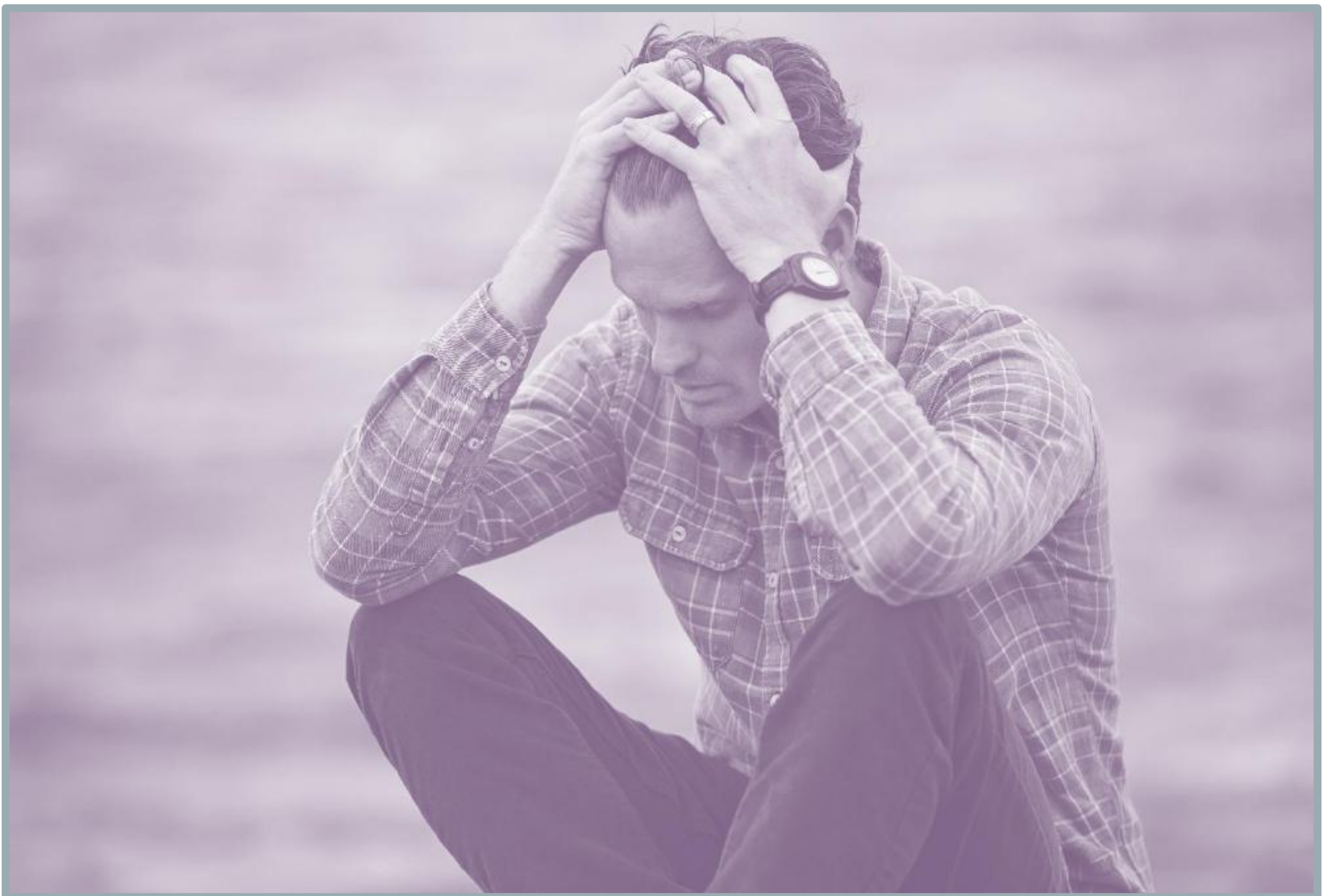
No to Violence Submission

Review of Legislation and the Justice Response to Domestic and Family Violence in the Northern Territory



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Acknowledgment of Country

No to Violence acknowledges First Nations Peoples across these lands; the Traditional Custodians of the lands and waters. We pay respect to all Elders, past, present, and emerging. We acknowledge a deep connection with country which has existed over 60,000 years. We acknowledge that sovereignty was never ceded, and this was and always will be First Nation’s land.

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Executive summary

No to Violence is pleased to provide feedback on the Northern Territory (NT) Government's Review of Legislation and the Justice response to the Domestic and Family Violence in the Northern Territory: Proposals for Consultation. We look forward to working with the Government to support ongoing reform aimed at addressing this most important and complex social issue.

Working collaboratively with Aboriginal communities must be a central tenet of the NT Government's reform agenda. Family violence is not a problem *only* for or in Aboriginal communities, but it is an urgent issue. An evaluation of family violence in Aboriginal communities in Australia identified that its presence and impact is connected to the ongoing impacts of colonisation, including collective dispossession and the loss of land and traditional culture, including the fragmentation of kinship systems and Aboriginal law.[1] These drivers intersect with and often compound the well-known drivers of violence against women.[2]

If the reforms reflected in the consultation paper are to function as intended, they must first work effectively for Aboriginal people and communities. The NT Government must address the impacts of colonisation and related intergenerational trauma as part of its approaches to addressing family and domestic violence. It is not possible to meaningfully address family violence in the NT without simultaneously addressing these legacies, and the continued structural oppression endured by Aboriginal communities.

The consultation paper poses two questions. Firstly, whether the NT Government should embark on a four year whole-of-system reform before considering the criminalisation of coercive control, or secondly, whether the NT Government should criminalise coercive control in conjunction implementing a four-year whole-of-system reform.

No to Violence supports the NT Government's proposal for a four-year whole of system, structural reform agenda. The NT Government may, through this process of submissions and consultations with the family violence sector, Aboriginal communities, actors within the criminal justice system, and other critical stakeholders, come to its own conclusion about whether the introduction of an offence for coercive control should occur immediately, or whether this might be better considered in tandem with other structural reform.

No to Violence has provided valued advice on legislating and responding to coercive control in a variety of states and territories. As Australia's peak body for organisations working with men to end their use of family violence, we understand the importance of introducing legislation into an environment that enables its successful implementation.

Through 30 years of working in the men's family violence sector and our more recent work on coercive control, No to Violence knows that legislation alone is unlikely to support the safety of women and children or hold perpetrators accountable for their use of violence.

However, No to Violence supports in principle the criminalisation of coercive control. Its inclusion in statute has the potential to improve responses to family and domestic violence by better defining the extent of its totality and reflecting the lived experience of victim-survivors. However, the efficacy of a

[1] Blagg, H, Bluett-Boyd, N, and Williams, E (2015). Innovative models in addressing violence against Indigenous women: State of knowledge paper, Australia's National Research Organisation for Women's Safety Limited, Sydney, New South Wales.

[2] Our Watch, 'The Issue: What Drives Violence against Women?', ourwatch.org.au, 2022, https://www.ourwatch.org.au/the-issue/.

new offence will only be realised if there is adequate capacity and capability building across all sectors that provide a response to domestic and family violence, including criminal justice, police, specialist and generalist services and all other frontline responders. Critically, the specialist family violence sector must be adequately resourced to provide connected services and whole-of-system responses for victim-survivors and perpetrators.

Working with men who use family violence to change their behaviour is an important part of the support and services infrastructure and must sit alongside support and services for victim-survivors. Our work and the work of our members is directed at in creating a future free from men's violence. Family violence is everyone's problem, but it starts and stops with men.

Broadly speaking, No to Violence supports proposed amendments to the Domestic and Family Violence Act 2007, including improved inclusion of children, expansion of the definition of domestic relationship, amending the DVO process, and the inclusion of vulnerable witness provisions. We also broadly support proposed changes to the Bail Act 1982, Sentencing Act 1995, Criminal Code, Local Court (Criminal Procedure) Act 1928. This submission provides recommendations aiming to support the implementation of these changes and ensure they do not have unintended consequences.

Further thought needs to be given to amendments to the Evidence (National Uniform Legislation) Act 2011 which would compel the victim in proceedings for a domestic violence related offence to give evidence. No to Violence is concerned this may be detrimental to the safety and wellbeing of victim-survivors and potentially have the unintended consequence of contributing to the separation of Aboriginal families and recommend further consultation with victim-survivors and Aboriginal communities prior to implementation.

Working with men who use family violence to change their behaviour is critical. Our work and the work of our members is vital in creating a future free from violence. Family violence is everyone's problem, but it starts and stops with men. The NT Government is poised to implement much-needed reform, and we know that stopping violence at its source will be a top priority.

Summary of recommendations

No to Violence recommends that the NT Government, alongside the recommendations made in our submission to on Systemic Reforms **(Appendix A)**, take on the following recommendations within its Review of Legislation and the Justice response to Domestic and Family Violence in the Northern Territory:

Should the NT Government criminalise coercive control?

1. Pursue a whole of system structural reform agenda to support the introduction of a coercive control offence.
2. Ensure that any decision to pursue the criminalisation of coercive control is informed by targeted in-person and iterative consultations with the family violence sector, Aboriginal communities, actors within the criminal justice system, and other critical stakeholders.
3. With the support of DFSV-ICRO and the input of No to Violence, develop a working group to support NT Police and the NT criminal justice system to reduce the likelihood and impacts of misidentification of the predominant aggressor (note: this duplicates Recommendation 18 from No to Violence's submission on systemic reforms in response to the NT Government's Review of Legislation and the Justice response to the Domestic and Family Violence in the Northern Territory).

Legislative Proposals in relation to Coercive Control

4. Implement Proposal LR 18 only when there are an adequate number of high quality and accessible MBCPs to meet demand.
5. Allocate resources to support the operation of No to Violence's Brief Intervention Service in the NT, to ensure that men on extended waiting lists are not left unsupported.
6. Allocate new and additional resources to ensure there are appropriate and accessible behaviour change programs for Aboriginal people in the Northern Territory.
7. Embed funding for independent program-level evaluation as part of all funding agreements for perpetrator interventions.
    a. Provide funding for services to implement evaluation findings to ensure learning is translated into practice.

Proposed amendments to the Domestic and Family Violence Act 2007

8. Undertake an independent review of the NT Families and associated child protection practices in the context of ongoing family violence.
9. Increase resourcing for culturally informed recovery and support programs aimed at Aboriginal children and families impacted by domestic and family violence.
10. Invest in preventative care and early intervention, especially for children and young people at risk of entering the criminal justice system due to violence.
11. Implement Proposal LR 8 to create a more expansive definition of domestic relationships that is inclusive of current and former relationships.
12. Refrain from implementing LR 10, which would introduce a mandatory requirement to have a defendant's entire criminal history heard within court.
13. Consult with North Australian Aboriginal Family Legal Service (NAAFLS) and other Aboriginal legal and service organisations to understand the extent to which Domestic Violence Order (DVO) processes work for remote Aboriginal communities, and the extent to which the proposals would or would not support the safety of victim-survivors.

14. Consult with victim-survivors, in all their diversity, to better understand the extent to which the DVO process works, for whom, and how it could better support the safety and well-being of victim-survivors.
15. Work with No to Violence and other specialist domestic and family violence services, as well as specialist legal services, to develop mandatory and consistent training regarding any reforms of the DVO process for police, legal services, judges, and other personnel involved in the criminal justice system.
16. Implement LR 34, while also ensuring that court personnel receive training from the specialist domestic and family violence sector in identifying circumstances where a victim-survivor's decision to forgo the use of a screen or partition is made under duress.
17. Prior to any significant decision made on the retention of provision 124A as it currently stands (LR36), the NT Government investigates the number of mandatory reports made per year and engage in consultation with remote Aboriginal communities regarding potential adverse impacts.
18. Consult with the specialist domestic and family violence sector and the youth services sector to create a more informed response to youth offenders, with the ultimate goal of reducing and eliminating incarceration of children and young adults.

Proposed amendments to the Bail Act 1982

19. Implement recommendations LRs 43, 44 and 45 to ensure greater consideration of domestic and family violence offences in decisions to grant bail.
20. Increase transparency for victim-survivors and perpetrators regarding bail processes and procedures, regardless of whether proposals LR 43-45 are implemented.
21. Clarify the offences for which LR 43 is relevant prior to implementation.
22. Prior to implementing LR 44, ensure prosecutors are trained in cultural competence to facilitate culturally safe interactions with Aboriginal victim-survivors.

Proposed amendments to the Sentencing Act 1995

23. Implement recommendations LRs 46, 47, 48, 49 and 50 to ensure the risk posed by perpetrators towards victim-survivors is a key part of all sentencing considerations.
24. Fund and work with specialist perpetrator intervention services, including No to Violence, to build-upon and expand diversionary programming as an alternative to incarceration for lower-risk offenders.

Proposed amendments to the Criminal Code

25. Implement recommendation LR 51 to amend the definition of harm in section 1A(3) of the Criminal Code to recognise that coercive control may cause harm, and to define domestic violence, domestic relationships and coercive control in accordance with the Domestic and Family Violence Act.

26. Include a description of coercive control as an underlying tactic of domestic and family violence must be included in supporting materials such as the legal explanatory notes, risk assessments and in police and community education. This will support the understanding that coercive control is serious and is family violence.

27. Implement recommendation LR 52 to ensure in instances when a standalone charge of choking, suffocation and strangulation [Justice Legislation Amendment (Domestic and Family Violence) Act 2020, Section 188AA] is dropped, these behaviours may still be specifically named and charged as an aggravating feature of assault.

Proposed amendments to the Evidence Act 1939

28. Implement recommendation LR 53 to simplify the requirements for admissibility of recorded statements.
29. Implement recommendation LR 54 to allow expert evidence of family violence to be admissible where evidence of family violence is relevant to a fact in issue.
30. Ensure that the voice and knowledge of lived experience is prioritised in the establishment of the working group (LR 55) as this will help ensure jury directions are informed by the experiences and reality of domestic violence in the NT.

Proposed amendments to the Evidence (National Uniform Legislation) Act 2011

31. Proposal LR 56 needs further consideration to ensure it will not have adverse impacts on vulnerable witnesses; this consideration must be informed with targeted consultations with victim-survivors and Aboriginal communities.

Proposed amendments to the Local Court (Criminal Procedure) Act 1928

32. Implement recommendation LR 57 to
    a. amend the Local Court (Criminal Procedure) Act 1928 to create a presumption that if an accused is charged with more than one sexual offence, it is presumed that the charges are heard together, and
    b. to give further consideration to whether there should also be a presumption that DFV-related offences are heard together.

