

06 June 2025

Queensland Law Reform Commission
PO Box 13312
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Brisbane QLD 4003

Submitted online.

Dear Queensland Law Reform Commission,

RE: Non-fatal Strangulation – Section 315A Review

The Red Rose Foundation welcomes the opportunity to contribute to the Queensland Law Reform Commission's review of Section 315A (Non-fatal Strangulation). We are grateful for the Commission's commitment to strengthening legal protections for victims of domestic and family violence (DFV) to ensure that Queensland's laws are safe, just and effective, and reflect the seriousness of non-fatal strangulation.

We wish to express our deep appreciation to the Queensland Law Reform Commission for partnering with the Red Rose Foundation to ensure that victim-survivors could contribute directly to this review. Their involvement led to the publication of *Research Report 1, 'I just want to be heard': The voices of strangulation victim-survivors*¹, and to the convening of two dedicated roundtables where victim-survivors of strangulation shared their responses to the review questions. We extend our sincere gratitude to these individuals for their time, courage, and the invaluable expertise they contributed.

The Red Rose Foundation has been delivering training, information, and direct support to survivors of strangulation since the introduction of the specific offence in 2016. For more than twenty years, our founders have been tireless advocates for systemic change and heightened recognition of the grave dangers posed by this potentially lethal form of violence, forging international

¹ QLRC, 'I just want to be heard': The voices of strangulation victim-survivors (Research Report 1, April. 2025).
https://www qlrc.qld.gov.au/_data/assets/pdf_file/0007/824605/I-just-want-to-be-heard-The-voices-of-strangulation-victim-survivors_-Research-Report-1.pdf

connections to ensure Australians benefit from the latest research and best practices. This submission draws on our extensive experience supporting and listening to hundreds of victim-survivors of non-fatal strangulation (NFS), ensuring their voices and needs remain at the heart of our recommendations.

ORGANISATIONAL DETAILS

The Red Rose Foundation Australia is a national charity dedicated to improving responses to high-risk, high-harm domestic and family violence, with a particular focus on preventing fatal domestic abuse. The charity pioneered Australia's first Strangulation Trauma Centre, delivering specialist, trauma-informed support and advocacy for survivors of non-fatal strangulation, a service unique in Australia and among the first of its kind globally. We provide training, education, awareness-raising, and research, as well as long-term support for women who have experienced non-fatal strangulation (NFS)

As part of our work to improve responses to victim-survivor of NFS, we established the Australian Strangulation Prevention Institute and partnered with the Training Institute for Strangulation Prevention USA to further advance research and training on non-lethal strangulation in Australia. Through this partnership we have joined the International Alliance of Strangulation Educators and Researchers which includes Dr Jacquelyn Campbell who has led the way with research and education on high-risk domestic violence. The Red Rose Foundation has also partnered with Central Queensland University to conduct groundbreaking research into the health impacts and long-term consequences of non-lethal strangulation for victims.

Our Board of Directors brings together sector management and legal professionals, violence prevention consultants, and researchers with extensive experience and expertise in domestic, family, and sexual violence. Direct client services are delivered by a small team of highly qualified counsellors. We are supported by our Patron, Her Excellency the Honourable Dr Jeannette Young AC PSM, Governor of Queensland, and guided by our First Nations Advisory Committee, who provide invaluable direction on the issues that matter most to First Nations women experiencing domestic and family violence.

The Red Rose Foundation maintains strategic partnerships with a wide range of government agencies, non-government organisations, and academic institutions, including services specialising in domestic, family, and sexual violence counselling and crisis support, refuges, family support, and child protection. We adopt an intersectional, trauma-informed, and feminist approach in all aspects of our work, guided by the voices of those with lived experience of high-risk, high-harm domestic and family violence.

THE SCALE AND COMPLEXITY OF NON-FATAL STRANGULATION

Non-fatal strangulation (NFS) is a highly prevalent and dangerous form of violence in high-risk, high-harm domestic and family violence (DFV) relationships. Research consistently indicates that NFS is present in a significant proportion of DFV cases, with studies indicating that between 46% and 68% of victim-survivors in these settings have experienced non-fatal strangulation, often repeatedly².

Non-fatal strangulation is a gendered crime, with research showing over 90% of perpetrators are male and women constitute the vast majority of victims in domestic and family violence contexts. This form of violence is frequently weaponised as a tool of coercive control and dominance within intimate relationships.³ This form of violence is not limited by age and can occur in a range of relationships, including those involving young people and even children, as well as in cases where perpetrators seek to control or dominate both their partner and their children.

