is escalating and cyclical and that, having gone through a battering cycle several times, the ordinary human response is to develop 'learned helplessness'. In other words, the victim comes to believe that there is nothing she can do to escape the violence.[196]
- *'a bad relationship with incidents of violence'*[197] — a traditional view that intimate-partner violence is a relationship issue[198] and a series of discrete violent incidents in between which the victim is free to leave or implement other safety strategies.[199]

This research suggests that when legal professionals use these dated theories of violence, they automatically undercut the self-defence case for victims. This is because these two theories do not analyse the full range of abusive strategies used by the perpetrator and how they might have worked strategically to close down the victim's autonomy over time.[200]

Researchers argue these theories do not contemplate that the coercive control the victim has been living with realistically matches her perception of her rational safety choices or objectively justifies her reaction to them.[201] The researchers argue that the more contemporary *'social entrapment'* theory is more appropriate as it explains the effect of the raft of non-physical abuse strategies, how they develop over time and their strategic nature.

A victim's social entrapment is relevant when assessing whether her lethal violence was a reasonable defensive response to the circumstances as she believed them to be and whether she had reasonable grounds for her beliefs about her circumstances.[202]

A range of defences and excuses found in the Criminal Code may apply to accused persons who are victims of coercive control. These are:

The defence of insanity (section 27) — provides that a person is not criminally responsible for acts or omissions if their mental state at the time of the offence deprives them of the capacity to understand or control their actions or appreciate that their actions were wrong. LAQ told the Taskforce that this defence has been a live issue for victims of domestic violence charged with endangering a child by exposure.[203] The LAQ submission also noted that this issue was also considered in *Re JG [2004] QMHC 025,* a case in which the defendant was found to be of unsound about the murder of her seven-year-old son. She had been in an extremely violent relationship with the father of her son and was fearful of his return. She had an extensive psychiatric history, had been hospitalised for episodes of depression, and was suffering from such chronic and major depression at the time she killed him that this deprived her of the capacity to know she ought not to do it.

The excuse of duress (section 31(1)(d)) — a person is excused from criminal liability if a person:

- does an act or makes an omission to save themself or others or property from the threat of serious harm or detriment, and
- believes subjectively that there was no other way to avoid the threat, and
- the act or omission was reasonably proportionate.

LAQ told the Taskforce that the excuse is difficult to raise but possible. The perpetrator's coercive and controlling behaviours of financial control, blackmail, systemic intimidation and threats could build a context in which the victim may believe she has no other option but to do what she did, providing that in the circumstances her actions may also have been reasonably proportionate.[204]

The excuse of self-defence (section 271) — provides justification and excuse for self-defence against an unprovoked assault:

- where the use of force that is objectively necessary for a person to defend themselves from the unprovoked attack[205]
- more extreme force (extending to death or grievous bodily harm) is used to defend themselves if the person subjectively believes on reasonable grounds that they could not otherwise save themselves from death or grievous bodily harm.[206]

LAQ told the Taskforce that where there is evidence of protracted domestic violence sourced from the victim (such as medical reports, police reports, counselling records, statements from family, friends and children, or expert reports) the defence is sometimes able to be successfully raised.[207] For accused persons facing a charge of murder, evidence about their abusive relationship with the deceased may raise the defences of provocation and killing in an abusive relationship and support an acquittal of murder, but a conviction for a lesser charge like manslaughter.

The partial defence of provocation (sections 268, 269, 304) — provides a defence where a wrongful act or insult causes an ordinary person to lose self-control and act upon it before there is time for their passion to cool. Provocation acts as a partial defence, reducing murder to manslaughter. LAQ told the Taskforce that information gathering and background history investigations can obtain evidence about the context of the actions of a victim defendant who has been subject to coercive control behaviours.[208]

Provocation can also be used as a partial defence by perpetrators of domestic and family violence.

The *Criminal Code and Other Legislation Amendment Act 2011* amended the partial defence of provocation to 'address its bias and flaws'.[209] These amendments were in response to the Queensland Law Reform Commission's (QLRC) report '*A review of the excuse of accident and the defence of provocation*', which was tabled in Parliament on 1 October 2008. The Explanatory Notes to the 2011 amending legislation states that the amendment's purpose was to reflect the QLRC's recommendations and that the amendments would 'reduce the scope of the defence being available to those who kill out of sexual possessiveness or jealousy'.[210]

However, after a decision of the High Court of Australia[211] held that the 2011 amendments should be interpreted and applied narrowly, a killer recently used the partial defence of provocation in Queensland to successfully argue that his victim's attempt to defend herself from his violence while accusing her of infidelity reduced his culpability for causing her death from murder to manslaughter.

Applying the law in this case after the High Court of Australia's decision also raises two complex policy questions. The first is the relationship between provocation and Queensland's mandatory minimum life sentence for murder. The second is whether the partial defence of provocation can ever be amended by Parliament to ensure it reflects modern community attitudes to culpability. In chapter 1.6 we note that the response to these policy dilemmas in some other Australian jurisdictions has been to abolish provocation completely but without a mandatory minimum life sentence for murder.

The partial defence of killing for preservation in an abusive relationship (section 304B) — provides a partial defence, reducing a charge of murder to manslaughter where it can be demonstrated that a deceased committed acts of serious domestic violence against the accused during an abusive domestic relationship, and it was necessary for the victim's own preservation from death or grievous bodily harm to cause death. 'Domestic violence' means domestic violence as defined in section 8 of the DFVP Act and includes a history of coercive control. The acts of serious domestic violence may include acts that in isolation appear minor or trivial.[212] This partial defence was also introduced as part of the *Criminal Code and Other Legislation Amendment Act 2011* in response to the QLRC's 2008 report. Since the introduction of the killing for preservation defence in Queensland in 2011, there are no reported cases where a jury has decided that the defence was applicable and found an accused person guilty of manslaughter only and not guilty of murder.[213]

Victims may be forced to take part in criminal behaviour such as stealing, dealing in prohibited drugs, or neglecting or abusing their children. This is used by perpetrators to continue to control and entrap victims by encouraging self-blame and preventing disclosure of abuse to authorities.[214] Victims may also feel that they are so trapped that they have no option but to attack or kill their perpetrator to escape the cycle of abuse.

Research from the United Kingdom suggests that abusive, controlling, or obsessive relationships with a male partner may influence a woman's 'decision' to offend.[215] Evidence suggests that 'domineering' partners leave women feeling cornered with 'little choice' but to participate in the offence.[216] Men use a 'range of abusive techniques' to persuade women to offend with them, including direct threats of violence, manipulating the woman through controlling her access to drugs, or exploiting their declarations of love.[217] One submission to the Taskforce suggested that women who accept responsibility for infringement notices issued to their partners may be acting under coercive control.

One victim's family described to the Taskforce how a perpetrator had manipulated the victim into swapping tags on clothing in a store, so she paid a lesser price for items. He had limited her access to money while insisting she bought new clothes. Her family said it caused her to feel guilt and shame. The perpetrator later threatened to expose her behaviour in the store if she complained to the police about his abusive behaviour.

Some academics argue that when a victim's autonomy is attacked by coercive control, giving rise to a feeling of helplessness and entrapment, the victim is placed in a position akin to a hostage. Society would not consider hostages or kidnappees morally culpable for actions they took to survive, and this leniency should be extended to victims who offend in the context of coercive control,[218] including those who assault or kill their perpetrator.[219]

Debates continue in Australia about the elements of self-defence and how they should be interpreted to ensure that self-defence is available, where supported by the evidence, to abused women who kill.[220] As noted above, the available evidence indicates that the 'killing for preservation' defence in Queensland has not been used successfully.[221] In at least two cases involving abused women who killed their partners, the jury was directed to consider both the preservation defence and self-defence and acquitted the accused of murder based on self-defence.[222] It is difficult to imagine circumstances where a jury could be directed to consider the preservation defence without also being directed to consider self-defence.[223] Once a jury accepts that a victim defendant acted to preserve herself, it is a very small step for them to find self-defence.[224]

While no defence or excuse currently exists specifically for victims of coercive control who commit offences, a range of existing offences and excuses may be applicable.

What the Taskforce has heard about defences and excuses

The Taskforce received mixed feedback about how existing defences and excuses in the Criminal Code could be better applied in circumstances where an offender's conduct was attributable to coercive control and whether a new defence should be created.

Several submissions supported the creation of a specific defence.[225]

The Griffith and Charles Darwin academics went on to tell the Taskforce that some defence lawyers may be hesitant to raise a defence based on domestic and family violence because they are not confident about how it will be received.

Some are concerned that such evidence would present a motive for the offending. Lawyers are influenced by community standards, the culture of practice, their own understanding of the law, and their confidence and competence as practitioners. If experienced barristers consider that raising a defence involving domestic and family violence could be unattractive to juries, these defences are unlikely to be raised.[226]

The Queensland Law Society told the Taskforce that the existing defences and excuses in the Criminal Code were sufficient to reflect any diminished culpability of a coerced offender.[227] The nature of coercive control is both subjective and cumulative. It is expected that prosecutors will insist on proper particularisation and evidence of coercive control where it is to be relied on in mitigation of a sentence or to answer a criminal charge.[228]

While opinions were mixed about how coercive control is and can be dealt with as a defence under the current legislation, legal stakeholders told the Taskforce that coercive control is being considered as a mitigating or aggravating feature under section 9 of the *Penalties and Sentences Act 1992* (Penalties and Sentences Act).[229] Mitigating features are points raised at a hearing that are said to reduce the criminality of the offending while aggravating features are said to increase the criminality. We heard that coercive control is more likely to feature at sentencing, particularly as a mitigating circumstance for victim offenders, as knowledge about coercive control increases.[230]

The Aboriginal and Torres Strait Islander Legal Service cautioned that giving legal justification to a violent act in response to a non-violent act could result in the unintended consequence of an abusive spouse relying on the defence to justify the infliction of serious violence on their partner or family member.

The Bar Association of Queensland (BAQ) considered that in most cases where a defendant might look to rely upon coercive control as a defence, it is likely that the conduct by the perpetrator would be accompanied by an assault or threat of assault, thus triggering the existing defence of self-defence. They considered that this defence and the partial defence of 'killing for preservation in an abusive domestic relationship' provide adequate safeguards to lessen or negate criminal responsibility.[231]

Findings

There is a lack of clarity amongst victim-survivors, their advocates and lawyers about the defences currently available for victims who offend in the context of a controlling, abusive relationship. The Taskforce is concerned that section 304B (Killing for preservation in an abusive relationship) of the Criminal Code has not been used successfully before a jury.

Despite this, there are accused persons whose experience of coercive control make them less legally and morally responsible for their offending. All defendants who are victims of coercive control relevant to their offending should be able to have their experience considered as part of their defence or as a mitigating factor in sentencing.

There is a disagreement between legal stakeholders about how current defences and excuses could be applied in circumstances of coercive control.

Currently, coercive control is not fully used as a defence or excuse or as a mitigating factor on sentence. This is largely because of an imperfect understanding on the part of lawyers, courts, and the community about the nature of coercive control and domestic and family violence.

When lawyers have a dated understanding of domestic violence, they cannot effectively represent the interests of their clients, especially domestic violence victims who have killed their perpetrators. All lawyers admitted to practice in Queensland should have the skills and knowledge that will enable them to fully meet their professional obligations[232] and ensure that their client has the benefit of all protections available under the law. This includes training in and continuing legal education on domestic violence and coercive control. All criminal lawyers and prosecutors need an understanding of the social entrapment model and how it might apply to the prosecution and defence.

The decisions of courts, whether made by juries or judicial officers, are at risk of being unjust if presiding judicial officers have a dated understanding of domestic violence and its effect on victims. All judicial officers are likely to benefit from continuing legal education on domestic violence and coercive control, including the impact it has on victims giving evidence in court, defences and mitigating factors, and how to communicate relevant aspects of this information to juries.

The Taskforce is also concerned that the partial defence of provocation is still being used by perpetrators of domestic violence to reduce their culpability at law for killing their partners in a jealous rage. The High Court of Australia's recent decision about Queensland's provocation provisions binds all Queensland courts. Unless the law is changed by the Parliament, the provocation provisions may be able to be applied in a way that is not only inconsistent with wider community expectations but significantly defeats key aims of the 2011 amendments.

Evidence

The rules of evidence govern how courts can consider the information provided by the parties to legal proceedings about the facts in issue.

For criminal matters, police gather the evidence for the prosecution case. This may include direct evidence from witnesses, forensic evidence, photographs, or expert reports. Police have significant powers under the *Police Powers and Responsibilities Act 2000* to stop, search, and detain a person, including:

- searching a person without a warrant[233]
- searching a vehicle without a warrant[234]
- arresting a person without a warrant[235]
- searching and seizing items (including weapons) suspected to be or related to an act of domestic violence or associated domestic violence.

The defence might also gather and introduce their own evidence and witnesses — for example, medical evidence.

The prosecution has an ongoing duty to make full and early disclosure of all their cases to the defence.[236] This duty extends to all facts and circumstances and the identity of all witnesses reasonably regarded as relevant to any issue likely to arise in either the prosecution or the defence case.[237] In other words, they must give the defence any relevant evidence they have or know about, even if it helps the defence and not the prosecution. The defence does not generally owe any duty of disclosure to the prosecution.

These rules of evidence influence how a party goes about proving its case and are intended to ensure that the court process is fair.

These same rules can prevent witnesses from fully and confidently telling their story to the court on the basis that to do so would be unfair to the accused.

In criminal proceedings for breaches of Domestic Violence Orders or other criminal offending (under the Criminal Code or otherwise), the rules of evidence must be followed.

The rules of evidence are mainly concerned with two issues:

- how information is given or presented to a court
- whether the information is allowed to be used in the proceeding and considered by the judicial officer, and where relevant, the jury.

The general rule is that for evidence to be 'admissible' (able to be used in court) it must be directly or indirectly relevant to a fact in issue. In reality, this rule is subject to many other rules of admissibility that have been developed over time to ensure that the court process is fair.

There are two main evidence regimes in Australia:

1. The Uniform Evidence Act regime used in New South Wales, Tasmania, Victoria, the Australian Capital Territory, and the Northern Territory
2. The common (or case) law state regimes used in Queensland, South Australia, and Western Australia.

In Queensland, the common law — or law developed by judicial officers through decisions and rulings in court — is used except where it is changed expressly by legislation, primarily the *Evidence Act 1977* (Evidence Act).

How evidence of coercive control can currently be admitted in Queensland?

Evidence of coercive control can currently be admitted before the courts in the following ways:

Relationship Evidence — Section 132B of the Evidence Act

Section 132B of the Evidence Act allows evidence of the domestic relationship between a perpetrator and a victim to be placed before the court. It applies to certain criminal offences in Chapters 28–30 of the Criminal Code, including, for example, assaults, choking, murder, and manslaughter. While it does not apply to all offences that could conceivably arise out of a coercive and controlling relationship, it does not exclude this evidence being admitted in proceedings for other offences. This is because section 132B does not change the common law position that relevant relationship evidence is admissible and does not offend the rules about character or propensity evidence.[238]

In considering the admission of similar fact, propensity or relationship evidence, including under 132B, 'It is critical to keep the use to which the evidence in question may be put squarely in mind … it is equally important to keep those uses in mind in considering whether the evidence should be excluded as a matter of discretion, including under s130.'[239] Section 130 of the Evidence Act provides that a court in a criminal proceeding can exclude evidence if it is satisfied it would be unfair to the person charged to admit the evidence.

Similar fact evidence

This is evidence that shows that a person has acted similarly before or that they have a propensity to act in a certain way. Coercive control is usually a pattern of behaviour, and so people who use this kind of controlling behaviour may do so in successive relationships.

In Queensland, this type of evidence can only be admitted where there is no rational view of the evidence consistent with innocence.[240] This is a very high threshold compared with other Australian jurisdictions. This issue is relevant to the Taskforce's second stage of work on the experience of women and girls in the criminal justice system and will be explored further in our next report.

Expert Evidence

While the general rule at common law is that evidence of opinion or belief is inadmissible, expert evidence is allowed if several rules are satisfied. While expert evidence of coercive control could theoretically be admissible under the current system in Queensland, significant hurdles make admissibility difficult:

- The evidence must be based upon matters that the expert has seen directly or assumed facts that are independently proved.[241] Unlike, for example, a doctor giving expert evidence about a victim's physical injuries, an expert in domestic violence is unlikely to have personally witnessed the pattern of controlling behaviour, which is also difficult to independently prove as it tends to occur behind closed doors.
- The expert evidence cannot have the effect of taking away the functions of the judicial officer or jury to decide 'the ultimate issue' before the court (in a criminal trial whether the accused is guilty or not guilty).[242]

In 2020, Western Australia introduced reforms to its *Evidence Act 1906* (WA).[243] After significant research[244] and discussion, section 38 of this Act comprehensively defined the various dimensions of social entrapment experienced by those who live through domestic and family violence, including coercive control, associated issues, safety responses, and structural intersectionality.[245] This comprehensive definition is far more expansive and sophisticated than Queensland's provisions. Professor Heather Douglas in her submission noted that these reforms present a 'promising model'. This topic is discussed further in chapters 1.6 and 3.8.

Special witness provisions

Victims of domestic and family violence who are to give evidence about the offending by the perpetrator are considered 'special witnesses' under the Evidence Act.[246] The provision gives the court the discretion to modify the way their evidence is taken. This is generally done on application by the prosecution to, for example:

- have a screen placed in front of the perpetrator, obscuring him from the view of the victim[247]
- permit the victim to give evidence from another room via video link[248] — on some occasions an application is made for this evidence, including any cross-examination, to be pre-recorded and heard in the proceeding instead of direct testimony from the victim[249]
- allow a court-approved support person to sit with the victim while they give evidence[250]
- exclude all people from the court while the victim gives their evidence other than those specified by the court[251]
- ensure the victim is given rest breaks as needed[252] and that questions are comprehensible, and the style of questioning is appropriate.[253]

Misunderstanding and misapplication of the rules of evidence in civil proceedings on an application for a Domestic Violence Order

Some victims told the Taskforce that police would not apply for a Domestic Violence Order on their behalf as there was not enough evidence or the perpetrator denied the abuse.[254] This is despite civil proceedings on an application for a Domestic Violence Order under the DFVP Act not being bound by the rules of evidence and a court only needing to be satisfied with the matters before an order can be made on the balance of probabilities.

Victims also told the Taskforce about some magistrates' unsatisfactory treatment of evidence of coercive control in civil proceedings for Domestic Violence Orders:

- a magistrate saying in court that even though there was clear evidence of coercive and controlling behaviours amounting to domestic violence, they did not see a need for a Domestic Violence Order[255]
- a magistrate refusing to make a Domestic Violence Order in favour of a victim in a coercive and controlling relationship on the basis that she had no visible bruises[256]
- applications for Domestic Violence Orders being dismissed despite supporting evidence and without the victim being allowed to give evidence about the context of the claims of the perpetrator.[257]

Several victims explained that it is very difficult or impossible for victims to be believed on their testimony alone.[258] These reports suggest that civil applications for Domestic Violence Orders are sometimes conducted like criminal trials, even though the rules of evidence do not apply and the burden of proof is the lower civil standard on the balance of probabilities.

Evidence in criminal proceedings

Proceedings for an offence of the contravention of a Domestic Violence Order are criminal proceedings, and the rules of evidence apply. The court must be satisfied with the relevant facts beyond a reasonable doubt.

Victims told the Taskforce many stories of police not charging perpetrators with a breach offence or with other offences they had committed for reasons that include:

- regardless of the victim having gathered evidence, the police told the victims that the police did not have the resources to act on 'minor' breaches[259]
- even with evidence police considered that there may not be enough evidence to meet the burden of proof[260]
- the police considered there was not enough evidence to justify a charge[261]
- the police were investigating the perpetrator's allegations against the victim and, despite the victim providing a comprehensive list of clear breaches, police were unsure whether non-physical acts of domestic violence amounted to a breach. The police told the victim there was 'insufficient evidence and it is not in the public interest to commence any breach proceedings'[262]
- the police told victims that text messages were not sufficient to prove a breach because the victim's name was not used or because they could not prove that the phone sending the message belonged to the defendant.[263]

The Taskforce also heard that:

- police lost evidence and refused to look at other evidence that the victim had gathered[264]
- a victim was unable to put all evidence before the court because it was not in an admissible format despite having taken the time to check with police to ensure that it was[265]
- victims have been told that 'word on word' cases, where the evidence was essentially confined to the testimony of the victim, were weak and that if they went ahead the perpetrator was unlikely to be convicted[266]
- police did not charge a perpetrator for an assault whilst on a good behaviour bond despite the victim providing photographic evidence and text messages of the perpetrator admitting abuse[267]
- police refused to take a complaint from a victim with visible facial injuries who attended a police station with a worker from a specialist domestic violence service to make a complaint about non-lethal strangulation in breach of an order because she had previously been the subject of a complaint of domestic violence by the perpetrator[268]
- police did not charge a perpetrator for assaults despite a magistrate recommending that the victim make a complaint, on the basis that the victim did not complain about the assault when she first went to the police.[269]

The Taskforce also heard that on occasions there are retrials because of juries being unable to agree, appeals, or mistrials. As a result, victims suffer trauma at having to give their evidence over and over again.[270]

The Taskforce received a varied response from stakeholders about the current admissibility of coercive control evidence and whether legislative reform is needed.

The Taskforce heard that the restrictive nature of the rules about similar fact and propensity evidence in Queensland, as compared to other states, was very concerning,[271] particularly considering the Royal Commission into Institutional Sexual Abuse recommendation that restrictions on the admissibility of this type of evidence be explicitly abolished or excluded when deciding the admissibility of tendency evidence about a defendant in child sexual offence prosecutions.[272]

Professor Heather Douglas told the Taskforce that in making protection orders in sentence proceedings, and in various other cases referencing coercive and controlling behaviour, courts are sometimes considering this evidence in their decision-making. Professor Douglas noted the variation in response to and understanding of coercive control within the legal profession and judiciary.[273] She spoke positively of the approach in Victoria[274] and Western Australia,[275] where amendments to evidence legislation bring provisions about context and relationship evidence of family violence in line with developments in the common law.[276]

The Taskforce has also been told how women from culturally and linguistically diverse backgrounds can experience specific barriers to the collection of sufficient and credible evidence.[277]

Gathering evidence of coercive control is especially difficult for those victims who have English as a second, third or fourth language. Literacy of language (both English and first language) and knowledge of local legal processes and systems can be a further barrier to these victims gathering and giving their evidence. Appropriately credentialed, impartial interpreters are not always available during interactions with the police and courts — on occasion, family members who happen to be present in court have been used as interpreters instead of adjourning to arrange for an accredited interpreter.[278] The Taskforce heard that often interpreters are known to the victim and perpetrator and do not directly and impartially translate information. They are sometimes judgmental and may even encourage or pressure the victim to return to the perpetrator.[279]

The Taskforce has been told that there is a need to improve the relationship between multicultural communities and police to ensure that evidence is properly gathered and not left entirely to the disadvantaged and vulnerable victim.[280]

Some academics raised concerns that the admission of evidence of ongoing violence is too limited.[281] Others focused on the need for new laws in expert evidence and some referred to recent reform in Western Australia.[282]

There was firm support for reform of evidence laws amongst domestic, family violence, and sexual violence stakeholders. Most legal stakeholders, however, held the view that while some reform could be of assistance (for example in jury directions),[283] the current laws allow for the admission of evidence of coercive control and are generally adequate.

The QLS noted that evidence around the nature of a relationship is already admissible in Queensland and therefore amendments to specifically facilitate admissibility of evidence of coercive control are not necessary.[284]

The BAQ told the Taskforce that there was currently nothing to prevent appropriate directions from being given to jurors to help them understand the nature and effect of family violence. The Association said that any such directions should be facilitative rather than directive and remain subject to the trial judge's overall discretion to ensure a fair trial.[285]

LAQ told the Taskforce that:

- relationship evidence is currently admissible under the Evidence Act and at common law and is easier to lead than similar fact or propensity evidence[286]
- evidence of the relationship between the perpetrator and the victim is relevant as it could help the jury to 'understand the context of the incidents that were the subject of the charges'[287]
- section 93B of the Evidence Act allows for evidence of the relevant history of domestic violence to be admitted, relying upon statements of the deceased victim to be led against a defendant perpetrator on a charge of murder
- expert evidence that helps to explain the behaviour of victims of domestic violence has been received by courts at least since the 1998 High Court case of *R v Osland*[288]

- amendments to the Evidence Act should not be made without a broader comprehensive review of the scope of opinion evidence at common law and under the codified Evidence Acts in other jurisdictions[289]
- 'if expert evidence is to be given, it should only be from independent professionals who have demonstrated specialist knowledge gained by training, study and experience in human behaviour and the impact of family violence'[290]
- understanding what evidence is needed and having the skills to elicit the necessary information is a challenge for police attending and investigating domestic and family violence matters
- defence lawyers on circuit in regional courts are often under pressure 'to keep the list moving' and have difficulty providing advice and taking comprehensive instructions from victim-accused in tight timeframes.
- if relevant evidence of coercive control is not being led where it is relevant, this is an issue of inadequate preparation and professional competence and not a deficiency in the laws.[291]

Academics from Griffith University and Charles Darwin University told the Taskforce that, according to their research, some lawyers are hesitant about using evidence of domestic and family violence but, when done well, it can have successful outcomes for victims.[292] They told us that section 132B of the Evidence Act is not useful as it merely says the obvious — namely, that relevant evidence is admissible. They suggested that the section should go further and state how evidence of family violence is relevant. This would educate lawyers, judicial officers, and jurors. They called for training for both lawyers and judicial officers[293] and for guidelines to be developed, potentially based on section 38 of the Western Australian Evidence Act, which gives useful examples of what might constitute family violence.[294]

Findings

Victims are not having the full context of their experiences of coercive control consistently admitted in court proceedings in Queensland. This is apt to lead to inadequate victim protections and perpetrators not being held sufficiently to account for their coercive and controlling abuse, making victims less safe.

Some police appear to lack the understanding and skills required to gather and use relevant evidence of coercive control and domestic and family violence in civil and criminal proceedings. Some police also appear to have misconceptions about how much evidence is needed to charge a perpetrator, particularly for breaches of a Domestic Violence Order. All police need to understand how to legally gather evidence of coercive control and the quality and quantity of evidence needed to support an application or charge and prepare the prosecutor's brief of evidence.

The Taskforce appreciates that police misconceptions about the evidence needed to obtain a Domestic Violence Order may in part be driven by the behaviour of some magistrates who, we have been told, are wrongly requiring civil applications under the Domestic and Family Violence Protection Act to be proved to a criminal standard.

Some lawyers also contribute to the problem. They are not always taking full relevant instructions from their victim clients about the history of coercive control. This may be due in part to a lack of adequate training for lawyers about how to identify and establish coercive control.

Lawyers sometimes lack the confidence and capability to lead evidence of coercive control under the current provisions of the Evidence Act and the common law. They need to be competent and confident to take relevant instructions from clients about coercive control in a trauma-informed manner and lead that evidence in court whether in family law, civil or criminal proceedings.

Queensland's laws of evidence do not prevent information about the nature of coercive control or evidence of coercive control itself from being admitted in criminal proceedings where it is relevant to a fact in issue.

Despite the position of Legal Aid Queensland and other legal stakeholders that the current evidence laws are sufficient, submissions from women with lived experience and domestic, family and sexual violence stakeholders highlight the limitations of the current laws and the present difficulty in leading evidence of coercive control.

Sentencing

The High Court of Australia has said that for Australian courts sentencing offenders for domestic violence offences, it is the duty of the court to vindicate the human dignity of victim-survivors.[295] The court has also recognised that an act of violence against a person's intimate partner is a serious breach of trust that significantly heightens the seriousness of an offence and will ordinarily lead to a higher sentence.[296]

Queensland's adult sentencing regime is primarily contained in the Penalties and Sentences Act.

The Penalties and Sentences Act was substantially amended to implement the recommendations of the Special Taskforce in the *Not Now, Not Ever* report.

Recommendation 118 of the *Not Now, Not Ever* report was that the Queensland Government introduce a *circumstance of aggravation* of domestic and family violence to be applied to all criminal offences. *The Criminal Law (Domestic Violence) Amendment Act 2016* did not introduce a *circumstance of aggravation.* Rather it amended the Penalties and Sentences Act to make domestic and family violence an *aggravating factor on sentence*.

A *circumstance of aggravation* and an *aggravating factor on sentence* are two different legal mechanisms. A *circumstance of aggravation* attaches to an offence on a charge or indictment and makes an offender liable to a greater punishment if it is proved beyond a reasonable doubt.[297] An *aggravating factor on sentence* is a fact or detail that tends to increase the offender's culpability and the sentence received.[298] An *aggravating factor on sentence* does not raise the maximum punishment available.

Since 2016, section 9(10A) of the Penalties and Sentences Act has required a sentencing court to treat domestic violence as an aggravating factor in sentencing[299] unless there are exceptional circumstances — for example, the victim has previously committed an act of serious domestic violence against the offender.

Sub-section 564(3A) of the Criminal Code provides that an indictment for an offence may also state the offence is a domestic violence offence.

Section 12A of the Penalties and Sentences Act requires a sentencing court to order an offence be recorded as a domestic violence offence if the court is satisfied it comes within the meaning of a domestic violence offence under section 1 of the Criminal Code. The formal recording of an offence as a 'domestic violence offence' on the criminal histories of perpetrators aids victims and courts:

- by identifying domestic violence perpetrators to future courts, police, and corrective services who might deal with them

- by helping identify and establish patterns of behaviour by the perpetrator over time, against the same or different victims.

Sub-sections 12A (4) to (6) make provision for the recording of past findings of guilt for domestic violence offences on a perpetrator's criminal history to be changed to add a reference that the past offence was a domestic violence offence. This change to a record of conviction is significant Section 9(3)(g) of the Act makes 'the past record of the offender' a matter to which a court 'must have regard primarily' when sentencing for an offence involving violence. Additionally, section 9(10) of the Penalties and Sentences Act requires the court to treat each previous conviction as an aggravating factor if the court considers this reasonable, having regard to the nature of the prior conviction, its relevance to the current offence, and the time that has passed since the conviction.

These provisions mean that the fact that an offender's criminal history includes previous offences designated as domestic violence offences has significant weight in sentencing.[300]

The table below sets out the charges recorded annually as domestic violence offences under section 12A of the Penalties and Sentences Act since the section was created:

Table 4. Number of flagged domestic and family violence charges lodged at Queensland courts by court and year for the period 1 July 2016 to 31 May 2021

Court	Year					Grand Total
	2016–17	2017–18	2018–19	2019–20	2020–2021	
Magistrates (Childrens) Court	57	81	142	129	173	582
Magistrates Court	8,710	6,808	6,022	6,436	6,953	34,929
Childrens Court of Queensland	46	38	53	42	42	221
District Court	2,993	3,992	4,297	4,262	3,707	19,251
Supreme Court	117	111	101	131	208	668
Grand Total	**11,923**	**11,030**	**10,615**	**11,000**	**11,083**	**55,651**

Source: Queensland Wide Inter-linked Courts (QWIC), 19 July 2021[301]

The number of flagged domestic and family violence charges for adults in the District Court rose steadily during the first three years after section 12A was enacted and before plateauing in 2019–20. Numbers fell in 2020–21, possibly because of the impact of the COVID-19 pandemic on the court disposition rates.

Numbers in the adult Magistrates Court were highest in the first year after section 12A was enacted before staying relatively stable over the following years.

Concerningly, the number of child perpetrators of DFV in the Magistrates (Childrens) Court has increased by over 300% since 2016–2017. This correlates with information the Taskforce has received to the effect that:

- more young people are coming before the courts charged with domestic violence offences — particularly young people involved in intimate-partner relationships[302]
- children in intimate-partner relationships are perpetrating serious acts of violence against victims, including branding the skin of victims[303] and coercive control[304]
- children as young as seven are accessing pornography on mobile phones — hence, from an early age, there is a need for children to learn about healthy behaviour that is and is not appropriate in relationships[305]
- there is a need for more programs in the community and detention centres to help young people understand domestic and family violence,[306] and that readily available, dangerously violent pornography easily shared on social media is fantasy, portrays dangerous situations for women and girls, and is not representative of healthy relationships.

There are no specific provisions in the Penalties and Sentences Act that allow the court to consider whether a person's experience of coercive control is a mitigating factor in deciding a suitable sentence.

A recent report from the Queensland Sentencing Advisory Council (QSAC) that was confined to *assaults* showed that at least for assaults, the courts are treating domestic violence offences more seriously, calling for heavier penalties and longer custodial sentences. This suggests that section 9(10A) Penalties and Sentences Act is having the legislatively desired impact on sentencing outcomes.[307] The Taskforce acknowledges, however, that custodial sentences are not necessarily the only or best way to hold prisoners to account. Increasing the prison population causes a different set of problems and concerns and is very expensive.[308] Non-custodial sentences with interventions and strictly enforced conditions focussed on keeping victims safe and reintegrating the perpetrator into the community can be a more cost-effective and focussed way of holding perpetrators to account for their anti-social behaviour.

QSAC found that for common assault, non-custodial options were the most common penalty, and where custodial sentences were imposed, they were almost twice as long as for assaults involving domestic and family violence.

In the Magistrates Court, just over one-third (35.7%) of domestic violence common assaults resulted in a custodial penalty compared with less than 2 in 5 (18.2%) for non-domestic violence offending.[309]

For the offence of assault occasioning bodily harm (AOBH), imprisonment was the most common penalty and was far more likely for more serious AOBH offences involving domestic and family violence. This was particularly clear in Magistrates Court sentences for AOBH and aggravated AOBH where the imprisonment rate for offences related to domestic violence was (respectively) 51.3% compared to 25.7%, and 61.1% compared to 38.9% for offences not related to domestic violence.[310]

Community Corrections Order

The Taskforce notes that the Queensland Government has not yet responded to the QSAC's final report dated July 2019 on community-based sentencing orders, imprisonment and parole options.

The QSAC recommended the creation of a new sentencing option for Queensland, a 'community corrections order' (CCO).[311] This new, more flexible community-based sentencing order is like the sentencing penalty most often ordered in Scotland upon conviction of its recently introduced domestic abuse offence that criminalised coercive control. The CCO recommended by the QSAC would allow for treatment, supervision, rehabilitation and community service to form part of a perpetrator's sentence.

DJAG confirmed that it is continuing to consider the QSAC's recommendations about this new order and expanded opportunities to combine orders when sentencing for a single offence to meet the various purposes of sentencing.[312] Sisters Inside were concerned that while Scotland was able to sentence 84% of those convicted under its new offence with non-carceral diversionary programs, there are no signs that this diversionary approach will be included in the Queensland reforms. They strongly argue that in the absence of a CCO scheme, a new coercive control offence would set racialized and over-policed communities on a pathway to prison.[313]

The Taskforce requested further information about the potential costs and benefits of implementing the reforms proposed by the QSAC from DJAG, Queensland Corrective Services, and the QPS, but all agencies told us they were unable to provide this information as the Queensland Government was still considering the QSAC recommendations.

What the Taskforce heard about sentencing

Many victims have expressed their frustration at the sentencing process, particularly about perpetrators being dealt with too leniently[314] despite, for example, breaching Domestic Violence Orders on many occasions. One victim told us that in her case the perpetrator received immediate parole despite breaching the order on close to 10 occasions. Another victim told us that although she suffered coercive control at the hands of a perpetrator who breached bail and the Domestic Violence Order on seven occasions, he was released from custody after less than a month because of time served on remand. She was told by the male magistrate that while the perpetrator was a pest he was 'not violent enough to be locked up'.[315] Concerns were also raised that concurrent sentencing for perpetrators who had committed multiple offences was not a sufficient deterrent.[316]

The experiences of these victims sit in stark contrast with the views expressed in submissions from legal stakeholders and academics and even from some victims who expressed a reluctance to report offending for fear the perpetrators would be imprisoned.

The LAQ submission noted that section 9 (2)(c)(i) of the Penalties and Sentences Act requires a sentencing court to consider any 'physical, mental or emotional harm done to a victim' in arriving at the right sentence and 'anecdotally' sentencing courts do not treat non-physical violence less seriously.[317]

Professor Heather Douglas in her submission noted promising case examples from the District Court of Queensland and the Queensland Court of Appeal showing that some judicial officers recognise coercive control as domestic violence in sentencing offenders. She also observed that 'better education for judges' about the effect of section 9 (10A) Penalties and Sentences Act may be helpful.[318]

Findings

Although a victim's experiences of domestic and family violence and coercive control could be raised as a mitigating factor when they are being sentenced for an offence under the existing provisions of the Penalties and Sentences Act, some lawyers lack the knowledge and skills to make appropriate submissions. Lawyers need to be competent and confident to take these instructions in a trauma-informed way and to make appropriate sentencing submissions. Lawyers need to have the skills and knowledge to refer their clients to support services to meet their therapeutic needs and help them to put a safety plan in place.

