

8 July 2022

To:
The Commission of Inquiry into
Queensland Police Service Responses to Domestic and family Violence
PO Box 12264
GEORGE STREET QLD 4003

By email: documents@qpsdfvinquiry.qld.gov.au

RESPONSE TO CALL FOR PUBLIC SUBMISSIONS

GENERAL

1. Women's Legal Service Queensland ("WLSQ") as an organisation proactively advocates for cultural and legislative change to end violence towards women, and to represent the voices of those who identify as women in Queensland who experience domestic and family violence. WLSQ began as a volunteer service in 1984 offering telephone legal advice and counselling, and support from a room on the veranda at Women's House Shelter at West End. WLSQ was first funded in 1986 and has received government funding ever since. The service has grown consistently across its lifespan, with significant growth in demand in the last decade. Year on year growth is shown in some of the examples below. The bulk of our work is women as aggrieved, with Women as Respondents comprising a subset of the work we do. The most recent reports for 2020/2021 show some of our core services which include:
 - a. Answering phone calls for help – 13,397 calls, a 28% increase from 2019/2020
 - b. Providing Duty lawyer services at Caboolture, Ipswich and Holland Park. We provided 1,140 services in 2020/21
 - c. Providing 5,961 legal advices
 - d. Providing information to 6,320 women
 - e. Making 22,960 referrals for women to other services
 - f. Providing social work services to 330 clients, a 73% increase from the previous year
 - g. Assisting 80 women in divorce clinics
 - h. Providing casework support to 453 clients as part of the Domestic Violence Units that provide advice and representation for women with complex needs who are experiencing severe domestic and family violence
 - i. Assisting 401 clients through the Health Justice Partnership (HJP). HJP links female health care patients and carers of patients experiencing DFV with legal advice and assistance through partnerships with hospitals across Southeast Queensland.
 - j. Providing financial counselling and legal support to 277 women experiencing financial abuse and assisting them with clearing almost \$500,000 in debts
 - k. Providing 150 services in the Counselling Notes Protect service, representing and assisting people involved in Sexual Assault Counselling Privilege applications
 - l. On a limited basis, appearing at hearings for women in 210 cases
2. The information, reflections and recommendations expressed in this submission are based upon the above work.
3. In relation to the Commission's Terms of Reference into the Queensland Police Service culture, and its capability, capacity and structure to respond to domestic and family violence,



WLSQ also provides further anecdotal information based upon the experiences of the solicitor's working with victim survivors of domestic and family violence.

4. We take this opportunity to highlight for the Commission's attention important experiences and reports of our clients when the Queensland Police Service responds to victim survivors of domestic and family violence, to highlight matters of concern to WLSQ and our clients, and to provide information to assist in the Commission's inquiry for areas of improvement within the Terms of Reference for this Inquiry. We provide this submission in an addition to submissions that will be made pursuant to the grant of standing for WLSQ to appear at the conclusion of Commission public hearings.

TERMS OF REFERENCE ONE: Cultural issues, nature, extent and investigation¹

5. There are endemic cultural issues in the Queensland Police Service that negatively affect police investigations of domestic and family violence – these cultural issues have wide ranging effects adverse to women. WLSQ made extensive submissions to the *Women's Safety and Justice Taskforce* (Discussion Paper 1), when reviewing the criminalisation of 'coercive control' as part of the *Hear her voice report*.² Relevant to this enquiry, those submissions addressed our experience in representing and assisting women, as follows:
 - a. Inconsistency in police responses of charges, seeking orders, and responses to breaches varied within Police stations and from station to station as well as from region to region. There is a reluctance of women to report due to inconsistent responses by Police
 - b. It was common for the Police to not apply for a Protection Order³ (whether a Police Protection Notice or Domestic and Family Violence Order) on behalf of a victim who had experienced non-physical violence or threats of violence, and, a Protection Order is often perceived as not required (or not necessary nor desirable) in those cases
 - c. If women are not directly asked about domestic and family violence, it is often not disclosed, which makes screening and identification by Police very important
 - d. Lack of Police responses arise from the Police lack of understanding of the dynamic nature of a domestically violent relationships. The gendered nature of domestic and family violence often involved intimate partner violence, manipulation and a course of conduct that denied victims autonomy and liberty, and was often misunderstood or missed. Coercive control as a key predictor of domestic and family violence homicide is still misunderstood and not identified properly by Police
 - e. When there were current family law proceedings this resulted in a more limited response by Police. There is a lack of understanding that a victim often does not report abuse until separated
 - f. There is an increasing misidentification by Police of women as the primary aggressor

¹ Whether there is, and if so, the extent and nature of, any cultural issues within the Queensland Police Service (QPS) relating to the investigation of domestic and family violence identified in the Report

² WLSQ submission dated 16 July 2021, website accessed 28 June 2022

https://www.womenstaskforce.qld.gov.au/_data/assets/pdf_file/0006/691314/wsjt-submission-womens-legal-service.pdf;

Hear her voice report published 2 December 2021, website accessed 28 June 2022 - Executive Summary

https://www.womenstaskforce.qld.gov.au/_data/assets/pdf_file/0013/700600/volume-1-exectutive-summary-and-introduction.pdf

Volume 2 https://www.womenstaskforce.qld.gov.au/_data/assets/pdf_file/0014/700601/volume-2-the-mountains-we-must-climb.pdf