NFS is now recognised as one of the strongest indicators of future homicide and ongoing risk in relationships. Victims who have experienced NFS are up to seven times more likely to be killed by the same perpetrator compared to those who have not been strangled⁴. The act of strangulation is inherently dangerous, capable of causing unconsciousness, brain injury, or death within minutes, even when little or no visible injury is present. Its use within domestic and family violence contexts is a clear warning sign of escalating violence and it should be treated as a “red flag” for potential lethality in any risk assessment.

Given its prevalence and lethality, NFS must be treated with significant gravity within the legal system. It is a method of exerting power, control, and dominance, and is often used to induce fear and submission in victims, including children. The documents that form part of this review provided by the Queensland Law Reform Commission acknowledge the seriousness of NFS and the need for Queensland’s laws to reflect its inherent danger and the increased risk of future violence and homicide for victim-survivors. Legal responses must recognise the broad and severe impacts of NFS, ensure robust prosecution, and provide strong protections for victims of domestic and family violence.

² Glass, N., Laughon, K., Campbell, J., Block, C.R., Hanson, G., Sharps, P.W., & Taliaferro, T. (2008). Non-fatal strangulation is an important risk factor for homicide of women. *The Journal of Emergency Medicine*, 35(3), 329–335. <https://doi.org/10.1016/j.jemermed.2007.02.065>

³ See, eg, Explanatory Memorandum, Crimes Amendment (Non-Fatal Strangulation) Bill 2023 (Victoria) 5; Vicki Lowik, Heather Lovatt and Nicola Cheyne, *Non-Fatal Strangulation: A Highly Lethal Form of Gendered Violence* (Integrated Literature Review, 2022) 10.

⁴ Ibid. Footnote 1.

RESPONSE TO THE CONSULTATION PROPOSAL AND QUESTIONS.

The following sections form the Red Rose Foundation's response to the proposals and questions presented by the Queensland Law Reform Commission to review Section 315A (Non-fatal Strangulation).

Proposal 1: Section 315A of the Criminal Code should be repealed and replaced with three new offences:

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

Q1: What are your views on proposal 1?

The Red Rose Foundation supports the three new offenses:

The proposed 14-year penalty for Offence 1 aligns with the severity of strangulation as a predictor of future homicide and we support Offence 3 that broadens the offence to anyone in the community and not just criminal conduct in domestic violence related relationships.

We would like to see a fourth option which revisits the burden of proof on the victim/survivor. Proving that strangulation occurred can be difficult as only around half of all strangulations result in visible injuries⁵.

This is consistent with the findings from the QLRC Research Report 1, 'I just want to be heard': The voices of strangulation victim-survivors (April, 2025)⁶ where many victim-survivors noted that they had minor marks or bruises on their necks following strangulation, and some did not have any visible external injuries. This burden of proof at the scene of the incident or shortly there-after affects the victim's ability to access justice and support.

This difficulty in accessing justice and adequate support following the event due to the lack of physical or obvious evidence is demonstrated in victim-survivor testimonies in relation to the statutory agency responses to their case

⁵ Gael B Strack, George E McClane and Dean Hawley, 'A Review of 300 Attempted Strangulation Cases Part I: Criminal Legal Issues' (2001) 21(3) The Journal of Emergency Medicine 303, 305; Women's Safety and Justice Taskforce, Hear Her Voice - Report One: Addressing Coercive Control and Domestic and Family Violence in Queensland (Report, 2021) vol 2, 37.

⁶ Ibid. Footnote 1.

provided in the QLRC Research Report 1⁷ repeated below for ease of reference:-

Following the strangulation, one survivor sought medical attention. However, the doctor did not record her allegation of strangulation:

"I went to the doctor. They didn't record it. They just noted I had a bruise, a punch in the face. They didn't say anything really about [the strangulation]. She just checked my throat. She also said, 'oh, you don't have any marks?'"

Another two victim-survivors felt the police did not treat their experience with the adequate level of concern, and linked this to the possibility that they had no presenting injuries:

"It was a totally humiliating experience at the police station. I don't think he wanted the paperwork. He was very neutral in tone which is fine but the fact he made no notes for the first 40 plus minutes made me feel I was wasting his time. Maybe because I'm a retired pensioner he wasn't sympathetic. Maybe because I didn't have visible injuries."

