



**LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY**  
13<sup>th</sup> Assembly  
**SOCIAL POLICY SCRUTINY COMMITTEE**

**Public Hearing Transcript**

9.00 am, Wednesday, 14 February 2018  
Litchfield Room, Level 3, Parliament House Darwin

**Inquiry into the  
Domestic and Family Violence Amendment (Information Sharing) Bill 2017**

**Members:** Ms Ngaree Ah Kit MLA, Chair, Member for Karama  
Ms Sandra Nelson MLA, Member for Katherine  
Mrs Lia Finocchiaro MLA, Member for Spillett

**Witnesses:**

- Fiona Hussin: Deputy Director, NT Legal Aid Commission  
Annabel Pengilley: Managing Solicitor, Domestic Violence Legal Service
- Janet Taylor: Managing Principal Solicitor, Central Australian Women's Legal Service
- Annabel Pengilley: Managing Solicitor, Domestic Violence Legal Service  
Alex Richmond: Facilitator, Domestic and Family Violence Network
- Robert Bradshaw: Director Policy Coordination, Department of the Attorney-General and Justice  
Laura Berta: Policy Lawyer, Department of the Attorney-General and Justice.

## DOMESTIC AND FAMILY VIOLENCE AMENDMENT (INFORMATION SHARING) BILL 2017

### Northern Territory Legal Aid Commission

**Madam CHAIR:** Good morning, everyone. Thank you for joining us. I am Ngaree Ah Kit, the Member for Karama and Chair of the Social Policy Scrutiny Committee. On behalf of the committee I welcome everyone to this public hearing into the Domestic and Family Violence Amendment (Information Sharing) Bill.

I acknowledge this public hearing is being held on the land of the Larrakia people and I pay my respect to Larrakia elders past, present and emerging. I also acknowledge my fellow committee members in attendance today: Sandra Nelson, the Member for Katherine and Lia Finocchiaro, the Member for Spillett.

I welcome to the table to give evidence to the committee representatives of the Northern Territory Legal Aid Commission: Ms Fiona Hussin, Deputy Director and Ms Annabel Pengilley, Managing Solicitor of Domestic Violence Legal Service. Thank you for coming before the committee this morning; we look forward to hearing from you.

This is a formal proceeding of the committee and the protection of parliamentary privilege and the obligation not to mislead the committee apply. This is a public hearing that is being webcast through the Assembly's website. A transcript will be made for use of the committee and may be put on the committee's website. If at any time during the hearing you are concerned that what you will say should not be made public, you may ask the committee to go into a closed session and take your evidence in private.

I will ask each witness to state their name for the record and the capacity in which you appear. I will then ask you to make a brief opening statement before proceeding to the committee's questions. Could you each please state your name and the capacity in which you are appearing this morning?

**Ms HUSSIN:** Fiona Hussin, Deputy Director of NT Legal Aid Commission.

**Ms PENGILLEY:** Annabel Pengilley, Managing Solicitor of Domestic Violence Legal Service.

**Madam CHAIR:** Thank you very much. Would either of you like to make an opening statement?

**Ms HUSSIN:** Yes, I think we will both make a brief opening statement, thanks. On behalf of the NT Legal Aid Commission, I would like to thank the committee for the opportunity to appear today and make a submission to this bill. It is quite a new process to us, as I am sure it will be to others involved in the process. We are keen to learn how it works and participate as best we can in future.

**Mrs FINOCCHIARO:** It is new for us too, Fiona, so we are learning together.

**Ms HUSSIN:** We also thank you for the opportunity to participate in the proceedings in relation to this bill. Information sharing is a very important issue to the NT Legal Aid Commission and the services we provide to a range of clients. We believe it is very important, as I am sure the parliament does, to work through this process and ensure the protections in place are appropriate to the circumstances.

Before we go into detail about matters we want to raise I want to put on record that the NT Legal Aid Commission, along with many other legal services in the NT and the Domestic Violence Legal Service, is very much a frontline service provider. Assisting and representing clients is our core business. We do not have any policy position within the commission and we do not have additional capacity to participate in the law reform process.

Some of the comments we will make today which in our submission impact on that because they relate to our ability as an organisation to respond to law reform in a timely and considered manner. In particular, in relation to this bill as it is outlined in our submission the information in relation to the bill was provided to us late last year and their time frame to make a submission was quite brief.

During that period many key members of our service were on leave, and in relation to other services we also note that the inquiries that we made to non-legal services indicated that there was not a high level of awareness about this bill and that these were services, in particular impacting and assisting victims, and we understand you will hear from those services later today. Because this is quite a technical legal process we are concerned that the challenges that we may face in participating in this process would be even greater for non-legal services.

**Ms PENGILLEY:** As Fiona said, I work in a frontline service and we are dealing with victims of domestic violence on a daily basis and it is really hard to pull out of that and take time to look in to law reform and policy issues—I just want to affirm what Fiona is saying—and the bill that we have before us, I am finding even as a lawyer is quite complicated and it is hard to know how this bill is going to work in practice, but the starting point in relation to this bill is it is a bill that has a wonderful aim and that aim is to create a more permissive information sharing culture from a victim service perspective. That is really important for us.

We often face barriers, particularly when we go to two agencies—in particular for us as a DV service where we would like to have a greater confidence to be able to obtain information to assist victims—are police and Territory Families.

Sometimes we do face barriers there, time barriers and attitudinal barriers even where we work with the consent of our client. What we have though, I think, the problem we have today is that we have a bill with a wonderful aim, a worthy and necessary aim, but the mechanism to achieve that aim this bill goes absolutely far beyond what is necessary to achieve the stated aims of a more permissive information sharing culture.

This bill in essence mandates every NTG and non-government agency that may come in to contact with a victim or a potential victim of domestic violence, mandates them to share information about that person without necessarily obtaining their consent—that is very far reaching, it is incredibly far reaching. There is no limits on it as is so with mandatory reporting where there is a really high barrier, and we have that system in place.

This bill, you can share someone's really personal information without their consent simply to refer them to a service to get an assessment about whether or not they might be a victim of domestic violence or they might need some help. It is just an incredible over reach—it is a good aim but the mechanism here goes way too far, and the concern is that victims are going to come to services and not have confidence. In particular for Indigenous victims—often they have such a sense of powerlessness that they express to me in interviews—they will say like, I feel like I am being the one punished here—is how they will often describe being a protected person in a police DVO. They feel like they have little power and little rights and little ability to control what is happening their lives.

One of the great things about being a lawyer is how you say to people in the beginning—everything you tell us is confidential—mandatory reporting means that we have to say, but except for the mandatory reporting laws, and now I have to say—and, but, except—it is kind of open slather now. It is a real worry ...

**Ms HUSSIN:** On that point, there are provisions in the bill that relate to confidentiality for legal professional privilege, and that is noted in our submission, but it is not clear to us that non-legal employees of the service ...

**Ms PENGILLEY:** ... n our admin, our booking team. We also have a wonderful new position in our service—a non-legal counsel, a social-type worker. She gets really in there with victims on a broad range of their issues. Obviously, confidentiality for her in that space is really important.

One of the other worries with the bill is, first of all, how it will work. Even I, as a lawyer, struggle to see how this scheme will work. The promoters of the bill talk about how there is no penalty for not complying with an information request, but there are really strict penalties—and I take the committee directly to section 124L. That is a provision that makes it a criminal offence, with penalties of up to two years gaol, for disclosing information. That is a big penalty—two years gaol.

Also, that provision makes simply acquiring the information in accordance with the act a strict liability offence. At law, to have a strict liability offence is a very dramatic step for the legislature to take—to say you do not intend for something to happen; if it happens you are responsible, essentially. I also wonder if there is a drafting error with 124L. That was something that was not in our original submission, but the strict liability only applies to 1(a). I do not know whether that is intentional or not.

When the bill is talked about, the general talks is there is no penalty if you do not comply, but the committee needs to be well aware that there is up to two years gaol if you acquire information—and you do not even have to intended to acquire the information—you can end up, if that information goes the wrong way, looking at gaol time. That is also a worry.

Committee members, one of my other concerns about the information-sharing bill is that in the realm of domestic violence, there is not always a clear line between who is the victim and the perpetrator. Perpetrators are quire famous for their ability to use the legal system, the Territory Families system and the child protection system as a vehicle to further intimidate and harass a victim. That means that a perpetrator will often allege that the victim is a perpetrator, make many claims about the woman having mental issues, drug issues, beating the children and being violent—make a lot of allegations against a person who is the victim. The concern is that where a perpetrator is using the system to make allegations that the victim is the perpetrator, in concert with other entities, obtains information about that victim that will compromise that victim's safety and her ability to navigate the system and achieve her own safety and the safety and wellbeing of her children.

Another concern with this bill, committee members, is that it is all about agencies being required and mandated to share information. I have to stress that this is not *allowing* agencies to share information, it is *mandating* agencies to share information. That is a key point about it.

I am making a very important point which I had almost forgotten. There is nothing in the bill that respects the person this information is about. There is nothing, as far as I read it, that requires—first of all, you do not require the consent of the person the information is about to share the information. Second, having shared that information, there is no requirement to inform the person whose information it is who shared it, who they shared it with and what they shared it for.

If agencies were talking about you or me and sharing information for reasons that could end up having all kinds of impact—our children being removed, being given back, getting a house, not getting a house, perpetrator's arrested or

not arrested—these are huge things. We are talking about people's lives. But the very person at the centre of it all does not appear to get a look-in.

**Ms HUSSIN:** On that point, it is quite an emotional issue. Our submission goes through the concerns about consent and I guess that is the crux of our submission; we favour a consent based regime. On page five of the submission we refer to section 124C(2) in the bill as the principle of reasonable efforts being made to get the consent of the victim.

It is a very limited reference to consent and we think there should be far greater emphasis on obtaining the consent of the person whose information is to be shared as a first resort before proceeding to other measures. I think we will sum up there and allow the committee to ask some more questions.