Volume 3

https://www.womenstaskforce.qld.gov.au/_data/assets/pdf_file/0015/700602/volume-3-the-journey-we-must-go-on-as-a-community.pdf

³ Hereafter used to refer to the variety of orders under the *Domestic and Family Violence Protection Act 2012* (Qld)

that arises from the failure of police to understand the nature of domestic and family violence (i.e. appearing to agree with perpetrators perspectives, appearing to minimise conduct to shift blame from the aggressor, attempting to reduce unpredictability, resistance or confrontation by the woman to have the perpetrator leave the house was perceived as aggression by her, pre-emptive explosions or snapping by the woman in response to a pattern of abuse that caused her to be identified as the aggressor)⁴

- g. Models for responses that are more effective include gendered police, specially trained officers, co-located support services, client led responses and Women's Safety Hubs
 - h. The need to recognise that women as victims do not always seek the perpetrator to be charged, or incarcerated, to remove them from the home remains an issue with Police. This is a particular problem for Culturally and Linguistically Diverse ("CALD") women who must also contend with community views, attitudes and income issues, while trying to also protect their families and themselves
 - i. The lack of appropriate training by Queensland Police Service for Police is a factor in all the above.
6. In addition to the above, is the experience of women who are subject to visas who are often from CALD backgrounds. Our WLSQ lawyer who works in the "Temporary Visa Project" describes the practice of Police taking out cross orders, as being common in circumstances where there is a relationship between an Australian Citizen and someone on any type of visa. For all types of visas, the visa holder is required to pass a "character test", and if the Police involved in a domestic and family violence incident / complaint get this early assessment wrong and misidentify who the perpetrator is, rather than making a proper assessment of who is in need of protection, it has drastic consequences. If the woman is charged improperly when she was the one actually attacked, or, if police take out a cross application against the woman, this places her at risk of her current visa being cancelled. It also makes it less likely that she will be able to make a successful application for a "permanent partner visa". If a woman breaches the Protection Order, our experience is that this will definitively remove any chance of obtaining permanent residence in Australia. Furthermore, a charge like a "Breach of Domestic Violence Order" is considered a serious charge and results in the woman being given a notice of intention to cancel their existing visa, the result of which is that they will be deported.

7. A lawyer from WLSQ has said the following:

"... I had a client who was a young immigrant women from South East Asia. The father kept the baby and locked the mother out of his house after a visit, and she could hear the baby crying to be breast fed. She called the police who did nothing as they couldn't "force" him to give the baby back. After they left she broke a window and let herself into the house to breast feed the baby. Despite him being a black belt in some marshal art, and being 6"2 and 120Kgs, and she was... 40kgs, he called the police. She was charged with wilful damage for smashing the window, and had a [Protection Order made] against her."

8. The experience of women with disabilities is also negatively impacted by inappropriate policing responses. Another one of our WLSQ lawyers stated:

"Our client was misidentified as the respondent when the [perpetrator] was the one who called

⁴ The statement provided to the Commission of the Women as Respondents Solicitors sets out her experiences in detail. It is also noted that this is the experience of our other services as well.

the police about [domestic and family violence]. The thing is, our client was in a wheelchair and the [perpetrator] was being threatening to her - she grabbed a hammer - which is what he alleges and she admits when the police turn up. The [perpetrator] had actually tipped her out of the wheelchair down the front stairs, and shut the front door. When the police arrived, she had managed to get herself back into her wheelchair. The police issued a [Police Protection Notice] with ouster conditions for her to leave. Although we wanted to make submissions on her behalf, the [perpetrator] was her carer and she had nowhere else to go. She wanted the matter over with as soon as possible and consented without admissions to a 5 year order... she was a small woman in a wheelchair who was totally dependent on the [perpetrator as her] carer to prepare food, buy groceries etc - and yet the police saw him as the person most in need of protection."

9. These experiences are not unique to our clients, which is apparent from the *Hear her voice report*, (the recommendations from which are supported by WLSQ).⁵ Of particular significance, as set out in that Report in Chapter 3.5,⁶ the concerns about policing responses which also reflects the experience of WLSQ and our clients. This, in our view, supports the conclusion that there exists cultural and systemic issues within the Queensland Police Service that negatively affect police investigations, responses and handling of domestic and family violence. Furthermore, as set out below, WLSQ provides some suggested recommendations to the Commission based upon our expertise, experiences, leading research and best-practices in other jurisdictions, on how the Queensland Police Service can work with other organisations to overcome these issues.

TERMS OF REFERENCE TWO: Over representation of indigenous persons⁷

10. As noted in our submission to *Hear her voice report* process, 40% of women in prisons are indigenous. In our experience, indigenous women often engage with specialist cultural domestic and family violence service providers, rather than with WLSQ, and while our direct knowledge of the impacts of the over-representation of indigenous persons in custody as it directly relates to domestic and family violence, we have sourced information from one of our colleagues who provide services to indigenous women.
11. We are informed that often First Nations women are reluctant to report abuse. This occurs for a range of reasons, but one of them is their experience, that when they do report to Police, is that they are met with either a heavy-handed response or complete inaction and disbelief. Other factors behind a fear of reporting include a desire to maintain the relationship. First Nations women reported wanting to engage with Police to stop the violence, but ended up with undesired outcomes having the Police decide that the relationship should end and the Police seeking orders involving no-contact conditions and ouster (which can be problematic in close knit communities).
12. Practitioners have reported to us that a trial of embedding a police officer in a refuge has been successful. They advise that women who do not feel comfortable approaching Police or attending a Police station, do feel more comfortable having someone in a refuge as it creates the ability for people to report abuse in an environment in which they know they are safe.