Sentencing courts have the ability under the Penalties and Sentences Act to take domestic violence and coercive control into account as an aggravating factor on sentence. However, they do not have sufficient sentencing options at their disposal to impose individually tailored sentences to best hold perpetrators accountable, help stop the violence, and keep victims safe. Sentencing courts should have flexible victim-centred sentencing options that allow them to impose sentences that hold perpetrators to account and keep victims safe. Ideally, this should be a point for intensive intervention and supervision to prevent future violence.

Although there are some promising signs of improvement appearing in appeal decisions, judicial officers would benefit from further training and education about the nature and impact of domestic and family violence and coercive control, particularly non-physical presentations of coercive control. This includes a better understanding of the nature of the behaviour and its impact on victims, and the risk of lethality.

The amendments to section 12 of the Penalties and Sentences Act that were contained in the *Criminal Law (Domestic Violence) Amendment Act 2016* are helping bring offender history of domestic and family violence to the attention of sentencing courts.

Given the prevalence and impact of domestic and family violence across the criminal justice system, judicial officers should have a thorough understanding of the nature and impact of coercive control and domestic and family violence.

The Commonwealth Government's legislative response to coercive control

Family Law Act 1975 (Cth)

In Australia, parental responsibility for children and the distribution of property following separation are matters for which the Federal Government is responsible. These matters are governed by the *Family Law Act 1975* (Cth) (Family Law Act). While family law issues are largely outside this Taskforce's Terms of Reference, we consider we must refer to the many victims who made submissions about the impact of family law proceedings on their experience of coercive control.

A considerable number of submissions reported that the family law system enables and facilitates ongoing perpetrator abuse and coercive control.[319] Many victims who had concurrent family law orders and Domestic Violence Orders felt that there was a disconnect between the state civil Domestic Violence Order scheme and the federal family law system.[320] One submission explained:

> 'There is a huge gap in the DV and family court system … so our most vulnerable women and children are then slipping between the gaps and not protected by either court system. I feel very let down and have grave fears for my children, myself and our future. I am devastated and scared.' [321]

Victims are facing a wide range of difficulties navigating the family law system while trying to protect themselves and their children from continued abuse after leaving a relationship. Some examples of these difficulties include:

- victims perceiving or being misadvised by lawyers and report writers that the shared parental responsibility provisions of the *Family Law Act* mean that children must spend equal or close to equal time with each parent even where there is domestic violence and coercive control; victims feeling obliged to offer or being pressured into 50/50 shared care arrangements as a result[322]

- victims feeling pressured to resolve or settle their proceedings early[323] or suffering financially if they are legally represented[324]
- perpetrators not complying with family law orders with minimal repercussions[325]
- victims being unfairly made to pay child support to perpetrators[326]
- perpetrators delaying family law matters seemingly with the primary purpose of exhausting victims mentally and financially[327]
- perpetrators being allowed access to children through family law orders despite the perpetrator's physical and sexual abuse of the children,[328] in some cases, overriding the protection of Domestic Violence Orders in place[329]
- perpetrators making false mental health allegations about the victim without independent assessment, sometimes affecting access to children and child custody arrangements[330]
- perpetrators using the children to control the movement of victims and in some cases to force victims to remain near perpetrators despite the victim having a support network elsewhere[331]
- victims trying to keep themselves and their children safe from perpetrators are forced to return and give access to the perpetrator because of family court rulings.[332]

It is a principle of the Family Law Act that children have a right to spend time and communicate regularly with both parents. The Taskforce saw that many victims and organisations felt the family law system prioritises children having a relationship with both parents and expects parties to co-parent, even where there has been a history of domestic and family violence against the victim and their children.[333]

> 'The Family Court is like a co-offender — rarely taking [domestic violence] seriously and consistently making orders which prioritise the rights of perpetrators to have 'shared parental responsibility' above the safety and protection of women and their children.' [334]

There is a common misconception within the community, including the legal community, that the presumption of equal shared parental responsibility within the Family Law Act[335] means that parents should agree to and be awarded 50/50 shared care even when one parent is a perpetrator of abuse.[336]

In 2018, the Australian Law Reform Commission (ALRC) found the presumption, which primarily concerns parental decision-making, was being misinterpreted to mean both parents should see the child for the same amount of time.[337] The ALRC made recommendations relating to parental responsibility (4-7), which have been agreed to in part, or in principle, by the Australian Government.[338]

The misunderstanding of the presumption of equal shared parental responsibility is a significant barrier to victims of coercive control seeking help. It influences some victims to remain with abusive partners for fear that, otherwise, their children will have to spend unsupervised time with the perpetrator. It can also lead to victims accepting, or in some cases even offering at the outset, shared parenting arrangements involving equal time to finalise proceedings quickly and reduce the risk of the perpetrator using the process to further abuse them. This is despite fears that these arrangements will jeopardise their safety and that of their children.

The Taskforce heard many stories from victims about negative encounters with court counsellors, report writers, and independent children's lawyers who showed a lack of understanding and consideration of the abuse suffered by victims and their children.[339] Some felt that reports prepared by court report writers made it more difficult for them to keep themselves and their children safe.[340]

For example, one victim told a psychologist engaged to prepare a report for the court that when she was not home, her ex-partner would come into her home without her consent and move and clean things. In the context of coercive control, this sends a clear message to the victim that the perpetrator has access and can let himself into her home at any time. Insensitively, the psychologist responded that they 'wished their husband would clean the house'.[341]

Another victim explained:

> 'The nexus of rot sits with family report writers. Back in 2018 when I fled to a shelter after my husband said, "I could be stabbing you right now and it's not far off" (and I fortuitously had a recording of that remark) the report writer said I placed my child at risk by fleeing the house and moving to a DV shelter and called the DV I endured "hurt feelings". That report writer still works in QLD today and is widely considered one of the more reputable report writers.' [342]

The Taskforce has heard that attempts by victims of coercive control to protect themselves and keep their children safe may be considered to be parental alienation in the family law system and counterintuitively act against them in that jurisdiction. Angela Lynch, at the time the CEO (Chief Executive Officer) of Women's Legal Service Queensland, told the Taskforce that a victim of coercive control who withholds her children from a contact visit with the perpetrator due to fears for the children's safety risked having the perpetrator complain to police that her protective behaviours amounted to coercive control against him.[343]

The Taskforce is aware that ongoing reform to the family law system is underway, which may go towards addressing issues that have been raised in submissions.[344] The newly merged Federal Circuit and Family Court of Australia started on 1 September 2021. In addition to the new structure, pilots are underway to improve risk assessments and case management and to trial the co-location of child protection and policing officials in family law court registries.[345]

The intersection of family law and state domestic violence systems

The Family Law Act stipulates how Domestic Violence Orders and family law orders interact. Constitutionally, orders made under the family law system, as federal orders, ordinarily override state family violence orders to the extent of any inconsistency.[346] The Taskforce heard many examples of women who had their Domestic Violence Orders overridden by family law orders and felt that they and their children were exposed to further abuse by perpetrators.[347] Some victims felt that this override should not occur.[348]

Amendments to the Family Law Act have tried to remedy this. State courts now have the obligation to consider whether to revive, vary, suspend or discharge family law orders that the court is aware of when making a Domestic Violence Order.[349] This is intended to promote consistency between Domestic Violence Orders and family law orders and allows the state court to consider violence occurring after a family law order has
been made.

In Queensland, magistrates hearing domestic violence proceedings must have regard to any family law order before deciding whether to make or vary a Domestic Violence Order.[350] If the family law order allows contact between a child and a respondent to an application for a Domestic Violence Order, and that contact may be restricted under a proposed order or variation, the court must consider whether to exercise its power to revive, vary, discharge, or suspend the family law order.[351] Importantly, the state court must not diminish the standard of protection given by a Domestic Violence Order for the sake of facilitating consistency with a family law order.[352]

The Taskforce heard that there is often a reluctance among magistrates to cross into the family law jurisdiction. This reluctance to make Domestic Violence Orders that restrict contact with children is of particular concern to organisations supporting victims of domestic and family violence.[353] This issue was also considered by the Special Taskforce[354] and led to legislative changes in Queensland to strengthen the obligations of the courts.[355]

Changes to the DFVP Act following the *Not Now, Not Ever* report now place an obligation on parties to proceedings on an application for a Domestic Violence Order to make the Magistrates Court aware of any family law orders that are in place. Nevertheless, magistrates have told the Taskforce that it is often still difficult for state courts to be aware of and obtain copies of the most recent relevant federal family law order.[356]

In its submission to the Taskforce, North Queensland Women's Legal Services highlighted a particular reluctance on the part of both police and the court to intervene when a perpetrator threatens to remove children and there are no family law orders in place:

> Unfortunately, when the perpetrator is the biological father, our experience is that these are not behaviours the police or domestic violence courts uniformly regard as acts of domestic violence. Instead, women are told they are family law issues and that they must start proceedings in that jurisdiction to obtain parenting orders.[357]

Many victims with existing family law orders reported significant difficulties in obtaining more protection from the police.[358]

Police are limited in their ability to intervene when family law orders are in place. For example, police are unable to make PPN conditions limiting contact between a perpetrator and their child that override or are inconsistent with family law orders.[359] When conditions are needed to prevent or limit a child's contact with the perpetrator to protect the child but that is inconsistent with a current family law order, police can apply for a temporary protection order on behalf of the child victim.[360]

The Taskforce is aware that measures to improve the interaction between the family law, child protection, and family violence systems are currently being developed by the Family Violence Working Group, which informs the Meeting of Attorneys-General.[361] This includes work to improve information sharing between courts and state agencies, to increase family violence competency for lawyers, and to progress the implementation of the proposed new Federal Family Violence Orders.[362]

The Taskforce is hopeful that ongoing reforms to the family law system and work of the Family Violence Working Group will improve the experiences of victims navigating the family law system and their children. There is an urgent need for faster, less expensive, more effective, cohesive, and consistent responses to domestic and family violence from the federal and state family law and domestic and family violence systems to ensure victims, including children, are safe and perpetrators are held to account.

Findings

Perpetrators of domestic and family violence and coercive control often use family law proceedings and outcomes as a mechanism to continue to exert power and control over their victims. This undermines efforts by states and territories to continuously improve responses to domestic and family violence to protect victims, including children, and hold perpetrators to account and stop the violence.

Community perceptions of the presumption of shared parental responsibility in the *Family Law Act 1975* (Cth) often lead victims of domestic and family violence to believe they are compelled to offer equal shared care to abusive fathers. Victims are frightened that the court will view them as alienating the children from their father if they try to protectively limit contact. This potentially exposes children to significant harm and means victims are subject to ongoing power and control by the perpetrator during periods of contact over the children.

Mothers who act protectively in the best interests of their children to limit the contact their children have with a perpetrator-father are often accused of parental alienation within the family law system.

As a private law jurisdiction, courts exercising family law jurisdiction depend on information and evidence provided by the parties in the matter. In the absence of an investigative authority, it can be difficult to resolve allegations of violence and abuse made during the proceedings. It is important that police, state courts, and lawyers better understand the limitations of family law processes and how perpetrators can use them to further exert power and control. The existence of family law orders should not dissuade victims from applying for and obtaining added protections in the best interests of children through the state-based system when needed. Magistrates need to fully understand their powers and duties to provide protection to victims, including child victims where a family law order is in place, and feel confident to exercise these powers and duties.

Likewise, police need to have the confidence to proactively seek additional necessary protection for a victim, including a child victim who is subject to a family law order. Police also need to know how to respond to threats to children from a biological perpetrator parent appropriately and speedily even when there are no family law orders in place.

Conclusion

Queensland has a broad suite of legislation that is addressing coercive control in domestic and family violence in several ways. What the Taskforce has learned is that this current legislative response could be strengthened to address coercive control more effectively. There are some clear gaps in the current response. The most obvious gap is that there is no single criminal offence in Queensland that captures the full range of coercive and controlling behaviour in domestic and family violence offences. The theme that has emerged prominently in the Taskforce's investigations is that legislation is only as good as the police, prosecutors, defence lawyers, juries, and judicial officers who are tasked with applying it. Chapter 3.1, which deals with the need to educate the community about coercive control and domestic violence, is highly relevant to jurors who ensure community standards are reflected in the criminal justice system.

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[260] Taskforce submission 679031.

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[279] Meeting with Yasmin Khan, 27 August 2021, Brisbane.
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[282] Anglican Diocese of Brisbane DFV Taskforce & Joint Churches DFV Prevention Project, 10.
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[286] Legal Aid Queensland submission, 36-37.
[287] *Gipp v The Queen* (1998) 194 CLR 106 per McHugh and Hayne JJ.
[288] [1998] HCA 75.
[289] Legal Aid Queensland submission, 40.
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[300] R v O'Sullivan; Ex parte Attorney-General (Qld); R v Lee; Ex parte Attorney-General (Qld) [2019] QCA 300 paragraphs 83-93.
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[303] Consultation with Magistrate McGarvie, Mt Isa Magistrates Court on 1 June 2021.
[304] Brisbane consultation, 24 June 2021.
[305] Consultation with Magistrate McGarvie, Mt Isa Magistrates Court on 1 June 2021.
[306] Consultation with Magistrate McGarvie, Mt Isa Magistrates Court on 1 June 2021; Gold Coast Consultation 21 June 2021.
[307] Queensland Sentencing Advisory Council – The impact of the domestic violence aggravating factor on sentencing outcomes, 1.
[308] Productivity Commission 2021, Australia's prison dilemma, Research paper, Canberra; Queensland Productivity Commission 2019. Inquiry into Imprisonment and Recidivism, Queensland.
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[311] Recommendation 9.
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[326] Taskforce submissions 679612, 687457.
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[329] Taskforce submission 685247.
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[331] Taskforce submissions 679619, 680272.
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[342] Taskforce submission 686674.
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[344] Meeting with representatives from the Federal Circuit Court, 02 June 2021.
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[346] *Family Law Act 1975* (Cwlth) s 68Q.
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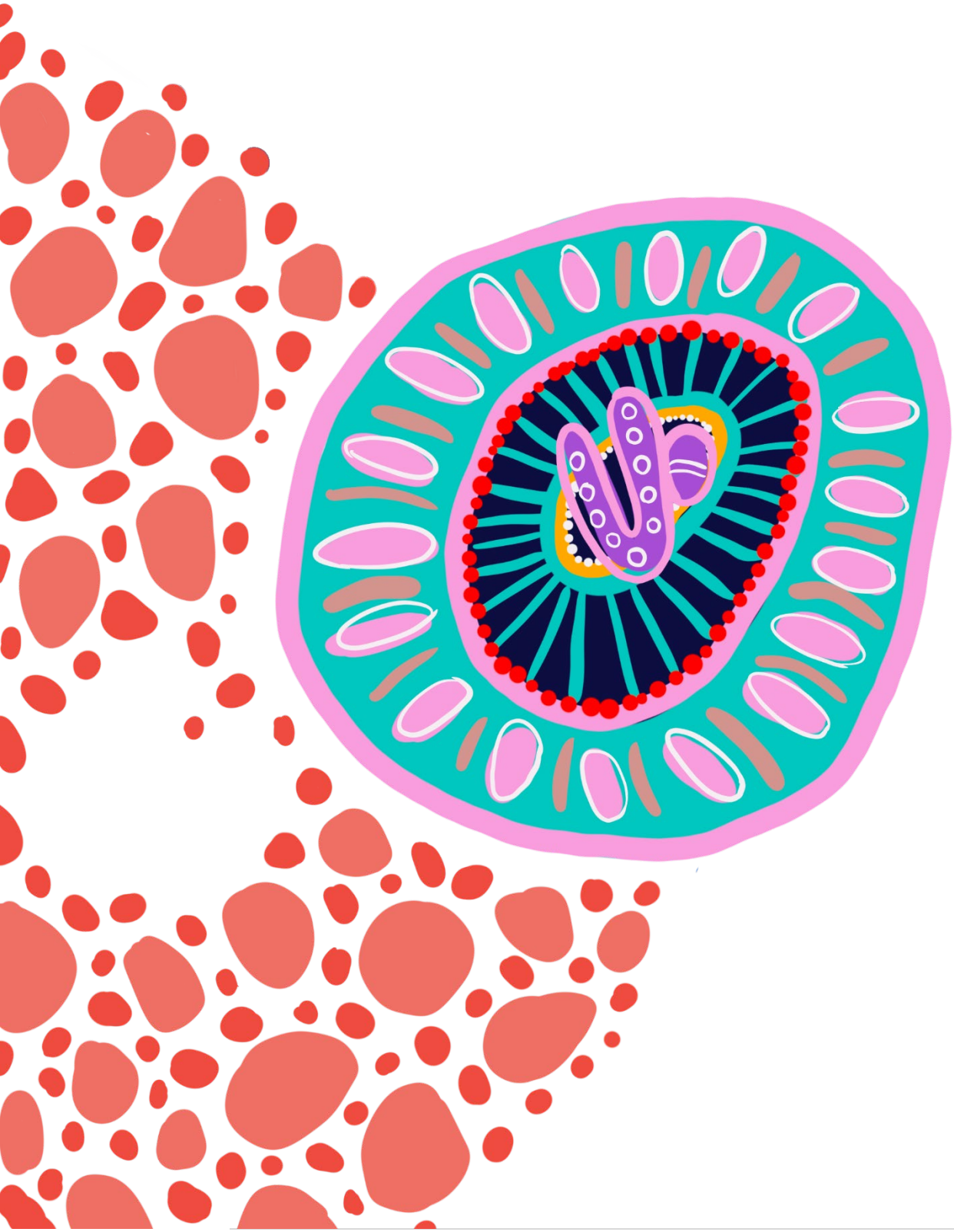

Chapter 1.6

Options for legislative reform

This chapter discusses the 13 options for legal reform in Queensland examined in the Taskforce's first discussion paper and explains why, based on what we have heard and our research, the Taskforce has recommended some legal reform options and not others.

'Controlling or coercive behaviour can limit victims' basic human rights, such as their freedom of movement and their independence … Being subjected to repeated humiliation, intimidation or subordination can be as harmful as physical abuse, with many victims stating that trauma from psychological abuse had a more lasting impact than physical abuse.' - Alison Saunders, former Director of Public Prosecutions for England and Wales[1]

The Taskforce has consulted the community widely. It has received submissions from victim-survivors and other individuals with live experience, legal and domestic and family violence stakeholders, government departments, academics, and other organisations. It has also reviewed leading current publications on the topic.

Why legislate against coercive control?

To legislate or not against coercive control

The Taskforce's terms of reference are to examine how best to legislate against coercive control and consider whether there is a need for a specific offence of 'commit domestic violence' in Queensland. The Taskforce has been at pains to make clear in its discussion paper and consultations (both public and private) that 'legislate' does not necessarily mean 'criminalise'. Much of the resulting public debate, however, has focused on the advantages and disadvantages of criminalisation.

Criminal law is designed to identify and redress degrees of harm that are not tolerated by society.[2] Those arguing in favour of criminalisation told us that the criminal justice system should focus not only on physical harm but also on the conduct of perpetrators who place 'restraints upon a person's capacity to exercise their freedom fully'.[3] Criminal law is not solely concerned with the interests of the wronged individual but also with behaviour that is 'against some fundamental social value or institution'.[4] Further, 'although the legal system alone cannot end violence against women, its role in providing remedies to victims and deterring abusers is central to the greater social struggle'.[5]

Some overseas jurisdictions (England and Wales, Ireland, Scotland and Northern Ireland) have recently introduced specific offences that criminalise coercive control. Those jurisdictions identified a gap in their existing criminal law — namely, that it did not capture the ongoing nature of domestic abuse and instead focused on individual incidents of physical violence.[6] They concluded that their criminal law gave inadequate consideration to the full extent of patterned coercive domestic abuse and the harm it caused to victims.[7]

Some have argued that rather than introducing a specific offence of coercive control, the aim should be to improve existing procedures and processes in criminal law.[8] Others have argued that, instead of creating a new offence, we should strengthen existing civil remedies and improve access to support.[9] This would avoid problems associated with implementing an inappropriate offence as well as concerns about over-criminalisation.[10] Professor Heather Douglas observed that:

> As previous reports have identified, many improvements could be made to policing, prosecutorial decision-making, approaches to evidence, witness support and safety, and sentencing in relation to cases involving domestic and family violence. These improvements may offer better opportunities for women to access justice than the creation of new offences. As such, it may be that increased funding and training of police, lawyers and judges will afford better outcomes than law reform.[11]

Others suggest that while improvements to the criminal justice system are necessary, what remains is 'an inability by the substantive criminal law to capture the distinctive nature of coercive control that is, arguably, a defining feature of many cases of domestic violence and/or abuse.'[12] This is because the current legal system focuses on single incidents of violence. The criminalisation of coercive control will address this 'failure to take into account the actual harm experienced by many victims of domestic violence and/or abuse which occurs through coercive behaviours of the perpetrator.'[13]

It is necessary to thoroughly analyse what has been called the 'criminalisation thesis' — that is, 'how and under what conditions might a criminal justice system response to such violence be an effective one?'[14]

Benefits and risks in legislating against coercive control

The arguments for and against criminalising coercive control are set out below.

What are the benefits?

The arguments in support of criminalising coercive control are as follows:

First, criminal legislation against coercive control would arguably improve the legal system's response to all forms of domestic and family violence. In Queensland at present, specific offences of criminalised acts must be charged. There is no single offence to cover many acts of coercive abuse, occurring over time in the context of a relationship and cumulatively harming the victim. The criminal justice system's focus on incident-based responses to domestic and family violence is not providing the level of protection for victims of domestic violence that the community expects.

When courts concentrate on discrete acts of physical violence, they may hear only parts of victims' stories, which often makes the narrative artificial.[15] This can lead to injustices. It may result in the victim's evidence sounding 'incoherent', 'unpersuasive' and may detrimentally affect the credibility of the victim's evidence.[16] A jury only hearing about an isolated incident may 'assume that the perpetrator was intoxicated, or that it was a minor event, or that it was an act of self-defence against an "out of control" female partner.'[17] When a long history of abusive behaviour is reduced to a small number of charges for a single episode of abuse, some argue that the criminal law fails to adequately recognise and punish the full extent of the real harm done to the victim.[18]

In Queensland, there is currently no single offence that considers coercive controlling behaviour as a course of conduct incorporating physical, emotional and economic abuse, and isolating behaviours. This omission means a perpetrator cannot be held criminally liable for the collective harm they cause by combining unlawful and otherwise lawful behaviour to coercively control their victim.

With a coercive control offence, the perpetrator could be charged for a course of conduct involving multiple incidents — these may be physical or non-physical, rather than only individual acts of violence. Evidence of all relevant aspects of the intimate-partner relationship between the victim and perpetrator would be clearly admissible to prove the offence. Such an offence would capture all of the abuse, not just the physical aspect. As a penalty would be attached to the offence, courts could punish an offender for the full extent of the charged coercive and controlling behaviour.

Supporters argue that legislating against coercive control fills a concerning 'gap' in the current legal response to coercive and controlling behaviours. Currently, a victim can obtain a civil protection order based on non-physical abuse in Queensland. However, the Taskforce has heard this can be difficult, and only some types of coercive and controlling behaviour can be prosecuted as criminal offences. Section 132B of the *Evidence Act 1977* (Evidence Act) and the common law allows relevant evidence of the history of a domestic relationship to be given in criminal proceedings to put into context the charged criminal offences. However, no criminal liability attaches to that conduct as it is not part of the specific charge. This means that no penalty can be given for it.

Without an offence of coercive control, there are concerns that lawyers and courts are misconceiving evidence of domestic violence. The incident-based system is apt to mislead as to the true nature of the relationship. This means a judicial officer may wrongly contextualise offending behaviour as a 'bad relationship with incidents of violence'.

Making coercive control an offence would ensure that the entire relevant context of the relationship is admissible. This would make for a fairer criminal justice system as '[b]roader accounts of the perpetrator's behaviour may therefore add to the victim's credibility and provide clear evidence of the perpetrator's motives.'[19]

Second, there are public health benefits to legislating against coercive control to protect the safety of victims, primarily vulnerable women and girls. Currently, police in Queensland cannot bring a criminal charge against a perpetrator of coercive control until they stalk or physically injure the victim or damage their property. Until then, our current law can only protect the safety of a victim of coercive control if the victim has a civil protection order against the person and the police enforce the conditions of that order. As the health implications for victims and the cost to the community from coercive controlling behaviour are significant,[20] there are sound public health benefits in criminalising this behaviour.

Third, creating a criminal offence punishable by law would have a public denunciation effect, making it clear to perpetrators that our community will not tolerate such behaviour.

Fourth, making coercive control a criminal offence will have an educational function. Those suffering from domestic and family violence involving coercive behaviour are more likely to recognise early that they are victims and thus seek help from authorities and support services to keep them safe and hold perpetrators to account. Identifying the anti-social behaviour through a specific offence may also encourage perpetrators or potential perpetrators to seek early interventions to take responsibility for their criminal behaviour and rehabilitate. It should also improve the awareness of families, friends, co-workers, the broader service system and the wider community, potentially facilitating increased early informal intervention in unhealthy relationships.

Making coercive control an offence is likely to support educative initiatives that governments introduce about the role of coercive control in domestic and family violence. Widespread education will be vital to make sure the community understands and reports the damaging behaviours captured under any new legislation.[21]

Finally, as women and their children are the most common victims of domestic violence,[22] the criminalisation of coercive controlling behaviour will better protect the human rights of women and girls in Queensland.[23]

Submissions from various organisations acknowledged the benefits of legislating against coercive control, for the reasons set out above. Legal Aid Queensland recognised that a standalone offence would send a clear message to the community that the behaviour is dangerous and must be taken seriously:

> LAQ acknowledges that the creation of a standalone offence of coercive control would formally recognise the detrimental nature of a predominantly non-physical form of abuse. It may facilitate further discussion and awareness raising that may initiate cultural change and facilitate earlier intervention. It has the potential to increase the chances of victims identifying their experiences as domestic violence and may prevent such behaviours from occurring.[24]

DV Connect also outlined strong arguments for the criminalisation of coercive control. It said that criminalisation would:

- uphold and protect the human rights of women in Queensland
- send a strong message to victims that they are believed, heard and worthy of protection under the laws within society
- give clear messaging to abusers that their behaviours would not be tolerated and that they would be held to account
- change the criminal justice system's understanding of domestic abuse from single incidents of physical violence to patterned abuse that can involve physical harm and non-physical harm
- raise awareness of what is and isn't a healthy relationship
- take the responsibility off the woman to prove a breach of a Domestic Violence Order and place the responsibility upon the police to investigate whether a crime has been committed
- result in training of those working in the criminal justice system as well as improving the policy and protocol that accompanies a criminal offence of coercive control, which could prevent homicides of women and children in our community
- fill large gaps within the Queensland criminal justice system by allowing for a course of conduct to be assessed to demonstrate the patterned nature of abuse over time
- be likely to lower the rates of misidentification
- demonstrate an informed, authentic and practical commitment to women's psychological, physical and financial safety.[25]

What are the risks?

There are, however, also risks to introducing an offence that criminalises coercive controlling behaviours.

First, a key challenge is to design legislation that criminalises only those controlling behaviours that are so harmful they deserve criminal punishment, recognising that not every dysfunctional intimate relationship will call for criminal punishment. Coercive and controlling behaviours 'are often nuanced, complex, and their form and nature, while capable of being generalised, may not apply equally to all relationships'.[26] The failure to clearly and appropriately address this distinction in legislation risks unintended net widening and over-criminalisation. There must be careful consideration to defining the scope of the conduct covered under any offence.

Second, there is the risk of misidentifying the person in need of protection by the legal system (which was explored in chapters 1.1, 1.2 and 1.3). This can result in legal systems abuse, where perpetrators use the justice system to further assert control over the victim.[27] Many submissions to the Taskforce pointed out that women and girls from Aboriginal and Torres Strait Islander or culturally and linguistically diverse backgrounds and those with intellectual disability were particularly susceptible to being misidentified as perpetrators of coercive control and domestic and family violence.

Family violence may be under-reported by Aboriginal and Torres Strait Islander peoples because of fears about interactions with police, potential consequences for the perpetrator or the victim's children, exclusion from their community, and lack of access to culturally appropriate services and responses for both victims and perpetrators.[28]

Professor Tamara Walsh from the University of Queensland told the Taskforce that based on her research on adolescent family violence and community justice initiatives:

- criminal law responses are more likely to impact negatively on Aboriginal and Torres Strait Islander peoples who are more likely to be arrested, more likely to be charged, more likely to be convicted and more likely to receive harsher penalties when sentenced for family violence offences
- criminal law responses to family violence are having the effect of entrenching Aboriginal and Torres Strait Islander younger people — and especially Indigenous girls — in the criminal law system.[29]

Similarly, Dr Marlene Longbottom of the University of Wollongong and Dr Amanda Porter of the University of Melbourne told the Taskforce:

> [t]he social circumstances that we are currently faced with in terms of the violence that Aboriginal and Torres Strait Islander women and children experience is not something that can be legislated nor policed out of.[30]

Multicultural Australia has identified some specific risks for culturally and linguistically diverse women. For them:

> [o]ften, personal safety remains a secondary consideration to keeping the family and culture together.[31]

We must, therefore, recognise the unique challenges that women in migrant and refugee communities face. Similarly, the submission made by No to Violence highlighted the added risks that legislating coercive control may pose for culturally and linguistically diverse women. These include:

- Australian visa laws can be used as a tool for coercive control
- criminal justice proceedings may put women and children in more danger by allowing perpetrators to engage with victim-survivors in court
- some victim-survivors just want their partners to change, rather than a criminal justice response
- a criminal justice response isn't a deterrent and potentially escalates violence and abuse
- victims are reluctant to engage with the police.[32]

The submission by Working Alongside People with Intellectual and Learning Disabilities (WWILD) identified unique challenges for women with intellectual disability. These women face barriers accessing protection from new offences that criminalise coercive control and would be at greater risk of misidentification.[33] The Taskforce also heard about the experiences of women with intellectual disability who have experienced domestic and family violence and sexual violence. These women spoke at a forum facilitated by WWILD. They described how hard it is to communicate with the police at any time but especially after a traumatic experience. They felt the police did not give them enough time to explain what had happened to them.

Queensland Advocacy Incorporated (QAI) also told us that people with disability experience violence differently and disproportionately.[34] Their submission highlighted the over-representation of people with a disability in the current system and the risks of over-criminalisation.[35] WWILD suggested that there should be significant investment in cultural change across the community, including training for police and the judiciary about women with disability.[36]

Third, the flaws in the present criminal justice system's response to domestic violence would be exacerbated, including the current role of the police and prosecution and the need to address significant practical and operational issues. Regarding the police, introducing a 'course of conduct' offence of coercive control will require changes to how domestic and family violence is investigated and prosecuted. Comprehensive education and training of all police, lawyers, and judicial officers would have to operationalise an offence of coercive control across Queensland, including in remote areas. Victims are reluctant to report experiences of domestic violence to police for many reasons. Queensland Disability Network's submission highlighted that women are often not believed when reporting sexual assault and violence to the police.[37]

Prosecuting an offence of coercive control will depend very much on the victim's detailed evidence in court about their experiences. Research has identified interventions that appear to improve rates of reporting. These include police guidelines and codes of practice for domestic and family violence, legislation promoting the prosecution of breaches of Domestic Violence Order, specialist policing teams, and integrated responses.[38] There will be resource implications for the government to implement the reforms necessary to criminalise coercive control successfully.

Fourth, if efforts to increase public awareness and understanding about the nature and risk of coercive control are successful, this is likely to increase the demand for specialist services. Services will need added funding to meet this increased demand. In their submission to the Taskforce, No to Violence recommended increased funding for 'all specialist services; women's refuges; social housing for people escaping domestic and family violence; and family violence specialists in Queensland's Courts'.[39] Specialist service providers would also need the training to support the implementation of any legislation to criminalise coercive control, so they can advocate for the needs of victims and ensure efforts to change the behaviour of perpetrators is consistent with any legislative changes. The Taskforce observed (from submissions and consultations) that domestic and family violence services wanted to improve their knowledge and understanding of the criminal justice process. They felt it would enable them to better support their clients during these difficult times.

Finally, there is some concern that criminalising coercive control will have the unintended consequence of harming our community's most vulnerable people. Victims could be charged with criminal offences if they are misidentified as the primary aggressor in the relationship. This is of particular concern for First Nations people, homeless people, culturally and linguistically diverse people, and people with disability.[40] These concerns are discussed in greater detail below when dealing more fully with Option 6 in the Taskforce's first discussion paper (whether coercive control should be a standalone offence).

The approach of other jurisdictions to legislating against coercive control

Various common law jurisdictions sharing legal traditions with Australia have recently criminalised coercive control. They are discussed below in the chronological order in which the legislation was introduced.

England and Wales

In 2015, England and Wales introduced a new offence of 'controlling or coercive behaviour in an intimate or family relationship'. An offence is committed if:

- the perpetrator repeatedly or continuously engages in behaviour towards another person, the victim, that is controlling or coercive; and
- at time of the behaviour, the perpetrator and the victim are personally connected; and
- the behaviour has a serious effect on the victim; and
- the perpetrator knows or ought to know that the behaviour will have a serious effect on the victim.

The perpetrator and victim are 'personally connected' if:

- they are in an intimate personal relationship; or
- they live together and are either members of the same family; or
- they live together or have previously been in an intimate personal relationship with each other, excluding parent-child relationships where the child is under 16.

For the behaviour to be an offence, it must either cause the victim to fear on at least two occasions that violence will be used against them or cause the victim such alarm or distress that their usual day-to-day activities are substantially affected. A defence is raised if there is evidence that the perpetrator believed they were acting in the victim's best interests and if the circumstances may have made the behaviour reasonable. The maximum penalty on conviction on indictment is imprisonment for a term not exceeding five years or a fine, or both. On summary conviction, the maximum penalty is imprisonment for a term not exceeding 12 months or a fine, or both.[41]

Scotland

In 2018, Scotland introduced a specific offence criminalising domestic abuse, comprehensively addressing coercive control as criminal behaviour. Professor Evan Stark has referred to the Scottish legislation as 'a new gold standard' for criminalising coercive control.[42] The Scottish offence criminalises a course of abusive behaviour by a perpetrator against their current or former partner if two conditions are met:

- a reasonable person would consider that the course of conduct was likely to cause the partner or former partner to suffer physical or psychological harm (the objective limb); and
- the perpetrator either intends that the behaviour will cause the partner or former partner psychological harm or is reckless as to whether the course of behaviour causes the partner or former partner to suffer physical or psychological harm (the subjective limb).

The Scottish legislation non-exhaustively defines abusive behaviour in some detail. That non-exhaustive definition includes violent, threatening and abusive behaviour. It includes sexual violence and may also include behaviour directed at the partner/ex-partner or their child that has as its purpose or is reasonably likely to have the effect of:

- making the partner/ex-partner dependent on or subordinate to the perpetrator
- isolating the partner/ex-partner from friends, relatives or other sources of support
- controlling, regulating or monitoring the partner/ex-partner's day-to-day activities
- depriving or restricting the partner/ex-partner's freedom of action
- frightening, humiliating, degrading or punishing the partner or ex-partner.

