

6th June 2025

Queensland Law Reform Commission

email: [REDACTED]

Dear Commissioners,

RE: A REVIEW OF Section 315A Non-Fatal Strangulation Offence

Thank you for providing us with the opportunity to respond to this Inquiry.

About QSAN

The Queensland Sexual Assault Network (QSAN) is the peak body for sexual violence prevention and support organisations in Queensland. We have 20 member services, including specialist services for Aboriginal and Torres Strait Islander women, culturally and linguistically diverse women, women with intellectual disability, young women, men and children and our membership are located throughout Queensland, including in rural and regional locations.

Our network of non-Government services is funded to provide specialist sexual assault counselling, support, and prevention programs in Queensland. QSAN is committed to working towards ensuring all Queenslanders who experience sexual violence recently or historically, regardless of age, gender, sexual orientation, cultural background receive a high-quality response in line with best practice, client-centred principles. Our work and analysis of sexual violence is from a feminist perspective and addressed within a specialist trauma framework.

We are committed to engaging with government and other bodies to raise systemic issues of concern, and to ensure the voices and experiences of victims of sexual violence are considered in the formulation of policy and legislation that impacts on sexual violence victims in Queensland.

1. Introduction

Intimate Partner Sexual Violence and Strangulation

The work of QSAN intersects with domestic and family violence routinely, as we respond to victim survivors who have experienced intimate partner sexual violence as part of their domestic and family violence relationship. Invariably, these victim survivors are at high risk of lethality and ongoing violence, as sexual violence is a high-risk indicator and can commonly co-occur with other very high-risk activities such as strangulation, sexual jealousy and the use of pornographic material. Sexual violence is also a common feature of coercive control.

Strangulation can also co-occur with sexual violence perpetrated outside of DFV relationships eg. Tinder dates, dating relationships that may not meet the definition of “couple” under the Domestic and Family Violence Act 2012 and stranger sexual violence.

Young people

QSAN services provide responses to children and young people 12/ 14 years and up and some services also provide responses to children under 12 years and those presenting with harmful sexual behaviours.

Our services are responding increasing presentations of strangulation of young people in the context of sexual violence.

In young people, victim-survivors are presenting in circumstances where they may have been subject to strangulation multiple times a week and where losing consciousness is perceived as normal. Services are being required to provide significant amounts of education about the health impacts of strangulation as the young people are generally unaware of the short- and long-term health risks associated with strangulation, choking and suffocation..

Similarly to other relationships when strangulation is used, it is used in young people’s relationships as a means of exerting power and control. Strangulation or ‘sexual choking’ is seen as a new and exciting thing to engage in.

In these relationships consent is not being sought as strangulation is viewed as a social norm.

Strangulation is also used in sexual relationships to re-establish control or to threaten to victim so they will be submissive in relation to other aspects of the relationship.

Children

Young people as young as 9 or 10 years old are engaging in strangulation of their peers or when they are in peer relationships. This is because of their own abuse and/or exposure to pornography. A very nuanced approach is required to addressing these issues, that also includes younger and younger cohorts engaging in sexual violence.

Recommendation 1

That the Queensland Government advocate with the Federal Government to lead the development of a national strategy to address the complex needs of young people and children who are exposed to pornography and the increase in peer-on-peer sexual violence and strangulation.

Recommendation 2

That any response to young people and children prioritise the issues of early intervention, prevention and education.

Use of DFV & Sexual Violence Experts in Criminal Trials

The use of these experts will introduce a contextual understanding of DFV and sexual violence and address false myths and narratives that can be believed by community members and used by lawyers to advance their cases. We support the use of these experts in criminal trials.

Education

The normalisation of strangulation in young relationships and more broadly in the community makes it very difficult to educate young people. It is incredibly common and increasingly normalised through its prevalence in pornography.

Young people who have experienced strangulation often present without any visible injuries and, with the challenges of peer pressure it can be difficult to challenge the behaviour.

Services report inconsistent responses within health care to strangulation, where the health impacts and risks of strangulation, choking and suffocation are frequently dismissed and minimised. Victim-survivors have disclosed not receiving medical care to services within our networks, even with the advocacy of specialist service providers requesting evidence-based imaging.

