

9 November 2022

Director
Legal Policy
Department of Attorney-General and Justice
GPO Box 1722
Darwin NT 0801

By email to: Policy.AGD@nt.gov.au

Dear Director,

Submission to the Review of Legislation and the Justice Response to Domestic and Family Violence in the Northern Territory – Legislative Reforms and Coercive Control – Northern Territory Women's Legal Services

Thank you for inviting comments and consultation on the Review of Legislation and the Justice Response to Domestic and Family Violence in the Northern Territory ('the Review'). The Central Australian Women's Legal Service ('CAWLS'), Katherine Women's Information & Legal Service ('KWILS'), and Top End Women's Legal Service ('TEWLS') (collectively, the Northern Territory Women's Legal Services, hereafter referred to as the 'NTWLS') welcome the opportunity to make this further and final submission in response to the Review and to participate in further consultations.

We confirm that we have provided an earlier submission directed to Part 5 of the Review in respect of systemic reforms to address domestic and family violence ('DFV').¹ The following submission covers NTWLS' position on the Review's proposed legislative reforms and detailed position regarding the criminalisation of coercive control.

About NTWLS

Women's legal services are specialist, women-led, and accredited community legal centres specifically developed to improve women's lives through specialist legal representation, support, and advocacy. Across Australia, we provide high-quality and free legal services, including representation and law reform activities, to support women's safety, access to rights and entitlements, and gender equality. In the NT, the three women's legal services cover a geographic region more than 4.5 times the size of Victoria; with TEWLS in the Top End, KWILS in Katherine and Big Rivers regions and CAWLS in the Central Australia and Barkly regions.

¹ We note that throughout this submission, we will refer to "domestic and family violence" per the definition used in the Review. Despite this, we note that within our respective practices, and reflective of the NT Government's current work through the ICRO, we refer to "domestic, family and sexual violence" or "DFSV", with same implicit within this submission.

Women’s legal services prioritise women’s safety, access to rights and entitlements and gender equality. We have specialist expertise in safety, risk assessment and management, maintaining holistic and trauma-informed legal practices. The holistic socio-legal operating models adopted by specialist women’s legal services are not replicated in mainstream, generalist legal services, with result that our practices are able to provide “one stop shop” services across multiple areas of law, including family law and civil law [e.g. DFV, discrimination, sexual assault, child protection, housing and tenancy, credit and debt, and restraining orders). We place strong emphases on providing culturally safe services to Aboriginal and Torres Strait Islander and Culturally and Linguistically Diverse (‘CALD’) women and providing a safe and accessible practice for vulnerable women and those with intersectional barriers to equity such as disability, sexuality and remoteness. Critically, we note and echo the findings of the first quantitative assessment on legal and related problems coinciding with DFV, where DFV victimisation was linked to elevated experience of a broad range of legal issues, including substantial and multiple legal problems.²

In the NT, women’s legal services occupy space as specialist DFV legal services, working collaboratively with the broader DFV and legal sectors, as well as the NT Government, to provide the best possible services to represent clients, while using service experience and expertise to advocate for systemic change. Our services are entrenched within the DFV system, providing community legal education services at the “front-end”, and triage and response services in times of crisis, including significant levels of court representation and alternative dispute resolution services.

Our submission to the Review

I Background

NTWLS supports the introduction of effective programs, services and institutional responses, as well as strong education and prevention initiatives as the backbone of systemic reform. Noting that strong early prevention results in increased requests for assistance from the legal sector, there is an inherent and subsequent requirement that commensurate funding be made available so that there are no gaps in providing the required assistance to victim-survivors.

We reiterate our longstanding advocacy that an effective DFV system is one where an integrated and multidisciplinary response is at the core, with gender-specialist services, including women’s legal services, addressing the current disjointed system. We support the overarching vision put forward in the DFV Journey Mapping Project,³ particularly the provision of respect, information and support for victim-survivors from very early in the process to ensure that they fully understand what is occurring and how to exercise their rights through a trauma-informed process.

² The mean number of legal problems of all types, including domestic and family violence victimisation, was 20.0 for domestic and family violence respondents compared to only 2.4 for others; Law and Justice Foundation of New South Wales, Quantifying the legal and broader life impacts of domestic and family violence (Justice Issues Paper 32, June 2019, ISSN 1834-7266).

³ Richmond, A. (2019), *Journey Mapping Workshop Report: Exploring the Voices and Experiences of Victim-Survivors of Domestic and Family Violence in NT Justice System*, Prepared for the Domestic Violence Justice Reform Network and published by Dawn House, February 2019.

II Response to the Review

A Coercive Control – Criminalisation

NTWLS strongly agrees that ensuring a strong understanding of the nature and dynamics of coercive control within the community at large, as well as within all segments of the justice system, is vital before a new criminal offence is introduced.

