Domestic and Family Violence Protection and Other Legislation Amendment Bill 2016
Submission No 016
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Brisbane Domestic Violence Service (Micah Projects)

Submission to Queensland Parliament Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee on the Domestic and Family Violence Protection Act Amendment Bill 2016

SAFER LIVES
SAFER COMMUNITIES

Brisbane Domestic Violence Service

MICAH PROJECTS INC
Breaking Social Isolation
Building Community

Queensland Government

Submission to Queensland Parliament Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee on the Domestic and Family Violence Protection Act Amendment Bill 2016

September 2016

1. Introduction

The Brisbane Domestic Violence Service (BDVS) –a service of Micah Projects – supports the amendments to the Domestic and Family Violence Protection Act 2012 proposed in the Domestic and Family Violence Protection Act Amendment Bill 2016. We commend the Parliamentary Committee for this opportunity to provide feedback on the Bill. We welcome bi-partisan support for the proposals in the Bill that aim to strengthen legal responses and collaboration among criminal justice and community agencies to tackle domestic and family violence.

BDVS is an advocate for changes in this Amendment Bill that will:

- Embed swift and severe consequences for domestic violence offenders and strengthen protection for those enduring domestic violence in all of its forms.
- Enable statutory support for information and data sharing (with safeguards) among agencies to maximize risk management of violent offenders, including sharing of information without consent.
- Enable Queensland to participate in the National Domestic Violence Order Scheme, which has been agreed by COAG.
- Improve alignment of state based domestic violence laws with the Family Law Act.

In supporting these amendments, BDVS urges the Parliamentary Committee to seek the assurance of the Queensland Government that no unintended consequences of legal sanctions will arise, such as, increased use of Police notices and DVO cross-applications on women, who as primary victims of domestic violence, can be unfairly criminalised.

Cases in which there is inadequate Police investigation of occurrences, combined with a prevailing Police attitude that “both parties are as bad as each other”, can lead to over-use of domestic violence orders on women – particularly for Indigenous women.

Ten recommendations are made by BDVS for the Parliamentary Committee.

2. Role of the Brisbane Domestic Violence Service (Micah Projects)

Micah Projects is a community based not-for-profit organisation with a vision to create justice and respond to injustice at the personal, social, and structural levels in church, government, business and society.

We believe that every child and adult has the right to a home, an income, healthcare, education, safety, dignity, and connection with their community of choice. Domestic violence is a contributing factor to harm, hardship and housing stress experienced by clients in all programs that Micah Projects provides.

Therefore some form of support to overcome the impacts of domestic violence occurs in all programs, but we offer specialised domestic violence support to people through a range of support and advocacy services to individuals and families, including the Brisbane Domestic Violence Service and the new Safer Lives Mobile Service (SLMS) after-hours outreach service.

These services function as a specialist, integrated response to domestic violence across the Brisbane region. The services are funded by the Queensland Government through the Departments of Communities and Housing and Homelessness. The integrated response incorporates high level collaboration with the Queensland Police Service, Corrective Services and a wide range of other agencies. Specific services include:

- Outreach support and advocacy services to women and children, including short term counselling, case management and safety planning, referral and practical assistance, rapid re- housing and safety upgrades.
- Children's counselling, referral and group work.
- Short term crisis intervention via phone and face to face.
- Establishment of men's Domestic Violence Programs in 2016 as part of a coordinated response with courts, probation and parole - implementing approved Men's Programs in line with the Duluth model.
- Case coordination and monitoring with high risk offenders through perpetrator programs and women's advocacy.
- Responding to Police and other referrals with after-hours outreach and support through SLMS and co-responder models between Police and non-government agencies.

3. Ten Recommendations for the Parliamentary Committee

Recommendation 1 for the Parliamentary Committee

BDVS supports the extension of domestic violence protection orders to five years and recommends that there be provision for indefinite domestic violence orders in cases where the evidence indicates that the risk of violence, intimidation and fear is highly likely to continue for an indefinite period.

Recommendation 2 for the Parliamentary Committee

BDVS supports the changes in this Amendment Bill as they relate to expanding and strengthening Police protection notices. In particular the inclusion of children and associates on orders when appropriate is welcome as is the increased penalty for breaches of orders.