The maximum penalty for this offence is 12 months' imprisonment on summary conviction or 14 years imprisonment on indictment. The offence is treated as aggravated if the behaviour is directed at a child or the child is used as part of the course of abusive behaviour. If the facts of the offence cannot be proved, the perpetrator can alternatively be convicted of the offences of threatening and abusive behaviour or stalking if the elements of those offences have been proved. It is a defence to show that the behaviour was reasonable in the circumstances. The accused person must raise evidence of this. If this occurs, the prosecution must then provide beyond a reasonable doubt that it was not reasonable in all the circumstances.[43]

The original plans for the development of the standalone offence in Scotland were contained in the 'Equally Safe' delivery plan, released in November 2017. Equally Safe is a strategy to prevent and eradicate violence against women and girls. The 2017 delivery plan contained 'a clear outcomes framework with indicators to demonstrate progress nationally and locally towards preventing and reducing violence against women and tackling the pervasive inequalities that create the conditions for it'.[44] Creating the standalone offence formed part of priority four in that plan - 'Men desist from all forms of violence against women and girls and perpetrators of such violence receive a robust and effective response'.[45]

In Scotland, it was recognised from research into domestic abuse that:

> Partnership working is essential for providing a comprehensive response to violence against women, across the four Ps: prevention, protection, provision and participation. By working together, agencies can intervene effectively with the men who perpetrate violence; safeguard the women and children affected by it; and take steps to prevent it happening in the first place. The principle of partnership working on these issues was originally stated in the Global Platform for Action which resulted from the United Nations Fourth World Conference on Women in Beijing in 1995. This called upon governments to take integrated measures to prevent and eliminate violence against women.[46]

Consultation between the Scottish Government and sector stakeholders from late 2017 developed the standalone offence. It was passed by the Scottish Parliament on 1 February 2018.[47] A significantly increased investment in police training, a community awareness program, and training for other professionals involved in the system, including prosecutors, lawyers and judges, accompanied the consultation.[48] The start of the legislation was delayed until 1 April 2019 to allow for police training and community education.[49]

Ireland

In 2019, an offence of coercive control was introduced in Ireland. A person commits the offence if they knowingly and persistently engage in behaviour that:

- is controlling or coercive;
- has a serious effect on a relevant person; and
- a reasonable person would consider it likely to have a serious effect on a relevant person.

A person's behaviour will cause a 'serious effect' if it causes the relevant person:

- to fear violence being used against them; or
- serious alarm or distress that adversely impacts on day-to-day activities.

This offence 'requires proof of actual harm to the victim and applies an objective "reasonable person" test to that harm'.[50] A 'relevant person' for the Irish offence is a current spouse or civil partner or a person who is or was in an intimate relationship with the perpetrator. The maximum penalty for the offence is 12 months' imprisonment on summary conviction and five years imprisonment for conviction on indictment.[51]

Northern Ireland

In 2021, Northern Ireland introduced a coercive control offence into the *Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021*. The purpose of this Act is:

> [T]o create a course of conduct offence and a sentencing aggravation concerning domestic abuse and make rules as to procedure and giving evidence in criminal cases involving domestic abuse; regulate the conduct of civil proceedings in particular circumstances; and make provision for connected purposes.[52]

In relation to the domestic abuse offence, a person commits an offence if:

- the person engages in a course of behaviour that is abuse of another person
- the person and another person are personally connected to each other at the time
- both further conditions are met.

The further conditions are:

- that a reasonable person would consider the course of behaviour to be likely to cause the person to suffer physical or psychological harm, and
- the offender:
    - intends the course of behaviour to cause the person to suffer physical or psychological harm, or
    - is reckless as to whether the course of behaviour causes the person to suffer physical or psychological harm.

The section describes how behaviour of a person is abusive to another. It includes behaviour that is violent (sexual violence and physical violence); threatening; or directed at a person, child of the person, or someone else that has or would be considered by a reasonable person to have one or more of the relevant effects. The relevant effects are:

(a) making the person dependent on or subordinate to the perpetrator;

(b) isolating the person from friends, family members, or other sources of social interaction or support;

(c) controlling, regulating or monitoring the person's day-to-day activities;

(d) depriving the person of, or restricting the person's, freedom of action;

(e) making the person feel frightened, humiliated, degraded, punished or intimidated.

The maximum penalty for this offence on summary conviction is 12 months' imprisonment or a fine not exceeding the statutory maximum, or both. The maximum penalty on conviction on indictment is 14 years imprisonment or a fine, or both.

Tasmania

In 2004, Tasmania enacted new offences of 'economic abuse' and 'emotional abuse' into the *Family Violence Act 2004* (Tas). In 2018, an offence of 'persistent family violence' was introduced into the *Criminal Code* (Tas).

The 'economic abuse' offence requires that the perpetrator:

- intended to cause their spouse or partner mental harm, apprehension or fear by pursuing a course of conduct that included one or more of the following actions:
    - coercing control or relinquishment of assets or income
    - disposing of jointly owned property
    - preventing participation in decisions about household expenditure or joint property
    - preventing access to joint financial assets
    - withholding or threatening to withhold necessary financial support to the spouse or partner or an affected child.[53]

The 'emotional abuse' or intimidation offence requires that the perpetrator:

- pursued a course of conduct; and
- knew or ought to have known that the effect of that conduct was likely to unreasonably control, intimidate, or cause mental harm and apprehension to the preparator's spouse or partner.[54]

The emotional abuse offence is far less prescriptive than the economic abuse offence about what the 'course of conduct' must entail. It is defined non-exhaustively to include limiting the freedom of movement of a person's spouse or partner by threats or intimidation. Both offences are summary offences punishable by a maximum penalty of 40 penalty units or two years imprisonment. A complaint must be made within 12 months of the day that the last act that constitutes part of the alleged course of conduct occurred.

Neither offence requires the prosecution to prove any actual harm caused to the partner or spouse. Although both offences require proof of subjective intention or knowledge on the part of the perpetrator, it is notable that the emotional abuse offence provides an alternative option for the prosecution of proving that the perpetrator ought to have known the impact of their behaviour.

The persistent family violence offence requires that the perpetrator commits an offence:

- if they have committed an unlawful family violence act in relation to their spouse or partner on at least three occasions.

'Unlawful family violence act' means an act that constitutes a family violence offence whether committed before, on, or after the commencement of the section. 'Family violence' is defined under section 7 of the *Family Violence Act 2004* (Tas) to include:

- assault, including sexual assault; threats, coercion, intimidation or verbal abuse; abduction; stalking and bullying; attempting or threatening to commit conduct; economic abuse; emotional abuse or intimidation; contravening an external Family Violence Order, interim Family Violence Order,55 or Police Family Violence Order56; damage caused directly or indirectly to property owned by the person's spouse, partner or an affected child.[57]

The maximum penalty for this offence is imprisonment for 21 years or a fine, or both.[58]

Western Australia

In 2020, Western Australia introduced an offence of 'persistent family violence' into the *Criminal Code* (WA). A person persistently engages in family violence under this section if the person commits an act of family violence on three or more occasions, on different days, against the same person, over a period of no more than ten years.[59] If in a trial by jury there is evidence of acts of family violence on four or more occasions, the jury do not need to be satisfied that the same acts occurred on the same occasions, as long as the jury is satisfied that the accused person persistently engaged in acts of family violence during the specified period.[60]

The penalty for this offence is 14 years imprisonment or, if a summary conviction, three years imprisonment and a fine of $36,000.[61]

South Australia

On 27 October 2021, the South Australian Government introduced the Criminal Law Consolidation (Abusive Behaviour) Amendment Bill 2021, which proposes to introduce the new offence of 'abusive behaviour' into the *Criminal Law Consolidation Act 1935* (SA). The offence of 'abusive behaviour' would be committed once there were three or more instances of abuse by a person who is a current or former partner of the person who is the subject of the abuse. Instances of abuse specified in the offence include:

- monitoring a victim's movements and communications (by physically following the person, using apps or installing cameras in the home)
- isolating the victim from their family, friends or other supports
- threatening to harm an animal belonging to the victim
- depriving the victim of food, clothing or sleep.[62]

The offence is punishable by a maximum penalty of five years imprisonment, rising to seven years if the abuse includes acts or threats towards or in front of a child.[63]

On introducing the offence, the South Australian Assistant Minister for Domestic and Family Violence, Carolyn Power, said that if the legislation was passed there would be a delay before commencement to allow for public education and the training of police and other key sectors.[64]

New South Wales

On 30 June 2021, the New South Wales Parliament's Joint Select Committee on coercive control recommended that New South Wales criminalise coercive control; however, commencement of a criminal offence should not occur without a considerable prior program of education, training, and consultation with police, stakeholders and the frontline sector.[65]

Impact of legislation related to coercive control

Professor McMahon and Dr McGorrery have reviewed the position in England and Wales since the introduction of the legislation, noting:

> [i]n the year ending March 2017 police in England and Wales had recorded 4,246 coercive control offences … this has increased significantly each year since, to almost 25,000 recorded offences in the year ending March 2020.[66]

They also found that:

> Researchers reviewing files at one police force found that 95% of recorded offenders were male. In published Ministry of Justice data, of the 598 offenders who were found guilty of controlling or coercive behaviour in the three years to March 2020, 99% (591) were male and 1% (7) were female. Similarly, in our own research (reviewing media reports of proven controlling or coercive behaviour cases), we found that over 99% (106 of 107) of offenders were male.[67]
>
> In the year ending December 2019, there were 584 convictions for engaging in controlling and coercive behaviour in an intimate or family relationship and the average custodial sentence was 23.6 months.[68] Further, in the year ending March 2020, the proportion of prosecutions that were domestic abuse related by the Crown Prosecution Service area was 13.6%.[69] The proportion of prosecutions that were domestic abuse related in the police force area, was 13.9%.[70]

In Scotland, in 2019–2020, 246 people were charged and 206 convicted of the offence of domestic abuse, which equates to an 84% conviction rate. In relation to the 206 convicted, 202 (98%) were male and 4 were women.[71] There is no significant data available on prosecutions and convictions for the other overseas jurisdictions.

Regarding the Tasmanian offences of 'economic abuse' and 'emotional abuse,' at least until 2018 they were rarely prosecuted.[72] According to the Tasmanian Sentencing Advisory Council (as noted in the submission of Professor McMahon and Dr McGorrery), in 2015, there were just eight convictions in the first decade of operation.[73] However, in recent years there has been an increased use of the offences.[74] Professor McMahon and Dr McGorrery earlier suggested that these offences reflected an extension of the criminal law and noted that:

> from their inception they have been bedevilled by problems of overlap and redundancy, difficult and uncertain statutory construction, and the availability of alternative legal strategies for indirectly or directly criminalising the conduct that is proscribed in the offences. These difficulties have contributed to the rarity of prosecutions.[75]

> Since the offence of 'persistent family violence' was introduced in Tasmania in 2018, there have only been six cases where an offender has been sentenced. Four cases involved at least one assault by way of strangulation.[76] As to the offence of 'persistent family violence' recently introduced in Western Australia, no significant data on prosecutions and convictions is available as yet.

In its submission to the Taskforce, Australia's National Research Organisation for Women's Safety (ANROWS) identified the need for further research on the effectiveness of criminalisation and other responses to coercive control. They suggested that research should be funded to check the progress and implementation of coercive control offences and other related laws in other jurisdictions. This involves obtaining quantitative data about successful prosecutions and examining qualitative improvements in attitudes to violence against women.[77]

Options for legislating against coercive control in Queensland

In our first discussion paper, the Taskforce invited discussion on 13 options to best legislate against coercive control. Each is discussed below.

Option 1 – Using the existing legislation available in Queensland more effectively

This option proposed better use of Queensland's existing legislation as an alternative to introducing new legislation to address coercive control.

In Queensland, domestic and family violence is addressed under both the civil and criminal laws, which operate concurrently. An application can be made under the *Domestic and Family Violence Protection Act 2012* (DFVP Act) for a civil protection order against future acts of domestic and family violence. A perpetrator who has committed acts that constitute a criminal offence can also be charged under the *Criminal Code* (Criminal Code). In this way, 'the civil jurisdiction is preventative (action taken is intended to prevent future violence)' while 'the criminal jurisdiction is reactionary (action is taken if a crime is committed)'.[78]

Currently, under the DFVP Act, domestic violence is defined to include coercive and controlling behaviour. This means that civil protection orders can be obtained based on coercive and controlling behaviour and a breach of the order is criminal conduct that can be punished. Many submissions suggested that civil protection orders should be more effectively enforced. Others stated that if police appropriately prosecuted breaches of protection orders, magistrates appropriately sentenced offenders for breaching them, and victims and perpetrators were provided with more supportive interventions throughout the process, the improved outcomes may mean there is no need for new legislation.[79]

In chapter 1.5 of this report, the Taskforce identified several elements of the scheme in the DFVP Act that are not operating optimally. The most significant of these do not relate to the drafting of the legislation itself but how the legislation has been implemented and operationalised by police, lawyers and the courts.

While acknowledging gaps in the system, there was considerable support for using existing legislation better.

Professor Heather Douglas considered that while civil protection orders have distinct advantages, they may be overused:

> One of the advantages of the civil protection order system is that the burden of proof for obtaining a civil protection order is quite low (the civil burden), while the criminal law applies a higher burden of proof, that is 'beyond a reasonable doubt'. However, it may be that the protection order system is over utilised, and places too many people, who may not be particularly risky, under surveillance. The sheer number of these orders may dilute public views about their seriousness and may create challenges regarding the ability of police to follow up on reported breaches.[80]

Amnesty International has stated that 'civil protection orders are an essential part of the state's responsibility to protect survivors of violence, but should complement, not replace, a criminal response'.[81]

The Taskforce has identified the following drawbacks to not introducing new or amending current legislation:

- police will not have the power to act immediately in response to serious non-physical violence beyond their current powers. This may result in police not properly assisting all victims of coercive control
- even if coercive control is not criminalised, systemic reforms of equivalent size and scale would be needed to deliver outcomes sufficient to keep victim-survivors and their children safe and hold perpetrators to account
- not criminalising coercive control could be construed as saying that our community condones it or at least does not consider it as serious as physical violence or as deserving of criminal punishment

Findings

There is scope to improve Queensland's response to coercive controlling behaviours by making non-legislative changes so current legislation is used more effectively.

Chapters 1.2 to 1.5 of this report describe a range of system issues that must be addressed to better use the current laws to keep women and their children safe and hold perpetrators to account. These include cultural change, training and education for police, lawyers, court service providers and the wider community; deficits in court resources; and the need to increase and expand perpetrator interventions. These system changes must be prioritised as a part of the government response to coercive control.

Legislative changes should also be part of the government response to coercive control where deficits in the existing legislation have been identified. This includes where legislation is currently failing to adequately protect the human rights of victims of non-physical domestic violence.

Option 2 – Creating an explicit mitigating factor in the *Penalties and Sentences Act 1992* that will require a sentencing court to have regard to whether an offender is less culpable for their criminal behaviour because they were a victim of coercive control

The sentencing guidelines in the *Penalties and Sentences Act 1992* (Penalties and Sentences Act) state that if a court is sentencing a perpetrator for a domestic violence offence, the fact that it is a domestic violence offence is to be considered as an aggravating factor unless there are exceptional circumstances.[82]

Option 2 proposed that the Penalties and Sentences Act be amended to make clear that a sentencing court should consider any impact on a victim's offending behaviour from their experiences of coercive control and domestic violence as a mitigating feature when determining the appropriate penalty for the offence.

There was significant support for this option from legal, domestic and family violence and other stakeholders.

The North Queensland Domestic Violence Resource Service supported this option, as long as there were:

> better oversights and tighter controls on all legislation; together with culturally appropriate, regular and ongoing training of domestic and sexual violence (DSV) involving all lawyers who are receiving funding from Legal Aid Queensland; all Queensland Police Service staff, including police prosecutors; and all judicial officers.[83]

WWILD also supported this option, highlighting that:

> women with intellectual disability are more likely to be coerced into criminal activity by controlling partners; this may be a beneficial option in improving justice outcomes for them.[84]

The Aboriginal and Torres Strait Islander Legal Service said that:

> [t]he situations that could be encompassed could range from failure to attend court due to the demands of a controlling partner to an excessive use of force not otherwise excused by self-defence, defence of another or provocation.[85]

Professor Heather Douglas[86] and the Women's Legal Service Qld[87] also supported this option in their respective submissions.

The Queensland Law Society and Legal Aid Queensland held the view that existing legislation enables courts to consider the impacts of coercive control and domestic violence when determining the appropriate penalties for offending. However, Legal Aid Queensland went on to say:

> [T]he inclusion of this type of mitigating factor within sentencing legislation with appropriate guidelines to reduce unintended abuse of such options, would go to addressing concerns held by LAQ regarding the treatment of victim defendants and provide a more appropriate way of dealing with victims criminalised in this process.[88]

The Bar Association of Queensland considered that such an amendment of the Penalties and Sentences Act was a 'desirable initiative', observing:

> [T]he authorities make it clear that such context ought properly be taken into account in mitigating sentence. However, there appears to be no downside to making it explicit that such a factor must be taken into account in mitigation of sentence.
>
> Such amendment would address a situation where a woman commits violence or takes other extreme measures in response to being a victim of coercive control. The Association anticipates that any such mitigating factor would extend to coercive control.
>
> Even though this would apply only to certain individuals, it operates as a measure recognised under the Human Rights Act, s 15(5), taken for the purpose of assisting or advancing persons or groups of persons disadvantaged because of discrimination. It would not affect others' human rights.[89]

Findings

Chapter 1.1 used research and the voices of victims of coercive control to explain that perpetrators of this type of abuse use dominating and oppressive behaviours to restrict their victim's freedom and deprive them of their autonomy. It is a crucial factor for sentencing courts to consider when determining a punishment that best reflects a person's culpability for their criminal offending. It is not simply that victims of domestic violence may ultimately react violently against their perpetrators. Submissions to the Taskforce have explained that perpetrators of coercive control can manipulate their victims to commit crimes or to wrongly admit the extent of their culpability. The mental state of victims may also lessen their moral culpability. While this option means that police, lawyers and judges must be astute enough to identify manipulative perpetrators of coercive control who falsely attempt to portray themselves as victims, or those who might look to mitigate a single incidence of retaliatory violence, this option has been broadly supported during the consultation.

The Penalties and Sentences Act should be amended to require a sentencing court to consider as a mitigating feature whether an offender's criminal behaviour is attributable, wholly or in part, to the offender being a victim of coercive control.

Option 3 – Amending the definition of domestic violence under the *Domestic and Family Violence Protection Act 2012*

The DFVP Act defines domestic violence to include coercive and controlling behaviour,[90] but the section does not define coercive and controlling behaviour. Option 3 proposed that the definition of domestic violence in the Act could be amended in either of two ways:

- narrowed so that the behaviour of a perpetrator must include coercive control before an act or omission can constitute domestic violence, or
- broadened so that section 8 specified more examples of behaviours associated with coercive control as constituting domestic violence — for example, adding reproductive control.

Consultation feedback and submissions received from the Taskforce show that the definition of 'domestic violence' in the DFVP Act would benefit from reform to help the community understand coercive controlling behaviours.

Several factors need to be considered when determining how to amend the definition of domestic violence.

A definition of domestic violence requiring it to include coercive control would exclude apparently isolated acts of violence between people in domestic relationships and perhaps retaliatory acts of violence. The Queensland Law Society stated that '[t]o narrow the definition would remove protection for people who are subject to less serious, but nevertheless harmful, behaviours.'[91] Similarly, the Caxton Legal Centre warned that coercive control is a feature of the abuse pattern but not the whole sum.[92] Further, victims of domestic violence may only identify the behaviour they have been experiencing for some time as domestic violence following an act of physical violence. It may take even more time and counselling for them to realise that the patterns of behaviour they have experienced for so long amount to serious domestic abuse. Narrowing the definition may deny these victims protection at the time they look for and need it.

As to broadening the current definition, The Aboriginal and Torres Strait Islander Legal Service, however, raised this concern:

> [t]here already has been a considerable broadening of the definitions of domestic violence, and we note that provisions recognising coercive control as a form of domestic violence are already contained within the legislation. We query whether a further broadening of the definition of domestic violence would achieve much.[93]

On the other hand, the Australian National Research Organisation (ANROWS) supported an amendment to address over-reliance on a 'hierarchy' of violence that diminishes non-physical violence. This was tempered with a warning that any amended definition must not separate physical and non-physical abuse and should include a non-exhaustive list of physical and non-physical behaviours that could be used as coercive control tactics.[94]

Legal Aid Queensland also suggested amendments to the DFVP Act, including:

> s8(1): expand 'behaviour' to 'behaviour, behaviours, or a pattern of behaviour'; add a further characteristic such as 'in any other way erodes reasonable agency or autonomy'
>
> s8(2)(d): expand to 'depriving a person of the person's liberty or autonomy or threatening to do so'
>
> s11: amend example of 'threatening to disclose a person's sexual orientation to the person's friends or family without the person's consent' to include gender orientation. This example does not need to include who the disclosure audience may be, as this could be a threat utilised over someone's social media platform or workplace or professional position.[95]

The North Queensland Women's Legal Service suggested these amendments:

> Part 2, Division 2 of the DFVP Act to include a general definition of coercive control along with specific examples, including threats/removal of children, use of visa status, threats to use systems abuse etc.
>
> The inclusion of examples of prohibited behaviours on the face of each Domestic Violence Order, including those in the mandatory terms only. This non-exhaustive but comprehensive list should include examples of coercive and controlling behaviours.
>
> Section 42 could be amended to provide the court with power to make a temporary protection order, or vary an existing temporary or final protection order at a bail or variation of bail hearing.
>
> The fine tuning of the forms and procedure in the civil protection order courts.[96]

Angela Lynch also supported the insertion of more examples of coercive and controlling behaviours, commenting that:

> … the current broad definition in the DFVP Act is quite good and should not be changed to narrow its impact, though it could be changed to provide more examples of coercive controlling behaviours.[97]

The Queensland Law Society supported an amendment to the definition of domestic violence in the DFVP Act to include the examples in the *Family Law Act 1975* (Cth):

> Under the *Family Law Act 1975* (Cth), for example, the definition of family violence is accompanied by examples of behaviour which fall within this definition. This includes unreasonably denying the family member the financial autonomy that he or she would otherwise have had; and preventing the family member from making or keeping connections with his or her family, friends or culture.[98]

The Bar Association of Queensland submission also referred favourably to the non-exhaustive examples given in the Family Law Act.[99]

In chapter 1.3 and 1.4, we made findings that police, lawyers and courts are failing to adequately recognise and respond to coercive control, particularly the non-physical acts of coercive control. This is likely because of the current incident-based response to domestic and family violence. It suggests that the current language of the DFVP Act should be clarified and strengthened to clarify there is no hierarchy or distinction to be applied between physical and non-physical acts of domestic violence. This must be complemented by a comprehensive training and education program for police, lawyers and courts.

Several submissions supported a consistent national definition of domestic violence, including ANROWS, who observed that 'the system-wide harmonisation of definitions of domestic and family violence across Australia has been recommended for a considerable length of time'.[100] Some submissions suggested other amendments to the DFVP Act. These are discussed below.

Findings

A nationally consistent definition of domestic violence could have benefits. The Taskforce supports the Queensland Government's involvement in national discussions to achieve this.

However, the nature of Australia's federation and constitutional framework can present obstacles to nationally consistent legislation. Agreeing on a national definition, if achievable, is likely to take time and require compromises.

It is encouraging that the current national Domestic Violence Order scheme provides national protection for victims through the mutual recognition and enforcement of orders across Australia irrespective of the jurisdiction in which they were made. But the Taskforce considers the Queensland Government should not wait for agreement about a national definition of domestic violence. The government should, within its present term, make sure that the definition of domestic violence in the DFVP Act reflects the current understanding of coercive control. This would help prevent police, lawyers and courts misunderstanding and misapplying the definition.

The definition of domestic violence in section 8 of the DFVP Act should make clear that domestic violence includes a series or combination of acts, omissions or circumstances over time in the context of the relationship as a whole that may reasonably result in harm to the victim.

Option 4 – Creating a new offence of 'cruelty' in the Criminal Code

In Option 4, the Taskforce proposed considering Professor Heather Douglas's suggestion to introduce a new offence into the Criminal Code — namely, 'cruelty'. The offence, as originally proposed by Professor Douglas, would replicate the existing offence of 'torture' in the Criminal Code, except it would remove the requirements for the prosecution to prove that the pain and suffering inflicted was 'severe' and the defendant inflicted the pain and suffering on the other person 'intentionally'.

It should be noted that Professor Douglas:

> no longer supports the introduction of new offences that expand the criminal net in the context of domestic and family violence.[101]

Overall, there was little support for this option. Whilst the Queensland Law Society gave conditional support, they highlighted reservations:

> As currently drafted, there would be difficulty in identifying the threshold of harm required in order to invoke the offence. It is also unclear whether there would be an objective or subjective test for pain and suffering. Any offence which is directed towards an act that causes another person harm has to be tethered to an objective test of a reasonable person in those circumstances.[102]

The Bar Association of Queensland and the Women's Legal Service Qld also expressed concerns about this option. The Bar Association of Queensland observed that:

> [T]he risk associated with adopting the model offence proposed by Professor Heather Douglas (a new offence of 'cruelty' set out in Appendix 8 of the Discussion Paper) may give rise to ambiguity, misunderstanding and inconsistency because 'cruelty' is an emotive word used in many different contexts. The potential outcomes of an offence provision not drafted in sufficiently clear and precise language is that it becomes too difficult to charge and prosecute or, conversely, may result in convictions arising out of conduct which was not intended to amount to a criminal offence.
>
> Further, the term seems ill-suited to dealing with coercive control. Cruelty, like torture, is usually understood to involve the unilateral infliction of suffering by a perpetrator upon a victim who has no prospect of resisting. Coercive control, by contrast, involves the perpetrator securing the victim's apparent 'co-operation' through a climate of fear or threat. References to 'cruelty' may obstruct, rather than assist, in the examination of the prohibited behaviour.[103]

The Women's Legal Service Qld identified that:

> [w]hilst the new 'cruelty' offence might be able to cover the 'course of conduct' aspects of 'coercive control', it fails to encapsulate the gendered nature of domestic and family violence, even though the proposal recommends a higher sentence where cruelty is found to have occurred within a 'relevant relationship'.[104]

Lecturers Dr Joseph Lelliott and Rebecca Wallis from the University of Queensland, while supporting this option in their submission, did recognise that '[e]ven if offences of "cruelty" and "serious cruelty" are implemented, as suggested, a coercive control offence may still fill a gap and, unlike those offences, will specifically address the domestic and family violence context'.[105]

A submission from academics at Griffith University and Charles Darwin University highlighted that this option lacks the educative function of a coercive control offence:

Our view, however, is that introducing new language such as 'cruelty', or amending the offence of 'torture', may miss the intention of this discussion, which is to increase the understanding of coercive control and improve and enable strong legal and other responses.

Findings

The option of introducing a new offence of 'cruelty' is consistent with the general approach of Queensland's Criminal Code, which creates broad-based offences applicable to a range of offending contexts. This approach sometimes differs from the common law and 'Crimes Act' approach of jurisdictions such as New South Wales and Victoria.

In recent years, Queensland has moved away from a strict broad-based offence approach, acknowledging that it is not always effective in addressing offending behaviour that is highly contextual.

A recent and relevant example is the offence under section 315A of the Criminal Code (Choking, suffocation or strangulation in a domestic setting) introduced on the recommendation of the *Not Now, Not Ever* report. This offence creates criminal culpability for behaviour committed within a domestic setting that is strongly associated with lethality. There are strong parallels with the drivers to address coercive control directly in the criminal law.

The submissions to the Taskforce predominantly supported addressing this anti-social behaviour by creating a new targeted, criminal offence rather than broadly drafted, as presented in this option. The Taskforce does not support the introduction of an offence of cruelty in Queensland as a response to coercive control.

Option 5 – Amending and renaming the existing offence of 'unlawful stalking' in the Criminal Code

In Queensland, the offence of 'unlawful stalking' is defined broadly and could encompass behaviour in some coercively controlling relationships. In Option 5, the Taskforce questioned whether the offence of stalking could be amended to make it applicable to more cases of coercive control.

The Taskforce's discussion paper highlighted these possible amendments to the existing offence:

- broadening the definition of unlawful conduct in section 359B to include behaviours that unreasonably control another person's economic freedom or their free movement, or are associated with unauthorised surveillance
- renaming the offence to 'unlawful intimidation, harassment and abuse'
- adding a circumstance of aggravation to section 359E where the unlawful conduct was committed against a person in a relevant relationship (within the meaning of section 13 of the DFVP Act) with the defendant
- increasing the penalty for a breach of the restraining order under section 359F(9) to make it consistent with the penalty for a breach of a Domestic Violence Order under the DFVP Act
- providing that a jury does not need to agree it is satisfied that the same two unlawful acts have occurred, as long as they agree on two unlawful acts that, taken together, would cause apprehension, fear or detriment to the stalked person or another person (similar to the existing approach for the offence of 'maintaining a sexual relationship with a child' under section 229B of the Criminal Code).

In the face-to-face consultations, there were mixed views about this option. Most recognised the term 'stalking', but many associated it with offending after a relationship has ended.[106]

The Red Rose Foundation supported a comprehensive review and amendment of the offence of stalking to include coercive control.[107] Legal Aid Queensland's submission supported renaming the offence of stalking because this would make it better understood by the public and police. In their view, this 'could assist in reducing misunderstanding that there are not existing offence provisions to capture the type of behaviour the Taskforce is concerned with.'[108] The North Queensland Women's Legal Service Qld also supported amending and renaming the offence, noting that police do not currently understand the existing offence and that this means victims of this behaviour remain at risk.[109]

Whilst the Queensland Law Society did not support renaming the existing offence, they did support amending it:

> QLS does not support renaming the existing offence as this may dilute the use of the provision for stalking cases that do not have a domestic and family violence aspect. However we support further consideration of proposed amendments to the existing offence, including adding a circumstance of aggravation to section 359E if the unlawful conduct was committed against a person in an intimate partner relationship.[110]

The Aboriginal and Torres Strait Islander Legal Service noted:

> We do not support including provisions for coercive control within the existing provisions of 'unlawful stalking'. In our view there is no real logic to putting the provisions in with stalking and would create confusion and uncertainty … we can see how a standalone provision might benefit from the importing of some structural elements from the definition of stalking.[111]

The Women's Legal Service Qld supported the proposal of adding a circumstance of aggravation to the Unlawful Stalking provision, saying that:

> WLS supports the proposal of adding a circumstance of aggravation to section 359E of the Criminal Code, if the unlawful conduct was committed against a person who had a relevant relationship (within the meaning of section 13 of the DFVP Act with the defendant). This addition would reflect the menacing and terrorising effect upon a victim when the stalking occurs by someone who is also an intimate partner, or someone with whom the victim has a relevant relationship. The stalking conduct is so much more threatening when it is tailored to intimate and personal knowledge about the victim that only someone in a relevant relationship would know about the victim.[112]

Findings

In chapter 1.1, we outlined the overwhelming feedback from victims of coercive control about the prevalence of stalking and harassing domestic violence they suffered at the hands of their perpetrators, particularly the prolific electronic surveillance of them and their children and the non-consensual sharing of intimate images. This behaviour had a serious detrimental impact on their well-being and that of their children. The current terms of the unlawful stalking offence do not contemplate the modern surveillance techniques perpetrators of coercive control often use against their victims.

In chapter 1.5, the Taskforce noted that, while charges for unlawful stalking in Queensland in a domestic and family violence context increased by 17% between 2016–17 and 2019–2020, this offence is underused by police and prosecutors in the context of coercive controlling behaviours. Modernising and clarifying its language may encourage greater use of this existing offence, provided it is combined with comprehensive training for police, lawyers and judicial officers.

The offence of stalking refers to actions by a perpetrator who is bent on keeping contact with the victim. It involves incidents that a victim may or may not realise are occurring. The offence can happen in the context of a domestic relationship where a perpetrator is attempting to exercise power or control over the victim. As such, it should attract an increased penalty by way of a circumstance of aggravation.

Option 6 – Creating a new standalone 'coercive control' offence

Option 6 discussed the possibility of creating a new standalone offence of coercive control. A substantial number of submissions gave either enthusiastic or conditional support to this option.

The main arguments of those supporting an offence of coercive control were that it would hold perpetrators to account for a spectrum of violence (physical and non-physical) and protect the human rights of women and their children, thus filling a current gap in the law.

The Bar Association of Queensland stated in their submission to the Taskforce:

> The Association recognises that such an offence may fill a gap in the current ability of the Courts to deal with domestic violence. Further, such an offence may allow a greater range of behaviours amounting to coercive control to be punished than the present suite of offences (such as stalking, torture and assault) permit. Further, the new offence may result in increased community awareness of the dangers of coercive control and an increased willingness on behalf of victims of such behaviours to report it to police. All such outcomes would be beneficial.[113]

The North Queensland Women's Legal Service told the Taskforce they hoped that a coercive control offence would bring concerning behaviours to the attention of police earlier so that they could be acted on appropriately.

A client's story supplied powerful insight into the current lack of perpetrator accountability for this behaviour:

> Jane and John were in a de facto relationship for eight years and had two children together. Throughout the course of their relationship, John subjected Jane to severe physical and sexual abuse as a weapon to exercise extreme

control over her. John had CCTV cameras installed in the house so that he could monitor Jane and the children when he was not home. John would often punch Jane repeatedly in the head until she saw stars, force Jane to perform oral sex on him and rape her.

John eventually took interest in another woman, Jean, and ended his relationship with Jane. At separation, Jane offered to move out of their house but John forbade it. Instead, John moved into the granny flat out back of the house and forced Jane to continue living in the house with the children, despite knowing that she wanted to leave. Jane was too fearful of John to leave against his wishes.

Even though John was in a new relationship, with Jean, John continued to monitor Jane through the CCTV cameras in the house and still expected Jane to complete all the domestic duties for both him and the children. John continued to regularly rape and physically abuse Jane after separation. On one occasion John cut off chunks of Jane's hair because she had 'disobeyed him'.

Jane was terrified of John. She did everything and anything that John asked her to do because she knew that if she didn't, she would be punished — John often threated to kill her. Jane was effectively John's prisoner for seven years after separation.

Jane finally fled from the house seven years later, on the day John tried to kill her — he tried to waterboard her, physically beating her until she lost consciousness, dragged her by her hair, and told her to put a shovel in the boot of his car and get in.

The police were called, and Jane fled. John was not charged with attempted murder, but he was charged with strangulation, torture, AOBH, common assaults, deprivation of liberty, and attempting to pervert the course of justice (for trying to arrange to have Jane killed after the police became involved).

These charges did not capture the years and years of coercive control Jane and the children suffered. An offence of coercive control or cruelty may have meant that John could also have been held accountable for those actions that have scarred Jane so fundamentally that she suffers daily from the effect on her mental health.[114]

Whilst Legal Aid Queensland did not support this option, it acknowledged the benefits of creating a standalone offence of coercive control, commenting that:

> This would send a clear message coercive control is dangerous behaviour that must be taken seriously… It is one way of assisting with achievement of these benefits, but not the only way. In our view the preferable way of achieving these outcomes does not involve an increase to the criminalising of behaviours, but an increase in services and supports for victims and perpetrators, improved policing methods and investigation into diversionary processes.[115]

However, Legal Aid Queensland's submission, like many others that opposed or were cautious about the introduction of this type of offence, feared that it would have a disproportionate and negative impact on Aboriginal and Torres Strait Island peoples:

> LAQ does not support this option due to the risks of further criminalising those victimised by coercive control, particularly Aboriginal and Torres Strait Islander women, women with a disability, women from culturally and linguistically diverse backgrounds, and people from LGBTIQA+ communities. LAQ acknowledges the significant and long-lasting impacts of coercive and controlling behaviour on victims of domestic and family violence. We also acknowledge that the current justice system does not adequately recognise and appropriately respond to the danger and harm posed by patterns of controlling behaviour, particularly when it is non-physical.[116]

Sisters Inside and the Institute for Collaborative Race Research also opposed the creation of a standalone offence and stated:

> It is noted that the Scottish model has been deemed the gold standard by Professor Stark (p38). Stripped of key aspects of the Scottish policy framework and translated into a Queensland context, the imposition of this model would be likely to be particularly devastating for Aboriginal and Torres Strait Islander women and girls, for all members of Indigenous communities, as well as for the broader community.[117]

Professor Marilyn McMahon and Dr Paul McGorrery of Deakin University acknowledged concerns about the impact on Aboriginal and Torres Strait Islander women but pointed out that this still left the question of why such serious abuse against women is only criminalised if it occurs after a breach of a civil order:

> … we understand and share concerns about the potential effect of criminalising new behaviours for First Nations people in Queensland, especially women. Many of these behaviours are, though, already criminal and prosecuted when they occur in breach of an intervention order. It is that precondition to criminal justice intervention that we find unconvincing; domestic abuse must be recognised as wrong in its own right, not because a court ordered a respondent not to do it.[118]

Professor McMahon and Dr McGorrery also observed that a new offence of coercive control:

> … could improve women's safety, legitimise victim perceptions of what they often describe as the worst part of abuse, catalyse a generational shift in how police, courts and the broader community conceptualise domestic abuse, and provide police and others in the justice system with a tangible mechanism to respond to this abusive behaviour when it is identified.[119]

However, Professor McMahon and Dr McGorrery noted important caveats to their support, including that criminalisation should only occur if there is a 'concomitant strategy of awareness-raising, education, training and adequate resourcing.'[120]

DV Connect said:

> Coercive control is an abuse of a woman's human rights and that criminalisation of coercive control will uphold and protect the human rights of women in Queensland.[121]

Not recognising that coercive control 'as a wrong in its own right' may be inconsistent with protecting the human rights of women. The *Convention on the Elimination of All Forms of Discrimination* recognises that violence against women is a form of discrimination.