As noted in the Review, both options in respect of coercive control require a long lead time for requisite preparation and implementation processes. Overseas experience demonstrates the necessity of significant public awareness campaigns and community engagement, as well as ongoing training and support for the service sector, including justice system stakeholders (police, lawyers, judicial officers, court staff, corrections etc.) to support any significant change in the legislative response to coercive control. We particularly note the evidence-base featured in the Review in respect of the likely disproportionate impacts on Aboriginal and Torres Strait Islander peoples, and within same, women as the primary victim-survivors in DFV matters.

NTWLS express concern that, whichever option is adopted, the substantial work of implementation will not be adequately funded. This concern is anchored in the historic underfunding of DFV support services across the Territory. Without fully funded implementation plans, there is unlikely to be significant safety gains resulting from either option.

On balance, NTWLS supports Option 1.

B Legislative Review

a Nature of the Review – missing elements

NTWLS commends the Department for undertaking a comprehensive review of the DFV legislation and justice system responses, however, we submit that there are key components of the justice system response that are not examined in the Review.

While the Review details sections of the *Domestic and Family Violence Act 2007* (NT) ('the Act'), it does not look closely at the *Local Court (General) Rules 2016* or relevant Practice Notes. NTWLS suggests that the Review cannot be considered complete until these instruments are also closely examined. For example, there are issues relating to service of applications and filing of further affidavits being required prior to the defendant filing a response affidavit which adversely impact victim-survivors seeking protection through DVO applications. NTWLS recommends that the Department consult key stakeholders with respect to these instruments prior to finalising the Review process, including the NTWLS.

Further, in our experience there are sections of the Act that are not being applied in practice. For example, section 32(2) of the Act allows for a decision in the absence of a defendant and is applicable regardless of whether notice to the defendant has been given. However, in our experience, this section is very rarely used and there

appears to be reluctance within the judiciary to rely on this provision. NTWLS suggest that practice notes be reviewed to provide clarity on when it is appropriate to rely on this provision. For example, we submit that a practice direction denoting that two failed attempts at effecting service on the defendant will be sufficient to allow the matter to proceed to be heard (noting that the final order would still need to be served).

b LR 1: Amended preamble of the Act

While we endorse the Review's initial description of coercive control as "overarching",⁴ we express concern with its ongoing description in the Review as a 'feature' of DFV.⁵ Further, the proposed preamble describes coercive control as 'a particularly harmful *form* of domestic violence' (emphasis added).

In our submission, coercive control is neither a feature nor a form of DFV; it is the overarching context within which DFV occurs. Although we recognise the practical impediments to including coercive control as the overarching context for the purposes of the DFV definition, we submit that same should be recognised as the overarching context within the preamble. In our view, a failure to fully appreciate and/or understand coercive control continues to drive misidentification of victim-survivors as perpetrators, who may use physical violence to resist coercive control.

c LR 5: Amended definition of DFV

NTWLS agrees that the definition of DFV in section 5 of the Act require update and amendment, noting the Review's reference that the current definition 'does not accord with current understanding about the nature of DFV, and particularly the central role played by coercive control and non-physical forms of abuse'.⁶

NTWLS reiterates the concern noted above that 'coercive control' appears to be identified as a 'form' of DFV as opposed to the overarching context of DFV. Further, it is currently unclear how the proposed amended definition of DFV interacts with the proposed definition of coercive control (LR 6). NTWLS submits that the proposed definition of DFV be modified to include a notation acknowledging that 'behaviour which satisfies the definition of coercive control in [LR6] satisfies the definition of DFV.'

With respect to the proposed description of DFV to "family violence", while consistent with the model definition proposed by the Law Council of Australia, as well as large federal pieces of legislation, such as the Family Law Act 1975 (Cth), we note that in our respective service's experience, the NT community's understanding of DFV is by way of the use of "domestic" within the definition. In changing the name of the act of DFV itself, we submit that heightened and urgent community engagement will be required, including public campaigns and collaboration with specialist DFV providers, to ensure and facilitate community understanding and discussions.

⁴ The Review, p 31.

⁵ As above n 5, p 51.

⁶ As above n 5, p 56.

With respect to the Law Council's model definition of family violence, NTWLS recommend that the introduction to proposed subsection (2) be amended to state that, 'Without limiting subsection (1), family violence *may include* the following behaviour –'. In replacing 'includes' with 'may include', an assault or personal injury that takes place as a form of resistive or defensive violence will not automatically satisfy the proposed definition of family violence. Along with other proposed changes to the Act, this will allow for a more tailored response in circumstances of potential misidentification of victim-survivors as primary perpetrators of violence.

NTWLS also recommend that the proposed section (2)(g) be amended to clearly encompass threat of suicide. Cultural/spiritual abuse should also be incorporated in the new definition (see, eg, section 11 *Domestic and Family Violence Protection Act 2012* (Qld), along with isolation [noting that the latter suggestion could be done by satisfactorily linking the definition of family violence with the definition of coercive control (LR 6)].

Further, NTWLS recommend including example of technology-facilitated abuse relating to the use of fake social media profiles to damage a victim-survivors reputation amongst family and community members. Although there are some technology abuse examples included in proposed definition, in our experience, this specific scenario arises frequently in the NT.