**Ms PENGILLEY:** Can I please reiterate there, Fiona? I think the bottom line of this bill needs to build that permissive culture about information sharing which is really important. The foundation needs to be that you do not share information without consent unless the victim's life is at stake. We have mandatory reporting, that vehicle when lives are at stake or children are at high risk. This is just taking it way too far.

**Ms HUSSIN:** In conclusion, our view is the bill should not pass through the Assembly until there has been further consultation with the key stakeholders in a timely manner, and to ask that the consultation be through a discussion papers and face-to-face discussions rather than technical legal submissions as is occurring at the moment. We think it is premature that the bill should be passed in this current state.

**Madam CHAIR:** Thank you very much, that was very informative. I think you have answered a lot of my questions but I will open it up to the committee.

**Mrs FINOCCHIARO:** Thanks very much, Fiona and Annabel. We really value your experience on the front line which is why we are holding public hearings. If we can start with the consultation, you might not know but what would be a suitable timeframe for the sector to be properly consulted and all those concerns thrashed out?

**Ms HUSSIN:** Going back to the mandatory reporting and information sharing processes with the NT *Care and Protection of Children Act*, I cannot be precise, but that was significant months.

**Mrs FINOCCHIARO:** Okay.

**Ms HUSSIN:** There were various meetings with different service groups within government and outside of government, not just one legal or shelter group. There is a discussion paper that includes some references to information sharing that is labelled 2016—is that the one you have?

**Ms PENGILLEY:** That is not the report; it is a different one. There was a brief discussion paper that has come out with the bill.

**Ms HUSSIN:** What has happened previous to that is—it has definitely been mentioned in different meetings and as part of the consultation in relation to the family violence framework and those sorts of processes but not to this really detailed level.

**Mrs FINOCCHIARO:** It warrants its own exploration. We mentioned safeguards and that it is important to have that permissive information sharing culture, but with boundaries. Your submission goes into it but if you could flesh it out a bit more, you said mandatory information sharing should occur in limited circumstances. Is that correct? If you would mandate it, it should be limited to imminent threat to life, health...

**Ms HUSSIN:** ...Our view is that this bill should not mandate information sharing, that mandatory reporting is already sufficient. That is what mandatory reporting is about, someone who is already experiencing a serious or imminent danger.

**Mrs FINOCCHIARO:** When we talk about safeguards for further information sharing, it really should be linked to consent and you want to see that prescribed in the bill, regulations or just as a policy?

**Ms HUSSIN:** In the bill itself. The threshold for information sharing should be higher. The starting point should be consent but if consent is not able to be secured than that threshold should still be high.

**Mrs FINOCCHIARO:** Okay, and all of that properly set out in the bill.

**Ms PENGILLEY:** Anecdotally, some of the impetus for this bill coming into play came from some frustrations and roadblocks that the Family Safety Framework found when they are trying to work together to help a victim achieve safety and there were some information sharing barriers. If someone is the subject of a Family Safety Framework meeting and process—it would seem that there would be very few cases if that person, if they properly understand that this is a service to help them achieve their safety, maybe get appropriate housing—things that are beneficial to that person—would not give their consent for the relevant agencies to share. So the problem has been identified, but the solution is more the agencies' understanding. If someone requests the information for a proper purpose, then you need to share it. Not everyone must give the information to everyone without consent.

**Ms NELSON:** So what happens if you have a client who is not in the family safety framework radar? What do you do then?

**Ms PENGILLEY:** We will help them outside of that framework. A typical example will be they might be a victim of really serious violence, but the offender might be in gaol. The family safety framework will then say there is no imminent risk as he is in gaol and that person does not qualify for the framework. That is an everyday example. But then our service DVLS would work with that person to try to ensure there is appropriate DVO that protect her after gaol, not just during gaol, and refer to counselling, housing. Our non-legal person works with Housing and Territory Families and all that sort of thing ...

**Ms HUSSIN:** The practice we are describing is already a consent-based practice. We would not share information about our clients without consent. That is very much ...

**Ms NELSON:** I am a bit concerned, though. It does not have to just mean imminent risk. We want to be able to share information and put all those protections in place before it gets to the imminent risk stage. So ...

**Ms HUSSIN:** That is what we do regularly.

**Ms NELSON:** Okay, you do that regularly as a practice. It is a good practice. I worked with KWILS prior, so I know we do that. I know we do that, but what happens? Not everyone actually shares that. Not every agency is working together or talking to one another. That is where this comes in for me. What can we put in place to make sure that agencies talk to one another and information is being shared prior to getting to that imminent risk stage?

**Ms PENGILLEY:** A lot of people are seeking help often quite early in the piece. That is a point where you can get consent and say, 'Let us see what so-and-so is doing about this. Let us see what the school knows'. You are right, agencies need to share. But it is how, when and why they share.

In working with victims before it gets ridiculous—which is obviously the biggest aim we all have—a big part is our police force further developing its ability to identify domestic violence and to work on those referrals. Support Link is something there is mixed views about, but overall that is a process we should not abandon. It can work well and greater use of the Support Link can deal with that. Police will often attend a domestic violence incident and leave saying, 'Nil visible, minor verbal argument between the parties. Nil visible injuries. No further action'. Maybe the report will also say, 'DV options explained'. That is really the perfect point, if they can get the consent, to refer—especially the alleged offender to some counselling or drug and alcohol services and the victim to whatever necessary services there are.

The biggest answer to your question maybe lies in early referrals, early responsiveness ...

**Ms NELSON:** Yes, I was just going to say it comes into that. How do we actually know if someone is at imminent risk and if people are sharing that information?

**Ms PENGILLEY:** Well, victims will tell what has happened and then, acting on it. It is not necessarily about sharing information, it is just people taking action and not ignoring the person.

**Ms HUSSIN:** That is the experience of the DVLS is that there are victims regularly as you would have experienced requesting assistance repetitively and not being able to obtain that assistance.

**Ms NELSON:** That is the thing, is that they are requesting assistance repetitively, and it has happened several times from my experiences, but that information has not been shared, and by the time we have found out it is ...

**Ms HUSSIN:** Sorry, I should have been clearer—repetitively to the same agency, say for example, to police or Territory Families. That is probably more of an internal agency response, a bureaucratic response and perhaps a resourcing response rather than an information sharing concern because that individual agency repetitively has that information and it is about how they respond to that.

**Mrs FINOCCHIARO:** Sandra, I think, you are saying the intent of the bill is good, it is just mandating is too far—consent is good. So for your concerns would still be alleviated but it would just require consent first—is that right? I am not verballing you—you support the intent of the bill it is just that it should not be mandated it should be by consent, so therefore, information sharing that culture of sharing continues (inaudible) in a bit of a tighter environment

**Ms NELSON:** It is really important, it is hugely important. Thank you, because that is exactly what I was just going to get to. Just say hypothetically, we review bill and we put in measures about getting consent prior to information sharing—would that be enough to ...

**Ms HUSSIN:** ...and remove the mandated information sharing.

**Mrs FINOCCHIARO:** 124L

**Ms NELSON:** That is just worrying.

**Ms HUSSIN:** We did not pick that up in our submission. Annabel just saw that last night and it is just a bit strangely worded.

**Ms NELSON:** I am definitely not one about mandating stuff, but in this case from having professional experience as well as personal experience, I am really hesitant about supporting the motion to remove the mandate component.

**Ms PENGILLEY:** Is it a question of how the mandate is structured, so if the mandate is someone requests information with the consent of the victim for a proper purpose then you are mandated to provide it.

**Ms NELSON:** Yes, we have the mandatory reporting.

**Ms PENGILLEY:** No, in this bill. The scheme of this bill at the moment is anyone asks for anything vaguely DV related it has to be given—in very broad circumstances—without the need for the consent of the person. In terms of your concern around mandating, I think you can cure that by saying where there is a request with consent for information for a proper purpose—and I would say the proper purpose would be in relation to achieving the protection, health, safety or wellbeing of a victim of violence or their children—then the responding agency is mandated to provide that information. That is where the mandating could properly be used—and you have the victim's consent.

**Ms NELSON:** I will have to think on that one. I am still not convinced.

**Madam CHAIR:** Annabel, you mentioned that domestic violence victims may find it troubling or may not come to your service or other services to seek support because of their information being shared freely. I was wondering if that is a current concern of victims, in your opinion. Do the victims find it hard to trust the existing services, their information sharing protocols in place?

**Ms PENGILLEY:** They do because there is some common themes for victims of domestic violence, and one is that idea that if Territory Families find out about the violence my kids will be taken away, so there is a big impetus there for victims to stay quiet about violence because they see that the outcome of that could be their children will be removed. That can be reinforced because Territory Families might say you need to get a full no contact DVO or your children will be removed—so, they are not making it up. Obviously, Territory Families are rightly concerned to ensure children are not living with domestic violence.

It is just not an easy area, and for the police it is such a challenge. Police will have the experience that on the night of an incident a victim will be really angry and upset and she will say I want a full no contact DVO, and I want him to go to gaol, and a few days later that victim's position may change. She has a family, a life, children and she would like to see—she does not want to keep being hurt and abused, but she wants to be safe. You just need a lot of trust to work with people to help them achieve their safety. We already have a lot of people who feel alienated and disempowered. The very circumstance of being a victim of domestic violence leads to feelings of disempowerment and low self-esteem. I do not think the government should be being more a part of that system of taking away a victim's ability to operate for herself.

**Mrs FINOCCHIARO:** Is it that a victim comes forward and you might be their first point of call, 'I want to get a little advice'? They still feel they want to be in total control ...

**Ms PENGILLEY:** Yes.

**Mrs FINOCCHIARO:** ... of how far things go. If they came to you, then under this bill that could trigger, 'We had better let Territory Families, the police and housing know'—boom, boom, boom. Then those agencies go and do all their actions and before the victim knows it, there are five things on foot, when really they were just making an initial...