Recommendation 3 for the Parliamentary Committee

BDVS support increased Police powers to protect those at risk of further violence. Police and Magistrates must avoid criminalising those who are victimized (predominantly women) by comprehensively investigating domestic violence matters to determine who is at most risk of harm and who is the offender. Cross-applications must be used minimally.

Recommendation 4 for Parliamentary Committee

We request that the Parliamentary Committee seek assurances from the government that s169J Limits on Information that may be Shared will not hinder the ability of agencies to:

1. Share a wide range information including: offence data and risk behaviours recorded on Q-Prime and the Correctional Services data base (not solely domestic violence offence data) to make comprehensive assessments of escalating risk factors) and Queensland Health data (such as Emergency Department admissions for women and children;
2. Share empirical system-wide service data (such as reoffending occurrences for offenders) that will be required for effective evaluation of the domestic violence legislation and program responses.

Recommendation 5 for Parliamentary Committee

We seek legislative backing for the principles and guidelines for sharing of information and for the role and functioning of high risk multi-agency teams that are emerging in Queensland as a feature of the integrated responses to domestic violence. Rather than guidelines being the responsibility of the Chief Executive, we suggest that they be enshrined by regulation in the Act and that high level multi-

agency attendance in high risk teams and data-sharing be compulsory, not voluntary.

Recommendation 6 for Parliamentary Committee

That the Parliamentary Committee seek assurances from the Queensland Government that the provisions within this Amendment Bill will:

- Improve collaboration and information sharing about the safety of child in the statutory child safety system and adult victims of family violence, across services including the family law courts, Magistrates' Courts, police, family violence services and Child Safety. That ongoing professional education in the application of the Bill and impact of intimate partner violence on children occur for Child Safety staff.
- Require Child Safety workers to ensure family violence risk assessment in child safety matters is consistent with the risk assessment tools developed by domestic violence services.

Recommendation 7 for Parliamentary Committee

BDVS supports mutual recognition of orders across borders and the national model laws that are enabled in this Bill.

Recommendation 8 for the Parliamentary Committee

BDVS request that the Parliamentary Committee seeks assurances from the Queensland Government that provisions in this Amendment Bill maximise co-operation, information sharing and consistency between the state and federal family law jurisdictions in order to maximize the safety of women, children and personnel in these court systems.

Recommendation 9 for the Parliamentary Committee

That the Parliamentary Committee consider the merits of an End Violence Against Women Act to complement the Domestic and Family Violence Act 2012 and raise this initiative for consideration by the Queensland Government.

Recommendation 10 for the Parliamentary Committee

That the Parliamentary Committee request the Queensland Government to consider the feasibility of introducing an additional Protection from Violence Order (PVO) in cases where there is not an intimate partner relationship. This separation of legal remedies is likely to foster a much clearer distinction between intimate partner violence and other forms of relationship violence. This may in turn foster more pro-active investigation of the pattern of coercive control that underpins intimate partner violence.

4. Amendments to enhance domestic and family violence protection system

Swift and severe consequences for domestic violence offenders and enhanced protection for those enduring the violence.

The international and national evidence is clear that the most effective responses to domestic violence offenders are those that apply swift and severe criminal justice sanctions (see St Paul's Blueprint http://stpaulblueprintspip.org). BDVS welcomes the strong legal responses to offenders contained in this Amendment Bill.

BDVS supports the changes that enable courts to make protection orders that extend beyond two years. For many women who endure an ongoing cycle of abuse and coercive control, two years duration is not adequate.

We support the amendments that set an expectation that orders will last for a minimum of five years unless there are reasons for making a shorter order. BDVS recommends that there be provision for indefinite domestic violence orders in cases where the evidence indicates that the risk of violence, intimidation and fear is highly likely to continue for an indefinite period.

From our experience Police protection notices offer limited protection in only protecting the victim (not their children or others) and in only including two standard conditions on the offender.

BDVS supports the changes in this Amendment Bill as they relate to expanding and strengthening Police protection notices. In particular, we are encouraged by provisions that:

- Allow police to provide victims with protection without delay and in cases where the offender has fled;
- enable police to name in the notice a victim's children as well as relatives and associates;
- enable a condition that a named child must not be exposed to domestic violence – refer s 106 (c) (iii);
- allow Police to include additional ouster provisions and non-contact conditions that prevent respondents contacting the victim or their children, and
- remove the power of a supervising Police Officer to refuse a police protection notice being issued – refer to s 102 (1A).