D LRs 6 and 7: Definition and guidance in respect of coercive control

NTWLS agree that a definition of coercive control should be included in the Act, and generally agree with the definition offered in the Review. However, NTWLS submit that the definition should incorporate aspects of the definition of abusive behaviour adopted in the *Domestic Abuse (Scotland) Act 2018*; specifically, that there is no requirement for the victim-survivor to have subjectively experienced the effects listed in (i)-(v). Rather, it should be clear that the conditions of coercive control are satisfied if, 'a reasonable person would consider the pattern of behaviour to be likely to cause the person to whom the behaviour is directed to suffer physical or psychological harm'.

As noted above, NTWLS also suggests that LR5 & LR6 are specifically connected by including reference to coercive control in the definition of DFV. If this is not included, it appears that the proposed definition of coercive control would be somewhat standalone and only relate to the proposed changes to section 19 of the Act in the event of cross-allegations.

We support the proposal to create a statutory guidance framework to guide proceedings under the Act, which will operate in tandem with community awareness and specific front-line training requirements. NTWLS also draws attention to the need for the relevant practice notes to be updated to reflect the proposed changes in definitions.

e LR 11: Service of police certificate

NTWLS strongly support the proposed requirement that police provide a certificate outlining a defendant's criminal history and any previous DVOs. However, the proposal lacks a requirement that police will serve the certificate on the relevant parties, including the protected person (who may also be the applicant) within a set time frame *prior* to the first mention. If this is not provided, there is likely going to be a significantly delay in respect of private applications, i.e. applications commenced under section 28 of the Act. Additionally, in our view, clear guidance will need to be provided in respect of whose responsibility it is to provide the certificate (i.e. by police directly or via SFNT), with and accompanying confirmation by the bench at first mention to ensure that same has been completed.

NTWLS also express significant concerns about police capacity to deliver this information, and request that prompt consideration is given to resourcing to ensure there is no unintended adverse impact in terms of creating delay in hearing applications. This concern is in the context of ongoing police feedback in respect of capacity, including refusals to effect service in particular regions (for example, Katherine). In Katherine, this further burdens police's capacity to provide requisite documents or a position where they are a party to the proceedings.

Further, NTWLS express concern about the impact of this requirement in relation to women who have been misidentified as perpetrators in the past. In our submission, the practice directions and/or statutory guidance frameworks in respect of coercive control should direct judicial officers to consider this evidence in light of the existing legacy of misidentification and prevalence of coercive control.

f LR 12 – Person most in need of protection – reciprocal orders

While NTWLS agrees that the 'person in need of most protection' requires legislative acknowledgement to respond to rates of misidentification, we submit that the Review's proposed reform is too narrow in being confined to instances of cross-applications only. The *Domestic and Family Violence Protection Act 2012* (Qld) does not restrict this consideration to cross-applications but is drafted more broadly as a principle for administering the legislation:

s 4 (e) in circumstances in which there are conflicting allegations of domestic violence **or indications that both persons in a relationship are committing acts of violence**, including for their self-protection, the person who is most in need of protection should be identified; (emphasis added)

NTWLS recommend that misidentification examples form part of the coercive control statutory guidance framework, and specifically refer to this proposed legislative amendment. Consideration also needs to be given to how the legacy of past misidentification will be dealt with by the court, as noted above in relation to LR 11.

NTWLS recommend that the NT adopt a similar approach to QLD, including the insertion of further legislative guidance in determining the person most in need of protection proposed in s 22A of the *Domestic and Family Violence Protection (Combating Coercive Control) and Other Legislation Amendment Bill 2022* (Qld).

This proposed provision directs the court to consider the history of DFV, nature and severity of harm caused, as well as the level of fear experienced by each person and which person has the capacity to seriously harm or control or dominate the other person.

Overall and in respect of this LR 12, NTWLS recommends that a new draft provision be developed and circulated for specific feedback.

g LR 18 – Behaviour Change Programs

While NTWLS in principle support this proposal, we express concern that requisite infrastructure does not exist to support the effective implementation of this proposed change.

The proposal suggests that attendance at behaviour change programs be mandated along the lines of counselling orders provided for in the Victorian Act. It is noteworthy that following the Victorian Royal Commission, Victoria's investment in behaviour change programs has been significant. By way of comparison, the Northern Territory does not have the resources or infrastructure in place to support the vision of this legislative proposal. Without a fully-functional system, with accompanying and complementary sufficient resources allocated to ensure the safety of victim-survivors, there is significant risk that the implementation of this legislative proposal will inadvertently compromise the safety of those relying upon the system.

It is unclear how the administrative burden of assessment could be met by existing behaviour change providers, let alone substantive service provision. Further, the impact of existing behaviour change programs has not yet been evaluated, particularly in relation to the impact on safety for victim-survivors. Without significant investment, the implementation of this provision would have a disproportionate impact on urban defendants, further entrenching inequality for remote and very remote members of our communities.