Proposed criminalisation of coercive control

The Northern Territory (NT) Government's Review of Legislation and the Justice response to the Domestic and Family Violence in the NT seeks feedback on whether the reform agenda should include the criminalisation of coercive control or alternatively that the creation of a specific offence be delayed until broader systemic reform is achieved.

First defined by Evan Stark, the term coercive control refers to the range of behaviours used to prevent someone in an intimate or familial relationship from 'freely developing their personhood, utilising their capacities, or practising citizenship, consequences they experience as entrapment'.[3] It is a term applied to encapsulate the totality of violence and abuse experienced by victim-survivors and refers to the patterns of ongoing abuse they experience, not merely the single incidents of abuse and violence that police and the criminal justice system have traditionally responded to.

It is important to highlight that coercive control is the underlying tactic used by perpetrators of family violence, and that it is not separate from, or a less serious form of family violence – they are one and the same. In consultations undertaken with academics, experts and victim-survivors to inform No to Violence's submission to the NSW Parliamentary inquiry into coercive control, many respondents spoke about the effects of coercive control on victim-survivors and how they can be equally or, in some cases, more impactful than physical forms of abuse. As one participant in our community consultations put it:

> *"All family violence is coercive control" – Participant, Victim-Survivor Roundtable*

No to Violence note the concurrent consultation on the Draft National Principles on Coercive Control being undertaken by the Commonwealth and similar proposals for the introduction of a standalone offence being contemplated in most other state and territory jurisdictions.

Critically, the NT Government must work alongside Aboriginal organisations and communities *before* major reforms are undertaken, to understand the impacts criminalisation of coercive control will have on Aboriginal people. The Victorian Aboriginal Legal Service (VALS) is of the view that creating a criminal offence for coercive control will pose particular risks to Aboriginal people and will be unlikely to protect women at risk of violence, particularly Aboriginal women.[4] In fact, as VALS suggests, criminalisation of coercive control risks becoming a new source of harm to victim-survivors of abuse and to the Aboriginal community more broadly.[5] As discussed further below, this could further contribute to the disproportionate incarceration of Aboriginal peoples, increase the opportunity for Aboriginal women to be misidentified as the predominant aggressor, and enhance the reluctance of Aboriginal peoples to engage with police.

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[3] Evan Stark (2007), Coercive Control: How Men Entrap Women in Personal Life, Oxford University Press, New York, p.4.

[4] Victorian Aboriginal Legal Service 2022.

[5] The Domestic Violence Death Review Team, 'NSW Domestic Violence Death Review Team Report 2017-2019' (Sydney, NSW: Coroners Court New South Wales, 2020), https://www.coroners.nsw.gov.au/coroners-court/resources/domestic-violence-death-review.html.

Should the NT Government criminalise coercive control?

The NT Government posed a central question in its consultation paper. This question asks whether the NT should:

- embark on an ambitious series of legislative and systemic reforms with a four-year implementation period, with the potential to re-visit criminalisation; or
- criminalise coercive control while simultaneously conducting an ambitious series of legislative and systemic reforms for a four-year implementation period.

No to Violence supports the NT Government's four-year approach to a whole of system, structural reform agenda, regardless of whether coercive control is introduced as offence. The NT Government may, through this process of submissions and consultations with the family violence sector, Aboriginal communities, actors within the criminal justice system, and other critical stakeholders, come to its own conclusion about whether the introduction of an offence for coercive control should occur immediately, or whether this might be explored following structural reform.

However, No to Violence would like to take this opportunity to consider the benefits and risks of criminalising coercive control in the NT, drawing upon our significant experience and expertise in contributing to discussions around its criminalisation in NSW, Qld, WA and SA. This is further informed by careful consideration of the NT's specific context, especially regarding the specific needs and conditions of remote Aboriginal communities.

Recommendations

1. Pursue a whole of system structural reform agenda to support the introduction of a coercive control offence.
2. Ensure that any decision to pursue the criminalisation of coercive control is informed by targeted in-person and iterative consultations with the family violence sector, Aboriginal communities, actors within the criminal justice system, and other critical stakeholders.

Risks of criminalising coercive control

Criminalising coercive control comes with risks—and as noted elsewhere in this submission, the NT Police and the criminal justice system already struggle to respond consistently, safely and in a culturally appropriate way to family violence. VALS offers a considered exploration of the risks of criminalising coercive control in Victoria in a report published in January 2022, including:[6]

- A new offence would expand the ways in which people can become entangled in the criminal legal system, with disproportionate impacts on Aboriginal people.
- Expanded criminal sanctions may reduce reporting of domestic abuse, especially among Aboriginal people, for those who fear that trying to seek help will mean sending their partner to prison and exposing them to the dangers Aboriginal people face in custody.
- Victim-survivors of domestic abuse are frequently misidentified as having committed abuse by police and courts – both unintentionally, and due to deliberate manipulation by the person who has offended. A coercive control offence expands opportunities for this to occur.
- A coercive control offence would have significant ambiguity and room for interpretation, likely to lead to disproportionate enforcement against Aboriginal people, due to both individual biases of police officers and the systemic racism of policing.

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[6] VALS policy paper, 2022. Addressing Coercive Control Without Criminalisation. https://www.vals.org.au/wp-content/uploads/2022/01/Addressing-Coercive-Control-Without-Criminalisation-Avoiding-Blunt-Tools-that-Fail-Victim-Survivors.pdf

In recognition of this context, we urge the NT Government to ensure that any consideration of criminalising coercive control is informed by sustained and thorough consultation with Aboriginal communities and draws upon the experiences and views of victim-survivors.

Please also refer to information on the risk of misidentification of the predominant aggressor provided in No to Violence's submission on systemic reforms in response to the NT Government's Review of Legislation and the Justice response to the Domestic and Family Violence in the Northern Territory (page 13).

Contribution to the over-incarceration of Aboriginal peoples

No to Violence notes that in the absence of significant training and structural criminal justice reform, criminalisation of coercive control may exacerbate the over-incarceration of Aboriginal people in the NT. [7] Around 84% of the prison population in the NT identifies as Aboriginal, while Aboriginal people comprise only 31% of the Territory's overall population[8].

Introducing a new criminal offence for coercive control without the requisite preparation and enabling environment puts marginalised people, including Aboriginal people, at risk. Aboriginal people are 18 times more likely to experience family violence than non-Aboriginal people[9]—and there are significant concerns Aboriginal women are more likely to be misidentified as the predominant aggressor than are non-Indigenous women, due to deeply embedded systemic racism.[10]

These risks reflect difficulties in implementing a new and highly nuanced criminal offence within a legal system that enacts repeated, structural violence against Aboriginal people. All domestic and family violence legislation has the potential to contribute to over-incarceration, due to the ways in which Aboriginal people are over-policed and over-sanctioned. For example, research undertaken in Queensland on protection orders has demonstrated that Aboriginal people are overrepresented at every stage of the DVO system and are more likely to be sentenced and/or receive a custodial order for breaches than non-Indigenous Australians.[11]

Consequently, there is a critical need to work with these communities to create clear, actionable strategies aimed at raising awareness – especially regarding the rights of victim-survivors and perpetrators when engaging with the criminal and civil justice systems.

Recommendations

3. With the support of DFSV-ICRO and the input of No to Violence, develop a working group to support NT Police and the NT criminal justice system to reduce the likelihood and impacts of misidentification of the predominant aggressor (Note: this duplicates Recommendation 18

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[7] Justice Reform Initiative, 2022. State of Incarceration: Insights into Imprisonment in the Northern Territory. Justice Reform Initiative. https://assets.nationbuilder.com/justicereforminitiative/pages/308/attachments/original/1663270157/JRI_Insights_NT_FINAL.pdf?1663270157

[8] Department of Treasury and Finance, 2022. Northern Territory Economy. Northern Territory Government. https://nteconomy.nt.gov.au/population

[9] Australian Institute of Health and Welfare. https://www.aihw.gov.au/reports/indigenous-australians/family-violence-indigenous-peoples/summary

[10] Althea Gibson, Emma Buxton-Namisnyk, and Peta MacGillivray, 'Unintended, but Not Unanticipated: Coercive Control Laws Will Disadvantage First Nations Women', The Conversation, accessed 16 September 2022, http://theconversation.com/unintended-but-not-unanticipated-coercive-control-laws-will-disadvantage-first-nations-women-188285.

[11] Douglas, Heather, and Robin Fitzgerald, 2018.

from No to Violence's submission on systemic reforms in response to the NT Government's Review of Legislation and the Justice response to the Domestic and Family Violence in the Northern Territory).

Reluctance to engage with police

There is a significant body of research that establishes the reluctancy of victim-survivors to engage with police.[12] Many women and other people who experience family violence fear they will not be believed, or that reporting violence will only make it worse—unfortunately, this is too often the case.[13]

This can be particularly challenging for communities that have historically been over-policed and over-incarcerated and otherwise marginalised, specifically Aboriginal women; the LGBTIQA+ community; people from migrant and refugee backgrounds; and women with disabilities. Overall, victim-survivors from marginalised communities face greater barriers in accessing justice and are less likely to engage with police and the criminal justice system.[14] . As NT communities vary widely in size, local culture, and ease of access to services, there is a need to ensure that there are alternative, community-led responses that extend beyond the criminal and civil justice system.[15]

Aboriginal people within remote communities may be especially reluctant to interact with police due to historic and current experiences of discrimination and oppression enacted by law enforcers. These communities have long been over-incarcerated and under-served in the NT, especially following the introduction of the Northern Territory Intervention, its associated expansion of police powers, and the suspension of the Racial Discrimination Act to allow for racially discriminative practices in policing and justice responses.[16] Furthermore, engaging with police as an Aboriginal person can—and does—have life-threatening consequences. According to The Guardian's investigation into Indigenous Australian Deaths in Custody, at least 474 Aboriginal people have died in custody since the Royal Commission into Aboriginal Deaths in Custody was finalised in 1991.[17]

Aboriginal victim-survivors who are parents face additional barriers in confidently engaging with police and the criminal justice system. The role of the NT Police, in particular the removal of Aboriginal children from families, both as a historic and contemporary practice, is a significant barrier to help-seeking behaviour. The 1997 Bringing Them Home report illustrates that police played a central role in the Stolen Generations, including as government-appointed delegates who often forcibly removed children from their parents.[18]

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[12] Eden Gillespie, ' Woman Turned Away by Queensland Police despite "Clear" Domestic Violence Issues', *The Guardian*, 18 July 2022, sec. Australia news, https://www.theguardian.com/australia-news/2022/jul/18/first-nations-woman-turned-away-by-queensland-police-despite-clear-domestic-violence-issues.

[13] Eden Gillespie, 2022.

[14] Goodmark, Leigh S. 'Law Is the Answer? Do We Know That For Sure? Questioning the Efficacy of Legal Interventions for Battered Women'. SAINT LOUIS UNIVERSITY PUBLIC LA W REVIEW 23 (n.d.): 42.

[15] Arnott, Allan, John Guenther, and Emma Williams. "Towards an investment framework to reduce family violence in the Northern Territory." In Social partnerships in learning consortium. Charles Darwin University Darwin, NT, 2009, xi.

[16] Thalia Anthony, 'Why are there so many Indigenous kids in detention in the NT in the first place?'. *The Conversation,* 4 August.2016, https://theconversation.com/why-are-so-many-indigenous-kids-in-detention-in-the-nt-in-the-first-place-63257

[17] Lorena Allam et al., 'The 474 Deaths inside: Tragic Toll of Indigenous Deaths in Custody Revealed', *The Guardian*, 8 April 2021, sec. Australia news, https://www.theguardian.com/australia-news/2021/apr/09/the-474-deaths-inside-rising-number-of-indigenous-deaths-in-custody-revealed.

[18] Ronald Darling Wilson and Meredith Wilkie. Bringing them home: Report of the national inquiry into the separation of Aboriginal and Torres Strait Islander children from their families. Sydney, Australia: Human Rights and Equal Opportunity Commission, 1997.

Additionally, police continue to have a role in the forced separation of Aboriginal families through their role in contributing to the over-incarceration of Aboriginal children and young people. The proportion of Aboriginal children in carceral settings is higher than any other state or territory, or around six times the national average regarding youths in detention.[19] Overall, the number of Aboriginal children in NT detention centres has more than doubled due to a surge of law-and-order approaches in Aboriginal communities.[20]

Secondary victimisation through criminal justice proceedings

As mentioned in the Consultation Paper, there is evidence to suggest that a new offence could put women and children in more danger by allowing perpetrators more opportunities to engage with victim-survivors in court. Victim-survivors face many challenges when engaging in the court system, including the retraumatising experience of providing evidence and statements about their experiences of violence. Perpetrators can use courts and other legal proceedings to remain in contact with, and thereby continue to control, manipulate, and abuse victim-survivors long after their relationship or connection has ended.

For these reasons, it is imperative that courts processes and proceedings do not place further burden on victim-survivors, and they are adequately supported throughout legal processes. Victim-survivors must be provided choice and agency over the path they wish to take – some prefer a service response, some civil, and some criminal. The system must offer choice and uphold victim-survivor safety.

Implications for migrant women and women on temporary visas

People from migrant and refugee backgrounds may face significant and unintended consequences following the criminalisation of coercive control. People on temporary visas may face deportation if charged with a criminal offence, and perpetrators are able to use the threat of deportation to deter victim-survivors from reporting abuse. In the case of partner visas, there is a risk that this could result in the deportation of victims of family violence. The precarious nature of temporary visas means that victims will not reach out for support out of fear of the consequences for their residential status. States and territories must do more to provide support and assistance and encourage their residents to report abuse safely, without undermining their visa status.

Escalation of family violence

There is extensive research to suggest that criminal convictions are not an effective deterrent for crime and can, in some cases, lead to an escalation of violence.[21] Perpetrators using coercion and controlling tactics can and do continue their abuse while incarcerated, and there is a risk of escalation once perpetrators leave custody. There is also the risk that the prosecution of perpetrators will be unsuccessful – which is common in family violence cases – and that family violence may escalate following the conclusion of proceedings. Comprehensive risk identification and assessment focussed on victim safety is vitally important.

Potential benefits of criminalisation

There are potential benefits of criminalising coercive control. No to Violence notes, however, that these benefits are largely contingent upon embarking on a significant and sustained community

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[19] Anthony, 2016.

[20] Anthony, 2016.

[21] Charlotte Barlow and Sandra Walklate, 'Policing Intimate Partner Violence: The "Golden Thread" of Discretion', *Policing* 14, no. 2 (2018): 404–13, https://doi.org/10.1093/police/pay001.

awareness campaign and creating an enabling environment for this legislation through wider systemic reform.

