09th June 2025

Queensland Law Reform Commission
Non-Fatal Strangulation Review
[redacted]
Level 30
400 George Street
Brisbane Qld 4000

RE: NON-FATAL STRANGULATION REVIEW

Dear Commissioners

The Domestic Violence Action Centre (DVAC) is a community-based organisation servicing the needs of people in the greater Ipswich and Toowoomba regions who are or have experienced domestic, family and sexual violence. While our services focus primarily on the needs of women, children and young people who have experienced DFSV, DVAC also works with men who have experienced domestic and sexual violence. Services provided by DVAC include risks assessments, safety planning, domestic violence education, case management, specialist sexual violence counselling and men's behaviour intervention programs and work with young people who use violence to break the cycle.

In 2023-2024 financial year **50% had experienced not-fatal strangulation** of victim-survivors contacting our service for support reported experiencing non-fatal strangulation. This percentage has been increasing year on year.

Strangulation, choking and suffocation behaviours are increasing in prevalence and severity of those we support. We're seeing examples of this high risk form of violence being perpetrated by younger people within intimate partner relationships, affecting clients who are victims of this in early teenage years.

We are alarmed by the reported normalisation of strangulation within sex within the broader community and those we support. We are seeing the normalisation of extreme and high-risk violence against predominantly women, non-fatal strangulation, not only within the context of domestic and family violence but within all forms and types of relationships. Pornography is a key contributor to normalising this high risk behaviour in sexual intercourse. However, when considered within the power dynamic of a domestic violence relationship, the increasing rates of strangulation during intercourse is a high risk and worrying trend.

Investment in education and prevention of the community by specialist domestic, family & sexual violence services to provide vital information regarding non-fatal strangulation. Not only to victim-survivors and the persons using this form of violence but also to the broader community to maximise the impact of the proposed legislative amendments.

Proposal 1

Section 315A of the Criminal Code should be repealed and replaced with three new offences:

- Offence 1: unlawfully doing particular conduct that restricts respiration and/or blood circulation in the context of a domestic setting. This offence would prescribe a maximum penalty of 14 years' imprisonment.
- Offence 2: unlawfully doing particular conduct in the context of a domestic setting. This offence would prescribe a maximum penalty of 7 years' imprisonment.
- Offence 3: unlawfully doing particular conduct that restricts respiration and/or blood circulation. This offence would prescribe a maximum penalty of 10 years' imprisonment.

Question 1 – What are your views on proposal 1?

DVAC supports the proposals. DVAC believes it is important to ensure that strangulation perpetrated outside of DFV relationships (as defined in s13 of the Domestic and Family Violence Protection Act 2012) is also criminalised and appropriately sentenced in line with the risks associated with this form of violence.

Question 2 – What conduct should each of the three new offences criminalise?

DVAC notes that non-fatal strangulation, suffocation and choking can include a variety of behaviours that restricts oxygen or blood flow. Examples of this form of behaviour seen within our practice are listed below. Please note that this list is not exhaustive;

- Non-fatal strangulation with one of both hands used around neck of victim
- Pressing forearm against neck of victim
- Pressing knee into neck of victim (lying down)
- Using pillow, fabric, clothing, plastic bag or other item to smother or cover victim's mouth to prevent breathing
- Using rope, cord, seatbelt or other ligature to strangle victim
- Pushing/putting object into mouth of victim to prevent breathing or cause choking
- Using 'chokehold' to cause loss of consciousness

Question 3 – What are your views about consent, including:

- **whether the 'without consent' requirement should be removed or retained?**
- **the circumstances in which the requirement should apply?**
- **whether lack of consent should be an element or a defence?**
- **how consent should be defined?**

DVAC supports the "without consent" requirement being removed from the offence and that "consent" not be a defence able to be used.

DVAC asserts that within the context of domestic, family and sexual violence victim-survivors, particularly vulnerable people (children, young people, those with a disability, impacted by substance use, fear for their life or the life of another etc.), are unable to consent to engage in strangulation.

Noting that this form of violence often occurs within the context of a pattern of coercive control and other abusive behaviours inflicted by the person using violence.

DVAC also asserts that many victim-survivors disclose experiencing the *"freeze response"* to traumatic events where victim-survivors can feel stuck, unable to move, their limbs feel heavy and immovable, a decreased heart rate, restricted or slowed rate of breathing and feelings of dread, anxiety and fear. Alongside this victim-survivors may also experience the *"fawn response"* where they attempt to please or placate the person using violence to avoid further violence and abuse or find themselves unable to stand up for themselves or their safety in the face of a threat. We commonly hear from women 'consenting' to strangulation in a domestic violence relationship to placate and reduce the risk of their partner escalating in violence towards themselves and their children.

DVAC encourages the QLRC to consider these trauma responses when drafting legislation and considering the element of consent, noting that victim-survivors may be unable to outwardly deny, refuse or not consent to strangulation behaviours.

DVAC supports the use of affirmative consent models that demonstrate an understanding of trauma and trauma responses (fight/flight/freeze/fawn) and would refer the QLRC to consider the affirmative consent model and how consent is defined within that legislation.

Question 4 – When should non-fatal strangulation be lawful?