The increase to the maximum penalty for breaching a Police protection notice or release condition to a maximum three years imprisonment or 120 penalty units, is also supported. Breaches are common occurrences, yet the consequences on offenders are not consistently swift and severe.

Avoid criminalizing of women (as victims of violence)

The proposed increase in Police powers is positive, yet it can have the effect of unintended consequences. BDVS is concerned that women (and vulnerable people, such as those living with mental health issues, can be unduly brought into the sanctions of the criminal justice system. Criminalisation of Indigenous women in the context of domestic violence is particularly concerning. Nancarrow (2015) reported that Indigenous women are at risk of being criminalised in the context of domestic violence . Of 185 DVO applications studied, 80% of Indigenous women were subject to cross-applications and Indigenous women were more likely than non-Indigenous people to have a conviction recorded for a breach of a DVO (Douglas & Nancarrow, 2015, p.81).

Alice Springs criminal defence lawyer Carlie Ingles investigated why she saw a 40 per cent increase in the five years to 2015 in her caseload of female defendants who were predominantly Aboriginal:

Women going into jail, I see that as a manifestation of male violence against women.

And I feel that was brought out in the serious harm cases. In 66 per cent of those cases, the sentencing remarks referred to elements of either excessive self defence or provocation present by the victim to the offender. http://www.abc.net.au/news/2016-07-06/advocates-call-for-change-to-domestic-violence-laws/7575194 ABC News Online Katherine Gregory July 6 2016

Police must be guided, and compelled, to fully investigate domestic violence matters and determine who is at risk of further harm, rather than applying orders to both parties. Court officers must also act to minimize the use of cross-applications.

Case Example for a BDVS court support worker:

One of the trends I have noticed …is that once a woman files an order for her protection and a final order is granted, the respondent out of retaliation applies for an order for his "protection" usually in the next week or two. It could potentially be beneficial if there were further recommendations for Magistrates to take into consideration prior orders and review the intent and timmelines of new applications that are applied predominantly by males (previous respondents). This could potentially be beneficial for woman that face unintended consequences in the criminal justice system as they have been named the respondent on an order out of retaliation by the person using violence.

Recommendation 1 for the Parliamentary Committee

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Recommendation 2 for the Parliamentary Committee

BDVS supports the changes in this Amendment Bill as they relate to expanding and strengthening Police protection notices. In particular the inclusion of children and associates on orders when appropriate is welcome as is the increased penalty for breaches of orders.

Recommendation 3 for the Parliamentary Committee

BDVS support increased Police powers to protect those at risk of further violence. Police and Magistratesmust avoid criminalising those who are victimized (predominantly women) by comprehensively investigating domestic violence matters to determine who is at most risk of harm and who is the offender. Cross-applications must be used minimally.

5. Enable information and data sharing among agencies to maximize risk management of violent offenders, including sharing of information without consent.

BDVS shares a concern that currently the Act does not provide a framework for information sharing across government and non-government agencies as part of integrated service responses. Nor does the Act set out the roles and functioning of the high risk teams that are emerging in Queensland as a feature of integrated responses to domestic violence.

The privacy laws create confusion about what information can be shared with whom and for what purpose. This acts as a barrier to referral for support for aggrieved people and it can hinder enforcement of orders (See attached BDVS Information Paper on Consent). In addition, statutory agencies and non-government agencies are generally reluctant to share client information and service data.

In our daily experience, Police and personnel from other statutory agencies continually cite the Information Privacy Act 2009, the Child Protection Act 1999, the Corrective Services Act 2006 as barriers that restrict them from providing information to other service providers and/ or aggrieved persons - information that if available to disclose may in fact enhance the safety of women and children.

Case example from BDVS staff:

> …we have come into contact with a number of information sharing hurdles, occasionally with QPS, however increasingly with organisations such as the FACC [Family and Child Connect] and IFS [Intensive Family Support], and of concern, these organisations cannot share information freely between other IFS and FACC organisations, and even more worrying, Child Safety.
>
> For the most part, organisations are acknowledging that where there is DV involved, it enables the (relative) free-flow of information relevant to the task at hand. What organisations are not yet doing, is acknowledging that there needs to be a "sharing of the risk" and that no singly agency can keep women and children safe. This has led to insufficient or inappropriate referrals across the board.

