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

*Commissions of Inquiry Act 1950*
*Section 5(1)(d)*

**STATEMENT OF HAYLEY GRAINGER**

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| **Name of Witness:** | **Hayley Grainger** |
| **Date of birth:** | [redacted] |
| **Current address:** | [redacted] |
| **Occupation:** | **Acting Director & Principal Lawyer, North Queensland Women's Legal Service** |
| **Contact details (phone/email):** | [redacted] |
| **Statement taken by:** | **Anna Cappellano** |

I, **Hayley Grainger**, make oath and state as follows:

1. I am the Acting Director & Principal Lawyer at the North Queensland Women's Legal Service (NQWLS). I have been in this role since 2014 and I have worked as a solicitor at the Service since 2008.

2. NQWLS is a community legal centre with offices in both Cairns and Townsville. We assist women in North and Far North Queensland from Mackay to the Cape and out to the Northern Territory Border.

3. On 24 June 2022, I forwarded a submission to the Commission of Inquiry on behalf of NQWLS. The majority of the evidence that I wish to give to the Commission of Inquiry is outlined in this submission.

   **A copy of the submission to the Commission of Inquiry from NQWLS is attached as Annexure A.**

4. In additional to the matters outlined in this submission I wish to outline my experiences in relation to two further matters, which are the role of the High Risk Team in Cairns and the role of the Specialist Domestic and Family Violence Court in Townsville.

**High Risk Team**

5. NQWLS is not a core agency of Cairns High Risk Team but we regularly refer our clients to it and as a result a lot of our clients end up with the High Risk Team. The feedback that I have received from clients is that the High Risk Team provides very good wrap around support for victims and it allows the core agencies to action things more quickly than they would if they were not operating in a collaborative way.

6. One gap that I do see with the High Risk Team is that there does not seem to be a capacity to engage with perpetrators to address their behaviour unless the perpetrators are already in jail or engaged with probation and parole.

**Specialist Domestic and Family Violence Court**

7. Given that the lawyers from NQWLS represent clients in both Cairns and Townsville, our organisation is able to see the differences between the jurisdictions in which a Specialist Domestic and Family Violence Court does and does not operate.

8. While the Specialist Court doesn't solve all the issues with the system, the experiences of the NQWLS lawyers and the feedback from clients is that the Specialist Court does make a big difference. The differences include:

   (a) Physical upgrades to the Courts have created a safer and less traumatic experience for the aggrieved.

   (b) There are more sitting days for domestic and family violence matters so that lawyers are able to spend more time with each client, which results in clients feeling better supported and informed about the processes.

   (c) There is more resourcing in the Specialist Court which leads to higher levels of representation of parties in legal matters, both for aggrieved and perpetrators.

   (d) The higher levels of resourcing in the Specialist Court also means that there is better resourcing of police prosecutors. Having more prosecutors in Townsville means that we are able to negotiate and resolve matters with much more frequency and our clients don't have to continually return to Court.

   (e) Community Justice Groups attend the specialist courts and provide support to First Nations people (both aggrieved and respondents).

(f) There are more perpetrator programs on offer and greater engagement with the perpetrator programs.

(g) Magistrates who sit in the Specialist Court are often (but not always) more informed about domestic and family violence matters.

9. NQWLS welcomes the announcement that a Specialist Court will be established in the Cairns jurisdiction.

*OATHS ACT* 1867 (DECLARATION)

I Hayley Grainger do solemnly and sincerely declare that:

(1) This written statement by me is true to the best of my knowledge and belief: and

(2) I make this statement knowing that if it were admitted as evidence, I may be liable to prosecution for stating in it anything I know to be false.

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the *Oaths Act 1867*.

[redacted] Signature

Taken and declared before me at CAIRNS this 15th day of JULY 2022.

Taken By RACHAEL C. OZANNE-PIKE

~~Justice of the Peace~~ / ~~Commissioner for Declarations~~ / Lawyer

[redacted]

Witness si

Justice of the Peace/Commissioner for Declarations/Lawyer

'Annexure A'

# Submissions to the Independent Commission of Inquiry into Queensland Police Service responses to domestic and family violence

by

The North Queensland Women's Legal Service

We thank the Commission for the opportunity to share our feedback on the questions posed in the terms of reference. We look forward to learning the findings and recommendations once the Commission completes this important review.

**Who we are:**

We are the North Queensland Women's Legal Service - a community legal centre with offices in both Cairns and Townsville. We assist women in North Queensland from Mackay to the Cape and out to the NT border. We are a specialist domestic violence service and provide advice in the areas of family law, child protection and domestic violence. Additionally, we are members of the Women's Legal Service Australia and are involved in law reform work. Our work in the community includes delivering community legal education programs and supervising legal students as volunteers and placement students. Last year also saw us launch a migration legal service to help women on visas experiencing domestic violence and commence providing non-legal services to enable us to offer a wholistic service to our most vulnerable clients.