Extending the definition of domestic and family violence by including reference to coercive control would, in short: validate the totality of victim-survivors' experiences of abuse; and tactics used by perpetrators; provide a framework for improving criminal justice, service, and community responses; and increase the safety of victim-survivors at high risk of harm.

Most importantly, criminalising coercive control increases the opportunity to intervene in the most high-risk cases to prevent death. The 2017-2019 NSW domestic violence death review team analysis found that coercive control was present in 99% of domestic homicide cases it reviewed.[22] The proposal to create domestic death review process at SR 26 is a key element in improved understanding of the patterns and common themes present in homicide leading to improved and systemic reform.[23] In some instances, the act of homicide is the first reported act of physical violence perpetrated. Overall, we support the NT Government's proposal to establish a domestic homicide death review process in the NT, discussed in detail within Recommendation 5 and response to proposal SR 26 in our previous submission on systemic reforms.

However, criminalising coercive control will not create improved safety for women and children as a singular action. New offences will only increase the ability of the criminal justice system to respond to abuse and acts of violence in circumstances where existing systems correctly respond to the full extent of victim-survivor experiences of domestic and family violence, and in contexts where an adequately funded family violence sector can provide accessible and adequate services for victim-survivors and perpetrators. Responding effectively to coercive control further requires an improved understanding across the community and an integrated approach across primary prevention, early intervention, and tertiary responses.

Validation of Victim-Survivor Experiences

Criminalisation gives legal recognition to, and defines, what society considers acceptable and unacceptable behaviour. In consultations No to Violence conducted regarding the criminalisation of coercive control in NSW, victim-survivor participants reported that current police and court responses were designed to respond to family violence as a single incident, rather than as a pattern of abusive behaviour. As such, participants felt that this created a false 'hierarchy' of family violence, with physical and visible forms of violence considered to be more serious than 'invisible' violence, such as economic and emotional abuse.

Participants indicated that this devalues the realities of women whose experiences of domestic violence are not physical. Therefore, criminalisation could serve to promote the voice of victim-survivors and validate the diversity of their experiences.

Highlight the significance of non-physical forms of abuse

Types of family violence which are less visible, such as emotional, economic, cultural, spiritual, and psychological abuse, are routinely disregarded as less serious and dangerous forms of violence by police and in court.[24]

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[22] NSW Domestic Violence Death Review Team (2020). 'Report 2017-2019.' P. 154. https://www.coroners.nsw.gov.au/coroners-court/resources/domestic-violence-death-review.html

[23] Barlow and Walklate, 2018.

[24] Karishma Doolabh, Colleen Fisher, and Melissa O'Donnell, 'Understanding the Dynamics of Support Seeking in Women with Lived Experience of Non-physical Intimate Partner Violence (IPV) and the Service Responses—A Qualitative Study', *Australian Journal of Social Issues*, 2022, https://onlinelibrary.wiley.com/doi/10.1002/ajs4.227.

Furthermore, these types of violence can be challenging to establish under current legal paradigms. An offence of coercive control would better recognise the diverse forms in which family violence is perpetrated and would contribute to a recognition of the risk and seriousness of all forms of abuse and violence.

Victim-survivors indicated that criminalisation could increase community knowledge of coercive control and provide women who experience violence the ability to identify and articulate the violent patterns of behaviour to which they are exposed. This may provide an environment where victim-survivors are able to seek support and safety sooner.

Provides a framework for improving the service and justice response

During our consultations undertaken across diverse communities, it was clear that police and courts require better, evidence-based training to identify the predominant aggressor and accordingly better support the person most in need of protection.

Criminalisation must be approached with the understanding that, although it could play a key role in driving social change, it is not an end point.

Participants also noted that if police officers had more exposure working with and for diverse communities, police would better understand the presentations and experiences of family violence and be able to respond to family violence more comprehensively.

In one consultation, a facilitator asked whether criminalisation of coercive control would improve victim safety. The answer from most respondents was 'no'; however, it was further reflected that it could help enable a better service response.

> *"Assuming it would be an inclusive system response, it could create an opportunity to better reach into and across our communities to offer support options." – Participant, LGBTIQA+ Roundtable*

Across the consultations, it was clear that there is a strong need for a reformed, more comprehensive, systematic response to family violence – including primary prevention, early intervention, crisis responses, and recovery.

Concerns were raised about what happens after someone is charged. One individual raised that perpetrators could still use coercive controlling tactics from prison, and it is important that there are services and support available to address perpetrator's behaviour in all settings, including unanticipated and unusual settings, such as those who are in custody.

Potential to increase safety for highest risk victim-survivors of coercive control

Criminalising coercive control may help to facilitate improved service response and community awareness domestic violence. There is the potential that criminalisation, if accompanied by necessary structural reform, may prevent severe escalation and potentially homicide. Lloyd and Sue Clarke, parents to Hannah Clarke, have been strong advocates for criminalisation of coercive control; this is due to the extensive role that coercive control played into the lead-up, and enactment, of Hannah Clarke's murder.

Each week, a man in Australia murders his partner or former partner.[25] Improved criminal sanctions to address homicide rates must be attended by legal and social service support, improved identification of risk, and operational assistance provided through guidance for frontline responders and bench

[25] Our Watch, 'Quick Facts | Our Watch | Preventing Violence against Women', ourwatch.org.au, 2022, https://www.ourwatch.org.au/quick-facts/.

books for judicial officers. Ending men's use of family violence is only possible through a whole-of-system response.

Criminalisation may be necessary to capture a pattern of abusive behaviour

Family violence is characterised by an ongoing a pattern of behaviour. Creating an offence for coercive control provides an opportunity to change the legal conception of family violence to align with victim-survivors' lived experience.

A criminal offence could better reflect the nature of abusive behaviours and would allow for patterns of abuse to be recognised more easily. Furthermore, an offence of coercive and controlling behaviour would generate improved public awareness of family violence and the gendered nature of domestic violence generally.

Criminalising coercive control offers victim-survivors an avenue through which they can seek recourse. Introducing an offence which encapsulates the patterns of coercive and controlling behaviours, as opposed to specific incident-based approaches, gives victim-survivors access to remedies or protections which might otherwise be inaccessible.

Legislative proposals in relation to coercive control

No to Violence broadly supports the proposals outlined within section 3.7.2 of the review. No to Violence is particularly encouraged by proposal g, to 'Amend the DFV Act to mandate attendance at behaviour change programs along the lines of counselling orders provided for in Part 5 of the *Family Violence Protection Act 2008 (Vic)* to provide greater impetus and opportunity for DFV offenders to address coercive controlling behaviour (see proposal LR 18).' Men's Behaviour Change Programs (MBCPs) are a critical part of the change journey for perpetrators who are seeking to address their abusive behaviours and end their use of violence. As Australia's peak body for organisations and individuals working with men who use family violence, we strongly support the NT Government's commitment to ensuring more men can and do access the programs they need.

The NT has the highest rate of domestic and family violence in Australia,[26] and at this time, only is serviced by two organisations that offer MBCPs. If the DFV Act is amended to mandate attendance at MBCPs, the NT Government must ensure providers can meet demand. This includes through the expansion of existing programs and their services, and through the creation of more MBCPs – especially in areas that are currently underserved. Critical efforts are required to support the increased connection of the specialist domestic and family violence sector within remote communities.

We also recommend that the NT government consider resourcing No to Violence to provide a Territory specific branch of the Brief Intervention Service. The Brief Intervention Service (BIS) a short-term, multi-sessional counselling service for men who are waiting to participate in an appropriate behaviour change program. This ensures that a perpetrator is connected with services, connecting him with support and interrupting his use of violence at a critical time for the family's safety and wellbeing. Given the limitations on service providers in the Territory, the roll-out and expansion of a program like the Brief Intervention Service should be explored.

As noted in our submission on systemic reforms, the NT does not currently have mandatory minimum standards for MBCPs. In 2020, the Tangentyere Council produced the Central Australian Minimum

26 Thomas Morgan, 'New figures show problem of family and domestic violence growing in the Northern Territory', ABC News 2022, https://www.abc.net.au/news/2022-07-28/victims-of-crime-report-shows-increasing-domestic-violence-in-nt/101276786

Standards (CAMS), for perpetrator intervention programs, based on the No to Violence Minimum Standards for Men's Behaviour Change Programs, which were developed in partnership between Family Safety Victoria and No to Violence and specifically adapted for the communities Tangentyere serves. No to Violence supports appropriate adaptation and tailoring of programs to better address client need, while also ensuring that service providers adhere to best practice.

We welcome any commitment to increasing resources for perpetrator interventions. However, this must be accompanied by sustainable and ongoing funding, sound contract terms and conditions, and a requirement that funding is tied to mandatory compliance to NTV's minimum standards framework. Independent and funded evaluation should be embedded in all program delivery. The Minimum Standards dictate, among other things, the levels of training required of MBCP facilitators. If perpetrator intervention service providers are required to meet the minimum standards, they ought to be resourced in a way that enables them to do so—including by enabling them to access evidence-based training.

We refer to pages 15-20 of our earlier submission on systemic reforms for further details on our recommendations regarding the implementation of LR 18.

No to Violence supports the following reforms to improve responses to coercive control, regardless of whether coercive control is criminalised or not: LR 1, LR 4, LR 6, LR 7, LR 18, LR 47, LR 48, LR 51 and LR 55. A full list of No to Violence's position on each LR proposal is provided in **Appendix B**.

It is proposed that the government's DFSV-ICRO be tasked with driving the implementation of reforms to combat coercive control in the context of strengthening the inter-agency response to DFV. This will include greater alignment between police, justice, health, education, housing and territory families' approaches to domestic and family violence and coercive control and consideration of priorities for future investment.

While we have included some recommendations within this submission in direct response to the NT Government's proposed legislative reforms, we would also like to direct attention to specific recommendations made in our previous response to proposed systemic reforms. These include:

- **Recommendation 1:** Include No to Violence as a member of the Domestic, Family, and Sexual Violence Interagency Coordination and Reform Office (DFSV-ICRO), and any DFV inter-agency co-ordination mechanism or working groups which succeed it, to embed our expertise in all family violence reform work, including the development of the Second Action Plan.
- **Recommendation 7:** Develop and implement a Compliance Framework to ensure that all MBCP providers are meeting the NTV Minimum Standards or other commensurate standards (such as Central Australian Minimum Standards, CAMS) to ensure service providers have the training, resources, and supports they need to deliver high-quality programs in line with existing standards.
- **Recommendation 8:** Support No to Violence to work with new and emerging perpetrator intervention services to ensure new providers meet the Minimum Standards.
- **Recommendation 9:** Support No to Violence to develop an auditing tool to determine whether new program providers have sufficient practice management, supervision, inter-agency collaboration, program design methodology, and staffing to meet the Minimum Standards.
- **Recommendation 10:** Work with No to Violence to develop a workforce development strategy to ensure new and emerging perpetrator intervention providers and facilitators can meet the Minimum Standards.

- **Recommendation 16:** Develop and implement, with the support of ACCOs and specialist family violence organisations including No to Violence, a training package for NT Police to minimise and reduce the likelihood of misidentification of the predominant aggressor and reduce the over-incarceration of Aboriginal peoples, specifically Aboriginal women.
- **Recommendation 30:** Implement Proposal SR 21 prior to implementing Proposals LR 18, and implement Proposal LR 18 only when there are an adequate number of high quality and accessible MBCPs to meet demand.

Recommendations

4. Implement Proposal LR 18 only when there are an adequate number of high quality and accessible MBCPs to meet demand.
5. Allocate resources to support the operation of No to Violence's Brief Intervention Service in the NT, to ensure that men on extended waiting lists are not left unsupported.
6. Allocate new and additional resources to ensure there are appropriate and accessible behaviour change programs for Aboriginal people in the Territory.
7. Embed funding for independent program-level evaluation as part of all funding agreements for perpetrator interventions.
    a. Provide funding for services to implement evaluation findings to ensure learning is translated into practice.

No to Violence Responses to Legislative proposals to address DFV

Proposed amendments to the Domestic and Family Violence Act 2007

Improved inclusion of children

No to Violence supports the NT Government's proposals to bring the Domestic and Family Violence Act 2007 in line with contemporary understandings of domestic and family violence, including the diversity of relationships in which domestic and family violence can occur. This includes amendments within Proposal LR 2 specifically focused on children, which are a significant step towards recognising children as victim-survivors of domestic and family violence within their own right.

However, we advise that such amendments should be applied with a degree of caution due to the potential for disproportionate impacts on Aboriginal communities. In our consultations with service providers in the NT, it was communicated that there are a significant number of Aboriginal women in remote communities who will not report their experiences of violence due to the threat of child removal. We were also informed that in some cases, Territory Families, Housing and Communities has reduced the agency and autonomy of Aboriginal mothers experiencing abuse by requiring them to apply for a Domestic Violence Order (DVO) against their partner to keep custody of their children. The already significant intersection between domestic and family violence and child protection matters generally, and in the Territory in particular, means a cautious approach is required in the implementation of Proposal LR 2. Without significant consultation with Aboriginal communities and service providers, the implementation of LR 2 may inadvertently lead to a further decrease in reporting and/or may contribute to the increased removal of Aboriginal children from their families.

While in principle we support this amendment, we suggest the NT Government take action to mitigate the risk of negative consequences for Aboriginal families, and specifically, engage in a review of child protection practices in the context of ongoing family violence. An increase in resources for culturally informed recovery and support programs for Aboriginal families experiencing ongoing family violence will be necessary to manage any perceived risk to the overall wellbeing of children, to promote healing and connection, and to ensure the removal of children is only ever undertaken as an absolute last resort.

Furthermore, the reform agenda should also examine the substantial linkages between children and young people's experiences of or exposure to domestic and family violence and their intersection with the youth justice system, as Aboriginal children have made up over 97% of youth in detention facilities over multiple years.[27] These children have often been impacted by violence at a young age and fallen through the gaps of the under-resourced service system. Ultimately, they are not identified or supported as victim-survivors of violence, as they ought to be.

Territory Families has recently published a plan for a therapeutic model of care for youth justice centres within the NT, however, tertiary responses are not enough.[28] The ultimate goal should be to

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[27] Kate Fitz-Gibbon. 'The Treatment of Australian Children in Detention: A Human Rights Law Analysis of Media Coverage in the Wake of Abuses at the Don Dale Detention Centre'. University of New South Wales Law Journal 41, no. 1 (March 2018). https://doi.org/10.53637/AIBL7934.