The Amendment Bill contains s169 that sets out principles for sharing information. In addition, s 169 I allows for the sharing of facts or opinion. While BDVS support the involvement of advocates to ensure that clients - who will be highly distressed - can give informed explicit consent, we consider these principles enable appropriate safeguards for information sharing without consent.

The Australian National Research Organisation for Women's Safety (ANROWS) in a paper prepared by Taylor, Ibrahim, Wakefield & Finn (2015) reported that a

number of states provide for the sharing of information with/by agencies other than the Police or in the conduct of protection order proceedings. New South Wales appears to have the most comprehensive and detailed set of provisions (Yalor et al., 2015). These include provision for disclosure of personal and health information about the victim and the perpetrator by specific agencies where there is threat of domestic violence.

BDVS is keen to ensure that all relevant criminal history and records that are relevant to assessing risk of the offender, are shared, not solely domestic violence offences. For example, risk is informed not solely by criminal convictions. Escalating incidents and repetition of incidents need to be considered. A full profile on offenders needs to be shared. If an offender has been stalking and harassing an (ex) partner and/or extended family this risk behavior needs to inform a comprehensive risk assessment. If an offender is convicted of using excessive or repeated violence - yet this did not occur in a domestic violence relationship within the terms of the Act - this must not restrict the ability for this information to be shared?

We seek assurances that 169J of the Bill does not unduly limit sharing of information required for comprehensive risk assessments. The current clause 169J appears ambiguous.

> *169J Limits on information that may be shared*
> *Despite sections 169D, 169E and 169F, information may not be given to an entity under this division if—(a) the information is about a person's criminal history to the extent it relates to a conviction, other than a conviction for a domestic violence offence, and—*

Disclosure of information usually requires consent of the threatened person or victim but there is provision for disclosure without approval under high-risk circumstances. The sharing of information for the purposes of investigating occurrences, including breaches, for risk assessment, and evaluation purposes can strengthen the enforcement process. It is also essential to the functioning of integrated responses to domestic violence.

In supporting the provisions in this Amendment Bill, we have some concern however about the limits on information sharing and sharing of data. For integrated domestic violence responses to work effectively, it is important for QPS to share domestic violence occurrence data (system-wide data, not solely individual offender data) with partner agencies, such as BDVS (Micah Projects).

While attempting to develop a co-responder model between QPS and BDVS through a trial of Project Amity (2015), the BDVS staff working on Project Amity were not able to obtain domestic violence occurrence data. This was requested of QPS so that BDVS could compare the volume of referrals they received from the QPS relative to the actual occurrences.

BDVS Project Amity staff also proposed that read only access to cases on QPrime - the QPS information system - would assist in case management and risk

identification. It is also beneficial if BDVS staff can receive timely and regularly updated information from QPS on the whereabouts of the respondent in matters where they are case managing and safety planning with aggrieved people. BDVS staff recognise that risk assessment processes need to be applied and communicated consistently, routinely and to a high standard.

Micah Projects through the integrated response with BDVS is working collaboratively with Corrective Services in the delivery of men's programs. A Memorandum of Understanding and a risk assessment tool is in place to guide the practice. A common risk assessment tool across all relevant agencies would enhance safety for people enduring domestic violence and support workers.

Rather than negotiating individual MOUs on sharing information, it is essential that there is legislative backing and consistency in these protocols and high level agency support. It may also be essential to provide legislative backing for the roles and functions of high risk (co-ordinated community response teams) that are emerging as a key feature of integrated responses to domestic violence in Queensland. The Bill proposes that the Chief Executive makes guidelines consistent with the Act.

> *169M Chief executive must make guidelines*
> *(1) The chief executive must make guidelines, consistent with this Act and the Information Privacy Act 2009, for sharing and dealing with information under this part.*

BDVS suggests this would be strengthened if it was developed by way of regulation in the Act. The guidance and principles for information sharing and the roles and functioning of multi-agency high risk offender teams, will be most effective and consistent if embedded in legislation.

Legislative backing for high risk teams (conferences)

In the UK a system of Multi-Agency Risk Assessment Conferences (MARACs) has been established in which common risk assessment processes and information sharing protocols are being applied. While it is recognised that it is difficult to assess the impact of these partnership models in reducing recidivism and risk of harm, the UK evaluation shows encouraging reductions in recidivism and enhanced levels of women's safety [see https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/116538/horr55-technical-annex.pdf].