Further, we note that where women are identified and/or misidentified as the perpetrator of DFV, there are no existing programs available.

h LR 56 – amendments to the Evidence (National Uniform Legislation) Act 2011

At item 4.6.1.2(e) of the Review, the experience described of many complainants in respect of the confusion inherent in the legal system and processes is demonstrative of the need for adequately funded, specialist and holistic DFV legal services. These services, including women's legal services, have been established able to provide legal services to complainants (and in the case of women's legal services, gender-specialist services established to provide services to all women and persons identifying as women), including advice in respect of the right to object, carriage of the parallel-running DVO, as well as related matters, including tenancy, parenting, victims of crime compensation.

Importantly, we note that this reform is prefaced on the presumption of a victim-survivor/complainant having access to timely legal advice in respect of the right to

object, which is not assured in the current landscape of demands outweighing capacity.

i Additional proposed changes

In addition to the above, NTWLS recommend that the term 'defendant' be replaced with the term 'respondent' in the Act. This language is more consistent with the division between criminal and civil law, and is adopted in other jurisdictions, and would assist the communities understanding in DVO's being civil orders, as opposed to criminal orders in the first instance (notwithstanding that a breach of a DVO is a criminal offence and consequently is heard in the Local Court's criminal jurisdiction).

Further, NTWLS recommend that the power in section 23 of the Act be reviewed and expanded. In our experience, many victim-survivors cannot afford the rent on their properties alone when the perpetrator is removed. Consequently, consideration should be given as to whether the court can also add another person to the lease (with their consent) such as a housemate, friend or support person.

III Conclusion

We thank you for the opportunity to make this submission. Should you wish to discuss this submission further, please do not hesitate to contact the NTWLS through any of the below referred contact points.

Yours faithfully,

NORTHERN TERRITORY WOMEN'S LEGAL SERVICES



Janet Taylor
Chief Executive Officer
Central Australian Women's
Legal Service



Siobhan Mackay
Chief Executive Officer
Katherine Women's
Information & Legal Service



Caitlin Weatherby-Fell
Chief Executive Officer
Top End Women's Legal
Service

Encl Annexure 1 – Short-form responses to Review (Legislative)

Annexure 1 – Short-form responses to the Review (Legislative)

LR #	LR Proposal	NTWLS Response
LR 1	<p>It is proposed that the preamble in the DFV Act be amended to reflect a contemporary understanding of DFV Act</p>	<p>NTWLS support the introduction of an extended preamble, however, express concern in respect of contradictory definitional references to coercive control within the Review and proposed preamble.</p> <p>See detailed discussion above.</p>
LR 2	<p>It is proposed that the objects be amended along the lines:</p> <ul style="list-style-type: none"> (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. 	<p>NTWLS support this proposal.</p>
LR 3	<p>It is proposed to amend the definition of ‘party’ to avoid any doubt that it includes:</p> <ul style="list-style-type: none"> • 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. <p>It is further proposed to provide that:</p> <ul style="list-style-type: none"> • 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 	<p>NTWLS suggest adding a notation to make it clear that the PP is entitled to legal representation even if they are not the applicant (although this should be clear due to the fact that the PP is specifically acknowledged as a ‘party’, NTWLS have historically received some resistance from the bench to attempts to provide representation for the PP from the bar table). Additionally in practice in the Big Rivers region there has been significant resistance to considering the PP views as a party to a DVO in circumstances where the DVO is travelling alongside a criminal matter (despite s86)</p> <p>NTWLS recommend that the Act include an obligation to serve the PP with a copy of the DVO and advice that they may attend and may be represented, noting finalisation not to be impacted if police can demonstrate all reasonable steps to serve</p>

	<p>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.</p>	<p>PP.</p>
<p>LR 4</p>	<p>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.</p>	<p>Proposal unclear. NTWLS require further detail.</p> <p>The proposed chart does not include all of the terms which need to be defined. NTWLS are of the view the terms should be defined individually or this proposal should be removed entirely as the table is likely to cause further confusion.</p>
<p>LR 5</p>	<p>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 <i>Family Violence Protection Act 2008</i> (Vic) with some additional examples).</p>	<p>NTWLS support this proposal.</p> <p>See detailed discussion above.</p>
<p>LR 6</p>	<p>It is proposed to insert a definition of coercive control in the DFV Act along the lines:</p> <p>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:</p> <p>(i) It makes the protected person dependent on, or subordinate to the defendant,</p> <p>(ii) It isolates the protected person from friends, relatives or other sources of support</p> <p>(iii) It controls, regulates or monitors the protected person's day to day activities</p>	<p>NTWLS agree in principle with some suggested changes.</p> <p>See detailed discussion above.</p>