[28] Territory Families, Housing and Communities. 2022. 'Northern Territory Youth Detention Centres Model of Care'. Northern Territory Government. https://tfhc.nt.gov.au/__data/assets/pdf_file/0009/1132200/northern-territory-youth-detention-centres-model-of-care.pdf

prevent children who are victim-survivors from entering the carceral system in the first place. An improved model of care for those already in the system is necessary and should be accompanied by preventative care and early intervention for children and young people experiencing violence, especially for those at risk of entering the criminal justice system. Importantly, such programming should be a key part of systemic reforms and supported by ongoing investment in existing services for children and families experiencing family violence.

Recommendations

8. Undertake an independent review of the NT Families and associated child protection practices in the context of ongoing family violence.
9. Increase resourcing for culturally informed recovery and support programs aimed at Aboriginal children and families impacted by domestic and family violence.
10. Invest in preventative care and early intervention, especially for children and young people at risk of entering the criminal justice system due to violence.

Expansion of definition of domestic relationship

No to Violence supports Proposal LR 8 to provide a more extensive definition of a *domestic relationship, family relationship* and *intimate personal relationship* to include current and former partners, as it recognises that violence often persists and escalates following separation and/or the end of an intimate relationship.[29]

No to Violence supports Proposals LR 1, LR 2, LR3, LR 5, LR 6, LR 8 and LR 9 to change the definition and understanding of domestic and family violence in the DFV Act. Creating a more robust understanding of domestic and family violence will contribute to a strong foundation upon which legislative and systemic reforms can be built. In addition, the definition should contain references to a range of coercive and controlling behaviours that reference cultural practices of Aboriginal people; abuse within faith or other forms of 'cultural' practice, sexual identity, and abuse; people living with disabilities; technology-facilitated abuse; and economic abuse and threatening to harm others or pets. See Appendix C for a full description of each of these forms of abuse.

Overall, we recommend the implementation of Proposal LR 8.

Recommendations

11. Implement Proposal LR 8 to create a more expansive definition of domestic relationships that is inclusive of current and former relationships.

Legislative reforms to address the ADVO scheme

No to Violence partially supports the proposals to address the DVO process – apart from LR 10, which we do not support. Overall, we caution that these proposals may have unintended consequences for Aboriginal people and other marginalised people and groups (specifically LRs 10-12). These proposals may, if not supported with policing reform, exacerbate systemic issues, and may not support the safety and wellbeing of victim-survivors.

LRs 10, 11 and 12, which aim to amend the DFV Act to ensure that in all DVO applications the defendant's entire criminal history is included may be prejudicial and counterproductive to the wellbeing of victim-survivors. Through consultations with NAAFLs, we were made aware that in Aboriginal victim-survivors will often also have significant engagement with the justice system due to

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[29] Holly Johson,, Li Eriksson, Paul Mazerolle, and Richard Wortley. 'Intimate Femicide: The Role of Coercive Control'. Feminist Criminology 14, no. 1 (1 January 2019): 3–23. https://doi.org/10.1177/1557085117701574.

the over policing of remote communities. NAAFLs also highlighted that they see many cases where reciprocal DVOs are awarded to both parties involved in a domestic and family violence incident. Without critical examination of these issues, the proposed legislative reforms may lead to the increased misidentification of Aboriginal women as perpetrators of violence, especially in instances where a person's criminal history includes numerous DVOs they did not actively pursue or consent to.[30]

Furthermore, it is unlikely that having access to a defendant's entire criminal history will result in better justice outcomes overall. We understand from our consultation with NAAFLS that many of their clients, nearly all of whom are Aboriginal people in remote communities, are extraordinarily reluctant to engage with police even when experiencing ongoing domestic violence.[31] We are also aware that although recorded domestic and violence family cases increased by 2,000 incidents between 2019-2021, service providers in the NT believe that the true incidence and frequency of domestic and family violence is much higher.[32] If a victim-survivor is unwilling or unable to engage with police, it means they are unlikely to have the violence recorded—this means that the defendant's record would be inaccurate, and ultimately, provide little to no insight on the true extent of their use of violence or the level of harm posed to the victim-survivor.

Many people who use family violence also perpetrate systems abuse by using the criminal justice itself to engage in further coercion and control. This includes applying for DVOs under falsified circumstances. NAAFLS noted that in many cases, one person is much more willing to engage with the police and may therefore take out numerous DVOs against a person whether or not the DVOs are warranted. NAAFLS likened the Territory's DVO system to a 'rubber stamp,' noting that while low threshold of proof is important in enabling victim-survivors to take out DVOs, this low standard can also mean that the primary factor in obtaining a DVO is willingness to engage with police.[33]

No to Violence supports in principle the implementation of LR 38 to increase the penalty for DVO breaches through changes to Section 121 and Section 122 of the DFV Act (2007). As noted elsewhere in this submission, we are concerned about the capacity of NT services, including the police and broader criminal justice system, to consistently and appropriately respond to family violence. The proposed changes will significantly increase the penalty for breaching a DVO if the breach is accompanied by harm against the protected person. No to Violence in principle supports strengthened responses to keep victim-survivors safe while holding perpetrators accountable.

We are, however, cautious about the proposed changes. While the NT does not publish information on reported versus enforced breaches, evidence from other states demonstrates that a small proportion of reported breaches are enforced, and that victim-survivors often feel they are not believed or taken seriously when reporting breaches.[34] In instances where DVO breaches are reported but not enforced, it means there is less an issue with the penalty associated with the breach than with

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[30] Harriet Murphy, Consultation with NAAFLS, Microsoft Teams, 26 September 2022.

[31] Harriet Murphy, 2022.

[32] Thomas Morgan, 'New figures show problem of family and domestic violence growing in the Northern Territory', *ABC News*, 28 July 2022, https://www.abc.net.au/news/2022-07-28/victims-of-crime-report-shows-increasing-domestic-violence-in-nt/101276786

[33] Harriet Murphy.

[34] Jane Wangmann, 'Domestic violence orders need stronger enforcement', *The Conversation,* 8 August 2022, https://theconversation.com/domestic-violence-orders-need-stronger-enforcement-29910

the system meant to enforce it. For LR 38 to be effective, the system charged with enforcing DVO breaches must be strengthened.[35]

We further note that amending the DVO process in the manner described will not necessarily improve outcomes for victim-survivors and may be counterproductive to the first aim of the Aboriginal Justice Agreement - to reduce reoffending and imprisonment for Aboriginal people.[36]

As suggested previously in our submission on legislative reforms (see pages 13-14), any efforts to reform the ADVO system should include funding for No to Violence, along with other specialist domestic and family violence services, ACCOs, and community-led organisations, to develop training for NT Police on the gendered nature of family violence.

Recommendations

12. Refrain from implementing LR 10, which would introduce a mandatory requirement to have a defendant's entire criminal history heard within court.
13. Consult with NAAFLS and other Aboriginal legal and service organisations to understand the extent to which DVO processes work for remote Aboriginal communities, and the extent to which the proposals would or would not support the safety of victim-survivors.
14. Consult with victim-survivors, in all their diversity, to better understand the extent to which the DVO process works, for whom, and how it could better support the safety and well-being of victim-survivors.
15. Work with No to Violence and other specialist domestic and family violence services, as well as specialist legal services, to develop mandatory and consistent training regarding any reforms of the DVO process for police, legal services, judges, and other personnel involved in the criminal justice system.

Vulnerable witness provisions

Broadly, No to Violence supports LR 34 in its capacity to better recognise victim-survivors' autonomy and agency within the courtroom setting. However, efforts must be made to ensure that victim-survivors are aware that they have this choice. It is important that the courtroom personnel responsible for facilitating this decision can identify when a victim-survivor is being coerced, manipulated or threatened into forgoing the use of a screen or partition. This may ultimately require specialised training delivered by the domestic and family violence sector in identifying when a victim-survivor is acting under duress, and how to respond.

Recommendations

16. Implement LR 34, while also ensuring that court personnel receive training from the specialist domestic and family violence sector in identifying circumstances where a victim-survivor's decision to forgo the use of a screen or partition is made under duress.

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[35] Eden Gillespie, 'Fewer than 20% of alleged breaches of Queensland domestic violence orders result in charges', *The Guardian,* 11 June 2022, https://www.theguardian.com/australia-news/2022/jul/11/fewer-than-20-of-alleged-breaches-of-queensland-odomestic-violence-orders-result-in-charges

[36] Department of the Attorney-General and Justice, 'Northern Territory Aboriginal Justice Agreement 2021 – 2027' (Northern Territory: Northern Territory Government, 2021); Northern Territory Department of the Attorney-General and Justice, 'Pathways to the Northern Territory Aboriginal Justice Agreement' (Northern Territory Department of the Attorney-General and Justice, 2021).

Mandatory reporting

Overall, No to Violence does not have a strong position on the retention of section 124A of the Domestic and Family Violence Act as currently worded (LR 36). We especially note that it is difficult to make an informed decision on the retention of this provision without considerable data that demonstrates its current effectiveness and uptake. In our consultations with legal and DFV specialist organisations in the NT, it was also made clear that there is not widespread knowledge or understanding of mandatory reporting laws among the general public.

In our consultations, we heard that service providers are concerned about the impact of mandatory reporting laws on remote Aboriginal communities. Particularly, Aboriginal victim-survivors may engage less with police, service providers, health professionals and lawyers due to the risks posed by mandatory reporting, including potential referrals to child protection. There are also concerns that in smaller communities, it is easier to identify people who have reported domestic and family matters to the police. While the Act does specify that a person can choose not to report if there is significant risk to their safety, there are still potential ramifications for remote communities that should be acknowledged.

We recommend that prior to any significant decision made on the retention of this provision as it currently stands, the NT Government investigates the number of mandatory reports made per year and engage in consultation with remote Aboriginal communities who are already potentially experiencing adverse impacts from this legislation. Should the provision be retained, efforts should be made to educate Territorians on their obligations to report, and how they can ensure their own safety while doing so.

Recommendations

17. Prior to any significant decision made on the retention of provision 124A as it currently stands (LR 36), the NT Government must investigate the number of mandatory reports made per year and engage in consultation with remote Aboriginal communities regarding potential adverse impacts.

Chapter 5A Information Sharing Scheme

No to Violence supports Proposal LR 40 to amend the DFV Act to require police to refer alleged victims of DFV to a 24-Hour Specialist DFSV Referral Service. However, as noted in our previous submission on the NT Government's systemic reforms, the implementation of LR 40 would be greatly strengthened by expanding the amendment so that police refer alleged perpetrators to the Men's Referral Service. Relevant recommendations from this previous submission include:

- **Recommendation 35:** Expand LR 40 to include a mandatory requirement that police refer alleged perpetrators to the Men's Referral Service and SR 15 to include funding for the establishment of a local office of NTV's Men's Referral Service to provide support and referral services for perpetrators.
- **Recommendation 36:** No to Violence proposes co-locating an MRS counsellor with the Tangentyere Council to increase the likelihood that Aboriginal men can utilise the service.
- **Recommendation 37:** Create and provide training in mandatory referral procedures for NT Police to refer perpetrators of domestic and family violence to the Men's Referral Service.
- **Recommendation 38:** Ensure there are adequate and appropriate services for MRS to refer perpetrators into.

Please refer to page 18-19 of our earlier submission to the systemic reform for further information regarding the establishment of an on-the-ground footprint of the MRS in the NT.

Other proposed changes

No to Violence is in support of provisions outlined in LR 42 that provide further recognition of and response to children and young people as victim-survivors in their own right. We note that allowing a young person between 14 and 18 years to apply for a domestic violence order with the leave of the court may offered improved protection from ongoing violence from perpetrating parents and/or caregivers, and welcome changes to section 106 that create greater safety for young people through hearing matters in a closed court.

However, we advise caution in pursuing responses that may further compound the overrepresentation of Aboriginal youth in detention, as previously discussed on pages 16-17. We are specifically concerned about cases where a young person may be named as the respondent in a DVO, especially if they are a sibling of or otherwise residing with the complainant.

If a young person is named as the respondent in a DVO and they are excluded from the home, we are concerned that the limited availability of safe and secure crisis housing and limited availability of youth support services will lead to repeated engagement with the criminal justice system. We note that recent research produced by ANROWs on responses to adolescents using violence states that restraining orders can, and often does, propel young people towards the justice system – an outcome that should be avoided at all costs, as children and young people using violence are often victims of violence themselves.[37] Consequently, the NT Government should consult with the specialist DFV sector and the youth services sector to create a more informed response to youth offenders, with the ultimate goal of avoiding their incarceration.

We also note that children and young people do not often have the means or ability to access safe, secure accommodation where the perpetrator is not present. For this reason, it is vital to invest in the expansion of affordable and safe housing options for victim-survivors and housing for perpetrators of family violence, as discussed previously in our submission to the NT Government on its proposed systemic reforms. In particular, we highlight the importance of the following **previous recommendations** in our systemic reform submission:

- **Recommendation 8:** Allocate new and additional funding for universal wrap-around services—and especially for remote areas-- including AoD, mental health, public housing, crisis and emergency housing, and employment and income support programs, to create an enabling and supportive environment for perpetrator intervention programs and services.
- **Recommendation 23:** Expand the availability of culturally safe support services, including housing, to make it easier for victim-survivors to safely leave a dangerous situation.
- **Recommendation 40:** Pilot an expansion of No to Violence's Men's Accommodation and Counselling Service (MACS) to support men who have been excluded from the home to access the services they need while supported with suitable housing.

[37] Elena Campbell, Jessica Richter, Jo Howard, and Helen Cockburn. The PIPA project: Positive interventions for perpetrators of adolescent violence in the home (AVITH). Australia's National Research Organisation for Women's Safety, 2020.

Recommendations

18. Consult with the specialist domestic and family violence sector and the youth services sector to create a more informed response to youth offenders, with the ultimate goal of reducing and eliminating incarceration of children and young adults.

Proposed amendments to the Bail Act 1982

No to Violence broadly supports LRs 43, 44 and 45 regarding amendments to the Bail Act 1982 that would ensure greater consideration of domestic and family violence offences in decisions to grant bail. This would help increase the safety and security of victim-survivors by ensuring greater oversight of perpetrators at risk of committing further domestic and family violence offences while on bail.