The Safe Lives organisation in the UK proposed in policy recommendations to the UK government that the high risk conferences (MARACs) be embedded in legislation. The operation and membership of the MARACs is voluntary and attendance and degree of information sharing is variable across the MARACS. As a result, Safe Lives stated:

> *Embed MARACs through legislation. As a voluntary meeting, MARACs are not protected by statute. There is growing consensus amongst statutory services that legislation is*

necessary for the future success of the model. Legislation would embed a commitment to consistent, high quality multi-agency services regardless of where victims live.
[see http://www.safelives.org.uk/sites/default/files/resources/Saving_lives_saving_money_FINAL_VERSION.pdf p.11]

To enable effective, high level functioning of co-responder models and teams that manage high risk offenders and that include malti-agency membership - QPS officers, Correctional Services staff, Child Safety and non-government agencies - it is essential that these models be given statutory backing, rather than operating at the whim of individual agencies. To fulfil their case management responsibilities and safety planning with the aggrieved, non-government agencies require collaboration with other agencies. Similarly, this is required for multi-agency teams to effectively monitor and manage high risk offenders.

Recommendation 4 for Parliamentary Committee

We request that the Parliamentary Committee seek assurances from the government that s169J *Limits on Information that may be Shared* will not hinder the ability of agencies to:

1. Share a wide range information including: offence data and risk behaviours recorded on Q-Prime and the Correctional Services data base (not solely domestic violence offence data) to make comprehensive assessments of escalating risk factors) and Queensland Health data (such as Emergency Department admissions for women and children;
2. Share empirical system-wide service data (such as reoffending occurrences for offenders) that will be required for effective evaluation of the domestic violence legislation and program responses.

Recommendation 5 for Parliamentary Committee

We seek legislative backing for the principles and guidelines for sharing of information and for the role and functioning of high risk multi-agency teams that are emerging in Queensland as a feature of the integrated responses to domestic violence. Rather than guidelines being the responsibility of the Chief Executive, we suggest that they be enshrined by regulation in the Act and that high level multi-agency attendance in high risk teams and data-sharing be compulsory, not voluntary.

Need to Improve Domestic Violence Information Sharing Protocols and Risk Assessment Tools Between Child Safety and External Agencies

In the experience of BDVS there appears to be a level of restraint from outside agencies in sharing information and referring domestic violence related issues to the statutory agencies of Child Safety.

This can be attributed to pre-conceived notions that children will be at high risk of removal from their families. In contrast to this assumption many Child Safety staff are being trained and guided by David Mandel's *Safe and Together Framework* which dictates working with both parents/ carers where domestic violence is present.

This is to avoid 'mother-blaming' approaches to family violence where mothers are viewed as failing to protect their children from violent fathers/ carers. Instead perpetrators of violence are to held accountable and appropriate support provided to children, women and men.

The experience of victims of domestic violence with child protection systems has been highlighted in Australian-based research (Humphreys & Stanley, 2006; Laing & Humphreys, 2013 cited in Taylor et al, 2015). In the study by Douglas and Walsh 2010 cited in Taylor et al, 2015) child protection workers engaged with mothers who were victims of domestic violence, reported lack of knowledge and understanding of the dynamics of domestic violence. It was identified that this lack of understanding led in some cases to workers holding "nonviolent mothers responsible for ending the violence" (Douglas & Walsh, 2010, p. 490 cited in Taylor et al, 2015).

In our experience it is also evident that child protection assessments can indicate that separation between the parents can reduce the risk of harm to abused children whereas separation from the perspective of domestic violence is one of the most high risk periods.

The importance of trust between mothers who are victims of domestic violence and child protection workers was emphasised, as this to a large extent determined whether mothers felt able to disclose the violence and to engage with the social workers (Douglas and Walsh 2010 cited in Taylor et al, 2015).

In addition, myths abound suggesting that non-government agencies collect, disclose and store information about clients in ways that may breach accepted standards of confidentiality. This can be a barrier to sharing information with non-government agencies.

In their submission to the Royal Commission into Domestic Violence in Victoria the DVRCV acknowledged that there is a growing body of international literature which demonstrates that child protection services need to significantly modify their approach to working with children living with family violence.

