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Dear Ms Daniel-Yee

### **Domestic and Family Violence Proposal – Issues Paper**

Law Society Northern Territory (Society) thanks you for the opportunity to respond to the abovementioned Issues Paper (Paper).

The Paper was considered by the Family Law Committee (Committee) and the Committee only had brief comments to make.

### **Domestic Violence Offender Program and Parole**

The Society understands that there are not wide spread domestic violence offender programs run in the Territory prisons. The Society would support a wide scale domestic violence offender program being run for all domestic violence offenders.

### **Increasing bail programs for domestic violence offenders**

The Society submits that in order to reduce family violence there needs to not just be support for victims to address and leave high risk relationships but education for perpetrators on the impact of family violence and anger management.

Extending Family Violence Programs would be advantageous. However in order to provide submission the following questions that would need to be asked first:

- Does the extension mean providing access to services in remote communities while people are bailed and remanded?
- What is the current reach of the program and what are the statistics on recidivism for people who have already been through the program?
- If the service is delivered by stakeholders in community how the bail conditions are being met recorded and monitored?
- What measures would be in place to ensure that offenders have access to programs in community while they are bailed/remanded so that they aren't in breach of their

conditions. If the services aren't intended to be run by the Department of Correction and Services

- Is it possible to extend access to the Family Violence Program so that defendants of DVOs can be referred to the program?
- What happens if the bail conditions finish before the program finishes? E.g. if the person then is sentenced? Does the program continue with the person? Is the program continued from within the prison?
- How will the Department of Correctional Services be funded to extend the program?
- I understand that the usual jail term for family violence offences is often less than 30 months. Can the violent offender treatment program be accessible to offenders who serve less than 30 months? What is the waiting period to get on the program within the jail? How often do the programs run?

### **Mutual Recognition of Domestic Violence Orders (DVO)**

Access to family violence orders has been complicated by the order only having effect in the jurisdiction it was taken out unless registered; particularly given the way people travel. Victims of family violence often have restricted capacity to deal with bureaucracy. Mutual recognition and enforcement is a very positive step towards safety.

### **Proximity Alarms**

The use of alarms would provide victims with a sense of security, as a potential breach would automatically be reported to police. It would also enable the police to quickly respond to a breach of a DVO or threat to a victim, possibly more quickly than to a call.

The use of alarms may also act as a deterrent, for two reasons. Firstly, wearing an alarm device would be inconvenient and possibly also uncomfortable for the perpetrator, as it would indicate to the public that there is a DVO in place. Secondly, and more importantly, it would act as a deterrent to the perpetrator coming within a specified distance of the victim as the police would immediately be alerted. It would also reduce the evidentiary burden on the police required to prove a breach of a DVO.

Whilst personal safety devices are a handy tool for victims of domestic violence and family violence, it effectively puts the onus on them (as they have to activate the alarm), as opposed to the proximity alarm, which inconveniences the perpetrator and works automatically.

On the whole, proximity alarms would be preferable; however, undoubtedly there will be funding restrictions. Based on this, it may be best to utilise proximity alarms in the most severe cases (repeat offenders or severe domestic and family violence), and personal safety devices could be rolled out in other cases.

The use of CCTV cameras in victims' homes, monitored by police, could provide an alternative option. It is unclear whether the proposed personal safety devices will transmit GPS data and audio, similar to the duress cards being piloted in Victoria, but this could be an option.

Additional funding to expand the program to encompass more victims would be the obvious starting point. In addition, early involvement would ensure that victims are receiving on-going counselling and support programs from the outset, and also ensure that victims (and other witnesses) have a clear understanding of the Court process. Possibly the Witness Assistance Service should allocate an officer to the case before the first Court date.

The Society submits there should be a specialist list on one to two days per week (depending on volume) separate to DVO application list, is advisable. This would streamline the process expedite proceedings involving domestic violence. Given that many matters involving domestic violence may have Family Law implications (which may be delayed due to the criminal charges) it is in the interests of all parties involved to ensure that this process moves along quickly.

In addition, it is important to have appropriate support persons available at the Court on the days when the specialised list is being heard. Matters involving criminal charges and DVO applications/ variations need to be heard together to minimise the victim's exposure to the Court system, and also to ensure bail conditions and DV orders do not conflict.

From a practical point of view, this could create additional work where a defendant is charged with various offences, some of which do not involve domestic violence. It would need to be considered whether to hear all matters within the same list, or hear only charges involving domestic violence within the specialised list, and have the defendant return to Court on another date.

It would be preferable to have a specialised group of prosecutors to conduct criminal matters involving domestic violence from the outset, and have that prosecutor take on any ongoing applications for domestic violence orders. This would ensure that prosecutors have the appropriate training to deal with victims of domestic violence, thus minimising the trauma to the victims. In addition, it would allow victims to deal with a single lawyer, rather than multiple lawyers across the course of the matter.

### **Flash Incarceration**

Flash incarceration, as it operates under the HOPE scheme in Hawaii, seems to be a scheme which is highly successful in getting offenders to comply with the conditions of their probation and parole. There are significant flow on benefits in terms of costs savings and benefits for the community. However the scheme appears to be limited to monitoring drug test results/ compliance with drug testing and ensuring offenders keep appointments with their probation/ parole officers. It seems the HOPE scheme targets, and is most successful, in relation to offenders with a drug use problem.

According to our research<sup>1</sup> the HOPE scheme does not specifically target domestic violence offenders. There may be scope for some aspects of the HOPE scheme to operate in the Northern Territory in relation to an offender who has committed an act of domestic violence and s/he is on a suspended sentence of imprisonment with a period of supervision/ conditions of supervision. If the offender breached the conditions of the suspended sentence they could be dealt with under a scheme similar to HOPE.

The Society does not think the HOPE scheme could be adapted to deal with offenders who are on parole. Currently these offenders are dealt with exclusively by the Parole Board of the Northern Territory who appears to take a strict approach to breaches and revoke parole.

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<sup>1</sup> Sources:

[http://law.stanford.edu/wp-content/uploads/sites/default/files/child-page/183091/doc/slspublic/Flash\\_Incarceration\\_Arroyo.pdf](http://law.stanford.edu/wp-content/uploads/sites/default/files/child-page/183091/doc/slspublic/Flash_Incarceration_Arroyo.pdf)

<https://www.youtube.com/watch?v=8onVpOOUjxE> This is a YouTube lecture by Associate professor Angela Hawken, Pepperdine School of Public Policy, USA.

Legislative reform will be required to enact the changes, and there will need to be appropriate resourcing of Correctional Services, prosecutions, legal aid bodies and the Courts for the scheme to work.

The Society is concerned to ensure that victim(s)/ survivors of domestic violence are not blamed by the offenders if the offender is incarcerated due to a breach of the conditions of their suspended sentence.

Due to the lack of research in relation how HOPE operates in relation to domestic violence offenders, the Society recommends that HOPE be trialled as a scheme which addresses compliance in relation to drug and alcohol testing and offenders keeping appointments. It is widely acknowledged that drug and alcohol use plays a significant role in domestic violence offences so a number of offenders who have perpetrated domestic violence be participants in any event. The Credit Court NT and the Drug Court were disbanded, and more is needed to address drug and alcohol related offending in the Northern Territory.

The Society looks forward to commenting further in due course.

Yours faithfully

A handwritten signature in black ink, appearing to be 'Megan Lawton', written in a cursive style.

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