Luke Geoffrey Batty's murder by his father Gregory Anderson on 12 February 2014 points to the need for changes to bail systems in line with those proposed by the NT. The Coroner's Inquest into Luke's death reported Anderson received bail on numerous occasions in the 18 months prior to Luke's death, including for an incident on 16 May 2012 in which Anderson physically assaulted Ms Batty, Luke's mother.[38] Importantly, the police prosecutor assigned to Anderson's bail proceedings did not inform the Magistrate about the nature of Anderson's charges or provide details of his bail history.[39] Additionally, the fact that Mr Anderson was not legally required to report on bail once a bench warrant was issued exposed a major flaw in the system and allowed Anderson freedom of movement that he otherwise should not have had.[40] These limitations illustrate key issues in terms of how the bail system is structured, and the obligations of those who work within it, since bail should be used as a tool to keep perpetrators in view, and to protect victim-survivors from harm.

No to Violence is in favour of NT's proposed amendments to the Bail Act 1982, which also are in line with Recommendation 80 of the Victorian Royal Commission into Family Violence, 'Review and amend bail processes in family violence matters.'[41]

Our NT members stressed the current lack of transparency for victim-survivors and perpetrators regarding bail processes and procedures and spoke about the urgency with which this needs to change, regardless of whether proposals LR 43-45 are implemented.

While it is clear LR 44 is relevant to DFV and sexual offences, and LR 45 is relevant to DFV related criminal proceedings, there is a need to consider which offences LR 43 is relevant to: for example, whether LR 43 may apply for non-violent offences such as stealing.

No to Violence broadly supports LR 44 which enables the prosecutor to obtain the victim's view; however, NAAFLS questioned whether prosecutors' offices are culturally competent in interacting with Aboriginal people, and if not, suggested further harm may be incurred by the victim-survivor in such an interaction. Prior to implementing LR 44, No to Violence recommends prosecutors are trained in cultural competence to facilitate culturally safe interactions with Aboriginal victim-survivors.

Regarding LR 45, No to Violence member organisations underlined the importance of victim-survivors receiving information about decisions to grant or receive bail, and, if bail is granted, the conditions of bail. In our consultations, we were given examples where victim-survivors were not told the offender

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[38] Coroners Inquest into the death of Luke Geoffrey Batty, delivered on 28 September 2015 by Judge Ian L. Gray, Coroners Court of Victoria: https://www.coronerscourt.vic.gov.au/sites/default/files/2018-12/lukegeoffreybatty_085514.pdf

[39] Coroners Inquest,

[40] Coroners Inquest.

[41] Government of Victoria, Royal Commission into Family Violence (Victoria), 2016. http://rcfv.archive.royalcommission.vic.gov.au/Report-Recommendations.html

was out on bail – in one particular circumstance, a victim-survivor was not aware of an offender receiving bail until they came home to find the perpetrator within their house. We also heard examples of incidences where victim-survivors were unable to plan for their safety in anticipation of an offender's release, due to not being notified in a timely manner. These situations significantly add to increase risk of further violence against the victim-survivor. We therefore support LR 45 as an important and necessary legislative change.

Recommendations

19. Implement recommendations LRs 43, 44 and 45 to ensure greater consideration of domestic and family violence offences in decisions to grant bail.
20. Increase transparency for victim-survivors and perpetrators regarding bail processes and procedures, regardless of whether proposals LR 43-45 are implemented.
21. Clarify the offences for which LR 43 is relevant prior to implementation.
22. Prior to implementing LR 44, ensure prosecutors are trained in cultural competence to facilitate culturally safe interactions with Aboriginal victim-survivors.

Proposed amendments to the Sentencing Act 1995

No to Violence broadly supports LRs 46, 47, 48, 49 and 50 as amendments to the Sentencing Act 1995. Contact with the justice system remains one of the few proactive interventions that many perpetrators experience.[42] [43] The criminal justice system should maximise the use of effective and purposeful contact between perpetrators and the courts.[44] These amendments represent a more purposeful connection than the current system; one in which the risk posed by perpetrators remains at the forefront of all sentencing considerations.

No to Violence is strongly supportive of ensuring offenders and their legal representatives cannot cross-examine a victim about the contents of a victim impact statement (LR 50). This proposal is an important method of supporting victim-survivors to engage in the court system without the risk of re-traumatisation.

While carceral sentences play an important role in reducing the immediate risk that perpetrators pose to victims, they should not be viewed as a panacea for men's use of domestic and family violence. Our consultations highlighted a significant desire for diversionary programs to be provided as an alternative to imprisonment, particularly for offenders who do not pose significant ongoing risk to victim-survivors. At the same time, these consultations acknowledged that family and domestic violence services in the NT are already overburdened; consequently, capacity would need to dramatically increase to facilitate the availability of said programming.

In our previous submission to the NT Government, No to Violence discussed alternatives to criminal justice responses that could invoke responses to perpetrators beyond incarceration. We would like to re-iterate the importance of having these alternatives available, and to note the following specific recommendations from our submission on proposed systemic reforms:

- Recommendation 7: Implement Proposal SR 21 to consider developing a costed plan to increase the availability of high quality DFV perpetrator programs in the NT.

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[42] Hawkins, K. & Broughton, F. (2016, February). Sentencing in family violence cases. Paper presented at the National Judicial College of Australia Conference, Canberra. Retrieved from https://njca.com.au/wp-content/uploads/2017/12/HawkinsKate-Sentencing-in-Domestic-Violence-Cases-paper.pdf

[43] Annie Blatchford, 'The "mistakes and missed opportunities" that failed Luke Batty', The Citizen: https://www.thecitizen.org.au/articles/mistakes-and-missed-opportunities-failed-luke-batty

[44] Hawkins & Broughton, 2016.

- **Recommendation 22**: Implement Proposal SR 3 and prioritise the development and expansion of community-based responses to domestic violence in Aboriginal communities.
- **Recommendation 26**: Pilot new and expand existing community and restorative justice programs to support victim-survivors and hold perpetrators accountable, including building on the early work undertaken in consultation with No to Violence, to develop an Aboriginal Family Violence Court using the Barndimalgu Court model.
- **Recommendation 40**: Implement SR 2 to ensure full alignment between proposed reforms and the objectives of the Aboriginal Justice Agreement.

Recommendations

23. Implement recommendations LRs 46, 47, 48, 49 and 50 to ensure the risk posed by perpetrators towards victim-survivors is a key part of all sentencing considerations.
24. Fund and work with specialist perpetrator intervention services, including No to Violence, to build-upon and expand diversionary programming as an alternative to incarceration for lower-risk offenders.

Proposed amendments to the Criminal Code

No to Violence is in support of LRs 51 and 52 regarding amendments to the Criminal Code.

Proposal LR 51 proposes to amend the definition of harm in section 1A(3) of the Criminal Code to recognise that coercive control may result in harm, along the lines: *A pattern of coercive control or other forms of domestic violence occurring in a domestic relationship may result in significant psychological harm, even in the absence of physical harm. It also proposes that domestic violence, domestic relationship and coercive control is defined in accordance with the DFV Act.*

While No to Violence maintains that that we need a whole-of-community response to coercive control, proposed amendment LR 51 is an important step towards legally recognising lived experience of domestic and family violence.

Overall, it is important to ensure that the proposed approaches to coercive control by the NT Government do not encourage any conceptual separation of coercive control from other forms of domestic violence. Coercive control is family violence. It is not a different or lesser form of family violence but is an underpinning pattern of behaviour. The NT Government should take steps to ensure coercive control is understood as family violence rather than a 'lesser form' of 'non-physical' domestic and family violence. Consequently, we recommend that a description of coercive control as an underlying tactic of domestic and family violence is included in legislative materials including supporting materials such as the legal explanatory notes and bench books, risk assessments and in police and community education, to ensure that coercive control is not seen as separate from or a less serious form of domestic and family violence.

We note the forthcoming National Principles on Coercive Control, which will provide useful guidance on how to best represent the nuance of this concept.

Proposal LR 52 suggests amending section 188(2) of the Criminal Code so that "the person assaulted was subjected to choking, suffocation or strangulation" is listed as an aggravating feature of assault. No to Violence supports this addition to ensure in instances that a standalone charge of choking, suffocation and strangulation [Justice Legislation Amendment (Domestic and Family Violence) Act 2020, Section 188AA] is dropped, these behaviours may still be specifically named and charged as an aggravating feature of assault.

In our submission on non-fatal strangulation to the Tasmanian Government (proposed changes to the Criminal Code Amendment Bill 2022), we note that choking, suffocation, and non-fatal strangulation are incredibly dangerous: first, they can cause a range of short and long-term health issues, including loss of or change in voice; difficulty swallowing or breathing; bruising around the neck; petechial haemorrhage; injury to the brain through hypoxia resulting in unconsciousness, headaches, depression and anxiety; and problems with memory and concentration.[45] [46] [47] Secondly, these behaviours are a strong predictive factor for future harm and death/ homicide. For example, one study found that victims of non-fatal strangulation perpetrated by their partner or former partner were seven times more likely to be a victim of homicide or very serious harm in the future.[48] Consequently, we commend all efforts to ensure that victims of non-fatal strangulation have their experiences recognised within the law.

Recommendations

25. Implement recommendation LR 51 to amend the definition of harm in section 1A(3) of the Criminal Code to recognise that coercive control may result in harm, and to define domestic violence, domestic relationship and coercive control in accordance with the DFV Act.
26. Include a description of coercive control as an underlying tactic of domestic and family violence must be included in supporting materials such as the legal explanatory notes, risk assessments and in police and community education. This will support the understanding that coercive control is serious and is family violence.
27. Implement recommendation LR 52 to ensure in instances when a standalone charge of choking, suffocation and strangulation [Justice Legislation Amendment (Domestic and Family Violence) Act 2020, Section 188AA] is dropped, these behaviours may still be specifically named and charged as an aggravating feature of assault.

Proposed amendments to the Evidence Act 1939

Not to Violence supports simplifying the requirements for admissibility of recorded statements (LR 53) to enable the experiences of more victim-survivors to be heard. In addition to overcoming barriers associated with obtaining informed consent from people who have recently experienced family violence, the proposal has the potential to reduce the need for victim-survivors to repeat their story. Recent prosecutorial research found that video-recorded statements of family violence victim-survivors can offer more information on the victim, crime and scene; strengthen negotiations with defence counsels; enhance case strategies and improve victim-survivor engagement compared with situations in which video-recorded statements are not offered to victim-survivors.[49]

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[45] No to Violence. *Submission to the Tasmanian Government Criminal Code Amendment Bill 2022*, https://www.justice.tas.gov.au/__data/assets/pdf_file/0008/652076/Submission-07-No-to-Violence-received-18-February-2022.pdf

[46] Andi Foley, “Strangulation: Know the Symptoms, Save a Life” (2015) 41 Journal of Emergency Nursing 89.

[47] Maya Oppenheim, “Strangulation in Sex Can Increase Risk of Stroke and Brain Injuries, Distressing Study Finds” The Independent (5 June 2020), available at https://www.independent.co.uk/ news/uk/home-news/strangulation-rough-sex-domestic-abuse-bill-study-a9548936.html (visited 2 January 2022).

[48] Nancy Glass,, Kathryn Laughon, Jacquelyn Campbell, Carolyn Rebecca Block, Ginger Hanson, Phyllis W. Sharps, and Ellen Taliaferro. "Non-fatal strangulation is an important risk factor for homicide of women." The Journal of emergency medicine 35, no. 3 (2008): 329-335.

[49] Bethany Backes, Anna Wasim, Noel Busch-Armendariz, Jennifer LaMotte and Leila Wood, ”Prosecutorial Use of Victim Video Statements in Domestic Violence Cases”, *Crime & Delinquency* 68, no. 9 (2022), https://doi.org/10.1177/00111287211047540

No to Violence broadly supports LR 54 and LR 55 as measures to tackle misconceptions of family violence that restrict the accountability of perpetrators and minimise or obscure the experiences of victim-survivors. It is important to recognise that these misconceptions are evident across police prosecution, judges and lawyers in addition to the general public, highlighting the need for expert evidence of family violence to be admissible (LR 54).[50] Additionally, it is critical that the establishment of a working group (LR 55) prioritises the voice and knowledge of lived experience, as this will help ensure jury directions are informed by the experiences and reality of domestic violence in the Northern Territory.

Recommendations

28. Implement recommendation LR 53 to simplify the requirements for admissibility of recorded statements.
29. Implement recommendation LR 54 to allow expert evidence of family violence to be admissible where evidence of family violence is relevant to a fact in issue.
30. Ensure that the voice and knowledge of lived experience is prioritised in the establishment of the working group (LR 55) as this will help ensure jury directions are informed by the experiences and reality of domestic violence in the NT.

Proposed amendments to the Evidence (National Uniform Legislation) Act 2011

LR 56 proposes amending section 19 of the Evidence (National Uniform Legislation) Act 2011 so that section 18 does not apply in a proceeding for a domestic violence related offence, just as it does not apply for a breach of a DVO. If this proposal is implemented, it means that a spouse, de facto partner, parent or child (a 'family victim') of the defendant may *not* object to being required to give evidence against the defendant in proceedings for a domestic violence related offence; i.e. the *victim is compelled to give evidence.*

Broadly speaking, No to Violence and members are concerned about any changes to legislation that would *compel victim-survivors to provide testimony* and or provide testimony in a way that does not support their safety and wellbeing. As such, we support LR 34 which enables victim-survivors to give evidence, if they so choose, in the way that is most appropriate for them. However, we are concerned about how the change proposed in LR 56 will impact vulnerable victim-survivors. We note and strongly highlight the arguments in favour of retaining the right to object for domestic and family violence matters outlined in 4.6.1.1 of the Review of Legislation and the Justice Response to Domestic and Family Violence in the Northern Territory document. No to Violence is particularly concerned that victim-survivors who are compelled to give evidence may experience repercussions such as re-traumatisation through court proceedings, or threats or actual violence from the perpetrator or his supporters or family.

We also note this proposal may have the unintended consequence of contributing to the separation of Aboriginal families due to the aforementioned experiences at the intersection of child protection and family violence.

Recommendations

31. Proposal LR 56 needs further consideration to ensure it will not have adverse impacts on vulnerable witnesses; this consideration must be informed with targeted consultations with victim-survivors and Aboriginal communities.

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[50] Mark Henaghan, Jacqueline Short and Pauline Gulliver, " Family violence experts in the criminal court: the need to fill the void", *Psychiatry, Psychology and Law 29, no. 2 (2021), https://doi.org/10.1080/13218719.2021.1894262*

Proposed amendments to the Local Court (Criminal Procedure) Act 1928

No to Violence supports proposal LR 57 to 1) amend the Local Court (Criminal Procedure) Act 1928 to create a presumption that if an accused is charged with more than one sexual offence, it is presumed that the charges are heard together, along the lines of the presumption for indictable matters in section 341A of the Criminal Code and 2) to give further consideration to whether there should also be a presumption that DFV-related offences are heard together. In both instances court costs would be reduced and the strain of multiple appearances for victim-survivors would be avoided. Further, the justice system will better be able to consider the totality of an accused's actions. However, we do note that there are risks that hearing multiple matters at once may be prejudicial, and result in poorer outcomes for defendants who are unable to access adequate legal representation.