We provide face to face and telephone services and duty lawyer services in the Domestic Violence Courts and Federal Circuit and Family Courts. In the 2020/21 year we assisted around 2500 women and girls with almost 15,000 services. One in five of our clients identify as being Aboriginal or Torres Strait Islander and almost all identify as experiencing or having experienced domestic and family violence.

Whilst we do not practice in the criminal jurisdiction, we have significant experience in the civil domestic violence courts and have daily contact with women who have had varied experiences with the Queensland Police Service.

**Our feedback:**

Our submissions focus on the experiences of our clients, garnered largely through our assistance with their legal and non-legal issues and from their stories and comments about their lived experiences of interactions with the Queensland Police Service. We receive very good feedback a lot of the time and we acknowledge and appreciate the difficult job the police are faced with in responding to such high volumes of domestic violence in our communities. However, we also hear many stories that illustrate that the police can and should be doing better in their interactions with victims, and in their actions to protect victims. We have included a selection of recent client stories to illustrate the cultural and procedural issues we perceive as problematic. Please note that we have used pseudonyms to protect the privacy of the women who bravely told us about their domestic violence journeys and their experiences of interactions with police.

**Whether there are any cultural issues within the Queensland Police Service that negatively affect police investigations of DFV. If there are any cultural issues, whether they have contributed to the overrepresentation of First Nations people in the criminal justice system**

Over the years our service has operated in North Queensland, we have received significant feedback that indicates there are significant cultural issues in the Queensland Police Service. These cultural issues appear widespread in the North and are underpinned by attitudes and assumptions that manifest themselves in poor outcomes for many vulnerable Queensland women. They can be summarised as issues to do with race; victim-blaming attitudes; disbelief of victims or minimalization of harm attitudes; a general insensitivity and lack of understanding of domestic violence; and a lack of understanding of the emotional and societal consequences that flow from domestic violence (especially non-physical coercive and controlling behaviours.) At worst, these cultural issues result in misidentification of women as perpetrators, and not as in need of protection, and lead to injustices and safety concerns. Misidentification is a significant problem that impacts families, especially children, and communities far into the future. We wish to stress again that negative feedback is not the only feedback we receive from our clients, and many tell us of the wonderful job the QPS has done in listening, understanding, and acting to keep them and their children safe in their time of need.

Race

Roughly 20 per cent of all women our service assists identify as Aboriginal, Torres Strait Islander, or as being from both groups. This means we have helped thousands of First Nations women over the years, nearly all experiencing domestic violence. Unfortunately, we hear many First Nations women who feel they have been dealt with differently by police because of their ethnicity. This can result in victims from these racial groups not being believed, the harm to them being minimalised, or them being identified as perpetrators.

We can see familiar patterns emerge from our clients' stories and our own observations in our duty lawyer role at the domestic violence courts if First Nations women do not present as the perfect victim. When police attend at incidents, these women can be in a heightened state due to the violence just perpetrated against them, which is usually compounded by long histories of domestic violence. In this state, these women can remonstrate loudly with officers (be 'mouthy') when expressing their frustration. They can also be argumentative in their interactions with officers if they have a distrust of police built up from previous encounters. Nearly always, these women are long term sufferers of domestic violence and have fought back or have come to the end of their tether and lashed out in frustration, using a level of violence against their attacker. Sometimes they are intoxicated and sometimes they use vulgar language.

Routinely, these women are not listened to and are treated insensitively by officers. They are treated like the problem and not as the vulnerable people they are. So many times, instead of trying to understand the situation and acting to de-escalate and protect these women, police wrongly assume that their use of violence should be categorised as domestic violence. This leads to police protection notices being issued, protection orders being sought, or First Nations women being arrested and charged with contravening orders or other domestic violence offences.

As it is with so many women, First Nations women often do not have the time, resources, reading and writing proficiency, confidence, or emotional energy to contest the making of an order and take a matter all the way to a hearing. We hear that the court process is simply too much to cope with, that there is no point - of course the police will win, that the need to find housing or to care for children is more pressing, or that mental health concerns make it impossible. The fallout is that

protection orders are made in circumstances where victims are treated as perpetrators, and further police involvement results in charges that then criminalises these women for trying to survive subsequent incidents of domestic violence.

One story that highlights these issues is from a First Nations woman whom we helped at domestic violence court, after the police had filed to vary a protection order against her to add the names of her children. Mariah had five children with her ex-partner and had suffered years of physical and emotional abuse mostly when her ex-partner was intoxicated (which was often). Over the years, there had been multiple protection orders to protect Mariah from her partner. One night toward the end of the relationship, Mariah's ex-partner assaulted her whilst they were staying in a hotel for an event. Mariah called the police and when they arrived, Mariah's partner calmly told them she had attacked her. Mariah was heightened and upset and was forthright with the police. The officers decided to seek a protection order against Mariah. Mariah could not attend court when the application was mentioned because of her caring commitments with her children, and the order was made.