**Ms PENGILLEY:** Yes.

**Mrs FINOCCHIARO:** I am not saying—obviously, you want to support the victim through that, but perhaps they did not want all those other mechanisms triggered. Is that what could happen?

**Mrs PENGILLEY:** That is one ....

**Ms HUSSIN:** One possibility. It is very hard to know operationally, but it is a possibility. The other possibility is that if she is aware that could happen, that could stop her from coming in for that initial assistance.

**Mrs FINOCCHIARO:** Yes, which may not in practice happen, but because it is plausible, possible, it puts them off.

**Ms HUSSIN:** Yes.

**Ms PENGILLEY:** We really do not know what the effects of mandatory reporting is on people. We do not really know and I guess that raises the question about evidence base. Where is the evidence base for this bill being so far-reaching?

**Ms HUSSIN:** Compared to other jurisdictions we have had the time to look at, at least, it is a lot broader than other jurisdictions. So ...

**Mrs FINOCCHIARO:** So, where did this come from?

**Ms PENGILLEY:** It has taken the strict bits out of two different bills—Victoria and Queensland. It has combined the tough bits from two bills to make one mega-mandating bill.

**Ms NELSON:** From the other side of it as well, domestic violence rates in the Northern Territory are on an upwards trend ...

**Ms PENGILLEY:** Yes.

**Ms NELSON:** ... and clearly the regime we have in place is not doing enough. So, this is another step. I totally get your issues with consent—I get that. But we already have mandatory reporting in place, with obviously, the domestic violence mandatory reporting stuff ...

**Ms HUSSIN:** And the child stuff.

**Ms NELSON:** Yes. But there is nothing in place to direct, guide or demand—we do not know what happens with the reports afterwards. Where does it go past you? That is the thing.

**Ms HUSSIN:** I guess from the DV services ...

**Ms NELSON:** Yes.

**Ms HUSSIN:** A lot of the concern is about the service response to domestic violence. We have to be really cautious too. As Annabel just said, with mandatory reporting not only do we not know the effects of it in what impact it has on victims, but what impact it has on the safety of victims. There is no evidence about that as well.

I am not saying that it has not—it may or may not have—but just to add another layer of legislation to share information, in and of itself, does not necessarily make victims safer when the service response for victims is already really—a significant paucity in the service response. That is what the DV service deals with, with clients regularly—I called the police ...

**Ms PENGILLEY:** They said they could not do anything. Police have a really challenging task and they work with victims, necessarily—as we do—who want a certain outcome on one day and a different outcome on another day. But it is still the case that we will have people with black eyes in our office, where the police would have sent them to us. We are not an urgent service, but police have not deemed it urgent either. It is just the response.

There are also many women who will report domestic violence and offending that is criminal in nature. I do not think police have all the resources, person power or training to always appropriately respond when victims present about domestic violence. A really good example is using carriage services to threaten, texting people, 'I am going to kill you'. I will leave out the swear words because Fiona told me I was on tape.

**Ms NELSON:** You are on public record.

**Ms PENGILLEY:** People are making nasty threats to harm and kill through offensive texts and social media. These are criminal offences under the Commonwealth Criminal Code with really strict penalties. I think not all of our police force are trained to identify that, act on it and then charge and arrest the person doing it.

If we are saying we are worried we are not dealing with the job of domestic violence, permissive information sharing is a really important piece of the puzzle but this bill goes too far. Mandating the giving on request with consent is probably the answer, but the bigger picture is we need more police with more training to be able to respond to victims.

**Ms NELSON:** So specific training for domestic violence as was seen in other countries and jurisdictions?

**Ms PENGILLEY:** Yes.

**Ms HUSSIN:** This is not a criticism of the police at all. We work really well with the police.

**Ms NELSON:** I totally get that.

**Ms PENGILLEY:** A small number of police can only do a certain amount of jobs. It is resources, and with resources comes training. The other issue is that a huge amount of it comes out of problems with housing, overcrowding and homelessness. Women and their children cannot achieve safe, productive lives if they do not have a home.

**Ms NELSON:** Is that a social determinant as well that comes in to all of that?

**Ms PENGILLEY:** It is so critical. When Territory Families are looking at a mother and children who are the victims of domestic violence and do not have a home the most useful thing Territory Families could probably do, rather than removing the children, is give the person a house. If we are talking about dealing with, ameliorating and preventing

domestic violence, achieving the wellbeing of families and creating the conditions for children to go to school and do well, housing cannot be overlooked as an example of what is needed to address these issues.

**Madam CHAIR:** Thank you. That is very helpful to hear about proposed solutions. Following on from the Member for Katherine about our high rates of domestic violence in the Northern Territory, the one thing I am concerned about is the worst case scenario. If a service cannot get a hold of a woman who is a victim of domestic violence in order to get permission to share information to save her life, will we lose her?

**Ms HUSSIN:** That should be covered by mandatory reporting.

**Madam CHAIR:** If it is adhered to and done correctly. We have on the flip side a lot of victims who are concerned their information is already being shared without their permission quite freely. I am with the member, I can see both sides.

**Ms NELSON:** Just going back to your comment about housing and all that, for me this bill is about early intervention by getting to that step before we get to the black eye stage. This bill facilitates sharing information about a domestic violence incident with that victim with the Department of Housing and Community Development, school and Department of Education if they have children involved.

**Ms PENGILLEY:** What do you think the agencies will do with that information?

**Ms NELSON:** This is where you...

**Ms PENGILLEY:** This is what is puzzling, is it not?

**Ms HUSSIN:** As you said, we already share that information with consent and it is the services' response to the information that is shared that is the concern which does not address the violence.

**Mrs FINOCCHIARO:** It is not the information itself, it is what people do with the information.

**Madam CHAIR:** Shall we put a focus on providing better services to victims of domestic violence as opposed to sharing every piece of information? That would be a really good way forward.

**Ms NELSON:** You are saying you already do that and share the information already?

**Ms HUSSIN:** With the client's consent.

**Ms NELSON:** That is the biggest sticking point of it, the consensual part of it.

**Ms PENGILLEY:** For us, yes. As I have said...

**Ms NELSON:** ...If we look at the bill and review the consent aspect of it, would that soften the mandate part of it? Am I leading you into that?

**Ms PENGILLEY:** The solution could be that the bedrock is consent. We have mandatory reporting for the life-threatening and the children. The mandatory reporting for children is very broad. It is abuse and neglect, so it is broad already ...

**Ms HUSSIN:** There is already information sharing for children.

**Ms PENGILLEY:** Yes. So, with a bedrock of consent, what the bill most usefully and appropriately can do it mandate a responding entity to provide information, on request, for a proper purpose. So, the mandate is not just a blanket sharing, it is mandating that if someone asks you for information, with the consent of the victim, for a proper purpose, you need to give that information.

**Ms NELSON:** Okay.

**Mrs FINOCCHIARO:** Would an example be your client gives you permission, you then ring police and say, 'We need that file ...

**Ms NELSON:** And then mandate it ...

**Mrs FINOCCHIARO:** ... and police have to give it to you because you say, 'Here is my piece of paper with the signature on it, hand it over'.

**Ms PENGILLEY:** Yes.

**Madam CHAIR:** So, Annabel, at the moment, you say NTLAC often faces difficulty getting information from police and Territory Families?

**Ms PENGILLEY:** It is variable, it really depends—I do not think that is the sort of problem this bill seeks to cure, but this goes overboard.

**Ms HUSSIN:** Prosecution ...

**Ms PENGILLEY:** And prosecutions ...

**Ms NELSON:** Overboard as because it is broad. You want it to be ...

**Ms PENGILLEY:** Broad and mandatory. With mandating, everyone shares everything. It should mandate people to share when they are asked for consent.

**Ms NELSON:** It is the consent part?

**Ms PENGILLEY:** Yes.

**Madam CHAIR:** Currently, any work you undertake on behalf of the victim is reported back to them and they are kept in the loop of which conversations have been had and the information shared?

**Ms PENGILLEY:** That is right. When our victims sign our consent form, we always say, 'It is just to show other people. But it is not a blank cheque. We will only ever use your authority with your specific permission for a specific purpose.' That gives confidence as well.

**Madam CHAIR:** Any final questions from the committee?

**Ms NELSON:** Sorry ...

**Mrs FINOCCHIARO:** Sorry, go ahead.

**Ms NELSON:** We touched on it earlier, Lia, about the time frame and consultation. To refresh my memory—much longer consultation—okay.

**Ms HUSSIN:** I guess this process is not a consultative process. So, a consultative process, for a start, but obviously, within the amount of time to give those relevant services an accessible opportunity to work through these things.

**Ms NELSON:** Whatever the new scheme is, there needs to be some kind of implementation phase that allows for training of workforces, because this is a bill that will apply in towns and remote areas and it is really complicated. Even if it is some ideal form, it will still be quite complicated. If a bill comes in and there has not been a period that has been allowed for workforce training, people will feel very unsure how to implement this ...

**Mrs FINOCCHIARO:** That is exactly why consultation is important as well. If the implementation is not really that possible or not practical, then what is the point of having it?

**Ms HUSSIN:** That happened with mandatory reporting. The sector is fairly clear on it now, but there was quite a few years of quite stressful circumstances for services. They would often contact our service, 'What shall we do in this ...

**Ms PENGILLEY:** People still fret about mandatory reporting.

**Ms HUSSIN:** 'Do I have to report this?' As an example in relation to consent, our perspective, even though we must report if it has not been reported, our first point is to say to the person, the client—and most services will do this—'We have to report this if you will not. Do you want to do it yourself?' The client will, 99% of the time, say, 'Okay then, I will do it', because they want that power.

**Ms NELSON:** It is about working with people.

**Madam CHAIR:** Thank you very much for that. I am wary of time. We have our next lot of people on the phone who are expecting our call. Thank you very much for providing your submission and for appearing before us today to clarify some of those concerns. It was great to hear your proposals on how we can better support domestic violence victims in the Northern Territory.

