

# Queensland Police Union of Employees

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Committee Secretary  
Legal Affairs and Safety Committee  
Parliament House Q 4000  
**Email:** [lasc@parliament.qld.gov.au](mailto:lasc@parliament.qld.gov.au)

Dear Committee Secretary,

## **Re: Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Bill 2022**

Thank you for the opportunity to comment on the *Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Bill 2022* (the Bill). The Queensland Police Union (“QPU”) represents over 12,500 police officers, watchhouse officers, liaison officers and band members throughout Queensland.

The bill initiates some of the recommended reforms stemming from the Women's Safety and Justice Taskforce's (WSJT) *Hear her voice: addressing coercive control and domestic and family violence in Queensland* report. The QPU supports in principle the underlying intentions of the reforms recommended by the WSJT.

The QPU is concerned that the Queensland Police Service (QPS) does not appear to be a witness and has not made a submission to the inquiry, we are concerned about that and wondering if it has to do with the onerous timeframes of this legislation. This legislation was referred to the Committee on 14 October 2022 and the Committee is expected to report back on the legislation by 25 November 2022. The QPU is concerned that this time has not provided the community with enough time to view, digest and consider this legislation. This issue is complex and there are no easy fixes, a rigorous response takes time and needs to be measured. The QPU is concerned that in its current form the bill there could be detrimental consequences.

## Resourcing

At the outset our primary concern with this legislation concerns resourcing and lack of funding. The Queensland Police Service has a fixed budget from which to draw resourcing to be able to implement the legislation and meet the expectations of the bill. Our concern is that this legislation expands the body of work that must be undertaken by Police and does not provide any additional resourcing to aid Police in the administration and policing of these issues. The Explanatory memorandum notes:

*The Bill is likely to increase demand for courts, police and the legal profession due to the increase in the number of matters coming before the courts, as well as an increase in the complexity of matters being heard. This demand will be monitored and any costs impacts will be assessed and included in future budget processes.*

The QPU is concerned that this legislation has not appropriately quantified what the additional cost and human resourcing requirements will be under this legislation. The requirement to investigate coercive control and the expanded offences can be quantified in such a manner. The QPU estimates that it will take at least two officers to conduct a thorough investigation, that establishes the situation between the parties and investigates and can prove the required offence has occurred. In terms of shift hours, we expect that workload will take at least three days which is 6 days' worth of work between two officers.

To provide a thorough investigation Police Forensic experts will likely be involved to go through digital and electronic evidence, taking an additional two days for an investigation. All three personal will be required to attend court which is an additional three days of work provided to this investigation. All up in terms of human resourcing it will take 11 police officer days to conduct the investigation. To get the facts to the court Police must investigate the entire relationship. This takes time and is important, the QPU recognises that a matter cannot rest solely on the incident to which Police are responding.

We anticipate an average of 10,000 cases per year which will generate a minimum of an additional 880,000 Police Hours – 11 police officer days per file. The average Police Officer who does not take any breaks or sick leave will work an average of 215 shifts a year. Our calculations indicate that in order to service these new laws and do an appropriate investigation we need to see an additional 500 extra Police, noting of course that these Police Officers cannot be fresh from the academy and must be well trained investigators.

The QPU is concerned that the proposed legislation further adds to the heavy workload of Police and we note that recent Inquiries have identified the need for Police to decompress from their workload to be able to do the job properly. The need for additional resourcing to effect this necessary change is paramount in the eyes of the QPU.

### **Coroners Act 2003**

#### *Clause 4 and 5      Amendments to the Coroners Act 2003*

The QPU is supportive of the amendments proposed in the bill, changing the terms for the State Coroner and the Deputy State Coroner is welcomed.

### **Criminal Code 1899**

#### *Clause 9      Replacement of s 6 (Carnal Knowledge)*

The QPU believes that the insertion of the reference to 'mouth' into the definition of penile intercourse as set out below, would be of benefit.

Section 6 -  
omit, insert --

#### **6 Meaning of engage in penile intercourse**

(1) Penile intercourse is the penetration, to any extent, of the vagina, vulva, anus, **or mouth** of a person by the penis of another person.