One morning after the parties had finally separated, Mariah and her mother called the police when her ex-partner turned up intoxicated as Mariah was trying to get some of the children into the car for school. After verbally abusing her, the ex-partner proceeded to chase Mariah around the car with a large stick, swinging it at her. Mariah's mother called police for help. By the time the officers arrived, the perpetrator had desisted in his abuse, however because Mariah was yelling at him and had lashed out and scratched his face when he had cornered her, she was arrested on the spot. Mariah was detained in the watchhouse overnight and charged with a criminal offence. Thankfully, her mother could care for the children whilst Mariah was incarcerated because Mariah was the sole carer of the children. The perpetrator-father played no role in raising the children, that was all Mariah's responsibility. Mariah told us of the sense of injustice she felt 'copping years of floggings' from her partner and herself being treated as a criminal. The actions by the police made Mariah's role as carer for her children even more arduous, as she had court dates to attend. Mariah said she would never call the police again.

Another story was that of Lynette, who snapped one day after years of abuse brought about by her ex-partner's alcohol misuse and jealousy. Lynette ended up as respondent to a protection order application and charged with assault. Lynette was dumbfounded to be in that position after what she had endured over the years. Lynette was also the primary carer of the parties' children, one of whom was special needs, and the bread winner. Lynette was very concerned when we met her at domestic violence court because she needed her yellow card for her work and a final protection order and conviction would have dire consequences on her employment. She had worked so hard to be in the position she was and had the responsibility of all the children.

Mariah and Lynette's stories are very common unfortunately, and such stories are certainly not limited to First Nations women. We suggest however, that police do interact with First Nations women in a different way due to the ways these women present at domestic violence incidents. It may be that it is confronting and uncomfortable to deal with women who are loud, argumentative, use vulgar language, who are accusatory and who may have used violence against the other person. The treatment of our clients suggests a real lack of understanding and empathy by the police in such situations. These women have usually grown up with domestic violence around them and often have experienced it themselves for extended periods of time. Usually, they have the responsibility for children with little or no input from the other parent and they have other pressures such as covering living expenses for the family, finding or maintaining secure accommodation, dealing with mental health or substance abuse issues (usually exacerbated by trauma) AND dealing with ongoing domestic violence from current or former partners or family members.

Other First Nations clients believe that simply being Aboriginal or Torres Strait Islander contributes to the way they are treated by police. One client gave the example that her partner and her were driving down the street and saw multiple police officers surrounding a young First Nations' boy on an e-scooter not wearing a helmet. The woman and her partner pulled over to ask why the police were not helping the boy by offering to take him home. For their troubles, our client's partner was charged with contravening the protection order in place against him for being in contact with our client. Our client commented that this was normal behaviour and that 'Aboriginal people are always getting charged.'

## Victim blaming

Victim blaming attitudes doggedly persist in the QPS. Gone are days (thankfully) when women were told to 'just let him sleep it off' or asked, 'what did you do this time?' (Both stories from mature clients about the days of old.) Today, the most common victim blaming attitude manifests in explicit or implicit blame of a woman for staying in or returning to a violent relationship. We accept this is a broader community issue with the question 'why doesn't she just leave?' still the first on many people's lips. We have not yet progressed to a society that routinely asks, 'why does he use violence?' and we believe the police can be an important part of the change to placing blame where it firmly should be laid – at the feet of perpetrators.

To effect this change, the culture of victim blaming in the QPS must be called out. We know women stay in violent relationships for many complex reasons, not the least being that leaving can be the most dangerous thing to do. Separation generates conflict around care arrangements for children, re-partnering/dating behaviours and finances. Intimate partner homicide research shows that a woman is most at risk of being murdered when she expresses an intention to leave and in the ensuing months after she does leave. There are myriad other practical and emotional reasons for staying in or resuming toxic relationships. The common thread among all victims is that no one wants to live with abuse, and everyone wants the violence to stop. This is a fundamental understanding that everyone dealing with victims-survivors must have. We accept it can be frustrating when decisions are made by victims that are prima facie irrational and unsafe, however we are not walking in her shoes and dealing with the vicissitudes of her life.

Unfortunately, the stories we hear indicate that many police officers simply do not understand the dynamics of domestic violence and the reasons women stay or return to unsafe relationships. Many of our clients have been made to feel like it is their fault and they are wasting police time if police are called to the same address multiple times. There is a culture of judgement and blame. There are raised eyebrows and comments such as 'we can't keep coming out here' and 'this is the 20th callout here'. There can be a lack of willingness to listen and understand the dynamics of the situations officers are presented with. Often women experience dismissiveness and cynicism when what they need is understanding and support. This attitude can lead to not taking appropriate action to protect victims, police taking action to 'balance up' the situation because they have not taken the time to understand the situation or misidentifying vulnerable women as perpetrators. This is especially so when women are not perfect victims - who may be heightened and upset and who may have used violence when responding to violence perpetrated upon them.