**Ms HUSSIN:** Thank you very much. Thanks for listening.

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The committee suspended.

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### Central Australian Women's Legal Service

**Madam CHAIR:** Good morning, Janet. My name is Ngaree Ah Kit, I am the Member for Karama and the Chair of the Social Policy Scrutiny Committee. Thank you for joining us online this morning for the public hearing.

**Ms TAYLOR:** That is correct.

**Madam CHAIR:** This is a formal proceeding of the committee and the protection of parliamentary privilege and the obligation not to mislead the committee apply. This is a public hearing that is being webcast through the Assembly's website. A transcript will be made for use of the committee and may be put on the committee's website. If at any time during the hearing you are concerned that what you will say should not be made public, you may ask the committee to go into a closed session and take your evidence in private.

I will ask you to state your name for the record and the capacity in which you appear. I will then ask you to make a brief opening statement before proceeding to the committee's questions. Could you please state your name and the capacity in which you are appear before the hearing today?

**Ms TAYLOR:** My name is Janet Taylor. I am the Managing Principal Solicitor for the Central Australian Women's Legal Service in Alice Springs. As part of our service delivery we are funded to operate a Domestic Violence Legal Service funded by the Department of Attorney-General and Justice which has been operating for 20 years. We are also funded to deliver a health justice Partnership in collaboration with the Alice Springs Hospital and the Central Australian Aboriginal Congress and a specialised domestic violence legal service both here in Alice and Springs and more recently in Tennant Creek. This is funding through the Women's Safety Package, Commonwealth for legal Services.

**Madam CHAIR:** Thank you, Janet. I was wondering if you wanted to start with an opening statement in regard to the Central Australian Women's Legal Service submission in to the bill.

**Ms TAYLOR:** Yes, if I could just say a bit about why we made this submission, obviously we run a Domestic Violence Legal Service and are funded to (o run a specialised Domestic Violence Legal Service.

To add to this, CAWLS is one of the leading advocates for law and policy that respects and endorses the rights for all women and to ensure that every clients' experience is validated and that women are empowered to utilise the legal system to their benefit.

CAWLS' supports all efforts made to improve the responsiveness to disclosures of family violence. However, it is our experience that information sharing is multifaceted, it is complex and requires careful consideration.

To expedite why I say here—it is just a couple of points, I would just like to speak about so that you have a bit of background information, I have read the Social Policy Scrutiny Committee public briefing transcripts of 31 January 2018 The Chair and the witnesses were speaking about some of the issues raised from the submissions. Perhaps I could speak to those as well?

**Madam CHAIR:** Yes, that would be great, thank you.

**Ms TAYLOR:** I guess the overarching concern for us is obviously we deal with women who come through the service and because we are a legal service we are subject to lawyer-professional client privilege. To this end the overarching principal of information sharing may impact on women's safety and risk in that area. Our concern is breach of privacy and risks which flow from this which we do not feel are adequately addressed at this stage. Information sharing must be balanced with the need to empower clients to make decisions in relation to their own safety.

It may result in more women being reluctant to report domestic violence. That can be a result of that if they were inadequately addressed—particularly privacy.

A lot women I think—Mrs Lambley (inaudible) put succinctly that in small communities where I am pretty sure women are reluctant to disclose because perpetrator's families may be working in those organisations or even family members. This may cause them embarrassment and shame and obviously can put their own lives at risk with the perpetrator's family.

To look at this further in that context of how we share that information and how that is done. I do not think it is an easy solution because—we have seen that sometimes it needs to be shared in some circumstances I guess it is very subjective about the definition of what constitutes serious threat and as a jurisdiction we are already subject to mandatory reporting and we do that, maybe once or twice a week in our practice. As a domestic violence legal service we share information quite regularly with the police and with the women's shelter and any of the domestic violence service-related service including the courts where we work collaboratively with those organisations.

My staff here at CAWLS have raised that they believe that the Police Domestic Violence Unit needs to be more resourced—police information on timely that is shared. More resources need to go in there. They are the central people who have access to information and that comes to that unit.

At the moment we wait for information. We have to wait for a response for up to a week easy—for information including whether orders are in place to then ascertain whether or not to extend orders or to upgrade orders. This is more so when perpetrators are due out of prison. This is when women are most at risk if there is no order in place.

Is there anything else you want me to talk to? I have been cracking on and I do not want to hijack the proceedings in that way. Are there any questions you would like to ask me?

**Madam CHAIR:** Yes, Janet, I will open it up to the committee for questions.

**Mrs FINOCCHIARO:** My name is Lia Finocchiaro, I am the Member for Spillett. Your submission raised some strong points around the giving of information not being accurate and the fact that if the bill did mandate the provision that information must be shared, I wanted to ask about your concerns around inaccurate information being shared and having the potential to be shared quite widely. Can you speak to that a little bit?

**Ms TAYLOR:** Yes, in the past five years our practice has changed significantly to one where a number of our women are now defendants to police DVO orders. On further inquiry into their circumstances they are actually in fact the primary victim of domestic violence where the primary aggressor is her partner or ex-partner and who is the person the police initially assessed as being the person in need of protection from their records.

These circumstances are getting more common in our experience and is occurring in other services who represent women victims too. We have serious concerns about the impacts of the information sharing provisions that relate to those women defendants to domestic violence orders where it has not been correctly assessed and that information is not wholly accurate around the circumstances creating that domestic violence order and the history behind that.

How do we put mechanisms in that regard? Women are defendants to DVO's not necessarily where criminal charges are laid. We are talking about where there are no criminal charges attached to that, sometimes times there are. How do we go about correcting that information?

Once the information is out there it is very hard to retract, there is no mechanism there. That is it. Agencies will take that at face value, particularly if it is coming from the police or other agencies they trust. That is of concern and I think that such women, on the face of this bill, would not be informed about the sharing of their information as defendants or given opportunity to amend correct information. That puts them highly at risk at the same way it could for victims.

**Mrs FINOCCHIARO:** Do you have issues with the mandating component? Or is the main concern ...

**Ms TAYLOR:** Yes and no. I think we need a central agency rather than every agency being involved.—firstly the onus needs to be put on the agency sharing or wanting to share that information. They need to have the onus of setting out in writing what the information they have and what they seek and then at that stage it can be corrected by the other agencies or limit that information under section 124G.,

**Mrs FINOCCHIARO:** So consent from the victim should be the cornerstone of the sharing?

**Ms TAYLOR:** Yes.

**Mrs FINOCCHIARO:** Could you please explain the central agency and how you see that working?

**Ms TAYLOR:** Consideration could be given to a system in which victims are referred under the provisions of the Act say a domestic violence line in the Department of Territory Families. This may go a long way to ameliorating some of the concerns. Those agencies dealing with that information must adhere to a professional code of conduct in order to access this information. The person accessing that information must have the level of security in the organisation to access that information. I think if you have some more control over that mechanism—it may assist.

**Mrs FINOCCHIARO:** If the information was checked by the victim, obviously you have their consent to share it.

**Ms TAYLOR:** Yes, we have mandatory sentences and we use that. But I can say that in the time that mandatory sentencing been in use, we have always managed to have the consent of our clients. We always get that consent, first and foremost.

Women sometimes are very reluctant, but when explained they understand. We always explain mandatory reporting before we even give them advice. .

**Mrs FINOCCHIARO:** Sorry, mandatory report, not mandatory sentencing?

**Ms TAYLOR:** No, mandatory reporting. Sorry.

**Mrs FINOCCHIARO:** You should see our faces at this end.

**Ms TAYLOR:** Sorry, as you know, I meant mandatory reporting. But having said that, sometimes we have concerns for our clients. We will always liaise with police if concerned to request welfare checks. Particularly if they have not attended scheduled appointments and we have concerns around this.

Having said that, resources need to be given to the police who, in the first instance, supply the information to an agency, which may be Territory Families. Then, for those other agencies that are dealing with that woman, there must be a link to say, 'This woman maybe has gone to CAWLS or the ASWS before'. Usually, they have been once or twice to a shelter and vice versa. We (CAWLS and the ASWS) have a lot of mutual clients in common and also with the police. That way we can access that information.

**Mrs FINOCCHIARO:** One idea was floated that if you wanted to maintain a mandated components, that you change the bill so that an agency obtains a victim's consent and if they request another agency such as police—say, Territory Families have met with the women, they obtain the consent, they seek information from police—that second agency would then be mandatorily required to provide the information to the first agency because they have obtained the consent. How does that mechanism sound to you?

**Ms TAYLOR:** That sounds—I will have to think about it more. If that is something we can think about further and get back to you but it sounds very reasonable and maybe it is a good way of overcoming any difficulty. For some, especially legal services, we are bound by client and solicitor confidentiality around that. If information needs to be shared with those agencies if a women is at risk then gaining consent would be

I want to say—as a DV service we are finding an increase in women accessing this service. In January—we had 58 women present at the service through our domestic violence legal service alone. Of those 58, some wanted an upgrade, some a downgrade to a no harm or non-intox some wanted their orders extended. We also provided clients with safety plans, warning letters and three or four of those who attended were defendants.— and that brings me to information sharing. How does this kick in with family law issues, which are very inter-related for some women—how can we information share where family law proceedings are already under foot? Do you have any protocol or are you thinking about that with the Commonwealth?

**Mrs FINOCCHIARO:** You raise a good point, how this law could potentially ...

**Ms TAYLOR:** Yes, because a couple of our women for whom we have acted recently in the court have gone to a trial on this very issue and the Local Court ended up withdrawing the orders. The orders was dismissed in relation to the women as the court and prosecutions found the DVO's had been inappropriately put on women. This is not infrequent when there are family law proceeding under foot and if that court has decided to grant supervised contact with the children due to the defendant's behaviour, they are now trying to get back at the victim through DVO's in the local court.