⁵ [volume-1-exectutive-summary-and-introduction.pdf \(womenstaskforce.qld.gov.au\)](#) website accessed 6 July 2022

⁶ [volume-3-the-journey-we-must-go-on-as-a-community.pdf \(womenstaskforce.qld.gov.au\)](#) website accessed 6 July 2022

⁷ Examine how any cultural issues identified within the QPS relating to the investigation of domestic and family violence have contributed to the overrepresentation of First Nations people in the criminal justice system

TERMS OF REFERENCE THREE: Ability to respond⁸

13. There are a variety of aspects to this Term of Reference. We address the following:
 - a. The police resourcing to be able to physically respond to domestic and family violence meaningfully
 - b. The police training to be able to respond within the existing culture and structure
 - c. How the existing programs, responses or initiatives have served the interests of women who experience domestic and family violence
14. In our submission connected with the *Hear her voice report*, WLSQ identified that there was a need for training for police among other things.⁹ This was resoundingly included in the recommendations of the Taskforce.¹⁰ To that we add that there is a clear need for increased involvement of social workers, and domestic and family violence support workers in the assessment and early intervention with side by side first responders (Recommendation 37 of Chapter 3.5).¹¹ There is also a need for specialist domestic and family violence workers to be co-located in multidisciplinary stations and to have an integral role in the delivery of services and training of Police.
15. Within Queensland there are many different departments, and organisations, including the Queensland Police Service itself who all work with victim survivors of domestic and family violence. However, depending on where an aggrieved is and who is involved, there appears to be little interconnection between the silos of expertise and information sharing, which suggests that the Police capacity, capability and structure does not reflect the adoption of external /non-Queensland Police trauma informed expert input as contemplated by the Taskforce recommendations.
16. The expertise and skills of the domestic and family violence service sector has not been fully utilised and harnessed by the Queensland Police Service to date to effectively deal with the needs of victim survivors. The structural issues of the Queensland Police Service results in uneven or inconsistent responses to domestic and family violence victim survivors and a lack of continuity and care. Queensland Police Service are referring victim survivors to the “Domestic and family violence protection Order application” process to self-represent and advocate for themselves, instead of acting on the woman’s behalf. The Queensland Police Service is also failing to take action on complaints of Breach of a Domestic Violence Order which compounds the cultural issues.
17. Many of these issues are highlighted in the two recent domestic and family violence inquests concerning the murders of Hannah Clarke and her three children¹² and the murder of Doreen Langham.¹³

⁸ Assess the capability, capacity and structure of the QPS to respond to domestic and family violence, having regard to initiatives undertaken by the QPS in responses to previous reports and events

⁹ Including, among other things, community awareness, judicial education and training about the reality of domestic and family violence

¹⁰ See mainly Chapter 3.5 and recommendations therein of the *Hear her voice report*

¹¹ Chapter 3.5, page 584

¹² Inquest into the death of Hannah Ashlie Clarke, Aaliyah Anne Baxter, Laianah Grace Baxter, Trey Rowan Charles Baxter, and Rowan Charles Baxter delivered 29 June 2022 by Deputy State Coroner Bentley

https://www.courts.qld.gov.au/data/assets/pdf_file/0010/723664/cif-hannah-clarke-aaliyah-baxter-laianah-baxter-trey-baxter-and-rowan-baxter.pdf

¹³ Inquest into the deaths of Doreen Gail Langham and Gary Matthew Hely delivered on 27 June 2022 by Deputy State Coroner Bentley https://www.courts.qld.gov.au/data/assets/pdf_file/0006/723372/cif-langham-and-hely.pdf

18. In both inquests, a number of the past or existing initiatives and proposed future initiatives were set out relating to the following areas. We briefly address some matters, and our concerns as they relate to this Term of Reference by reference to these inquests and the Taskforce report. We hope to further explore these matters at the Commission of Inquiry hearing:

- a. **Vulnerable Persons Unit and High Risk Teams** – The current Vulnerable Persons Unit depends greatly on each separate station and each separate officer. The lack of training for officers in the Vulnerable Person’s Unit is of concern, and the role of the Vulnerable Persons Unit itself is limited in some stations and cases, often taking a referral pathway role rather than an interactive and protective role. The High Risk Team Referral process in our experience is rarely invoked or utilised. It is difficult to have a woman referred through that pathway for assistance. Information sharing remains a real issue and the assessment of risk is a real problem. Lack of appropriate training underpins these issues as seen in both inquests. See also the comments on the Vulnerable Person Unit in the recommendations section below.
- b. **Embedded social workers, whether co-located or co-responders with police** – Co-located and co-responders specialists was considered in the Taskforce report, and the recommendations were made for co-responders.¹⁴ Information we have received from other centres, and our own experiences, shows mixed responses of the effectiveness of organisations in the community sector as only co-responders. Information sharing is inconsistent across these situations as is the training provided to police and the specialist support worker as it influences the responses.