(2) A person engages in penile intercourse with another person if

- a) the person penetrates the vagina, vulva, anus **or mouth** of another person with the person's penis; or
- b) the person's vagina, vulva, anus **or mouth** is penetrated by the penis of another person.

#### *Clauses 18 – 25      Amendments to the Unlawful Stalking provisions - Recommendation 52*

As aforementioned the QPU is concerned that the expansion of definitions within the offences will result in increased charges and workload for Police. This will have a significant impact on the human resourcing of policing in Queensland.

The changes made to restraining order parameters will undoubtedly increase Police hours with greater breach/contraventions of the orders requiring Police to investigate and substantiate these matters.

Clause 23 and insertion of ss.359F(6B) will increase the complexity of restraining order proceedings (particularly in cases where no DFVPO). This increased complexity will fall on Police to enforce and explain and we are concerned that this will require additional training and expertise within the Police Service to manage this issue successfully.

### **Domestic and Family Violence Protection Act 2012 (DFVPA)**

#### *Clause 30 Principles for administering the DFVPA, amendment of section 4*

The QPU is supportive of this amendment, however we note that it is not always easy to identify a perpetrator in an incident. Police often arrive in situations where the person in need of the most attention is not always readily available. Identifying this person requires investigation and this process can be time consuming. The change to legislation is supported however it adds additional burden to Police to manage domestic and family violence matters without providing additional resources.

#### *Clauses 31 – 33 Broadening/expanding definition of “domestic violence” – Recommendation 53*

The QPU supports these amendments but notes that we will see an increase in the complexity of Domestic Violence incidents. Police will need to gather additional information to ensure that the Court is fully informed about the context surrounding a matter. As we have canvassed repeatedly our main concern is with the operation of these increased requirements under current budgetary and staffing requirements.

These amendments are likely to see an increase in contraventions which will require Police enforcement and investigation. The QPU is gravely concerned that this outcome from this legislation hasn't been taken into consideration and further resourcing allocated to Police, the Courts and Lawyers.

*Clause 34 Person most in need of protection insertion of new s22A*

The QPU is concerned about the insertion of the new s22A in the Bill. Whilst we are supportive of the intention behind the legislation we are concerned that the list of factors in s22A(2) is extensive and by making these factors mandatory considerations to establish the person most in need of protection the burden of evidence required will massively blow out the practical intention of this section. The QPU believes that the consideration of coercive controlling behaviours that lead to finding out which person is most in need of protection can be satisfied without a mandatory checklist in legislation. Regardless, this change to the legislation is complex and will require increased workloads on Police, again we express our concern at a lack of extra resourcing addressed in the Bill.

Police will provide evidence that will be informed by the requirements set out in this act, providing an arbitrary check list to accomplish the intentions of the legislation may not be the most effective way to get the expected outcome. The expertise required to assess and meet the needs of this section of the bill has not been provided for in this legislation. The QPU believes that this requires additional resourcing to thrive, without this training this section will become nothing more than a checklist that does nothing to protect victims of domestic and family violence.

Gathering this evidence with culturally and linguistically diverse, first nations, disabled or elderly people will be difficult for Police. The QPU is concerned about the resources and labour that will be required to ensure that people from these diverse groups and people experiencing or impacted by trauma will struggle.

*Clauses 35, 44 and 51 Access to Respondent's criminal history, insertion of new s36A, s90A and s160A*

The QPU is concerned about the effect s160A of the bill will have on the disclosure requirements envisioned in s36A and s90A. The requirement to disclose the respondents criminal history and domestic violence history, however there is a grey area around when this information must be disclosed to other parties. The QPU believes that the bill should clarify this to ensure that the disclosure of this information is not bogged down by legal argument.

There will be additional resources required from Queensland Police to affect the requirements imposed by s36A and s90A, we are concerned about how this will work in practice. The

Government must acknowledge the need to appropriately cost and resource changes to legislation. The carriage of justice and support for victims requires labour and expertise, these things cannot continue to manifest into being from within the existing budgetary considerations of the QPS.

