

17 December 2021

John Robertson
Chair, Serious Violent Offences Scheme Review
Queensland Sentencing Advisory Council
GPO Box 2360
Brisbane QLD 4001

596509/4: Serious violent offences scheme review submission

Dear Mr Robertson,

As an essential state-wide crisis response service, DVConnect helps Queenslanders find pathways to safety, away from domestic, family and sexual violence (DFSV) 24 hours a day, 7 days per week. Our crisis response services include Womensline, Mensline, Sexual Assault Helpline, 1800RESPECT, and Pets in Crisis. DVConnect also operates Bella's Sanctuary which is a 5-unit medium-term accommodation residence that exists to provide women and children with a safe housing option after leaving a shelter/refuge. We are predominantly funded by the Department of Justice and Attorney General, Office for Women and Violence Prevention.

We would like to thank the Queensland Sentencing Advisory Council (Council) for the opportunity to respond to the serious violent offences (SVO) scheme review. The Council's Issues Paper importantly notes Queensland Corrective Services acknowledgement of domestic and family violence (DFV) as an essential consideration for how prisoners are managed, stating it to be particularly relevant to those with an SVO. The comparison of SVO and non-SVO cases proportions of domestic violence offences presented in the Issues Paper further demonstrates that any potential reform to the scheme must incorporate improvements for those impacted by DFSV. Deliberation about how any change may result in unintended consequences must be comprehensive and considered.

We preface our submission with the caveat that the nature of DVConnect's crisis response services means our direct exposure to the SVO scheme is relatively limited. We also hold, or have access to, minimal relevant data to enable meaningful analysis of the interplay between the SVO scheme and our clients. That being said, review findings will be strengthened by input from the broad range of touchpoints that exist across the judiciary, service provider and community continuum.

The DFSV expertise used to inform this submission comes from the collective experiences of women and children who contact DVConnect to escape violence and fear. DVConnect use the following terms:

- DFSV is considered holistically with consideration of individual experience
- Sexual Violence as violence of a sexual nature that occurs within and outside of Domestic and family violence environments.
- DFV as any violence that occurs in a DFV environment including Intimate Partner Sexual Violence (IPSV).

A high-level summary of priorities we request the Council to consider as part of the review are presented in the following paragraphs (in no particular order/priority).

Hear her voice report

DVConnect encourages the Council to consider the recently released first report of the Women's Safety and Justice Taskforce (Taskforce) - Hear her voice, as referenced as being in progress in the Issues Paper. Hear her voice acknowledges judicial interaction with DFV and makes a number of recommendations about improved use of offences to address coercive control, some of which interface with the SVO Scheme as well as other suggestions regarding activities under the Penalties and Sentences Act. Hear her voice also talks to improved interventions and programs for DFV perpetrators whilst incarcerated. This report provides valuable insights about potential impacts on the SVO scheme, perpetrators, and victims/survivors of DFV which should be incorporated into the Council's review. We recommend that the Council continue ongoing monitoring of Hear her voice's impact on the judicial landscape as a minimum, and encourage DJAG to consider the work of the Taskforce and the Council simultaneously as they both progress.

Perpetrator interventions and accountability

DVConnect supports a range of interventions being made available to perpetrators of both DFV and sexual violence. DVConnect does have concern about the uptake of such programs by the population in both the voluntary nature and timeframes that are required under the period of perpetrator sentences. This should be considered by the Council to maximise engagement in any program, both the reduced incentive to partake in such programs to longer imprisonment periods, and conversely shorter periods of time before parole can be applied for may exclude them from being able to participate in more intensive programs.

DVConnect agrees that human rights are fundamental and that the right of all humans must be considered. In particular, the impact of any legislation that does not respond to people's right to life, protection from torture and cruel, inhuman or degrading treatment.

DVConnect encourages interventions that promote accountability, and that accountability includes a society that articulates that DFSV is unacceptable, but also that the obligation is on perpetrators to change their behaviours.

The Issues Paper emphasis on strong sentencing sends a clear message of unacceptability of a behaviour, but does little to highlight how this supports or facilitates the required behaviour change. Therefore, DVConnect asks the Council to consider this balance deeply. Further, DVConnect notes that the experience of DFSV is one of the greatest aggressions against a person's human rights and must therefore be prioritised.

DVConnect would support initiatives that prioritise accountability for perpetrators including the obligation on changing the use of violence. As the Issues Paper acknowledges, the Women's Safety and Justice Taskforce is considering post sentence orders in relation to DFV. If Hear her voice is widely integrated into judicial practices, specifically the recommendations regarding perpetrator responses, including post sentence orders, this may prove a better outcome than an SVO.

