



GPO Box 257 Brisbane QLD 4001  
P: 07 3846 5074 F: 3229 9222  
pls@plsqld.com | www.plsqld.com



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Independent Commission of Inquiry into Queensland Police Service Responses to Domestic and Family Violence  
PO Box 12264  
George Street QLD 4003  
By email: [enquiries@qpsdfvinquiry.qld.gov.au](mailto:enquiries@qpsdfvinquiry.qld.gov.au)

Dear Commissioner,

**Submission to the Independent Commission of Inquiry into Queensland Police Service Responses to domestic and family violence**

Thank you for the opportunity to provide feedback to the Commission of Inquiry (the **Commission**) regarding Queensland Police Service (**QPS**) responses to domestic and family violence. PLS appreciates being consulted on this important issue.

**About PLS**

PLS is a community legal centre that has operated in Queensland for over thirty years. We provide legal advice and representation to people in prison about matters arising from imprisonment. PLS has significant expertise about the impact of incarceration on the most vulnerable members of our society.

PLS has run a number of successful projects aimed at reducing incarceration and recidivism, including helping people in prison draft parole applications and a financial counselling program for people in prison and their families. PLS maintains a strategic focus on the use of solitary confinement in Queensland due to our concerns about the prevalence of this practice and the harm it causes to individuals and society as a whole.

PLS conducts prison visits, operates a telephone advice line, and responds to mail from people in prison across the state. PLS also provides targeted legal representation on matters relating to imprisonment for people who are experiencing particular disadvantage. In 2020-21, of the clients who received PLS' legal representation:

- 77% were people experiencing disability
- 63% identified as First Nations people
- 23% were women

First Nations people are also dramatically over-represented in prison due to dispossession, discrimination, inter-generational trauma and a lack of meaningful reform.<sup>1</sup> First Nations people also have higher incidence of disability which compounds the disadvantage they face in prison.<sup>2</sup>

Women in prison are one of the most disadvantaged groups in our society. Many have experienced sexual/physical abuse and have high mental-health needs and caring responsibilities for children, families and others.<sup>3</sup> First Nations women have much harsher experiences of imprisonment and are more likely to be held in solitary confinement, involved in a breach of discipline and held in secure custody.<sup>4</sup>

### **Scope of submission**

The invitation has requested feedback in relation to the response of QPS to First Nations persons in circumstances where domestic or family violence may be a factor, and the impact of this response on the overrepresentation of First Nations people in prison.

Advocating for First Nations people to be safely released into the community on parole orders constitutes a significant portion of the legal case work undertaken by PLS solicitors. This includes advocating for the Parole Board Queensland (the **Parole Board**) to change a decision or preliminary decision to refuse parole, encouraging the Parole Board to expedite decisions, seeking judicial review of parole decisions, requesting that the Parole Board lift suspensions of parole orders and applying for court orders to compel parole decisions where they had not been handed down within statutory timeframes.

Many of these involved advocating on behalf of a First Nations person who has been impacted by a decision of the Parole Board. Incidence of domestic and family violence, or in some cases, *perceived* incidence of domestic and family violence by QPS has led to adverse incarceration outcomes for First Nations people, including relating to decisions by the Parole Board.

Through casework, PLS has observed a poor understanding by QPS of domestic, family and community relationships of First Nations people, with little acknowledgement or procedural allowance for the cultural diversity of First Nations peoples and communities across Queensland. Observationally, low cultural understanding broadly and institutionally across QPS has led to heavy-handed and often misinformed responses by police, both in the context of DFV perpetrators and victims. PLS solicitors report multiple examples whereby QPS have become involved and quickly issued a police protection notice or taken a party into custody and made an application for a Domestic Violence Order (**DVO**) based on their interpretation of a dispute, though they may have come to that position without the requisite cultural competency, or without investing the necessary time to speak with each party and fully understand the grievance.

The existence of a DVO will negatively impact the person's ability to obtain parole, as will any reported breaches of an order. These are contributing factors to the over-representation of First Nations persons in prison.