*Clauses 36, 41 – 42 When Court may make Protection Order*

The QPU is supportive of the amendments to sections 37, 43 and 45 to include consideration of the respondent's criminal history and domestic violence history when deciding to make a final/temporary protection order or to vary a protection order. This support should be read along the lines of our concern with the increased requirements on Police raised by this legislation.

*Clauses 37 – 39 Hearings of applications and cross applications before the same court*

The QPU is supportive of amendment to s41C; s41D and s41G as the amendments ensure the applications are heard before the same Court to ensure appropriate consideration of the facts to evaluate the person in most need of protection in cross applications. This reform will make it easier for everyone involved in a matter to protect the interests of the person most in need.

*Clauses 45 – 49 Amendments to s91, s113, s150 and s151*

The QPU is supportive of these amendments and wishes to provide the following comment on clause 46. The requirement for service is explored in detail in the explanatory memorandum of the bill and the QPU is aware of the intention behind service. The continuing complication of the domestic and family violence legal framework puts increased pressure on Police to be 'legal experts' and provide information to respondents upon service. The QPU is concerned that this expertise should not solely rest on the shoulders of Police, we believe that as the system continues to get more complicated there is a need for innovation and multi-disciplinary support across all the parts of the domestic and family violence system.

*Clause 50 Reopening particular proceedings*

The QPU is supportive of the insertion of s157A to provide the respondent natural justice if the respondent was served by substituted service and was unaware of the order and wasn't present at court when the order was made. This division places the onus on the respondent

to prove they have not been provided natural justice before the court may reopen the proceedings. Noting that the proceedings will only be reopened with the leave of the court to prevent systems abuse.

In relation to the new s.157B, we believe caution should be exercised around the stay of a TPO or DVPO. We are concerned that doing that may compromise the safety of the aggrieved. The Respondent must be required to establish that they would be harmed or prejudiced in some significant way if the stay is not ordered, which consideration should prevail.

*Clauses 52 and 53 Service and substituted service*

The QPU is supportive of the amendments to s184 and the creation of section 184A. The requirement for Police to service on respondents is a drain on Police resourcing, we appreciate the need for someone to be available to explain the order to the respondent but question if Police are necessarily the best arbiters of that. There will be increased evidentiary requirements placed on Police that will add more complexity to the job of Police.

The introduction of s184A allowing for electronic or further substituted service will assist Police in getting on with other facets of Policing related to domestic and family violence. The QPU is supportive of legislative reform that would allow Police to provide a temporary order at the call out and place the onus on the respondent to appear in court 7 days later to get it removed.

This reform will assist Police however there is still a high demand for Police to chase respondents for Service and provide technical advice at service, as we canvassed earlier a whole of system response is required to get the best outcomes.

**Evidence Act 1977**

*Clauses 58 and 69 Amendments to s 14L (Standing of counsellor and counselled persons)*

The QPU is supportive of these reforms, these amendments will aid the court in determining which communications are protected.

*Clauses 59 and 60 Expansion of Protected Witnesses*

This is a significant change to the framework of protected witnesses, the QPU is concerned that the scope of these reforms has not adequately been projected by the bill. The requirement

on the resources of the court will undoubtedly slow down the processes. Similar to a number of other provisions in this legislation we are concerned that the burden of time and resourcing has not been appropriately considered and the flow on effect will be a slow down in the system and a further blow out of timelines relating to proceedings.

The intention behind this reform is applauded by the QPU, we are realistic about the requirements this will place on Legal Aid, lawyers, prosecutors and the courts and how that will flow out into the rest of the system.

*Clauses 63 – 68 and 70      Admissibility of Evidence of Domestic Violence*

The QPU is concerned about how the amendments in the bill are seeking to meet the recommendations from WSJT report. There is a need to ensure that domestic and family violence matters are heard accurately and as much as possible are not exposed to a risk of mistrial or juries being aborted.

Clause 64 is of particular concern to the QPU, the drafting of 103CA (d), (e) and (f). ss(d) and (e) have a high risk of being prejudicial against the aggrieved. The QPU is concerned that community standards can vary across parts of our community and that establishing a single point of truth may be difficult and that expectations may not be uniform. These subsections need to tighten up to aid the court in deciding the validity of evidence.

