

Domestic and Family Violence Protection and Other Legislation Amendment Bill 2025

Submission No:	5
Submitted by:	Queensland Mental Health Commission
Publication:	Making the submission and your name public
Attachments:	See attachment
Submitter Comments:	



Domestic and Family Violence Protection and Other Legislation Amendment Bill 2025

Introduction

The Queensland Mental Health Commission (the Commission) welcomes the opportunity to make a submission on the Domestic and Family Violence Protection and Other Legislation Amendment Bill 2025 (Qld) (the Bill).

The Commission is an independent statutory agency established under the *Queensland Mental Health Commission Act 2013* to drive ongoing system reform towards a more integrated, evidence-based and recovery-oriented mental health, alcohol and other drugs and suicide prevention system in Queensland.

One of the Commission's primary functions is to develop a whole of government strategic plan to improve the mental health and wellbeing of Queenslanders, particularly people living with mental health challenges, problematic alcohol and other drug use, and those affected by suicide. The current strategic plan is *Shifting minds: The Queensland Mental Health, Alcohol and Other Drugs, and Suicide Prevention Strategic Plan 2023-2028* (*Shifting minds*). *Shifting minds* is complemented by 3 sub-plans:

- *Achieving balance: The Queensland Alcohol and other Drugs Plan 2022-2027* (*Achieving balance*)
- *Every life: The Queensland Suicide Prevention Plan 2019-2029* (*Every life*)
- *Queensland Trauma Strategy 2024-2029* (*Trauma Strategy*).

The Bill has numerous points of connection to strategic priorities under *Shifting minds*, the *Trauma Strategy*, *Achieving balance* and *Every life*. The Commission has made submissions relevant to its remit and these strategic priorities, which include several key whole of government commitments to:

- improve culture and gender specific responses required to prevent re-traumatisation, particularly in institutional settings (*Trauma Strategy*)
- continue to implement in full the Queensland Government response to the recommendations of the Women's Safety and Justice Taskforce series of reports, *Hear her voice*, as well as the Commission of Inquiry into Police Responses to Domestic and Family Violence as a Queensland Government priority (*Trauma Strategy*)
- increase access to navigation and advocacy supports for victim-survivors and people in contact with the criminal justice system (*Trauma Strategy*)
- explore opportunities to enable a holistic approach to resourcing for domestic and family violence-informed responses across Queensland Government agencies (*Trauma Strategy*)
- increase availability of health and responses for people experiencing problematic alcohol and other drug use across the service system, including housing and domestic and family violence services (*Achieving balance*).

In developing the whole of government *Trauma Strategy*, extensive research to ensure the strategy was grounded within the contemporary evidence base, current best practice, the Queensland context and the voices of people with lived-living experience was funded by the Commission. This included a research paper, [The nature and extent of trauma and its impacts on adult and child victim-survivors in the context of domestic and family violence](https://6232990.fs1.hubspotusercontent-na1.net/hubfs/6232990/QMHC_discussion%20paper_DFV_FINAL%20v.2_08072024.pdf), which focussed on Domestic and Family Violence (DFV) and the need to prevent and reduce the impact of trauma.¹

This research paper recognised that DFV is a global public health issue which can have long-lasting impacts on victim survivors physical, emotional and social wellbeing.² A wide range of mental health disorders and symptoms

¹ S Meyer and M Atienzar-Prieto (2024), 'The nature and extend of trauma and its impacts on adult and child victim-survivors in the context of domestic and family violence'. *Consultation paper – development of a whole-of-government Trauma Strategy for Queensland*, https://6232990.fs1.hubspotusercontent-na1.net/hubfs/6232990/QMHC_discussion%20paper_DFV_FINAL%20v.2_08072024.pdf.