"On the night, they thought it was nothing more than a domestic dispute. I was disbelieved. They shone a torch on my neck and said, 'there's no visible signs of any injury.' And I said, 'well, that doesn't mean he didn't do it'. Then basically they just said, 'look, there's not a lot we can do'."

To better support victim-survivors to access justice and appropriate statutory and community-based services, the Red Rose Foundation is committed to developing and promoting best practice through multi-agency collaboration and knowledge sharing, including with our partners and contacts in the US and the UK. Our goal is to ensure that victims of non-fatal strangulation receive the highest standard of support in their pursuit of justice and access to health and wellbeing services. Further details on this work are provided in our response to Question 8, Practice and Procedure.

Q2: What conduct should each of the three new offences criminalise?

The Red Rose Foundation supports the proposed replacement of section 315A with three tiered offences and recommends the following refinements to ensure alignment with evidence-based practice and victim-survivor safety:

⁷ Ibid. Footnote 1.

Offence 1: Unlawfully doing particular conduct that restricts respiration and/or blood circulation in the context of a domestic setting.

(maximum penalty: 14 years)

Conduct to consider criminalising:

- Any intentional or reckless act by a perpetrator in a domestic setting that applies pressure to the neck, throat, chest, or otherwise obstructs the nose or mouth of another person, resulting in the complete or partial restriction of respiration and/or blood circulation.
- This should include the use of hands, ligatures, objects, or any other means, regardless of whether visible injury is present.
- The offence should capture both acts that cause immediate physical harm (e.g. loss of consciousness, injury) and those that cause significant risk of harm, recognising that even brief or apparently minor restriction can have severe or fatal consequences.

Rationale:

This conduct is inherently dangerous and is a strong predictor of future lethal violence in domestic and family violence contexts. The gravity of this act, and its use as a tool of power and control, justifies the highest penalty in the proposed model.

Offence 2: Unlawfully doing particular conduct in the context of a domestic setting.

(maximum penalty: 7 years)

Conduct to consider criminalising:

- Any intentional or reckless act by a perpetrator in a domestic setting that simulates or threatens to restrict respiration and/or blood circulation, or otherwise causes the victim to fear such restriction.
- This should include acts such as placing hands or objects around the neck or over the mouth/nose without necessarily causing actual restriction, but with the intent to intimidate, control, or instil fear.
- The offence should also cover attempted strangulation, suffocation, or choking, and acts that are part of a pattern of coercive control, even if they do not result in physical restriction.

Rationale:

Many acts of NFS are used to terrorise and control and may not always result in observable physical harm but still carry significant psychological and risk implications. Recognising these behaviours as criminal is vital for early intervention and prevention of escalation.

Offence 3: Unlawfully doing particular conduct that restricts respiration and/or blood circulation.

(maximum penalty: 10 years)

Conduct to consider criminalising:

- Any intentional or reckless act, outside a domestic setting, that applies pressure to the neck, throat, chest, or obstructs the nose or mouth of another person, resulting in the complete or partial restriction of respiration and/or blood circulation.
- As with Offence 1, this should include the use of hands, ligatures, objects, or any other means, regardless of visible injury.

Rationale:

While most NFS occurs in domestic settings, it is also present in sexual violence, assaults between acquaintances, and peer violence among young people. Dating relationships are explicitly excluded from the scope of 'domestic relationship' within Domestic and Family Violence Protection Act 2012 (Qld) s 18(6). The law needs to provide protection and accountability for all victims and send a clear message that the conduct is criminal, regardless of relationship to the perpetrator.

We further recommend considering the following points when refining the scope of conduct to be criminalised:

- Definition clarity: The terms "chokes", "suffocates", and "strangles" should be clearly defined to include any act that restricts breathing or blood flow, using any means, and regardless of visible injury.
- Pattern of control: The law should recognise that this conduct is often part of a broader pattern of coercive control and psychological abuse, particularly in domestic and family violence contexts.
- Age and vulnerability: The offences should be framed to protect people of all ages, including children and young people, who may be victims of NFS in both domestic and non-domestic settings.
- Expert evidence: The use of domestic and family violence and sexual violence experts in court is supported to provide context and counter myths about NFS.
- Training: Mandatory training for all judges on DFV, including coercive control, and developing and adopting guidelines in tandem with or prior to these legislative changes, in consultation with the DFV sector and subject-matter experts from the community.
- Court Guidelines: Develop standards to ensure consistency and relevance to DFV contexts, including intersectional experiences of

Aboriginal and Torres Strait Islander women. This would include the development of Judicial Directions.

