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The Commission of Inquiry into Queensland Police Service
Responses to Domestic and Family Violence
PO Box 12264, George Street, BRISBANE QLD 4003
By Email: documents@qpsdfvinquiry.qld.gov.au

Dear Commissioner,

COMMISSION OF INQUIRY INTO QUEENSLAND POLICE SERVICE RESPONSES TO DOMESTIC AND FAMILY VIOLENCE

Thank you for the opportunity to provide feedback on Queensland Police Service responses to domestic and family violence. We appreciate the opportunity to contribute as a member of the legal profession.

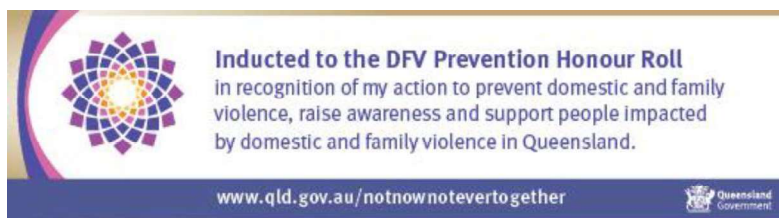
DV LAWYER and its founder Kathleen Simpson have substantial expertise in the area of domestic and family violence having its practice solely focused on assisting aggrieved persons leave their relationship safely.

Whilst our focus remains on assisting aggrieved persons, we do act for vulnerable women, in particular, who have, in our view, been wrongly named as Respondents in Police Protection Notices, after a misidentification of the primary aggressor.

The role of Police Prosecutors

There is an issue of a “broken link in the chain of justice” when advocating domestic and family violence cases. Police Prosecutors have a role to play in securing an adequate outcome reflecting the level of risk involved when protection orders and/or breaches of domestic violence are pursued by Police.

There have been observations made at the Magistrates Court where after the aggrieved person has had the courage to report their complaint to Police, the Police have taken on their matter and issued domestic violence proceedings, there has been subsequent breaches and “*the whole system can simply fail at the end of the line*”, when a Police Prosecutor is seen to:



- pat the Respondent on the back;
- reassure him that “*I will go easy on you today mate*”; and
- thereafter proceed to tell the perpetrator/Respondent the exact words on what he should be saying to the Magistrate to minimise the severity of the penalty and/or whether a conviction is recorded.

Inadequate orders not reflecting the level of risk

Further, where Police have acted accordingly and have pursued protection orders through the filing of a Police Protection Notice, there seems to be an overwhelming amount of client’s without being left with “inadequate orders” that reflect their level of risk. This has resulted in the aggrieved having to file further Application to Vary a Domestic Violence Order to increase the conditions. For example:

Case Study 1 – Ms C [REDACTED]

Ms C [REDACTED] attended our offices with Final Protection Orders for the mandatory orders of good behaviour.

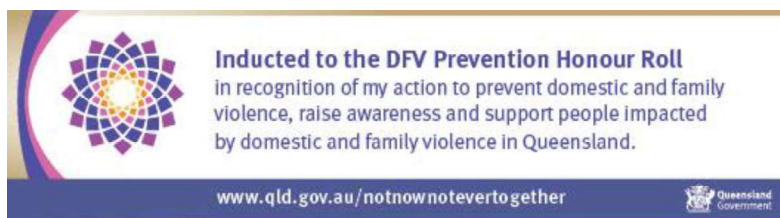
On review of the Police Protection Notice filed by Queensland Police, there were allegations of significant assaults with visible injuries, supported by medical evidence and Police who claim to have sighted her injuries soon after the incidences.

The mandatory good behaviours order clearly did not fit the high-risk nature of the matter.

The aggrieved sought private legal representation and an Application to Vary a Domestic Violence Order was filed and extensive orders were subsequently made by the Court. This matter escalated and Ms C [REDACTED] was subsequently placed into witness protection while the perpetrator was charged with substantial criminal offences relating to assaults against her.

It was not understood how the initial orders sought by Police could have been accepted for the mandatory orders or why the aggrieved needed to file a private Application to Vary to achieve the appropriate orders to ensure her safety and protection needs were met.