The DVRCV cited widely reported case of Luke Batty. The DVRCV questioned: Even if Child Protection had identified the risk to Luke, what action would Child

Protection have taken to ensure his safety? Currently the focus of Child Protection is on the capacity of the mother to be 'protective' of the child. In cases of family violence, Child Protection may remove the child from the mother's care if they believe she is not able to ensure the safety of the child.Client C

The DVRCV acknowledged that women are often fearful to report family violence and the risks this involves for their children, because they are concerned that Child Protection will remove children from their care.

This issue is compounded for Indigenous women because their communities have experienced a history of government removal of children (Humphreys 2008 cited in DVRCV, 2015). The introduction of 'failure to protect' legislation in Victoria has created a further barrier for victims of family violence.

While the DVRCV submission drew on their Victorian context, BDVS staff share similar experiences and concerns in the Queensland context.

Recommendation 6 for Parliamentary Committee

That the Parliamentary Committee seek assurances from the Queensland Government that the provisions within this Amendment Bill will:

- Improve collaboration and information sharing about the safety of child in the statutory child safety system and adult victims of family violence, across services including the family law courts, Magistrates' Courts, police, family violence services and Child Safety. That ongoing professional education in the application of the Bill and impact of intimate partner violence on children occur for Child Safety staff.
- Require Child Safety workers to ensure family violence risk assessment in child safety matters is consistent with the risk assessment tools developed by domestic violence services.

6. Amendments to enable Queensland to participate in the National Domestic Violence Order Scheme.

A welcome feature of this Amendment Bill is the implementation of national model laws that will support Queensland's participation in the National Domestic Violence Order Scheme. BDVS has advocated for a scheme that provides for the automatic, mutual recognition of DVOs made across Australia. Currently, victims must manually apply to courts to register in Queensland an order made in another state or territory.

It is very positive that the Bill will not require victims who relocate to Queensland to register their interstate DVO. Furthermore BDVS welcomes the move towards nationally consistent laws that will support a national information sharing system.

Recommendation 7 for Parliamentary Committee

BDVS supports mutual recognition of orders across borders and the national model laws that are enabled in this Bill.

7. Improve alignment of state based domestic violence laws with the Family Law Act

BDVS staff welcome provisions in this Amendment Bill that aim to overcome the current disjointed nature of processes that occur within the family law and state jurisdiction that impact on families experiencing domestic violence. We welcome action that minimizes inconsistency between that DVOs and family law orders – particularly in relation to terms about respondents' contact with their children.

An area of concern to BDVS is an apparent lack of application of domestic violence risk assessment tools in the family law court system. For instance, BDVS staff have experiences where women subject to violence have to sit near their violent (ex)partner in the family court setting and be subject to their intimidation. Further BDVS staff see cases where conditions in family law orders do not adequately take account of the seriousness of the violence or risk of future violence to women and children. Orders can be made on a lack of information of the history of violence. This is illustrated in the following examples:

Client A.
A woman was compelled to provide the details in the Family Court, to her ex-partner, of the child care centre that their child attended. This occurred despite the woman's acceptance of supervised access to the child/ren and pleas that her ex-partners knowledge of the child care centre location may put the child and centre staff at risk of harm from the father/ex-partner.

Client B.
A Magistrate offered a respondent a shorter DVPO period due to his co-operative behavior in court. The BDVS worker did not believe that cooperation in a court process is an accurate reflection of risk. In this case the respondent was in custody and appeared in court via video link.

The aggrieved women had applied to vary the order to add her child as a 'named person' and add a 'no contact' condition. The magistrate stated that he would not name the child on the order because it was his view that limiting the respondents contact with the child was not the place of a domestic violence court. He stated that this was the place of the family court and "I can assure you Mr X no family court magistrate would stop you from seeing your son". The child had directly witnessed the respondent's violence.

While in court the respondent asked if his son was in the court room and the magistrate stated "oh I understand Mr X, You want to give him a wave and say 'hello'. I understand, I am a father too."

The respondent consented to the variation. The magistrate suggested that a clause be added stating that he was allowed to contact aggrieved in writing ONLY if it was related to the child. The respondent asked "Can I write to her about other things?"

The aggrieved was crying throughout the court proceedings. Following the respondent consenting to the variation, the Magistrate thanked both the respondent and the aggrieved. He then stated "I would like to especially thank you Mr X for your cooperation in this process". The magistrate then suggested that due to the respondent's cooperation, the order was only made for one year, as opposed to the standard two years.