² Australian Institute of Health and Welfare (2024), 'Family, domestic and sexual violence', *Health outcomes*, <https://pp.aihw.gov.au/family-domestic-and-sexual-violence/responses-and-outcomes/health-outcomes>; A Stubbs and C Soeke (2022), 'The effect of intimate partner

are associated with experiences of DFV including mood disorders, anxiety disorders, substance use disorder and Post Traumatic Stress Disorder.³ Data also indicates that recent experiences of multiple instances of DFV contribute directly to women's suicide attempts.⁴ In 2019, DFV was identified as the second greatest contributor to premature death due to suicide and self-inflicted injuries among women in Australia.⁵ In Queensland, from July 2015 to 30 June 2021, 44 DFV-related suicide deaths of women were recorded.⁶ Accordingly, the Commission makes this submission with a specific focus on the connection between DFV, trauma and mental health and wellbeing.

DFV remains a gendered issue that disproportionately affects women and children. Therefore, this submission focuses on the nature, extent and impacts of DFV-related trauma affecting women and children as the primary victim-survivors of this kind of trauma in the context of the Bill.

A note on terminology

This submission refers to the following terms herein defined:

- **Systems abuse:** refers to the manipulation of legal and administrative systems by perpetrators of domestic and family violence in order to exert control over, threaten and harass a partner (current or former).⁷
- **System-related trauma:** refers to trauma that can occur from a potentially traumatic event within a system or institution such as invasive or restrictive practice, child removals, seclusion or intimidation.⁸
- **System-related retraumatisation:** refers to institutional policies, procedures, practices or interactions which unintentionally trigger trauma responses or replicate aspects of a person's original trauma experiences, thereby exacerbating psychological distress.⁹

Risk of systems abuse and the role of the system in preventing and responding to DFV

The Commission's view is that all amendments to processes for DFV, particularly police protection directions, must consider the potential risk of the system becoming a vehicle for systems abuse, which may result in unintended system-related trauma.

Systems abuse by perpetrators of DFV

Systems abuse or abuse of processes may be used by perpetrators of DFV to assert their power and control over a victim survivor.¹⁰ Systems abuse occurs when a perpetrator misuses legal and administrative systems to harass, intimidate or control a current or former partner.¹¹ Systems abuse may be one aspect of a complex pattern of behaviours by perpetrators, often in a broader context of coercive control.¹² The *National Plan to End Violence against Women and Children 2022-2032* recognises that perpetrators of DFV may manipulate legal and other systems to control, threaten and harass a current or former partner.¹³

violence on the physical health and health-related behaviours of women: A systemic review of the literature', *Trauma, Violence & Abuse* 23(4), <https://journals.sagepub.com/doi/10.1177/1524838020985541>.

³ KL Hegarty, et al. (2013), 'Effect of type and severity of intimate partner violence on women's health and service use: Findings from a primary care trial of women afraid of their partners', *Journal of Interpersonal Violence* 28(2), <https://journals.sagepub.com/doi/10.1177/0886260512454722>.

⁴ V Rasmussen, et al. (2023), 'Trajectories to suicide following intimate partner violence victimisation: using structural equation modelling to examine suicide and PTSD in female emergency department users', *Journal of Family Violence* 1(15), <https://link.springer.com/article/10.1007/s10896-023-00640-5>.

⁵ Australian Institute of Health and Welfare (2022), 'Suicide and self harm monitoring', *Behavioural risk factor burden for suicide and self-inflicted injuries*, <https://www.aihw.gov.au/suicide-self-harm-monitoring/data/behaviours-risk-factors/burden-of-disease-studies-suicide-self-inflicted>

⁶ Domestic and Family Violence Death Review and Advisory Board (2021), *2020-21 Annual Report*, https://www.coronerscourt.qld.gov.au/_data/assets/pdf_file/0009/753318/domestic-and-family-violence-death-review-and-advisory-board-annual-report-2021-22.pdf

⁷ E Reeves (2018), *Research Brief – Systems Abuse*, Monash Gender and Family Violence, https://arts.monash.edu/_data/assets/pdf_file/0005/1529852/rb-systems-abuse.pdf.

