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

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

STATEMENT OF Toni Ellen Bell

Name of Witness:	**Toni Ellen Bell**
Current address:	[redacted]
Occupation:	**Director Family Law and Civil Justice Services**
Contact details (phone/email):	[redacted]

I, Toni Ellen Bell, Director Family Law and Civil Justice Services, Legal Aid Queensland, [redacted] Brisbane, make oath and state as follows:

1. I am the Director of Family Law and Civil Justice Services at Legal Aid Queensland (LAQ) and I am responsible for the operation of family law services across the state.

2. LAQ's Family Law Services division operates the Violence Prevention and Women's Advocacy service, which is one of the leading providers of domestic and family violence (DFV) legal services in Queensland. Our services include, but are not limited to:
   (a) The Women's Domestic and Family Violence Assistance Service at Brisbane Magistrates Court, which assists clients seeking Protection Orders to complete applications for such orders, conducts safety planning, provides referrals, and also assists clients with completing applications for legal aid,
   (b) Domestic and Family Violence duty lawyer services at Magistrates Courts throughout Queensland including but not limited to: Brisbane, Southport, Beenleigh, Richlands, Ipswich, Toowoomba, Pine Rivers, Caboolture, Sandgate, Redcliffe, Maroochydore, Rockhampton, Yeppoon, Mackay, Townsville, Palm Island, Thursday Island and Mount Isa.

3. LAQ is also a leading provider of urgent advice, task assistance, representation, safety planning, and mental health and referral services for clients subject to family violence in the Federal Circuit and Family Court of Australia (FCFCOA) through our Family Advocacy and Assistance Service, which is part of the suite of services offered by our family law teams. This service has existed in Brisbane, Townsville and Cairns since 2017 and is in the process of expansion to all FCFCOA registries and circuits across the state. This service assists clients affected by family violence and, where urgent matters concerning a child at risk exists, by providing urgent advice, negotiating with the other party/ies, drafting

urgent applications and representing clients in Court for urgent matters. The service also contains social workers who assist the client with safety planning, referrals and supports and a mental health clinician to assist where necessary.

4. LAQ also has specialist teams in child protection and the representation of children and young people in the family law and child protection jurisdictions which often overlap the DFV space.

5. LAQ provides grants of legal aid for on-going legal representation in DFV proceedings (subject to eligibility) and ancillary matters such as family law, including parenting and property matters and child protection.

6. LAQ's Family Law Services and Criminal Law Services Divisions have provided input into three submissions to the Women's Justice Task Force which address issues of concern to the Commission of Inquiry. Those submissions are:

    1. Discussion Paper 1 - Options for legislating against coercive control and the creation of a standalone domestic violence offence;
    2. Discussion Paper 2 – Women and girls' experience of the criminal justice system;
    3. Discussion Paper 3 – Women and girls' experience of the criminal justice system as victims-survivors of sexual violence and also as accused persons and offenders.

7. LAQ is concerned about the understanding of, and systemic responses to DFV particularly where it is non-physical DFV (including coercive control). LAQ's connection with stakeholders across the DFV court programs and the broader support sector has indicated that our concerns are not isolated to particular locations but are common across the whole state. More rigorous, regular, and consultative mandatory training, that provides practical skills to respond, for the Queensland Police Service (QPS), legal practitioners and judicial officers is essential to improving current system responses. This should include guidance for QPS on evidentiary requirements and information gathering. LAQ is particularly concerned about the increasing number of domestic and family violence protection order applications being taken out against victims. In initial assessments, these women may have pushed, shoved, or yelled at the other party, but brief further questioning indicates that these behaviours were in response/defence to DFV being perpetrated by the other party. This is particularly concerning for victims who feel intimidated by QPS when asked questions about whether they did a particular action, who may answer "yes" without expanding on the context. QPS must be asking further questions to ensure they have the most accurate assessment of dynamics and risk profiles as possible.

8. In the First Nations community of Woorabinda, which is a "dry" community, police will often charge a female aggrieved/respondent to a cross-application with possession/consumption of alcohol which has the effect of deterring women from reporting DFV. Often consuming alcohol with the respondent is the safer option for these women. Also, police often make cross applications in respect of parties in such communities rather than fully investigating and determining which party is the one in

greater need of protection. There is also a greater propensity for police attending/investigating DFV in First Nations communities that include children to report to the Department of Child Safety, than occurs in non-First Nation communities. This also contributes to the reluctance of women to report DFV incidents to the police.

9. Parties to DFV protection orders must be encouraged to attend their mention dates. Too frequently, aggrieved and respondents under QPS applications are told they do not need to attend court and parties then miss valuable opportunities to link with legal and non-legal supports and gain an understanding of the behaviours that have led to QPS intervention, and what their options are to change, for safety planning and advice in family law areas.

