



17 June 2019

NSW Law Reform Commission
GPO Box 31
Sydney NSW 2001
Australia
By email: nsw-lrc@aph.gov.au

Dear Committee Secretary,

RE: OPEN JUSTICE REVIEW COURT AND TRIBUNAL INFORMATION: ACCESS, DISCLOSURE AND PUBLICATION

No to Violence welcome the opportunity to provide comment on the NSW Law Reform Commission's review into the access, disclosure and publication of Court and Tribunal information. In providing this letter to the Committee, No to Violence also endorse submissions made by the Domestic Violence NSW, and Rape and Domestic Violence Services Australia.

No to Violence (NTV) is the largest peak body in Australia representing organisations and individuals working with men to end family violence. NTV provide support and advocacy for the work of specialist men's family violence interventions carried out by organisations and individuals. The work undertaken by specialist men's family violence services is diverse and includes but is not limited to; Men's Behaviour Change Programs (MBCP); case management; individual counselling; and research and evaluation. NTV also provide a range of training for the specialist men's family violence workforce including a Graduate Certificate in Client Assessment and Case Management (Male Family Violence). NTV play a central role in the development of evidence to support the work of specialist men's family violence work as well as providing guidance for practice and policy development in Victoria, Tasmania and New South Wales.

In engaging with men who use family violence, **No to Violence prioritises the safety and dignity of victim survivors.**

It is understood that where the *Court Suppression and Non-Publication Orders Act 2010* (Suppression Act) refers to making orders to 'protect the safety of any person' and to 'avoid causing undue distress or embarrassment' this has predominantly been exercised for the benefit of complainants. With further reference to S 578A of the *Crimes Act 1901*, in order to encourage increased reporting of sexual offences, protection is offered to victims of certain sexual offences.

Although the Court can make an order on its own initiative, outside of this the onus is still on victim-survivors to make an application. It follows that where S 578A exists inherently to encourage reporting of sexual offences, that the same reasoning and prohibition be applied in situations of domestic and family violence related matters. It is imperative to



protect the interests of those seeking to access the justice system by protecting the identities of those same victim-survivors.

Even where names and identifying details are not published, reporting details of the crime may still lead to identification of the complainant, and cause further distress to the complainant and their family. This may be revealed through specific details of time, location, cultural and religious affiliations, criminal acts, and other particulars. The trauma that may follow from the perception of being identifiable in combination with often salacious reporting can have a harmful effect on victim-survivors. In light of this, it may be that further consideration of what information is considered to reveal the identity of parties to the proceedings, and how 'safety' is defined.

However where victim-survivors do not seek to suppress such information, and may wish to communicate publically about their experiences, this should not be blocked. Men who use sexual, domestic and family violence may make applications to suppress information on the grounds of embarrassment in order to silence their victims, and to maintain their reputation. This is another tactic by which to exert further coercive control and abuse on the victim-survivor, and to silence them. The value of preventing prejudice to the accused must be weighed against legally facilitating further coercive control and the importance of the victim-survivor's ability to speak to their lived experiences.

On the face of it, the *Court Suppression and Non-publication Orders Act 2010* operates fairly and balances the issues of open justice, preventing prejudice, and protecting the safety of parties to the proceedings. It is in No to Violence's view, however, that there is still space for nuance in supporting the safety and dignity of victim-survivors of sexual, domestic and family violence.

We thank you again for the opportunity to provide comment. Should you wish to speak to any of the above matters in further detail, please do not hesitate to contact me.

Yours Sincerely,



Lizette Twisleton
Interim Director of Practice and Programs
No to Violence