We provide the following de-identified case examples for your consideration.

#### **Case example 1 - Parole cancelled due to DFV breach**

Casey (not her real name) is an Aboriginal woman from the Northern Queensland. At the time of her recent incarceration, she had significant injuries which rendered her unable to make written submissions in response to notice from the Parole Board informing her that her parole had been cancelled.

Casey first contacted PLS when PLS solicitors visited the Townsville Correctional Complex. Casey advised that her parole was cancelled and due to her injuries, she was unable to respond. The sole reason for the parole cancellation was due to her being convicted of a breach of a DVO, for which she received a 3-month, wholly suspended sentence. The DVO breach related to an argument between Casey and her mother about childcare arrangements.

Given that the Court gave Casey a wholly suspended sentence, it is clear that they did not consider the offence was serious enough to warrant prison time. Further, at the time of her return to custody she had less than 2 months left on her parole order.

PLS made submissions to the Parole Board providing context of the DVO breach, and why she should be released back into the community as soon as possible. We noted the Court's intention that the offence did not warrant a custodial sentence, and that there was no benefit in keeping her in jail as she could not access relevant supports to address the issues around family and domestic violence that were accessible to her if released. We noted that a requirement that Casey attend these supports in the community could be a condition of her parole. PLS also advanced human rights considerations, such as right to liberty and security, and protection of families and children that needed to be given appropriate weight when the Parole Board reconsiders the cancellation decision.

Within a month of these submissions being made, the Board advised that they intended to lift the cancellation and permit Casey to return to the community under parole. This allowed Casey to have a further 3 weeks under the supervision of parole, prior to the expiration of her sentence.

### **Case example 2 - Expedite parole and allow couple to live together**

Gary (not his real name) is an Aboriginal man from Far North Queensland. PLS became involved when his partner contacted us for assistance with getting Gary's parole matters expedited, as he needed urgent medical care including surgery to remove a brain tumour. Gary was not willing to undergo these procedures whilst incarcerated as he wanted his partner with him for support and to be able to return home to recover.

While there is a DVO between Gary and his partner and a history of violence between the couple, they were determined to stay together. It was clear that his partner wanted to remain in the relationship and to provide support to Gary. The DVO required only that Gary demonstrate good behaviour towards her and she consistently told PLS solicitors that she wanted him to return to their shared home. PLS assisted by sourcing culturally appropriate support within their community, including focused supports that could work with the couple to help them grow towards a respectful relationship.

PLS advocacy to the Parole Board reflected the couple's intention to remain in a relationship, and set out why the couple should be allowed to have contact and reside together upon Gary's release to parole. Our submissions were accepted, and Gary was released from custody. This was significant given the Parole Board's general reluctance to allow a parolee to reside with any person associated with a DVO, and oftentimes will impose a condition prohibiting contact even where the DVO permits.

### **Case example 3 – Parole suspension**

Jess (not her real name) is a First Nations woman from North Queensland. She has several children and a chronic health condition. Jess was in the community on court-ordered parole for an offence involving violence that was a domestic violence offence. While on parole, Jess failed to attend a support service for intervention to address her substance abuse, provided a positive breath test for alcohol and presented as intoxicated to authorities.

The Parole Board suspended her parole order because Jess had failed to comply with the condition of her order to abstain from alcohol use. The Parole Board considered that she posed an unacceptable risk of committing an offence because alcohol use is linked to her offending behaviour. Jess was returned to prison due to her parole suspension.

Jess received a notice containing the reasons for the Parole Board's decision which invited her to make submissions in response and submit information about her proposed address in the community. Jess promptly made submissions and lodged an address for consideration.

Six months after her arrest, an in-prison support agency referred Jess to PLS for parole assistance, because she had not received a response to her submissions from the Parole Board. PLS made submissions to the Parole Board on her behalf, providing context around her failure to engage with authorities and alcohol use. Jess was in fact a victim of severe domestic violence and had not contacted authorities to make a complaint or ask for help because of lack of trust in authority figures and government bodies – including QPS.