In Hannah Clarke’s inquest, Hannah’s case was referred to the Vulnerable Persons Unit who performed essentially a desk top review, and who had a Police officer attend on Hannah with an embedded social worker. Information about her strangulation / choking provided to the domestic and family violence service provider occurred after the Vulnerable Persons Unit closed its oversight and was not later shared with Police. Police was not monitoring nor sharing information about the escalation of Hannah’s risk. Evidence at the inquest from the domestic violence social workers referred to reluctance in sharing information with Police due to Police inaction as a reason not to share information (and to not encourage women to make a Police complaint).¹⁵

In contrast, in Doreen Langham’s inquest, there were multiple points of contact with police, found generally to be inadequate, and no embedded worker involvement. One expert gave evidence that since her death, there was a **co-located** worker 24/7 in the Toowoomba Police Station based on location with a ratio of 5 specialist domestic and family violence embedded workers to 195 officers which has since her death appeared effective.¹⁶

In both inquests, Deputy Coroner Bentley recommended a multidisciplinary domestic and family violence police station trial for 12 months.¹⁷ In Doreen Langham’s inquest,

¹⁴ As noted above, Recommendation 37, Chapter 3.5, page 584

¹⁵ Hannah Clarke inquest, - See for example pages 69, 92-92, 11 and 116 referring to Ms Beattie’s evidence; also, [396]-[397], [400] and [406]

¹⁶ Doreen Langham inquest, [710]

¹⁷ Doreen Langham inquest, Recommendations 1 page 139; Hannah Clarke inquest, Recommendations 3, pages 162-163. This recommendation involved incorporating a specialist domestic violence police officer including a detectives to investigate criminal offences, speciality domestic violence support worker, a Child Safety Officer, employee of Department of Housing, employee form Queensland health, a lawyer for advice to police and victims

Deputy Coroner Bentley also recommended that the government provide an appropriately qualified and experienced domestic violence specialist social worker embedded at the front counter of every police station for a trial period in Logan.¹⁸

- c. **Embedded police officers at refuges** – As noted under Term of Reference 2, this was successful for some indigenous women to overcome some barriers to contact.
- d. **Screening / Risk Assessments** – The police screening questions are deficient and do not elicit the proper information from victims. As noted in our submission to the Taskforce, studies have shown that women often don't volunteer abuse unless asked. We know from the Hannah Clarke inquest finding that none of the police actually administered the DV-PAF risk assessment questions there by asking Hannah any of the questions – it relied on their perceptions.¹⁹ In the Doreen Lanham inquest, the use of the DV-PAF risk assessment was not appropriate in all cases.²⁰ This is a source of real concern regarding safety and imminence of harm or lethality. Despite Queensland Police Service conducting numerous reviews to date of the Risk Assessment screening tools, no recent changes have been made. The Taskforce recommendations²¹ about whole of government risk assessment, and reference to possible tiered approaches, should not be left to a review by the Police alone.
- e. **Police training** – In Doreen Langham's inquest, the Vulnerable Persons Unit response was inadequate arising from an overwhelming lack of specialist training for those police officers, despite the Queensland Police Service considering that specialist domestic and family violence officers such as those who work in the Vulnerable Persons Unit who are given responsibility for training and mentoring frontline officers.²²
- f. In Hannah Clarke's inquest the training of the Vulnerable Persons Unit officers was *ad hoc* and often did not cover more than that offered to all officers despite the expectation of their specialist work the Queensland Police Service was doing. In Hannah's case, some of the officers at the Vulnerable Persons Unit had no Vulnerable Persons Unit training at all.²³ One off training (like there was for the strangulation legislative changes, or the command training initiative) is important, however, must be repeated, and regular.

Noting the high proportion of police responses to domestic and family violence was reported to the Women's Safety and Justice taskforce as part of the *Hear her voice report* submission process, as 40% volume of all work for police²⁴ and in some stations up to 60% of all work²⁵ there seems to be little difficulty in expecting that all levels of police should undergo training on more than an *ad hoc* basis, and it should be annual training. As Professor Douglas observed in Hannah Clarke's inquest, training loses effectiveness after 8 months.²⁶

In Hannah Clarke's inquest, Deputy Coroner Bentley recommended as a matter of

¹⁸ Doreen Langham inquest, Recommendations 2, page 139

¹⁹ Referring to the evidence of Professor Heather Douglas at the Hannah Clarke Inquest, [456]

²⁰ Doreen Langham inquest, [224], [412], [489], [539]

²¹ Volume 3, pages 568-573 connected with Recommendation 35

²² Doreen Langham inquest, [742]

²³ Hannah Clarke Inquest, [500]

²⁴ Volume 3, page 553

²⁵ Hannah Clarke inquest, [506]

²⁶ Hannah Clarke inquest, [443]

urgency 5 day face to face training for all specialist domestic and family violence Police and annual mandatory training for all police as part of the annual operations skills training.²⁷

The training to date by the Queensland Police Service, as referred to in both of these inquests, and that which is intended to be rolled out, as we understand it, does not require proficiency or competency of the police officers, which was noted in the Taskforce *Hear her voice report* and informed part of the recommendations in the Taskforce report.²⁸ Given the high volume of domestic and family violence incidents that police are expected to respond to and manage appropriately, this in our view is essential.