Recommendations

32. Implement recommendation LR 57 to
    a. amend the Local Court (Criminal Procedure) Act 1928 to create a presumption that if an accused is charged with more than one sexual offence, it is presumed that the charges are heard together, and
    b. to give further consideration to whether there should also be a presumption that DFV-related offences are heard together.

Conclusion

No to Violence commends the NT Government for considering an ambitious legislative reform agenda. The Consultation Paper demonstrates a clear interest in legislative reform to provide a more fulsome recognition of victim-survivor experiences, and to strengthen responses to perpetrators that hold them responsible for their use of violence.

Reforming the ways in which the Territory responds to family violence means working closely with the people and communities most likely to be impacted by those reforms. In the Territory, this means working closely with marginalised groups to ensure policy reforms do not have unintended consequences. Improving the overall system will improve outcomes for victim-survivors and ensure perpetrator responsibility and accountability.

Appendix A: No to Violence Recommendations – Systemic reforms

No to Violence recommends that, in its Review of Legislation and the Justice response to the Domestic and Family Violence in the Northern Territory, the Government:

1. Include No to Violence as a member of the Domestic, Family, and Sexual Violence Interagency Coordination and Reform Office (DFSV-ICRO), and any DFV inter-agency co-ordination mechanism or working groups which succeed it, to embed our expertise in all family violence reform work, including the development of the Second Action Plan.
2. Embed increased investment in public housing and poverty reduction programs as part of the Second Action Plan to reduce family violence.
3. Implement Proposal SR 2 to ensure that all domestic and family violence reforms align with the Aboriginal Justice Agreement and address the impacts of colonisation and related Aboriginal intergenerational trauma as part of the reform agenda to reduce family violence.
4. Engage in targeted, ongoing consultations with Aboriginal Community Controlled Organisations (ACCOs) to ensure the experiences and concerns of Aboriginal peoples are considered and addressed in the reform agenda including the introduction of any subsequent legislative and policy changes.
5. Engage in targeted consultations with other marginalised groups, including migrant and refugee communities; people with disabilities; LGBTIQA+ people; people in institutional settings; and victim-survivors, to ensure their lived experiences are considered and addressed in the reform agenda and the introduction of any subsequent legislative and policy changes.
6. Implement Proposal SR 26 to establish a systems-driven domestic and family violence death review process in the NT and include No to Violence as part of the inter-agency leadership and governance structure.
7. Implement Proposal SR 21 to consider developing a costed plan to increase the availability of high quality DFV perpetrator programs in the NT.
    a. No to Violence recommends the NT Government conduct an analysis of the number of funded places required to meet both current demand and the latent, in-built future demand growth in the system, projected as a rising number of funded places over the next seven financial years, with projected increases differentiated according to each of the NT’s 17 local councils.
8. Allocate new and additional funding for universal wrap-around services—and especially for remote areas-- including AoD, mental health, public housing, crisis and emergency housing, and employment and income support programs, to create an enabling and supportive environment for perpetrator intervention programs and services.
9. Implement Proposal SR 22 and include NTV in the proposed multi-agency oversight committee to ensure a suite of accountable high quality DFV perpetrator programs that prioritise victim-survivor safety are available across the NT.
10. Implement, with the support of No to Violence, Proposals SR 17, 18, and 19 to ensure all legal practitioners and services have adequate capacity to provide legal assistance to all persons affected by domestic and family violence—including people who use violence and people who are victim-survivors.
11. Implement, with the support of No to Violence, Proposal SR 13 to align police practice with the NT’s Risk Assessment and Management Framework (RAMF).

12. Work with No to Violence to implement Proposals SR 23 and 24 to expand and strengthen the NT's DFV Risk Assessment and Management Framework (RAMF) and the Family Safety Framework (FSF).
13. Work with No to Violence, ACCOs, and other specialist agencies to implement Proposal SR 25 to develop guidelines on how the Multi-Agency Community and Child Safety Framework (MACCST) will deal with children exposed to and affected by DFV in line with the RAMF.
14. Implement Proposal SR 11 to assist police to identify coercive control and respond to coercive control as a high-risk factor for serious harm and death.
15. Undertake an independent review of the Northern Territory Police response to family and domestic violence to inform the systemic and whole-of-systems review.
    a. Implement Proposal SR 12 to review all police training.
16. Develop and implement, with the support of ACCOs and specialist family violence organisations including No to Violence, a training package for NT Police to minimise and reduce the likelihood of misidentification of the predominant aggressor and reduce the over-incarceration of Aboriginal peoples, specifically Aboriginal women.
17. Implement Proposals SR 8 and SR 12 and work with ACCOs and specialist family violence organisations including No to Violence to develop and implement an ongoing training a training package for NT Police on coercive control and increase the availability of training in relation to domestic and family violence specifically tailored to police, prosecutors, judges, lawyers and front-line workers to assist in identifying and responding to coercive control and DFV for NT Police and others within the criminal justice system in responding to family violence regardless of whether coercive control is criminalised.
    a. It is critical that this training emphasises the gendered nature of family violence and works to reduce the occurrence and impacts of misidentification of the predominant aggressor.
    b. No to Violence recommends that all training be on-going, mandatory, and iterative.
18. With the support of DFSV-ICRO and the input of No to Violence, develop a working group to support NT Police and the NT criminal justice system to reduce the likelihood and impacts of misidentification of the predominant aggressor.
19. Consult with NAAFLS and other Aboriginal legal and service organisations and well as victim-survivors, in all their diversity, to understand the extent to which DVO processes work for remote Aboriginal communities, and the extent to which the proposals would or would not support the safety of victim-survivors.
20. Ensure that police, legal services, judges, and other members of the criminal justice system undertake timely, mandatory and consistent training regarding any reforms of the DVO process.
21. Refrain from requiring police to provide a certificate to the Court at the first mention in all applications of DVOs (SR 14).
22. Implement Proposal SR 3 and prioritise the development and expansion of community-based responses to domestic violence in Aboriginal communities.
23. Expand the availability of culturally safe support services, including housing, to make it easier for victim-survivors to safely leave a dangerous situation.
24. Implement Proposal SR 7, 9, and 10 to fund tailored community awareness and legal education to expand knowledge about coercive control and the options available for people experiencing it, regardless of whether it is criminalised. Community legal education should also be funded to support and inform people who have committed family violence offences, including by providing community legal education in prisons.

25. In consultation with Aboriginal Community Controlled Organisations and other relevant stakeholders, develop and implement cultural awareness and anti-racism training to ensure that family violence is responded to in a culturally appropriate manner.
26. Pilot new and expand existing community and restorative justice programs to support victim-survivors and hold perpetrators accountable, including building on the early work undertaken in consultation with No to Violence, to develop an Aboriginal Family Violence Court using the Barndimalgu Court model.
27. Develop and implement a Compliance Framework to ensure that all MBCP providers are meeting the NTV Minimum Standards or other commensurate standards (such as Central Australian Minimum Standards, CAMS) to ensure service providers have the training, resources, and supports they need to deliver high-quality programs in line with existing standards.
28. Support No to Violence to work with new and emerging perpetrator intervention services to ensure new providers meet the Minimum Standards.
    a. Support No to Violence to develop an auditing tool to determine whether new program providers have sufficient practice management, supervision, inter-agency collaboration, program design methodology, and staffing to meet the Minimum Standards.
29. Work with No to Violence to develop a workforce development strategy to ensure new and emerging perpetrator intervention providers and facilitators can meet the Minimum Standards.
30. Implement Proposal SR 21 prior to implementing Proposals LR 18, and implement Proposal LR 18 only when there are an adequate number of high quality and accessible MBCPs to meet demand.
31. Allocate new and additional resources to ensure there are appropriate and accessible behaviour change programs for Aboriginal people in the Territory.
32. Embed funding for independent program-level evaluation as part of all funding agreements for perpetrator interventions.
    a. Provide funding for services to implement evaluation findings to ensure learning is translated into practice.
33. Fund No to Violence to work in partnership with Tangentyere Council and Catholic Care to roll-out training for ACCOs, service providers, and other community-based organisations to ensure perpetrators can access high-quality, culturally safe, evidence-based programs from appropriately trained facilitators and providers.
34. Invest in specialised and culturally specific men's family violence training to expand the number of Aboriginal practitioners who are qualified and skilled to work with Aboriginal perpetrators of family violence.
35. Expand LR 40 to include a mandatory requirement that police refer alleged perpetrators to the Men's Referral Service and SR 15 to include funding for the establishment of a local office of NTV's Men's Referral Service to provide support and referral services for perpetrators.
    a. No to Violence proposes co-locating an MRS counsellor with the Tangentyere Council to increase the likelihood that Aboriginal men can utilise the service.
36. Create and provide training in mandatory referral procedures for NT Police to refer perpetrators of domestic and family violence to the Men's Referral Service.
37. Ensure there are adequate and appropriate services for MRS to refer perpetrators into.
38. Support the expansion of Brief Intervention Service (BIS), or a similar program, to the Northern Territory to ensure men who are unable to immediately access programs.

39. Pilot an expansion of No to Violence's Men's Accommodation and Counselling Service (MACS) to support men who have been excluded from the home to access the services they need while supported with suitable housing.
40. Implement SR 2 to ensure full alignment between proposed reforms and the objectives of the Aboriginal Justice Agreement.
41. Collaborate with Aboriginal communities and ACCOs to develop and implement a specific Aboriginal Family Safety Strategy, aligned with the Aboriginal Justice Agreement and the proposed Aboriginal-specific National Plan to end violence against women and children.
42. Prioritise the training of the criminal justice system by implementing SR 8:
    a. Ensure this training is delivered by specialist domestic and family violence professionals and involve co-production between victim-survivors, the sector, and police.
43. Prioritise Proposals SR 11, 12, 13, 21 and 22 prior to implementing Proposals SR 7 and 9 to bolster the capacity and availability of support services and improve the overall criminal justice response to domestic and family violence.

Appendix B: No to Violence Support for Northern Territory Legislative Reform Proposals

Proposal	Text	NTV Support
LR 1	It is proposed that the preamble in the DFV Act be amended to reflect a contemporary understanding of DFV Act. 4.1.1.2. Objects of the DFV Act The objects of the DFV Act are set out in section 3(1) as follows: (a) To ensure the safety and protection of all persons, including children, who experience or are exposed to domestic violence, and (b) To ensure people who commit domestic violence accept responsibility for their conduct, and (c) To reduce and prevent domestic violence. Section 3(2) articulates how the objects are to be achieved. These are broadly consistent with recommendation 7-4 of the ALRC Report. However, a number of minor changes would bring the objects further into line with the ALRC recommendation and the objectives of domestic violence legislation in other jurisdictions, particularly in relation to: • reducing the exposure of children to domestic violence; and • acknowledging that legislation cannot 'ensure' a person's safety but it can 'increase' safety and it cannot 'ensure' someone is accountable and responsible for their actions but it can increase accountability and encourage a person to accept responsibility for their actions.	**Yes**
LR 2	It is proposed that the objects be amended along the lines: (a) To increase the safety and protection of adults and children who have experienced domestic violence or are at risk of domestic violence, and (b) To increase the accountability of people who commit domestic violence and encourage them to accept responsibility for their actions, and (c) To reduce and prevent domestic violence, and (d) To reduce the exposure of children to domestic violence. 4.1.1.3. Definition of a party The term 'party' for a DVO is defined in section 4 of the DFV Act to mean: (a) the protected person or person acting for the protected person; or (b) the defendant. However, concerns have been raised that the wording of the legislation leaves some doubt about: • what standing a protected person has when the police issue a police DVO, and • whether police are a party to a police DVO or merely facilitate the	**Yes**

Proposal	Text	NTV Support
	application. This lack of clarity is undesirable.	
LR 3	It is proposed to amend the definition of 'party' to avoid any doubt that it includes: • the protected person even if the protected person is not the applicant; • the defendant; • if the police apply for a DVO under section 28 or section 29 or make a police DVO under section 41, the police are also a party; • if a person acting for an adult or a child applies for a DVO on behalf of an adult or a child under section 28 or section 29, they are also a party. It is further proposed to provide that: • to avoid any doubt, the protected person is a party to any proceedings arising from a DVO application, even if the protected person not the applicant; and • to avoid any doubt, the police are a party to any proceedings arising from an application made by police under section 28 or section 29 or a DVO made by police under section 41, and any applications to vary or revoke a DVO related to those proceedings and any confirmation hearing under Part 2.10. 4.1.1.4. Definition of Court DVO, Police DVO and external order and structure of the Act In the DFV Act, a court DVO is defined in section 4 as: (a) a Local Court DVO; or (b) an interim court DVO; or (c) a consent DVO; or (d) a DVO made by a court under Part 2.7; or (e) a DVO confirmed by the Court under Part 2.10. Stakeholders have indicated there is some confusion arising from structure of the DFV Act and it would be helpful to clarify the structure	**Yes**

Proposal	Text	NTV Support
	and how the types of DVOs relate to each other. The table below sets out how Chapter 2 of the DFV Act operates.	
LR 4	It is proposed to amend the definitions of court DVO, police DVO and external order in the DFV Act and clarify the structure of the DFV Act. (See Table 1 page 55)	**Yes**

Proposal	Text	NTV Support
LR 5	It is proposed that the DFV Act be amended so that the definitions of domestic violence, economic abuse and emotional and psychological abuse are modernised along the lines of the Model Definition of Family Violence adopted by the Law Council of Australia (noting that this is substantially similar to the definitions set out in sections 5, 6 and 7 of the Family Violence Protection Act 2008 (Vic) with some additional examples). The Law Council of Australia's definition is provided in Attachment 7.4. It is important to note that amongst the examples provided in the Law Council Model Definition is that the following behaviour may constitute DFV: • using coercion, threats, physical abuse or emotional or psychological abuse to cause or attempt to cause a person to enter into a marriage; • using coercion, threats, physical abuse or emotional or psychological abuse to demand or receive dowry, either before or after a marriage. 4.1.1.6. Definition of coercive control The issues in relation to coercive control are set out in Part 4 of this paper. To ensure that the concept of coercive control underpins the application of the DFV Act, it would be helpful to have a legislative definition of coercive control and some guidance for first responders in applying the concept of coercive control in DFVA proceedings. The United Kingdom has a statutory guidance framework on coercive control. While the UK framework is for the purpose of investigating a criminal offence of coercive controlling behaviour, a statutory guidance framework may be useful in the NT to guide the application of the DFV Act in the absence of a criminal offence. This is because there are a large number of professionals who fail to identify coercive control as a central element of DFV or appreciate the severity of its impact on victim-survivors. The definition of coercive control is required for proposed changes to section 19 outlined below.	Yes

