



Centre Against Domestic Abuse Inc.

(formerly Caboolture Regional Domestic Violence Service Inc.)

Servicing the Moreton Bay Region & surrounds

7th September 2018

Committee Secretary
Legal Affairs and Community Safety Committee
Parliament House
George Street
Brisbane QLD 4000
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To the Committee Secretary

RE: Submission: Criminal Code (Non-consensual Sharing of Intimate Images) Amendment Bill 2018

I am writing on behalf of the Centre Against Domestic Abuse Inc. (CADA) with regards to the above request for public submission.

The Centre Against Domestic Abuse Inc. (CADA) is a specialist agency assisting people, predominantly women and their children, affected by domestic and family violence, in the Moreton Bay Region and Kilcoy District. CADA offers a range of programs, including adult and children's counselling, court assistance, crisis support, safety upgrades, high risk case workers with police and community education. CADA has been serving the community north of Brisbane for 26 years. While working specifically with people experiencing domestic and family violence, CADA has also had wide ranging input and engagement with programs assisting people who use violence, intensive family support and the Family and Child Connect, education to all levels of the community and participation in a range of legislative and policy renewal initiatives.

CADA is pleased to see the introduction of this amendment bill and wholly supports its acceptance.

While there are thousands of cases that might be looked at, we offer Janes' Story in support.

Janes' Story (Name changed for privacy)

Jane and her husband were married for 25 yrs; they had three children together (boys) and owned a large property with a great deal of equity in it. Jane was a stay at home mother for the entire marriage. Her husband a respected professional.

Jane ended the relationship after an incident of moderate physical violence. She said that this was unusual however mostly she was subjected to controlling behaviours in aspects of her social, personal, financial and spiritual life.

Jane said that she continued to receive obscure digital communication from her husband, telling her he had images of her having sex and videos of same. She went on to disclose to therapists that the marriage had been characterised by severe sexual violence and control. She said she had not consented to the images being taken, and felt great shame. They included her in various state of undress and in intimate sexual positions. She said that the images and videos didn't capture her husband in any identifying way.

Jane said that she lived in great fear he would publish the images and that her sons, or her sons friends would see them. She was so ashamed of this that she withdraw from her family, and stopped sharing details of her fear and safety concerns with them and consequently her emotional support dwindled.

Jane took out a Domestic Violence Protection Order (DVPO) against him and named her sons for protection but the threat of sharing intimate images was not sufficient information to name her children in the order.

Jane said that her husband maintained his physical distance from her, and it made stalking charges complicated and police unwilling to file charges.

Jane said that because of the equity in their home, she found she was not eligible for legal aid in family law matters and domestic violence matters and facing her husband in these courts was too difficult to do alone. Her husband however, had ample financial resources to access these courts with representation.

She said that her fears were realised when a Facebook profile appeared in her name and the profile images and cover images were of her naked. This was found by her youngest son (13) and his school friends and brought to her attention. About six months later Jane became aware that her husband had distributed the images through the letterboxes of her neighbourhood and through her sons' sporting clubs. She felt completely humiliated and a sense of powerless with no legal avenue to protect her.

Analysis

Jane was disadvantaged by her ineligibility for LAQ due to means test and the untested equity in the house, and the lack of advocate meant she was reluctant to progress legal protections. The location of this amendment in the criminal code would have assisted Jane by making it a policing issue and therefore providing her with an advocate.

Jane herself was uncomfortable with the digital environment, meaning the threats to share her images on social media platforms was even more frightening to her as she had no information on how to block, report or minimise the impact of such sharing herself. This legislation would enable an authority (the Court) to order this, and provide necessary impetus to follow the direction.

Jane's husband's standing in the community meant that suggestion that he had taken such imagery, and that he had threatened to share it, was often met with disbelief. It is useful that legislative sections clarify, as these do, the exact nature of the action, to bypass the disbelief and shame that arises in cases like Janes'. It is useful that intention to actually publish or to actually cause fear is identified as not relevant to charges being brought.

It is our experience that the threat to share images is often just as difficult for clients as the actual sharing. And consistent with Clause 9 s 229A3(a) some clients cannot recall if the material actually still exists or not and find the threat even more distressing as they cannot recall the exact details of the material that may be shared. We are supportive of this clause acknowledging that it is immaterial if it exists or not.

Victims of intimate partner abuse almost always experience some level of shame in relation to the experience of abuse. The threat and or actual act of sharing this material goes to amplifying the experience of shame and compounding the psychological distress. Some people never heal from this. Some women report the deterioration of relationships with their family and children after imagery or the threat of imagery becomes apparent.

We believe this amendment will go well toward filling the gap that falls between domestic violence protection order provisions, stalking provisions and the provisions regarding telecommunications / digital communications contained in the commonwealth criminal code. We are pleased to see the restorative justice contained in Clause 9 S229AA giving courts the power to order imagery destroyed and retracted and a penalty for failure to do so.

CADA supports, in the interests of natural justice and empowerment for victims, that this legislation embraces the notion of informed consent. That even if agreement is obtained for these images, if that is obtained under coercion or duress, as is common in the experience of domestic and family violence, that this is not consent for the purpose of this law.

CADA encourages the government to consider how this legislation can be made most accessible for law enforcement, and consider building in processes that make this legislation a first consideration before referral to civil remedies like the Domestic Violence Protection Act.

Finally, CADA is pleased to see these provisions being inserted into the Qld Criminal code, which reflect similar positions as found in the Commonwealth Criminal Code. The State based police, who are already dealing with domestic violence matters much of the time, and who are often in partnership with family violence services, are better placed to investigate these occurrences than federal police.

CADA congratulates the Government and the Committee for this very timely legal changes.

Yours faithfully,

Estrella Herzog
Manager

Funded by



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