19. Despite the various efforts by the Queensland Police Service, the core issues of lack of ongoing and lack of appropriate trauma based / experience based training for officers remains an ongoing issue, and many of these initiatives outlined above to date failed to address the real (and complex) issues surrounding domestic and family violence responses. Thus, based on our experience, it appears that the Queensland Police Service currently lacks the capacity, capability and structure (and resources) to respond effectively to domestic and family violence at present without drastic change to funding, information sharing and proper training.
20. WLSQ makes the recommendations below to address the above concerns, which involve persons **outside of Queensland Police Service, working with Queensland Police Service**, which we consider essential to creating real cultural change in police responses. WLSQ notes that there is specialist training, resourcing and arrangements for Detectives who work in the Child Protection Unit, and with sexual assault victims and argue that Police should receive similar domestic and family violence specialist training, which is trauma informed, evidence based, and **provided by trainers independent to the Queensland Police Service, annually**.

TERMS OF REFERENCE FOUR: Complaints handling²⁹

21. In our experience, if there is any issue with a complaint about conduct of Police, it is often around the failure to act, charge or breach a perpetrator.
22. The current conduct and complaints handling processes against police officers is in our experience inadequate. There is a failure to appreciate the seriousness of an allegation of domestic and family violence if the respondent is a Police Officer, and how overwhelming the fear of the Queensland Police Service is in the face of a victim survivor seeking protection from a preparator who is an officer. The practice of complaints to the Crime and Corruption Commission being referred back to the Queensland Police Service Ethical Standards and then back to the Officer in Charge of a station in most cases has been unsuccessful in holding perpetrators who are also officers to account.

²⁷ Hannah Clarke inquest, Recommendations 1 and 2, page 162

²⁸ Volume 3, pages 478-479, 484, 558, 561, 566, 599-601, and Recommendations 34 and 38

²⁹ Examine the adequacy of the current conduct and complaints handling processes against officers to ensure community confidence in the QPS

TERMS OF REFERENCE FIVE: Other³⁰

Recommendation 1:

Queensland Police Service approach the issues it faces from a gendered analysis of domestic and family violence which would inform the Service of practice, procedure and training. That training in relation to an understanding of structural gender inequality and trauma informed practice be compulsory and competency assessed by independent trainers.

23. While men can be victims of domestic and family violence, overwhelmingly, the statistics show that domestic and family violence is gendered violence against women by men, and that not only are women more likely than men to experience harm associated with domestic and family violence, but also homelessness, injury and death.³¹
24. A gendered analysis of domestic and family violence would significantly reduce the amount of misidentification of the person most in need of protection, currently occurring by the Queensland Police Service, and improve how better to protect victims. A gendered analysis of domestic and family violence, which is a consequence of the structural inequalities between men and women would result in Police not approaching incidents of domestic and family violence as if the parties are on equal footing, and interchangeable as aggrieved and respondent. The Queensland Police Service should recognise that it is much more likely that a male is the primary aggressor, and a female is more likely to be the primary victim. Noted is that “[w]hen only intimate partner-related domestic [and family] violence is analysed, the reality that domestic [and family] violence is a gendered crime becomes clear, 84% of victims are female and 16% are male.”³²
25. As argued by Dragiewicz and Lindgren, “[i]t is critical to view domestic [and family] violence within the context of sex discrimination in order to reframe the issue as one of social and political concern rather than as simply a private matter of interpersonal relationships. ... Considering domestic [and family] violence in the broader context of gender inequality, it becomes clear that men and women are not similarly situated. Rather, domestic [and family] violence is a systemic political and social problem within which women are uniquely situated when compared to men.”³³
26. As *Our Watch* have said, a national leader in the primary prevention of violence against women and their children in Australia identified in 2021 “[v]iolence against women in Australia is overwhelmingly perpetrated by men. Men are more likely to perpetrate violence that results in serious injury or death and men commit homicides at a much higher rate than women. Research shows strong links between socially dominant forms and patterns of masculinity, sexist attitudes and behaviours, and men’s perpetration of violence against

³⁰ Any other matter the Commission considers relevant for consideration to deliver its Report.

³¹ <https://www.abs.gov.au/statistics/people/crime-and-justice/personal-safety-australia/latest-release> website accessed 8 July 2022; <https://www.abs.gov.au/statistics/people/crime-and-justice/focus-crime-and-justice-statistics/partner-violence-january-2020> website accessed 8 July 2022; <https://www.abs.gov.au/statistics/people/crime-and-justice/focus-crime-and-justice-statistics/latest-release> website accessed 8 July 2022

³² Commission of Police. *Domestic and Family Violence Policy – Performance and program support command*. NSW Police Force. February 2018.

³³ Dragiewicz, M and Lindgren, Y. The Gendered Nature of Domestic Violence: Statistical Data for Lawyers Considering Equal Protection Analysis. *Journal of Gender, Social Policy & The Law*. [Vol. 17:2, 2009], pp 233-234.

women.”³⁴ .

27. Furthermore, in the recent report of the Women’s Safety and Justice Taskforce, *Community Attitudes to Sexual Consent*, the views and attitudes concerning rape and consent in relationships, and women delaying in making a complaint (for example, waiting until the parties are separated to make a complaint when safe) causes perceptions of doubt and suspicions on the truth of complaint.³⁵ It reinforces the need to educate Police of these issues specifically, in the domestic and family violence setting as well.

Recommendation 2:

Queensland Police Service need to develop a policy of assisting victim survivors to apply for and obtain domestic and family violence orders as the default practice position.