Proposal	Text	NTV Support
LR 6	It is proposed to insert a definition of coercive control in the DFV Act along the lines: Coercive control is a pattern of behaviour that is coercive or in any other way controls or dominates the protected person and causes the protected person to feel fear for the safety and wellbeing of the protected person or another person. Coercive control may have one or more of the following effects: (i) It makes the protected person dependent on, or subordinate to the defendant, (ii) It isolates the protected person from friends, relatives or other sources of support (iii) It controls, regulates or monitors the protected person's day to day activities (iv) It deprives the protected person of, or restricts the protected person's, freedom of action (v) It frightens, humiliates, degrades or punishes the protected person. It is further proposed to insert a note following the definition along the lines that: 'Coercive control may occur with physical violence, or in the absence of physical violence.'	Yes
LR 7	It is proposed to create a statutory guidance framework on coercive control to guide proceedings under the DFV Act, including to reduce the misidentification of the person most in need of protection.	Yes
LR 8	It is proposed to amend the definitions in the DFV Act as follows: Domestic relationship (section 9) • Amend section 9(d)(ii) along the lines 'someone else who is or has been in family relationship with the other person.' Family relationship (section 10) • Amend the definition of family relationship to include the relationship between a person's former spouse or defacto partner and their current spouse or defacto partner. Intimate personal relationship (section 11) • Amend the definition of intimate personal relationship to include the relationship between a person's former 'intimate personal relationship' and their current 'intimate personal relationship'. • Amend the definition of intimate personal relationship to include the relationship between a person and the relatives of a person with whom they are engaged to be married or with whom they are having an intimate personal relationship. • Amend the definition of intimate personal relationship to include persons who have had casual or one-off sexual incidents, whether consensual or not. • Amend section 11(4) to provide recognition that an intimate personal	Yes

Proposal	Text	NTV Support
	relationship may exist between people of the same or opposite sex, and regardless of the gender identity or sexual orientation of the persons. It is further proposed to insert a note along the lines that conduct which meets the definition of DFV in the DFV Act directed towards a child is DFV.	
LR 9	It is proposed to amend section 16 to align the object of this Chapter with the object of the DFV Act along the lines: The objects of this Chapter are to provide for: (a) The making of domestic violence orders to: i. increase the safety and protection of adults and children who have experienced domestic violence or are at risk of domestic violence, and ii. to increase the accountability of people who commit domestic violence and encourage them to accept responsibility for their actions, and (b) the variation and revocation of domestic violence orders. 4.1.1.9. When may a DVO be made Section 18 of the DFV Act outlines the test for when a DVO may be made as follows: (1) The issuing authority may make a DVO only if satisfied there are reasonable grounds for the protected person to fear the commission of domestic violence against the person by the defendant. Note Because of the objective nature of the test in subsection (1), the issuing authority may be satisfied on the balance of probabilities as to the reasonable grounds even if the protected person denies, or does not give evidence about, fearing the commission of domestic violence. (2) In addition, if the protected person is a child, the authority may make a DVO if satisfied there are reasonable grounds to fear the child will be	Yes

Proposal	Text	NTV Support
	exposed to domestic violence committed by or against a person with whom the child is in a domestic relationship. It is not proposed to change these tests. It is proposed to provide further guidance to the court in cases where there are cross-allegations of violence or cross-applications for a DVO, and in relation to the protection of children (see below).	
LR 10	It is proposed to: • Amend section 19(1) along the lines: "In deciding whether to make a DVO, and in deciding the terms of a DVO, the issuing authority must consider the safety and protection of the protected person and any children to be of paramount importance." • Amend section 19(2) to include the following additional matters that must be considered in making a DVO: any DVOs made against the defendant, whether or not they are currently in force; other current legal proceedings involving the defendant or the protected person; orders and applications under Care and Protection of Children Act 2007. • Insert a new mandatory requirement in section 19, along the lines that if there are children in the care of, or who have regular contact with, a protected person or the defendant, the court must consider whether section 18(2) applies in relation to the children, and must consider whether the children should be included as protected persons on the adult protected persons DVO or require their own DVO.	In part
LR 11	It is proposed to add a new requirement to the DFV Act that for all applications for DVOs (police or private) a certificate from police outlining the defendant's criminal history and any DVOs made against the defendant, whether or not they are currently in force, must be put on the court file at the first mention (along the lines of section 10F in the Restraining Orders Act 1997 (WA)).	No

Proposal	Text	NTV Support
LR 12	It is proposed to amend section 19 of the DFV Act to introduce an additional test if there are cross allegations of DFV or cross applications for a DVO: 1. If there are cross allegations of DFV and the requirements of section 18(1) are likely to be met for both parties, the court must consider the nature of the DFV in the relationship between the parties to identify if one party is the person most in need of protection. 2. In determining if one party is the person most in need of protection, the court must weigh up: a. whether there is a pattern of DFV over time that indicates that one party is the person most in need of protection; and b. whether there is a pattern of coercive control by one party towards the other over time that indicates that one party is the person most in need of protection; and c. whether there are differences in the type, extent, severity of any injuries, in relation to the current incident or over time, that indicate one party is the person most in need of protection. 3. If the court determines that one party is the person most in need of protection, the court must not make a DVO against that party unless the court is satisfied that, in order to give effect to the objects of the Act, it is necessary to issue a DVO against both parties.	In part
LR 13	It is proposed to amend section 41 along the lines: • Police must consider whether there are any children in the care of the protected person or the defendant who may need to be protected by being included on the adult's DVO or through their own DVO. • If there are cross allegations of violence, or police are concerned that both parties may have used violence against each other, police must seek to identify the person most in need of protection. It is further proposed to add a note to section 41 referring to the provisions proposed for section 19 above.	In part
LR 14	It is proposed to replace sections 20 and 22 with new provisions to exclude a defendant from the premises along the lines of sections 63 and 64 of the Domestic and Family Violence Protection Act 2012 (Qld).	Yes
LR 15	It is proposed to amend section 21 to make it a mandatory condition in all DVOs that the defendant must not commit DFV against the protected person, along the lines: • A DVO must include a condition that the defendant must be of good behaviour towards the protected person/s and is restrained from committing all forms of domestic violence against the protected person/s. • If the court does not exercise its power to impose this condition, the	Yes

Proposal	Text	NTV Support
	court is taken to have done so. It is further proposed to add a note beneath this provision referring to the definition of domestic violence in section 5.	
LR 16	It is proposed to amend section 21 so that a DVO may provide an order that the defendant be restrained from locating or attempting to locate the protected person, including any children named as protected persons.	Yes
LR 17	It is proposed to amend section 21 to provide explicit power for the court to order the defendant to destroy intimate images or hand them to police.	Yes
LR 18	It is proposed that attendance at DFV behaviour changes programs be mandated along the lines of counselling orders provided for in Part 5 of the Family Violence Protection Act 2008 (Vic).	Yes
LR 19	It is proposed to amend section 26 so that a court DVO can prohibit the publication of personal details of a party or witness in a proceeding if satisfied the publication would expose the protected person or witness to a risk of harm or if satisfied it is appropriate in the circumstances. It is further proposed to amend sections 123 and 124 to clarify that these provisions do not apply to information shared with another entity under a recognised information sharing scheme (including Chapter 5A of the DFV Act or Chapter 5.1A of the Care and Protection of Children Act 2007).	Yes

Proposal	Text	NTV Support
LR 20	It is proposed to amend section 27 to provide the court with greater guidance in determining the duration of a DVO along the lines of Family Violence Protection Act 2008 (Vic): • A DVO (other than an interim court DVO) is in force for the period stated in it. • If the court fails to specify a period for an order against an adult the order continues for five years or until it is revoked or set aside on appeal. • If the court fails to specify a period for an order against a child, the order continues for 12 months. • The duration of the DVO should be the period that the court considers necessary and desirable for the safety and protection of the protected person. • In determining the period for which the DVO is in force, the court must take into account: - that the safety and protection of the protected person is paramount; - any assessment by the applicant of the level and duration of the risk from the defendant; - if the applicant is not the protected person, the protected person's views, including the protected person's assessment of the level and duration of risk from the defendant. • In determining the period for which the DVO is in force the court may take into account the length of a prison term to which the defendant has been, or is likely to be, sentenced to provide a period of protection for the protected person upon the defendant's release. • The court may also take into account any matters raised by the defendant that are relevant to the duration of the order. It is further proposed that there be a specific provision for making a DVO of indefinite duration where there is significant and ongoing risk that cannot be adequately mitigated by an order of limited duration, along the lines of section 79B of the Crimes (Domestic and Personal Violence) Act 2007 (NSW). This provision is set out in full in Attachment 7.7.	Yes
LR 21	It is proposed to amend section 27 along the lines that: • A police DVO is in force until it is either confirmed under Part 2.10 when it becomes a court DVO, or is revoked or set aside on appeal.	Yes

Proposal	Text	NTV Support
LR 22	It is proposed to amend the Act to provide for the extension of a court DVO along the lines: • The court may order the extension of a final DVO: - on application by a party to the DVO; - on its own initiative. • The application to extend a DVO must be made while the DVO is in force or within six months of it expiring. • The court may, on application, order the extension of a final order if the court is satisfied, on the balance of probabilities, that there are reasonable grounds for the protected person to fear the commission of domestic violence against the person by the defendant if the order is not extended. • This applies whether or not the defendant has: - committed DFV against the protected person while the DVO is in force, or - complied with the order while it has been in force. • The extension must be served on all the parties. • Allow an interim extension order for 28 days to allow for circumstances in which the defendant has not yet been served with the notice of the application (along the lines of section 107 of the Family Violence Protection Act 2008 (Vic).	Yes
LR 23	It is proposed for the DFV Act to be amended along the lines that: • an application for a DVO is to be filed in the venue closest to the protected person or the defendant; • the court may hear and determine the proceedings at the venue in which the proceedings were commenced or at another venue the court considers appropriate.	Yes
LR 24	It is proposed to amend section 30 so that the applicant's address must not be stated on an application form unless: • the protected person consents to it being included knowing that the form will served on the defendant, or • the defendant already knows the address, or • where it is necessary to state the address in order to achieve compliance with the order.	Yes
LR 25	It is proposed to review the application forms for DVOs to consider whether procedural fairness for the defendant can be provided through information in the form itself without the need to serve the affidavit.	Yes
LR 26	It is proposed to amend section 13(3) to limit applications for DVOs to one adult protected person, with an exception that children up to 24 years of age of an adult protected person, or in the care of an adult protected person, may be included on the adult protected person's DVO.	Yes

Proposal	Text	NTV Support
LR 27	It is proposed to amend Part 2.4 Division 3 ‘Miscellaneous Matters’ so that the court may refuse to make a DVO, or may revoke a police DVO, at any stage in the proceedings if the court believes that the making of a DVO against the defendant is likely to be inappropriate given the objects and principles in the Act. It is further proposed to add a note beneath the provision along the lines: - An example for the purposes of this section is that the court believes that defendant in a DVO application or order is the person most in need of protection.	Yes
LR 28	It is proposed to amend section 35 along the lines that: • an interim court DVO can made or varied by the court at any time in the proceedings before the Local Court DVO is finalised; and • can be made or varied before the defendant has been served.	Yes
LR 29	It is proposed to amend section 38 so that reciprocal orders cannot be made by consent unless the court is satisfied that there are grounds for making the order against each party. It is proposed to add a note beneath the provision along the lines: - The court may refuse to make a DVO, or may revoke a police DVO, at any stage in the proceedings if the court believes that the making of a DVO against the defendant is likely to be inappropriate given the objects and principles in the Act.	Yes

Proposal	Text	NTV Support
LR 30	It is proposed to amend Part 2.6 in relation to police DVOs along the lines that: a. On the first occasion a police DVO is before the court, the court may consider whether the order should continue in the terms made or with different terms. b. The court may revoke a police DVO if the court believes that: i) there are no grounds for the DVO to be made, or ii) the making or variation of the order may be inappropriate given the objects of the Act. c. Add a note beneath this provision along the lines: An example of when making an order may be inappropriate given the objects of the Act, is if the court believes that a victim of DFV has been named as a defendant in a DVO application and that making the order may expose the defendant to domestic violence and be contrary to their safety and protection. d. To avoid any doubt, a police DVO is in force until it is either: i. confirmed under Part 2.10 when it becomes a court DVO, or ii. varied by the court in accordance with 2.8, or iii. it is revoked, or iv. set aside on appeal. e. Amend section 43(2) to require the police to also give an explanation of the order to the protected person. It is further proposed to amend Part 2.6 to: • avoid any doubt that a police DVO may be made when police are considering releasing a person on bail; and • the bail decision maker must ensure that the bail conditions and the DVO conditions are not inconsistent.	Yes

Proposal	Text	NTV Support
LR 31	It is proposed to amend Part 2.7 along the lines: • The court may make an interim DVO or vary a DVO on its own initiative or on application of the prosecutor at any stage in the criminal proceedings. • After a plea of guilt or a finding of guilt, the court 'must' consider whether to make a DVO (currently it is 'may'). • If a police or court DVO is already in force against the person, the court: - must consider the DVO and whether, in the circumstances the DVO needs to be varied, including for example, by varying the date the DVO ends; and - may vary the DVO if the court considers it should be varied; - may confirm the DVO. • To avoid any doubt, if the defendant has been found guilty of an offence, the court may confirm a police DVO or a court DVO without complying with Part 2.10. • The court may hear submissions from the parties to the DVO and the prosecutor in making a decision about the conditions in the DVO but is not required to do so. • Notice of order must be provided – see section 46. It is further proposed to include a provision along the lines that: To avoid any doubt, the Supreme Court may make a DVO in accordance with Part 2.7.	Yes
LR 32	It is proposed to retain the overall structure of Chapter 2 of the DFV Act but clarify and strengthen the provisions for varying and revoking DVOs as follows: a) Make various amendments to Part 2.8 'Variation and revocation of DVOs', including to amend section 56 so that it includes revoking a DVO and that the order must not be revoked or significantly varied to make it less restrictive without the protected person, being made aware of the application and having an opportunity to be heard. b) Amend Part 2.9 'Review of police DVOs' along the lines: i. amend section 74(2) to enable the judge to vary a police DVO on an interim basis without confirming it, and ii. provide that the DVO must not be revoked or significantly varied to make it less restrictive without the protected person, being made aware of the application and having an opportunity to be heard. c) Amend Part 2.10 'Confirmation of DVOs' along the lines: i. amend section 82(1) so that the court may: - confirm the DVO (with or without variations); - vary the DVO on an interim basis without confirming it; - revoke the DVO; ii. amend to provide a procedure for the defendant to object to the DVO	Yes