Q3: 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?

It is the Red Rose Foundation's firm position that the 'without consent' requirement should be removed.

There is No Safe Way to Strangle.

Non-fatal strangulation poses a severe risk of neurological damage and fatal outcomes due to its impact on critical anatomical components such as the trachea and major arteries. Applying pressure to the neck disrupts oxygenated blood flow to the brain, which can lead to irreversible harm even with minimal force or brief duration. Immediate consequences may include loss of consciousness or vascular injuries, while delayed effects, such as strokes caused by blood clots formed from damaged vessels, can emerge weeks or months later.

Repeated incidents compound risks, potentially causing chronic cognitive impairments like memory loss, executive dysfunction, or mood disorders. Notably, many injuries are internal and lack visible signs, creating a false perception of safety despite the profound physiological dangers. Even transient oxygen deprivation can trigger lifelong disabilities, underscoring the imperative for urgent medical and legal intervention in all cases⁸.

Strangulation and Consent

Adults may legally engage in consensual sexual activities, provided consent is freely given, informed, and the person has the capacity to decide. However, it is our position that fully informed consent to strangulation is never possible. Every individual's physiology is unique and not static; a previous strangulation incident that appeared harmless is no guarantee of future safety. This unpredictability means that individuals cannot anticipate how their body will respond to strangulation, even with prior experience. For example, a minor injury to the carotid artery from an earlier incident can weaken the vessel, making a subsequent, seemingly less forceful act potentially fatal. Additionally, sensitivity to brain oxygen deprivation varies widely: some may suffer brain damage within seconds, while others may lose consciousness without warning.

⁸ Bichard et al. (2022), The neuropsychological outcomes of non-fatal strangulation in domestic and sexual violence: A systematic review. https://pure.bangor.ac.uk/ws/portalfiles/portal/37124572/2021_The_neuropsychological_outcomes.pdf.

Given these risks and the impossibility of foreseeing individual outcomes, informed consent cannot be considered valid in the context of strangulation.

Research further shows that repeated strangulation increases the risk of severe injury or death, even if previous incidents seemed to have no serious consequences. For example, victim/survivors who experience two to five episodes are more likely to be diagnosed with significant memory loss and tinnitus (Smith et al., 2001), and those who have been “strangled more than five times report more frequent muscle spasms, tinnitus, dizziness, and weakness on one side of the body” (Cimino et al., 2019, p. 716)⁹.

In addition to the unfeasibility to give fully informed consent, the act of strangulation inherently compromises the ability to maintain or withdraw consent. Reduced oxygen to the brain during strangulation impairs cognitive function, often leaving individuals unable to speak, move, or recall safe words/actions, even if consent was initially given. This renders the concept of ongoing consent physiologically unworkable. As experts note, “the very organ needed to provide consent – the brain – is compromised by strangulation¹⁰”

Legally, consent cannot legitimise acts causing serious harm, a principle reinforced in common law principle that consent cannot legitimise acts causing serious harm. Under Queensland law, while a person may consent to some level of bodily harm, consent is not a valid defence where the act results in serious injury, such as unconsciousness or grievous bodily harm.

The Red Rose Foundation 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.

Q4 When should non-fatal strangulation be lawful?

Non-fatal strangulation should only be lawful in highly regulated contexts where strict safeguards prevent serious harm and ensure informed consent. For example, in martial arts such as judo or Brazilian jiu-jitsu, chokeholds are permitted under the rules and regulations set by Australian governing bodies like the Australian Mixed Martial Arts Sports Association (AMMASA). These rules prohibit excessive force, require referee oversight, and mandate technical compliance to minimise injury risk. These activities occur within a framework of mutual consent, professional supervision, and adherence to established safety protocols. Similarly, in other jurisdictions such as Victoria¹¹ and England/Wales, consent is only a defence to non-fatal strangulation if no serious harm was intended or caused, recognising that lawful conduct must align with community safety standards.

⁹ <https://noviolence.org.au/wp-content/uploads/2022/08/Integrated-Lit-Review-NFS-FV-23.08.22.pdf>

¹⁰ <https://wecantconsenttothis.uk/blog/2020/12/21/the-horrific-harms-of-choking-new-research>

¹¹ In the Crimes Amendment Act 2023.