Under section 15 of Queensland's *Human Rights Act 2019* (the Human Rights Act), every person has a right to enjoy their human rights without discrimination, and every person has the right to equal and effective protection against discrimination. The Human Rights Act also protects the right to life (section 16) and provides that a person must not be subject to torture or treated or punished in a cruel, inhuman or degrading way — domestic violence and coercive control are recognised violations of these rights.[122] International Human Rights law places a positive burden on the state of Queensland to protect these rights by providing an effective legal response to combat coercive control as a form of domestic violence. If the state does not act with due diligence, it can be held responsible for the abuse.[123]

DV Connect also felt that criminalising coercive control would make it a recognised patterned form of violence, repetitive in nature rather than one-off incidents of physical violence.[124] By criminalising coercive control, the response of the justice system and police will change from being incident-based to assessing 'who the predominant aggressor is within a relationship'. We can expect this to result in lower rates of misidentification.[125]

Some submissions suggested how to mitigate the risks associated with the implementation of a coercive control offence. ADA Australia and the Salvation Army Australia discussed the importance of an effective system and professional practice.

ADA Australia said:

> Whilst introduction of a discrete criminal offence is an essential component in accessing justice, it is critical that multiple layers of support are established to facilitate an effective systemic and practical response. This must include comprehensive and well-resourced education programs for community, police, institutions, and service providers, with a focus on recognition of coercive control behaviours, screening tools, risk assessments, and early intervention pathways. Specialist and supported policing services, community based social services, support workers, advocacy and legal services must be appropriately trained and funded to identify this abuse and support victims in navigating available resources and avenues to seek recourse.[126]

The Salvation Army said:

> Creation of any new offence will require a highly coordinated legal and non-legal workforce that has the appropriate expertise in identifying, investigating, assessing, prosecuting and judging such complex domestic and family violence matters. Monitoring and evaluating professional practice and system improvements must also be measured relative to outcomes, including the extent to which the reforms improve victim-survivor safety, wellbeing and recovery and improves accountability of perpetrators.[127]

Findings

There is no single criminal offence in Queensland that sufficiently holds perpetrators of coercive control accountable for the full spectrum of their physical and non-physical abuse of their victims. Coercive control is a violation of human rights — including the right to life, the right to be protected from torture and cruel, inhuman and degrading treatment, and the right to enjoy human rights without discrimination. If Queensland's criminal law does not adequately address coercive control, it risks not sufficiently protecting Queensland citizens from these human rights violations. A standalone offence will ensure that these rights are best protected and promoted.

Care must be taken when creating a new offence to avoid unintended consequences. This includes a disproportionate and adverse impact on Aboriginal and Torres Strait Islander peoples and other disadvantaged Queenslanders, such as culturally and linguistically diverse women and women with disability. Before any new offence starts, significant system reform is needed. First responders, services, lawyers, the criminal justice system, and the general community must fully understand that non-physical violence is a pattern of behaviour over time and must be considered within the context of the relationship as a whole. System responses must be improved (a) to avoid misidentifying the person who is most in need of protection and (b) to hold the primary aggressor accountable.

ANROWS told the Taskforce that the misidentifying of the aggrieved and respondent in cases of domestic and family violence is a persistent problem.[128] It referred to its recently published research that identifies factors contributing to misidentification. These include that policing is incident-based rather than pattern-based and that criminal law offences are viewed with a retrospective focus.[129] This means that police identify the primary aggressor in the context of a discrete incident rather than looking at the pattern of behaviour.[130] As a result, vulnerable women are being misidentified as the perpetrators of violence.

Whilst acknowledging that Scotland and England and Wales have significant social and demographic differences to Queensland, the Taskforce notes that the early data shows that very few women have been charged in those jurisdictions. That women are not being misidentified as perpetrators may be because the course of conduct/pattern of behaviour offence of coercive control was introduced with comprehensive education and training across systems and the broader community. An offence that focuses police, lawyers, and judicial officers on patterned abuse rather than individual incidents is likely to lower misidentification rates. If thoroughly investigated and enforced, it may even achieve better outcomes for those disadvantaged groups currently over-represented or at risk in the criminal justice system, while also keeping victims and their children safe and holding perpetrators to account.

The Taskforce heard from many people that their support for the introduction of a standalone coercive control offence or other standalone measures was conditional upon a lengthy period of police training and community education before the offence commenced. These comments were

based on a view that Queensland should follow how Scotland successfully implemented its standalone offence.

As mentioned earlier, the Scottish legislation was developed as part of 'the "4Ps" approach to domestic abuse: protection (legal remedies); provision (effective service delivery); prevention (strategies of stopping domestic abuse and reducing reoffending); and participation (by people who have experienced domestic abuse)'.[131] The Scottish experience of implementing coercive control legislation showed that the following is needed if we are to have an effective, integrated response:

- shared vision, ethos and understanding about violence against women
- increased education, information, and multi-agency awareness-raising training to an agreed level
- responsive structures and accountability to the local community
- agreed outcomes, actions and measures
- adequate resources and support, including sufficient funding.[132]

Queensland must implement systemic reforms before a new standalone offence criminalising coercive control commences. The offence should be introduced and passed, then time allowed so that all parts of the system are clearly aware of the elements of the offence and its implications. It is also important that a clear commencement date is set so that there is a deadline to act as a driver for these important systemic changes to occur. The Taskforce agrees with the overwhelming consensus of views canvassed in consultations and submissions that successful implementation of a coercive control offence depends on prior comprehensive community education and specialised training for key participants in the criminal justice system. This is discussed more comprehensively in chapters 3.1 to 3.7.

The Taskforce's proposed timeframe is slightly longer than the development timeline was in Scotland. The Taskforce supports the introduction of new standalone legislative initiatives on the following timeline:

- three-month consultation on a draft consultation Bill in 2022
- legislation introduced to Parliament and passed in 2022 to commence in 2023 for the first stage of legislative and systemic reform against coercive control
- three-month consultation on a draft consultation Bill in 2023
- legislation introduced to Parliament and passed in 2023 to commence in 2024 to prepare for the criminalisation of coercive control
- criminal justice system participants trained between September 2022 and 2024
- standalone legislation commences in 2024

Option 7 – Creating a new offence of 'commit domestic violence' in the *Domestic and Family Violence Protection Act 2012*

Option 7 in the Taskforce's first discussion paper raised the possibility of an offence of 'commit domestic violence'. Such an offence could provide that a person who engages in domestic violence against another person within the meaning of section 8 of the DFVP Act commits an offence. Coercive and controlling behaviours could be covered by this type of offence by reference to the definition of domestic violence in section 8 of the DFVP Act.

Legal Aid Queensland warned that the creation of such an offence might result in police charging this offence in relation to behaviour that constituted more serious offences. This would be problematic if the new offence had a lower penalty and was therefore viewed as less serious. It also noted that where more serious charges were laid, a new less serious offence was likely to lead to negotiations about charges by prosecution and defence lawyers and a possible 'further dilution of the consequences by the time a plea is entered, and a sentence given'.[133]

Angela Lynch commented that:

> I am strongly against the creation of such an offence because it will not be a course of conduct offence and could be taken out of context and as a result it could increase the current rate of misidentification. It would be very dangerous for women especially First Nations and CALD women. The only way this would be feasible is if the law were gendered, such as the New Zealand provision 'male assault female'.[134]

Broken to Brilliant said in its submission that if domestic violence were criminalised by the creation of the offence 'commit domestic violence', there would need to be 'changes to permitted evidence and further intensive training of judges and police so that victims are not further victimised by the system and perpetrators are actually held to account'.[135]

The Queensland Police Union of Employees (QPUE) strongly supported the creation of a standalone offence of 'commit domestic violence', a conviction for which would also result in the automatic issue of civil protection under the DFVP Act.

The QPUE stated that this would:

- make it clear the community condemns domestic and family violence
- remove the need for victims and associations to give evidence
- reduce the paperwork police need to complete
- reduce court time in dealing with the standard order applications
- reduce police time in serving orders
- ensure people have constant legal protection from domestic and family violence.

Findings

The proposal for a standalone offence of 'commit domestic violence' has three significant drawbacks. First, it will not change the problematic incident-based policing and prosecution approach identified in chapters 1.3 to 1.5, which must be resolved to prevent misidentifying the person most in need of protection in the relationship. Second, because of the broad spectrum of behaviour covered by the definition of domestic violence, it risks serious criminal conduct being under-charged. This would compromise the safety of victims and allow perpetrators to escape the punishment they deserve. Third, it does not fill 'the gap' in the current law — that is, it does not hold perpetrators to account for the full spectrum of abuse against the victim over time. For these reasons, a standalone offence of 'commit domestic violence' should not be introduced in Queensland.

Option 8 – Creating a 'floating' circumstance of aggravation in the *Penalties and Sentences Act 1992* for domestic and family violence

Option 8 in the first discussion paper raised the possibility of a 'floating' circumstance of aggravation to be implemented in either of two ways:

- creating a specific circumstance of aggravation for when existing offences are committed against family members (the South Australian model), or
- creating a specific circumstance of aggravation when the commission of an existing offence would also amount to an act of domestic violence within the meaning of section 8 of the DFVP Act.

In 2015, the *Not Now, Not Ever* report recommended that the Queensland government introduce 'a circumstance of aggravation of domestic and family violence to be applied to all criminal offences'.[136] In response, amendments were made to the Penalties and Sentences Act to allow domestic and family violence to be an aggravating factor to be taken into consideration on sentence.[137] However, a circumstance of aggravation for offences of a domestic and family violence nature has not been created.

When a circumstance of aggravation is intended to apply to many offences, it can be referred to as a 'floating' circumstance of aggravation. A circumstance of aggravation is different from an aggravating factor. A circumstance of aggravation is an additional circumstance that becomes part of the charge for an offence and must be proved by the prosecution beyond a reasonable doubt, as for the elements of the offence. If a person is convicted of the offence along with the circumstance of aggravation, they are liable to a higher maximum penalty than ordinarily applies. The circumstance of aggravation becomes part of the conviction recorded on the person's criminal history so that the seriousness and nature of the past offending can be seen in the future.

When courts are sentencing a person convicted of an offence, along with the sentencing principles and other matters in the Penalties and Sentences Act, they generally weigh the things that make the conduct more serious (the aggravating factors) with the things that mitigate that seriousness (the mitigating factors). The provision in the Penalties and Sentences Act makes it clear that the commission of an offence in a domestic violence context is an aggravating factor that the court must weigh when determining the appropriate sentence. An aggravating factor is not included as part of the charged offence and does not appear as part of the conviction recorded on the person's criminal history.

A floating circumstance of aggravation and an aggravating factor on sentence can be complementary. In some cases, there may not be sufficient evidence to meet the onus for this to form part of the charged offence and be proved beyond a reasonable doubt as a circumstance of aggravation. However, it may still be an aggravating factor for the court to consider as part of the sentencing process.

In 2021, the Queensland Sentencing Advisory Council (QSAC) conducted a study exploring whether there was a difference in sentencing outcomes for convictions for offences of common assault and assault occasioning bodily harm when they were sentenced as domestic violence offences under the Penalties and Sentences Act, compared with cases that were not.[138] The study reviewed cases involving adult offenders sentenced for common assault (section 335 Criminal Code) or assault occasioning bodily harm (section 229 Criminal Code) as the most serious offence, in criminal courts in Queensland between 5 May 2016 and 30 June 2019. It concluded that courts are treating offences related to domestic and family violence as more serious (aggravated) forms of offending. This is resulting in longer terms of imprisonment and longer custodial sentences. The study recommended that further research examine whether this sentencing trend is due to the insertion of section 9(10A).

Section 9(10A) of the Penalties and Sentences Act states that the court must treat the fact that the offence is a domestic violence offence as an aggravating factor unless the court considers it is not reasonable to do this because of the exceptional circumstances of the case.[139]

The Women's Legal Service Qld supported this option, commenting that:

> WLS support the proposal of creating a 'floating' circumstance of aggravation in the Penalties and Sentences Act 1992 for domestic and family violence, noting the existing use of section 9(10A) of the PSA, which requires the court to treat domestic violence as an aggravating factor when sentencing an offender convicted of a domestic violence offence. WLS further notes the conclusions found by the Queensland Sentencing Advisory Council research brief 'The impact of domestic violence as an aggravating factor on sentencing outcomes', which found that 'courts are treating domestic violence offences as more serious offending, warranting the greater use of custodial penalties and longer custodial sentences'. By extension, WLS predicts that having a 'floating' circumstance of aggravation for domestic and family violence will reinforce the seriousness of domestic violence in our community.[140]

The Queensland Law Society considered that although domestic violence is already taken into account in sentencing, it does support further consideration of this option.[141]

Other submissions had reservations about this option. Heather Douglas said:

> The Penalties and Sentences Act s9(10A) already identifies that the domestic violence context of offending is an aggravating factor (via Queensland Criminal Code s1). I think the current approach is enough. Presumably the prosecution would be required to present evidence of coercive control to the court if coercive control was introduced as a specific aggravation, I am not confident much would be gained from this. Perhaps better education for judges about the effect of s9(10A) PSA would be useful.[142]

Legal Aid Queensland was also cautious, commenting:

> The proposal that there might be a 30 per cent uplift in maximum penalty or some other mathematical approach to sentencing risks substituting formula for balanced exercise of the sentencing discretion which sentencing courts are well placed to conduct.[143]

The submission also warned against introducing any mandatory sentencing measure, re-affirming that courts should consider all relevant matters and have the 'widest possible range of sentencing discretion to ensure that appropriate penalties are imposed in each case'.[144]

The Bar Association of Queensland raised concerns about the application or interpretation of this provision. It noted that there is the potential for the circumstance of aggravation to be alleged 'for rather tenuous familial relationships, rather than the more limited relationships which truly aggravate an offence.'[145] As the experience of members of the Bar Association of Queensland is that sentencing courts consider domestic and family violence a feature of aggravation, they did not see the necessity for a floating circumstance of aggravation.[146]

The Aboriginal and Torres Strait Islander Legal Service observed that 'any changes to the criminal law should be proportionate and necessary' but supported the two forms in which this option could be implemented.[147]

Findings

The QSAC findings suggest that section 9(10A) of the Penalties and Sentences Act is operating as intended and courts are considering domestic and family violence an aggravating factor, resulting in increased sentences for assault-based offences. More research, however, is required on sentencing outcomes across a wider range of offences. Victims and specialist domestic and family violence stakeholders consistently raised concerns over the lack of seriousness placed on non-physical forms of abuse across the criminal justice system.

This view received some support from media reports of court outcomes in cases of non-physical domestic abuse during the term of the Taskforce.[148]

In chapter 1.1 of this report, victims shared their experiences of technology-facilitated coercive controlling behaviours. Perpetrators use electronic surveillance, including spyware, monitoring devices and mobile phone apps, to stalk and monitor victims. They use mobile phones to make excessive phone calls, leave messages, and send text messages. Victims describe online abuse through email or fake social media profiles, having their image published on sexually explicit websites, or the perpetrator arranging meetings between the victim and strangers without consent. The penalties for offences that address this behaviour do not currently reflect the grave harm that victims suffer from this form of domestic and family violence.

The maximum penalties for the following offences are:

- attempting to pervert justice (section 140): seven years imprisonment
- retaliation against or intimidation of judicial officer, juror, witness etc. (section 119B): seven years imprisonment
- distributing intimate images (section 223): three years imprisonment
- observations or recordings in breach of privacy (section 227A): three years imprisonment
- distributing prohibited visual recordings (section 227B): three years imprisonment
- threats to distribute an intimate image or prohibited visual recording (section 229A): three years imprisonment
- threats (section 359): five years imprisonment
- stalking (section 359B): five years imprisonment.

The Taskforce recognises the persuasive arguments in favour of a floating circumstance of aggravation. The evidence contained in QSAC's research, however, suggests that courts are already increasing sentences for offences involving domestic and family violence.

The Taskforce is therefore concerned that the introduction of a floating circumstance of aggravation may risk the imposition of sentences that are unjustifiably punitive and would disproportionately and unintentionally burden already over-criminalised cohorts.

The Taskforce is of the view that QSAC should do further research about whether the impact of section 9(10A) of the Penalties and Sentences Act is operating as intended for offences that are particularly relevant to coercive and controlling behaviours. This includes the offences that do not have an element of physical violence (discussed above).

Option 9 – Creating a specific defence of coercive control in the Criminal Code

Option 9 in the Taskforce's first discussion paper discussed the possibility of a specific defence of coercive control in the Criminal Code. A specific coercive control defence would be modelled on self-defence in the Criminal Code. It would be a complete defence that is restricted to circumstances where there was a use of force against a person who was in an intimate personal relationship, within the definition at section 14 of the DFVP Act, where the defendant could show that they were the victim of unlawful coercive control. This defence would help victims of coercive control who have little or no choice but to use violence or other criminal behaviours in self-defence against their abuser.

WWILD supported option 9, noting that this defence 'would have a positive impact on women who have used violence to escape violent coercive controlling relationships.'[149] Broken to Brilliant also supported this option.

Legal Aid Queensland has supported, in principle, a partial defence of coercive control for a murder charge 'as a means of mitigating the penalty for psychologically abused defendants.'[150] It commented that if the mandatory term of imprisonment for murder was abolished, this would 'permit the circumstances of the offender's psychological abuse to be reflected in the punishment for that offence and achieve the same purpose as enacting a partial defence.'[151]

However, the Queensland Law Society argued that:

> The current defences and excuses in the Criminal Code can be adequately applied to reflect any diminished culpability of a coerced offender … QLS does not support a specific excuse of coercive control in the Criminal Code. The definitional issues in the offence would similarly apply to any specific excuse … If the defence was introduced, amendments would also be required to the Evidence Act 1977, particularly with respect of relationship evidence which would have an impact on the courts in terms of capacity and the ability to progress matters in a timely way.[152]

The Aboriginal and Torres Strait Islander Legal Service considered the defence could be raised when there was a non-violent act and observed:

> The problem with such a defence is that it is hard to distinguish from the situation where there are escalating acts of violence between partners. Justifying a violent act in response to a non-violent act could quite quickly turn into an abusive spouse relying on this defence to inflict violence on their partner or family member.[153]

The Bar Association of Queensland was not in favour of introducing a specific defence of coercive control. It identified two concerns. First, the legislation does not define or describe 'coercive control', so it is unclear how it would operate. Second, most cases would involve conduct amounting to coercive control as well as an assault (or threat of an assault), so the defence under section 271 of self-defence against an unprovoked assault would be available. It concluded that the current defence of self-defence and the partial defence under section 304B (Killing for preservation in an abusive domestic relationship) 'provide adequate safeguards to lessen or negate criminal responsibility for acts done in self-defence'.[154]

Academics from Griffith University and Charles Darwin University recommended that the defence of self-defence be amended to improve its operation in circumstances of coercive control. The proposed changes were:

- amending section 271 of the Criminal Code to remove the limitation that the defence only applies to 'unlawful assault', giving it a broader application to 'harmful acts', and no longer requiring an 'imminent threat', in line with 2008 Western Australian reforms
- changing the rules of evidence to make clear that evidence of a history of domestic and family violence is relevant to self-defence
- developing legislative guidelines for what may be given as evidence of domestic and family violence
- developing guidelines on how and why evidence about domestic and family violence is relevant and who is qualified to give that evidence
- developing directions to juries.[155]

Western Australia largely adopted Queensland's Criminal Code, drafted by Sir Samuel Griffith in the early 20th century. The Western Australian and Queensland Criminal Codes remain generally similar, with amendments to the Western Australian Criminal Code often pertinent to Queensland. The Western Australian self-defence sections differ from those in Queensland in that they do not rely upon provoked or unprovoked assaults.[156] When determining whether an accused person has unlawfully killed a person, sections 248(2) and 248(4) provide a complete defence, while section 248(3) reduces murder to manslaughter.

In respect of sections 248(2) and 248(4), if an accused person reasonably believes that the act is necessary to defend themselves or another from a harmful act, including a harmful act that is non-imminent; and the accused person's harmful act is a reasonable response in the circumstances as the accused person believes them to be; and there are reasonable grounds for those beliefs; the harmful act done in self-defence is lawful.[157] In respect of section 248(3), if the accused person unlawfully kills another person in circumstances which, but for this section, would constitute murder; and the accused person's act that causes the death would be an act done in self-defence, but for the fact that the act is not a reasonable response by the accused person in the circumstances as the accused person believes them to be, the accused person is guilty of manslaughter and not murder.[158]If the evidence before the jury raises these beliefs, the prosecution must prove, the accused person did not hold them beyond reasonable doubt.

In September 2021, after consultation on the first discussion paper had closed, a Brisbane jury acquitted (on a retrial) Arona Peniamina of the murder of his wife, Sandra Peniamina, in March 2016, finding him guilty only of her manslaughter. The first jury had convicted him of murder.[159] The acquittal sparked considerable public concern about the operation of the partial defence of provocation.

The circumstances were as follows:

> Arona and Sandra Peniamina had a failing marital relationship. On the day of her killing, he confronted her with suspicions about her infidelity and hit her, causing a bloody mouth. She armed herself with a knife from the kitchen drawer. When he tried to grab it, she pulled it back, cutting his hand. He then stabbed her nine times in the kitchen and pursued her as she ran into the front yard and onto the street, where she hid behind a car. He followed, found her and stabbed her a further twenty times while also kicking her. He then removed a concrete bollard from the garden bed and hit her over the head at least twice. This fractured her skull and was the ultimate cause of death.
>
> The jury could not agree on whether he was guilty of murder, which carries a sentence of mandatory life imprisonment. By majority verdict, they found him guilty of the less serious charge of manslaughter. They were not satisfied that the prosecution had established beyond a reasonable doubt that her taking the knife from the drawer and pulling it away from his grasp was not an act of provocation. That Ms Peniamina's act of resistance against her abuser after he violently assaulted her justified the reduction in his culpability for this violent killing sparked community outrage and debate about the need to reform the law relating to the partial defence of provocation.
>
> On 25 October 2021, Arona Peniamina was sentenced to a term of imprisonment of 16 years. The judge declared the offence both a domestic violence offence and a serious violence offence, which means Mr Peniamina will not be eligible for parole until he has served 80 per cent of his sentence.[160]

Findings

The concerns of legal stakeholders about the unintended consequences of reform in this area have substance. However, there are also legitimate concerns that current laws do not protect the human rights of desperate victims forced to defend themselves from perpetrators of serious domestic abuse. The existing defences and excuses in the Criminal Code are urgently in need of review to ensure they meet our current knowledge about the effects of domestic and family violence — including coercive control over time. They must evolve beyond outdated, gendered understandings about the types of behaviour that cause fear and create an imminent threat to safety.

As noted in chapter 1.5, since the introduction in 2011 of the defence of killing for preservation in an abusive relationship in section 304B of the Criminal Code, there have been no reported cases where a jury has found an accused person guilty of manslaughter under this provision.[161] The underuse of this defence suggests that it is not providing an effective remedy for women who are the victims of domestic violence and resort to violent resistance.

Mr Peniamina's successful use of the defence of provocation raises important contemporary legal and policy issues. The relevance of this defence and the policy justifications have been highlighted as areas that warrant review because of this case. The two other Australian states with Criminal Codes as the legislative basis for their criminal justice system, Tasmania and Western Australia, have both abolished the defence of provocation. Victoria and South Australia, both of which have the common law as the foundation of their criminal justice systems, have also abolished the defence of provocation.

The mandatory sentence of life imprisonment for murder, which applies in Queensland, is often used to justify keeping the defence because it provides mitigation in circumstances where

otherwise the mandatory life sentence could be unjust. Amending existing defences and excuses and the mandatory minimum sentence of life imprisonment for murder in the Criminal Code will affect cases far beyond coercive control and domestic and family violence and is likely to affect more men than women. These issues are broader than the gendered terms of this Taskforce.

Nevertheless, the Taskforce considers that, as these provisions may be harming female victims of domestic and family abuse (including coercive control), an independent review would provide a blueprint for reform. Legal and community stakeholders will need to be consulted before the introduction of any legislative changes.

Therefore, the Taskforce recommends an independent review of defences and excuses in the Criminal Code, including their operation in homicide cases. In particular, the review should consider the following provisions:

- Provocation: section 304 (partial defence); sections 268 and 269 (complete excuse)
- Self-defence: section 271 (complete excuse); section 272 (complete excuse)
- Killing for preservation in an abusive domestic relationship: section 304B (partial defence).

The independent review should assess the adequacy of existing laws and whether they should be amended or repealed. It should also have the power to propose changes to laws, practices and procedures where appropriate.

The research presented in chapter 1.5 suggests that legal professionals who rely on dated theories of violence are not adequately representing the interests of victim clients.[162] Lawyers' understanding of domestic and family violence (including coercive control) needs improvement through training. In chapter 1.4, we also found some lawyers may lack the competence and confidence to lead relationship evidence in all circumstances where it is relevant and not contrary to their instructions, including for the defence of self-defence. An amendment of the Evidence Act to address these issues will aid victims of coercive control who are charged with criminal offences after using violent resistance.

Option 10 – Amending the *Evidence Act 1977* to introduce jury directions and facilitate admissibility of evidence of coercive control in similar terms to the amendments contained in the *Family Violence Legislation Reform Act 2020* (WA)

Option 10 asked whether the Evidence Act should be amended to introduce jury directions and allow the admissibility of evidence on coercive control.

Currently in Queensland, section 132B(2) of the Evidence Act allows for 'relevant evidence of the history of the domestic relationship between the defendant and the person against whom the offence was committed' to be admitted in criminal proceedings for offences defined in Chapters 28 to 30 of the Criminal Code. These chapters set out the laws relating to homicide, unlawful striking causing death, offences endangering life or health, and assault.

In chapter 1.4, we noted that academics from Griffith University and Charles Darwin University told us that, according to their research, some lawyers are hesitant about using evidence of domestic and family violence but, when done well, it can have successful outcomes for victims.[163] They told the Taskforce that section 132B of the Evidence Act is not particularly useful in that it states the obvious — namely, that relevant evidence is admissible.

In Western Australia, amendments have been made to the *Evidence Act 1906* (WA) to enable evidence, including expert evidence, of family violence to be admitted in criminal proceedings. The type of evidence that may be given by an expert includes 'evidence about the nature and effects of

family violence on any person; and evidence about the effect of family violence on a particular person who has been the subject of family violence'.[164] The provisions also allow for jury directions to address stereotypes and misconceptions about family violence.

This option received significant support across a wide range of organisations. Some submissions referred to the need for the current laws to reflect changes made in other Australian States and Territories such as Western Australia.

Professor Heather Douglas summarised these changes in other Australian jurisdictions, commenting:

> It would be useful to include a legislative provision regarding context and relationship evidence in a way that is consistent with the common law. This has occurred in Victoria and more recently in Western Australia … The Western Australian provisions (ss38–39G *Evidence Act 1906* WA), introduced in 2020, were introduced after significant research and discussion and manage to capture the various dimensions of social entrapment experienced by many who live through domestic and family violence: coercive control, issues associated with the family violence safety response and structural intersectionality. If such a provision is introduced it should endeavour to capture these overlapping issues as they all impact significantly on the victim/survivors experience of (and response to) domestic and family violence … The WA evidence provisions also include sections that are directed at expert evidence, self-defence, and jury directions. While it is early days, these provisions offer a promising model, which should be considered in any review of the current Queensland law.[165]

In terms of judicial directions, the Australian Psychological Society said:

> Juries need to understand the traumatic nature of coercive control and the impact it has on victims. Instruction to juries around the legislation is essential to promote an objective perspective based on the law rather than personal experience — which is inextricably shaped by factors such as gender, culture etc. Psychologists can contribute to developing education materials to assist juries and legislative personnel in cases of coercive control and the APS would be happy to assist with this project.[166]

Regarding Option 10, the Aboriginal and Torres Strait Islander Legal Service identified:

> The new provisions state evidence about family violence may be relevant when determining — in circumstances where an accused has claimed they acted in self-defence — whether the person believed their actions to be necessary, whether the conduct was reasonable, and whether there were reasonable grounds for those beliefs. If a new defence was to be created, then as all defendants do, they would have to go into evidence as part of their case to raise the defence for the prosecution to disprove.[167]

The Bar Association of Queensland is not opposed to the introduction of jury directions to help a jury understand family violence, including in relation to self-defence in this context, when there is an evidentiary basis to suggest that the jury needs the assistance. While the Association has said it is not aware of evidence to suggest there is a need for these directions, they considered there was nothing to prevent such directions being given in appropriate cases. The Association suggested that if an amendment was made to the Evidence Act to introduce jury directions and facilitate admissibility of evidence of coercive control in similar terms to the amendments contained in the *Family Violence Legislation Reform Act 2020* (WA), then these provisions would be facilitative and not directive and remain subject to a trial judge's overall discretion to ensure a fair trial.[168]

The Queensland Law Society (QLS) also supported the introduction of jury directions. However, it noted in its submission that evidence of the nature of a domestic violence relationship could be admitted per the Evidence Act. The QLS did not see the necessity for amendments concerning the admissibility of evidence about the nature of coercive control.[169]

Regarding the admissibility of expert evidence on domestic and family violence, Legal Aid Queensland said that this type of evidence is likely to be sought to be admitted in trials relating to profoundly serious offences with a maximum penalty of life imprisonment. For this reason, it suggested that the definition of 'expert' should be restrictive.

Legal Aid Queensland suggested:

> an 'expert' should be an independent professional who has demonstrated specialist knowledge gained by training, study and experience in the area of human behaviour and the impacts of family violence.[170]

Legal Aid Queensland also suggested that while expert opinion evidence could be given about family violence at trial, it would be a 'usurpation of the function of the jury' for directions to be given about the issues by the trial judge.[171] (The expert witness is effectively telling the jury whether to convict or acquit.) If this were done, the submission argues, it would give the opinion evidence the weight of judicial directions.[172]

Findings

Section 132B of the Evidence Act provides that evidence of domestic violence is admissible if it is relevant. The section currently only applies to offences contained in Chapters 28 to 30 of the Criminal Code. Given that evidence of domestic violence can relate to offences contained in other chapters of the Criminal Code, the reference to Chapters 28 to 30 should be removed. This will clarify that relevant evidence of domestic violence can be led in proceedings relating to any offence in the Criminal Code. The current operation of this section will be discussed further in chapter 3.8.

Concerns have been raised about the extent to which juries will understand the nature of domestic violence offending, particularly where it forms an offence of coercive control. The literature on the subject has identified difficulties for juries sitting on trials involving coercive-control behaviours, including an inability to recognise coercive behaviour; the impact that coercive control has upon victims giving evidence; and victim myths.[173] The jury decision in Mr Peniamina's case discussed above may give some credence to this research. In response to this, jury directions that address these issues about domestic and family violence are recommended. In 2020, Western Australia introduced such directions into the *Evidence Act 1906* (WA).

While some legal stakeholders in Queensland have raised concerns about the introduction of jury directions, Victorian judges have been giving directions on domestic and family violence in trials for some time. In its final report in 2016, the only concerns raised by the Victorian Royal Commission into Family Violence about these directions were that they are often underused.[174] Further consideration of the experience in Victoria, along with the legislation contained in the *Evidence Act 1906* (WA), is provided in chapter 3.8.

Additionally, chapters 1.1 to 1.5 demonstrate that the patterned and cumulative nature of coercive control manifests in complex ways and is often not well understood, whether within the broader community or by police, lawyers or judicial officers. Domestic abuse can also cause emotional and psychological harm to a victim. The ability to present expert evidence on these issues may be needed in some cases. It is important that juries and judicial officers alike understand and evaluate evidence from victims of coercive control in context and in an informed way. This is not telling them they should acquit or convict. It is the very type of information that may not be within their experience. They need to have a comprehensive understanding of the nature and effects of domestic violence (including coercive control) to carry out their function of deciding the facts of the case impartially.

Amending Queensland's Evidence Act to allow for admissibility of expert evidence and provide jury directions about domestic and family violence will ensure judges and juries consider contextual evidence of the nature and impact of coercive control and domestic and family violence. This step will probably result in fairer trials, which will keep victims and their children safer and make perpetrators accountable.

Options 11 and 12: Post-conviction and post-sentence supervision options

Usually, the criminal law does not interfere with the rights of offenders once they have completed their sentences as long as they have not reoffended. The Taskforce's first discussion paper, in Options 11 and 12, proposed three post-conviction, post-sentence supervision options for discussion, based on findings and recommendations of the Domestic and Family Violence Death Review and Advisory Board in its Annual Report 2019–20 (the DFVDRAB Report).

The DFVDRAB Report noted that '[i]n almost all cases reviewed, the Board identified significant and sustained patterns of repetitive violence perpetrated across multiple relationships'.[175] Examples of these types of repetitive violent offenders can be found in the Coroners Court of Queensland report and findings into the deaths of Tara Matekino Brown and Yuri Nakamura Palhares.[176]

In the report and findings into the death of Ms Brown, Deputy State Coroner Jane Bentley observed that her partner, Mr Patea, demonstrated 'a pattern of coercive controlling and abusive behaviours from a young age, and despite appropriate detection and intervention planning, there was limited evidence of meaningful engagement with any service to address these behaviours of concern.'[177] The report also noted that Mr Patea demonstrated a pattern of domestic and family violence perpetration and possessive behaviours in previous intimate-partner relationships.[178]

During the relationship with Ms Brown, Mr Patea perpetuated significant violence against her and '[t]here was an enduring pattern of coercive control by him. He perpetrated physical, verbal, emotional and financial abuse and threatened to harm and kill Ms Brown, her family members and himself.'[179] In respect of deaths related to domestic and family violence, Deputy State Coroner Bentley noted:

> Domestic and Family Violence is often a predictable pattern of behaviour which is likely to escalate over time and in response to certain triggers. These triggers (risk lethality factors) have been the subject of research which has led to the development of risk assessment tools. Determining the severity of abuse and

> level of dangerousness of a case can help services make appropriate decisions about actions required to assist victims.
>
> An examination of the circumstances surrounding Ms Brown's death reveals that at least twenty-seven intimate partner homicide lethality risk factors were present at the time of her death. These were known to formal support services but it seems that none of them identified the extremely high level of risk to Ms Brown.[180]

Similarly, the report and findings of the Coroners Court of Queensland into the death of Ms Palhares noted a total of 26 lethality risk factors were present and 'most of these risks were known to responding officers or were reported to police previously'.[181] These indicators were accessible through a review of the Queensland Police Service (QPS) records. Deputy State Coroner Bentley commented that '[i]t appears that police responded to each report of domestic and family violence in isolation, rather than as an escalating pattern of behaviour'.[182] The perpetrator, Mr Wall, also had 'a documented and significant history of DFV within prior relationships'. [183]

These observations about viewing domestic and family violence as incidents in isolation rather than an escalating pattern of behaviour are consistent with the findings of the DFVDRAB Report:

> Despite visibility to multiple services, the perpetrator's use of violence in one relationship was often viewed in isolation and non-physical forms of violence were not treated with sufficient seriousness. This meant that escalating patterns of violence often went unrecognised or undetected.[184]

The Domestic and Family Violence Death Review and Advisory Board discussed:

> [W]hether there is a need for services to have access to additional options and resources to manage perpetrators with a clear pattern of repetitive violence across multiple relationships, which may increase surveillance and reduce the likelihood of future harm or lethality.[185]

As a result, the Domestic and Family Violence Death Review and Advisory Board recommended:

> Recommendation 8:
> That the Queensland Government ask a suitable body, such as the Queensland Sentencing Advisory Council or the Queensland Law Reform Commission, to examine and provide advice on options to improve supervision and monitoring of high risk and recidivist perpetrators of domestic and family violence.
>
> This should include consideration of civil supervision and monitoring schemes that are in place in comparable jurisdictions and post-supervision schemes that exist in Queensland for other types of offenders (such as for those convicted of serious sexual offences).[186]

The Domestic and Family Violence Death Review and Advisory Board also observed that:

> Ensuring processes are in place to better identify perpetrators when they re-present to services or cross jurisdictions may provide an opportunity for agencies to more swiftly respond if it is apparent that the perpetrator has entered a new relationship or has ongoing contact with children and other potential victims. This may improve protective outcomes for potential victims and their children and facilitate earlier intervention.[187]

Considering these issues identified by the Board and the inquest findings, the Taskforce proposed options 11 and 12 for consultation.