We recently assisted Sue who had been served as a respondent to an application for a protection order filed by the police. The same applicant officer had also filed an application against Sue's ex-partner. Alarmingly, the officer had cut and paste the same description on an incident from one application to another and swapped the names 'aggrieved' and 'respondent' and changed a few words around. Essentially, the police had been called multiple times by Sue because Sue's ex-partner kept texting her excessively (and aggressively) and coming to her home uninvited to attempt to take their child at times that the child was to be in Sue's care. The applicant officer

decided to seek orders against both parties to prohibit them from attending at each other's homes and from contacting each other unless about spending time with the child. There was no suggestion that Sue had engaged in any behaviour that warranted an order against her as she did not attend at her ex-partner's home and did not harass him with excessive or threatening contact. Sue believes the application against her was simply a response by police to her having to contact them so many times for help and that it was just easier for police if they both had an order against them.

Another client, Kath attended in person at a police station to report a campaign of harassment and threats by her ex-partner. This included him threatening to blow her house up. Kath gave police copies of the multiple texts and videos from her ex-partner, only to be told that 'it could be turned back on her for domestic violence against him' because of the tone of her responses. All Kath's messages were in response to the ex-partner's harassment and threats, and all were telling him to leave her alone. The police would not help her because she had not been nice in many of her messages.

**Disbelief of victims, minimisation of harm & misidentification**

Similar to the culture of victim blaming, the feedback we hear tells us that that there is also a culture of disbelieving victims, minimising the harm perpetrated on them and misidentifying them as perpetrators. There are a great many incidents where the police talk to the (real) perpetrator first, form a view and either do not talk to the victim or do not believe the victim when they do speak with her. This is of particular concern with women who have communication issues, such CALD women who may have no or little command of English, hearing impaired women, or women with intellectual impairments.

One woman told us of ongoing domestic violence perpetrated by her husband against her when they first migrated from China, with physical abuse occurring in front of her small child and her visiting parents. After neighbours called the police, officers arrived and spoke only to her husband who was the only one in the household who spoke English. He told police his wife was the problem, and after multiple callouts the police proceeded with an application for a protection order against her. She told of us of the hopelessness she and her parents felt at the situation. Much later, our client inspected QPS records subpoenaed into parenting proceedings and was horrified to read the damning records made by the police based solely on her husband's account of the incidents. These records formed part of the evidence in the parties' family law proceedings, where the husband was attempting to paint the wife as a perpetrator of family violence.

Many women report not being heard or being disbelieved, despite long histories of police and judicial intervention against the other party relating to domestic violence. Leanne, one of our First Nations clients told us that she ended up being a respondent to a domestic violence order when the other party called the police and said Leanne had turned up at his home uninvited and smashed his TV. This perpetrator had an extensive history of physical domestic violence on our client, including strangulation, however the police simply listened to him and would not listen to Leanne's story that her ex-partner had called her to come over and during an argument had pushed her onto the TV causing her injuries.

Another First Nations woman, Mavis, became the respondent to a protection order application on the strength of her ex-partner calling the police and saying she had held him against his will. In reality, her ex-partner had been extremely intoxicated and bogged her car on the beach at a children's picnic party. After Mavis had sought help to have the car towed out of the sand, Mavis found her ex-partner hiding in bushes and generously gave him a lift home. The police never asked for her version of events and simply took out an application against Mavis.

In another shocking incident, the Vulnerable Persons Unit in a regional city filed a protection order application against Tracey seeking to protect her estranged husband. The parties had been together in a tumultuous relationship for many years. During that time, five protection orders had been made against Tracey's ex-partner, four of which were police applications. There had never been a single application made against Tracey. Her ex-partner had been charged with multiple breaches and had served jail time for contravention. Despite all this, the VPU filed the application against Tracey seeking extensive conditions and to name Tracey's children. The application lacked particularity and was a jumble of 'recollections' by the ex-partner over a decade.

Tracey was served with this application the day after her ex-partner absconded with the parties' children, stripping their house of all belongings (including Tracey's toothbrush) and leaving the remaining car with no fuel in it so Tracey could not pursue the children. Tracey had to undertake urgent court action to seek the return of the children.

The police initially refused to take a statement from Tracey and took a very strong stance on this matter despite there being no evidence of any domestic violence committed by Tracey against her ex-partner. It took police three months and our service to help Tracey with submissions before the police acknowledged their mistake and agreed to withdraw the application and investigate Tracey's ex-partner for breaches of his order.