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.

Q5. What are your views on proposal 2?

The Red Rose Foundation agrees that 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.

These defences are incompatible with the gravity of strangulation as a high-risk, coercive act in domestic violence (DFV) contexts. For instance, section 270 (prevention of insult) and section 269 (provocation) have historically been misused to minimise accountability in DFV cases, despite evidence that strangulation is a deliberate act of control rather than reactive conduct¹².

Moreover, these defences directly conflict with modern understandings of DFV as a pattern of coercive control, not isolated incidents. Removing these defences helps ensure that the law prioritises victim-survivor safety over outdated and archaic non-justifications for violence.

Q6. Are there other defences you think should not apply to one or more of the new offences?

We have previously stated our position that the defence of consent should not apply to the new offences. We would also like consideration to be given for the following defences to not apply under the proposed offences:

Self-Defence (s 271): While self-defence is critical in genuine threats, it is frequently misused in domestic violence contexts to justify retaliatory violence. For example, perpetrators may falsely claim they strangled a victim to “protect themselves” during a confrontation, obscuring patterns of coercive control. Given NFS’s role as a tool of dominance, not protection, this defence risks perpetuating victim-blaming narratives.

Ignorance of the Law (s 22): Permitting ignorance of the law as a defence would enable perpetrators to exploit societal myths (e.g., “choking is normal in relationships”) and evade accountability. Allowing such a defence would undermine the law’s deterrent effect and public safety objectives.

Accident (lack of motive) (s 23): NFS is a deliberate act of power, not an accidental occurrence. Section 23(b) allows defendants to claim they did not foresee harm, but medical evidence confirms that any

¹² Case: R v TM [2018] QDCPR 56. This case directly addresses the application of s 270 (prevention of repetition of insult) to non-fatal strangulation under the original s 315A offence.

restriction of respiration/blood flow carries catastrophic risks. Permitting this defence would undermine the gravity of strangulation as an intentional, high-risk act.

Mistake of Fact (s 24): Claims of “mistaken belief” (e.g., “I didn’t realise choking could harm them”) should not absolve perpetrators of accountability.

Intoxication (s 28): Voluntary intoxication is not a defence to violent offences under Queensland law (s 28(3)). However, explicit exclusion for NFS offences would prevent defendants from exploiting ambiguity, particularly in cases where substance use is weaponised to facilitate control.

Proposal 3 (P3): 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).**

Q7. What are your views on proposal 3?

The Red Rose Foundation urges the QLRC to reject Proposal 3 and maintain NFS as an indictable offence.

While some professionals and victim-survivors express frustration with systemic delays and attrition rates in the criminal justice process^{13 14}, we maintain that this underscores the urgent need for increased resourcing and trauma-informed infrastructure, not relegating non-fatal strangulation (NFS) cases to Magistrates Courts.

We acknowledge that delays can force victim-survivors to disengage, particularly when compounded by retraumatising processes. However, addressing these issues by lowering the judicial level trivialises NFS’s lethality and risks perpetuating inconsistent sentencing, as Magistrates Courts are less equipped to assess coercive control dynamics or impose penalties reflecting NFS’s homicide risks. Instead, Queensland must prioritise funding for specialist

¹³ From July 2022 to June 2024, there were 1,856 non-fatal strangulation charges on indictment in the Queensland District Court. Of those, 54.3% (1,008) resulted in a plea of guilty, 7.1% (131) went to trial, and 37.9% (704) were dismissed or withdrawn. Source: Leah Sharman, Heather Douglas and Robin Fitzgerald, Non-Fatal Strangulation Offence Convictions and Outcomes: Insights from Queensland Wide Interlinked Courts Data, 2016/2017-2019/2020 (Report, 3 March 2022) 12.

¹⁴ Between 2016–17 and 2019–20, on average it took 543 days if the matter proceeded to trial. Source: As footnote 11.

courts, victim advocacy and support to reduce the risk of traumatisation through the justice process, and trauma-informed training to reduce delays while maintaining judicial rigor.

The Red Rose Foundation's position is that NFS must remain in higher courts to:

Maintain alignment with offences of comparable severity (e.g., rape, serious assault and coercive control).