28. Queensland Police Service frequently refer women to take out “their own” Protection Order, whenever the Queensland Police Services are not physically present at the incident or soon after (noting too the impact of perceptions of family law proceedings as well as separation on this referral). This results in vulnerable and frightened victim survivors being told to essentially “sort it out yourself” or get a private lawyer. Routinely, Queensland Police Services Police Protection Notice’s and Protection Order applications do not have adequate conditions. WLSQ is advised by our clients that Police regularly do not respond, or do not respond in a timely manner, to circumstances where the woman attempts to report a breach of an existing Protection Order.
29. Our clients reportedly experience Queensland Police Service practice as being disregarded, disbelieved and dismissed especially if there are no signs of physical violence, and/or there are family orders in place, or they are not the ideal victim and might have mental health issues, drug and alcohol issues or they are attempting to report a breach. Our clients report that even when they tell the investigating officers that they were strangled or choked, and acted out of self-defence, struck or bit the other party, officers regularly note on the Police Protection Notice, or Protection Order application – no signs of injury, no signs of choking – scratch / bite marks on him – and will seek a Protection Order against her. This practice is routine where the person who was acting in self-defence is First Nations, from a CALD background, is intoxicated, displays mental health issues, or is just too upset to talk to the Police.
30. These are current and live issues. One WLSQ duty lawyer said:

“[A] client showed me a message dated [April 2022] to [police] which read “your all dead when I find your address fuck you all I will shoot you all”. [The] client advised [police] of [an] extensive history of [domestic and family violence] including previous threats to kill her and the children. [Police] advised the client that she could file an application for a protection order. [The] client has schizophrenia, bipolar, Post Traumatic Stress Disorder, depression and anxiety and has moved to an unknown location (so [the perpetrator] can’t find her) – a caravan park. [The perpetrator] has [a] history of incarceration for drug offences (and maybe other things) and his most recent charge is apparently related to assault on Police. He is on parole.”

31. Yet another WLSQ lawyer said from June this year:

³⁴ Our Watch. (2021). *Change the story: A shared framework for the primary prevention of violence against women in Australia – Summary* (2nd ed.). Melbourne, Australia: Our Watch.

³⁵ https://www.womenstaskforce.qld.gov.au/_data/assets/pdf_file/0007/723859/sexual-consent-report-2022-enhance-research.pdf website accessed 6 July 2022, section “Other insights Surrounding Rape Myths”, pages 43 to 48

"I had a client today at Holland Park Court... After a serious [domestic and family violence] incident on Friday ... where [the perpetrator] punched her in the back of [the] head in front of the children and then kicked her she went to Police on [the following] Monday She did not return to the house with the 3 children aged 8, 5 and 3 from Mondayand had advised the Police she would return after they had served him and ousted him from the house. She was told they would do this on the same day ... They didn't and did not notify her. They didn't serve him until the next Tuesday..., and then apologised to her. Court was on Wednesday, so she advised him on Wednesday morning about the situation and he went to the station himself to get served. So the client and her children were not able to return to the house till Wednesday."

32. One of our WLSQ Duty Lawyers provided the following summary of common occurrences she has seen, ongoing and recently:

"Police [say] things that really amount to (bad) legal advice, and client's taking what Police say as legal advice because they are Police. Common ones: "you don't need to come to Court" – [while] no you don't need to but they don't talk about the consequences if they don't i.e. Police get what they want, or decide things without you. Or "You can just ask for that at Court" without directing [the woman] to file an [application] to vary or get advice about how [to get an order] or the likelihood of that.

Victim's [feel] interrogated by Police or generally not believed even if Police end up agreeing they are the aggrieved.

Police not pursuing breaches where they intersect with parenting issues pretty much as a rule - even when sometimes there really seems to have [been] merit [in an application]. The only time I've seen Police, in my memory, pursue a breach and '[application] to vary' over parenting issues was when the [a]ggrieved was a man.

Police leaving extra conditions out of the application even when these are warranted – I would say this mostly seems to be inexperience by the officer (often you see the officers then saying the aggrieved can just ask for that at court).

[The] inconsistency in Police approaches to conditions in general - Some just seem to ask for everything with an expectation things may get knocked back at Court, some ask for nothing and presuming extra ones will be added.

People report that certain stations are notorious for being worse than others.

[P]utting injuries to a person above all the other facts - If one person has a physical injury it's like all the other stuff they say doesn't matter. I've had this to an extreme where I think the application actually noted mostly issues with the male [a]ggrieved's behaviour, but because he was the only one injured they ended up naming our client as the [r]espondent.

People just having a bad time in general reporting breaches - If they don't have a good experience once they feel like reporting any breach is useless - even if the breaches are more serious next time. Police just need to be aware in general how off-putting a bad experience with any kind of report of a breach can be.

Specific interactions I can recall of late [are]:

- *[I had] a client last week who went to Police with a head injury. She had memory loss and processing difficulties due to the head injury and told me that while talking to Police they*

got angry at her for not being able to answer certain questions. She also got scared and tried to leave and said an officer pushed her against a wall and prevented her from leaving. She was actually fined with obstruction / refusing to give information – I just said to get criminal law advice about contesting it ASAP.

