

**From:** Jacqui Watt [REDACTED]  
**Sent:** Friday, 23 June 2023 3:49 PM  
**To:** April Chrzanowski; QSAC Submissions  
**Cc:** [REDACTED]  
**Subject:** NTV Preliminary Feedback – Review of sentencing for sexual violence offences & aggravating factor for DFV offences

**Importance:** High

[REDACTED]  
Dear Ms Chrzanowski,

**Re: Review of sentencing for sexual violence offences and aggravating factor for domestic and family violence offences**

Thank you for inviting No to Violence to contribute to this important review.

We have reviewed the Terms of Reference and would like to offer the following preliminary feedback regarding key issues that should be explored as part of the Sentencing Advisory Council's review of the *Penalties and Sentences Act 1992*:

#### **Sentencing for sexual violence offences**

- NTV recommends a review of how the [affirmative consent model](#) will impact sentencing of sexual violence offences in Qld.
- NTV recommends a review of how the criminalisation of stealthing as a form of rape will impact sentencing in Qld.

#### **Domestic violence as an aggravating factor (under Section 9(10A))**

- NTV recommends that mandatory attendance of men's DFSV intervention program based on an assessment of risk which includes but is not restricted to recidivism risk be explored as part of sentencing in cases where domestic violence is present. (See more - further below)
- Review of how coercive control legislation will impact Section 9(10A) of the sentencing act.
- NTV recommends investigating the potential unintended consequences of Section 9(10A), including in relation to misidentification of the predominant aggressor.
  - Systems abuse is common by perpetrators of domestic violence. As identified in the [DFVDRAB 2016-17 Annual Report](#), men will often "call the police first as a pre-emptive strike" against their partner, as a tactic to report false allegations against the victim-survivor.
  - NTV are concerned about the impacts of this aggravating factor on women who are misidentified as the predominant aggressor.
  - We know from [research](#) that Aboriginal and Torres Strait Islander women are disproportionately impacted by mis-ID.
- The importance of training and accountability measures for police
  - The recent Independent Commission of Inquiry into QPS responses to DFV found that police responses continue to be inconsistent and, at times, inadequate.
  - Since its introduction, Section 9(10A) has led to an increase in the number of custodial penalties ([QSAC, 2021](#)). This means it is more important than ever that police are receiving training in how to identify tactics of coercive control, understand the gendered nature of violence, and respond effectively to DFV.

Generally, the purposes of sentencing are (Australian Law Reform Commission, *Pathways to Justice-Inquiry Into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples*/ALRC Report 133, 2018 at Considerations to be Taken Into Account When Sentencing):

- **punishment:** to punish the offender for the offence in a way that is just and appropriate in all the circumstances;
- **deterrence:** to deter the offender (specific deterrence) or other people (general deterrence) from committing the same or similar offences;
- **protection:** to protect the community from the offender;
- **rehabilitation:** to promote the rehabilitation of the offender; and
- **denunciation:** to denounce the conduct of the offender

These general purposes are reflected in Section 9 (1) of Sentencing Guidelines in the Act (*Penalties and Sentences Act 1992*).

**We recommend the Review to closely examine deterrence and rehabilitation as more integrated purposes of the sentencing guidelines.**

- These involve resources and programs.
- General community expectations tend to focus on the purposes of punishment, protection and denunciation.
- In the context of domestic and family violence offending, ending the use of domestic and family violence would at least require offenders to change their behaviour by participating in perpetrator interventions or men’s behaviour change programs (including culturally appropriate programs).
- This aims to achieve the sentencing purposes of rehabilitation and deterrence (by ensuring offenders’ participation in such programs as part of serving their sentence or parole).
- This also aims to support the purpose of protection of the victim-survivor and community from the offender.

We understand that the next phase of this consultation will involve a call for formal submissions, and we look forward to being involved in this process.

Please do not hesitate to contact our Policy and Research team if you have any questions about our initial feedback. You can reach them via email at: [policyandresearch@ntv.org.au](mailto:policyandresearch@ntv.org.au)

Kind regards,

Jacqui Watt

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Jacqui Watt | Chief Executive Officer | Pronouns: She/Her/Hers

No to Violence

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e: [redacted] | [ntv.org.au](http://ntv.org.au) | Twitter: [@NTVorg](https://twitter.com/NTVorg) | Facebook: [No to Violence](https://www.facebook.com/NoToViolence) | LinkedIn: [No to Violence](https://www.linkedin.com/company/no-to-violence)



During a crisis, things can get hard. Our Men's Referral Service can help. Counsellors are available every day. **Call 1300 766 491**



*No to Violence acknowledges the Aboriginal and Torres Strait Islander people of Australia, the traditional custodians of the lands and water. We pay respect to all Elders, past and present.*



*No to Violence is committed to providing welcoming and culturally safe workplaces and services to all, including members of the LGBTQIA+ Community.*

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