The Information Bill and its connection to federal law has to be read in light of section 19 of the Domestic and Family Violence Act (2011). CAWLS is an entity under the proposed bill that provides a domestic violence related service. That is what we do. We have problems in that context. I have raised this many times. This goes to the information sharing both in the NT jurisdiction and how this relates to federal law information. Quite clearly, as a service our hands are tied because if you are applying for a domestic violence order before the local court then subject to s19 (2) (c), the court **must** consider any family law orders in force in relation to the defendant or any pending applications for family law orders in relation to the defendant. It may be that the family court has ordered supervised contact and if so the reasons why. This is relevant but would not be shared under the proposed information sharing bill particularly if police are issuing a DVO and allow for contact with the child and does not tally up with the family court order or proposed orders.

The defendant's criminal record—we cannot as a service have access to this because of privacy issues for the defendant but it is highly relevant to grounding an order Police can access to this information but, we as a domestic violence service cannot. We cannot have access to those criminal records which ground and order. It is highly relevant if a perpetrator has a history of violence or violence against another person. It is mandatory under section 19 (2)(c) and (d) of the domestic and family violence Act for the court to consider. It is an anomaly which puts women's lives at risk if police cannot share this information with those agencies who provide a service.

It is a mandatory requirement under the act under section 19, yet we cannot have any access to that unless we subpoena, which takes weeks.

So you need to look at the information act in a general way, how this fits in to the domestic violence act, and the grounding of domestic violence orders in putting that information through, ensuring we have a turnaround of 24 hours for these women who present at our service and at the women's shelter—that police may share this information.. Occasionally, clients come over when there is already a DVO in place taken out by the police. That information has not been communicated because the shelter or women do not know. We send requests off to the police DV Unit and a week later we find out there is a DVO. Meanwhile the women has gone back to her community or we are unable to locate her. We have brought DVOs when there has been two dvo's in court at one time. So information sharing in this context would be useful.

The other context is where misinformation has jeopardised the safety of clients. We have had clients who have believed they have had DVOs in place—that the police have communicated back to the shelter or ourselves that an order is in place but has in fact expired, putting the clients at risk.

It is not that straightforward. There is a lot of angles to this—how we view that information sharing and how we adopt best practice in order for every organisation without breaching privacy of those clients who we service—mutual clients who are victims—and how that is done.

For us, as a service, that is about the issues. We obviously support the broad thrust of what information sharing is about, subject to fine tweaking of what has already been discussed. What you are saying may be the solution.

**Mrs FINOCCHIARO:** Janet, can I ask about consultation? Do you feel the period was sufficient, or in fact consultation at all? If not, what period do you think the sector would need to contribute to this type of bill?

**Ms TAYLOR:** To satisfy people or to ensure that a robust discussion about this has taken place, perhaps another three months where we can look at the guidelines or the regulations you are bringing out around that, talking about if you do not share information what the consequences are for that—is it under the mandatory reporting ...

**Ms NELSON:** Do we really need to get that basic?

**Ms TAYLOR:** Sorry?

**Ms NELSON:** I will come back to that. This is Sandra Nelson, Member for Katherine. Sorry about that. I will come back to my question when you are done.

**Ms TAYLOR:** I think a little more time. Whether it will go through (the Bill) eventually, people are more accepting of that if they had a chance to voice and air their concerns. They will accept at the end of the day, if they believe they have had an opportunity to be heard. This is part of the process of doing this now, which is (inaudible) have a one-on-one.

**Mrs FINOCCHIARO:** Yes, thank you.

**Madam CHAIR:** Janet, I will hand you the member for Katherine for a couple of questions.

**Ms TAYLOR:** Sure.

**Ms NELSON:** Hi, Janet. This is Sandra Nelson. I am the Member for Katherine.

**Ms TAYLOR:** Hi, Member for Nelson.

**Ms NELSON:** We already have some safeguards in the bill in section 124G that says the information must not be shared if the information could endanger a person's life.

**Ms TAYLOR:** I see that, contrary to any legal or client legal privilege?

**Ms NELSON:** Yes.

**Ms TAYLOR:** Mandatory reporting does, you have to report it. It overrides that. It is the same as information sharing. I think it is misleading in the sense that mandatory reporting is great but if you have a serious risk and someone's life is in jeopardy it overrides any legal professional privilege anyway.

**Ms NELSON:** In section 124L it says it is an offence to disclose anything outside the information sharing regime. I pick up on the point that was made previously about the processes involved and the reporting and sharing of the information that we should be looking for as well.

**Ms TAYLOR:** Thank you, yes. I think containing it in the first place rather than—I think we need to look at protocols around that.

**Ms NELSON:** I have some fundamental issues with the mandating thing and consent. I do not have any other questions, I will come back.

**Madam CHAIR:** I was just wondering, do you think the existing information sharing provisions are adequate to help keep our victims safe?

**Ms TAYLOR:** The ones prior to this bill?

**Madam CHAIR:** Yes.

**Ms TAYLOR:** We information share all the time. The difficulty with that is the timeliness. I think the difficulty is the time constraint and if any information sharing bill came in they need to look at that. There is no point putting one in if we go back to waiting for a period of time for information on women victims by the police and/or communication from other agencies.

For the moment we work and collaborate with the courts, the police and shelter. We always have an authority from the client. We are liaising with the police on an almost daily basis about women and women's safety with the written consent of the client

That information is shared on one level but requesting information like—this is our concern, say she has an extensive history of domestic violence with this perpetrator. He may be in prison or out in another community. She wants to extend her order or bring a brand new order. That will be relevant to grounding that order in the court. We then have to do a request to the police Domestic Violence Legal Service here and it can take up to one week to come back. We can only request say incidents within the last 12 months or 24 months, after that we need to do freedom of information.

You are missing a whole history of 20 years of someone having been with this perpetrator where there are numerous domestic violence orders, statements and faults. We deal with this on a daily basis at CAWLS. I think people can appreciate that almost all assaults that the courts encounter are done in a drunken scenario where homicide can result. It is just lucky they are not. The level of violence and injuries women suffer in some contexts are out of proportion to the trigger.

In one context we are dealing with very different scenarios from Victoria and New South Wales and other jurisdictions. We are dealing with a level of violence where the proportionality of the response to what occurred—say someone did not give them a cigarette, you could end up with horrific injuries which some of the women regularly do. I do not think people appreciate that and I can understand that is where the information sharing can be useful for women at risk. I guess at the end of the day, we need to know more about that information sharing to some degree. It is ensuring that those mechanisms are in place.

I think the information sharing we have now is more about timeliness and resourcing the police so they respond within 48 hours because that is critical for these women. A lot of the women sent by the shelter or were in the shelter or come in off their own volition can disappear in this time frame and put women at risk.

Ms Berta in her appearance at the Legislative Assembly, made a good point about how, when the perpetrator is about to be released they can go to the shelter. Unfortunately lot of our clients do not liaise with agencies such as the shelter and ourselves or NPY or other agencies only when the perpetrator is out. We do not have the mechanism to find them. Some of our clients are very mobile between communities—in fact a lot of our clients. There has to be a better way than relying on the women's shelter or the women's legal service to be the only agency that can supply this information. That onus has to lie with the police and corrections and how we deal with that information. That information needs to be at a central point—maybe Territory Families—it is then communicated to the shelter if they request and to the women's legal services if they request. Whilst our agency and ASWS have mutual clients they are not the only clients that CAWLS sees. They are also referred in many instance via support link, police, NPY or self-referred. The same goes for the ASWS.

But the onus comes back to corrections and police to provide essential information, and that is then sent to the women's shelter if requested and to CAWLS about that perpetrator about when the release date is. The same to NPY. That is on the public record. I do not think you are breaching any privacy in that regard because it is on the public record when the perpetrator is sentenced.

A lot of these men are released on parole or early release—I do not know if that is the confusion around that, with a non-parole period. But honestly, certainly in the beginning for this information sharing bill to work—and part of it confirms about perpetrator release which is what family safety framework is ...

**Madam CHAIR:** Sorry, Janet, I want to let you know we have gone over time, so I will have to ...

**Ms TAYLOR:** Yes, I do not mind. I could natter on all day. Thank you for listening.

**Madam CHAIR:** Fantastic. Thank you very much for dialling in today and being a part of this public hearing and for providing a submission to this bill. It has been a very interesting conversation. Thank you on behalf of the committee for your time today.

**Ms TAYLOR:** Great, thank you. Bye.

**Mrs FINOCCHIARO:** Thank you, Janet.

**Madam CHAIR:** Ladies and gentlemen, we will be taking a short break for about 10 minutes and will resume with the public hearing at 10.30 am.

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The committee suspended.

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#### DOMESTIC AND FAMILY VIOLENCE NETWORK

**Madam CHAIR:** Welcome back, everyone. We will recommence with our public hearing on the Domestic and Family Violence Amendment (Information Sharing) Bill 2017. I welcome to the table to give evidence to the committee Annabel Pengilly, Managing Solicitor, Domestic Violence Legal Service and Alex Richmond, Facilitator for the Domestic and

Family Violence Network. Thank you for appearing before the committee this morning. We appreciate you taking the time out to speak with us on this important matter.

This is a formal proceeding of the committee and the protection of parliamentary privilege applies. The obligation not to mislead the committee also applies. This is a public hearing and is webcast through the Assembly's website. A transcript will be made for use by the committee and may be put on the committee's website.

If at any time during the hearing you are concerned that the evidence you are about to give should not be made public, you can ask that the committee go into a closed session to hear your evidence in private.

I will ask each witness to state their name for the record and the capacity in which they appear. I will then invite you to make a brief opening statement before proceeding to the committee's questions. Could you please each state your name and capacity in which you appear this morning.

**Ms PENGILLEY:** Annabel Pengilley, Managing Solicitor, Domestic Violence Legal Service. I am sitting here now in this session as a member of the Darwin Domestic and Family Violence Network.

**Ms RICHMOND:** Alex Richmond, Facilitator Domestic and Family Violence Network meetings and I am also a domestic violence community educator based at Dawn House Women's Shelter.