⁸ J Blake, et al. (2024), 'Whole-of-government trauma strategy', *Consultation paper – development of a whole-of-government Trauma Strategy for Queensland*, https://6232990.fs1.hubspotusercontent-na1.net/hubfs/6232990/QMHC%20Discussion%20paper%20-%20Trauma%20Introduction-plain-text_version2.pdf

⁹ Substance Abuse and Mental Health Services Administration (2014), *SAMHSA's concept of trauma and guidance for a trauma-informed approach*, U.S. Department of Health and Human Services. https://ncsacw.acf.hhs.gov/userfiles/files/SAMHSA_Trauma.pdf

¹⁰ The Australasian Institute of Judicial Administration Inc. (2024) *National Domestic and Family Violence Bench Book – 3.1.11 Systems abuse*. <https://dfvbencbook.aija.org.au/article/1080119>

¹¹ above n 7.

¹² above n 10.

¹³ Commonwealth of Australia, Department of Social Services (2022), *National Plan to End Violence against Women and Children 2022-2032*, <https://www.dss.gov.au/system/files/resources/national-plan-end-violence-against-women-and-children-2022-2032.pdf>.

The impact of systems abuse is extensive, with victim-survivors often experiencing financial strain due to legal fees, significant emotional distress and anxiety, reduced capacity to parent effectively, and loss of faith and confidence in the legal system.¹⁴ Children impacted by systems abuse may experience confusion, loyalty confusions and long-term emotional trauma that can shape their perceptions of relationships and authority figures for years to come.¹⁵

Role of the system in preventing systems abuse

At times, legal systems and processes intended to protect victim-survivors may have the unintended consequence of increasing the risk of, or otherwise further creating opportunities, for the perpetration of systems abuse. In this way, the system becomes the vehicle for the perpetration of the abuse and the victim-survivor may experience significant unintended system-related harm throughout their interaction with legal systems and processes. System-related re-traumatisation may occur, for example, through having to re-tell stories of abuse multiple times in an adversarial environment for a victim-survivor to dispute a misidentification as perpetrator.

There is significant evidence, both nationally and internationally, to demonstrate the unintended consequences of legal processes and systems inadvertently creating new opportunities for the perpetuation of systems abuse. In the 1980s the United States established mandatory arrest laws which limited the discretion of responding officers or otherwise compelling officers to arrest individuals suspected of DFV.¹⁶ Due to lack of specialised DFV training, this often resulted in police arresting female victims who were incorrectly identified as the primary perpetrator, which ultimately led to a 500% increase in the rate of arrest of women for DFV between 1987-1997.¹⁷

In the Australian context, research in New South Wales highlights that most women who are listed as respondents in an apprehended domestic violence order are the primary victim of abuse in their relationship with the applicant.¹⁸ Evidence also indicates that it is common for male perpetrators of DFV to encourage the police to enforce an interim intervention order against a female victim-survivor.¹⁹ Female victim-survivors who have been misidentified as the primary aggressor and subsequently have an intervention order application made against them are likely to consent to the order due to a variety of factors including financial strain, intimidation from the perpetrator and limited access to adequate legal representation.²⁰ It should also be noted that the application also validates messaging from the perpetrator that they are the problem in the relationship. The impact of misidentification for a victim-survivor may include emotional distress, feelings of loss of agency, social isolation, economic hardship and re-traumatisation which may collectively contribute to psychological distress and a deterioration in mental health and wellbeing.²¹

In the context of the Bill, the Commission seeks to highlight the risk that systems abuse may increase as an unintended consequence of Division 1A (*Power to issue police protection direction*) on the following basis:

- **Limiting judicial review of protection applications:** section 100R of the Bill empowers police officers to issue a 12-month police protection direction when responding to DFV that does not require further court consideration (depending on the circumstances). The unintended consequence of this is that where the initial police protection direction arose from misidentification (e.g. the victim-survivor was incorrectly identified as the respondent, which can still occur irrespective of the 'person most in need of protection' regime) and/or where systems abuse is occurring (e.g. the perpetrator reports the victim-survivor as the respondent), there is no judicial or legal avenue automatically embedded to review the terms of the police protection direction and hear any other relevant evidence.

Under the current legislative approach, while a victim-survivor may not at the time of contact with police be able to report the circumstances (e.g. may feel unsafe to correct the record and identify the perpetrator as the primary aggressor) or where police mistakenly identify the victim-survivor as the respondent, the courts are able to review the terms of the notice afterwards—which enables a victim-survivor time to consider their approach, access DFV resources and legal representation, and obtain evidence to demonstrate that they were the aggrieved. The court plays a critical role as a safeguard when hearing applications relating to police protection notices by ensuring the requirements for procedural fairness and access to justice are met while protecting a person from experiencing

¹⁴ above n 7.