Non-fatal strangulation is a primary risk factor for domestic homicide, with victims facing an 8–10 times higher likelihood of being killed by the same perpetrator. The Queensland Law Reform Commission (QLRC) has explicitly recognised NFS as a "key predictor of domestic homicide" and a marker of escalating coercive control in its background papers to this review. Sentencing such cases in the Magistrates Court would trivialise its lethality, contradicting evidence that NFS requires specialised judicial understanding of its medical, psychological, and systemic risks.

Maintain Consistency with Sentencing for Comparable Offences

The proposal creates a dangerous inconsistency. Coercive control (proposed maximum penalty: 14 years) and rape (life imprisonment) are tried in higher courts, reflecting their gravity, yet NFS, which carries comparable or greater lethality risks, would be relegated to a lower court.

Sustain Victim-Survivor Safety

Higher courts have enhanced access to resources to address the complex dynamics of NFS, including:

- *Coercive control patterns (e.g., perpetrators using guilty pleas to expedite cases and regain access to victims).*
- *Medical evidence requirements (e.g., delayed stroke risks, brain injury) that demand expert testimony.*
- *Sentencing NFS in higher courts ensures judicial officers are better equipped to assess these nuances and impose penalties that keep victim/survivors safe and deter recidivism.*

PRACTICE AND PROCEDURE

Q8. What reforms to practice and procedure are needed to ensure just and effective operation of the three new offences

The Red Rose Foundation recommends several key reforms to ensure the three new non-fatal strangulation offences are implemented to assist in just and effective operation:

1. Adequate Resourcing and System Capacity:

The legislative reforms proposed in this review will have significant resource implications for Queensland's justice, health, and specialist victim support systems. This legislation will formally recognise and create a new group of victims of criminal conduct, many of whom will require specialist medical care, trauma-informed counselling, legal assistance, and ongoing support. Frontline services are already stretched, with long wait times and increasing demand from diverse groups including young people, children, and culturally diverse communities.

The Queensland Government needs to ensure that targeted funding and capacity-building across all relevant sectors to support both the immediate and long-term needs of victim-survivors accompany these reforms. Without adequate investment in police, courts, forensic services, and victim support infrastructure, there is a risk that the intended benefits of the legislation, will not be realised.

1. Specialised, Accelerated Court Processes:

Queensland should consider a pilot a system similar to Judge Eugene Hyman's "*Rocket Docket*" approach in the US, which uses dedicated, fast-tracked domestic violence courts. This model addresses systemic delays, reduces victim attrition, and improves evidence preservation by ensuring cases are heard promptly by judicial officers with specialist knowledge of domestic and family violence. Such courts have been shown to improve compliance with court orders and provide more consistent, trauma-informed outcomes¹⁵.

A fast-track process is suggested in the QLRC Consultation paper for this review¹⁶, in the paper, the Sexual Violence Case Management Pilot underway in Brisbane and Ipswich District Courts is noted as is the fast-track initiative for DFV criminal matters which was introduced into the Magistrates' Court of Victoria in 2014 and evidenced a shortening of court timeframes for family violence (FV) criminal matters ¹⁷.

The QLRC asks within the consultation paper for views on how to effectively implement this proposal, we have provided a conversation starter for how this process may be effectively implemented in Queensland in Appendix A of this submission.

2. Improved Evidence Gathering:

As highlighted in the QLRC's "I Just Want to be Heard" report¹⁸, victim-survivors of NFS accessing Red Rose Foundation services frequently experienced inadequate evidence collection, with police not always gathering medical records or photographs, especially when injuries were not visible.

¹⁵ <https://aija.org.au/wp-content/uploads/2017/06/Hyman.pdf>

¹⁶ https://www.qlrc.qld.gov.au/__data/assets/pdf_file/0010/824797/NFS-Consultation-Paper.pdf

¹⁷ Silke Meyer et al, 'Evaluation of the Fast Tracking Initiative in the Magistrates' Court of Victoria', Monash University (Web Page) <<https://www.monash.edu/arts/gender-and-family-violence/research-and-projects/completed-projects/evaluation-of-the-fast-tracking-initiative-in-the-magistrates-court-of-victoria>>

¹⁸ Ibid. Footnote 1.

Systematic training and protocols are needed for police and health professionals to ensure thorough documentation and the use of medical and forensic evidence in all suspected strangulation cases.