**Madam CHAIR:** Would either of you like to talk a bit about your submission and some of the things that you found in regards to the bill?

**Ms RICHMOND:** I am happy to do that, but before we start I would like to give an apology for Susan Crane who was joining us as another member of the Domestic and Family Violence Network—she is unwell today, please accept that apology on her behalf.

The main thrust of what the Domestic and Family Violence Network would want you to understand is that people feel there has not been adequate consultation on this really significant legislation. In terms of the time frames and when it happened, submissions were invited in December after the last meeting of 2017 of our network, which is a very strong and very active network of non-government, government organisations and anyone really that works with victims and perpetrators of domestic and family violence in Darwin, and submissions were required prior to our first meeting of 2018.

It was a difficult time for us, and what ended up happening is we sought an extension so that we could discuss it at our first meeting of 2018, which was the day before our submission was due in. It was a very quickly put together submission, but I think it reflects broadly that concerns of the group, and there was really robust discussion in that meeting about what people wanted to see in this submission and what they wanted the committee to know.

**Ms PENGILLEY:** Can I just make the point that at that meeting was very well attended meeting, a really diverse range—a huge range of organisations, (inaudible), Relationships Australia, Somerville, CatholicCare—some really wide range of organisations that work frontline with victims, but at that meeting, I just gave a really brief overview of the bill—and it seemed to me that many of the people at that meeting were unaware of the bill and unaware of what the bill would mean—unaware of the bill's provisions. It is a flag to committee members that public awareness about this bill has been limited and part of that, like Alex said, is the timing.

**Ms RICHMOND:** Yes, I guess members of the network would like to see an opportunity to consider the bill, and there was a lot of concern particularly that there was not discussion paper that was released with it, because there is a lot of concern about what is the evidence base for this—is this a bit of an experiment that is happening here given that it seems to extend some of the powers that the Victorian and Queensland legislation give in terms of mandating the information sharing. There was a concern about what the evidence base was, and being able to look at some kind of discussion paper around that, and then just people generally wanting more time to think about and consider a response.

Given that the limited time we had the main issues that came up for the network was the fact that people really supported the government's intention to create an information sharing culture. We believe, particularly those organisations that work with victims really strongly believe that a consent based information sharing culture is going to be really positive for victims of domestic and family violence.

There is a few reasons why it needs to be a consent based information sharing culture. We heard from people at that network meeting who actually worked within government that their feeling was that within government it is like a leaky sieve. A victim might experience, say a sexual assault, police are freely sharing confidential private information with sexual assault services, with health services, with Territory Families—everyone is in the best interest of the victim sharing a lot of information—but this particular practitioner was saying that that is a concern for her, because it is really breaching the human rights of those victims—and there was discussion about the fact that this is particularly true when victims are Aboriginal. One of the members of our network who herself is an Aboriginal woman who works for an Aboriginal organisation, is quite senior in that, said the experience of Aboriginal people in the Northern Territory is they do not have privacy, that people just come in, know their business, get involved and so there is no sense of that privacy and that really erodes trust in the organisations, the systems, in police, in Territory Families, in the support

organisations, because there is the sense that, 'Everyone is talking about me behind my back and everyone is coming into my house without me knowing what is going on'. That was reflected in the meeting.

The other issue is that outside of that government sharing of information when people working for community organisations have client consent and are trying to get information from government agencies, that can feel like an impenetrable wall. There is the problem where there is a leaky sieve in one area and a big fortress that people cannot get information to and fro, which obviously is to do with legal services and others. It can have a significant effect on their ability to represent and support victims.

There is a broad support for some kind of framework, but a strong feeling that that should be consent based. The current mandatory reporting framework is good line in the sand for that information sharing to be happening without client consent.

Annabel mentioned to me that she had mentioned earlier this morning here that some kind of regime that was consent based, but where information was required for a proper purpose in protecting someone's life, safety or wellbeing, then the responding entity needs to be mandated to give the information. The client gives their consent, 'Yes, legal service, I want you to approach police and get this information', then police are mandated to share that information—some kind of framework like that would meet the needs of victims. Obviously, there is some time frame involved in that because it can be that delay that has real safety implications for victims.

We understand that this is all happening in the context where a lot of the delay is caused by lack of resourcing. It is not that the police are trying to obstruct or not give information, it is that they are really under-resourced. The Domestic Violence Unit in the Northern Territory is a working-hours, five-days-a-week operation so their capacity to respond is obviously limited, and there is a limited number of staff working at that unit.

As well, that issue of resourcing brings up some other issues regarding this information sharing bill. If you look at the Queensland or Victorian examples, those are jurisdictions that are investing so heavily in domestic violence services, resourcing organisations and training police about responses. They are investing hugely in resourcing the community sector to better understand the phenomenon and their information sharing obligations.

In the Territory we do not have that kind of skill base in our workforce. We do not have that kind of understanding or mandated training for police officers. We are looking at people coming off even a lower level of understanding about domestic violence and certainly about mandatory reporting. In my work as a community educator, I regularly train people you would all assume have a good understanding of mandatory reporting who do not understand it. I teach them about mandatory reporting. They are a little confused and shocked and ask a lot of questions. It is clear that, prior to that training, they did not understand it. That is mandatory reporting and that legislation has been around for a while. There is often an assumption outside the sector that people have a better understanding than they do. We have a high staff turnover. It is poorly-paid work and difficult work. It is often people with a pretty low skill base doing that work.

That is a consideration too when you are thinking about this because those are the people who might get an understanding from the legislation, 'I am mandated to share the information so if someone asks me for something I will give it because I am mandated to share information now'. That, of course, has safety implications for clients.

**Ms NELSON:** Part of your concern then with the mandating thing is that it is risk management. Is that right? Risk management is an issue with sharing information within organisations and agencies?

**Ms RICHMOND:** Yes, absolutely. The information that is potentially be shared could have such serious safety implications for victims and we are talking about a workforce which is not coming off a high skills basis anyway, there is not such a good understanding of the basics of mandatory reporting. This is obviously a much more complex and nuanced analysis they would have to be doing to ask to share this information or not. I do not know if that would be happening, they just say they have to share because that is what we do now.

**Madam CHAIR:** If the bill were to pass then there would need to be reasonable provisions for training and upskilling of people in that area.

**Ms RICHMOND:** Absolutely. In terms of community organisations, a lot of them are running without great policies and procedures as it is. They would really need some investment and support to get across, 'What is this regime; how does it work in our organisation; what are our policies and procedures; how should it work?'

**Ms PENGILLEY:** I guess it is the reason I am asking, I think the bill mandates entities to have those policies and procedures but they will need a lot of help to develop, implement and train their workers around them.

**Mrs FINOCCHIARO:** And to have consistency across the sector. Everyone is making their own interpretation and doing their own thing. It is a bit problematic.

**Ms RICHMOND:** Exactly.

**Madam CHAIR:** That is a bit worrying in itself, is it not?

**Ms NELSON:** It is, but I think that can be helped along with this legislation. It uniforms it....

**Ms RICHMOND:** ...It is resourcing though.

**Ms NELSON:** I certainly pick up on the concerns on mandating but I am a little confused in that the sector supports mandatory reporting frameworks and mechanisms and yet there seems to be...

**Ms RICHMOND:** ...I do not know that is a true statement. I do not think there has been any kind of formal review of the effectiveness of mandatory reporting and how that impacts on people's work. I know the counsellor who is based at Dawn House, Darwin's only specialist domestic violence service, was just telling me, 'I recently got an email from a woman who said under mandatory reporting legislation, if she told me these things, would she have to make a mandatory report?' She replied to this person's email and said is she told her she would need to make a mandatory report and she never heard from that person again.

We know mandatory reporting does prevent some people seek help. That is a fact. There is a concern that this broader legislation could really prohibit people seeking help, particularly given—again, this is an issue in the smaller centres but even in Darwin and particularly for people accessing Aboriginal organisations—have family or people they know working there and feel like if they are having a private conversation with someone and then someone else can demand to know what I said, I will not talk. They will not speak about what is going on because it is not safe. There is a concern that in its current form it might prevent people from seeking help.

**Mrs FINOCCHIARO:** Do you think that with more time for consultation these issues would be able to be investigated more and fleshed out by the sector?

**Ms RICHMOND:** Absolutely. I think there is broad support for it and an information sharing culture. We understand that this can better support victims. It is not unproblematic and it actually highlights a lot of other gaps in our service response to victims. This is not the answer to the problems of victims of domestic violence in the Northern Territory.

**Mrs FINOCCHIARO:** Yes, if you had your wish list this amendment would not be an (inaudible) ...

**Ms RICHMOND:** If you are interested in our wish list we can make a time.

**Madam CHAIR:** Let us do that.

**Mrs FINOCCHIARO:** I think that is important to us. If it is tinkering around the edges and potentially causing more problems than it is worth that is something we need to understand and know about. I think it has become really clear that resourcing and action at the end of a presentation by a victim is important. Information sharing and the culture around that is very important too, but in and of itself will not create less victims or protect existing victims. More needs to be done in the space than this alone. Would that be fair?

**Ms RICHMOND:** I think that is a really fair assessment. If you look at the Victorian model, their legislation is part of a massive investment in a broad system response which obviously is beyond the realms of the NT to even be thinking about the kind of numbers they are investing.

**Mrs FINOCCHIARO:** It is a package.

**Ms RICHMOND:** That is right. And training for all the frontline staff is core to that response.

**Mrs FINOCCHIARO:** Even with that package, their legislation does not go as far as this proposal.

**Ms RICHMOND:** No.

**Ms NELSON:** Could it probably be said that this legislation might be four or five steps ahead of what needs to be...

**Ms PENGILLEY:** I think that is exactly the right...

**Ms RICHMOND:** It is premature.

**Ms NELSON:** Yes, premature.

**Ms PENGILLEY:** ...but also too broad.

**Ms NELSON:** So we need to narrow it down, be more specific.

**Ms PENGILLEY:** and a bit slower and it will be beautiful, useful and good if it is more tailored and targeted.

**Ms RICHMOND:** There was certainly a feeling from the particular person who was talking about this leaky sieve within government—it was certainly her view that some kind of framework which controls how this stuff is happening will be

really helpful. Whereas the NGOs think more like they information share amongst themselves pretty well with client consent. The problem is trying to get to government.