¹⁵ above n 7.

¹⁶ P Hovmand. (2009), 'Victims arrested for domestic violence: unintended consequences of arrest policies', *System Dynamics Review* 25(3).

¹⁷ J Hamel (2011), 'In Dubious Battle: The Politics of Mandatory Arrest and Dominant Aggressor Laws', *Partner Abuse* vol 2 pp 224-245.

¹⁸ above n 7.

¹⁹ above n 7.

²⁰ above n 7.

²¹ E Stark (2007), *Coercive control: the entrapment of women in personal life*, Oxford University Press; S Miller, et al. (2011), 'Paper Abuse: when all else fails, batterers use procedural stalking', *Violence Against Women* 17(5).

further abuse through the other party's misuse of the system. Options available to a court in the current police protection notice and application process may include, for example:

- ensuring the matter remains listed before the same judicial officer who can be alert to and identify particular conduct, which may indicate systems abuse; and/or
- seeking a dismissal of all or part of the matter because they are frivolous, vexatious or an abuse of process.

By removing the court process for the review of the circumstances of the application, which is a critical safeguard for victim-survivors, as an unintended consequence the police protection direction process is likely to be used by perpetrators of DFV to perpetrate systems abuse.

- **Restriction of a cross-direction:** section 100L of the Bill provides that a cross-direction is not permitted. Practically, a female victim-survivor of DFV may be misidentified as the primary perpetrator of DFV and be listed as the respondent on a police protection direction. However, the unintended consequence of section 100L is that the female victim-survivor cannot then be listed as an aggrieved party in a police protection notice with the actual perpetrator of DFV identified as respondent until such time as the initial protection notice is no longer in effect (being 12 months from the date of the direction or on the other terms in section 100R of the Bill).

The Commission appreciates the intent of this section as, when applied appropriately in circumstances where the respondent and aggrieved are appropriately identified, this would have positive outcomes. However, would highlight the serious risks where the victim-survivor is misidentified as the respondent as it may provide the perpetrator a tool (through the order) to control the victim-survivor and deny them safety and protection through a further police protection direction. The Commission encourages further consideration to mitigate this risk.

While the Commission notes the intention of the Bill is to balance police and court resourcing with the need to protect victim-survivors, it is the Commission's view that the Bill may expose victim-survivors to increased risk of systems abuse for the reasons aforementioned.

Trauma-informed approaches for responding to systems abuse

Trauma-informed approaches are essential for effectively responding to DFV and systems abuse, ensuring that the whole system is cognisant of the complexities of trauma and do not inadvertently retraumatise survivors. Systems abuse weaponises institutions and systems meant to protect, perpetuating victimisation and undermining safety, autonomy and wellbeing. Trauma-informed approaches for responding to systems abuse must prioritise safety, trustworthiness, empowerment, and collaboration while also taking into account cultural, historical and gender safe lens.

Trauma-informed approaches for responding to systems abuse may include:

- minimising the potential for re-traumatisation in questioning, recognising that high-pressure or accusatory questioning can make victim-survivors feel unsafe, increase anxiety and/or distress and lead to further misidentification of the perpetrator
- assessing evidence in light of power imbalances, recognising that a perpetrator of DFV may have more control over a situation and may manipulate evidence to portray a victim-survivor as at fault
- recognising the impacts of trauma and understanding that this can contribute to misidentification of the perpetrator. For example, victim-survivors may have challenges recalling details, may dissociate or may have inconsistent accounts due to the distress and trauma of their experience of DFV.