10. Steps should be taken to increase the accessibility of the legal process. Considerable issues (with impacts on victim safety) arise when the QPS does not engage, and courts do not schedule, official interpreters, with further compounding issues for Auslan interpreters where interpreters may only be available during business hours. It is unacceptable for QPS to rely on one party to translate for the other party where there are concerns about DFV. It is also unacceptable for QPS to rely on children to interpret. Both of these create a risk that information may not be accurately conveyed to either party or QPS and potentially exposes a child to DFV.

11. In the experience of LAQ DFV lawyers, police often do not use interpreters when investigating an incident involving parties who are culturally and linguistically diverse (CALD), often using family members as interpreters. This may result in the interpreter influencing the aggrieved. There have been incidents in which the police have used the person using violence to translate for the person experiencing violence. In one matter QPS used google translate to communicate with a person experiencing violence. The Police Protection Notice should indicate if the person experiencing violence is CALD and requires/would benefit from an interpreter so that an interpreter can be arranged for the first mention. Often domestic violence workers and DFV lawyers will not receive full information about an event until the client is seen at court. Often the person experiencing violence is actually the respondent to the application and only when they are in a confidential room, they inform the worker and lawyer that they were not able to communicate the true situation to the police because they did not have an interpreter. On one occasion, the subsequent use of an interpreter by the domestic violence worker/DFV lawyer resulted in the person experiencing violence making a rape allegation against the respondent which was subsequently referred to the police. Often if the person experiencing violence is able to provide police with their name and answer questions with "yes" or "no", no further inquiry as to their ability to adequately speak or understand English is made. An offer of an interpreter should be made when it is apparent that English is not the first language of the person experiencing violence. This would also assist the police in properly assessing safety risks. Also, Auslan interpreters are rarely, if ever, used. On one occasion a DFV duty lawyer had to use typing to communicate with a hearing-impaired person which was unnecessarily time consuming in a environment with time constraints.

12. QPS officers require more training in dealing with DFV in situations where one or both of the parties suffer from mental illness. Often in these situations the person using violence is supported by and dependent on the person experiencing violence. There have been cases where police have attended DFV incidents and one of the parties has been experiencing an episode of mental illness and the police have taken that party to hospital and then, without further reference to the aggrieved, applied for a domestic violence order which was inappropriate in the circumstances.

13. Chapter 9 of the QPS Operational Procedures Manual (OPM) should be regularly reviewed and updated to ensure that it aligns with new DFV research and best practice. Annual QPS training on DFV should also incorporate a refresher and overview of the OPM. 47. An express provision under 9.4.2 allowing for QPS to, where practicable and where there is no clear immediate threat to safety, interview an alleged respondent where the alleged aggrieved is listed as the respondent in an existing Protection Order (temporary or final) before applying for a protection order in the current incident. Many women accessing DFV legal advice through LAQ have previously reported their experiences of coercive control and DFV to QPS and have been reportedly advised to make their own private application. This is even in circumstances when there have been abusive or harassing text messages, emails, voice or video recordings that clearly establish that DFV has occurred. To address this, an express direction could be included in 9.4.1 for QPS to apply for a domestic violence protection order in circumstances where someone reports DFV at a police station or establishment and the officer is satisfied that DFV has occurred, an order is necessary or desirable and that there is sufficient evidence to a civil standard.

14. Coercive control is a nuanced area of DFV. The risks associated from incorrect assessments or inadequate service or system responses and interventions can be grave. Given the broad range of issues the QPS must be equipped to respond to, it is understandable that they may suffer fatigue of training. However, we recommend the need for annual, mandatory DFV and coercive control training for all frontline QPS civilian and uniformed Police Prosecution Corps. A training package that is co-developed and co-delivered by a QPS representative and DFV specialist (service, practitioner or academic) would best capture the QPS priorities, as well as ensuring that the training is consistent with current research and best practice. Partnership training, led by QPS would also aim to make the training accessible and applicable and contribute to a culture of taking DFV seriously and making it a priority. Any training package developed must include:
    - the principles and preliminary sections of the DFVPA
    - responding to DFV as a pattern of behaviours rather than incident-specific
    - assessing DFV dynamics to determine the person most in need of protection
    - identifying high risk indicators of DFV homicide
    - barriers to disclosing DFV to QPS and services
    - indicators of trauma, including how events may be recalled and recounted
    - survivor adaptability, including why survivor engagement may change (threats, fear)
    - compounding vulnerabilities and
    - using interpreters.

15. QPS should also be provided with more support (peer and professional) to help protect against biases, compassion fatigue, and burnout or frustration. More funding and more normalisation of debriefing and support is necessary to combat these issues and emotionally strengthen this workforce to continue to respond appropriately to DFV.

16. Attached to this statement are a small sample of case examples of experiences of clients interacting with the Queensland Police as advised to our workers during 2022.

17. Finally, I note that on 27 June 2022, LAQ provided a submission to the Commission of Inquiry into Queensland Police Service responses to DFV. A copy of that submission is attached to this statement.

***OATHS ACT* 1867 (DECLARATION)**

I, Toni Ellen Bell 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 .....Brisbane.....this ...26th..... day of .....July.....2022.

[redacted]

Taken By ...Robyn Wilkinson.....

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