There is a need for some kind of framework that regulates sharing of the information in the Northern Territory. It will not stand alone and solve the problem, it needs to be part of a package.

**Ms NELSON:** Just for the people who do not work in the sector, can you explain the Family Safety Framework? They hear that being bounced around and think that is the framework.

**Ms RICHMOND:** Sure. The Family Safety Framework was set up as a way of information sharing, but around a very particular and small group of people whose lives were at risk.

**Ms NELSON:** That was beyond the early intervention stage where now...

**Ms RICHMOND:** This is the pointiest end that you have. There is an assessment tool that you fill out and if you score a certain amount you can refer your client to the Family Safety Framework. That will be assessed by the Chair of that framework who is someone from Police. That client will then be brought in whether they consent or not because their life is at risk. Everyone sits around the table and puts down whatever information they know about that particular family and tries to think what supports and helps we have and what information we know from Housing, Health, corrections and whoever else is sitting there.

They work together to wrap support around these particular families. That is the pointiest end of what we are dealing with in the NT and it is very resource intensive. It is a model that is really good for those at the pointiest end; it works. I think there are lots of people who would love to see it expanded but that is megabucks. That is a huge process to expand it and in current resourcing it is not there. For the organisations that work on the Family Safety Framework it is a huge drain that pulls them away from their core business to participate in that framework as it exists but they do it because they think it is important.

**Mrs FINOCCHIARO:** This specific change as it is presented in this bill, it is not something your organisations have called for and it is not something the sector has said they want?

**Ms RICHMOND:** I think there are some organisations that have said they do.

**Ms PENGILLEY:** I was reading this document last night and this is the report on the consultation on the review of the *Domestic and Family Violence Act* which was produced in 2016. There is a section in this document at page 81 part 6.3 on information sharing. That summarised some concerns from the Alice Springs Women's Shelter in particular around information sharing and some issues they had with information sharing. The report went on to make the observation at page 84:

*The Department of the Attorney-General and Justice is considering options as part of its administration of the Information Act for improving or at least clarifying capacities regarding the sharing of information.*

I think the genesis for the production of that is the genesis for the production of this bill. You can see the bill that has been produced goes way beyond clarifying capacities around information sharing. I think that is a bit of the history of where that has come from.

**Ms NELSON:** It was introduced in 2015. I remember the conversations happening around 2015 because I was still part of KWILS and in the sector. It was leading up to this, those early concessions. In fact, it could go back to 2014 almost from memory.

**Madam CHAIR:** Does the committee have any final questions?

**Ms RICHMOND:** If I could just make one final point, and I have alluded to it before, if you are thinking about the starting point for how we support victims of DV, and it is because I am a trainer I go out and train doctors, nurses, lawyers, judges, teachers and everyone about how do we do a better service response system. People are just desperate for that information, they want to support victims better, they want to understand how do I do risk assessment, how do I do safety planning, how do I connect this person up with other services—people are really keen to do better on the frontlines and police too, I have done training with police.

(Inaudible) that does this little bit of training here and there, and again if you look to other models of what is happening in other jurisdictions—that kind of resourcing and base line training of people is the foundation of then the service response. You have the people on the ground really know what they are talking about and they really understand how to better support victims and understand actually the phenomenon of domestic and family violence so they are not doing things that are unhelpful for victims and making those victims more unsafe. In terms of a starting pace—and that is not super resource intensive either. You can have a domestic violence training resource centre set up pretty low cost—it is training, not for profits, your NGOs, your government people, everyone is getting the same message, everyone is giving victims the same message—that is do-able.

**Ms PENGILLEY:** That needs to include—does it not Alex—working with perpetrators and in terms of victim safety and what are we needing—we need to put more resources in to behaviour change because you give all the help in the world to a victim but your perpetrator is unchanged and unassisted—it is just a stop gap. A lot of victims want to maintain their family and so the emphasis needs to be very strongly on working with offenders.

**Ms NELSON:** It is interesting, the NT community legal centres or services association—is it still in place?

**Ms PENGILLEY:** I am not sure. We have so many groups—we have NTLAF, Northern Territory Legal Assistance Forum.

**Ms NELSON:** This is a community legal centre's association or—there is an association it is NT Community Legal Services Association, it is part of the national thing. NPY Women's council submission supports the bill, the Top End Women's Legal Service also supports the bill ...

**Ms PENGILLEY:** This bill?

**Ms NELSON:** Yes, supporting the bill—definitely more consultation.

**Ms RICHMOND:** More consultation and discussion paper which will be great, show us the evidence based, show us that it is not an experiment, because if it is an experiment our jurisdiction is not resourced enough to be the ground for that experiment. We do not have the skills base to be pushing the upper limits of what other places are doing because they do have the skills base and they have the well-resourced and well-trained professional workforce.

**Ms NELSON:** I have one really quick question—and please do not take this as a criticism, it just goes back to the consultation comments that have been made—you met as a group, why did the peak body not ...

**Ms RICHMOND:** There is no peak body.

**Ms NELSON:** Who is the convenor of the group?

**Ms RICHMOND:** I am.

**Ms NELSON:** Did that actually go out to all of your members?

**Ms RICHMOND:** Yes. As soon as I had advice that submissions were sought in that December period, knowing that we would not have a meeting before submissions were due, I sent out all of the advice to members and said you are all invited—here are all the links, here is how you can make your submissions—then sought an extension so that the group at our most recent meeting could discuss it.

The membership is broader than the people who were at that meeting.—there was probably about 40 people at that meeting and the membership of the network is probably about 120.

**Ms NELSON:** Do you have the remote and the regional ...

**Ms RICHMOND:** We are just Darwin.

**Ms PENGILLEY:** That is right. That is important for the committee to know.

**Madam CHAIR:** Thank you for clarifying that. Okay. Thank you very much for appearing before us today. It has been very insightful. You guys are doing a fantastic thing with your network and keeping everyone in the loop. We really appreciate your submission and for clarifying those points this morning. Thank you for your time.

**Ms RICHMOND:** Thank you for your time.

**Ms PENGILLEY:** Thank you.

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The committee suspended.

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#### DEPARTMENT OF THE ATTORNEY-GENERAL AND JUSTICE

**Madam CHAIR:** Welcome back, everyone. We will recommence our public hearing for the Domestic and Family Violence Amendment (Information Sharing) Bill 2017. I welcome to the table to give evidence to the committee from the Department of Attorney-General and Justice Mr Robert Bradshaw, Director Policy Coordination and Ms Laura Berta, Policy Officer. Thank you for appearing before the public hearing this morning. We appreciate you taking the time.

This is a formal proceeding of the committee and the protection of parliamentary privilege and the obligation to not mislead the committee apply. This is a public hearing being webcast through the Assembly's website. A transcript will be made for the use of the committee and may be put on the committee's website.

If at any time during the hearing you are concerned that what you will say should not be made public, you may ask that the committee go into a closed session and take your evidence in private.

I will ask each witness to state their name for the record and the capacity in which they appear. I will then ask you to make a brief opening statement before proceeding to the committee's questions. Could each of you please state your name and the capacity in which you are appearing.

**Mr BRADSHAW:** I am Robert Bradshaw, Director of Policy Coordination within the Department of the Attorney-General and Justice.

**Ms BERTA:** Laura Berta, Policy Lawyer with the Department of the Attorney-General and Justice.

**Madam CHAIR:** Thank you. I need to state for the record that at 11 am we had a time slot allocated to the Department of Health to appear before the public hearing this morning. The Department of Health will not be appearing, so we have moved the Department of Attorney-General and Justice forward by half-an-hour.

Laura and Robert, would you like to make an opening statement in regard to the submissions that have been received on the bill and the evidence you have heard so far?

**Mr BRADSHAW:** Madam Chair, I only say that we have provided written answers to some questions the committee posed. I presume the committee has those answers.

**Madam CHAIR:** We do. Thank you for that.

**Mr BRADSHAW:** That is all I will say. If it is okay with the committee, Laura will give a brief response to some of the issues we have heard raised so far today.

**Madam CHAIR:** Thank you.

**Ms BERTA:** Thank you very much for the opportunity to come back to address you. We have been listening on the web stream. So I am aware of the broad issues that have been raised. I will start by acknowledging the consultation issues in relation to this bill.

In developing proposals for the legislation, the department had, in fact, anticipated releasing a discussion paper and an exposure draft of the bill for comment prior to introduction. However, due to some timing issues and the government's strong commitment to domestic violence reforms, the decision was made that the legislation should be formally introduced as soon as possible, having regard to the fact that this scrutiny committee process would provide a meaningful opportunity for public consultation prior to the passage of the bill which is around four months from its introduction. That said, I regret the limited opportunity that the department has had to properly inform the sector of how the bill is intended to work and the regulations and guidelines would fit into this which I think may have alleviated a lot of the fears.

The department's proposal has never been to commence the bill from its passage. If it were passed in March for example, we would be proposing a period of around six months to implement training and communications around the bill and also to consult in a lot of detail around the guidelines and regulations which is where a lot of the operational issues and concerns that have been raised by agencies should be clarified and sorted out.

Just to address some of the major concerns, this morning I heard concerns from NT Legal Aid that this bill provides an 'open slather' for information sharing. As we explained in our first briefing, the bill has very clear purposes for which information can be shared. That is for assessing serious risk of domestic violence harm, responding to serious risk and providing a domestic violence related service. The information that can be shared will depend on that purpose it related to and can only be for that purpose.

Information sharing entities will only be prescribed if they have appropriate policies and procedures in place to manage this very sensitive information. Again, it is not 'open slather' across the sector.