Should the Queensland Government pass the Bill in its current form, the Commission would recommend at minimum the insertion of a sub-clause which prioritises trauma-informed approaches in decision-making under Division 1A of the Bill. Queensland Police Service plays an important role as first responders to DFV incidents, and it is critical that police are equipped with the skills to respond to systems abuse in a way that is trauma-informed and does not unintentionally perpetuate further victimisation or retraumatism for victim-survivors. By adopting trauma-informed approaches as a consideration in making a police protection direction, there is likely to be:

- **Improved accuracy in identifying the primary aggressor:** Misidentifying victim-survivors as perpetrators has significant impact, including unjust outcomes and undermining victim safety. Trauma-informed practices can

equip police officers to better understand victim-survivor behaviours (i.e. fear, freezing, defensive actions) which will lead to more accurate assessments and reduced misidentification of perpetrators.²²

- **Enhanced victim-survivor cooperation and trust:** Survivors of trauma may distrust police particularly if they have experienced past system-related harm or abuse. Trauma-informed interactions which are nonjudgemental, empathetic and safety-focussed increase victim-survivors willingness to report, share information and engage with investigations.²³
- **Reduced risk of system-related retraumatisation:** Victim-survivors often disengage from justice and legal systems after being retraumatised during police interactions. Police officers who recognise trauma responses and avoid triggering language or actions can help victim-survivors feel safer, supported and more likely to stay engaged through these processes.²⁴
- **Better outcomes in investigations:** Trauma can affect memory, emotional regulation and communication which may lead to inconsistent statements that can, at times, be mistaken for dishonesty. Police officers trained in trauma-informed interviewing can obtain more complete, reliable accounts by allowing time, building rapport and avoiding intimidation which strengthens evidence and reduces the risk of misidentification.²⁵
- **System wide improvements and interagency collaboration:** Police is part of a broader network (courts, social services, homelessness services) who works with victim-survivors of DFV. By adopting a trauma-informed approach there are opportunities to work more effectively with other key stakeholders, share information appropriately and create pathways for victim-survivors to obtain support.²⁶
- **Increased police officer confidence and job satisfaction:** Police officers often report feeling frustrated or helpless in DFV cases. Trauma-informed approaches give police officers tools to understand victim-survivor behaviour, respond appropriately and feel that they are making a meaningful difference which increases morale and reduces burnout.

Expansion of the VREC framework supports a trauma-informed approach for victim-survivors of DFV

The Commission welcomes the expansion of the Video Recorded Evidence-in-Chief (VREC) framework to all Magistrates Courts throughout the state and the clarification on the process for and use of VRECs in a way that maintains safeguards, including informed consent.

During the development of the *Trauma Strategy*, stakeholders overwhelmingly identified that systems, which are not person or victim-centred, can cause retraumatisation. Specific examples were provided during the consultations of individuals re-telling their story multiple times to Queensland Police Service in environments that were not trauma-informed or conducive to wellbeing. The Commission supports the focus on prioritising the needs of victim-survivors and empowering victim-survivors with choice, autonomy and dignity to provide statements in the environment that they choose.

Contact

Sean Popovich
Director
Alcohol and Other Drugs Reform and Trauma Strategy
Email: [REDACTED]

Jordan Cotter
Director
Suicide Prevention Reform
Email: [REDACTED]

²² M Iliadis, et al. (2024), 'How police body-worn cameras can facilitate misidentification can facilitate misidentification in domestic and family violence responses', *Australian Institute of Criminology*, <https://doi.org/10.52922/ti77277>.

²³ E Huppe, et al. (2025), 'Improving police-citizen interactions through trauma-informed policing', *Applied Police Briefings* 2(1), <https://doi.org/10.22215/apb.v1i3.5142>.

²⁴ C Franklin, et al. (2019), 'Trauma-informed training and police perceptions of victim behaviours', *Crime Victim's Institute, College of Criminal Justice*, <https://dev.cjcenter.org/files/cvi/82-brief-2019-04.pdf>.

²⁵ International Association of Chiefs of Police (2020), *Successful Trauma-Informed Victim Interviewing*, <https://www.theiacp.org/sites/default/files/2020-06/Final%20Design%20Successful%20Trauma%20Informed%20Victim%20Interviewing.pdf>

²⁶ Department of Families, Seniors and Disability Services (Qld) (2025), *DFV Integrated Service System Guide*, <https://www.families.qld.gov.au/our-work/domestic-family-sexual-violence/for-service-providers/integrated-service-responses/dfv-integrated-service-system-guide>.