The Red Rose Foundation is committed to continually seeking and highlighting best practice and ground-breaking work in this space, such as the work of Sonographer Michael Foster-Greenwood based in Chermside, Queensland who is leading pioneering research into sonographic markers of strangulation in domestic violence survivors. This study supported by the Red Rose Foundation, promises to become the first published case series of its kind worldwide, offering an additional evidence route, validation, and support to those affected by NFS.¹⁹ Our aim is to reduce the burden of proof on the victim-survivor of NFS in seeking appropriate support, access to justice and to safety.

Another area of note is the use of video-recorded evidence-in-chief (VREC) statements. Taken promptly by police and used as evidence-in-chief, VREC statements can significantly reduce trauma for victim-survivors by reducing the need to recount their experiences in court, supporting both their wellbeing and the integrity of their evidence. The VREC framework also improves police capacity to respond efficiently and helps critical evidence to be preserved close to the time of the alleged offence, addressing common barriers in cases of NFS such as memory loss, intimidation, and victim attrition in the justice process. We would recommend expanding the VREC pilot allowing video-recorded statements made by DFV victim-survivors to trained police officers to be used wholly or partly as the victim-survivor's evidence-in-chief in committal proceedings for proceedings statewide²⁰.

3. Specialist Domestic, Family and Sexual Violence (DSV) Courts and Support:

The establishment of specialist DFSV courts and access to expert support services is essential. The QLRC report notes that victim-survivors want to be heard by professionals who understand the dynamics and risks of strangulation, and that specialist courts and support can provide a more victim-centred, trauma-informed response. The Red Rose Foundation's specialist work with victim-survivors is validated from our interactions and support of victim-survivors of NFS and the professionals who seek our services, every day.

4. Ongoing Evaluation:

We recommend a commitment to rigorous, ongoing evaluation of how effective non-fatal strangulation charges and prosecutions are at preventing subsequent violence against victim-survivors. The QLRC background paper notes that neither the Queensland Police Service nor the Department of Justice and Attorney-General have yet evaluated the impact of the current NFS offence on recidivism or victim safety. Such evaluation is critical for continuous improvement and accountability.

¹⁹ <https://the-answers-within-podcast.simplecast.com/episodes/employee-profile-michael-foster-greenwood-sonographer?>

²⁰ The pilot currently only applies in Magistrates Courts in Ipswich, Southport and Coolangatta

5. Comprehensive Training for First Responders and Professionals:

The Red Rose Foundation strongly endorses the Domestic and Family Violence Death Review and Advisory Board's (DFVDRAB) recommendations relating to for mandatory, trauma-informed training for all first responders (police, paramedics), medical professionals, service providers, and legal practitioners²¹. This aligns with findings from the Commission of Inquiry into Queensland Police Service Responses to Domestic and Family Violence (2022)²², which identified systemic gaps in knowledge and cultural competence that hinder effective responses to non-fatal strangulation (NFS) and domestic violence (DFV).

6. Public Education

We need public awareness campaigns to increase community understanding of the dangers of non-fatal strangulation and the need to seek medical treatment after such conduct. Many victim-survivors are unaware of the potentially life-threatening consequences of strangulation, even when there are no visible injuries. Increasing awareness will help the community recognise non-fatal strangulation as a serious assault and a key risk factor for future severe violence or homicide.

7. Perpetrator Intervention and Education

The Red Rose Foundation recommends the development and implementation of targeted education and intervention programs for perpetrators of non-fatal strangulation and related domestic and sexual violence offences with experts from specialist DFV services and perpetrator response programmes. As noted in the QLRC background paper and by ANROWS, effective perpetrator interventions are a critical component of primary prevention and are needed to disrupt cycles of violence and reduce recidivism²³.

8. Admissibility of Bad Character Evidence and Prior Inconsistent Statements

The Red Rose Foundation suggests reforms to Queensland's evidence laws to permit the admissibility of a defendant's bad character in criminal proceedings under specific, clearly defined conditions, as in the UK's Criminal Justice Act 2003. This approach would assist courts in assessing the full context of NFS and DFV offences while maintaining procedural fairness.

Bad character evidence could allow evidence of a defendant's prior misconduct (including DFV or violent behaviour) to be admissible if the following apply:

- It is probative of guilt (e.g., a history of coercive control or prior strangulation incidents);

²¹ https://www.coronerscourt.qld.gov.au/__data/assets/pdf_file/0006/723678/domestic-and-family-violence-death-review-and-advisory-board-annual-report-2019-20.pdf

²² <https://www.qpsdfvinquiry.qld.gov.au/about/report.aspx>

²³ <https://www.anrows.org.au/publication/perpetrator-interventions-in-australia-key-findings-and-future-directions/>

- It rebuts a false impression of good character presented by the defendant;
- It corrects a misleading narrative (e.g., claims that NFS was “playful” or “consensual”);
- The defendant has attacked a victim’s character during proceedings.