	<p>(iv) It deprives the protected person of, or restricts the protected person's, freedom of action</p> <p>(v) It frightens, humiliates, degrades or punishes the protected person.⁷</p> <p>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.'</p>	
LR7	<p>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.</p>	<p>NTWLS support this proposal and seek to be involved from the outset.</p>
LR8	<p>It is proposed to amend the definitions in the DFV Act as follows:</p> <p>Domestic relationship (section 9)</p> <ul style="list-style-type: none"> Amend section 9(d)(ii) along the lines 'someone else who is <u>or has been</u> in family relationship with the other person.' <p>Family relationship (section 10)</p> <ul style="list-style-type: none"> 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. <p>Intimate personal relationship (section 11)</p> <ul style="list-style-type: none"> 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 	<p>NTWLS generally support this proposal, however, seek further information/consideration of the definition of one-off sexual incidents; would this cover unwanted sexual advances by workmate (verbal) and sexual verbal abuse followed by a physical incident? Is it intended that the expanded definitions cover sexual harassment?</p>

⁷ While these five illustrations of coercive control are adapted from the *Domestic Abuse (Scotland) Act 2018* in a criminal law context it is proposed that they also provide a useful legislative definition for the purposes of the civil law DFVA.

	<p>persons who have had casual or one-off sexual incidents, whether consensual or not.</p> <ul style="list-style-type: none"> Amend section 11(4) to provide recognition that an intimate personal relationship may exist between people of the same or opposite sex, <u>and regardless of the gender identity or sexual orientation of the persons.</u> <p>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.</p>	
LR 9	<p>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:</p> <p>(a) The making of domestic violence orders to:</p> <ul style="list-style-type: none"> 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 <p>(b) the variation and revocation of domestic violence orders.</p>	NTWLS support this proposal.
LR 10	<p>It is proposed to:</p> <ul style="list-style-type: none"> 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: <ul style="list-style-type: none"> ○ 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 	NTWLS express concerns about this proposal as it will create an implicit requirement for applicants/protected persons to file evidence about why they have chosen not to include children in application. From a practical point of view, this is usually done to make the DVO order more likely to settle by consent where it is considered that the children will be indirectly protected by the DVO directed towards their mother, or where a parenting plan or parenting order does or will enact protections through restrictions and/or restraints.

	<p style="text-align: center;"><i>and Protection of Children Act 2007.</i></p> <ul style="list-style-type: none"> • 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. 	
LR 11	<p>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 <i>Restraining Orders Act 1997 (WA)</i>).</p>	<p>NTWLS support this proposal principle, but hold concerns about the practical application.</p> <p>See detailed discussion above.</p>
LR 12	<p>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:</p> <ol style="list-style-type: none"> 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: <ol style="list-style-type: none"> 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 	<p>NTWLS recommend substantial changes to this proposal.</p> <p>See detailed discussion above.</p>

	<p>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.</p> <p>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.</p>	
LR 13	<p>It is proposed to amend section 41 along the lines:</p> <ul style="list-style-type: none"> • 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. <p>It is further proposed to add a note to section 41 referring to the provisions proposed for section 19 above.</p>	<p>NTWLS support this proposal and suggest it should be accompanied by a territory-wide education campaign for police on new responsibilities.</p> <p>NTWLS recommend that consideration be given to legislating public accountability mechanisms such as the inclusion of training statistics in NT Police Annual Reports.</p>
LR 14	<p>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 <i>Domestic and Family Violence Protection Act 2012</i> (Qld).</p>	<p>NTWLS support this proposal, and further suggest consideration be given to locations where the PP works or frequents.</p>
LR 15	<p>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:</p> <p>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</p>	<p>NTWLS support this proposal on the basis that the definition of family violence in LR 5 is linked to the definition of coercive control in LR 6 by way of notation, as detailed above.</p>

	<p>violence against the protected person/s.</p> <p>If the court does not exercise its power to impose this condition, the court is taken to have done so.</p> <p>It is further proposed to add a note beneath this provision referring to the definition of domestic violence in section 5.</p>	
LR 16	<p>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.</p>	<p>NTWLS support this proposal.</p>
LR 17	<p>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.</p>	<p>NTWLS strongly support this proposal, and recommend consideration be given to the court including a requirement for an impacted defendant to sign a declaration that the required steps have taken place within a certain time period.</p> <p>NTWLS further recommend consideration be given to noting the penalty for failing to comply with the court order, and how this will be communicated to the defendant.</p>
LR 18	<p>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 <i>Family Violence Protection Act 2008 (Vic)</i>.</p>	<p>NTWLS express concerns about the practical impacts of this proposal.</p> <p>See detailed discussion above.</p>
LR 19	<p>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.</p> <p>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 <i>Care and Protection of Children Act 2007</i>).</p>	<p>NTWLS support this proposal.</p>
LR 20	<p>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 <i>Family Violence Protection Act</i></p>	<p>NTWLS support this proposal, with strong support in respect of guidance regarding impacts of prison terms on the granting of DVOs.</p>