Proposal	Text	NTV Support
	if he/she does not attend the confirmation hearing to ensure procedural fairness.	
LR 33	It is proposed to amend section 85 to enable either the defendant or the protected person to retrieve their personal property in the company of a police officer in circumstances where a DVO would otherwise prevent them having contact with each other (regardless of whether a premises access order is in place). It is also proposed to require that reasonable notice be given to the person residing in the premises.	Yes
LR 34	It is proposed to amend section 110 (2) of the DFV Act to add words along the lines 'unless the witness requests that a screen or partition is not used.'	Yes
LR 35	It is proposed to amend the DFV Act along the lines along the lines of section 93 of the Care and Protection of Children Act 2007: • Court proceedings must be conducted with as little formality and legal technicality as the circumstances permit. • Subject to any directions of the court, the court is not bound by the rules of evidence.	Yes
LR 36	It is proposed to maintain the mandatory reporting provision in section 124A as currently worded.	In part
LR 37	*There is no LR 37 in the Consultation Papers*	N/A

Proposal	Text	NTV Support
LR 38	It is proposed that sections 121 and 122 be repealed and replaced with a tiered approach to sentencing for the contravention of a DVO along the following lines: • If a person is found guilty of an offence against section 120(1), the person is liable to a penalty imprisonment for two years (along the lines of existing section 121(1)). • For persistent contravention, on three occasions within 28 days, the person is liable to a penalty of three years in prison. • For a contravention where a person has a prior finding of guilt for a DFV-related offence, the person is liable to a penalty of three years in prison. • If the contravention is accompanied by harm to the protected person or threats of harm, the person is liable to a penalty of five years in prison.	Yes
LR 39	Subject to the findings of the Information Commissioner's Review of Chapter 5A, it is proposed to: a. Amend the DFVA and/or the Information Act 2002, so that the Information Privacy Principles (IPPs) in relation so the collection of information (IPP 1 and IPP 10) do not apply if the test for information sharing in Chapter 5A is met. b. Amend the DFVA and/or the Information Act 2002, so that the Information Privacy Principles (IPPs) in relation so the collection of information (IPP 1 and IPP 10) do not apply if the test for information sharing in Chapter 5A is met. c. Amend the DFV Act to explicitly provide that information is permitted to be shared in case management meetings if the purpose of the meeting is to assess, lessen or prevent a serious threat to a person's life, health safety or welfare, including to provide or arrange a domestic violence related service. d. Amend the DFV Act to provide a definition of information sharing, that includes the giving and receiving of information, and encompasses the collection, use and disclosure of information. e. Amend section 124B(g)(ii) so that additional ISEs are published in the Gazette rather than being prescribed by regulations and that the complete list of ISEs be provided on the website alongside the Information Sharing Guidelines.	Yes
LR 40	It is proposed to amend the DFV Act to require police to refer alleged victims of DFV to a 24 Hour Specialist DFSV Referral Service. It is proposed that police have the power to refer victim-survivors automatically without the victim-survivors consent but police will be	Yes

Proposal	Text	NTV Support
	required to explain the reason for the mandatory referral to the victim-survivor.	
LR 41	It is proposed that AGD, in collaboration with NT Police and the DFSV-ICRO, develops a policy on the service of applications and DVOs, and further considers the need for legislative amendments, to ensure there is a co-ordinated inter-agency response that prioritises victim-survivor safety.	Yes
LR 42	Other proposed changes to the DFVA are to: a. Amend section 14(3) so that a defendant must be at least 14 years (currently it is 15). b. Amend section 28 (or the definitions in section 4) so that a young person between 14 and 18 years may apply for a DVO with the leave of the court (currently it is between 15 and 18). c. Amend the DFV Act providing that when the defendant is under 18 years, the matter is to be heard in a children's court. d. Amend the DFV Act to provide for explanations to be given to the parties about the order. e. Section 90 requires an applicant for a DVO to inform the issuing authority of family law applications and orders, and a police officer considering making a DVO must make reasonable inquiries about the existence of such applications/orders. It is proposed to add a similar provision for applications and orders under the Care and Protection of Children Act 2007. f. Review all references to the registrar in the DFV Act. g. Clarify the terminology and remove inconsistencies in relation to references to children and young people in the DFV Act. h. Amend section 106 to require the court to be closed if the defendant is under 18 years. i. Amend sections 107-109 so that it applies to 'child' protected person.	Yes
LR 43	It is proposed to amend the Bail Act 1982 along the lines of section 5AAAA of the Bail Act 1997 (Vic) to explicitly require bail decision makers to: • make inquiries of the prosecutor about whether there is a DVO in force; • consider the risk that if the accused is released on bail he/she would commit domestic violence and to consider whether there is a need to mitigate the risk through the making of a bail condition or a DVO under the DFV Act;	Yes

Proposal	Text	NTV Support
	• ensure that any bail conditions or conditions of a DVO are not inconsistent.	
LR 44	It is proposed to amend the Bail Act 1982 so that in cases of DFV or sexual offences: • the court may adjourn the matter to enable the prosecutor to obtain the alleged victim's view about whether the release of the accused person on bail could lead to a risk to the alleged victim's safety or welfare, and • provide that, if the prosecutor has not had prior notice of the bail application, the court must adjourn the matter if requested by the prosecutor to enable the prosecutor to seek the alleged victim's view.	Yes
LR 45	It is proposed to require police to take reasonable steps to inform complainants in DFVrelated criminal proceedings as soon as practicable of decisions to grant or refuse bail and, if bail is granted, the conditions of release that are relevant to the safety of the complainant.	Yes
LR 46	It is proposed to amend section 5 to add a note after section 5(1)(e) 'to protect the Territory community from the offender', along the lines: Note: To avoid any doubt section 5(1)(e) includes the protection of persons in a domestic relationship with the offender, as defined in the DFV Act.	Yes
LR 47	It is proposed to amend section 6A of the Sentencing Act 1995 to add the following aggravating factors to which a court must have regard in sentencing an offender: The offender and the victim are in a domestic relationship, and a. there is physical or sexual abuse by the offender against the victim (including prior acts whether charged or uncharged), or b. there is a pattern of coercive control by the offender against the victim, or c. some or all of the conduct that formed part of the offence exposed a child or children to DFV, or d. some or all of the conduct that formed part of the offence was also a contravention of a court order, including a DVO, It is further proposed that domestic relationship be defined in accordance with the DFV Act.	Yes

Proposal	Text	NTV Support
LR 48	It is proposed to conduct further research into whether an amendment to the Sentencing Act 1995 is required so that being subjected to DFV, including coercive control, may be considered a mitigating factor in sentencing, and what form such an amendment should take.	Yes
LR 49	It is proposed that amendments to the Sentencing Act 1995 are made requiring the court to consider the risk of domestic violence and how it could be mitigated along the lines: If the court is considering making a sentencing order for a domestic violence offence where the offender will be living in the community, the court must: a. consider whether there would be a risk that the accused would commit domestic violence; b. consider whether a condition of the order needs to be made to mitigate any risk of domestic violence; c. consider whether a DVO needs to be made under section 45 of the DFV Act to mitigate any risk of domestic violence; d. if a DVO is already in force, the court must consider whether the conditions and duration of the DVO need to be varied; e. ensure that the conditions of the order and any DVO in force are not inconsistent. It is proposed that the court may have regard to any evidence before the court in relation to the risk that an offender would commit domestic violence. Domestic violence and domestic relationship are proposed to be defined in accordance with the DFV Act.	Yes
LR 50	It is proposed to amend section 106B(9) so that the offender or the offender's legal practitioner cannot cross-examine a victim about the contents of a victim impact statement.	Yes
LR 51	It is proposed to amend the definition of harm in section 1A(3) of the Criminal Code to recognise that coercive control may result in harm, along the lines: - A pattern of coercive control or other forms of domestic violence occurring in a domestic relationship may result in significant psychological harm, even in the absence of physical harm. It is proposed that domestic violence, domestic relationship and coercive control is defined in accordance with the DFV Act. This review proposes that a definition of coercive control be added to the DFV Act (see proposal LR 6).	Yes
LR 52	Amend section 188(2) of the Criminal Code so that the following factors are listed as aggravating features in section 188(2): The person assaulted was subjected to choking, suffocation or strangulation.	Yes

Proposal	Text	NTV Support
LR 53	It is proposed to amend section 21J to simplify the requirements for admissibility of recorded statements and bring it into line with Part 3 along the lines: - To be admissible, a recorded statement must be made as soon as practicable after the events mentioned in the statement occurred, with the consent of the complainant, and in compliance with section 20 of the Oaths, Affidavits and Declarations Act 2010.	Yes
LR 54	It is proposed to amend the Evidence Act 1939 along the lines of section 39 of the Evidence Act 1906 (WA) to allow expert evidence of family violence to be admissible where evidence of family violence is relevant to a fact in issue.	Yes
LR 55	It is proposed that the NT adopt mandatory jury directions in relation to DFV, including coercive control, and establish a working group with appropriate DFV expertise and criminal law expertise to advise on the content of the directions for the NT.	Yes
LR 56	It is proposed to amend section 19 of the Evidence (National Uniform Legislation) Act 2011 so that section 18 does not apply in a proceeding for a domestic violence related offence, just as it does not apply for a breach of a DVO.	Neither support nor oppose
LR 57	It is proposed to amend the Local Court (Criminal Procedure) Act 1928 to create a presumption that if an accused is charged with more than one sexual offence, it is presumed that the charges are heard together, along the lines of the presumption for indictable matters in section 341A of the Criminal Code. In addition, it is proposed to give further consideration to whether there should also be a presumption that DFV-related offences are heard together.	Yes

Appendix C: Forms of abuse

Spiritual abuse

Spiritual abuse or coercion is of particular concern for Aboriginal communities, but also for any victim-survivors who engage in spiritual or religious practices. During our consultation with Aboriginal representatives and members, the idea of spiritual abuse and/or coercion was emphasised as particularly important. Examples included threatening to remove an Aboriginal woman from Country or preventing her from accessing Country or cultural events. For non-Indigenous Australians, spiritual coercion may include being prevented from attending places of worship or from engaging in specific practices or rituals (eg. prayer). Spiritual abuse must be included in a complete definition of an act of abuse, as it is a clear establishment of control over a victim-survivor's spiritual or religious life.

Aboriginal people's specific experiences of abuse

Coercive control legislation must recognise Aboriginal people's specific and varied experiences of abuse. Participants in the No to Violence Aboriginal forum emphasised the complex and varied nature of abuse in their communities, including situations where an abuser excludes the victim-survivor from fully engaging within their community.

Deprivation of liberty within a cultural context

People from migrant and refugee backgrounds experience targeted forms of coercive control that deprive them of their liberty and agency and must be understood and factored into any formulation of a legislative solution. Participants in No to Violence's migrant and refugee forum on coercive control stated that victim-survivors experience coercive control in unique ways that impact their overall agency. Such experiences include dowry control; weaponizing visa status (including mistruths) and threats to 'report them to Home Affairs' to control their behaviour; and the use of extended family and community to perpetuate forms of abuse (e.g. isolation). The threat of deportation of victim-survivors on a spousal visa was suggested as being a particular concern for victim-survivors in these communities. Importantly, participants believe the result of coercive control is significant 'psychological damage' and 'damage to sense of self'.

Abuse specific to LGBTIQA+ communities

LGBTIQA+ communities similarly experience specific forms of coercive control that, while broadly covered in the proposed legislation, require more nuanced explanation. For example, in No to Violence's Roundtable that discussed the impacts of coercive control for LGBTIQA+ communities, participants identified several abusive behaviours specific to LGBTQIA+ relationships: body shaming around the presentation and expression of gender identity; vilification of diverse gender expression; threats to out a person's gender identity, sexual orientation or HIV status; using the lack of LGBTIQA+ support services to undermine a partner; asexual experiences of "coerced consent" around undesired sexual interactions; and medical coercion such as someone pressuring their asexual partner to 'fix' their asexuality through medical intervention. Consequently, the proposed legislation must identify patterns of abuse that recognise and respond to these diverse experiences in LGBTIQA+ relationships.

Abuse specific for people living with disabilities and their families

People living with disability are at a heightened risk of experiencing coercive control from their intimate partners and family members. They are more likely to experience all forms of physical, psychological and sexualised violence, as well as unique forms of violence, than are experienced by people who do not live with disability, including specific acts such as withholding of important medications, restricted access to mobility aids and communication devices, as well as neglect and poor care. Participants in No to Violence's consultation forum on coercive control with people living with disability spoke about abuse specific to their community. Emphasis was placed on the institutions and organisations that enable and house abusers, especially by positioning perpetrators as a person's primary carer, or as partner to the primary carer (ie, when the primary carer is a biological mother, and a father/boyfriend/partner is the abuser). The proposed legislation must specifically acknowledge the unique forms of violence perpetrated against people with disabilities.

Technology-facilitated abuse

Technology-facilitated abuse is an increasingly insidious form of gendered violence. Recent research produced by ANROWS in 2021 demonstrates that women are overwhelmingly the target of online forms of abuse, and that technology-facilitated abuse is a growing concern for people experiencing family violence. Technology-facilitated abuse includes but is not limited to receiving abusive messages or calls; account take-overs; image-based abuse; fake social media accounts being used to harass or intimidate a person; and, being tracked through a phone or device using spyware or other GPS technology. There is a pressing need to carefully consider the role technology-facilitated abuse can play in coercive control, especially as new opportunities for abuse are created in our changing digital landscape. For example, harassing and repeated text messaging is now a common feature of controlling behaviour in abusive relationships. In one particularly illustrative case from Queensland, a woman contacted police after receiving in excess of 300 messages from her partner during a 12-hour period. This behaviour was not correctly identified as cause for concern and no police intervention was made. The perpetrator's abusive behaviour escalated, and he ultimately murdered his partner. This devastating outcome provides an important example of how technology-facilitated abuse can be part of patterns of coercive control, and why it should be considered in legislation criminalising this behaviour.