One young client, Phoebe, said she will never call the police again. Phoebe and her ex-boyfriend were both 17 years old at the time when Phoebe was strangled. Phoebe used violence to survive this horrendous attack, scratching at her boyfriend's arms to try and break free. When he tightened his grip, she kneed him in the groin. Police were called and made no attempt to understand the situation. They disbelieved Phoebe's version of events and made an application for a protection order against Phoebe to protect her ex-boyfriend, based solely on his story and injuries. Phoebe reported the police taking a long time to arrive and being very dismissive of her. Overall, she described her treatment at the hands of the police as 'pretty fucked up, pretty messed up.'

Jayla also told us of her experience with police after she called them for help when her partner assaulted her. The attending officer from a remote station spent time engaged in small talk with Jayla's partner, discussing the motorbike in the back yard. When he did speak with Jayla, she felt he was short with her and did not believe her. In stead of taking action to protect Jayla, the officer mediated an arrangement between the pair that Jayla would not press charges in exchange for the other party leaving the home the next day. As soon as the officer left, Jayla's partner stood over her and yelled in face furiously that there was no way he was leaving and she should try and make him. Jayla was terrified and went to retrieve her keys only to find that her partner had them and refused to give them to her, saying 'fuck you bitch.'

Jayla called the police and the same officer arrived, who was met by Jayla's partner at the front door. Jayla's partner apologised for the inconvenience and said that Jayla had just lost her keys. Jayla went to the front door to speak to the office however he expressed his annoyance at her for calling him out again because she had lost her keys. No action was taken to protect Jayla.

After a further violent assault the next day, Jayla drove a great distance to another station to make a report as she did not trust the officer in the station closest to her. This station was closed and Jayla presented at the local hospital for her injuries and called 000 from there.

Jayla describes:

> There was a female officer and a male officer. The male officer stood and did not acknowledge me. The female spoke to me and took my statement about the assaults. They also spoke with the doctor who treated me. At one stage, the male officer went to get a drink of water and the female police officer said in a whisper to me 'if he takes his son to get onto a plane, get in and change the locks' when the male police officer returned to the room she spoke to me in a normal volume and tone again.

Jayla said she advised the officers of her ex-partner's previous convictions for domestic violence offences and a matter still before the courts in a southern jurisdiction. Despite this, the following day Jayla was called by the male officer who had attended the hospital and advised that he would not be charging her ex-partner with assault and that he had investigated the matter relating to domestic violence with Jayla's ex-partner and he found him to be the victim. Jayla has a video recording of this phone call. The officer also advised Jayla that he would be informing her ex-partner that she had privately applied for a protection order, even though Jayla was seeking an urgent TPO before service (given they were still under the one roof.)

Jayla's TPO was granted with an ouster order, however it was not served for a week. Jayla drove four hours after being told the order had been served only to find her ex-partner still in the home with the doors locked. It took police 30 minutes to arrive and then they allowed him a further hour to leave, in which time her ex-partner cut power cords, smashed photo frames and immersed her internet modem in water. Jayla had to ask the police if this was a breach before they advised her it was and that they would charge him. The police escorted Jayla's ex-partner back twice since then for him to retrieve more items from her home. On both occasions, they arrived at times which she had expressly said were inconvenience to her. On the last occasion, the officer assisted Jayla's ex-partner and his family with tying the ropes on the trailer and constantly referred to Jayla's ex-partner as 'mate.' Jayla was not spoken to unless it was necessary. Jayla has recently been charged with theft and tampering of post when she mistakenly opened one of her ex-partner's packages.

In all her dealings with police, Jayla says the officers made her feel victimised, disbelieved, guilty of something, and unsafe in her own home. She told us:

> I do not sleep for more than an hour at a time. I suffer debilitating panic attacks in my own home every time I hear a car pull up out the front of my house. I am heavily medicated for anxiety, and the medication is not working. I have felt suicidal on several occasions, having to call Lifeline and attend my local hospital. I feel backed into a corner with no way out.
>
> I will never feel safe in the presence of a Queensland Police officer. I will never call the police and expect decency. My whole experience has done nothing but demean me, humiliate me, victimise me, upset me, damage me and made me feel unsafe.

Joanne, a traumatised client we met at domestic violence court, suffered years of abuse from her partner. She described an incident where she went around to his house after they had separated and at his invitation. After an argument, her ex-partner grabbed her by the hair and dragged her into a bedroom to punch her. Her hand was injured and she had swelling to the face. After she got away Joanne picked up a rock and smashed his front window out of frustration and anger. When the police attended, they took photographs of her injuries and her statement, however proceeded to arrest her for wilful damage and take no action against the perpetrator.

Mary, a First Nations client, fled to friend's house when her ex-partner (who had moved into the house and refused to leave) started smashing coffee cups against the kitchen wall and being

abusive. Fearing an escalation, Mary let in a hurry leaving her youngest child at the house, with the other three at school. She called police (in a remote town) and a single officer drove straight past the address Mary had given and went to the family home instead. The officer spoke with the perpetrator at the home who told the officer Mary was on crack and a bad mother. The officer finally turned up to speak to Mary and was very condescending. He did not check to see that there had been a protection order against Mary's ex-partner already and seemed to judge Mary by what the perpetrator had said about her.