Option 11 – Creating a legislative vehicle to establish a register of serious domestic violence offenders

This option proposed that either a publicly disclosable or a publicly non-disclosable register be created to enable police to monitor the location of serious domestic violence offenders. This register would have a similar purpose to the register for child sex offenders in Queensland established by the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004*, which is to monitor a sex offender to reduce the likelihood of reoffending and support the investigation and prosecution of any future offences that the perpetrator may commit.[188]

In 2017, the Queensland Law Reform Commission considered whether a domestic violence disclosure scheme should be introduced in Queensland. The scheme aimed to provide:

> a formal mechanism for disclosing to a person at risk information about the relevant criminal or domestic violence history of their current (or in some cases, former) partner. The aim of this disclosure is to enable the person at risk to make informed decisions about the relationship and their personal safety.[189]

The Commission did not recommend the introduction of a domestic violence disclosure scheme in Queensland.[190]

The QPS raised caution about having a register that is publicly disclosed. In its submission, the QPS commented:

> Discussion surrounding electronic monitoring of perpetrators of domestic and family violence and public offender registers has been ongoing for several years. Most research suggests community notification schemes have no demonstrable effect in improving public safety, can identify familial victims, can inhibit offender rehabilitation and reintegration and may increase fear in the community.[191]

The submission said that while a register of serious domestic violence offenders might promote public safety, there needs to be an in-depth review of the possible implications. The submission also noted that implementing a register would require a significant investment of resources.[192]

Following the QPS submission to the Taskforce, Acting Superintendent Ben Martain of the QPS was reported in the media commenting that if there were a register, it would enable police to make a potential victim aware of a person's prior domestic and family violence offending. He was quoted as saying that this could result in the protection of later partners of domestic and family violence offenders, but that there had been issues with registers in other jurisdictions that the Taskforce would have to consider.[193]

The QPUE supported this option. In its submission to the Taskforce, it stated that a national database would enable police to search for interstate applications and protection orders. This would ensure that 'all relevant evidence is placed before the courts when making an application for an order'.[194] The QPUE also thought it would be useful for frontline officers attending a domestic incident to know whether a perpetrator has a history of violence, as it would 'assist in assigning priority codes for attendance as well as assessing the safety of a victim'.[195]

There is a National Domestic Violence Order Scheme in place that means that Domestic Violence Orders issued in any State or Territory in Australia 'are automatically recognised and enforceable across Australia'.[196] As a result local police can enforce the conditions of any Domestic Violence Order, irrespective of where the order was initially issued. A non-publicly disclosable register would help police to find existing orders.

The North Queensland Domestic Violence Resource Service supported a non-disclosable register, commenting that the introduction of an automatic register of dangerous domestic abusers and stalkers, 'a register of men who are convicted of harassment', would bring about a change in public attitude and perpetrator behaviour:

> It would ... [ensure] serial stalkers and domestic violence perpetrators are ... monitored in the same way as serious sex offenders. The register could then be accessed by police and social services as a source of information to assist both preventative and reactive interventions.
>
> [It] would help address institutional failures enabling serial abusers to subject multiple women to domestic violence and stalking.[197]

Other submissions in support of this option included those from Dr Amanda Gearing and Marc Hogan, Business Resilience Manager at Sime Darby and a former Detective Inspector at the head of the Gold Coast Domestic and Family Violence Taskforce.

Dr Gearing commented:

> A significant proportion of domestic abusers are serial offenders, moving from one partner to the next. The lack of a register of serial offenders leaves victims and [the] whole community vulnerable. This submission supports the establishment of a Register of Domestic Abuse offenders, modelled on the child sex offenders' register. [198]

While Marc Hogan said:

> This is necessary for police and other agencies and NGOs engaged in [the] prevention of serious harm, including homicide … The need exists to be able to readily share information (outside of that currently legislated) with people as a duty of care in many respects. It will negate arguments around 'not being able to engage due to privacy issues.[199]

The Aboriginal and Torres Strait Islander Legal Service identified some possible issues with a disclosable scheme:

> This scheme leaves itself wide open to abuse, vigilantism and [would] have significant adverse impacts on a registered offender's ability to rehabilitate and reintegrate into the community. We note that the proposed amendments in England and Wales did not proceed. In our view there should be more consideration of this measure, possibly a referral to the Queensland Sentencing Advisory Council to examine the evidence base for such a measure.[200]

The Office of the Information Commissioner said that it is important to consider how the scheme is implemented:

> While the proposal as outlined in the Discussion Paper contained in Option 11 represents a narrowed scope of the domestic violence disclosure scheme examined by the QLRC in its report, it is critical that, should a scheme for registration of serious domestic violence offenders be introduced in Queensland that allows for lawful disclosures outside of police and government entities, a robust legislative framework is put in place expressly prescribing and limiting who can access information on the register and in what circumstances. Further, careful consideration needs to be given to the risks and unintended consequences of disclosure on the privacy and safety of the offender and any current or former domestic and family violence victims and their children, including the impacts of secondary use and disclosure.[201]

Findings

The findings of the DFVDRAB report are consistent with submissions to the Taskforce from victims and domestic and family violence service organisations that many perpetrators move from partner to partner using violence within each relationship in a serial manner.

Creating a publicly non-disclosable register for limited sharing of information between police and certain government and non-government entities provides opportunities for targeted monitoring and intervention of these high-risk offenders. It would operate as a tool for police and others to gather intelligence and monitor offenders, similar to the existing Child Protection Offender Registry, a register for child sex offenders in Queensland.

The Taskforce considers that having a register that is not publicly disclosable will minimise the potential of misuse of information. The significant human rights concerns raise by stakeholders and the experience elsewhere that such registers can give women a false sense of security persuaded the Taskforce that the register should not be publicly disclosable.

As described in chapters 1.2 and 1.5, the DFVP Act currently allows information to be shared between prescribed entities, including certain Queensland Government agencies and specialist service providers. Establishing a non-publicly disclosable register will be supported by these existing provisions. The register will enable clearer communication between prescribed entities about perpetrators who pose a substantial risk, whilst maintaining the confidentiality of that information.

Option 12 – Amending the *Dangerous Prisoners (Sexual Offenders) Act 2003* or creating a post-conviction, post-sentence civil supervision and monitoring scheme in the *Penalties and Sentences Act 1992* for serious domestic violence offenders

As noted above, the 2019–2020 DFVDRAB Report recommended that the Queensland Government consider introducing post-conviction, post-sentence civil supervision and monitoring schemes for serious domestic violence offenders.[202]

This could be achieved in one of two ways:

- extending the *Dangerous Prisoners (Sexual Offenders) Act 2003* (the DPSO Act) so that it applies to high-risk violent offenders (the DFVDRAB notes this was implemented in New South Wales in 2013) or
- creating a post-conviction civil control order scheme (England and Wales have schemes enabling courts to make orders like this called 'criminal behaviour orders').[203]

Queensland Corrective Services were in support of the option, highlighting that:

> The proposal appears to be beneficial for several reasons. Data continues to reveal that most homicides in Australia are committed within the context of domestic and family violence, with current strategies being unable to significantly reduce the death rate. The ability to utilise a continuing detention option could allow QCS to employ further management strategies and monitor perpetrators who continue to demonstrate high risk behaviours.[204]

Most submissions from legal stakeholders that addressed this option did not support it. The key concerns where that such a scheme would be incompatible with human rights and operate too harshly on convicted offenders.[205]

The Queensland Law Society stated:

> QLS does not support extension of the *Dangerous Prisoners (Sexual Offenders) Act 2003* so that it applies to high risk violent offenders. We have concerns about the application of the current provisions which go beyond their original policy intent.[206]

Legal Aid Queensland was not in support of this option, noting:

> LAQ is opposed to the introduction of a post-conviction civil supervision scheme for serious domestic violence offenders.
>
> The expansion of the eligibility criteria in the DPSOA to encompass serious domestic violent offenders, has the potential to cast a broader net than intended. Other Australian jurisdictions have enacted similar amendments, some quite recently. There would be benefit in a qualitative review of these interstate schemes prior to any proposed amendments being considered. A cautious approach is recommended. This is particularly so given the potential impact on Human Rights.

> Similarly, any amendment to the PS Act to create such a scheme, is also not supported. LAQ also considers that existing sentencing options with a strong focus on rehabilitation and community protection could be better utilised to meet these objectives. An example is the option of an intensive corrections order with mandated treatment to address risk factors which could lead to further offending.
>
> LAQ also submits there are more appropriate ways of addressing risk to the community upon release from custody. Parole orders could be better utilised to effectively supervise those at high risk, upon release.[207]

Further, a submission received from Dr Lelliot and Ms Wallis of the University of Queensland noted that in 2007 the United Nations Human Rights Committee found the DPSO Act (with its current restricted applicability to sexual offenders) to be inconsistent with the prohibition on arbitrary detention under article 9 of the *International Covenant on Civil and Political Rights.*[208]

However, the expansion of the dangerous prisoners legislation or the creation of a post-conviction civil supervision order was supported by domestic and family violence stakeholders such as Broken to Brilliant, the Centre Against Domestic Abuse, and the North Queensland Domestic Violence Resource Service. Other submissions supporting this option included those from the Queensland Council of Unions and Angela Lynch.

Expansion of the DPSO Act

Before a prisoner convicted of a specified sex offence has completed their sentence, the DPSO Act enables the Queensland Attorney-General to apply to the Supreme Court for a continuing detention or supervision order against the prisoner if they are a danger to the community. This is so even though the prisoner has not committed any further offences. The five key features of this legislation are:

- proceedings under the Act are civil proceedings, not criminal proceedings, so the applicable standard of proof is the balance of probabilities
- the Attorney-General can only make an application against a prisoner who is serving the last six months of their period of imprisonment
- 'serious danger to the community' is defined to mean an unacceptable risk that the prisoner will commit a serious sexual offence if released from custody without a supervision order
- 'serious sexual offence' is defined to mean a sexual offence involving violence or a sexual offence against children (including a fictitious person the prisoner believed to be a child under 16 years)
- there is a two-stage process for the making of the supervision or continuing detention order under the Act — a first hearing and a final hearing.

All Australian jurisdictions, other than the Australian Capital Territory, have high-risk offender legislation modelled on the DPSO Act. The legislation in Queensland was the first of this kind to survive constitutional challenge in the High Court of Australia.[209] Queensland is the only Australian state that still limits its scheme to dangerous sexual offenders. All other states now extend their schemes to high-risk violent offenders. However, the Northern Territory restricts its schemes to sexual offenders in the same way as Queensland.

When the DPSO Act was passed in 2003, it was expected that the scheme would apply to about a dozen serious offenders.[210] Since the enactment of the scheme in 2003, there has only been one internal review of it. As of 13 September 2021, 209 prisoners were subject to DPSOA Orders. Of these orders:

- all relate to male prisoners
- 141 (67.5%) relate to prisoners who are subject to a supervision order and are managed in the community
- 1 (0.4%) relates to a prisoner who is subject to an interim supervision order and is being managed in the community awaiting the court's final decision as to whether he will be subject to a DPSOA supervision order in the future
- 4 (1.9%) relate to prisoners who are subject to supervision orders but are currently held in custody serving a term of imprisonment not related to their DPSOA order
- 63 (30%) relate to prisoners who are in custody on interim or continuing detention orders
- 73 (34.9%) relate to prisoners who identify as Aboriginal and/or Torres Strait Islander
- 49 (23.4%) relate to prisoners assessed as 'Access Met' by the National Disability Insurance Scheme (NDIS) and have approved support plans,[211] compared with 2% of the general population (male and female) being eligible to access the NDIS[212]
- First Nations men are 11 times more likely to be subject to an order under the DPSOA than non-Indigenous men.[213]

The Taskforce considered whether the scheme should be expanded to capture offenders who have engaged in repetitive dangerous domestic violence offending. Arguments to support the expansion of the DPSO Act include:

- It would offer women and children in Queensland the same level of community protection from serious violent offenders that is offered to women and children in all other Australian states.
- It is the only option that will support the continuing post-sentence detention of high-risk offenders, and it will provide the highest practical level of community protection.
- Using an existing legislative scheme with well-developed existing case law that is understood by legal practitioners and the judiciary provides certainty that the legislative model is constitutionally robust.
- DPSOA and the register of child sex offenders are currently used together as an effective community protection measure for sex offenders who present a danger of offending against children. This would extend the same protection to women and children who are the victims of serious domestic violence offenders.

The Taskforce discussed a hypothetical extreme case where it may be justified to apply the DPSO scheme to a dangerous domestic violence offender. Taskforce members, however, had serious misgivings about widening the current scheme. They were concerned that the current scheme may be incompatible with the Human Rights Act. Further concerns outlined in submissions, as well as by members of the Taskforce, include:

- The current system operates so that prisoners who are not necessarily the most dangerous offenders are sometimes caught by the DPSO Act because they have not applied for or received a grant of parole for a range of reasons
- The nature of the risk-assessment evidence that the State relies on for an application is sometimes concerning. The offender's resources tend to be limited (either unrepresented or using legal aid), making it difficult for the offender to challenge the assessment, even if it is inherently flawed.
- Widening the scheme may disproportionately affect First Nations women who are charged with offences related to domestic and family violence.

- It would be resource-intensive and would require the development of new and untested (in Queensland) risk-assessment models, which may also divert resources from front-end prevention initiatives.
- It may dissuade some offenders from pleading guilty to offences related to domestic and family violence because they wish to avoid the onerous consequences of being caught by the scheme.
- The current scheme in the DPSO Act may operate beyond its original policy intent, and this could happen again if the scheme were widened.

Findings

There may be a need for post-sentence custody options and supervision for the worst types of dangerous and violent offenders, not simply dangerous sexual offenders. However, there are concerns about how the current scheme operates under the DPSO Act and proportionality when balancing competing human rights under the Human Rights Act. The scheme has grown far beyond its original intended numbers at considerable cost to the community without any commensurate assurance the community is any safer. These issues would need to be examined and addressed before expanding the scheme. For these reasons, the Taskforce is not prepared in this report to recommend an expansion. We consider a review of the current DPSO scheme would need to happen before considering whether to expand it.

Post-conviction civil supervision schemes

The Taskforce's first discussion paper invited submissions on whether a post-conviction civil supervision order (based on the UK model) should be available to courts sentencing offenders convicted of domestic violence offences, including the offences of strangulation and the proposed new offence of coercive control. A court sentencing a person convicted of a domestic violence offence could make an order if satisfied:

- the offender had engaged in behaviour that was likely to cause harassment, alarm or distress to another person; and
- that making the order will prevent the offender from further engaging in the behaviour causing harassment, alarm or distress.

The terms of the order could be tailored to the individual offender and include, for example, engagement in treatment in the community and prohibitions on contact with certain individuals or attendance at certain places. Offenders presenting varying levels of risk could be subject to this order with individually tailored conditions to meet the differing levels of risk.

Findings

In chapter 1.5, the Taskforce reported that the Queensland Government has not yet responded to the recommendations of the Queensland Sentencing Advisory Council to create a new flexible community correction order. We also noted that flexible community correction orders that provide options to blend rehabilitation, monitoring and accountability are used regularly to sentence perpetrators of coercive control in Scotland. Enabling a sentencing court to order interventions is important because it can address the rehabilitation needs of perpetrators while making them accountable and prioritising community and victim safety.

The Taskforce considers that this option is desirable because it:

- would allow a sentencing court to order interventions that serve rehabilitation and community and victim safety purposes, according to the attributes of the offenders
- would offer more flexibility than Queensland's current sentencing options so that the most appropriate sentence could be imposed
- would support long-term case-managed supervision of perpetrators in appropriate circumstances
- may complement the protections in place as part of a civil Domestic Violence Order
- may also relieve a victim still in a relationship with the perpetrator from the responsibility of encouraging the person to obtain rehabilitative assistance.

Also, using the proposed non-publicly disclosable register in option 11 simultaneously with the post-conviction civil supervision order and, if appropriate, a Domestic Violence Order in favour of the victim would offer up to three levels of protection to victims or prospective victims and maximise 'eyes on the perpetrator'.

Option 13 – Amending the *Penalties and Sentences Act 1992* to create 'serial family violence offender declarations' upon conviction, based on the Western Australian model

To identify and address the patterned offending of coercive control, Option 13 proposed giving the Penalties and Sentences Act the power to declare a convicted perpetrator a 'serial family violence offender'. These types of declarations have recently been introduced in Western Australia as part of the *Family Violence Legislation Reform Act 2020* (WA).

The possible consequences of being declared a serial family violence offender in Western Australia are:

- the application of electronic monitoring if the court decides that a non-custodial sentence is appropriate
- electronic monitoring considered by the Prisoners Review Board as part of any parole order, re-entry release order, or post-sentence supervision order
- disqualification from holding a licence for firearms and explosives.
- a presumption against bail if arrested again for a family violence offence, and, if bail is granted, consideration to imposing a home detention condition with electronic monitoring.[214]

The use of electronic monitoring within the criminal justice context is growing, with more than 30 countries (including Australia) now using this technology.[215] Despite the rise in use of technologies such as radio-frequency monitors and Global Positioning Systems (GPS), research findings are mixed.[216] A common finding across much of the literature is that GPS monitoring should only form one part of a broader strategy to reduce revictimization and re-offending.[217]

In line with these findings, the QPS submission noted the importance of multiple strategies for responding to domestic and family violence:[218]

> With respect to electronic monitoring, separate reports by the Australian National Research Organisation for Women's Safety (ANROWS) and the QPS confirm GPS monitoring should only be used as one tool within a broader program of prevention strategies rather than a stand-alone solution. The research raises several relevant considerations and issues on the use of this technology and any expansion of its use should be considered within this context. Public safety and the protection of all Queenslanders is a priority of the QPS.[219]

Electronic monitoring has been assessed for use in the context of perpetrators, and in the context of personal safety devices for victims of crime. The following section outlines some of the research findings to date, including the limitations of current devices and the implications of electronic monitoring in the context of human rights.

Electronic monitoring of perpetrators

Electronic monitoring of perpetrators has been effective for convicted sex offenders and serious violent offenders.[220] Some studies have noted that Global Positioning Systems (GPS) have had no deterrent effect on serious violent sex offenders.[221] Gang members subject to GPS monitoring in the United States were also more likely to be returned to custody for parole violations than other offenders.[222] These findings suggest GPS monitoring may be more effective for some crime types over others.

Public commentary is also mixed in terms of the value of electronic monitoring in the fight against violence.[223] A considerable number of victims submitted that the use of GPS monitoring devices and alerts would make victims safer but without specific reference to option 13. Some suggested:

> 'We need tracking devices on men with a Domestic Violence Order on them.' [224]
>
> 'I also think that all perpetrators listed on a Police Protection Order should wear a GPS ankle bracelet and the victims/survivors should be able to see where they are at all times. It should be set that it alarms if the distance is breached.' [225]

One innovative victim suggested the use of GPS monitoring alongside recent technologies introduced in the wake of COVID-19:

> GPS tracker on the offender to track their movements and if they come in a certain KM radius of the victim's home/school/work the police should be alerted immediately. app that is discreet for victims phones, that if they feel unsafe they can alert police [to] their movements, and have officers call out to check the situation — have an option in the QLD Check In app for this (we are being tracked for COVID stats anyway) so why not use it as an advantage for people in danger and the attacker will not question why the app is there?[226]

Despite public perceptions that GPS monitoring is an effective means of keeping victims safe, evidence from trials to date suggest there are still limitations and risks to relying on GPS monitoring alone.

In Queensland, the *Not Now, Not Ever* report recommended trialling GPS monitoring for high-risk domestic and family violence perpetrators.[227] In response, the Queensland Government conducted a trial.[228] It found that GPS monitoring could not be used in isolation but could form part of a broader strategy to keep victims and their children safe.[229]

Changes to legislation were made to allow GPS monitoring as part of bail and parole conditions, including for perpetrators of domestic violence.[230] However, electronic monitoring is not suitable for perpetrators that pose an unacceptable risk to the safety of victims or others.[231] Although GPS devices have recently been approved for use with repeat and high-risk juvenile offenders in Queensland, the effectiveness of this approach in reducing reoffending is not yet known.[232]

Given the mixed findings on the effectiveness of GPS monitoring, its limitations are worth noting. These include the potential for false positives — that is, an offender may appear to violate restrictions due to intermittent connectivity, failure to re-charge the batteries, or when using an electric blanket.[233]

There is also potential for electronic monitoring to elevate the risk posed by some perpetrators, including risk of inadvertently disclosing a victim's whereabouts through use of exclusion zones.[234]

Other considerations include:

- effectiveness of technology across different geographical conditions (urban, remote, rural, weather, dead zones such as underground railways, car parks)
- potential for GPS to provide a false sense of security to victims (dependent also on setting appropriate exclusion/inclusion zones)
- difference in capability across device types (radio frequency versus GPS)
- speed of response to alerts — 24/7 monitoring of offenders does not necessarily mean 24/7 eyes on each individual; instead, monitoring depends on receiving alerts and whether the device is monitored in real time or at designated intervals
- effect of travelling through exclusion zones on public transport (for example, this could trigger a false alert)
- need for offenders to maintain the device, a potential difficulty for the many offenders with multiple disadvantages, and the potential for offenders to tamper with devices (fail to re-charge, make inoperable)
- inability to pinpoint an offender's location within a building (for example, inside a shopping centre, office building or apartment complex)
- the fact that, although GPS provides the location of an offender, it does not provide information on what the offender is doing and so may not stop a crime from occurring.[235]

Another consideration worth noting is that for sex offenders, GPS boundaries are set with exclusion zones such as schools and playgrounds. If an offender enters the exclusion zone, the device either stores and transmits the information in real time or at designated times throughout the day.[236] Given sex offenders tend to be opportunistic in terms of victim selection, use of locational exclusion zones is often effective.[237]

In contrast, domestic violence perpetrators are fixated on a particular victim and so developing exclusion zones may prove more difficult without also monitoring the victim. Although exclusion zones may work in terms of ensuring a perpetrator stays away from a victim's home or place of work, use of GPS may inadvertently limit a victim's ability to move freely throughout the community.

It is also not always possible or fair to exclude the perpetrator from areas they may need to transit through, despite the potential that the victim and the perpetrator may come into contact.

Given the risks posed by domestic and family violence perpetrators and current limitations in the use of electronic monitoring, consideration of GPS monitoring must be made after comprehensive risk assessment and management concerns have been addressed.[238] Victims must also be included in decision-making and kept informed.[239]

Other considerations raised in the use of GPS monitoring relate to the issue of proportionality when balancing the competing human rights of perpetrators, victims and the community.

For example, some studies have noted difficulties in terms of:

- offenders' ability to obtain or keep employment
- stigma associated with wearing a monitoring device
- increased shame and negative self-concept
- negative impact of GPS on opportunities for rehabilitation and re-entry to the community[240]
- net widening in terms of targeting low-risk offenders
- potential to increase private sector control over offenders based on community orders with electronic monitoring components.[241]

Cultural considerations and the impacts of electronic monitoring for Aboriginal and Torres Strait Islander peoples, who have historically been subjected to mistreatment by the state, must be included in any decision to expand the use of GPS monitoring in this population.[242]

The use of ankle bracelets could re-create stigma and shame from historical injustices.[243] The resemblance of GPS monitoring devices to colonial shackles (used up to the 1920s in Australia) could, in particular, act as a traumatic symbol for older Aboriginal and Torres Strait Islander people traumatised by past practices.[244] GPS monitoring would also do little to address the complex systemic and structural factors often present in offending and victimisation in this population.[245]

In the face-to-face consultations conducted by the Taskforce, there was no broad support for electronic monitoring and even less for option 13. Some commented that GPS monitoring devices are not effective in regional locations because of intermittent connectivity problems.[246]

Legal Aid Queensland stated that:

> The proposal is not supported by LAQ because there is adequate sentencing legislation already in place, it detracts significantly from the freedom of offenders who would likely be those with mental health and substance use disorders and because of the risk that a resourcing imbalance could be disadvantageous to clients of LAQ.[247]

The Bar Association of Queensland did not support this option because of:

> ... the potential for the measures to operate unfairly and because the resources required to support the scheme would be more effectively deployed elsewhere.[248]

The submission observed little overseas evidence of repeat offending in coercive control crimes after prosecution. The Association also noted that this, along with options 12 and 13, does not appear to have support from the international law community in a human rights context.[249]

The North Queensland Domestic Violence Resource Service, however, supported this option, commenting that:

> ... an electronic monitoring requirement for parole orders, re-entry release orders or post-sentence supervision could potentially do much to ensure the safety of women and children, as would 'disqualification from holding a licence for firearms and explosives', and consideration given to the withholding of bail for repeat offenders.[250]

The Aboriginal and Torres Strait Islander Legal Service has suggested that:

> ... any such measures should be proportionate and justified on evidence that these severe incursions into the freedoms of an individual do create greater community safety and that there is no other less severe measure to achieve the same result.[251]

It suggested referring this option to the Queensland Sentencing Advisory Council for further consideration.[252]

Queensland Corrective Services (QCS) were supportive, noting:

> [t]he declaration could provide the judiciary with a modern response to tackling domestic and family violence as part of a suite of other risk assessment and risk mitigation options.[253]

QCS thought this option was promising 'as an added measure within a broader framework for change aimed at keeping women and children safe and could be beneficial if part of an integrated service response.'[254] However, QCS did identify these risks:

- The use of electronic monitoring and home detention alone would not be effective in identifying or addressing coercive-control behaviours due to the multitude of ways in which domestic and family violence can be perpetrated against aggrieved persons from a distance.
- If not linked to changes in attitude and behaviour through mandatory participation in domestic and family violence rehabilitation programs, electronic monitoring could be seen by perpetrators as a soft option.
- There are issues with the reliability of current electronic monitoring technology, which needs adequate service everywhere the monitored person routinely goes. This limits the ability to monitor risk and narrows the cohort who may be suitable for electronic monitoring, creating an imbalance for available options, particularly in rural and remote regions.

- There may be a false sense of security for victims given that electronic monitoring will only address physical breaches or threats, not the more pervasive and coercive actions that do not require physical contact between the victim and perpetrator.[255]

As discussed under option 11, the QPS also raised concerns about the electronic monitoring of perpetrators, noting that the research is unclear about whether it improves public safety.[256]

These submissions and the limited research on the effectiveness of GPS monitoring devices within the domestic and family violence context suggest it should be used only in conjunction with other measures.[257] There is a need to monitor and re-assess risks posed by the perpetrator, and identify, monitor, and assess risks to victims.[258] GPS monitoring alone will also do little to change underlying behaviours and attitudes that support violence against women. As such, any form of GPS monitoring intervention must be accompanied by measures to address underlying factors, such as male privilege, attitudes towards using violence, substance misuse, mental health issues and other factors that support the continued use of violence.[259]

Findings

When exploring bail laws in chapter 1.5, the Taskforce noted that the presumption in favour of bail is already reversed in a range of contexts for domestic and family violence offending. In chapter 1.5, we also discussed how section 9(10A) of the Penalties and Sentences Act enables a court to order a conviction for an offence committed in a domestic violence context to be recorded on an offender's criminal history as a domestic violence offence. This means police and courts making decisions about the person in the future, including bail decisions, understand the nature of the person's offending history.

Findings on the role of technology in victim safety and perpetrator accountability are mixed. Research highlights a range of diverse challenges and limitations to existing technology that must be addressed in urban, regional and remote areas. The technology must be further developed and refined before it could be considered for formal incorporation into specific sentencing options set out in the Penalties and Sentencing Act. A judicial officer is already able, in appropriate cases, to impose a condition requiring a perpetrator to wear an electronic device as a special condition of a community-based order. These technologies are likely to become more effective and less expensive. Those working with and sentencing perpetrators must stay informed of these developments. However, even the best technology is unlikely to be more than one part of a broader criminal justice and service system response to domestic and family violence focused on protecting victims and making perpetrators accountable.

The merits of recommending the creation of a post-conviction supervision order alongside a non-publicly disclosable register for serious domestic abuse offenders, as opposed to the expansion of the current dangerous prisoners' scheme, are:

- allows a sentencing court to order interventions that serve both a rehabilitation and a community safety purpose, according to the attributes of the offender
- provides an opportunity to case manage a perpetrator's supervision over the long term (in appropriate circumstances)
- may take the burden off a victim of domestic abuse to apply for a Domestic Violence Order or seek assistance from the police to obtain a protection order (particularly relevant for a victim who is subject to manipulation and control)
- relieves a victim from the responsibility of trying to encourage a perpetrator, with whom the victim may still be in a relationship, to obtain rehabilitative assistance

- using the register simultaneously with the post-sentence civil supervision order gives victims and prospective victims two levels of protection and maximises 'eyes on the perpetrator'
- allows government agencies to monitor high-risk offenders with less onerous conditions on the offender — thereby, restricting fewer of the offender's human rights
- is not connected with the parole system, which means that those resources are not being re-distributed
- no requirement for assessment of risk if certain criteria are established to determine when a person becomes a reportable offender
- avoids the risks of disproportionate and unfair outcomes that may occur in option 12.

The proposed introduction of a post-conviction civil supervision order as a sentencing option offers a more flexible and tailored response to dangerous domestic violence offenders than introducing a serious domestic and family violence declaration scheme.

Therefore, the Taskforce considers option 12, a post-conviction supervision order, alongside a non-publicly disclosable register for serious domestic abuse offenders as more desirable than option 13. For these reasons, the Taskforce is not prepared to recommend the creation of 'serious family violence offender declarations' upon conviction.

Other legislative amendments suggested to the Taskforce

The following legislative amendments, in addition to the 13 options raised in discussion paper 1, were suggested to the Taskforce and are discussed briefly below. They will be explored in greater detail in chapter 3.8 and 3.9.

Continued service of domestic and family violence protection documents by police

Under Division 3, Part 2 of the *Domestic and Family Violence Protection Rules 2014*, documents under the DFVP Act must be served personally upon a perpetrator. This requires the person serving them to hand them, or copies, to the person and tell them what they are.[260] In chapter 1.3, we noted QPS's concerns that delays in personally serving orders were sometimes compromising victim safety.

Orders under the DFVP Act should continue to be personally served by police, unless an alternative would provide increased protection to the victim — such as a different person serving (for example, a police liaison officer) or a different method of service.

Legal Aid Queensland's submission to the Taskforce suggested an amendment to enable a substituted method of service that would allow police to enforce a Domestic Violence Order more quickly than if personally delivering the order (that is, the protections would be enforceable straightaway). Under that proposal, the current provisions of the legislation would need to be expanded to allow a perpetrator to be made aware that an order exists via email or text message. Legal Aid Queensland suggested that this should only occur in circumstances where personal service is difficult or impractical. The applicant would need to apply to the court for the substituted service.[261]

Restrictions on cross-examination of an aggrieved person in proceedings under the DFVP Act

As noted in the literature, perpetrators often use the court process to continue to harm their victim. This is known as 'systems abuse'.[262]

Section 151 of the DFVP Act enables a court to order that a respondent cannot cross-examine a protected witness in person if the court is satisfied that the cross-examination is likely to cause the protected witness to suffer emotional harm or distress, or be so intimidated as to be disadvantaged as a witness.

Under this section, a court can make an order restricting a respondent from cross-examining a protected person except through a lawyer.[263] Protected witnesses include the aggrieved, a child, or a relative/associate of the aggrieved who is named in the application.[264] These provisions offer additional protections to victims and other protected witnesses over and above the special witness provisions of the Evidence Act.[265]

The submission from the Department of Justice and Attorney-General noted that there 'may be an anomaly in the way that witnesses are treated in the criminal system for breach proceedings under the DFVP Act and proceedings on an application for civil protection orders'.[266] The submission highlights there have been 'differing views about whether a hearing for an offence under Part 7 of the DFVP Act is a proceeding for the purposes of section 151'.[267]

This is further illustrated in the decision of *R v MKW* [2014] QDC 300, which included legal argument about whether the prosecution of a breach offence was a 'proceeding' under the Act. In that case, the judge found that proceedings for the breach of a Domestic Violence Order are 'proceedings under [the] Act' for the purposes of section 138(3) and considering what is contained in section 181 of the DFVP Act.[268]

It should be clear that all proceedings for offences under the DFVP Act are to be treated as criminal proceedings for which the provisions of the Evidence Act also apply, including those in Part 2, Division 6 governing the cross-examination of protected witnesses. These provisions restrict a perpetrator from cross-examining a protected witness,[269] including an alleged victim,[270] and provide a procedure for cross-examining a protected witness when the perpetrator is self-represented.[271] The division applies only to the prescribed offences and special offences outlined in section 21M. The offences covered by the division include assault, choking, and stalking. However, many offences may be committed in the context of domestic violence that fall outside those prescribed, including offences against the DFVP Act.

The procedure outlined in section 21(O) provides that the court must advise a self-represented person that they may not cross-examine a protected witness and that unless they arrange for their own lawyer or do not want to cross-examine the witness, they will be given free legal assistance by Legal Aid Queensland for the cross-examination.[272] This division was inserted into the Evidence Act in 2000[273] after recommendations of the Taskforce for Women regarding the need to balance the rights of those accused of a crime with the rights of the victims of crime and witnesses generally.[274] The parliament recognised that the right to a fair trial and the presumption of innocence requires that an accused be allowed to confront their accuser and to challenge the evidence called against them through cross-examination. On the other hand, a witness giving evidence in court is acknowledged to be performing a public duty and is entitled to be treated with dignity and respect and be encouraged, not discouraged, from reporting crime. The amendments acknowledged that an accused does not have the right to harass, intimidate or traumatise a witness.[275]

The division states that it applies only to criminal proceedings other than summary proceedings under the *Justices Act 1886*. This means that the protections governing cross-examination of protected witnesses do not apply to any criminal matters that proceed summarily, including breaches of domestic violence offences. In turn, self-represented perpetrators in summary matters, including breaches, are not given free legal aid representation to cross-examine victims as they would be in higher courts. The result is that perpetrators are either allowed to cross-examine their victims (or arrange for their own lawyer to do so, which they may not be able to afford) or forego cross-examination altogether with the possibility of an unfair hearing ensuing.

Thus, Part 2, Division 6 of the Evidence Act should apply to any indictable offence that is also a domestic violence offence, including those against the DFVP Act. The expansion of these provisions will result in additional public costs. But the seriousness of domestic violence offending, coupled with the undesirability of it being perpetrated through systems abuse in our courts, means that the protection available to victims by restricting perpetrators from personally cross-examining them should operate regardless of the jurisdiction in which a matter is heard.

Cross applications and cross orders under the DFVP Act

As noted in chapter 1.5, a respondent to an application for a Domestic Violence Order may bring a cross application against the applicant. Cross applications can also be made by the police where it appears that both parties have committed an act of domestic violence. Part 3, Division 1A of the DFVP Act sets out provisions about cross application hearings. These provisions were introduced in 2015 in response to the *Not Now, Not Ever* report, recommendations 99 and 140.[276] The Special Taskforce noted inconsistent practices among different magistrates and different courts when considering cross applications. It recommended amending the DFVP Act to require the court to consider cross applications related to the same case at the same time (recommendation 99). It also recommended that the comprehensive review of the DFVP Act (recommendation 140) examine changing how the court considered cross applications.[277]

The objective of the provisions, as outlined in the Explanatory Notes of the Domestic and Family Violence Protection and Another Act Amendment Bill 2015, is to 'ensure that, where there are conflicting allegations of domestic or family violence in civil applications for protection orders, courts identify and protect the person most in need of protection.'[278] When discussing the Bill in Parliament, the Honourable Shannon Fentiman, then the Minister for Communities, Women and Youth, Minister for Child Safety and Minister for Multicultural Affairs, noted that the Bill implemented three key changes to cross applications:

> The bill requires that where a court is aware that there are cross applications it must hear the applications together and determine the person most in need of protection. The only exception to hearing proceedings on cross applications together is if the court considers it necessary to deal with the applications separately in the interests of the safety, protection and wellbeing of an aggrieved …
>
> The bill also provides that when the hearing of a cross application is adjourned a court will have to consider whether a temporary protection order should be made to protect any person named in an application …
>
> The bill includes provisions to require a court to take into consideration existing protection orders and associated court records when dealing with later applications involving the same parties.[279]

In chapter 1.5, the Taskforce has heard from victims[280] and support services[281] that cross orders are being used by perpetrators as a means of continuing to intimidate and control and terrify victims. The Taskforce has been referred to two District Court appeal judgements. These held that the principle requiring the court to consider the person most in need of protection when making a Domestic Violence Order did not preclude the court from finding the person most in need of protection in the cross application was the cross-applicant (the respondent in the original application).[282] The DFVP Act does not reflect the Parliament's intention that in determining applications and cross applications the court ordinarily should hear them together with a single finding as to who is the person most in need of protection.