DV LAWYER regularly has clients reporting inadequate police responses and hence why they approach our office. I submit that this could be due to the Police being trained in having a criminal mindset where the evidentiary requirements of “*beyond all reasonable doubt*” conflict with a civil mindset which is relative to domestic violence cases, where it is based on a “*balance of probabilities*”. Police are well equipped to act in criminal cases, however when it comes to civil cases, there seems to be confusion.



The Police outcomes reported by clients are inconsistent and vary from officer to officer and from station to station. There is a need for more consistency in outcomes when aggrieved persons approach Police.

In a whole, we praise the Queensland Police Service and that there are many officers who have acted protectively and appropriately in safeguarding the safety and wellbeing of aggrieved persons. We have received feedback from some high risk cases where the Police have gone above and beyond to ensure they are protected and their cases are adequately prosecuted.

There are some who simply do not.

There are a few cases which we have lost sleep over due to the complete inadequate response by Queensland Police. Some of those examples are below. Names have been changed to ensure confidentiality is maintained.

Case Example 2 – Ms Flowers

Ms Flowers was in a short defacto relationship with her ex partner.

She came to our office in highly distressed state having told us that she had been earlier in hospital with suicidal ideations directly in relation to a strangulation incident and Police inaction.

The night before, she instructed that she was the victim of strangulation and that she had called 000 whilst having locked herself in the bathroom.

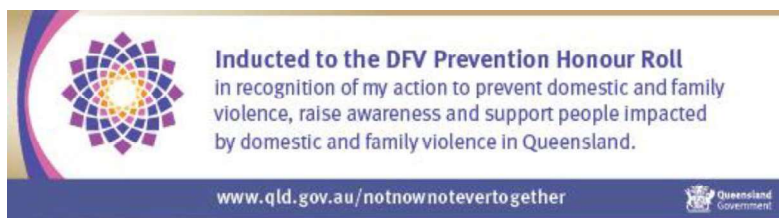
Police attended the residence, however despite her playing a recording of the perpetrator admitting to strangulation, she was not believed and Police wrongly identified her as the primary aggressor and placed a Police Protection Notice against her as the Respondent.

At the scene, Police stated that they sighted no visible marks on her throat, however on examination that night in hospital, minor redness was noted around the neck as were multiple bruises.

Ms Flowers complaints of serious domestic violence occurring were not taken seriously by Police. Police failed to investigate her complaints and were dismissive of her. She even provided a Statement to Police at a different station, however no action has been taken by Police.

This matter proceeded to a Final Hearing before the Southport Magistrates Court. Queensland Police engaged Counsel to appear.

Ms Flowers had to go through the traumatic experience of facing the proceedings to a Final Hearing.



On review of the Queensland Police affidavits of officers filed in the proceedings, body worn camera footage, and recordings made on the night by Ms Flowers, there were multiple admissions made by the “real perpetrator” where he admitted to “choking” Ms Flowers “on the ground”, even in the arresting officer’s affidavit sworn by them.

Ultimately, it was not until Final Hearing, and after Queensland Police engaged the expense of Counsel, that Queensland Police withdrew the proceedings against Ms Flowers.

This case is a clear example of where the Police have failed to provide an adequate response to Ms Flower’s complaints of domestic violence and strangulation. Image management played a part as Ms Flower’s was reportedly traumatised when the Police attended. Even though Ms Flowers may not have had visible marks around her throat, the research clearly indicates that 50% of strangulation victims show no visible marks, or can develop at a later time.

A further example is as follows:

Case Example 3 – Ms Blue

This case involves Ms Blue and this case has never left my mind.

It is another example of where Queensland Police have clearly misidentified the wrong primary aggressor.