Mary said that she wanted her ex-partner out of the home because she needed to return and breastfeed her youngest child. Mary explained to the officer that she paid the rent and her ex-partner had moved in many months prior and simply refused to leave. The officer said it was a family matter and that there was nothing he could do. There was no discussion about protection orders, and he left without taking any action.

Mary ended up in hospital two days later with swollen hard breasts. Over the weeks, she lost connection with all her children and finally sought help with a women's centre, who helped her to file her own protection order application. An ouster was made that gave Mary's ex-partner two weeks to leave. By the time Mary went back to the property, her partner and the children were gone and there was an eviction notice on the door. Mary's ex-partner had convinced the landlord to evict Mary because she was a little behind in rent (despite the landlord previously having understood her hardship and allowing her time to make arrears up.) Mary's ex-partner is now living in the property with the parties' children. Mary is effectively homeless because of the housing crisis in North Queensland and is staying with her auntie. She cannot house her children who remain living with the perpetrator. She has had to commence family law proceedings to be able to spend time with her children.

## The capability, capacity and structure of the Queensland Police Service to respond to DFV

We believe that the Queensland Police Service can make crucial changes to respond more efficiently and appropriately to domestic violence. We outline below some areas that could facilitate real improvements.

### Dominant aggressor approach

The overwhelming number of complaints we hear from victims arise from the police using an incident-based approach to domestic violence incidents. We have outlined above how this leads to injustices and safety issues for vulnerable women and their children. Capability/systems upgrades are urgently needed to ensure that police officers responding to domestic incidents have immediate access to previous police and criminal histories of the parties involved. Ideally this will one day involve access to the national database of serious domestic and family violence perpetrators envisaged in the Taskforce's recommendations. Quicker access to other state and territory histories for all parties would also be ideal. In the meantime, access to information held by the QPS should be easy and quick for responding officers to access.

Additionally, training is required so that officers better understand the dynamics of domestic violence, why women stay in abuse relationships, why women may use violence to protect themselves, and how perpetrators can manage their image and manipulate situations. A wholistic approach that focuses on the dominant aggressor instead of a single incident will help curb the steady stream of victims misidentified as perpetrators and will address the growing numbers of First Nations women who are being incarcerated for domestic violence offences.

Another suggestion to monitor if officers are responding in the most appropriate ways is to mandate that body worn cameras are switched on continuously when officers are responding to a domestic violence incident, not just in the taking of statements.

**Better use of *Domestic and Family Violence Protection Act***

The *Domestic and Family Violence Protection Act* has been drafted with clear objectives and with the provisions and flexibility necessary to protect victims and their children who are suffering domestic violence. In many cases, this legislative tool is not being used effectively by the police to seek conditions tailored to meet the risk of individual situations and to properly protect women and their children. Often when police file applications for protection orders, they seek the minimum protection (the mandatory conditions) when the situation clearly calls for extra protections.

In particular, there is a reluctance by police to seek ouster conditions in circumstances where they are crucial to protect vulnerable victims from ongoing or escalating domestic violence in the family home. Once an application is filed by police and served on the other party, it is difficult for aggrieved parties to seek urgent ousters when the matter is in court. Section 32 of the Act requires all applications for protection orders to be in the approved form and be filed in court, not sought from the bar table. There are also issues of procedural fairness if a respondent has been served with an application only seeking mandatory conditions, especially if they do not appear at the mention. Section 57 of the Act provides the Court must consider an ouster when making or varying protection orders, however if an ouster is not initially sought in a police application, our observations are that the Court will rarely exercise its power to make an ouster. This situation leads to unsafe situations with women not being adequately protected and children being further exposed to domestic violence.

We met Deanne at domestic violence court where she was listed as the aggrieved in a police application for a protection order. Deanne's partner was facing a strangulation charge from a vicious assault on Deanne at the family home that had taken place in front of the children. Concurrent with the criminal charge, the police had sought a protection order and the matter had been mentioned a month previously when a TPO in mandatory conditions was in place. The TPO was in line with the conditions sought on the police application. Deanne had not attended court on the previous occasion, and it was the first time she had had access to legal advice through the duty lawyer service. Deanne and her three young children had fled the home at the time of the attack and had been living displaced in a woman's shelter for a month by the time Deanne's duty lawyer agitated for the Court to consider an ouster under the Court's mandatory s57 consideration. Fortunately, the respondent was present in court and the ouster was made after a contested hearing on the matter. The learned magistrate was far from impressed that the ouster was raised at such a late stage and without any of the parties having sworn evidence before the court on the ouster issue.