Angela Lynch recommended that there be increased 'visibility of making decisions about "who is in the most need of protection" in the Act and provide legislative guidance about this'. Further, she states that 'consideration could also be given to including in the "Principles section" a statement about the gendered nature of domestic violence and a statement about First Nations and CALD women'.[283]

The Taskforce has heard of cross orders made against a primary victim who has finally retaliated understandably and reasonably to prolonged domestic and family violence. This is likely to stem from the court determining the person most in need of protection through the current incident-based response to domestic and family violence instead of examining the whole relationship. The terms of the Act and the focus of the judicial officers construing it should be on making a single, consistent order to cover applications and cross applications in favour of the person most in need of protection in the relationship.

The making of a Domestic Violence Order against a person who is actually the victim of domestic and family violence in a relationship can have serious adverse consequences. These include reducing the victim's willingness and ability to seek help and safety in the future, reducing their ability to act protectively for their children, including in family law and child protection jurisdictions, and preventing them from accessing victim assistance payments.

As police, lawyers, and judicial officers become better informed about the nature of and damage caused by domestic violence (including coercive control) across the life of the relationship, victims are less likely to be misidentified as perpetrators, including in cross orders. The Taskforce nevertheless suggests that:

- applications and cross applications must be considered together whenever it is possible
- safety concerns should be addressed through other amendments to the DFVP Act
- the court should be able to continue to make temporary protection orders as considered necessary
- the court should determine the person most in need of protection in the relationship
- ordinarily, an order should only be made against the primary aggressor in the relationship to protect the person in the relationship who is most in need of protection
- cross orders should only be made if the court is satisfied exceptional circumstances demonstrate that both are equally in need of protection in the relationship.

These suggestions will require amendments to the DFVP Act, including its principles and Part 3, Division 1B, to clarify that the intent is for the police and the courts to identify the person most in need of protection *in the relationship*. Further, amendments will be required to Part 3, Division 1A, sections 41(c) and 41(d), removing the option for the court to hear the applications separately in cases where there are concerns for the safety, protection or wellbeing of the aggrieved. Where safety is an issue, the court can rely on the protections in the DFVP Act to ensure the victim or other protected person is kept safe when the applications are heard and decided together.

The Taskforce will consider additional protections later in this report. We believe these amendments will help courts consider the relationship as a whole and, in doing so, will correctly determine who is most in need of protection in the relationship, and stop systems abuse.

The Taskforce also considers that section 157 of the DFVP Act should be amended to specify that where a party has intentionally used proceedings as a means of domestic and family violence, the court has the power to award costs against them. This amendment would further assist in preventing systems abuse.

Third parties facilitating domestic and family violence

The Taskforce has heard about respondents to a Domestic Violence Order using a third party to engage in conduct on their behalf — conduct that, if undertaken by the respondent himself, would amount to a breach of the order. Under the DFVP Act, only conduct undertaken by the respondent as the person against whom the order is made can breach the order.

Submissions to the Taskforce included stories of friends and family members encouraging the victim to contact the respondent and, in some instances, engaging in derogatory and abusive conduct that furthered the abuse of the perpetrator. At times they informed the perpetrator of the victim's whereabouts or movements to facilitate further abuse. In discussions with women from culturally and linguistically diverse backgrounds, the Taskforce heard that in-laws often exert controlling behaviours to restrict a woman's movements and freedom and prevent her from leaving the relationship. This can involve threats, intimidation, and actual violence against family and friends in their home country.

In submissions to the Taskforce, individuals have spoken about coercive controlling behaviour involving a perpetrator hiring private detectives to find and follow them.[284] In chapter 1.5, the Taskforce pointed out that private investigators in Queensland are currently legally allowed to be used as agents, which means a perpetrator may use them to continue the abuse of the victim. There are no restrictions to stop private investigators from stalking victims on behalf of perpetrators, either directly or through their lawyers. This conduct is facilitating breaches of Domestic Violence Orders. Further, private investigators are not required to check whether a Domestic Violence Order is in place before agreeing to accept work.

A new facilitation offence should be added to the DFVP Act to make it an offence for third parties, including private investigators, to facilitate the domestic abuse of an aggrieved party named in a domestic violence offence. The maximum penalty for this offence should be the same as for a breach of a Domestic Violence Order. The DFVP Act should also be amended to provide that a respondent to a Domestic Violence Order commits an offence if they engage or otherwise ask another person to undertake behaviour that, if undertaken by the respondent, would constitute domestic violence in breach of the order.

This conduct is especially serious when carried out by licensed private investigators or other persons for reward. To reflect this, the offence should be aggravated when the conduct is undertaken for reward. For private investigators, a finding of guilt or conviction for this offence should be a disqualifying offence, which would prevent eligibility to hold a licence under the *Security Providers Act 1993*. This offence should also apply to friends, family members or acquaintances of a perpetrator who commit domestic abuse against a victim as the perpetrator's agent.

The Taskforce met with private investigator regulators and with a national industry body. It heard that it is important for private investigators to be better educated about domestic and family violence and coercive control and better supported to prevent them causing harm to victims. While industry bodies must have a code of conduct, these are not enforceable, and there is no legislative code of conduct for private investigators in Queensland.

To help private investigators not engage in conduct that causes harm, a legislative code of conduct for private investigators should be developed in consultation with licensed private investigators and industry bodies. This should include requirements for private investigators to:

- take part in domestic violence training regularly
- know and understand the behaviours and effects of coercive controlling behaviour
- take reasonable steps to identify whether a Domestic Violence Order is in place before engaging in private investigative work
- refrain from surveillance, monitoring and the provision of private information that may further harm a victim of domestic violence.

Compliance with the code of conduct should be legislatively required, with regulators able to suspend or cancel a licence for not following the code of conduct.

Establishing a diversion scheme for respondents who breach a Domestic Violence Order for the first time

The QPS submission highlighted that there is currently 'no mandatory diversion option for a perpetrator to require early intervention in the domestic and family violence cycle to support perpetrators in recognising their inappropriate behaviour, learn strategies to change their behaviour and reduce incidences of reoffending.'[285]

A recent analysis by the Queensland Government Statistician's Office (QGSO) of QPS and Department of Justice and Attorney-General data between 2008 and 2018 found that most respondents to Domestic Violence Orders are not convicted of breaching their orders. However, those respondents who did breach tended to do so more than once. The QGSO found that:

> Three-quarters (75.7%) of respondents did not breach their Domestic Violence Order/s and half (51.3%) of respondents who breached their order/s re-breached. Of those respondents who breached their Domestic Violence Order/s, 8.2% accounted for 28.3% of total breaches, demonstrating the concentration of breaching behaviour. Frequent Domestic Violence Order re-breachers (those re-breaching five or more times) accounted for 16.1% of all Domestic Violence Order re-breachers.[286]

That study found a disproportionate number of Aboriginal and Torres Strait Islander peoples named on Domestic Violence Orders and charged with contraventions. It also found that Aboriginal and Torres Strait Island peoples were significantly more likely than non-Indigenous people to receive a sentence of imprisonment for breaking a Domestic Violence Order.[287] Further, regarding overall breaches of adult offenders, based on police action taken where there was an outcome during the 2019–2020 financial year, 28.5% identified as Indigenous while 71% identified as non-Indigenous.[288]

There is a clear policy need to support a path for diversion before the criminal justice system is fully engaged — that is, the very first time a perpetrator breaches a Domestic Violence Order. The hope is that the perpetrator could be diverted before their offending escalates and provided with support and strategies to help them change the way they behave in their relationships so that they do not continue to breach the order or offend in any other way.

These findings are based on data about reported and charged breaches. The Taskforce has heard in submissions and face-to-face consultation about circumstances of victims either not reporting breaches or reporting breaches that police do not investigate or charge as offences.

The Taskforce has also heard that multiple breaches of an order are often charged as one offence. It is likely that QGSO's data significantly under-represents the number of breaches of Domestic Violence Orders that occur. The Taskforce has also heard of perpetrators having multiple orders made against them, often at the same time. The QPS has identified from its data about recidivist domestic violence perpetrators that the number of Domestic Violence Orders associated with each perpetrator ranged between three and eight (against separate individual aggrieved persons).[289]

The QPS argue that there is a need for a diversion scheme for respondents who breach a Domestic Violence Order for the first time where the conduct could not otherwise be charged as an indictable offence. There is merit in progressing such a scheme, particularly when a perpetrator is accurately identified and the safety risk for the victim is low.[290] In chapter 1.2, the Taskforce emphasised the need for the primary focus of perpetrator intervention programs to monitor the behaviour of the perpetrator in order to keep the victim safe. The QPS suggested that a diversion scheme be based upon the existing drug diversion scheme. The Taskforce notes the vastly different nature of domestic and family violence, especially the risk of harm to the victim, and the need for safeguards and protections. These include factors relating to the safety of the victim and whether the perpetrator is assessed as suitable to take part in diversion.

There are risks with a diversion scheme for first offences of breaches of domestic and family violence orders. These include that a perpetrator could underestimate the seriousness of their behaviour and be emboldened to continue their abuse of the victim. These risks could be mitigated by only accepting perpetrators who have admitted to the breach and expressed a willingness to take part in an intervention program.

Given the serious issues raised with the Taskforce about the police not taking complaints and not progressing charges for breaches of Domestic Violence Orders, the Taskforce is not convinced that a diversion scheme based on the police rather than judicial discretion is appropriate. Safeguards should be built into the scheme that warrant oversight by the court. When a perpetrator is brought before the court for a breach of a Domestic Violence Order that is the first breach of any order they have faced, the court, taking into consideration the views of the victim, could opt to divert the perpetrator to a suitable intervention program. Chapter 3.4 discusses the availability of perpetrator programs and the need for quality, targeted interventions that address contraventions swiftly and cater for the diverse needs of different population groups, including those of different cultural backgrounds and those in regional and remote areas.

Further, perpetrators should be required to enter a plea of guilty before being referred to a diversion program, so they can be brought back into the criminal justice system to be dealt with should they not engage with the program and continue to offend.

If a perpetrator completes the diversion program, no conviction or finding of guilt should be recorded. This would give the perpetrator the incentive to take part in diversion as opposed to continuing through the criminal justice system at first instance.

If a perpetrator does not complete the program, the breach should be prosecuted unless the perpetrator has earlier applied to the court for a variation or revocation of the diversion order.

Failure to complete the diversion should be able to be considered if the police or the courts deal with the perpetrator for future breaches or other domestic violence related offending.

This diversion scheme aims to protect the victim by monitoring perpetrators to identify risks, educating and rehabilitating the perpetrator, and holding them accountable for stopping their violence. The scheme should be developed with a particular focus on meeting the cultural needs of Aboriginal and Torres Strait Islander peoples by diverting them from the criminal justice system.

The implementation of a diversion scheme depends on significant systemic reform. This includes training and cultural change within the QPS to shift practice from identifying and responding to domestic and family violence incidents to assessing the safety and risk of harms regarding patterns of behaviour over time and in the context of a relationship as a whole.

Perpetrator intervention programs will be required to significantly increase their capacity and accessibility to all, including Aboriginal and Torres Strait Islander peoples and people from diverse and remote communities.

Provision of criminal and domestic violence histories in applications for Domestic Violence Order and sentences

Some victims told the Taskforce that magistrates hearing their matters were not made aware of the criminal or domestic and family violence history of the perpetrator and so were not able to carefully consider the real risk to the victim's safety when determining the application.[291]

The Taskforce heard that there is a need for courts to be able to consider the domestic violence history of respondents when hearing applications for Domestic Violence Orders. Where respondents have a history of abuse with their current (and possibly former) partners, the court needs to be able to take this into account in deciding whether to make the order and, if so, the conditions needed to keep the victim safe.[292]

The Taskforce was also told that in some cases magistrates are not sentencing perpetrators appropriately because they are not being given adequate information about the nature of the offending, including full criminal histories showing any previous offending related to domestic violence. This poor prosecution practice has been blamed on the volume of matters going through the courts.[293]

The DFVP Act should be amended to require the QPS to provide to the court both the criminal history and a written report about the domestic violence history for the respondent in all Domestic Violence Order applications and for the perpetrator in sentences for contravention offences under Part 7.

The Penalties and Sentence Act should also be amended to require that a written report about the domestic violence history of the perpetrator be provided to the court at the time of sentencing for a breach offence and any domestic and family violence offence. The written report should include details of all the Domestic Violence Orders, variations and contraventions previously made against a perpetrator, as well as whether the perpetrator has already had the benefit of a diversion program.

Conclusion

Current legislation should be amended and new legislation introduced to address coercive control.

The legislation should be introduced in at least two separate stages and have an implementation plan that includes reasonable periods for consultation on draft legislation and an extensive and mandatory training program for police, lawyers, and judicial officers as well as a comprehensive community-education campaign.

The legislation must be accompanied by a raft of non-legislative measures, including:

- primary prevention
- school-based education
- development initiatives for the domestic and family violence service system sector
- an expansion of perpetrator intervention programs at all stages of conduct with the criminal justice system.

This is discussed further in chapter 2.3, which sets out a detailed four-phase plan for legislative policy reform over this term of government.

Two areas of law require further review:

- the operation and viability for expansion of the *Dangerous Prisoners (Sexual Offenders) Act 2003* to the most serious violent offenders; and
- the excuses and defences in the Criminal Code and whether life imprisonment should remain mandatory for the offence of murder.

Table 5. Legislative amendments that should be progressed in a first stage of legislative reform to be introduced in 2022 and started as soon as possible

Legislation	Nature of Amendment
Criminal Code	Rename and modernise the offence of 'unlawful stalking' in Chapter 33A.
Domestic and Family Violence Prevention Act 2012	Amend the definition of 'domestic violence' in section 8 by making it clear that domestic violence includes a series or combination of acts, omissions or circumstances over time in the context of the relationship as a whole that may reasonably result in harm to the victim.
	Amend section 151 (Restriction on cross-examination of a person) to clarify that it applies to criminal proceedings for a breach of a Domestic Violence Order.
	Amend section 4 (Principles for administering Act) and Part 3, Division 1B (Cross applications) to provide that the court must determine the person most in need of protection in the relationship. Amend the Act to make clear that cross orders can only be made when the court is satisfied of exceptional circumstances where there is clear evidence that both are equally in need of protection in the relationship. Amend sections 41(c) and 41(d) in Part 3, Division 1A to make it clear that applications and cross applications should always be considered together, and, where there are concerns for the safety, protection or wellbeing of the aggrieved, remove the option for the court to hear the applications separately. Safety concerns should be addressed through other amendments to the DFVP Act. Amend the Act to require any proceedings on a previously made current order between the same parties be reopened and considered simultaneously to enable the court to determine the person most in need of protection in the relationship.
	Amend section 157 of the DFVP Act to specify that where a party has intentionally used proceedings as a means of domestic and family violence the court has the power to award costs against them.
	Amend Part 7 of the DFVP Act to require the QPS to provide to the court a copy of the respondent's criminal history

	about the domestic violence history in all proceedings on an application for a Domestic Violence Order and when the perpetrator is being sentenced for the breach of a Domestic Violence Order.
	Amend the Act to require the respondent's domestic violence history to be provided to the court in all proceedings on an application for a Domestic Violence Order.
Evidence Act 1977	Amend section 132B to remove the restriction of the application of the section to offences only in Chapters 28 to 30.
	Amend to allow for jury directions to be given to address stereotypes and misconceptions about family violence.
	Amend to allow expert evidence in criminal proceedings about the nature and effects of family violence on any person and expert evidence about the effect of family violence on a particular person who has been the subject of family violence.
	Amend Part 2, Division 6 to apply to any indictable offence that is also a domestic violence offence, including offences against the DFVP Act.
Penalties and Sentences Act 1992	Amend the Act to create a mitigating factor that requires a sentencing court to have regard to whether an offender's criminal behaviour is attributable, wholly or in part, to the offender being a victim of coercive control.
	Amend the Act to require the respondent's domestic violence history to be provided to the court where the perpetrator is being sentenced for the breach of Domestic Violence Order or other domestic violence related offence.
Security Providers Regulation 2008	Amend the Code of Conduct to provide that private investigators should not undertake work for a respondent to a Domestic Violence Order if the work relates to the aggrieved person under the order.

Table 6. Legislative amendments that should be progressed in a second stage of legislative reform to be introduced in 2023 and start from 2024

Legislation	Amendment
Criminal Code	Creation of a standalone course of conduct offence of *coercive control in a domestic relationship.*
Domestic and Family Violence Protection Act 2012	Creation of a court-based domestic violence perpetrator diversion scheme for first-time breaches of Domestic Violence Orders where the breach could not otherwise be prosecuted as an indictable offence.
	Create a facilitation offence to stop a person knowingly facilitating domestic abuse on behalf of a perpetrator against a person named as an aggrieved in a Domestic Violence Order with circumstance of aggravation if it is for reward.
Penalties and Sentences Act 1992	A post-conviction civil supervision and rehabilitation order for serious domestic and family violence offenders.
Security Providers Act 1993	Amend the definition of 'disqualifying offence' in the dictionary at Schedule 2 to include the new facilitation offence in DFVP Act.
New Standalone Legislation	Create a publicly non-disclosable register of high-risk domestic and family violence offenders to allow for limited sharing of information between police and certain government and non-government entities. Create an offence of knowingly and unlawfully sharing this information.

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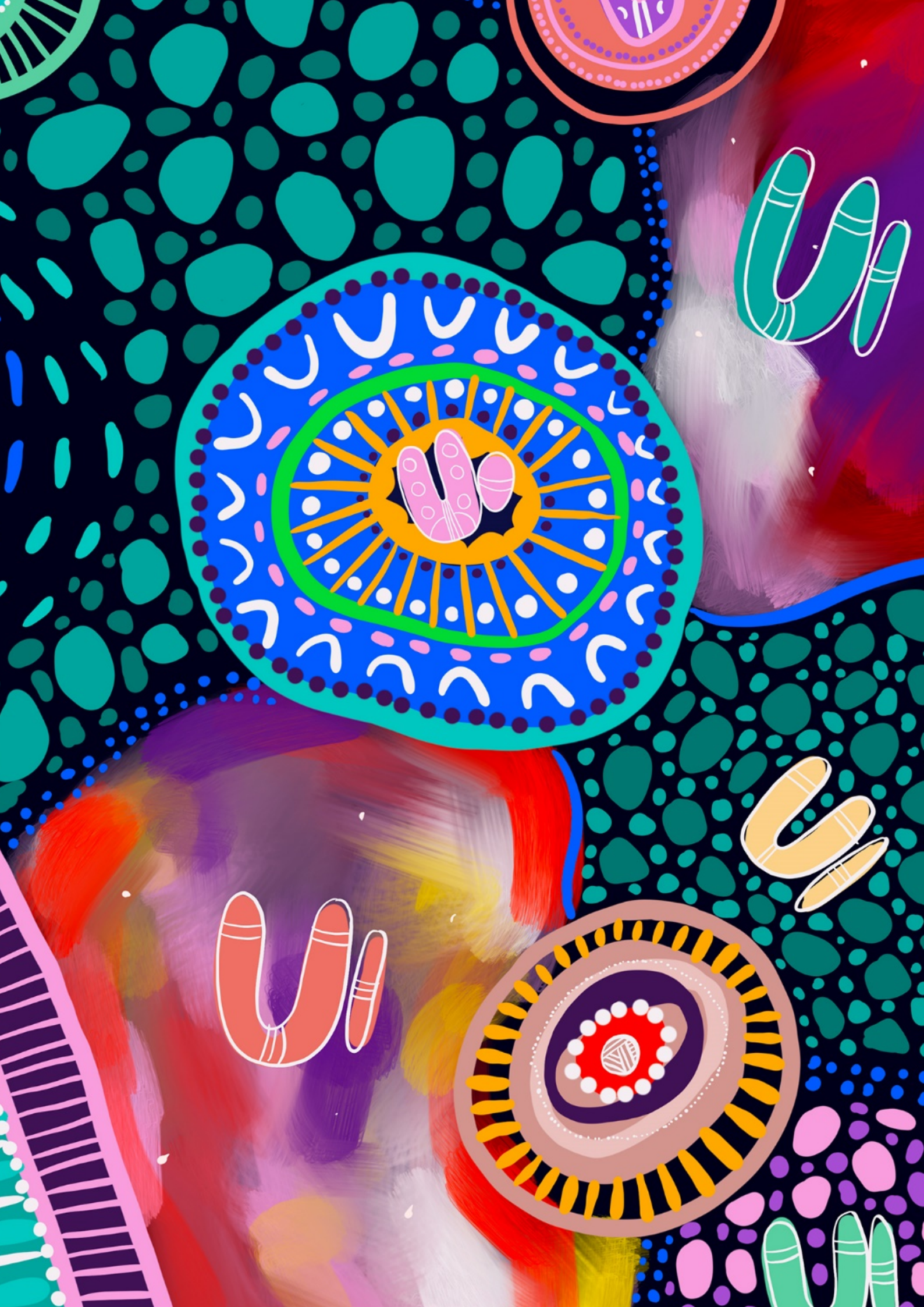


This artwork as a whole represents the journey we must go on as a community to **protect and better the lives of women and girls** and make the world a fairer place for them.

It represents the mountains we must climb, and the perseverance and determination it takes to make this a reality.

Part 2

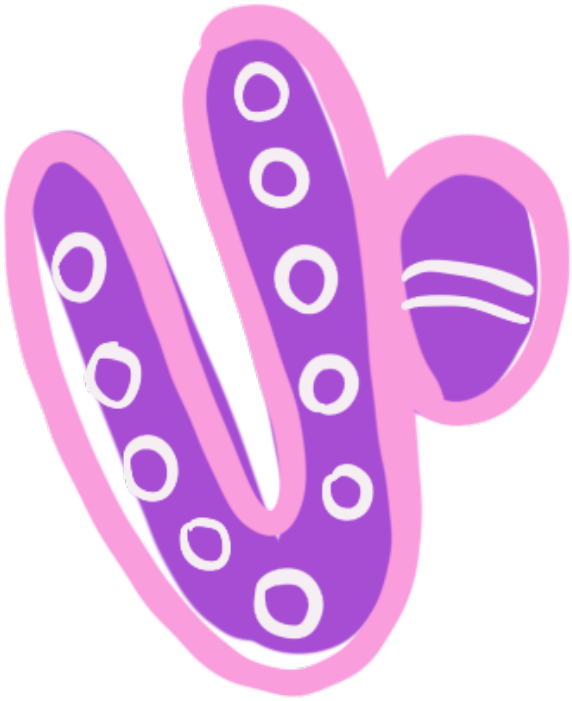
Protect and better the lives of women and girls

Part 2 outlines wider reforms and considerations needed to protect and better the lives of women and girls and make the world a fairer place for them.

This includes the Queensland Government's responsibility to consider the human rights of

coercive control victims, and key issues across the criminal justice system that the Taskforce believes are vital to maintaining public confidence in the justice system.

This part also introduces the Taskforce's four-phase plan to prepare the community, services and the criminal justice system for coercive control legislation.



Chapter 2.1

The human rights context

Chapter 1.1 describes the nature of coercive control and the harrowing impact it can have on a victim's life. Drawing on this evidence, it is clear that coercive control violates a victim's human rights. These human rights are protected under the *Human Rights Act 2019* (Qld) and by international law. The Queensland Government, therefore, has a legal and moral obligation to prevent and sanction coercive control.

The United Nations has this to say about domestic violence:

> Like war, domestic violence is a veritable scourge of humanity, traumatizing countless individuals, in particular women and children, on a daily basis and brutalizing human society for generations to come. Unlike war, however, domestic violence is still widely considered to be a 'private matter', a social taboo to be dealt with at the discretion of the perpetrator or the family in the perceived legal 'black hole' of the home. As long as a substantial part of the world's population is oppressed, abused and even murdered by their own family members or within their homes, the promises of the Universal Declaration of Human Rights and the 2030 Agenda for Sustainable Development will remain a far cry from reality. Consequently, domestic violence must be regarded as a human rights issue of inherent public concern.[1]

Queensland's human rights framework

Queensland's *Human Rights Act 2019* (Qld) (the Human Rights Act) was passed by the Queensland Parliament on 26 February 2019 and commenced on 1 January 2020. The Human Rights Act identifies 23 human rights that are to be promoted and protected.

The Preamble to the Act recognises that human rights must be exercised in a way that respects the human rights of others. They should be limited only after careful consideration and in a way that can be justified. The Preamble also acknowledges that the right to self-determination is of particular significance for the Aboriginal and Torres Strait Islander peoples of Queensland.[2]

The main objects of the Act are to:

- protect and promote human rights
- help build a culture in the Queensland public sector that respects and promotes human rights
- help promote a dialogue about the nature, meaning, and scope of human rights.

The Human Rights Act binds all persons and encompasses the state of Queensland itself. It places obligations on:

- parliament to scrutinise legislation for compatibility with human rights[3]
- courts to interpret legislation in a way that is most consistent with human rights and declare whether legislation is, in fact, compatible with human rights[4]
- public entities to make decisions that are compatible with human rights.[5]

It is unlawful for a public entity to perform an act or make a decision that is not compatible with human rights. It is also unlawful to fail to consider human rights when making a decision.[6]

'Public entities' are defined under section 9 of the Human Rights Act and include:

- state government departments and employees
- local councils, both councillors and employees
- Queensland Police and other emergency services
- state schools
- public health services
- public service employees
- state government ministers
- organisations providing public services on behalf of the government.

A person can take legal action against a public entity under the Human Rights Act only if they have another independent cause of action against that entity.[7]

An example of an independent cause is the right to have a court review a decision made by a public entity.[8] If a person proves a public entity breached their human rights, the person is not entitled to any financial compensation. However, the person can ask the court to stop the public entity from doing something that is not compatible with their human rights or to make a declaration about the incompatibility (obtain injunctive and declaratory relief).[9]

People can make a human rights complaint about a public entity to the Queensland Human Rights Commission. The Commission can resolve any dispute about whether a public entity has acted compatibly with human rights. The Queensland Human Rights Commissioner must make a report about any unresolved disputes. The report can include actions that the Commissioner thinks a public entity should take to ensure its acts and decisions are compatible with human rights. However, the public entity is not bound by the Commissioner's suggestions.[10]

Interaction between Queensland's human rights framework and international human rights law

The Explanatory Notes to the Bill that created the Human Rights Act state the aim of the Act is to 'consolidate and establish statutory protections for certain human rights recognised under international law'.[11] These Explanatory Notes also list the sources of these rights — that is, the human rights treaties Australia has ratified. The main sources are the:

- International Covenant on Civil and Political Rights (ICCPR)
- International Covenant on Economic, Social and Cultural Rights
- Universal Declaration of Human Rights.

The Explanatory Notes also state that, while not a party to the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), the Australian Government supports the declaration as a non-legally binding document.[12]

All rights protected under the Human Rights Act can be limited where it is reasonable and demonstrably justified to do so in a free and democratic society based on human dignity, equality, and freedom.[13] This is not always true in respect of human rights protection in international law. This distinction is important to bear in mind when exploring specific rights (see below).

The Human Rights Act has been in operation for less than two years.[14] As noted above, there are restricted avenues to contest human rights breaches in Queensland's courts. Currently, there is little Queensland case law available to indicate how the courts might apply the Human Rights Act in Queensland in the future. However, other jurisdictions (for example, Canada,[15] New Zealand,[16] and the Council of Europe[17]) have ratified the same human rights treaties and enacted their own legislation, charters and conventions. They have also developed substantial bodies of case law over time. Human Rights case law emanating from the Council of Europe is particularly notable because the European Convention on Human Rights (ECHR) began in 1950 and has been applied to diverse national contexts across Europe, providing significant breadth and depth of case law.

In the mid-2000s, Victoria[18] and the Australian Capital Territory[19] adopted human rights legislation. This gives Queensland case law guidance. In addition to general recommendations from United Nations' Treaty Committees, this case law (from overseas and other Australian jurisdictions) provides a sound indication of the content of the human rights protected under Queensland's legislation and what action is required by state and public entities to act compatibly with those human rights.

Beyond the Human Rights Act itself, the Queensland Government's human rights obligations sit within Australia's broader human rights framework.

Australia is an active participant in the United Nations' Universal Periodic Review, which considers the human rights records of member states every five years. As part of this process, if the Queensland Government's legislation breaches international human rights law, the breach is noted. For example, in the last review, Australia was asked to remove its reservation to the Convention on the Rights of the Child and prohibit corporal punishment of children in the home and all other settings.[20] Queensland state law still permits corporal punishment of children in the home.[21]

Further, each treaty Australia is a party to has a committee or a body that monitors Australia's compliance with its obligations under the treaty. Any individual can make a complaint against Australia if they are concerned that their human rights under a treaty are being violated. This includes if that violation is caused by the actions of a state government. Alternatively, United Nations Special Rapporteurs, who operate on behalf of the UN Human Rights Council, can also raise issues of concern on their own initiative. This recently occurred when Australia received correspondence querying whether Queensland was breaching its citizens' rights to free and peaceful assembly after Queensland Parliament enacted the *Summary Offences and Other Legislation Amendment Act 2019* (Qld).[22]

Human rights law protects us against arbitrary government interference with our rights. It also places a positive obligation upon governments to take appropriate actions to protect citizens from others (including individuals) who may violate our human rights.

Under international human rights law, if a state fails to act with due diligence to prevent violations of a victim's rights and investigate and punish acts of coercive control, the state may be held accountable for human rights abuses.[23]

When considering what action is required of the Queensland Government in the context of both the Human Rights Act and international human rights law, we must look closely at the human rights that are being violated when an abuser perpetrates coercive control.

Coercive control as a violation of the right to life

The right to life is protected under section 16 of the Human Rights Act:

> Every person has the right to life and has the right not to be arbitrarily deprived of life.

Section 16 of the Human Rights Act is modelled on article 6(1) of the ICCPR. This right is expressed in similar terms at article 2 of the *European Convention on Human Rights* (ECHR) and section 9 of the *Charter of Human Rights and Responsibilities Act 2006* (Vic) (the Victorian Charter of Human Rights).

This right to life includes an obligation on states to take positive steps to protect the lives of individuals.[24]

The right to life is particularly relevant to coercive control because the perpetration of coercive control statistically correlates with a high risk of lethality for victims.[25] The near-universal prevalence of coercive control in deaths reviewed by the Queensland Domestic and Family Violence Death Review Advisory Board was highlighted in its Annual Report 2019–2020, which noted, 'In the vast majority of the Board's case reviews, regardless of death type, there was evidence of coercive controlling abuse'.[26]

As with all rights under the Queensland Human Rights Act, the right to life can be limited where it is reasonable and demonstrably justified in a free and democratic society based on human dignity, equality, and freedom. Under international law, the right to life is a right that can never be suspended or limited, even in emergencies.[27] However, given the fundamental nature of this right, it is difficult to conceive of a circumstance where a limitation on the right to life could ever be justifiable even though it is technically possible under Queensland's legislation.

Coercive control as a violation of the right to be protected from torture, cruel, inhuman, and degrading treatment

The right to be protected from torture and cruel, inhuman, and degrading treatment is contained at section 17 of the Human Rights Act:

> A person must not be
>
> (a) subjected to torture; or
>
> (b) treated or punished in a cruel, inhuman or degrading way; or
>
> (c) subjected to medical or scientific experimentation or treatment without the person's full, free and informed consent.

Section 17 is based on article 7 of the ICCPR. This right is expressed in similar terms under article 3 of the ECHR and section 10 of the Victorian Charter of Human Rights.

Like the right to life, this right can be subject to reasonable limits under the Human Rights Act if these can be demonstrably justified in a free and democratic society based on human dignity, equality, and freedom (refer to section 13). Under international law, however, this right cannot be suspended or limited under any circumstances.

In 2019, the UN Special Rapporteur examined the relevance of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment in the context of domestic violence.[28] Concerning coercive control, the UN Special Rapporteur noted:

> States are also increasingly recognizing and addressing the phenomenon of 'coercive control', which can be understood as an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish or frighten their victim, with a view to coercing or controlling them. Thus, for example, 'coercive' behaviour has been described as encompassing psychological, physical, sexual, financial and emotional abuse, and 'controlling' behaviour as making a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour. In the view of the Special Rapporteur, psychological and emotional violence, including coercive control, amounts to cruel, inhuman or degrading treatment or punishment and, where it involves the intentional and purposeful or discriminatory infliction of severe suffering on a powerless person, amounts to torture.[29]

In the same address, the UN Special Rapporteur made the following statements to the General Assembly about the positive and negative duties of states with respect to domestic violence and the right not to be subjected to cruel, inhuman, or degrading punishment under international human rights law:

> Domestic violence always amounts to cruel, inhuman or degrading punishment and very often to physical or psychological torture under universally applicable human rights law.[30]
>
> Domestic violence gives rise to a wide range of human rights obligations, one of which is the obligation of states to prevent acts of torture and ill-treatment, including at the hands of private actors.[31]
>
> States not only have a negative obligation to refrain from engaging in, instigating or otherwise encouraging domestic violence. They also have the positive obligation to effectively prevent, protect against, respond to, investigate, prosecute and provide redress for such abuse at the hands of private actors.[32]

> There is a positive obligation on states to take effective legislative administrative, judicial and other measures to prevent acts of domestic violence and ensure due diligence in the investigation and prosecution of torture and ill-treatment.[33]
>
> Failure to exercise due diligence to prevent, investigate, prosecute and redress torture and ill-treatment by private perpetrators, including in the context of domestic violence, amounts to consent or acquiescence in torture or ill-treatment.[34]
>
> States incur international legal responsibility when they fail to take measures of prevention, protection and redress that are reasonably available to them and likely to have the desired effect.[35]
>
> To comply with their obligations under this right, states must establish legal provisions, mechanisms and processes that protect people from torture and ill-treatment and that includes in a domestic violence context.[36]
>
> As part of prevention, states must take appropriate measures to transform societal structures and values that perpetrate and entrench [domestic violence] and remedy legal, structural and socioeconomic conditions that may increase exposure to domestic violence.[37]

The UN Special Rapporteur went on to make several recommendations for governments to strengthen their capacity to prevent *torture and other cruel, inhuman or degrading treatment or punishment*. As they are relevant to the Taskforce's terms of reference, they are set out below:

> States should never perpetrate, instigate or otherwise encourage domestic violence. Instead they should explicitly prohibit, prevent, investigate and ensure appropriate accountability and redress for such abuse, including between current and former spouses. That includes any form of the following predominant patterns of domestic violence, all of which are relevant under the prohibition of torture and ill-treatment: killings; physical violence; sexual violence; psychological and emotional violence, including coercive control; economic violence; serious neglect; female genital mutilation; "honour" crimes; trafficking of family members; child, early and forced marriage; forced "conversion therapy"; and reproductive coercion.[38]
>
> In order to have an objective basis for designing relevant policies and measures, states should collect relevant statistical data at regular intervals on all forms of domestic violence.[39]
>
> Where there is reason to suspect domestic violence but the perpetrator cannot be arrested, states should issue and enforce strict compliance with emergency "barring orders", as well as court-mandated restraining or protection orders, to prevent the perpetrator from approaching or otherwise contacting the victim, subject to dissuasive sanctions.[40]
>
> States should develop and implement at all levels and in an adequate geographical distribution, comprehensive coordinated policies and programmes to combat domestic violence, including gender-sensitive training of public officials as well as public education and awareness campaigns.[41]
>
> States should place the rights and needs of the victim, including the best interests of the child, at the centre of all legislative, judicial and administrative measures.[42]

Coercive control as a violation of the right to privacy and the protection of families

The right to privacy is protected under section 25 of the Human Rights Act. This right protects the individual from all interferences and attacks upon their privacy, family, home, correspondence (written and oral), and reputation. This right is based on article 17 of the ICCPR.

The rights of families and children to be protected are found at section 26 of the Human Rights Act. This right is based on articles 23(1) and 24 (1) of the ICCPR.