Client C had never reported the violence she had been experiencing through the relationship to any statutory agencies for fear of violent repercussions from the perpetrator. Unfortunately this meant there was no "evidence" that any violence had occurred. When she was finally ready to take the step to leave the relationship, she fled with the children to NSW and created a new, safe life there in a private rental home and with the children settled in a new school. Unfortunately, the perpetrator utilised the powers of the Family Law Court to force her and the children to return to Queensland, where an order was granted by the Family Law Court that she must reside within 50km of the perpetrator. Whilst initially she was placed in safe accommodation (within this radius), the perpetrator managed to track her down, vandalising her property and threatening her life and welfare. She and the children were moved into safe refuge, however because this was outside of the 50km she was reprimanded in the Family Law Court and subsequently her custody of the children was affected.

Family Law Amendment (Family Violence and other Measures Act) 2011 (Cth) introduced a number of amendments to the Family Law Act 11975 (Cth) relating to the manner in which courts should deal with cases involving family violence and child abuse. While the reforms improved the family law system's response to victims of violence and abuse, we believe that further reform is required to ensure that domestic violence is not an exception to the norm but a serious and compounding risk factor in many separating families.

We continue to see inconsistency with the interaction of protection orders with family law orders made under Commonwealth jurisdiction and which override state and territory-based protection orders. We also continue to witness incidences of Magistrates and judicial officers failing to understand the gender-based pattern of coercive control that underpins domestic violence.

The evidence provided at the coronial inquest into the death of Luke Batty in Victoria highlighted that Child Protection did not provide any assistance or support for Luke's mother, Rosie Batty, to access the family law courts. In such cases, Child Protection could provide information to the family law courts about the violence and the impact on children, and assist women and children to negotiate family court orders that ensure their safety (DVRCV, 2015).

The need for Child Protection to take an active role in assisting family courts to ensure the safety of children was highlighted by the ALRC/NSWLRC (2010):

Federal, state and territory governments should, as a matter of priority, make arrangements for child protection agencies to provide investigatory and

reporting services to family courts in cases involving children's safety. Where such services are not already provided by agreement, urgent consideration should be given to establishing specialist sections within child protection agencies to provide those services) ALRC Recommendation 19–1).

Recommendation 8 for the Parliamentary Committee

BDVS request that the Parliamentary Committee seeks assurances from the Queensland Government that provisions in this Amendment Bill maximise co-operation, information sharing and consistency between the state and federal family law jurisdictions in order to maximize the safety of women, children and personnel in these court systems.

8. Issues not covered by the Bill that are worthy of consideration by the Parliamentary Committee

BDVS staff are confident that domestic and family violence could be further curtailed through the introduction of a new End Violence Against Women Act and new Protection from Violence Orders (PVOs). We seek consideration by the Parliamentary Committee of these suggestions as they would complement and strengthen provisions in this Amendment Bill.

8.1. An End Violence Against Women Act

To complement reform of the DVFP Act (2012), BDVS recommends that an End Violence Against Women Act be introduced. A new EVAW Act would:

- Formally recognise the serious and criminal nature of violence against women in all its forms - including, but not limited to intimate partner violence, dating violence, stalking, sexual violence and genital mutilation.
- Embed the principles that underpin gender-based violence in all relevant legislation and funding programs through a Charter.
- Commit the Queensland Government to implementing a whole-of-government violence against women policy and action plan as a priority.
- Establish a standing Violence Against Women Council to provide direct advice to Ministers for action to end all forms of violence against women.
- Provide legislative support for ongoing monitoring, evaluation and review of the impact of laws and programs (including educational programs such as respectful relationships) aimed at reducing violence against women and girls.

While successive amendments to the Domestic Violence Protection Act 2012 strengthen its powers, a complementary Act will enhance the safety of women across all forms of violence.

There is a lack of cohesion and consistency among service providers and agencies in their understanding of the gendered-nature of domestic violence and the pattern of coercive control that underpins it. This leads to inconsistent application of law and inconsistent consequences for male perpetrators of violence against women and girls.

Parliamentary endorsement of an End Violence Against Women Act, will demonstrate to all agencies and community members, that ending violence against women and girls in all of its forms is a priority in Queensland that has bi-partisan support.