Deanne's story is not uncommon, and we regularly hear from clients that are told by police the other party has a right to live in the family home (even if he is the perpetrator of domestic violence), that it is family law issue and there is nothing police can do. When police do act and seek a protection order in the mandatory terms, the level of risk can increase dramatically. A violent perpetrator who has been served with a PPN or domestic violence order application or a protection order – and who remains in the home – can be triggered to escalate violence to dangerous levels. On many occasions, we have had to advise women to remove themselves from such situations and stay with a friend or family to keep themselves safe, effectively ousting themselves from the family home.

One client, Amanda, told us her story about a night when her ex-partner lost his temper and smashed holes in the walls and even smashed holes in the bathroom door trying to get into where she was hiding. A neighbour called police and Amanda made a criminal statement along with the police applying for a protection order in the mandatory terms. The officers who attended told Amanda that they could not stop her partner coming back to the house because 'he lived there too' and that she had to give 'reasonable' time to find alternative accommodation. Amanda was terrified and immediately withdrew the criminal complaint as she feared repercussions from her partner if they remained under the one roof.

As well as seeking ouster conditions when needed, we believe the police should address the widespread issue of children being used to coerce and control victims. We understand that disputes regarding children are a minefield and that the police do not have the power to get involved in genuine parenting disputes. This does not mean that the police should simply refuse to act when children are exposed to domestic violence or used by perpetrators as weapons of coercion. We hear from women who show us evidence of threats to remove children that are clearly designed to cause distress, punish, and/or to coerce a woman into taking/not taking the action that the perpetrator wants her to. We believe that when there is clear evidence of such threats to remove children for these reasons, it is appropriate for police to seek conditions to limit a parent's contact with named children unless there is an agreement in writing, a family court order, or contact is permitted by the Department of Child Safety.

### Police providing family law advice

The police are often the first port of call when there is a parenting dispute. It is highly inappropriate in these instances for the police to provide any sort of family law advice. It is appropriate however to take action to protect women and their children from domestic violence. We constantly hear that women are told to hand children over to fathers who perpetrate domestic violence because 'he is the father' and he 'has rights'. One client was recently advised to 'do the right thing' and return home with the children, where she had been cohabitating under the one roof until an incident of domestic violence. Her ex-partner told her she had to return as it was his time with the children under their parenting plan. She felt unsafe and went to the police to ask what she should do only to be told to return to an unsafe environment. In fact, our client was doing the right thing by trying to avoid exposing young children to domestic violence and should never have been 'advised' to return to such a situation.

### Female officers

An increase in female officer attendance at domestic violence incidents would be a positive step in our view. In preparing for these submissions, we surveyed a large number of clients about whether a female or male officer attended at their domestic violence incidents and whether it made a difference to them. Most women responded they felt better speaking to a female officer and that they believed they were better supported and listened to. Some women reported that female officers were harsher or more judgmental, however this was true only for a couple of responses. In feedback over the years, most women who talk to us about sexual violence express they are far more comfortable telling their stories to a woman rather than a man. This is likely to be the case if women are to disclose sexual violence as part of the domestic violence they experienced if a wholistic approach is being employed at callouts and relationship dynamics are being investigated rather than single incidents.

One First Nations victim whose family has a lot of interaction with the police, told us that the 'young white coppers from the south don't know the families, they just jump into applying for a DVO. The

local older coppers, especially the woman coppers, are good at talking the problem out loud. So long as the police who show up know the family, then things are ok usually.'

### Inexperienced officers

We understand that the QPS must build capacity and to achieve this, junior officers are often tasked to undertake domestic violence work. We would simply urge that proper supervision is always in place to ensure that appropriate conditions are sought on PPNs and protection order applications, directions are strictly observed in matters that are contested, and victims are treated with understanding and compassion.

In one recent matter, our client (the aggrieved in a police protection order application) told us the police missed their filing date twice until a more senior prosecutor ensured the brief of evidence was filed and served. An unexperienced prosecutor then ran the hearing, and a final order was not made against this woman's ex-partner. Our client reported that her ex-partner was emboldened by his 'win' and that no doubt felt his behaviour was vindicated. She reported that he continues to attend at her sporting club and drive past her house every day. Our client says she has stopped attending training and sporting events and stays in her house now. She said she will not call police again and when her lease is up, she and her young daughter will move.

### Getting breaches charged

Women are entitled to an expectation that if a protection order is in place to protect her the order will be enforced, and breaches will be charged - even seemingly minor breaches. The dynamics of domestic violence are such that if a perpetrator bears no consequences for not following the order, they will keep pushing the envelope and engage in incremental breaching. Even a small breach that on the face of it may seem minor, could elicit anxiety and fear in the victim. A common story we hear from clients is that police do not act when the other party is clearly not following a protection order or is walking close to the line of a breach (which is designed to intimidate their victim.) Women report being brushed off by police and made to feel foolish if they seek police help. We urge that women are treated respectfully, especially in circumstances where the police consider that they cannot charge a contravention and that the reasons for this are properly explained.