These rights are also expressed and protected in similar terms in article 8 of the ECHR and sections 13 and 17 of the Victorian Charter of Human Rights. They can be limited under the Human Rights Act if the limits can be justified as reasonable under section 13, and such limitations are also acceptable under international human rights law.

In the past, because domestic violence occurs within personal relationships and private homes, the human right to privacy was used as an argument for not interfering in domestic violence cases.[43]

That narrow interpretation of the right to privacy has been rejected by the European Court of Human Rights. It found that the right to privacy encompasses the protection of the 'physical and moral integrity of the person'[44] so that it protects a person's physical and psychological integrity as well as their right to identity and personal development.[45] Interpretation of the Victorian Charter of Human Rights confirms that the fundamental values expressed as part of the right to privacy are physical and psychological integrity, individual and social identity, autonomy, and the inherent dignity of the person.[46]

Chapter 1.1 of this report details the serious negative impact of coercive control on a victim's physical, psychological and emotional wellbeing and financial independence, forming a pattern of abuse that effectively stymies their exercise of free will and autonomy.

When the right to privacy is understood to include rights to bodily integrity, autonomy and self-determination, it is clear that it supports state intervention against coercive control in private relationships — not limits it.[47]

Chapter 1.1 of this report also details the abuse of children (including children being used as a tool for abuse by a perpetrator) in relationships involving coercive control. There is a strong argument that all children in family relationships where coercive control is occurring are harmed.[48] Depending on the degree of harm experienced, coercive control is a breach of a child's right to protection, in their best interests, because of being a child, and their rights to life and protection from cruel, inhuman and degrading treatment (see above).

In most circumstances, due to the fundamental nature of the human rights to life and protection from torture and cruel, inhuman and degrading treatment, any limits that the Queensland Government places on the perpetrator's rights to privacy and family life to protect victims and children from coercive control will be reasonable and justified in a free and democratic society based on human dignity, equality, and freedom.[49]

Coercive control as a violation of the right to recognition and equality before the law

Every person has a right to enjoy their human rights without discrimination. This is a human right protected by article 2 (1) ICCPR and section 15(2) of the Human Rights Act. It is protected under similar terms at section 8(2) of the Victorian Charter of Human Rights and at article 14 of the ECHR.

This is not regarded as a freestanding right but prohibits discrimination in the enjoyment of other substantive human rights.[50] In chapter 1.1, the Taskforce established that coercive control is a form of domestic and family violence disproportionately inflicted by men and boys upon women and girls. Coercive control violates human rights and prevents women and girls from enjoying the rights to life, protection from torture, cruel and inhuman punishment, privacy, and family. In international human rights law, domestic and family violence has been recognised as a form of discrimination that prevents women and girls from enjoying their right to participate in public life[51] and their right not to be arbitrarily deprived of their liberty.[52]

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) was adopted in 1979 by the United Nations General Assembly and entered into force on 2 September 1981. It contains 30 articles aimed at enshrining women's rights to equality — including political participation, health, education, employment, marriage, and family relations — to ensure that women can enjoy their fundamental human rights. Australia is a party to the CEDAW.

In 1992, the CEDAW Committee issued General Recommendation 19, which explains how gender-based violence against women is a form of discrimination under the CEDAW. Paragraph 23 of Recommendation 19 pays particular attention to family violence and states:

> Family violence is one of the most insidious forms of violence against women. It is prevalent in all societies. Within family relationships women of all ages are subjected to violence of all kinds, including battering, rape, other forms of sexual assault, mental and other forms of violence, which are perpetuated by traditional attitudes. Lack of economic independence forces many women to stay in violent relationships. The abrogation of their family responsibilities by men can be a form of violence, and coercion. These forms of violence put women's health at risk and impair their ability to participate in family life and public life on a basis of equality.

Recommendation 19 calls on states to take certain measures to address family violence (and a form of discrimination against women), including introducing:

- criminal penalties and civil remedies for domestic violence
- services to support the safety and security of victims
- rehabilitation programs for perpetrators of domestic violence.[53]

In 1993, the United Nations General Assembly's Declaration on the Elimination of Violence against Women described violence against women as being:

> Any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life.

In 2017, twenty-five years after the CEDAW Committee's Recommendation 19, the Committee affirmed General Recommendation 35 (see below), which shows that the prohibition of gender-based violence against women as a form of discrimination against women has evolved into a principle of customary international law.[54] As a form of domestic and family violence and gender-based violence, it follows that coercive control is discrimination against women and girls in international law.

Relevant to the Taskforce's work, CEDAW's Recommendation 35 is that state parties legislate to:

> (a) Ensure that all forms of gender-based violence against women in all spheres, which amount to a violation of their physical, sexual or psychological integrity, are criminalized and introduce, without delay, or strengthen, legal sanctions commensurate with the gravity of the offence, as well as civil remedies;

(b) Ensure that all legal systems, including plural legal systems, protect victims/survivors of gender-based violence against women and ensure that they have access to justice and to an effective remedy, in line with the guidance provided in general recommendation No. 33.[55]

Competing rights and considerations

When considering the best way to address the human rights violations involved in the perpetration of coercive control, regard must be had to whether the solutions limit other important human rights, most relevantly:

- cultural rights — generally[56]
- cultural rights — Aboriginal and Torres Strait Islander peoples[57]
- right to liberty and security of person[58]
- right to a fair hearing[59]
- rights in criminal proceedings.[60]

The Taskforce has clearly heard that, in designing the best approach to addressing coercive control, special consideration needs to be given to ensuring that Aboriginal and Torres Strait Islander peoples are not further disadvantaged. Section 28 (Cultural rights — Aboriginal and Torres Strait Islander peoples) of the Human Rights Act is modelled on article 27 of the ICCPR and articles 8, 25, 29 and 31 of the UNDRIP.[61] This section of the Human Rights Act requires the protection and promotion of Aboriginal and Torres Strait Islander peoples' right to practise, maintain and develop their culture and not be subjected to forced assimilation or destruction of their culture.

The Taskforce is also mindful that the recommendations it makes can only limit the human rights of accused and convicted perpetrators to liberty and security and fair treatment in all legal proceedings if those limitations can be demonstrably justified in a free and democratic society based on human dignity, equality, and freedom.

Conclusion

Coercive control represents a violation of some of the most important human rights protected under the Human Rights Act and international law. The violations of human rights involved in the perpetration of coercive control not only justify action by the Queensland Government to prevent and punish coercive control — they compel it.

Although Queensland has existing legislation that addresses some elements of coercive control, there is no single criminal offence that a) recognises coercive control as a patterned form of abuse and b) holds a perpetrator accountable for the cumulative damage it causes a victim.

The Taskforce has received many submissions from victims saying that the state has not protected them and their children from domestic and family violence and coercive control. To prevent future violations of human rights, the Queensland Government must establish more effective prevention measures and provide more effective legal deterrents to protect victims from this form of vile abuse. The Queensland Government must take further steps to reform the criminal justice system and the specialist service system to offer better protection to victims.

The general recommendations of United Nations bodies have guided the Taskforce in making its recommendations to the Queensland Government about preventing and punishing coercive control. In making these recommendations, we have been cognizant of the need to balance competing human rights.

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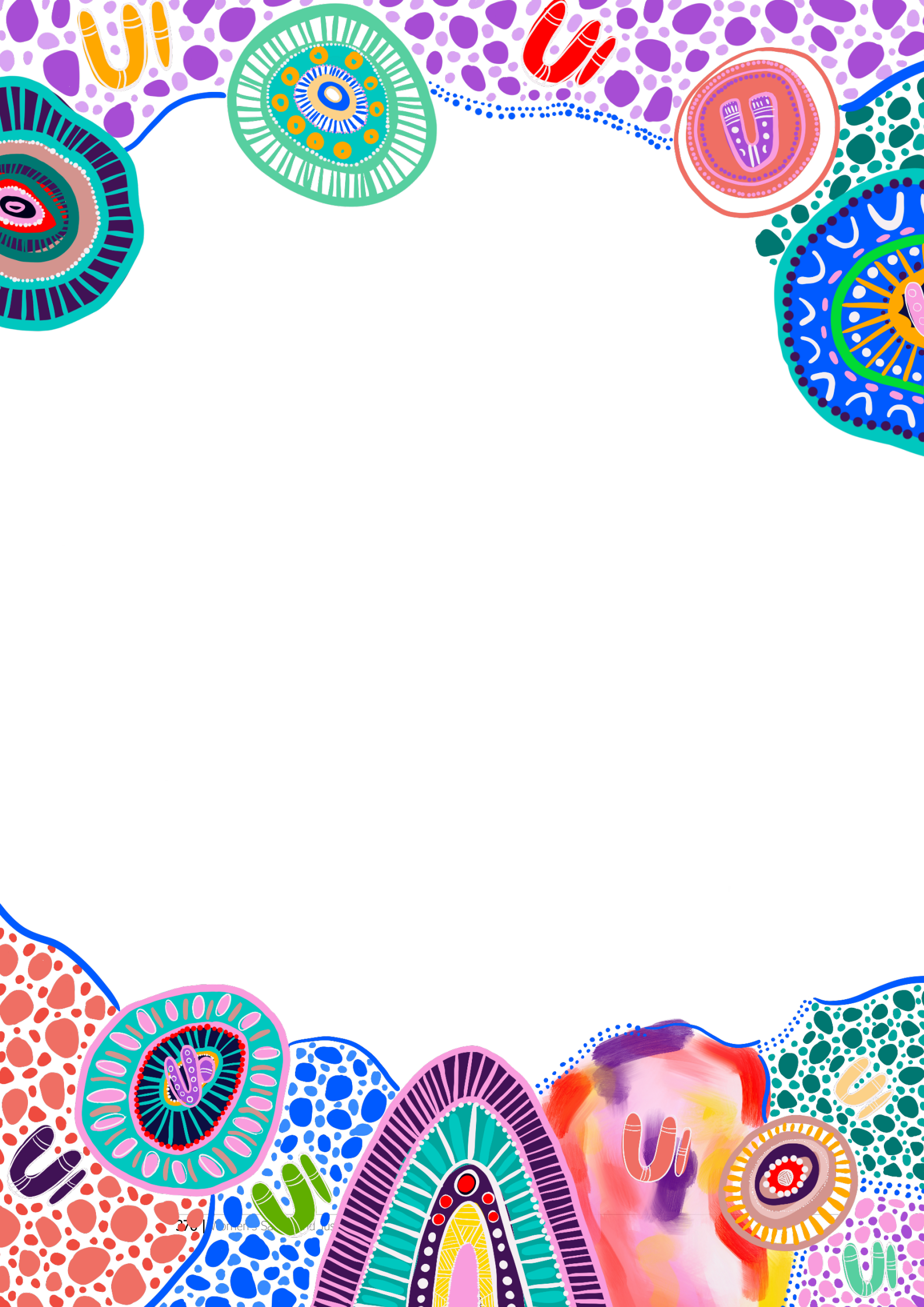

Chapter 2.2

Systemic criminal justice reform to address coercive control in Queensland

The Taskforce has found that while there is widespread community support for legislative reform to address coercive control, there are a significant number of stakeholders who do not have confidence in Queensland's criminal justice agencies and the criminal justice system itself to address this complex issue fairly, safely, and effectively.

The Taskforce has identified systemic and structural issues in Queensland's criminal justice system that are causing an erosion of public confidence in the delivery of justice in Queensland. The Taskforce recommends that the Queensland Government deal with these complex issues as a priority to ensure the success of the Taskforce's proposed reforms and any other future criminal justice reforms in response to coercive control.

'It has been necessary to seek therapeutic support to address the experiences of domestic violence but more importantly to work through the utter disappointment and failings of the system which let myself and children down.' [1]

The overrepresentation of Aboriginal and Torres Strait Islander peoples in Queensland's criminal justice system

Key findings and background relevant to our recommendation

The overrepresentation of Aboriginal and Torres Strait Islander peoples in Queensland's criminal justice system is unacceptable. Only 4.6%[2] of Queensland's population identify as Aboriginal or Torres Strait Islander peoples but 24.2% of offenders proceeded against by police in Queensland in 2019–2020 were Aboriginal or Torres Strait Islanders.[3] As noted in chapters 1.2 and 1.6, the overrepresentation of Aboriginal and Torres Strait Islander peoples is significantly higher for the offence of contravention of a Domestic Violence Order under the *Domestic and Family Violence Protection Act 2012* (Qld) (DFVP Act). During the 10 years from 2007–08 to 2017–18, First Nations peoples represented 43.3% of persons charged with a contravention of a Domestic Violence Order.[4] In chapter 1.2, we identified research suggesting discrimination and racism contributed to the overrepresentation of Aboriginal and Torres Strait Islander peoples in Domestic Violence Order applications.[5]

A number of submissions received by the Taskforce expressed the view that any moves to further criminalise domestic and family violence, including coercive control, would exacerbate the already deeply unsatisfactory levels of over-representation of Aboriginal and Torres Strait Islander peoples in Queensland's criminal justice system. The submission to the Taskforce from the Australian National Research Organisation for Women's Safety (ANROWS) made the following point, which is echoed through many other submissions as well as in the Taskforce's consultations.

> Creating legislation to respond to coercive control will require overcoming the mistrust of the criminal justice system that Aboriginal and Torres Islander communities have and addressing the disproportionately high percentage of Aboriginal and Torres Strait Islander women in prison.[6]

The Taskforce has undertaken widespread community consultation and engagement. During this process, we have heard consistent messages from both Aboriginal and Torres Strait Islander peoples and non-Indigenous stakeholders of their frustration and despair that Queensland has not yet stemmed the increasing over-representation of Aboriginal and Torres Strait Islander peoples in the criminal justice system. These voices, including from many passionate and articulate Aboriginal and Torres Strait Islander female leaders who are deeply concerned about the potential impacts for their peoples, must be heard and addressed.

As noted in chapter 2.1, the human rights violations involved in coercive control compel positive action by the Queensland Government and that includes a strengthened legislative response. The Taskforce has concluded that abstaining from law reform which would address human rights violations against women and girls, including First Nations women and girls, is not a productive way of addressing the over-representation of Aboriginal and Torres Strait Islander peoples in Queensland's criminal justice system. However, the Taskforce firmly believes that the drivers of overrepresentation, and over-representation itself, cannot be ignored if the Queensland Government wishes to pursue legislative reform against coercive control. The Queensland Government should not pursue legislation to criminalise coercive control without first committing to a specific plan, developed in partnership with First Nations peoples, to address the overrepresentation of Aboriginal and Torres Strait Islander peoples in Queensland's criminal justice system.

The successful implementation of any criminal justice reform is dependent upon there being a clear commitment to acknowledge the wrongs of the past, to work differently in partnership with Aboriginal peoples and Torres Strait Islander peoples and to put in place a long-term plan to address over-representation.

The Taskforce respectfully acknowledges Aboriginal peoples and Torres Strait Islander peoples as two unique and diverse peoples with their own rich and distinct cultures.

The Taskforce received many submissions from and held meetings and discussions with Aboriginal and Torres Strait Islander peoples on the Queensland mainland and on Bwgcolman (Palm Island) during its examination of how best to legislate against coercive control and whether domestic and family violence should be a stand-alone criminal offence.

The Taskforce also had the privilege of travelling onto the land and seas of the Muralag peoples of Waiben (Thursday Island). We acknowledge the five traditional island clusters and three distinct language groups of the Torres Strait, as well as the two Torres Strait communities on the Northern Peninsula Area. There is a distinction of cultural practices and traditions that make up the lore across the region that are uniquely and vibrantly present on each Outer Island. The Taskforce acknowledges the distinct cultures across this vast, beautiful, and remote part of Queensland.[7]

There are unique challenges and barriers that people of the Torres Strait face in terms of isolation, access to services and supports, and the high cost of living. In meeting those challenges and barriers, they have shown resilience, innovation, and strength, qualities that must form part of the journey to addressing First Nations peoples overrepresentation as offenders in the criminal justice system and in the area of domestic and family violence, including coercive control. The voices of Torres Strait Islander peoples, represented from both the inner and outer island groups, must be listened to in service planning and service delivery for their region.

The Australian National Agreement on Closing the Gap (the National Agreement) has 17 national socio-economic targets across areas that bear directly on life outcomes for Aboriginal and Torres Strait Islander peoples.[8] Along with the four priority reform areas relevant to this report, outcome 10 of the National Agreement is that First Nations peoples are not over-represented as offenders in the criminal justice system, with a target that by 2031, the rate of Aboriginal and Torres Strait Islander adults in incarceration be reduced by at least 15%. Outcome 11 is that Aboriginal and Torres Strait Islander young people are not over-represented as offenders in the criminal justice system — with a target that by 2031, the rate of Aboriginal and Torres Strait Islander young people (10–17 years) in detention will be reduced by 30%. Outcome area 13 is that Aboriginal and Torres Strait Islander families and households are safe, with a target that by 2031, the rate of all forms of family violence and abuse against Aboriginal and Torres Strait Islander women and children will be reduced at least by 50%, as progress towards zero.

Queensland's 2021 Closing the Gap implementation plan (Queensland implementation plan) was launched on 13 August 2021. The implementation actions for outcome 10[9] largely reflect existing strategic plans and activities. Of the five specific initiatives for outcome 10 attached to the plan,[10] all relate to ongoing funding for existing justice system initiatives, including the Murri Court, Community Justice Groups, Remote Justice of the Peace (Magistrates Court) Program, Arukun Restorative Justice Program, and funding for legal services. Notably, the Queensland implementation plan does not contain details about how the success of these initiatives to address over-representation will be measured within the timeframes set by the National Agreement.

Each state and territory's progress against the Closing the Gap targets is monitored by the Australian Productivity Commission. This monitoring enables all parties to the National Agreement to understand how their efforts are contributing to progress over the next decade.

On 23 June 2021, the Australian Productivity Commission's data showed that the over-representation of Aboriginal and Torres Strait Islander peoples in Queensland had been tracking steadily upwards year on year since 2017.[11] This makes the Queensland implementation plan's current reliance on existing programs to reach the 2031 target problematic and unrealistic.

Other Australian jurisdictions have established specific and detailed plans to address the over-representation of Aboriginal and Torres Strait Islander peoples in their criminal justice systems. Their plans include both existing and new initiatives and clear statements about how the initiatives will be measured. Their plans target the drivers for over-representation within the criminal justice system and across the government and the community. See, for example, the New South Wales' *Reducing Aboriginal overrepresentation in the criminal justice system 2018–2021*[12] and Victoria's *Burra Lotjpa Dunguludja,*[13] which is the fourth phase of the Victorian Aboriginal Justice Agreement.

The Queensland Government has shown leadership by partnering with Family Matters to develop *Our Way: A generational strategy for Aboriginal and Torres Strait Islander children and families 2017–2037*.[14] The Our Way strategy provides a precedent and a foundation for a strategy to reduce over-representation in the criminal justice system.

Recommendation 1

The Queensland Government work in partnership with First Nations peoples to co-design a specific whole-of-government and community strategy to address the overrepresentation of Aboriginal and Torres Strait Islander peoples in Queensland's criminal justice system and meet Queensland's Closing the Gap justice targets. The strategy should be operative before legislation to criminalise coercive control is introduced and should include a framework for measuring the success of any initiatives introduced as part of the strategy.

Implementation

The Taskforce respects the right of Aboriginal and Torres Strait Islander peoples to self-determination in developing this strategy. Beyond stating that this recommendation should be operative before implementing legislation to criminalise coercive control and contain a framework for measuring success, the Taskforce does not presume to prescribe what form the strategy should take. That is a matter to be determined with Aboriginal peoples and Torres Strait Islander peoples.

The Taskforce notes that the success of the strategy will be dependent on the commitment of the Queensland Government to work differently in the future in partnership with the First Nations peoples of Queensland.

The Taskforce notes that Queensland's 2021 Closing the Gap Implementation Plan includes a number of strategies to achieve the justice-related outcomes and targets in the National Agreement on Closing the Gap. However, a more comprehensive whole-of-justice-system strategy co-designed with Aboriginal and Torres Strait Islander peoples that recognises and supports the exercise of their right to self-determination regarding the policy issues that affect them is required.[15]

Implementation of this recommendation would promote the right to recognition and equality before the law[16] and the cultural rights of Aboriginal peoples and Torres Strait Islander peoples,[17] including the right to self-determination under the *Human Rights Act 2019* (Qld) (the Human Rights Act).

Widespread cultural issues within the Queensland Police Service

Key findings and background relevant to our recommendation

The Taskforce's first consultation was in March 2021 at the Southport specialist domestic violence court, a few days after the tragic killing of young mother, Kelly Wilkinson. We were shocked when one service provider responded to our question, 'What can be done better?' by telling us that recently they attended a police station with a client to help her apply for a Domestic Violence Order, only to be turned away. The officer told them that any application would be 'word against word' and unlikely to succeed, even though she had visible injuries to her face which she said were the result of domestic violence. The Taskforce was told that this was a regular occurrence, not an isolated incident. Unfortunately, the Taskforce's subsequent work has substantiated this view of the Queensland police response to claims of domestic violence.

The Taskforce subsequently followed up with the service provider about this incident, which clarified the victim was turned away at the police station several months earlier, although the service had engaged with the victim recently. The service provider contacted the victim and the Taskforce were advised that she did not want to make a formal complaint about the police officer concerned because she was now a witness in a matter before the courts.

Hundreds of victims have told the Taskforce in submissions and at almost every consultation we undertook that they were turned away by police officers when seeking help to keep themselves safe from domestic violence and hold the perpetrators accountable. Often victims reported vast inconsistencies in the response they received from the police, at times feeling supported only to be later let down by an unhelpful response to their need for safety.

The Taskforce acknowledges that the strong message it has received from the senior leadership of the QPS is that domestic and family violence is an extremely serious matter. Their direction to all officers under their command is to treat it accordingly and prioritise action against it. The Taskforce has also met with many currently serving police officers who are working hard to improve the police response to domestic and family violence and are passionate about addressing domestic and family violence and coercive control. This is commendable.

Chapter 1.3 outlines the many training programs and initiatives related to domestic and family violence underway at the QPS. The Taskforce is impressed with the work of QPS officers and the senior leadership team in progressing this work. The Queensland Government should also be commended for its substantial investment in these initiatives to address domestic and family violence within the QPS.

Yet despite these impressive operational initiatives within the QPS since the delivery of the *Not Now, Not Ever* report and the considerable investment and effort from the Government, the overwhelming theme in victims' voices to the Taskforce has been the unsatisfactory responses from QPS officers to reports of domestic violence when they sought help. The Taskforce has heard from victims and stakeholders that police officers failed to investigate complaints about domestic and family violence, and failed to bring appropriate criminal charges against the perpetrator, and often wrongly blamed women and girl victims for the abuse, effectively colluding with the perpetrator.

Chapter 1.3 of this report provides relevant extracts detailing some of the allegations of these inadequate police responses in submissions that the Taskforce has been given permission to publish. Whilst the senior leadership of the QPS, the Queensland Government, and the Queensland public will, like the Taskforce, all be dismayed to read these heart-breaking accounts, they may not be surprised. In the last 10 months, several high-profile matters have been reported in the media as raising questions about widespread cultural issues within QPS and the quality of some police responses to domestic and family violence.

While many of these matters have not yet been the subject of criminal proceedings or coronial investigations and findings, some of the concerns raised have been debated in the media and widely discussed in public. These concerns mirror issues raised by many victims and stakeholders in their submissions to, and during consultations with, the Taskforce. They include the following:

- *February 2021* — After taking an hour to respond to Doreen Langham's triple-zero call for help, QPS officers knocked on the front door of her unit and, when they got no response, left without further investigation. Four hours later, Doreen's neighbour called triple zero to report a fire at the same premises. Doreen and her former partner, against whom she had a temporary Domestic Violence Order, were found dead inside the unit.[18]
- *April 2021* QPS admitted, and her family reportedly perceive that Gold Coast woman Kelly Wilkinson repeatedly sought their help in relation to domestic violence without success before she was killed.[19]
- *May 2021* — Police released a man on bail after he was charged with domestic violence offences, including assault occasioning actual bodily harm, common assault, and wilful damage. Upon his release, he immediately returned to the victim's home, where an incident occurred that resulted in him being charged with attempted murder of the victim and another woman.[20] Police subsequently responded in the media detailing the actions that police took in the case.
- *July 2021* — Serving police officers were found to have posted sexist, racist, and homophobic material as part of Facebook groups, the membership of which was restricted to police officers. This included posts suggesting women lie about domestic violence.[21] Disciplinary action was subsequently taken against the officers involved.
- *October 2021* — Neil Glen Punchard resigned from the QPS after being served with a 'show cause' notice for suspension without pay after he was convicted of hacking the confidential police database so he could leak the address of a domestic violence victim to her violent former partner, who was Mr Punchard's friend.[22]
- *November 2021* — The *Domestic and Family Violence Death Review and Advisory Board Annual Report 2020–21* highlighted serious shortcomings with the quality of police responses to domestic and family violence matters. These included case examples showing that police were not acting in accordance with the QPS Operational Procedures Manual or with section 100 of the *Domestic and Family Violence Protection Act 2012,* which requires police to investigate allegations of domestic and family violence where there are fatal consequences.

The Taskforce again acknowledges that it has also heard stories of, and met, police officers who have provided outstanding service to victims of domestic and family violence. The Taskforce does not doubt that many QPS officers take domestic and family violence seriously and do their very best to assist victims. We also acknowledge that internal reviews, criminal proceedings, and coronial investigations will probably also consider the involvement of police in the matters summarised above.

The Taskforce acknowledges the workload of the QPS and the increasing number of domestic and family violence-related calls for service that it must handle. The large number of submissions outlining inadequate police responses in consistent terms combined with the experiences of stakeholders during consultations and the recent publicly available information discussed above, however, has led the Taskforce to conclude that these concerns cannot simply be dismissed as 'a few bad apples'.

Within the QPS there are subcultures, pockets of culture and individuals who do the wrong thing. The Taskforce acknowledges that senior leadership within the QPS is trying to address these cultural issues including through performance reviews across districts to explore in depth how domestic and family violence is responded to, the assessment of capability across all districts, the implementation of Operational Advisory Notes to address how domestic and family violence is recorded and the use of body worn cameras. Other structural and operational initiatives are outlined in chapter 1.3.

Despite the best efforts of the senior leadership team and the commitment of officers specially trained in domestic and family violence, cultural problems within the QPS persist and appear to be widespread. These cultural issues undermine the successful implementation of the promising operational initiatives developed to improve responses. Victims of domestic violence seeking help from the police to keep themselves and their children safe should not have to enter a raffle to see if the officer they encounter will respond appropriately to keep them and their children safe and make perpetrators responsible for their behaviour. These widespread cultural issues are apt to undermine community confidence in the QPS and ultimately in the administration of justice in this state.

Chapter 1.3 also notes the concerns raised with the Taskforce about the impact of the devolution process, which has seen more responsibility for managing complaints concerning police misconduct shift away from the Crime and Corruption Commission (CCC) towards QPS's Ethical Standards Command. These concerns were raised in the context of how victims who complained about misconduct were treated, especially in the context of police officers who are accused of committing acts of domestic and family violence, the inaccurate recording of domestic and family violence on police data systems (an issue also noted by the Queensland's Domestic and Family Violence Advisory Board in its 2020-21 Annual Report[23]). The Taskforce also heard that some police officers are dishonest in their completion of online training modules, sharing a list of correct answers to online questions amongst themselves.

The Taskforce acknowledges that QPS seems to have genuinely provided it with the documents it has requested. But this Taskforce has no powers to summon witnesses or take evidence on oath with witnesses who give evidence protected as if they were giving evidence in a court, and nor is it able to summon documents. We are unable to make findings about any of the allegations made to us. Concerns about the ability of police to satisfactorily undertake internal reviews of complaints of misconduct were echoed in May 2021 by the Clerk of the Queensland Parliament, Mr Neil Laurie, who in an appearance before the Parliamentary Crime and Corruption Commission stated that these reforms have led to Queensland's Fitzgerald-era corruption safeguards being 'fatally weakened'.[24]

There are alternative models of management for misconduct in law enforcement agencies that may warrant further exploration by the Queensland Government. For example, after a 2015 review by Mr Andrew Tink AM, the New South Wales Government established the Law Enforcement Conduct Commission as a single civilian oversight body for the New South Wales Police Force and the New South Wales Crime Commission.

The Taskforce has received information directly alleging corrupt conduct on occasions in the investigation of domestic and family violence. These allegations have been forwarded to the CCC. For obvious reasons, the Taskforce cannot disclose those details and makes no findings about the allegations. Of even deeper concern, the Taskforce has heard from current and former police officers who do not wish to place their complaints about police investigations of domestic and family violence on the record for fear of retribution and potential repercussions. Again, the Taskforce makes no finding as to whether the fears of these current or former police officers are justified.

The information provided suggests, however, that an independent body with powers and resources to investigate these issues and protect witnesses is required. Such a body would encourage current and former officers and members of the public with grievances to come forward so that an accurate picture of the prevalence and depth of these concerns can emerge. Any inquiry must have the power to summon witnesses to give evidence and require the production of documents.

Witnesses must give their evidence on oath or affirmation and have the same protections as when giving evidence in court. For those reasons, the Taskforce, by majority with one dissent, considers this inquiry should be conducted under the *Commission of Inquiry Act 1950* (Qld).

Another recurring theme in submissions to the Taskforce was a lack of confidence in the training of QPS officers to investigate an offence of coercive control, given the shortcomings of the QPS response to domestic and family violence to date. In acknowledging that this is an issue for the justice system broadly, we have recommended significant reforms to the nature and breadth of training for QPS officers and other professionals in part 3 of this report. We consider this is an essential reform. The QPS has told the Taskforce that it has accredited and effective training on domestic and family violence ready to deliver to its officers, but rollout has been delayed by its work with the pandemic. Again, this is promising, but the Taskforce, by majority with one dissent, considers that the QPS is unlikely to be able to simply train its way out of these widespread cultural problems. Operational and structural reforms within the QPS are also unlikely to change the attitudes and beliefs that have led to these widespread cultural issues. The claim we have heard about the dishonest approach of some officers to online learning modules reinforces this view. Until the culture and beliefs of errant individual officers are effectively addressed, they will simply not be receptive to the recommended training. The same issues are destined to reoccur, and victims of domestic and family violence will have no confidence that the QPS will protect them and hold perpetrators to account.

The Taskforce acknowledges that there is an Ethical Standards Command within the QPS that deals with complaints about police. We have been advised that 30% of all complaints against police are generated internally by police against police. The CCC has the power to oversee an investigation by the Ethical Standards Command.

The Taskforce has considered the issues discussed above within a wider context of additional community concerns about the QPS concerning other matters unrelated to domestic and family violence responses that have recently been raised, including:

- the functions and role of the CCC in investigating misconduct[25]
- police investigation of deaths in police custody[26]
- the lawfulness of recruitment practices at the QPS[27]
- politicised policing[28]
- a recent media report alleging an inappropriate response to an Aboriginal and Torres Strait Islander elder.[29]

Recommendation by majority with a dissenting statement

The inclusion of this recommendation in the report is a majority rather than a unanimous decision of the Taskforce. Taskforce member Tracy Linford has provided a dissenting statement, which appears at the end of this chapter.

Recommendation 2

The Queensland Government establish an independent commission of inquiry under the *Commissions of Inquiry Act 1950* to examine widespread cultural issues within the Queensland Police Service relating to the investigation of domestic and family violence, including the impact on the over-representation of First Nations peoples in the criminal justice system. At a minimum, the commission of inquiry should have terms of reference wide enough to also consider recruitment, promotion, resource allocation, performance monitoring of officers, the handling of complaints against serving officers, and whether Queensland should establish an independent law enforcement conduct commission.

Implementation

A transparent and independent review of the culture in the QPS with all necessary powers and protections is required to ensure public confidence in the QPS's ability to protect victims uniformly, hold perpetrators to account, and maintain community safety. To be effective, the Taskforce considers that the powers of a commission of inquiry are necessary to ensure that any person, including current and former police officers, can feel safe to provide full and frank information.

The Queensland Government has invested significantly in the policing of domestic and family violence. The implementation of the recommendations of this report will likely require further investment. The Taskforce has been advised that the QPS is to receive an additional 2025 resources by 2025. A capability assessment is underway across the state to inform the organisation where to invest future domestic and family violence expertise. The Taskforce believes that the government will receive much greater value for its investment if the widespread cultural issues in the QPS that we have identified in our consultations and in the submissions we have received are fully investigated and addressed openly and transparently. This will place the senior leadership of the QPS, and the organisation itself, in the strongest possible position to deliver an improved service to victims of domestic and family violence, including coercive control. It will provide strong support for those fine QPS officers who are responding so well to complaints of domestic and family violence. It will ultimately restore public confidence in the QPS and the administration of justice in Queensland.

Training and accountability of judicial officers

Key findings and background relevant to our recommendation

Chapters 1.2 and 1.4 outlined the deeply unsatisfactory experiences of many victims of coercive control in Queensland's courts. While some judicial officers received high praise for their work, both in submissions and consultations, there was also considerable criticism. The concerning behaviour of judicial officers reported to the Taskforce included displays of indifference to trauma, use of intemperate language, and comments demonstrating a disturbing lack of awareness and knowledge about the nature and impact of domestic and family violence.

The worrying feedback heard by the Taskforce included that some victims found the atmosphere created by one judicial officer in the courtroom resembled an abusive relationship and was so triggering for them in terms of their trauma that it made them reluctant to ever return to the court for help. When asked to elaborate, they said the frightening atmosphere was caused by the way in which the judicial officer related to the victim and the perpetrator, and the manner in which the judicial officer spoke to the lawyers in the courtroom.[30] This feedback should be cause for deep reflection by judicial officers, lawyers, and all who work in Queensland's court system about community expectations of judicial conduct, as well as the safety of the courtroom as a workplace.

Chapter 1.2 notes that judicial officers are not required to undertake any training about how to conduct their court in a trauma-informed way or about the nature and impact of domestic and family violence. What training is currently undertaken by judicial officers in Queensland on domestic and family violence is difficult to determine because of a general lack of transparency. In chapter 3.3, the Taskforce makes practical recommendations about improving the transparency of training that is being undertaken by judicial officers in Queensland. If training of judicial officers is to be improved, it must be properly coordinated and supervised by the courts and publicly reported. There is currently no court-coordinated or court-supervised judicial training in Queensland across any of the three court jurisdictions.

The acute need for coordination and supervision of training across Queensland's courts is evidenced by the implementation of the *Family Violence in the Courts* training. This was co-funded by the Queensland Government and other state and territory governments, along with the Australian Government, and was developed and delivered by the National Judicial College of Australia.[31] Unfortunately, some Queensland judicial officers were not able to attend the training because their positions could not be backfilled. No Queensland judicial officers have attended the training program since 2018. As far as the Taskforce has been able to ascertain from publicly available material, the only judicial officers in Queensland who attended this training or any training relating to domestic and family violence were magistrates. Although proceedings under the *Domestic and Family Violence Protection Act 2012* are predominantly the concern of the Magistrates Court jurisdiction, appeals from magistrates' decisions for proceedings under that Act go to the District Court, and those appeal decisions bind the future decisions of the Magistrates Court. Importantly, domestic and family violence is relevant to and a prevalent part of serious indictable criminal offences that are regularly dealt with by both the District and Supreme Courts of Queensland. The impact of domestic and family violence, especially when it involves coercive control, can also frequently arise in a wide range of civil disputes in all Queensland jurisdictions.

The Taskforce has heard in submissions and consultations that those with complaints about judicial officers did not know where they could take their concerns and so did nothing. If there is a concern about the behaviour of judicial officers in Queensland, the only avenue available for a complaint from a member of the public is to contact the relevant head of jurisdiction, the Chief Magistrate, the Chief Judge of the District Court, or the Chief Justice of Queensland. The Taskforce was told by one community that they would be reluctant to make a complaint to the head of the jurisdiction about the conduct of a particular judicial officer because they feared how the judicial officer might react to members of their community after the complaint was made.[32] The Taskforce makes no finding as to whether those fears were justified. We consider, however, that the current position is unsatisfactory. It is not surprising that in the absence of an independent body to receive a complaint, a community member might be afraid to complain at all. It is also understandable that a vulnerable person, having experienced significant trauma and perhaps with little previous experience of the justice system, might be daunted and overwhelmed by a process requiring them to contact the most senior members of the judiciary directly. The position is compounded in proceedings under the DFVP Act, which are not held in public so that calling out inappropriate judicial behaviour (for example, through the media) is even more difficult.