	<p>2008 (Vic):</p> <ul style="list-style-type: none">• 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:<ul style="list-style-type: none">○ 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. <p>It is further proposed that there be a specific provision for making a DVO of indefinite duration where there is</p>	
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	<p>significant and ongoing risk that cannot be adequately mitigated by an order of limited duration, along the lines of section 79B of the <i>Crimes (Domestic and Personal Violence) Act 2007 (NSW)</i>. This provision is set out in full in Attachment 7.7.</p>	
LR 21	<p>It is proposed to amend section 27 along the lines that:</p> <ul style="list-style-type: none"> • 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. 	<p>NTWLS support this proposal.</p>
LR 22	<p>It is proposed to amend the Act to provide for the extension of a court DVO along the lines:</p> <ul style="list-style-type: none"> • The court may order the extension of a final DVO: <ul style="list-style-type: none"> ○ 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: <ul style="list-style-type: none"> ○ 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 	<p>NTWLS express concern about this proposal and assume that the motivation for same is to encompass extensions of DVOs where the defendant is also defendant to criminal proceedings.</p> <p>If an application can be made within six months of the expiry of a DVO, then there will presumably be times in between where no DVO is in force - in that case, why is this proposal to be used rather than a fresh application? What is the basis of the proposal noting that the same power is covered by the variation provisions under Part 2.8 of the Act? Would this new provision potentially increase the burden/s on court resources by re-opening the same application/DVO proceedings for re-litigation when there is no consent?</p>

	<p>which the defendant has not yet been served with the notice of the application (along the lines of section 107 of the <i>Family Violence Protection Act 2008</i> (Vic).</p>	
LR 23	<p>It is proposed for the DFV Act to be amended along the lines that:</p> <ul style="list-style-type: none"> • 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. 	<p>NTWLS support this proposal, with further recommendation that guidance is given to judicial officers for preference to the location of the protected person as the person arguably most impacted by the relevant proceedings.</p>
LR 24	<p>It is proposed to amend section 30 so that the applicant's address must not be stated on an application form unless:</p> <ul style="list-style-type: none"> • 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. 	<p>NTWLS suggest this amendment may be unnecessary.</p> <p>Currently, there is no section on the application form prompting for the inclusion of the address of the protected person or the applicant. The amendment appears to be based on a misapprehension of the contents of the application form and may inadvertently delay service of premises access order applications.</p> <p>By way of contrast, NTWLS recommend that a notation be included in the template affidavit document to indicate to unrepresented protected persons that they are not required to disclose their address, including that their address is "address withheld".</p>
LR 25	<p>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.</p>	<p>NTWLS strongly support this proposal. Further, NTWLS suggest consideration be given to legislating for an alert mechanism to inform the protected person when the application (and affidavit) have been served. This information can be crucial to safety planning.</p> <p>If the application is going to be served without an affidavit, NTWLS notes further changes will be required to practice directions. This raises a further query in circumstances where if the defendant does not appear, and has not had the opportunity to review the affidavit, whether the court still confirm orders in their absence (see above).</p>

		Additionally NTWLS is of the view there is a need for a clear and uniform procedures and practice around service throughout the NT.
LR 26	<p>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.</p>	<p>NTWLS does not agree with this proposal as it has the potential to compromise the autonomy of young adults, and has significant potential for misuse.</p> <p>A recommended alternative would be to amend the section to allow for children under 18 to be included on a parent's DVO, even if they will be over the age of 18 during the DVOs term. Further, a child between the ages of 18 – 24 could be included with their express consent to alleviate the need for adult children to provide their own affidavit/application.</p>
LR 27	<p>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.</p> <p>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.</p>	NTWLS strongly support this proposal, and suggests that the drafters consider the relationship between this provision and LR 11 and LR 12 relating to misidentification.
LR 28	<p>It is proposed to amend section 35 along the lines that:</p> <ul style="list-style-type: none"> • 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. 	NTWLS support this proposal.
LR 29	<p>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.</p> <p>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</p>	NTWLS support this proposal.

	<p>believes that the making of a DVO against the defendant is likely to be inappropriate given the objects and principles in the Act.</p>	
LR 30	<p>It is proposed to amend Part 2.6 in relation to police DVOs along the lines that:</p> <ol style="list-style-type: none"> 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: <ol style="list-style-type: none"> 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: <ol style="list-style-type: none"> 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. <p>It is further proposed to amend Part 2.6 to:</p> <ul style="list-style-type: none"> • 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. 	<p>NTWLS support this proposal, particularly with respect to the proposed parts (b) and (c) relating to misidentification of primary perpetrator of violence.</p>
LR	<p>It is proposed to amend Part 2.7 along the</p>	<p>NTWLS support this proposal, but</p>

31	<p>lines:</p> <ul style="list-style-type: none"> • 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 '<u>must</u>' consider whether to make a DVO (currently it is '<u>may</u>'). • If a police or court DVO is already in force against the person, the court: <ul style="list-style-type: none"> ○ 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. <p>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.</p>	<p>recommend that same is redrafted to allow the protected person to make the application as well, or to formalise a request mechanism for the prosecutor to do so.</p> <p>NTWLS also support the other elements of this proposal such as requiring court to consider appropriateness of police DVOs and empowering variation or finalisation without meeting finalisation requirements (e.g., further hearing).</p> <p>While noting the reference to procedural fairness at page 77 of the Review, NTWLS recommend that the proposed amendment be modified to require court to be satisfied that the relevant PP has been served with notice of DVO prior to finalisation, so as to allow procedural fairness to same. In the event that service is not possible, police should be required to demonstrate reasonable efforts have been made.</p>
LR 32	<p>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:</p> <p>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.</p>	<p>NTWLS recommend that all proposals to prevent the Court from revoking a DVO or making it less restrictive without notice to the PP should be amended to mean that no change to the DVO may be made at all without notice to the PP.</p> <p>NTWLS strongly support the proposal to empower judge to vary a section 41 DVO without confirming it.</p>