PLS made submissions to the Parole Board providing details of Jess' experience with domestic violence, as well as information about appropriate community-based supports that had been arranged that would reduce her risk of experiencing further domestic violence. These supports also mitigate risk of breaching her parole conditions.

The Parole Board lifted Jess' parole suspension and she was released back onto parole with additional conditions, including to attend the arranged support services.

#### **Case example 4 – Parole cancellation**

Wendy (not her real name) is a First Nations woman. She is the mother of several children and has a chronic health condition.

Wendy was in a domestic violence relationship for over two decades. She was on court ordered parole when she fled the relationship and was living in her car with her two youngest children.

Whilst living in her car, she was charged with a number of offences connected to her living situation, including driving without a licence, trespass and urinating in a public place.

The Parole Board decided to suspend her parole order because of these new charges, and she was taken into custody. Her two young children were placed in the care of family members.

Two months after her return to custody, Wendy was sentenced for the new offences and received fines and a wholly suspended sentence of imprisonment.

Four months after her return to custody, the Parole Board decided to cancel her court ordered parole order. The sole reason given for cancelling her parole order was her new convictions, even though the Magistrate considered that a non-custodial sentence was appropriate. The Parole Board invited Wendy to make show cause submissions in response to the cancellation of her parole order.

Wendy made submissions to the Parole Board providing information about the circumstances of her offending and her experiences as a victim of domestic violence, including the fact that a non-contact domestic violence order was made while she was in custody. She asked the Parole Board to lift the cancellation so she could care for her children.

Despite her submissions, the Parole Board did not change its decision to cancel her parole order. Wendy reapplied for a new parole order.

PLS began acting on Wendy's behalf and made a request for a statement of reasons regarding the decision not to vary the cancellation of her parole order. The Parole Board failed to provide the statement of reasons within the legislative timeframe and PLS filed an application in the Supreme Court compelling the Parole Board to provide the statement of reasons.

Before the matter went to hearing, the Board decided to release Wendy on her new parole application. There was no material change in circumstances between the cancellation decision and the decision to release her on a new parole order.

Wendy was released on parole more than eight months after her initial return to custody.

**Conclusion**

PLS respectfully submits that significant cultural change in the treatment of First Nations peoples is required more broadly and institutionally in the criminal justice system, and particularly in relation to improving QPS understanding and development of appropriate responses to incidents which might constitute domestic and family violence. This cultural change must be underpinned by an education strategy which accounts for the diversity and complexity of kinship ties in Aboriginal and Torres Strait Islander communities.

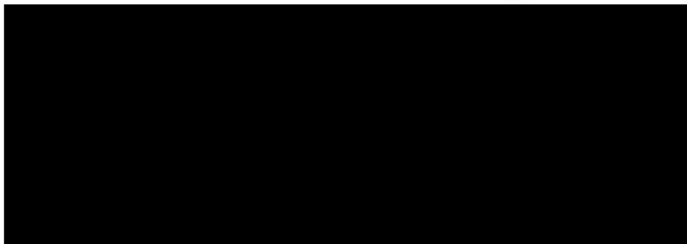
This improved understanding will allow QPS to better engage with First Nations peoples, both individually and as communities, and in doing so will enable police to more accurately assess a dispute, including with respect to the risks to the parties associated with police intervention, or lack of intervention.

PLS supports comments made by the QPS Commissioner that acknowledges the urgent need for training, strategies and initiatives to be implemented by QPS to ensure officers are able to respond effectively and appropriately to domestic and family violence.

It is critical that this training and associated policy and procedure development include comprehensive input and direction from First Nations persons, with a comprehensive and ongoing program of learning to build institutional and individual cultural competence.

Thank you for your consideration of this submission.

Yours faithfully



**Vanessa Krulin**  
**A/ Principal Solicitor**