In one case a victim survivor was refused a forensic medical examination on the basis that the triage nurse assessed that the strangulation was consensual and not an assault. They advised the victim-survivor that it would be a waste of resources.

Some of our members who deliver the “Love Bites” educational program to students in Year 10 have advised that the students are providing feedback that they wished they had been given the information 2 years ago.

We support the implementation of healthy relationships education for younger cohorts of students to effectively engage in prevention. Our members have identified concerns that some younger children are at risk of missing out on this vital education as parents can block and prevent children participating, with some parents expressing concerns the programs promote sexual relationships.

Recommendation 3

QSAN supports the development and delivery of community education by specialist DFV & sexual violence providers in relation to non-fatal strangulation and the risks associated with strangulation to the community, healthcare professionals and children and young people within educational settings.

We will now turn to the specific questions in the consultation paper.

2. Specific consultation questions

QLRC 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.**

We agree with these proposals, including Offence 3 that broadens the offence to anyone in the community and not just in domestic violence related relationships.

We would question why there is also not another broader offence category where “restricted respiration and/or blood flow” did also not have to be proved.

Recommendation 4

QSAN supports QLRC proposal 1.

The role of consent

What are your views about consent, including:

Whether the ‘without consent’ requirement should be removed or retained?

QSAN believes the without consent element should be removed.

Whether lack of consent should be an element or a defence?

QSAN does not agree with lack of consent being an element of the offence or a defence. The accused can use existing defences. This sends a clear message that the behaviour is dangerous and will not be tolerated in our community.

Recommendation 5

QSAN agrees with the “without consent” being removed and that “consent” not be a standalone defence.

QLRC 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.

Yes, QSAN agrees with this statement.

Recommendation 6

QSAN supports the QLRC Proposal 2.

QLRC 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.**

Yes, QSAN agrees with this proposal on the basis that a long, drawn out process increases the risk that the victim survivor will not proceed through the process and may not even report to the police in the first place.

Recommendation 7

QSAN supports QLRC Proposal 3.

3. Other ideas

QSAN also support these additional related issues:

Bad Character Evidence

We support the introduction of a similar provision to the UK that allows for the admissibility of the defendant's bad character into criminal proceedings if one of the following "gateways" are satisfied.

The admissibility of evidence that falls outside the definition of bad character within the meaning of [section 98](#) is governed by [section 101](#) of the Act which provides that

"In criminal proceedings evidence of the defendant's bad character is admissible if, **but only if** –

1. all parties to the proceedings agree to the evidence being admissible;
2. the evidence is adduced by the defendant himself or is given in answer to a question asked by him in cross examination and intended to elicit it;
3. it is important explanatory evidence;
4. it is relevant to an important matter in issue between the defendant and the prosecution;
5. it has substantial probative value in relation to an important matter in issue between the defendant and a co-defendant;
6. **it is evidence to correct a false impression given by the defendant; or**
7. **the defendant has made an attack on another person's character.**

Please see more information about this legislation below:

<https://www.cps.gov.uk/legal-guidance/bad-character-evidence>

Disclosure of prior inconsistent statements by the accused

We understand that this is in practice in the United Kingdom and support these changes in Queensland.

Consent to serious harm for sexual gratification not a defence

We support the introduction of a similar provision that exists in the United Kingdom, but inclusive of strangulation.

The UK provision states:

A person is unable to consent to the infliction of harm that results in ABH (Actual Bodily Harm) or other more serious injury, for the purposes of obtaining sexual gratification.

A defendant will be unable to rely on a victim's consent to the infliction of such harm as part of any so-called 'rough sex' defence and will remain liable to prosecution for ABH or GBH.

[Domestic Abuse Act 2021 \(legislation.gov.uk\)](https://legislation.gov.uk)

Restorative Justice

QSAN agrees with proposals about restorative justice if they are truly victim-survivor led and victim-survivor centric, otherwise the process itself can be abusive.

If you require any further information, please do not hesitate to contact the Secretariat.

Kind Regards,



Angela Lynch
Executive Officer
QSAN.