	<p>b. Amend Part 2.9 ‘Review of police DVOs’ along the lines:</p> <ol style="list-style-type: none"> 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. <p>c. Amend Part 2.10 ‘Confirmation of DVOs’ along the lines:</p> <ol style="list-style-type: none"> i. amend section 82(1) so that the court may: <ol style="list-style-type: none"> a. confirm the DVO (with or without variations); b. vary the DVO on an interim basis without confirming it; c. revoke the DVO; <p>amend to provide a procedure for the defendant to object to the DVO if he/she does not attend the confirmation hearing to ensure procedural fairness</p>	
LR 33	<p>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</p>	NTWLS support this proposal.
LR 34	<p>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.</p>	NTWLS support this proposal.
LR 35	<p>It is proposed to amend the DFV Act along the lines along the lines of section 93 of the <i>Care and Protection of Children Act 2007</i>:</p> <ul style="list-style-type: none"> • Court proceedings must be conducted with as little formality and legal technicality as the circumstances permit. 	<p>NTWLS does not support this proposal.</p> <p>The use of irrelevant evidence in DFV proceedings has the potential to be extremely harmful and is open to abuse by perpetrators of DFV. NTWLS considers that this proposal has the potential to make court proceedings less safe and more traumatic for victim-survivors,</p>

	<ul style="list-style-type: none"> • Subject to any directions of the court, the court is not bound by the rules of evidence. 	contrary to the purpose of the Review.
LR 36	<p>It is proposed to maintain the mandatory reporting provision in section 124A as currently worded.</p>	<p>NTWLS has concern that the effectiveness of mandatory reporting has not been sufficiently reviewed. NTWLS is aware that there is significant resistance and concern about the adverse impacts of mandatory reporting (noted in discussion paper at 79-81). NTWLS recommend that a tailored review of mandatory reporting is conducted to provide the evidence base for a decision as to whether or not the current mandatory reporting provision should remain, be repealed or be amended. NTWLS suggest there may be scope to amend the definition of harm to provide greater clarity if the obligations are to remain, and that further, there may be broader exceptions to reporting that could be introduced to maximise safety outcomes for people experiencing domestic and family violence.</p>
LR 37	<p>Not included in discussion paper</p>	
LR 38	<p>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:</p> <ul style="list-style-type: none"> • 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 	<p>NTWLS support this proposal.</p>

	<p>threats of harm, the person is liable to a penalty of five years in prison.</p>	
LR 39	<p>Subject to the findings of the Information Commissioner’s Review of Chapter 5A, it is proposed to:</p> <ul style="list-style-type: none"> a. Amend the DFVA and/or the <i>Information Act 2002</i>, 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 section 124T to clarify that Chapter 5A has effect despite the operation of any other laws, and explicitly name the <i>Information Act 2002</i> to avoid any doubt that Chapter 5A is not to be limited by the IPPs (and any corresponding changes that may be required to the <i>Information Act 2002</i> to give effect to that amendment). 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. <p>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</p>	<p>NTWLS support this proposal in principle and seek to review draft amendments.</p> <p>NTWLS submit that ISE’s require tailored training and support.</p>
LR 40	<p>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</p>	<p>NTWLS does not support this proposal.</p> <p>NTWLS would support a requirement that police be required to <i>offer</i> a referral to a 24-Hour Specialist DFSV Referral Service, and provide information about what the</p>

	<p>consent but police will be required to explain the reason for the mandatory referral to the victim-survivor.</p>	<p>Referral Service can assist with.</p> <p>Referrals without consent undermine autonomy, further traumatise victims, and contribute to the distrust of the system (especially police). NTWLS does not support any amendment which increases police power to act on behalf of victim survivors without obtaining explicit informed consent, and which may inadvertently increase risk (i.e. services attempting to contact victim-survivor and alerting the perpetrator that they had sought help).</p>
LR 41	<p>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.</p>	<p>NTWLS support this proposal and notes that the most important part of any new policy is that PP to the DVO must be informed prior to any service attempt, with enough time to implement a safety plan.</p>
LR 42	<p>Other proposed changes to the DFVA are to:</p> <ol style="list-style-type: none"> 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 <i>Care and Protection of Children Act 2007</i>. f. Review all references to the registrar 	<p>NTWLS does not support LR 42(a).</p> <p>NTWLS support LRs 42(b) and 42(c).</p> <p>NTWLS is unclear as to whether the requirement expressed in LR 42(d) applies to the police or the court, and whether this separate to the process of oral service and explanation that the Court currently engages in. NTWLS recommend further clarification.</p> <p>NTWLS support LRs 42(e) and 42(f).</p> <p>NTWLS support LR 42(g) in principle and seek further detail about how inconsistencies would be resolved.</p> <p>NTWLS support LR 42(h).</p> <p>NTWLS express concern in respect of LR 42(i) in that these amendments seem to exclude the operation of the subject provisions from applying to evidence given by children who are not PPs. There is no accompanying proposal to disallow evidence from children who are not PPs.</p>