The QPU is concerned that ss(f) is long winded and legally grey as to the source of evidence it is seeking to define. The lack of precision in the drafting of these sections could lead to the admission of prejudicial or highly inappropriate evidence that may risk juries being discharged or retrials.

The court requires matters to be linked across the subsections to ensure there is uniformity across the issues in the matter. Otherwise we will see evidence tendered that is irrelevant, prejudiced or unrelated to the matters the court needs to consider.

The QPU welcomes Clause 65 and has long called for this vital reform, recorded statement's as a complainant's evidence-in-chief is a step in the right direction. The QPU notes however that interviewing vulnerable people is different to other interviews and requires the right training to ensure a vulnerable person can share their evidence. There must be consideration for the resourcing for this training in the Bill.



Clause 67 may alleviate some of the concerns we have raised earlier, however the QPU feels that it is important for the Judiciary to receive uniform and consistent training around domestic and family violence. The increased power to direct juries will have a marked influence on the outcome of trials, it is essential that the Judiciary shoulder responsibility here and is trained consistently on matters and emerging research and expert thought on domestic and family violence.

### **Oaths Act 1867**

*Clauses 71 – 78      Amendments to the Oaths Act*

The QPU applauds Clause 72 which inserts a 13F into the Oaths Act, the carriage of justice must be served and minor non-compliance should not invalidate affidavits or declarations.

### **Penalties and Sentences Act 1992**

*Clause 80      Amendment of s 9*

The QPU joined with others who express concern that these amendments to section 9 of the PSA will lead to delays in proceedings and additional court dates to enable a court to be satisfied of the factors set out in clause 80. Subsection (gb)(ii) is particularly concerning, the extra mitigating factors will require investigation to satisfy the court before a decision is reached.

These concerns flow into ss10B as proposed in clause 9 as well. The establishment of mitigating factors will undoubtedly require evidence to substantiate. This evidence will no doubt be the comment of an expert to substantiate claims.

These reforms will lengthen the time for sentencing proceedings which is of concern to the QPU.

*Clause 81      Amendments to s 11*

The QPU supports these amendments.

## **Telecommunications Interception Act 2009**

### *Clauses 83 – 92 Amendments to the Telecommunications Interception Act 2009*

The QPU acknowledges that the process of obtaining warrants and information from telecommunications providers can be labour intensive. We also take this opportunity to note that financial intuitions, real estate agents and other providers are similarly labour intensive. We are cautious about the proposed amendments and hope that these reforms will make the system more efficient for Police.

The QPU wishes to advise the committee of the complexity of the system that goes into telecommunications interceptions. This process is extremely labour intensive and is governed by strict security procedures to ensure the evidence is protected. An increase in the use of telecommunications interception will increase human resourcing in any matters that interception is involved in.

## **Youth Justice Act 1992**

### *Clauses 96 and 97 Amendments to Youth Justice Act 1992*

The changes to the *Youth Justice Act 1992* are similar to the proposed changes in Clause 80 relating to the *Penalties and Sentencing Act 1992*. The QPU has similar concerns about the proposed amendments, we welcome the intention but note that the establishment of mitigating factors will undoubtedly require evidence to substantiate. This evidence will no doubt be the comment of an expert to substantiate claims.

## **Conclusions**

The QPU is broadly supportive of the intentions behind the legislation before the committee. We urge the committee to consider some of the concerns we have raised here and work to get legislation that meets the recommendations of the WSJT report and provide legislation that is workable and clear.

We are gravely concerned that the legislation will add a number of pressures to the system. Police are not an infinite resource in Queensland and there are only so many hours available across the QPS. There is an urgent need for increased funding to be allocated and for more Police Officers on the ground to deliver these reforms.

The QPU understands that we cannot arrest our way out of a problem, similarly we are not able to legislate ourselves out of the issues this legislation is seeking to address. We desire a multi-disciplined response that leans on agencies and NGO's across the whole ecosystem to make this system work for Queensland and keep people safe.

I am available on [REDACTED] should you wish to discuss this matter further.

Yours faithfully,

[REDACTED]

**IAN LEAVERS APM**  
**GENERAL PRESIDENT & CEO**