Impact of parole process on victims/survivors

DVConnect notes that the parole process is stressful and potentially re-traumatising for victims/survivors due to the uncertainty of when parole applications may be heard, and the outcomes of these hearings. This is noted in the Issues Paper and DVConnect endorses this experience for victims/survivors of DFSV. Certainty of a parole date and longevity of

sentence supports a victim/survivors' sense of autonomy and safety. Hear her voice includes a significant focus on improving responses from the judiciary as a whole as a way to create and embed improvements for how the system responds to victims/survivors, and their recommendations provide valuable insight that will be beneficial for guiding the Council's review.

DVConnect does encourage the use of parole periods or similar (such as post sentence orders) to help offenders re-establish in the community and encourage continued engagement in interventions. It further facilitates effective support options and offers more 'eyes' on perpetrators of DFSV to help keep victims/survivors safe. However, due to the pervasive and pattern-based presentation of DFV, supervision can also be ineffective in achieving safety as the current corrective service system is inadequately resourced to identify and respond to these presentations.

DVConnect encourages the Council to consider how effective parole periods have been for DFV recidivism, safety and fatality explicitly. Emphasis should be given to how effectiveness is defined and measured, and how this data can be shared to underpin a multi-agency approach.

Increased integration of victim rights processes, including timely and accurate updates on offender activities would be a positive step that would also demonstrate a genuine commitment to understanding, and responding to, the needs of victims/survivors.

As the Council suggests, DVConnect encourages further consultation with victims, explicitly DFV and sexual violence victims separately to help understand the unique presentations of these offences and the impact that an SVO has on these vulnerable members of the community.

Vulnerable populations

DVConnect is significantly concerned about the potential impact of any legislation reform on vulnerable populations, particularly First Nations peoples. Whilst the application of judicial discretion would suggest greater capacity to consider a person's culture and experiences of trauma, DVConnect notes that First Nations peoples are significantly overrepresented in the discretionary application of SVO than in mandatory applications of SVOs. With First Nations' perpetrators comprising 20 per cent of all SVO's, including 30 percent of all discretionary SVOs and 16 per cent of mandatory SVOs, they are a clear priority group that requires consideration commensurate to their level of over-representation.

DVConnect notes the pervasive matter of victims being misidentified as primary aggressors or as using retaliatory violence resulting in significant harm or death. This is acute for First Nations women who are overwhelming overrepresented in DFV cross orders as most recently noted in Hear her voice and seen repeatedly as misidentified thought out the Domestic and Family Violence Death Review and Advisory Boards Annual Reviews. We ask the Council to consider the use of this systems abuse tactic as a way to inflict further harm and any implications SVO reform may have, particularly for First Nations women.

The Council should explore and respond to any systemic cultural discrimination issues that may impact how the SVO review could result in greater judicial discretion. The higher rate of discretionary SVO's for First Nation's peoples indicates that mandatory SVO may be a fairer application than judicial discretion. This is a concern that should be explored closely and in partnership with Aboriginal and Torres Strait Islander peoples.

The Council should give due consideration to any potential or perceived disproportionate impact on vulnerable populations such as those with disabilities, cultural

diversity and mental health and substance use issues. This should include consultation and leadership for people with a lived experience in a genuine advisory capacity.

Judicial discretion

The ability for judges to impose a longer non-parole period at sentencing is an uncertain way to secure safety for women and children due to the pervasive and pattern-based presentation of DFV that is challenging to identify in parole protocols. Consistent with several Hear her voice recommendations, we advocate for greater education of all forms of DFV to address any bias, disproven or outdated concepts. This will be particularly relevant if the recommended legislative changes surrounding coercive control are implemented.

The concerns noted earlier in the submission regarding the overrepresentation of First Nation's peoples for discretionary SVO applications are reiterated with respect to how judicial discretion may negatively impact outcomes for Aboriginal and Torres Strait Islander peoples.

DVConnect recommends considering the instances of people imprisoned for DFV related offences who commit further DFV offences upon release for determining suitability of the SVO for this circumstance. This recidivist context will help nuance judicial discretion through a DFV lens.

In summary, DVConnect welcome the Council's exploration of the operation and efficacy of the SVO scheme as an appropriate framework for reform. Our submission aims to elevate specific concerns relevant to the scheme's interaction with DFSV. We encourage the Council to consider the gendered nature of DFSV and SVO application in their review, with acknowledgment of the complex interplay that influences outcomes for perpetrators and victims/survivors in different but often connected ways.

We look forward to learning of the Council's findings and can be contacted should you wish to discuss any aspect of our submission in more detail.

Kind regards,



Beck O'Connor
CEO – DVConnect