	<p>in the DFV Act.</p> <p>g. Clarify the terminology and remove inconsistencies in relation to references to children and young people in the DFV Act.</p> <p>h. Amend section 106 to require the court to be closed if the defendant is under 18 years.</p> <p>i. Amend sections 107-109 so that it applies to 'child' protected person.</p>	
LR 43	<p>It is proposed to amend the <i>Bail Act 1982</i> along the lines of section 5AAAA of the <i>Bail Act 1997 (Vic)</i> to explicitly require bail decision makers to:</p> <ul style="list-style-type: none"> • 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; • ensure that any bail conditions or conditions of a DVO are not inconsistent. 	<p>NTWLS support this proposal on an interim basis and recommends that PP should have the right to be heard on the matter.</p>
LR 44	<p>It is proposed to amend the <i>Bail Act 1982</i> so that in cases of DFV or sexual offences:</p> <ul style="list-style-type: none"> • 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. 	<p>NTWLS support this proposal.</p>
LR 45	<p>It is proposed to require police to take reasonable steps to inform complainants in DFV-related 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</p>	<p>NTWLS support this proposal, with important clarification that the Victims' Register does not currently accept/action applications from victims and/or concerned persons where the relevant offender is unsentenced; i.e., there is no information</p>

	<p>the safety of the complainant.</p>	<p>to be gained from the Register in respect of applications for bail or bail conditions, with same information only available via the DPP.</p>
LR 46	<p>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</p>	<p>NTWLS support this proposal.</p>
LR 47	<p>It is proposed to amend section 6A of the <i>Sentencing Act 1995</i> 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.</p>	<p>NTWLS support this proposal.</p>
LR 48	<p>It is proposed to conduct further research into whether an amendment to the <i>Sentencing Act 1995</i> 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.</p>	<p>NTWLS support this proposal, and seeks to be involved in this process.</p>
LR 49	<p>It is proposed that amendments to the <i>Sentencing Act 1995</i> 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</p>	<p>NTWLS support this proposal.</p>

	<p>sentencing order for a domestic violence offence where the offender will be living in the community, the court must:</p> <ol style="list-style-type: none"> 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. <p>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.</p>	
LR 50	<p>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.</p>	<p>NTWLS requires further information in respect of this proposal, as same may inadvertently undermine the voice of the victim-survivor.</p> <p>NTWLS further recommend that an amendment is made to allow for the contents of a VIS to include drawings, poems or any other material that relates to the impact of the offence on the victim (see, eg, S 8L <i>Sentencing Act 1991 (Vic)</i>).</p>
LR 51	<p>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:</p> <p style="padding-left: 40px;">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.</p> <p>It is proposed that domestic violence,</p>	<p>NTWLS support this proposal in principle and recommend updating drafting along the lines of 'harm includes but is not limited to the psychological impacts of a pattern of coercive control or non-physical forms of DFV'.</p>

	<p>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).</p>	
LR 52	<p>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</p>	<p>NTWLS support this proposal, with notation that our services have previously advocated for section 188AA to be expanded to apply to any scenario, i.e. not contained solely to a domestic relationship.</p>
LR 53	<p>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 <i>Oaths, Affidavits and Declarations Act 2010</i>.</p>	<p>NTWLS submit that the standards for AV recorded statements need to be very high. Many vulnerable people are likely to believe that if they haven't signed anything, they have not made a statement. Police practice needs to ensure that free and informed consent is being obtained.</p>
LR 54	<p>It is proposed to amend the <i>Evidence Act 1939</i> along the lines of section 39 of the <i>Evidence Act 1906 (WA)</i> to allow expert evidence of family violence to be admissible where evidence of family violence is relevant to a fact in issue.</p>	<p>NTWLS support this proposal in principle and encourage drafters to also consider the relevant Victorian provisions.</p>
LR 55	<p>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.</p>	<p>NTWLS support this proposal in principle, and seek early involvement in the development of the jury directions.</p>
LR 56	<p>It is proposed to amend section 19 of the <i>Evidence (National Uniform Legislation) Act 2011</i> 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.</p>	<p>NTWLS does not support this proposal. In our view, this proposal will remove the last shred of autonomy from victim-survivors and further disempower women.</p>
LR 57	<p>It is proposed to amend the <i>Local Court (Criminal Procedure) Act 1928</i> 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.</p>	<p>NTWLS support this proposal.</p>

	<p>In addition, it is proposed to give further consideration to whether there should also be a presumption that DFV-related offences are heard together.</p>	
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