The Judicial Officers Committee of the Judicial Conference of Australia, which considered judicial complaints handling between 2009 and 2010, ultimately recommended that the Judicial Conference support a structured system of dealing with complaints against judicial officers based on the Judicial Commission of New South Wales.[33]

The Judicial Commission of New South Wales can investigate a complaint against a judicial officer and make one of three determinations: dismiss the complaint, refer the complaint to the head of the jurisdiction, or refer the complaint to the conduct commission.[34] Once a complaint has been referred to the conduct division hearings can be held in public or private and a report can be made to the Governor recommending a judicial officer be removed from office. That report is laid before both houses of the New South Wales Parliament.[35] The Judicial Commission of NSW publishes information, including statistics on complaints, each year in its annual report.[36]

Judicial Commission models exist in New South Wales[37], Victoria,[38] and South Australia.[39]

The Judicial Commission of New South Wales has three functions: assisting the courts to achieve consistency in sentencing, organising and supervising an appropriate scheme of continuing education and training of judicial officers, and examining complaints against judicial officers.[40] All of these functions can be carried out in a manner that is consistent with an independent judiciary.

In 2010, the judges of the Supreme Court of Queensland through the Chief Justice informed the then-Attorney-General and Minister for Industrial Relations, the Honourable Cameron Dick MP, that they endorsed the Judicial Conference's recommendation and supported the establishment in Queensland of a body that provides for judicial education and deals with complaints against judicial officers based on the New South Wales model with any necessary adaptations.

Just as the Taskforce received positive and negative stories about interactions with police, the Taskforce has received positive and negative stories about judicial officers. The vast majority of judicial officers strive to ensure that justice is delivered in their courtrooms in a respectful and informed manner. There are, however, too many instances where court users consider this is not occurring. To maintain and improve public confidence in the courts, judicial officers should participate in training on domestic and family violence, including coercive control and its traumatic impacts. The courts should publicly and transparently report on all judicial education undertaken at public expense. There should also be an independent and publicly available process for dealing with complaints about judicial officers.

Recommendation 3

The Queensland Government in this term of government consult with Queensland courts, the Bar Association of Queensland, and the Queensland Law Society with a view to introducing legislation to establish an independent Queensland Judicial Commission. The Taskforce prefers a model that involves the establishment of an independent statutory commission to receive and respond to complaints about judicial officers and provide education for judicial officers, based on the New South Wales model with any necessary adaptations.

Implementation

It is noted that at the 2020 general state election, the Labor Party made a commitment that, if returned to government, it would explore the establishment of a judicial commission.[41] Based on what the Taskforce has found, the training and education currently undertaken by judicial officers in Queensland about domestic and family violence, including coercive control, is inadequate. The Taskforce has also received reports of concerning conduct within some Queensland courts, with people frightened to report the judicial officer involved to the head of the jurisdiction.

The victims of domestic and family violence and all Queenslanders must have confidence that appropriate standards of conduct will be maintained in courtrooms and that the judicial officers they appear before are aware of the relevant law and best practice. There should be victim-focused, trauma-informed, and accessible processes to enable people to make a complaint when they consider judicial behaviour falls short of appropriate standards. It is also important that those who work in Queensland's courts have a safe workplace and that all Queensland court users are treated appropriately.

Victims of domestic and family violence should have their proceedings considered by a judicial officer who has an up-to-date understanding of the nature and impact of domestic and family violence, including coercive control and the relevant law. Proceedings should be conducted in a manner that is least likely to add to a victim's trauma.

The Taskforce, therefore, considers that establishing a Queensland Judicial Commission, to provide education and training to judicial officers and to deal with complaints, is an important reform that should be prioritised and progressed in this term of Government.

A systemic issue for further review — chronic under-resourcing within the justice system

Key findings

During our work to date, the Taskforce has observed chronic under-resourcing across some parts of the criminal justice system, specifically in justice services and the courts. This means that the systems and processes for administering the courts are failing to keep pace with the increasing level of demand. There are detrimental flow-on effects for victims and the administration of justice.

The Taskforce has heard in multiple submissions from victims and prosecutors about their frustration that matters are repeatedly prepared for trial when they are listed during a sittings period only to not be reached in the list and are adjourned. The resulting delays are considerable as an individual case may be adjourned multiple times. As victims are required to be emotionally and psychologically ready to give evidence on each occasion, these adjournments and delays severely hinder their ability to heal and address their trauma, and they contribute to re-traumatization.

The Taskforce is concerned about these impacts for victims and others involved in individual cases. Understandably, the public perception is that 'justice delayed is justice denied'. Constant adjournments and consequent delays in hearing traumatic matters in the lives of witnesses are likely to undermine confidence in the criminal justice system and the administration of justice in Queensland. Delays also lessen the accountability of perpetrators, giving them time for the potential use of coercive control and compromising the effectiveness of any intervention. For these reasons, the Taskforce intends to explore this issue more fully as part of its second stage of work.

The Taskforce notes that the *Forward work plan 2021-2024* for the Queensland Audit Office (QAO) includes an audit of the government's progress in funding and implementing domestic and family violence initiatives and assessing the effectiveness of its governance of the collective initiatives.[42] This audit commenced in 2020, and a report is expected to be tabled in late 2021. The QAO will also follow on from its previous audit and examine how effectively public sector entities keep people safe from domestic and family violence and how effectively they rehabilitate perpetrators to reduce the reoccurrence of violence. A second report is to be tabled in 2022. The Taskforce looks forward to reviewing these reports when they are made public.

Conclusion

Legislation to address coercive control will be introduced, commence, and operate within the broader structure of Queensland's criminal justice system and service delivery framework. This is why the Taskforce has felt it necessary to consider wide-ranging reform related to critical issues that cut across the criminal justice system as part of its recommendations to the Queensland Government on how best to legislate against coercive control. The Taskforce considers that making these recommended systemic reforms, together with the other recommendations in this report, gives the proposed legislation its best chance of success.

Each of the recommendations in this chapter represents a response to a consistent message from the people of Queensland. The Taskforce has heard and accepts that these are critical issues to address in order to implement a successful legislative response to coercive control. It is important that we respect, hear, and act on these voices, predominantly of women and girls, who have made submissions and met with the Taskforce.

All recommendations in this chapter are highly relevant to successfully legislating against coercive control in Queensland and should be implemented as soon as feasible. The Taskforce recognises, however, that these recommendations will have implications for policy areas other than those

covered in the Taskforce's Terms of Reference. Other factors may also influence the timing for implementation. Therefore, the Taskforce has kept these recommendations separate from those that appear as part of our recommended four-phase plan to address coercive control, which is contained in chapter 2.3.

DISSENT POSITION ON THE NEED FOR A COMMISSION OF INQUIRY BY DEPUTY COMMISSIONER LINFORD

The QPS, like the community at large, considers domestic abuse and coercive control to be a scourge on our society, and the QPS knows it has a crucial role to play in protecting victims and holding perpetrators to account. The QPS does not shy away from the many submissions to the Task Force from individuals, agencies, NGOs and academics who have outlined failings by the police and opportunities for improvement. The QPS welcomes all of this material to better understand the service gaps we may have and to assist the QPS to provide a more trauma informed and victim centric service that recognises coercive control and proactively responds to protect victims.

The QPS is an organisation of 17,000+ employees. In 2020/2021, the QPS attended 120,000 DFV occurrences, laid 30,500 breach charges (26.5% more than the preceding year), took out over 21,000 police applications for protection (79.7% of all applications made) and made over 89,000 domestic violence related referrals. These figures are not indicative of a workforce failing to take action on this important issue.

The Task Force has recommended a Commission of Inquiry be established to examine what has been termed 'widespread' cultural issues within the QPS. The QPS acknowledges that it does not always get its response right and that the organisation needs to stay on a journey of continuous improvement. The QPS has many thousands of frontline officers, who do a good job each and every day protecting the community - they should not be tarred collectively with one negative label. Nor does the QPS believe that a Commission of Inquiry is necessary given the amount of reform proposed through the other recommendations contained within the Women's Safety and Justice Task Force Report. In particular, the recommended introduction of a co-responder model that will see greater independence in the handling of all DFV reports; the introduction of a dedicated DFV complaints process; and the initiatives that will come through the transformational reform plan – all are excellent proposals that will improve outcomes for victims and enhance the efficacy of the overall system. The QPS has recently implemented many reforms and has many more soon to be implemented. These reforms will deliver further cultural change and include for example:

- Establishment of a dedicated DFV & Vulnerable Persons Command led by an Assistant Commissioner.
- Establishment of DFV Advisory Board comprising eminent external subject matter experts to advise the QPS on all matters DFV related.
- A new service wide DFV strategy and DFV doctrine.
- Organisation wide DFV capability mapping currently underway that will assist with the appointment of new resources from the government commitment of 2025 additional resources.
- Work with academics to develop updated DFV training which over 7000 members have completed.
- Development of new coercive control training to be delivered early in 2022 to all members which has been positively assessed by Professor Heather Nancarrow from ANROWS.

- District Officers at Superintendent level attending the Griffith University MATE training program.
- World leading development of artificial intelligence to identify and target high risk, high harm perpetrators. The first two pilot operations in 2020 and 2021 showing a 50-56% reduction in breach offences. The Australian Institute of Criminology is now partnering with the QPS to continue this initiative, with frontline police currently being trained in its use.
- Enhancements to Police Qlites (ipads in the field) giving frontline members access to all DFV history in one place to enable informed decisions in identifying who is the person most in need of protection. 7,700 Qlites are in the field already with a further 4,500 by 2024.
- Implementation of Operational Advisory notes immediately upon service gaps being identified.
- Requirement for body worn camera to be activated at all DFV attendances including front counter reporting at police stations.
- Continued supervisory approval requirements for Police Protection Notice conditions.
- Implementation of First Nations and Culturally and Linguistically Diverse community recruitment & training programs 5 years ago that are increasing QPS diversity.
- Establishment in 2020 of the Communications, Cultural and Engagement Division and First Nations & Multicultural Affairs Unit to build enhanced relationships with our community.
- Successfully lobbying government to introduce a trial to allow statements to be taken by body worn camera to reduce ongoing victim trauma.
- The recent addition of 24 additional DFV Co-Ordinators across districts
- The addition of 6 DFV co-ordinators into the police communications section to ensure frontline are supported.
- The recent 9th Month trial of embedding a women's advocate at police stations currently being evaluated by Griffith University.
- New trials to commence in 2022 to embed police resources into NGOs to make it easier for victims to report DFV.
- Implementation of online reporting and SMS reporting in 2020 to assist victims contacting police.

These QPS reforms and other recommendations proposed by the Task Force will deliver service improvements to protect victims and hold perpetrators to account. Giving these reforms the opportunity to take effect should mean a Commission of Inquiry is not necessary. An Inquiry of the nature proposed would come at considerable cost to the Queensland Government and the community - a financial opportunity cost that would be better spent on victim support and perpetrator programs.

The QPS acknowledges that its members are drawn from the community and as a consequence are representative of the community. The QPS holds employees accountable to the highest standards and expects their behaviour to reflect these high standards. The QPS has a robust discipline system overseen by the Crime & Corruption Commission. As reported to the Task Force earlier this year the QPS had 42 employees (sworn officers and staff members) subject to DFV orders. For an organisation of over 17,000 employees, this is well below general community rates. DFV complaints against police are taken very seriously. Approximately 30% of all complaints about police are instigated by police.

instigated by police. This clearly demonstrates that police themselves do not tolerate bad behaviour by other police. Notwithstanding that some people do not make complaints against police for a variety of reasons, the fact remains than in 2020-2021 financial year, the QPS had over 2 million interactions with the community. Arising from these interactions were 1507 complaints (representing 0.07% of those interactions). Of those 1507 complaints 133 were DFV related. When a member in the QPS is subject to a DFV order, unlike the general community, this also instigates a discipline investigation. Members are automatically stood down or suspended at this time and have their firearm access removed. Orders can be in place for up to five years thus having significant consequences on a member's role within the organisation.

Significant feedback has been provided to the Task Force on both the policing context and reforms underway. Further feedback has been provided on media articles included in the report that are not accurate. Reliance on these negates the good work and dedication by the many thousands of men and women who turn up to work each day in the QPS to protect victims of DFV. On average that equates to 328 DFV occurrences every day.

A Commission of Inquiry on the QPS is not supported. An alternative option that could be considered is to refer all complaints about police regarding their handling of DFV matters, and members subject to DFV orders, being referred to the Crime & Corruption Commission. Whether this be all complaints indefinitely or for a set period of time, the Crime & Corruption Commission is an already established body, with coercive hearing powers. It could provide the community with assurance that it is holding the QPS accountable to ensure DFV matters reported to police are handled in a victim centric, trauma informed way.

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Queensland Police Service.

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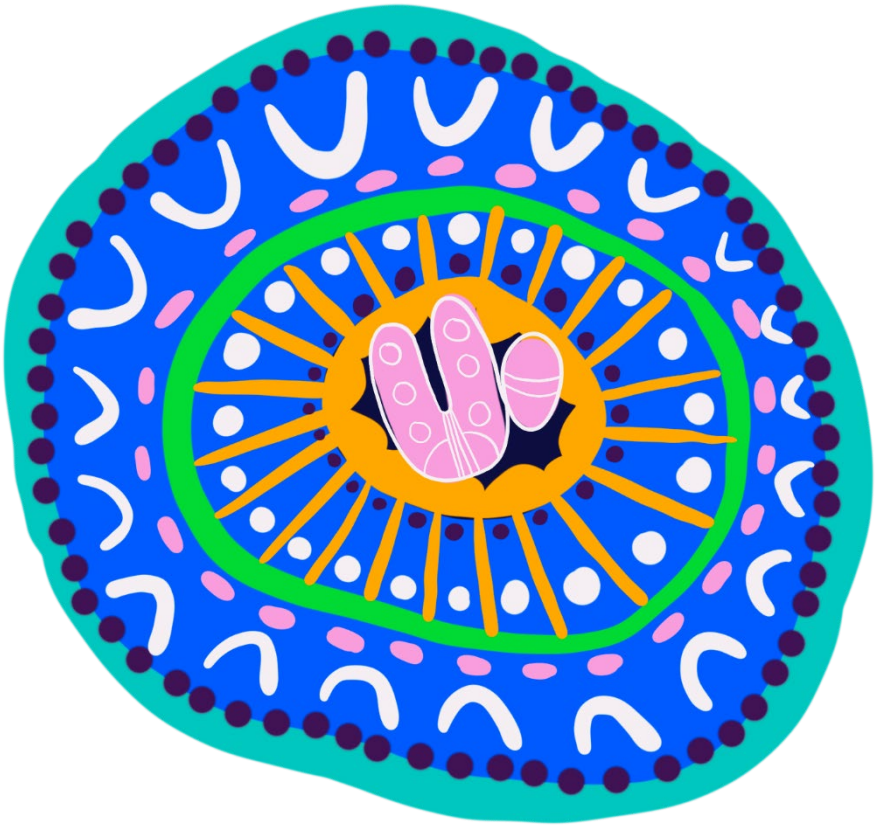
[38] *Constitution Act 1975* (Vic)

[39] *Judicial Conduct Commissioner Act 2015* (SA)

[40] *Judicial Officers Act 1986* (NSW), Part 4

[41] Proctor, "*Call to Parties Statement: Palaszczuk Labor Government response"* 15 October 2020 Available at: https://www.qlsproctor.com.au/2020/10/call-to-parties-palaszczuk-labor-government-response/ Accessed 24 August 2021.

[42] Queensland Audit Office, *This section is about our Forward work plan 2021-24 and the status of audits that are in progress* (2021) https://www.qao.qld.gov.au/audit-program.



Chapter 2.3

A plan for addressing coercive control in Queensland

The Taskforce recommends that the Queensland Government implement a program of reform based on a public health model that prioritises prevention, education, perpetrator intervention and system-wide capacity building as a foundational pre-condition to legislative change to address coercive control. Systemic reforms are justified and necessary to address coercive control, irrespective of whether legislative reform is progressed. The program of reform should be implemented over three years following a four-phase plan.

'behind closed doors; I thought it was my fault; lost all sense of reality; I became a hostage…in his life ; the volume of my voice turned down, almost to mute; scared to live within my own skin' [1]

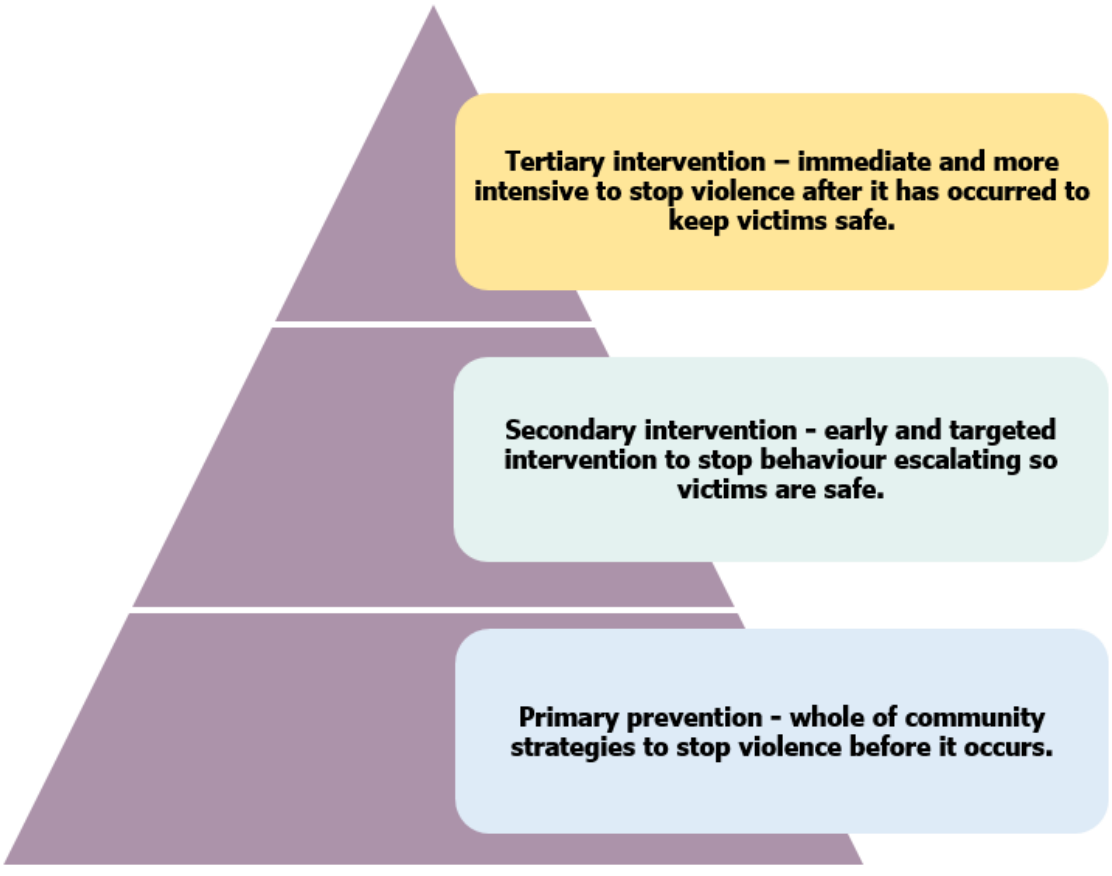
Taking a public health approach to new interventions to address coercive control

Domestic and family violence should be treated by every level of government as a major public health problem rooted in gender inequality that violates the human rights predominantly of women and girls. This is consistent with the World Health Organisation's framework for policymakers *RESPECT Women: Preventing Violence Against Women*,[2] which is based on the United Nations' framework for action to prevent violence against women.

Taking a public health approach to coercive control as opposed to a traditional criminal justice approach has the advantage of reframing the focus[3] of government action towards:

- community health rather than sole reliance on law enforcement to establish public order
- victims rather than perpetrators, with a recognition that perpetrators are often also the victims of trauma that requires healing
- understanding that there are complex systems of causality for domestic and family violence (for example, gender, race, and socio-economic inequality) rather than a sole focus on the intentions of individual perpetrators
- upstream approaches to prevention, including primary prevention rather than relying solely on secondary and tertiary interventions, which are reactive in nature
- a multidisciplinary approach to addressing domestic and family violence as a social and legal problem that facilitates mutually respectful collaboration between different professionals.

The approach recommended by the Taskforce introduces new intervention strategies at three temporal points[4] in the trajectory of domestic and family violence and coercive control — primary, secondary, and tertiary.



Towards legislative reform: important first steps

In part 1 of this report, the Taskforce has identified areas in Queensland's existing legislative framework that should be strengthened to respond to coercive control. The Taskforce has also identified areas for new legislation against coercive control. To support the implementation of these legislative reforms and mitigate risks to avoid unintended outcomes, the Taskforce has identified cross cutting issues that must be addressed across the service system, these include the need for specialist domestic and family violence services and perpetrator interventions, improved policing responses, education for the legal profession and the judiciary, and reforms to the courts.

The very strong message the Taskforce received from across all sectors and in all locations across Queensland was that, given the significant risks of unintended consequences (particularly the impact on First Nations peoples), these foundational issues and existing legislative issues must be addressed before any legislative reform to create a new offence is commenced. The Taskforce agrees that agencies and services across the domestic and family violence and criminal justice systems are not adequately responding to domestic and family violence, including coercive control, as a pattern of behaviour, over time, in the context of a relationship as a whole.

Additional resources will be required to implement the recommendations in this report. The priorities should be a) raising awareness to educate the community, b) training people who work across the systems, c) increasing access and availability of perpetrator-intervention programs, including earlier interventions and programs for perpetrators who are already offending, and d) improving accountability of institutions and agencies. This investment is necessary to improve service system responses and keep victims safe irrespective of whether the full suite of legislative reform identified by the Taskforce is implemented.

This is not just about the need for additional resources. It is also about the need to work differently and shift the focus to a better understanding of and response to violence against women and girls. Improving responses to domestic and family violence will also require a shift in the way the criminal justice system usually responds to crimes against the person. The criminal justice system has always associated physical violence with more serious offending behaviour. Physical forms of domestic and family violence, however, are often no more serious than other forms of non-physical domestic and family violence perpetrated through coercive control. The criminal justice system also commonly responds to acts or incidents of violence that occur at a particular point in time, whereas domestic and family violence is usually a pattern of behaviour over time.

The Taskforce recommends that no new offence to criminalise domestic and family violence including coercive control be implemented until service system responses are improved. The Taskforce is satisfied that to do so would involve an unacceptable risk of unintended consequences that could end up causing more harm to those whom the reforms are intended to protect, particularly First Nations peoples.

Improving community awareness and understanding

The use of the term 'coercive control' in the media and broadly in the community to refer to the patterned nature of domestic and family violence that may or may not include physical violence or domestic and family violence is relatively novel. Not all of the community understands what it entails. Although victims described strikingly similar conduct to the Taskforce in submissions, the Taskforce observed during its stakeholder forums and meetings that some people were grappling to understand the difference between the normal disagreements and day-to-day tensions that arise in any relationship and the sort of behaviour that is abusive and harmful.

Domestic and family violence is gendered. More broadly the Taskforce recognises that issues of gender inequality and sexism, whether overt or covert, significantly increase the prevalence of domestic and family violence in the community. Challenging views and beliefs about gender roles in the private domain of the family home, as well as in the public domain — such as gender balance in leadership positions and pay equity — will provide sustained context for the prevention of domestic and family violence.

Domestic violence is predominantly about the devastating impacts of patriarchal power and toxic masculinity on people of all genders. Improving how the community understands and recognises domestic and family violence is the fundamental starting point. It will help prevent domestic and family violence from occurring in the first place. It will help family and friends identify it early. When it does occur, it will help them understand how to intervene appropriately to keep victims safe. Importantly, it will enable perpetrators and potential perpetrators to reflect on their own behaviour in a relationship and seek help. In chapter 3.1, the Taskforce has explored the need for an improved communication and awareness campaign about coercive control and domestic violence.

Primary prevention

While legislating against coercive control sends a clear message that this behaviour is not acceptable, the criminal justice system responds only after the abuse has occurred. The Taskforce has heard loud and clear that more needs to be done to prevent domestic and family violence from occurring in the first place. This is an important aspect of creating a systemic response that is compatible with human rights. It will mean that, for some people, the impact and trauma of abuse can be avoided. It also makes sense economically and financially for the community and the government. Punitive responses after violence has occurred are expensive and may not achieve desirable outcomes for perpetrators, victims, or the community.

Primary prevention efforts must also support young people in understanding what a healthy relationship is and how to recognise and respond to harmful behaviours. The Taskforce heard this in almost every meeting and forum it held. There is a clear community expectation that government will do more, earlier, to prevent domestic, family and sexual violence.

There is a mismatch between adult perceptions about what young people need and the expectations of young people themselves. Young people want clear and robust conversations about sexuality and relationships that cover the breadth of their relationships across the continuum of gender and sexuality. They need services and supports tailored to their needs. Young people who met with the Taskforce were critical — they saw a disconnect between the key messages they received about expectations in personal relationships education and the broader systemic coercive control they experience and observe instigated by systems and the state, particularly against First Nations peoples, culturally and linguistically diverse people, LGBTIQA+ people, and people with disability. Young people must be empowered not to use violence or accept violence in relationships. Our community must model the behaviours we want young people to emulate and build the systems we want young people to have.

The Taskforce acknowledges the review currently being undertaken by the Department of Education in Queensland and makes recommendations to strengthen education about respectful relationships in chapter 3.2.

Building a contemporary, innovative, and sustainable service system for the future

Queensland is a difficult state in which to deliver public services. Scotland could fit into the geographical area of Queensland 23 times over. We have a dispersed population and sizeable metropolitan cities. We have First Nations peoples of many cultures and language groups living in urban, regional, and remote locations. We also have vibrant culturally and linguistically diverse communities across the state. The Taskforce has heard and observed that, as you move out from the south-east corner of Queensland, access to services and supports for victims and perpetrators diminishes. This is often a result of difficulties attracting, recruiting, training, accommodating, and retaining a qualified workforce.

There has been significant progress since the implementation of the *Not Now, Not Ever* report, and the service system is at a point of maturity. It is timely, therefore, to consider the service system requirements for the future and design, invest in, and implement a contemporary, innovative, and sustainable service system that is coordinated and integrated and targeted towards meeting the needs of a diverse range of clients often with multiple and complex needs. The Taskforce recommends building on what has already been achieved to prevent coercive control in chapter 3.3.

As community awareness and expectations increase, demand for services and supports increases. The Taskforce has received submissions from — and met with — many dedicated professionals in services that work hard and effectively across the state to keep victims safe and perpetrators accountable. Investment to date has rightly focused on keeping victims safe. It is time perpetrators took responsibility and were made accountable. Intervening to change perpetrator behaviour is key to keeping victims safe. We need a state-wide network of diverse perpetrator interventions across a continuum of risk and need. This is essential before a new offence commences. As recognised by the Queensland Death Review and Advisory Board, there is a need for a system-wide approach to perpetrator accountability and behaviour change that sees perpetrator programs as but one form of intervention. A new offence that results only in more people in our prisons is expensive and does not work to keep victims safe. The Taskforce recommends service system improvements in chapters 3.3 and 3.4.

Shifting the system to better respond to patterned physical and non-physical violence over time in the context of a relationship as a whole

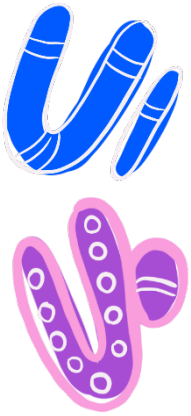
Before legislation to create a new offence can commence, the criminal justice and domestic and family violence systems need to shift towards recognising and responding to domestic and family violence and coercive control as a pattern of behaviour, over time, in the context of a relationship as a whole.

This shift needs to occur in policing, prosecution services, the legal profession, and the courts. The current incident-based approach leads to the invisibility of non-physical forms of violence and coercive control. It means that many high-risk cases are not being identified because the conduct of the perpetrator is not viewed as a series of behaviours over time that, when considered together, point to an ongoing pattern that poses a risk to the safety of the victim. In many cases, victims are being misidentified as perpetrators when they defend themselves or retaliate because the behaviour of both parties is purely viewed through an incident-based lens.

Domestic and family violence is also viewed as separate from the criminal justice system rather than as a cross-cutting and integral driver of offending behaviour. The more we learn about domestic and family violence, the more we understand how it impacts the criminal justice system. The trauma of domestic and family violence permeates the experiences of perpetrators and victims. The Queensland Police Service estimates that domestic and family violence represents 40% of its workload.

Queensland Corrective Services advises that the majority of women in Queensland prisons have had a traumatic experience related to domestic, family or sexual violence. Many of the men in prison have also been exposed to domestic and family violence. There are compelling justifications for our criminal justice system to better respond to domestic and family violence irrespective of whether legislative amendments are progressed.

The Taskforce recommends reforms across every part of the criminal justice system to shift the focus to keeping victims safe and holding perpetrators accountable. Police, legal practitioners, the courts, and judicial officers all need to be part of this reform. It must involve training and education, reviewing of policies, procedures and risk assessment processes, strengthening of referral pathways, improving the safety of victims in courts, and diversifying interventions with perpetrators. These issues are discussed in chapters 3.5, 3.6, and 3.7.



Addressing the overrepresentation of Aboriginal and Torres Strait Islander peoples in the criminal justice system

The Taskforce has heard from First Nations and non-Indigenous stakeholders, community members, and victims that the overrepresentation of First Nations peoples in Queensland is an issue that needs to be urgently addressed. The Taskforce has heard from stakeholders who are so concerned about the potential impacts on First Nations peoples of introducing any new criminal offences that they believe no legislative reform should be progressed. While valuing these concerns, the Taskforce does not accept that needed reform of the criminal justice system to improve outcomes for all women should not occur because of a feared impact on First Nations peoples.

Nonetheless, the basis of these concerns must be seriously considered. Before a new coercive control offence or a facilitation offence commences, progress needs to be made, in good faith and in partnership with First Nations peoples, to start to address the impact of colonisation and laws on First Nations peoples and their relationship with police and the criminal justice system. Many of the recommendations in this report arise from consultation with and suggestions from First Nations peoples. The Taskforce has embedded in this report the need to better meet their needs. The Taskforce also considers that further protection from unintended consequences can be given through a review of the impact of the legislation five years after it comes into effect. The Taskforce has considered these issues from a human rights perspective in chapter 2.1 and the need for action in chapter 2.2.

Addressing widespread cultural issues within the Queensland Police Service

The Taskforce has heard concerning stories from victims and service providers about widespread issues within the Queensland Police Service that detrimentally affect the quality of policing responses despite domestic violence becoming an increasingly large and important part of the police workload. These stories are supported by media reports and discussions of recent high-profile homicide cases involving domestic violence, as well as concerns raised by the most recent report of the Domestic and Family Violence Death Review and Advisory Board. The Taskforce is very concerned about underlying widespread cultural issues within the QPS despite the considerable efforts of the QPS senior management team and many officers, as well as the considerable government resources invested in delivering change. These widespread cultural issues have a direct impact on the safety of victims. They also undermine the success of the powerful work of the QPS and many of its capable and dedicated officers to improve the safety of victims and make perpetrators accountable. Ultimately, these issues have the potential to undermine public confidence in the QPS and the administration of justice.

It is important that these issues be investigated through an independent, transparent, and accountable review with powers unavailable to this Taskforce. This would compel people to come forward, produce documents, and give evidence with the protections they would have if they gave evidence in court. An independent inquiry of this kind is required to ensure community confidence in the police and the justice system. The Taskforce discusses this further and makes recommendations about the need for this review in chapter 2.2.

Focus on achieving outcomes

The Taskforce's intention is for this report to build upon the work of the Special Taskforce on Domestic and Family Violence in Queensland and the implementation of its *Not Now, Not Ever* report. The Taskforce wishes to learn from the experiences of that reform process. The Taskforce looks forward to the tabling of the Queensland Audit Office's review of that implementation process.

Evidence about domestic and family violence and how to stop it continues to emerge. More will be learnt and more will need to be done beyond the work of this Taskforce.

When implementing the recommendations of this report, the Queensland Government and responsible agencies must report on the achievement of outcomes, rather than merely the delivery of actions. The development and implementation of a monitoring and evaluation framework for the domestic and family violence service system that measure outcomes, not outputs, is crucial to keeping victims safe and holding perpetrators accountable in the future.

A four-phase plan to legislate against coercive control

Recommendation

The Taskforce recommends the Queensland Government develop and execute a four-phase implementation plan, as outlined in chapter 2.3 of the Taskforce's report, to support the delivery of the Taskforce's recommendations, including the package of legislative reforms against coercive control.

The plan will incorporate:

- Phase 1 (2021–2022): Setting the foundations for reform
- Phase 2 (2022–2023): First-stage legislative and systemic reforms against coercive control
- Phase 3 (2023–2024): Preparing for the criminalisation of coercive control
- Phase 4 (2024 and ongoing): Criminalising coercive control and monitoring impacts and outcomes

The four-phase implementation plan is consistent with the clear message the Taskforce received that improvements need to be made across the domestic and family violence service and justice systems before a new offence is implemented.

The plan stages the progress of the implementation to support legislative reform over four phases, between 2021–22 and 2024 and beyond (see next page).

Phase 1 (2021–2022)

Setting the foundations for reform

- Plan implementation
- Establish governance arrangements and appoint an implementation supervisor
- Agree on outcomes, plan how to monitor and evaluate them
- Collect baseline data
- Commence co-design of a strategy to reduce over-representation
- Establish a commission of inquiry
- Design a model for a Queensland Judicial Commission
- Commence development of communications strategy
- Commence development of primary prevention strategy
- Implement strengthened respectful-relationships education
- Undertake audit to inform strategic investment strategy
- Establish an integrated peak body
- Commence development of a risk assessment and safety planning framework
- Commence development of a training, education and safety planning framework
- Develop and plan rollout of training and education and change management across service and justice system, including for police, lawyers, judicial officers
- Develop a plan for a state-wide network of perpetrator-intervention programs
- Secure funding for priority perpetrator-intervention programs
- Commence development of a transformational plan for culture change within the QPS
- Design co-responder model trial
- Develop a plan to improve victim safety in the courts
- Prepare first-stage legislative amendments for consultation
- Commence reporting on implementation

Phase 2 (2022–2023)

First-stage legislative and systemic reform against coercive control

- Following public consultation on a draft Bill, introduce and, subject to passage, commence first-stage legislative reforms
- Finalise monitoring and evaluation framework and collect baseline data
- Commence implementation of a communication strategy
- Commence implementation of a primary prevention strategy
- Develop and implement a strategic investment strategy
- Implement revised risk assessment and safety planning processes
- Commence rollout of training and education and change management across service and justice system, including for police and lawyers, and through consultation with judicial officers
- Commence rollout of a state-wide network of perpetrator-intervention programs, prioritising programs to support legislative reform
- Expand integrated service system responses and High Risk Teams
- Commence implementation of strategies to improve victim safety at courts
- Expand specialist domestic and family violence courts and successful elements
- Prepare second-stage legislative reforms and consult on draft legislation

Phase 3 (2023–2024)

Preparing for the criminalisation of coercive control

- Introduce the second-stage legislative reforms
- Continue to implement a communication strategy
- Continue to implement a primary prevention strategy
- Continue to implement a strategic investment strategy
- Continuously review and update risk assessment and safety planning processes
- Continue to implement training and education and change management across service and justice systems with consultation with judicial officers
- Continue rollout of a state-wide network of perpetrator-intervention programs
- Monitor and review impacts and outcomes
- Continue to implement strategic investment plan to improve accessibility and availability of services and supports for victims
- Continue to monitor implementation, measure and evaluate, and publicly report on outcomes

Phase 4 (2024 and beyond)

Criminalising coercive control and measuring impacts and outcomes

- Commencing second-stage legislative reforms
- Ongoing training and education for police, legal practitioners, specialist service system providers, and mainstream services, and consultation with judicial officers about training and education
- Ongoing monitoring and evaluation of outcomes.
- Continue to improve services and supports for victims and perpetrators across the state
- Five-year review of the operation of legislative reforms

[1] Taskforce submission, 5686191.

[2] *RESPECT women: Preventing violence against women.* WHO/RHR/18.9 (2019)

[3] David McDonald, 'Violence as a public health issue' (July 2000) No.163 *Australian Institute of Criminology – trends & issues in crime and criminal justice*, 2

[4] Inara Walden and Liz Wall, 'Reflecting on primary prevention of violence against women – The public health approach' (2014) No. 19 *Australian Centre for the Study of Sexual Assault – ACSSA* issues, 5-6