**Ms NELSON:** It is not a free for all.

**Ms BERTA:** Not at all. Victoria, for example, has prescribed information sharing entities in tranches so they have prescribed their first lot of entities and they are the ones they are most confident have policies in place and we would be looking at something similar.

In terms of the criticisms that this bill goes further than the Queensland and Victorian legislation, I think that kind of relates to our issues with communicating how this bill works. I am not entirely sure what is meant by that. Victoria does

mandate sharing information for assessment and response purposes. They have some different requirements around consent but their bill effectively allows for consent to be overridden where there is a serious threat.

The Queensland legislation, which is probably what our bill is most closely modelled on similarly has the general principle that consent should be obtained wherever practicable, but that safety is the paramount consideration. That is how our bill is structured and the department's decision is that this is appropriate.

In terms of the Family Safety Framework, I think it should be of interest to the committee that the family safety framework was recently evaluated and that one of the key findings, if I could read from that evaluation:

*Stakeholders identified barriers to information sharing such as differing perceptions of risk between agencies. For example, some agencies focus more on the Risk Assessment Framework score rather than professional judgement or other supporting information and the NT Privacy Principles requirement that a threat be imminent and serious. Proposed amendments to the Domestic and Family Violence Act regarding information sharing may help to resolve these issues.*

We very much think that the evaluation of the Family Safety Framework highlights the need for better information sharing and supports the basis of this bill.

**Mrs FINOCCHIARO:** What we have heard today is that generally people are very welcoming of the intention of the bill, that being to create that permissive information sharing environment—certainly, a sticking point seems to be around consent and this bill does away with that by mandating information sharing. I wonder, given that consultation did not occur as was intended and the decision to move to introduce the bill has happened is very interesting, because the bill is not going to be able to hit the ground running anyway—so six months down the track we are still developing all of the frameworks around the bill when really we could have spent three months properly consulting and informing the drafting of the bill and then introducing it and it would all still be done within the six month time frame. I find the logic curious, and I am not saying that is the fault or otherwise of the department, but it certainly has resulted in this problematic situation where we now have a bill and there is serious concerns about it and it has not been driven by the sector.

I want to go back to your comments about the Victorian and Queensland legislation—and the sentiment that this bill before us goes further than Victoria and Queensland—I know in Legal Aid submission they extracted parts of the definition—Victoria requires a serious threat to an individual's life, health, safety or welfare, whereas under this bill the NT would require a person fears or is experiencing domestic violence and the information may help the entity receiving the information to—amongst other things—provider arrange a domestic violence related service to or for a person. It is significantly broader and because it is not packaged up with the regulations and the guidelines it is very difficult for anyone to really ascertain how broad or how far the bill is.

I am just surmising the problems in how this has come about and the position we now face, particularly because there was no discussion paper and it has been mentioned in years gone by but as a side line to the broader issues you get the feeling that the sector are saying—okay, this has come up, that is good and it can make meaningful change had we have been involved it could be better.

**Ms BERTA:** I am happy to answer your query about consent in comparison to the Victorian legislation. The Victorian legislation has different consent requirements depending the person who the information concerns. Consent is not required under the Victorian legislation to share information about perpetrators of family violence, which is for the obvious reasons, that this might put the victim at risk. Consent is required for adult victim survivors unless sharing is necessary to lessen or prevent a serious threat. In that regard, consent is overridden in the Victorian bill.

In the NT, as you will all know, there are particular obstacles in getting consent from victims. Police provide the primary response in domestic violence situations and many victims are not interested in talking to police for much longer than it takes to halt their particular incident. Their decisions about consent are influenced by language and cultural reasons as well as general mistrust and misunderstanding of the purpose of sharing information, which results in agencies in particular frontline agencies like police, being very constricted in the assistance that they are able to provide.

It is the view of some, not all, victim services that removing this absolute requirement for consent actually better serves to distinguish them as a service from the police and other authorities, and that takes the pressure off the victim to have to give their consent in particular, these are services that are trained to deal with victims and should know how to approach victims to offer their help.

What we have heard is that there are services very supportive of this because they can see if they get that opportunity—in particular if they get the opportunity to come in early—they will be able to do a much better job than if they come in when the person is at the bottom of the cliff.

**Ms NELSON:** Exactly.

**Madam CHAIR:** Laura, through the submissions and the public hearing so far, we have heard a number of examples of where victims of domestic violence feel that their information is already being shared freely without their consent and

that Aboriginal people often feel disempowered because they feel everyone knows their business and they are not really sure why.

My question goes to people have been saying already we have provision in place for mandatory reporting and information sharing might not achieve the result that we are looking for to keep our victims safe. Perhaps it is internal procedures and training required. Was consideration given to that in the drafting of the bill?

**Ms BERTA:** Yes, absolutely. In any regime you come up with—the existing one or a new one—it all comes down to the people working within that system and how they use it, what judgment they use to make decisions and how much they understand and can work with their clients. That is key. That is the case now and will be the case if we have this system or a different one.

In particular, if you are looking at how the family safety framework works, the great barriers to meet what has been interpreted as a very high threshold of risk, you will not be able to be referred to the family safety framework. Similarly, you will not be able to receive that response for being under a serious threat of harm. The problem is, how do you know if someone is ...

**Ms NELSON:** Exactly, yes.

**Ms BERTA:** ... at that level of risk unless you can share information to put the different pieces of the puzzle together. Women will go to different services. They will get help for different things and say different things. If you look at those things in isolation that might not tell you much. That might tell you that it is your run-of-the-mill person in an abusive relationship. But, putting it together, it might be a completely different picture of a person who is desperate.

You might have read the Coronial inquiry into the deaths of the late Ms Murphy and Ms McCormack. They were two women who never made it to the family safety framework. If you read their stories, they suffered decades of horrific violence at the hands of their partners. Why were they not believed to be at serious risk?

**Mrs FINOCCHIARO:** What I have gleaned from this morning is a lot of that is actually a resourcing issue, more so than an information sharing hold-up in the current system. It seems that organisations are sharing with consent well. I suppose there are varying degrees once you get into government. But the NGO sector, the resourcing of the Domestic Violence Unit in police and some other areas of government would serve very well in supporting victims.

The department must have looked closely at consent versus mandate and formed a strong view that mandate was the best way to support victims and information sharing. Or that is a policy decision?

**Ms BERTA:** The way we see it is not that the question is consent versus mandate. Consent is a principle under the bill. You will see in section 124C(2) and (3):

*(2) An information sharing entity should make reasonable efforts to obtain the consent of a person who fears or experiences domestic violence before sharing information about the person. (3) However, their safety, protection and wellbeing are paramount.*

Consent is a principle under the bill. The mandate of disclosure only comes into play if information has been requested for one of the permissible purposes and you have information that is relevant to one of those purposes. That is where you are 'mandated' to share. That said, there are no penalties if you do not. We are trying to encourage people to share and give agencies, particularly NGOs when they are dealing with government, something stronger that says you have to give this to me, but there are no penalties if you refuse to share.

**Mrs FINOCCHIARO:** On the penalties, there was a question raised around I think 124L and the two year jail strict liability offence. Are you able to walk us through that?

**Ms BERTA:** Sure. I heard Annabel query that section this morning. I believe there was some misunderstanding around that as well. The offence is, if you require information under this regime and then intentionally engage in conduct that results in its disclosure. Any kind of accidental or good faith sharing of that information is not covered by this penalty, it is only if you intentionally disclose.

**Madam CHAIR:** Thank you for that.

**Ms NELSON:** Thank you, Madam Chair. It was raised before with the Domestic Violence Network and also with Annabel that there was the consultation period. Can you walk us through the consultation the department undertook?

**Ms BERTA:** The *Domestic and Family Violence Act* has been under review for a couple of years. There has been a general consultation on the whole act where stakeholders have noted this need around information sharing. More recently we have done fairly extensive consultations in Central Australia around the establishment of a specialist approach to domestic violence in the local court.

Again, that was one of the key things that all stakeholders were raising. That is documented in our report which I am happy to table with the committee if that is useful.

**Ms NELSON:** I definitely recall going back to 2015 and having clear discussions about information sharing in the sector. This did not come about because you guys were sitting around and saying we need to come up with a new law. It has actually been driven by discussions in the sector.

**Mr BRADSHAW:** I think it is true to say that the most intense discussions were in Alice Springs, particularly with the women’s shelter who very strongly made this point about police not providing them with this information.

**Ms NELSON:** Yes.

**Madam CHAIR:** Just on that, the NGOs have stated they already share information with consent in regard to victims of domestic violence in order to help protect them and to keep them safe, but there are constant blockages between getting information from Territory Families and police in particular. Is it clear to say this bill will go a great way in making sure that information is shared so that people can be further protected?

**Ms BERTA:** That is the intention, yes.

**Madam CHAIR:** In a lot of our submissions and in the public hearing this morning we heard NGOs state they have limited resources and training. We heard about different approaches in different organisations or services that are already set up. What would the department propose as the way forward to support them—should the bills pass—to train and educate their staff in regard to information sharing provisions to help them establish information sharing protocols and to make sure that, where possible, consent continues to be sought from the victims.

**Ms BERTA:** We will be working closely with Territory Families—which will largely be responsible for implementing this bill, because Territory Families is responsible for family violence services—in developing a package which includes understanding the legislative provisions and consulting on the guidelines and regulations which are yet to be drafted, which is where a lot of the cooperation and collaboration across the sector will happen.

**Madam CHAIR:** Thank you. Are there any further questions from the committee? No. There are no further questions for me. Thank you, Robert and Laura, for appearing today. It was really informative to get the clarification on some of the points that have been raised by others who provided submissions. Also, thank you for providing written responses to the committee’s written questions. That will definitely help.

The committee will adjourn until 1 pm, when we will proceed with the public hearing on the Criminal Code Amendment (Intimate Images) Bill 2017. Thank you for your time.

**Ms BERTA:** Thank you for having us.

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The committee suspended.

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