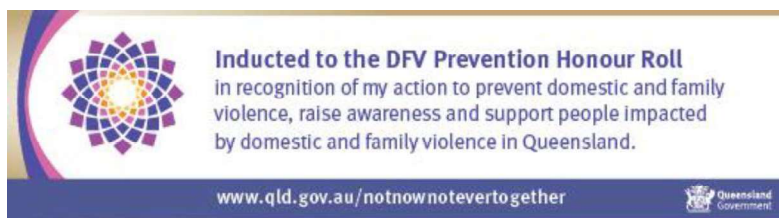
Ms Blue had experienced disturbing and extensive injuries having been held in a room by her perpetrator for hours, and her injuries were substantial and visible to Police. Every wall in that room had holes in it from the perpetrator ramming her head into it. She presented to hospital with large chunks of hair ripped out of her skull and her facial injuries were disturbing.

Queensland Police were involved in this case.

Despite Ms Blue’s extensive injuries and evidence of significant property damage, Queensland Police issued a Police Protection Notice against her as the Respondent.

Her complaints of domestic violence or assault were not investigated.

Upon being engaged to act for Ms Blue, it was clearly apparent that the Queensland Police failed to consider her complaints and the obvious evidence it had before it. On the first appearance before Coolangatta Magistrates Court, submissions were made to the effect of there being “*no case to answer*” against Ms Blue. The presiding Magistrate issued a warning to Queensland Police for them to “*seriously reconsider the making of this application*”.



There were several appearances that followed in the same manner. The Police Prosecutor was clearly at odds with the arresting officer and the officer in charge's attitudes towards naming Ms Blue as the Respondent.

Despite this, the matter proceeded to Final Hearing after the filing of extensive affidavit material. The matter was brought on and suddenly the Queensland Police indicated that "*they were considering to withdraw*". The matter was stood down for discussions to occur with respect to the issue of costs. Luckily for the Queensland Police, it was a pro bono matter.

The client was left traumatised by the whole experience and has remarked that she will never ever again make a complaint to the Police.

The Way Forward

In many cases, Queensland Police's current response to domestic and family violence remains inadequate and inconsistent in protecting victims' safety and wellbeing. There is a need to hold perpetrators accountable and by failing to do this, it perpetuates the cycle of violence in the community at large.

Police have traditionally only prosecuted on an isolated incident as opposed to domestic and family violence involving coercive control which involves a range of behaviours over a prolonged period. There is a heavy focus on the presence of physical violence. The mindset of "*beyond all reasonable doubt*" seems to conflict with the standard of proof required in domestic and family violence cases of a "*balance of probabilities*". Domestic and family violence occurs behind closed doors and the evidence can be harder to visibly see. High risk cases are not being properly identified through a standardised risk assessment model.

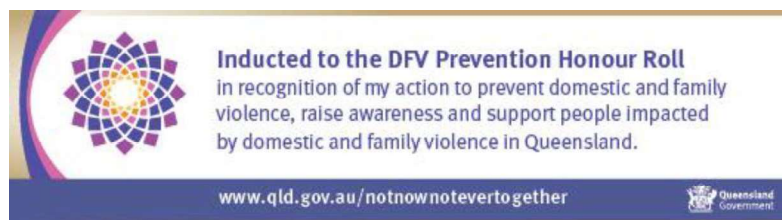
A comprehensive risk assessment can help police officers move beyond an "incident by incident" response and toward identifying dangerous patterns of behaviour that precede domestic homicide.

A lack of consistency in the way risk is identified and assessed will continue to be problematic. Adopting a consistent risk assessment across all frontline workers helps to reduce misidentification of the one most in need of protection.

Coercive control takes many forms. Coercive control frequently presents as a precursor to physical violence and homicide.

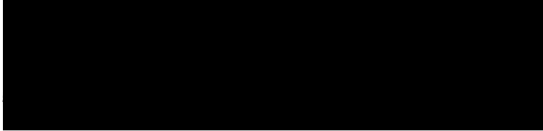
It should not matter which Police Station aggrieved's report domestic and family violence to and their complaints of breaches of orders need to be taken more seriously.

In line with the recommendations made by the Women's Safety and Justice Taskforce, there is a need for a more consistent whole of system approach when it comes to risk



assessments. If this was achieved, it will likely reduce the inconsistencies in the Police response to complaints of domestic violence and improve the outcomes and protection for aggrieved persons.

Yours Sincerely,



Kathleen Simpson
DV LAWYER
Principal Domestic Violence and Family Lawyer