A Violence Against Women Act (VAWA) was enacted in the US 1994. The original act was intended to change attitudes toward domestic violence, foster awareness of domestic violence, improve services and provisions for victims, and revise the manner in which the criminal justice system responds to domestic violence and sex crimes. VAWA programs target the crimes of intimate partner violence, dating violence, sexual assault, and stalking.

BDVS (Micah Projects) argues that there is a need for and End Violence Against Women Act in Queensland to reduce the current fragmentation of responses to all forms of gender-based violence.

This recommendation is based on the model developed by the Queensland Government in introducing the Multicultural Recognition Bill 2015. This model is to be applauded for giving high level promotion to Queensland as a fair, multi-cultural community that values our diversity. Similar legislative recognition could be given to promoting respect for women and ending violence against women.

In a similar way to the Multi-cultural Charter, a Charter to End Violence Against Women would reaffirm: "A shared commitment, among government agencies and members of the Queensland community, to mutual respect, fair treatment and valuing the diversity of peoples in the community fosters a caring, safe and inclusive community".

Added to this would be a statement affirming that violence against women and girls in all of its forms will not be tolerated in Queensland and consequences for those who perpetrate violence will be swift and severe.

An End Violence Against Women Act would guide action across government and the community as well as fostering greater reporting and accountability on planned commitments.

It is an important innovation in the efforts to eradicate violence against women and girls.

Recommendation 9 for the Parliamentary Committee

That the Parliamentary Committee consider the merits of an End Violence Against Women Act to complement the Domestic and Family Violence Act 2012 and raise this initiative for consideration by the Queensland Government.

8.2. Introduce a new Protection from Violence Order (PVO).

It is widely recognized that there needs to be a clear distinction between the gender-based coercive control, fear and risk of future harm evident when men violate their intimate partners relative to a conflict based dynamic that occurs in other relationships.

In addition, there needs to be a clear recognition that while women commit acts of violence in a domestic violence context, this is often done in retaliation or self-defence and it is uncommon for their partners to be living in a pattern of fear and ongoing coercive control.

In fact, this inconsistency and lack of understanding relates to responses to all forms of violence against women. Inadequate action to end violence against women results and it perpetuates anti-women, victim-blaming attitudes. The culture and values that embed disrespect and inequality for women and girls

foster these victim-blaming -"she asked for it", boys will be boys" - dismissive attitudes.

Law enforcement responses to family violence (in the many forms of relationships in which it occurs) tend to be occurrence or incident based assessment. These responses need to recognise that intimate partner violence is often a pattern of control, fear, deprivation and violence. It is therefore important that a comprehensive investigation and assessment is made to uncover this pattern of power and control. It may then be clearer to law enforcement officers who is the primary aggressor and who is at risk of future harm.

In Queensland in instances where both parties commit an act of physical violence or damage property, there is a risk that cross orders will be applied or that no action will be taken on the basis that Police consider the parties to be "both as bad as each other."

It is our view that this approach can fail to acknowledge or identify the pattern of coercive control and can unduly penalise and draw the person most at risk of future harm (generally women) into the legal system.

Making this distinction is complex. It requires an analysis of gender relations informed by attitudes and values that understandably take time and experience to develop. It is important to persist in promoting understanding of these gender-based differences.

Separate orders, such as the WA Family Violence Restraining Order may promote better understanding of coercive control in intimate relationships as distinct from conflict in non-inmate relationships. BDVS asks for consideration of a new Protection from Violence Order for cases that do not satisfy the definitions of domestic violence in the Act. While there is a risk of misuse or confusion with different orders, the idea of a separate PVO is worthy of considered, expert consideration.

Recommendation 10 for the Parliamentary Committee

That the Parliamentary Committee request the Queensland Government to consider the feasibility of introducing an additional Protection from Violence Order (PVO) in cases where there is not an intimate partner relationship. This separation of legal remedies is likely to foster a much clearer distinction between intimate partner violence and other forms of relationship violence. This may in turn foster more pro-active investigation of the pattern of coercive control that underpins intimate partner violence.

Conclusion

BDVS appreciates the opportunity to present these issues for consideration by the Parliamentary Committee. We welcome the bipartisan approach in which legislative responses to domestic violence in Queensland are occurring. This approach is in the best interests of those harmed by domestic violence.

9. References

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