This would reduce perpetrator ability to exploit gaps in Queensland’s current laws (e.g., Evidence Act 1977 ss. 15–16) to obscure patterns of coercive control. Current Queensland laws (e.g., Evidence Act 1977 s. 15) restrict the admissibility of prior misconduct, which force victim-survivors to relive trauma by repeatedly proving individual acts rather than ongoing patterns of abuse.

Further, the adoption of UK-style reforms to allow prior inconsistent statements (e.g., retracted police statements, contradictory testimony) to be admitted as substantive evidence of guilt would help counter common defence tactics in DFV cases, where victim-survivors face intense pressure to retract allegations. In turn this should reduce reliance on victim testimony and may mitigate attrition rates exacerbated by court delays and retraumatisation.

ALTERNATIVES TO A CHARGE OF NON-FATAL STRANGULATION

The QLRC Consultation Paper asks whether any charges should be listed as alternatives to a non-fatal strangulation charge in the Criminal Code. The Red Rose Foundation submits no alternatives to the change of non-fatal strangulation in the Criminal Code.

CONCLUSION

Thank you again for the opportunity to provide a submission to the Inquiry and please advise if we can assist further.

Kind Regards,



Lucy Lord
CEO Red Rose Foundation

APPENDIX A: Potential of Applying the US "Rocket Docket" Model to Non-Fatal Strangulation Cases in Queensland.

Introduction

Judge Eugene Hyman's "Rocket Docket" approach which is a specialised, accelerated court process for domestic violence cases could streamline Queensland's handling of non-fatal strangulation offences by addressing systemic delays, victim attrition, and evidence preservation challenges. Below is a brief on how this model might apply as a conversation starter to be further developed with experts in the DFV response sector and legal representatives.

Key Features of the Rocket Docket Model

Strict Timelines for Case Resolution

- Faster trials: Cases are resolved within weeks or months (e.g., Montgomery County's domestic violence Rocket Docket reduced case resolution to ~1 month, increasing conviction rates from 50% to 85%).
- Reduced victim attrition: Faster processes prevent perpetrators from pressuring victims to withdraw charges during prolonged delays, a critical issue currently noted by professionals and victim-survivors of NFS.

Specialised Judges and Training

- Judges with expertise in domestic violence dynamics (like Judge Hyman) preside over cases, ensuring trauma-informed rulings and understanding of strangulation's lethality risks.
- Ability to include DFV/sexual violence experts in trials to counter myths and improve judicial outcomes.

Coordinated Victim Support

- Early victim contact: Prosecutors contact victims immediately to explain safety measures, legal processes, and support services (e.g., relocation, counselling).
- Forensic evidence prioritisation: Expedited access to medical examinations and 911 recordings (addressing cases like QSAN's example where a nurse refused a forensic exam due to misconceptions).

Dedicated Domestic Violence Courts

- Separates domestic violence cases (including strangulation) from general criminal dockets, allowing tailored procedures and resources.
- Prevents systemic issues, such as misapplication of defences (e.g., provocation, s 269) and over-reliance on victim testimony.

Early Case Screening and Charge Filing

- Prosecutors file charges within days of arrest, ensuring cases proceed swiftly and evidence remains fresh.
- Reduces Queensland's current reliance on higher courts for s 315A cases, which leads to victim disengagement.

Implementation Steps

1. Establish a Pilot Program: Create a dedicated domestic violence court in a high-volume region to test accelerated timelines and specialised judges.
 2. Legislative Reforms: Amend the Criminal Code and court procedures to allow Magistrates Courts to handle guilty pleas and impose strict pre-trial deadlines.
 3. Training: Train judges, prosecutors, and court staff on strangulation's medical, psychological, and legal nuances.
 4. Victim Advocacy Integration: Embed support services within courts to provide real-time assistance.
 5. Measure and Evaluate Efficacy: Develop a measurement and evaluation framework prior to the launch date with experts from the DFV sector, legal system professionals, victim survivors and measurement and evaluation/research professionals. Revisit through the pilot and refine as necessary. Build in real time learning channels to adapt the pilot as part of the ongoing measurement and evaluation process.
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