DVAC acknowledges that within some sporting codes strangulation or strangulation type actions that restrict breathing or blood circulation occur such as the sports of Jiu Jitsu, Judo, Mixed Martial Arts and some law enforcement trainings may still include "choke-hold" type behaviours which risk the same health impacts as non-fatal strangulation, suffocation and choking. DVAC is concerned about the impacts of this behaviour in all contexts but is not in the position to comment in regards to these aspects of the offence. There are concerns that permitting this behaviour in any context may normalise or validate it, creating a belief that it is safe in some contexts.

Proposal 2

The existing defences in the Criminal Code of provocation to assault (s 269), prevention of repetition of insult (s 270), and domestic discipline (s 280) should not apply to the three new offences.

Question 5 - What are your views on proposal 2?

DVAC supports the proposal and excluding the listed defences from the three new offences.

Question 6 - Are there other defences you think should not apply to one or more of the new offences?

No comment.

Proposal 3

Adult perpetrators who plead guilty should be sentenced in the Magistrates Court:

- unless the perpetrator elects otherwise
- subject to the Magistrate's overriding discretion. Legally represented child perpetrators should continue to be able to consent to have their case tried or sentenced in the Childrens Court (Magistrate).

Question 7 - What are your views on proposal 3?

There are concerns that having these matters dealt in the Magistrate's Courts may promote lesser sentences for strangulation offences. Whilst DVAC is supportive of enhancing the speed with which criminal matters progress to sentencing, to alleviate stress on victim-survivors, there are concerns that the Magistrate's Court being limited to sentencing offenders with up to 3 years imprisonment may create case law which supports smaller sentences for offenders and create the perception of strangulation being a less serious offence in the broader community.

We encourage consideration of this when considering this proposal.

We also note the need to provide education to Magistrate's in regards to the complex and serious context of strangulation, the health impacts of strangulation and provide opportunities for victim-survivors to provide victim impact statements within this jurisdiction to ensure their views and experiences are centred in the legal process.

Practice & Procedure

Question 8 - What reforms to practice and procedure are needed to ensure just and effective operation of the three new offences?

DVAC recommends a whole of government and whole of community approach in response to strangulation/choking and suffocation due to the intersections between the legal, health and community sectors and need for holistic victim-survivor centred approaches.

We have identified significant concerns regarding the disparate responses to strangulation for women our service supports within health systems including hospitals and medical centres where responses to strangulation depend on the education and training of the practitioners. Some women report receiving little to no medical care when presenting to hospital post-strangulation.

We have also identified concerns about the lack of support for victim-survivors to gather evidence of the assaults by forensic medical examinations. Lack of evidence has been identified as a theme when victim-survivors attempt to report their experiences to Police and have charges laid against the offender. Many women report feeling let down by the system due to the lack of response to their experience, feeling that health care professional, police and other responders did not believe them or care about them when they disclosed, they were strangled, choked or suffocated. We know these forms of abuse may leave little physical evidence but still pose significant risks of death or injury, yet these dismissive responses continue.

We recommend enhanced oversight in government agencies when victim-survivors disclose strangulation to ensure that appropriate and timely supports and responses are provided that align with the risks of this form of violence.

Education & Training – Professionals, Healthcare Professionals & First Responders

Our staff report a significant knowledge and capability gap for professionals who are often the frontline of support for victims. At a minimum, stakeholders in key agencies including law enforcement, GPs, health practitioners, legal practitioners, community services practitioners require improved universal knowledge and capability to identify and respond to non lethal strangulation. To this effect DVAC recommend;

- the implementation of government funded specialist training of key professionals (e.g. police, medical professionals, QAS, court staff, community services professionals) regarding the harms associated with strangulation, recommended medical interventions and responding to victim-survivors of strangulation/choking/suffocation in association with the proposed amendments.
- the implementation of clear guidelines for medical practitioners by Queensland Health when responding to strangulation, choking and strangulation which reflect international evidence regarding the short and long term health impacts of this form of violence and provide a proactive response to ensure victim-survivors receive adequate medical care.
- the implementation of clear guidelines for medical practitioners by Federal Government via Primary Health Networks for general practitioners and other allied health professionals outside of Queensland Health when responding to strangulation, choking and strangulation which reflect international evidence

regarding the short and long term health impacts of this form of violence and provide a proactive response to ensure victim-survivors receive adequate medical care

Education & Training – Community

DVAC has identified ongoing concerns regarding children and young people disclosing experiences of strangulation within multiple contexts. This includes children disclosing strangulation being perpetrated by their fathers, stepfathers, boyfriends and perpetrators of all ages who have also raped or sexually assaulted them. We believe it is crucial to provide early intervention and information to ensure children and young people experiencing this dangerous form of abuse and violence receive appropriate support.

- DVAC supports enhanced funding for specialist domestic, family and sexual violence services who currently respond and support survivors across the state to deliver enhanced community education regarding strangulation, choking and suffocation, the risks of this form of violence, the short- and long-term health impacts of strangulation and how to access care and support regarding this form of violence across Queensland including within schools and educational settings.

DVAC welcome further correspondence and discussion on this matter.

Sincerely,

[redacted]

Amie Carrington

Chief Executive Officer

Domestic Violence Action Centre Inc.