Kayla had a terrible experience with having her protection order enforced. Her ex-boyfriend could have killed her in a road rage incident, however Kayla escaped the car and sought help from the police. The police took Kayla's ex-boyfriend away and Kayla believed she was safe, thinking erroneously that her ex-boyfriend had been arrested. In fact, Kayla's ex-boyfriend had been released to return to the family home, without being served the PPN. Unbeknown to Kayla, her ex-boyfriend was then served the paperwork at her home and Kayla came home to an irate perpetrator who abused her for the PPN. When Kayla called the police, they took him away, with Kayla again thinking he had been arrested. Her boyfriend had not been arrested and, this time, the police had taken him to the hospital. The police finally realized that Kayla's ex-boyfriend is wanted by police due to a breach of parole. He was arrested, not for committing domestic violence on Kayla or breaching the PPN, but for breaching parole conditions. Kayla has since found out that her ex-boyfriend is a serial abuser of women with many convictions of which Kayla was unaware, but which the police should have been. Kayla felt the violence against her was minimised and of no importance to the police.

### No criminal charges concurrent with civil response

So many of the aggrieved parties to police applications we assist as duty lawyers at domestic violence court have suffered physical abuse, wilful damage, or other abuse consistent with stalking offences or other state and Commonwealth offences. Aside from wilful damage charges, it is striking how few criminal charges are also laid as a result of the incident that prompted the police to apply for a protection order. We routinely ask our clients if the police have the charged the other party and most women have no idea or think they have been charged when a statement has not been sought from them. Victims often assume criminal charges will automatically be pressed against offenders and wonder why nothing happens. Police have not even raised the question of criminal charges with most women we speak to about this issue. When we explain that seeking a protection order is about protection and not about punishment, many women indicate they would be supportive of criminal charges in addition to the civil response of seeking a protection order. Not all women want criminal charges to be laid, but we believe that women should be routinely asked by police if they wish to make a criminal complaint when domestic violence offences have been perpetrated against them.

### Better communication with victims

Leaving a violent relationship is often terrifying because victims no longer know where the perpetrator is located or what his mood is. We believe the police can enhance their communication with victims to keep them notified of when perpetrators are to be released from cool down periods, if criminal charges are to be laid, (if not, why not), when perpetrators are to be given bail, what bail conditions are in place, when protection order paperwork (applications and orders) have been served or are to be served, and when a police application is to be withdrawn.

## The adequacy of the current conduct and complaints handling processes against police officers.

As mentioned above, to help us respond to the answers posed by the Commission, we surveyed a large number of our clients with a selection of questions around women's interactions with police and about current complaints handling processes. Most women who have complaints about officers or processes responded that they were unaware of any procedure for making complaints against the QPS.

We must also say that most of these women went on to say that their experiences with police were so off-putting that they would not be interested in making a complaint through processes within the police service. Many thought it would be a waste of time as nothing would happen, some commented they had wasted enough time with police, others said they were too busy with other things such as finding shelter or caring for children.

Nearly every woman we spoke to who had had negative interactions with police said they would not call the police again if they needed help. One woman summed up the sentiment telling us she 'wasn't sure if the extra energy to make the complaint is worth it.' This woman expressed how badly she perceived the system fails women and said she will never report a DV incident again.

Aside from this feedback, lawyers from our service have helped past clients from time to time to make complaints. These have ended positively for clients when, on a couple of occasions, officers or prosecutors have taken the time to meet face to face with clients and explain the reasons why

certain decisions were made. We appreciate this cannot be the case in all complaints however if the complaint handling process is to have value it must be widely known, easy to access, be perceived to be independent of the police members complained about, be timely and to achieve something for the person who has taken the time to make the complaint – even if this is just simply being heard.

## What is working

Before we close we wish to again thank the hardworking members of the Queensland Police Service that work diligently and daily to keep Queensland women and their children safe and to feel they are protected.

We would like to acknowledge that we have seen examples of excellent responses to domestic violence from individual police officers, however whether a woman feels supported, believed and more importantly is safe should not come down to which particular officer happens to be on duty when she reaches out for help.

We would like to finish by highlighting that the High Risk Teams are working extremely well in North Queensland. The officers involved in those teams are accessible, compassionate and display a real understanding of domestic violence and its effects on individuals, families, and society. We hope these teams are rolled out in as many areas as possible and as quickly as possible.

Please do not hesitate to call either Director Anne Lewis or Principal Lawyer Hayley Grainger should you have any questions about this submission.

Hayley Grainger

**Principal Lawyer**

North Queensland Women's Legal Service

Recognised by the Queensland Government on the inaugural Domestic and Family Violence Prevention Honour Roll (2020).