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Certificate of Incorporation IA37574

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Queensland Law Reform Commission ('QLRC')
PO Box 13312, George Street Post Shop,
Brisbane, QLD 4003

RE: Response to the non-fatal strangulation review consultation paper April 2025

Dear Commission,

Thank you for the opportunity to submit to this process. Please accept our comments below in response to the Non Fatal Strangulation Review.

Respect Inc is the state-wide sex worker organisation in Queensland that provides a comprehensive health promotion and peer education program for sex workers. Our organisation has a wide range of projects including a DFSV program. Respect Inc has offices and sex worker drop-in spaces in Cairns, Brisbane and the Gold Coast and provides regional outreach in other locations in Queensland.

This submission is informed by the lived experiences of sex workers in Queensland who have informed our work in this area, including the Women's Safety and Justice Taskforce processes, the Independent Commission of Inquiry into Queensland Police Service Responses to Domestic and Family Violence, Consent and Coercive Control Legislation Review, the Rape and Sexual Assault Sentencing Review and Police Business Unit Reviews.

In a 2024 Australian study, 57% of 18-35 year old participants had engaged in sexual strangulation and 51% reported ever strangling a partner. These practices are now regularly reflected in mainstream media. Some sex workers provide negotiated services including breath play (the consensual act of temporary restriction of breath while engaging in sexual stimulation) and some perform these services on clients.

While we commend the review and consideration of the effectiveness of current law and use in relation to domestic, family and sexual violence we have serious concerns that the proposals addressed below will criminalise many young people and sex workers.

Consensual NFS during sexual activities should not be criminalised

Respect Inc strongly recommends that consensual sexual strangulation that occurs outside of domestic relationships should not be criminalised. Proposed section 315A offence C will criminalise these acts and therefore requires a 'without consent' clause in the offence.

It is not our understanding from the Terms of Reference that the scope of this inquiry includes a shift to criminalising or restricting this practice from occurring. It is therefore imperative that the review considers, and its recommendations prevent, the criminalisation of consensual activities.

Criminalising consensual sexual acts risks:

- Disproportionately targeting sex workers and clients.
- Creating legal ambiguity for BDSM or kink-involved sexual expression.

It is important to acknowledge that within sex work contexts, consent is explicitly negotiated, often with verbal or written agreements. Peer education between sex workers also includes discussions on safety, negotiation, and aftercare.

Criminalisation without nuance would put sex workers at greater legal risk despite operating in ways that prioritise consent and safety. Legislation must recognise intent, context, and consent and avoid blanket criminalisation that conflates DFV with consensual practices.

Respect recommendation: Proposed Section 315A Offence 3 include 'without consent' to become

- Offence 3: unlawfully doing particular conduct that restricts respiration and/or blood circulation **without consent**.

Definition

On the inclusion of this definition:

"A person is taken to choke, suffocate or strangle another person if the person applies pressure to the other person's neck that completely or partially restricts the other person's respiration or blood circulation, or both."

We hold concerns that this definition is too narrow to reflect diverse experiences of NFS and could exclude other forms of NFS, such as:

- Blocking airways via the mouth, nose, or chest
- Use of objects (e.g. pillows, hands not on neck)

Respect recommendation: That the definition of NFS be approached collectively using the definition "impeding, restricting or hindering respiration, breathing or blood circulation."

Additional comments

We challenge the assumption that pornography is the primary or sole influence on behaviours discussed in this review. As highlighted by Garcia and Grossman, minors are not accessing pornography at unprecedented levels, and other factors such as peer influence, media portrayals, and cultural norms also play significant roles in shaping sexual behaviours. The continual lack of effective sex education in schools and consent education is likely to be of greater impact.

In addition, we urge the commission to carefully consider what evidence is allowed in the prosecution of NFS to ensure that judgement and stigma does not impact decision making/sentencing. For example, a person consenting previously to NFS or rough sex or being a BDSM provider are not relevant and should not be allowed as evidence. Consent is different on every occasion and can change during an act as is defined in the affirmative consent framework.

Thank you for considering our feedback. [REDACTED]

Yours faithfully

[REDACTED]

Carly Nichol,
Acting Chief Executive Officer