- [I had a client] last week who reported a breach to police (she believed the [perpetrator] wasn't allowed to be at her home but police hadn't sought this condition even though the [perpetrator] came to her home and damaged property as part of the allegations by police). When she called she said she thought the other party was 'in breach' but when police came out and realised it wasn't because there was no condition, or not enough to pursue it, they were condescending and angry with her for reporting the breach and told her "you need to choose your words carefully" saying she can't 'say' it's a breach if it isn't. It's not up to her."

33. Another WLSQ Lawyer who is on the domestic and family violence duty lawyer roster, provided the following information:

"I have had a few matters recently where the Police have applied for a [Police Protection Notice] with just the mandatory conditions where the allegations actually suggest that the aggrieved needs a higher level of protection. But at the time, the aggrieved has not felt safe asking for the police to seek a full order, and she has not felt safe telling the police the full extent of the past violence because both the police were male."

34. All of the above experiences and anecdotes highlight a serious cultural problem that exists in the Queensland Police Service and these accounts provided by our lawyers acting on behalf of clients of WLSQ mirror the results of the research undertaken by Heather Douglas, in her 2019 research into Policing Domestic and Family Violence.³⁶ This culture negatively affects the Queensland Police Service handling and investigation of domestic and family violence complainants, and results in further harm to the victim survivor of domestic and family violence.

Recommendation 3:

Significant reform within the Queensland Police Service to incorporate domestic and family violence specialist workers within police stations, looking at co-location, co-responder models including developing new and innovative ways of developing information, skills training and sharing between Queensland Police Service and domestic and family violence sector specialist services.

- A. Queensland Police Service should establish meaningful and permanent working models that will cross pollinate the domestic and family violence sector and Queensland Police Service, which could include co-responder or co-location models.**
- B. Queensland Police Service could adopt a model whereby there is a Domestic and Family Violence Liaison Officer, located at every Police station, and as in NSW, who works with the aggrieved as an advocate in the Queensland Police Service and within the Court process. There should also be qualified domestic and family violence trained detectives at each station**
- C. Queensland Police Service should trial at least and be funded to do so, the multidisciplinary co-located model recommended by Deputy Coroner Bentley in the both the Doreen Langham and Hannah Clarke inquests.**
- D. Queensland Police Service should adopt the recommendation of Deputy Coroner Bentley in the Doreen Langham inquest to have an embedded domestic and family violence specialist social worker on the front counter of every police station in Logan (a trial).**

³⁶ Douglas, H. Policing Domestic and Family Violence, *International Journal for Crime, Justice and Social Democracy*. University of Queensland. 2019 *(2): 31-49.

35. NSW has specialist Domestic Violence Liaison Officers (DVLOs) within police stations. NSW also has state-based domestic and family violence services where the DVLO's in each station work directly with the domestic and family violence specialists from the Women's Domestic Violence Court Advocacy Service (WDVCAS) at court. The benefits of having a DVLO is that Police gain specialist knowledge in domestic and family violence from working with victim survivors and seeking advice from domestic and family violence services. This builds on their understanding of domestic and family violence and appropriate ways to communicate with victim survivors. In this model, victim survivors have access to an internal advocate within Police and WDVCAS workers have access to ongoing communication with these officers for mutual clients. Queensland has the Vulnerable Person's Unit, however, this group is not a specialist domestic and family violence group, and no specific additional domestic and family violence training is provided. As Queensland does not have state based domestic and family violence programs in place (though trials and ad hoc areas have different approaches) any additional knowledge / understanding the Vulnerable Persons Unit has on Domestic and Family Violence will depend on the specialist domestic and family violence service in the area and their relationship with Police. This creates barriers for women as their postcode will affect the support and response they receive from Police.
36. Victim survivors should be able to make a report to Police (whatever form of violence) and have the expectation that Police will start an application for a Protection Order when they are the one in need of protection. In Queensland, if the Police do not attend the domestic and family violence incident and obtain a Police Protection Notice contemporaneously, victim survivors are told to make a private application – this ignores practical barriers to accessing justice, such as whether the woman has capacity to write and submit her own application, self-represent in Court and then apply to Legal Aid (if eligible) if the matter goes to trial. Looking after young children is often too much of a barrier to overcome to apply for a domestic and family violence protections order herself.
37. In NSW when victim survivors make a report of domestic and family violence, and domestic and family violence order or criminal charges proceed, the officer who took her statement is then her main point of contact for an update with court proceedings. In Queensland victims / survivors are not allocated a specific officer and have reported multiple difficulties in receiving ongoing communication or updates regarding their court matters (upcoming dates, outcomes etc). This is further exacerbated by there not being a DVLO in each station.
38. Queensland has varying levels of an integrated service response across the state; the level of integration varies from catchment to catchment and is generally only accessible to the largest domestic and family violence service in that catchment. Ideally Queensland could have a specialised state-based service that has a Memorandum of Understanding with Police and the courts, and an office based that covers each catchment. This would be similar to the model used in NSW (WDVCAS) ensuring that postcodes do not determine what service one can access and that police responses have an understanding of domestic and family violence. If Queensland adopted such an integrated service model Police would be supported by the domestic and family violence service provider and victim survivors would have a more streamlined response to disclosures of domestic and family violence by knowing what service to access across Queensland whether they are engaging with Police, service providers or the court. As noted, Deputy Coroner Bentley recommended in both inquests a co-located multidisciplinary approach³⁷ and for one, an embedded front line specialist worker at Police

³⁷ Already cited, footnote 17

stations.³⁸

Recommendation 4:

Queensland Police Service develop training with domestic and family violence sector industry experts and specialist services, and:

- A. That training include material based upon the lived experience of victim survivors of domestic and family violence. The training be compulsory, and provided at least annually. The training should include Police officer’s reviewing body-worn camera footage to develop and learn best practices, and be competency assessed.**
- B. That Queensland Police Service review its recruitment policy and procedures with a view to increasing diversity, gender equity and supporting applications from people who do not hold views that go against the ethos of the Queensland Police Service framework, policy and guidelines of their domestic and family violence prevention strategy. And, that Queensland Police Service recruitment incorporate pre-employment psychological and assessment testing in relation to competency on cultural, gender and domestic and family violence issues and values.**

39. This training should include the following:
- a. Gender and trauma informed police practices
 - b. Survivor victim experiences
 - c. Be presented in person, with face to face practical components
 - d. Be mandatory, and regular, delivered annually as part of the annual mandatory face to face with proficiency training for all police at all levels
 - e. Be competency assessed
 - f. Include the use of viewing and learning from body worn camera footage
 - g. Be provided by domestic and family violence, and specialist services, independent to the Queensland Police Service
40. Recruitment needs to include ways of identifying and attracting officers who do not have racist, sexist, homophobic and ableist attitudes. As highlighted by Heather Douglas, in the research “*Policing and Domestic Violence*”, which evaluated Queensland policing practices, even the audio-visual material used to recruit Queensland police focusses upon fast paced, action and arrest type work – with loud music, flashy graphics, and high adrenaline activities.³⁹

Recommendation 6:

Victims’ rights in Queensland, as articulated within the Charter of Victims Right, should be incorporated into the Human Rights Act, 2019.

41. WLSQ recommends that the existing *Charter of Victims Rights* in Queensland⁴⁰ be strengthened and that victims of domestic and family violence be supported to file and make complaints about Police conduct and handling of domestic and family violence reports. Victims rights in Queensland should be made into legally enforceable rights as part of the

³⁸ Already cited, footnote 18

³⁹

https://www.google.com/url?sa=t&rct=i&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKewjTpOKgouj4AhWS7XMBHdwCBekQFnoECagQAQ&url=https%3A%2F%2Fwww.crimejusticejournal.com%2Farticle%2Fview%2F1122&usg=AOvVaw3_YFMt76w0u7uSuPVXvd2g website accessed 8 July 2022

⁴⁰ https://www.publications.qld.gov.au/dataset/100ea98b-1ddf-4b0b-b573-8d68f843a0d1/resource/29ef1d73-827a-44bf-aac1-f180aa1ff3a6/download/vaq_charter_of_victims_rights_complaint_form.pdf website accessed 7 July 2022

Human Rights Act 2019 (Qld) – and the *Charter of Victims Rights* in Queensland needs to be better promoted, accessible and known within Queensland community.

42. This recommendation is well aligned with Recommendations 18, 19 and 20 of the Taskforce in *Hear her voice* report 2.⁴¹ WLSQ strongly supports the establishment of a victim’s commissioner and a deputy commission role with a specific focus on domestic, family and sexual violence.
43. Victims’ rights being enforceable would result in the Queensland Police Service being accountable to victims of crime and would also result in the immediate improvement of Police handling of domestic and family violence matter, treatment of victims, and fewer complaints. As reported in a research study into victims’ satisfaction and participation in the justice system, in the USA:

*“Where legal protection is strong, victims are more likely to be aware of their rights, to participate in the criminal justice system, to view criminal justice system officials favourably, and to express more overall satisfaction with the system. Moreover, the levels of overall satisfaction in strong protection States are higher. Strong legal protection produces greater victim involvement and better experiences with the justice system. A more favourable perception of the agents of the system—police, prosecutors, victim / witness, staff, and judges—is another benefit. Because strong legal protection at the State level is associated with victim awareness, participation, and satisfaction, some have advocated a Federal constitutional amendment to protect victims’ rights.”*⁴²

44. Importantly, this study showed that legal protection for crime victims’ rights has a corresponding impact on how victims are treated by the criminal justice system and on their perceptions of the system. Victims reported a more favourable experience of the justice system where the legal protections for victims were stronger, and those states also had better results in:
 - a. Keeping victims informed
 - b. Providing them with opportunities for input
 - c. Advocating for victims in relation to restitution
 - d. Providing training about victims rights and the legal obligations of the relevant officers
 - e. Taking steps to seek and ensure adequate funding for victims services and their rights
 - f. Providing a means for holding justice officials accountable to enforce their rights if those rights have been denied

REVIEWED AND SETTLED BY: Kylie Hillard, Barrister at Law, Counsel for WLSQ at the Commission of Inquiry

Nadia Bromley, CEO of WLSQ

Julie Sarkozi, Practice Director, Law Reform & Education of WLSQ

⁴¹ https://www.womenstaskforce.qld.gov.au/data/assets/pdf_file/0008/723842/Hear-her-voice-Report-2-Volume-1.pdf website accessed 7 July 2022

⁴² Kilpatrick, D, G, Beatty D and Smith Howley, S. “The Rights of Crime Victims – Does Legal Protection Make a Difference?” *Statutory and Constitutional Protection of Victims’ Rights: Implementation and Impact on Crime Victims*, National Institute of Justice. Washington, D.C. December 1998, page 10.