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X August 2024

Ms Natasha Stott-Despoja AO
Royal Commission into Domestic, Family and Sexual Violence
GPO Box 464
Adelaide SA 5001

Dear Ms Stott-Despoja AO,

Please accept my submission as part of the Royal Commission into Domestic, Family and Sexual Violence.

As someone who has experienced domestic and sexual violence in South Australia, and domestic violence in Western Australia, I offer my firsthand experience in navigating the systems in two states.

As an advocate for self-defence due to my experiences and philosophical belief that the right to life extends to the right to defend one's life, I also offer a unique perspective on the important role self-defence can and should play in the context of any violence. When an individual violates the non-aggression principle, self-defence should be the legal right of reply.

While I acknowledge the Commission is looking at this issue from a South Australian perspective, our nation's approach to addressing domestic, family and sexual violence must look at how other jurisdictions deal with this issue. Self-defence laws are at the core of this debate.

I have worked as a [REDACTED] [REDACTED]
[REDACTED]
[REDACTED] all aligned with the libertarian philosophy that affirms the rights of individuals to liberty; to acquire, keep, and exchange their property; and considers the protection of individual rights the primary role of the State.

The protection of an individual's right to life, the life of our family and property, is not afforded to Australians in any state, with "equal force" laws creating a society where individuals, particularly women, are disadvantaged and forced to rely on the State to protect us.

I am also a proud advocate for firearm owners in Australia and have used my [REDACTED] Australia' platform, both here and in the United States of America, to speak about how Australia's failure to recognize the need for self-defence with non-lethal or lethal means, has created a nation of defenceless victims.

I am currently residing in regional South Australia and am willing to appear before your inquiry, either at one of your regional visits or in Adelaide.

Thank you for the opportunity to provide my submission. It has not been easy to write. Thank you for your commitment to sharing all views to address this important issue.

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Submission

Part One: Prevention

1. What causes domestic, family and sexual violence?

Ultimately, the main cause of domestic, family and sexual violence is the current laws that make the practical ability to exercise the right to defend one's life, a natural extension of the right to life, a key factor for creating a society where violence can occur.

The Australian Bureau of Statistics indicates that, for the 2021-22 financial year, an estimated 279,300 women in South Australia (39 per cent) have experienced violence (physical and/or sexual) since the age of 15, including 21 per cent (151,400) who experienced sexual violence and 31 per cent (220,000) who experienced physical violence.

It is worth noting that many cases of domestic, family or sexual violence remain unreported.

In some cases, domestic, family or sexual violence is ongoing, allowing for 'Battered Women Syndrome' to develop. Coined by Professor Leanne Walker, this refers to an individual suffering BWS, a form of Post-Traumatic Stress Disorder (PTSD), where the individual develops low self-esteem and dependence, and are conditioned to feel that they cannot defend themselves against their abuser.

Professor Walker found that such victims exhibit 'learned helplessness' where they become unable to defend themselves and continue to submit to a cycle of violent abuse followed by contrition.

This has been my experience, with my perpetrators in South Australia and Western Australia using emotional manipulation, coercive control and degrading language that later led to domestic and sexual violence.

In my experience in South Australia in March 2010, my perpetrator was charged by the South Australian Police after he subjected me to physical, emotional and finally sexual abuse in my family home in Adelaide.

This final physical and sexual assault case resulted in my attacker being charged and summoned to appear in the Adelaide Magistrates Court. The charges were eventually withdrawn because of failures by the responding officers to accurately record witness statements (including mine), along with a failure to properly gather the evidence required to secure a conviction.

Upon being told that the case had been withdrawn, the SAPOL officer at the time advised me to "make better choices in men next time".

I believe that if I was able to defend myself against my perpetrator, by any means necessary, the situation would have ended very differently - it is likely that the violence and sexual assault I suffered would not have occurred at all, with the threat of my response providing a deterrent to my attacker. It would also have allowed me to defend my right to life in my own home.

As is often the case, the police arrived at the scene after the attack, with a Domestic Violence Restraining Order served after the fact, and offering little peace of mind in the event my perpetrator returned or attacked me again.

The same applies for my experience in Western Australia, where my perpetrator also used emotional manipulation, coercive control and degrading language, along with stalking, and controlling my finances.

Again, it is my conviction that if I was legally allowed to defend myself by any means necessary, I would not have suffered.

2. What works, or will work, to prevent domestic, family and sexual violence?

If the practical ability to exercise our human right to self-defence, a natural extension of the right to life, was clearly legislated, physical, family or sexual violence would be prevented by the individuals affected directly.

Australia's ban on practical self-defence is in stark contrast to most other countries: almost none prohibit non-lethal means of self-defence, while some, like many states in the United States of America, allow for stand-your-ground defence in your own home using any means necessary. This is in stark contrast to Australia, where we can only defend ourselves with "equal force" and have a duty to retreat and call the police.

Owning any object for self-defence, be it lethal or non-lethal, remains a criminal offence in Australia.

In most states, including South Australia, "equal force" determines if a person was responding to a threat in an appropriate legal manner. The defence of self-defence in South Australia is codified in the *Criminal Law Consolidation Act 1935*. This states that a person who relies on the defence of self-defence must have used a level of force proportionate to the threat they were facing.

In Western Australia, pepper spray is legal to possess and carry, but it becomes a grey area when used in a practical sense. Section 248 of the *Criminal Code Act Compilation Act 1913* stipulates that an act is self-defence if a harmful act in response to another harmful act either directed at the person raising the defence or in defence of another person, which includes non-imminent acts; the harmful act is in the subjective view, a reasonable response by the accused in the circumstances they believe them to be; and there are reasonable grounds for those beliefs.

A reasonable response to one person may seem unreasonable to another, also creating grey areas.

The reality is that equal force laws do not provide adequately for situations where one party is physically smaller and weaker than the other, and where the need to act defensively may be protracted and ongoing.

In my experience in a domestic and sexually violent relationship in South Australia, I was put in a position where my force of hitting and punching back did not match that of the force of my perpetrator. This is often the case for most women attacked by a man.

If I had the practical ability to exercise self defence by lethal or non-lethal means, it is my firm belief that my perpetrator would not have had the opportunity to continue his behaviour.

As a trained and proficient shooter, including competitive pistol shooting of which I have won [REDACTED] championships, I am confident in my ability to defend myself from any attacker using my firearm. A firearm in a self-defence situation is often referred to as "the equalizer", as it is a tool that weaker individuals can use against a physically stronger attacker.

Dr John R. Lott, Jr, of the Crime Prevention Research Center in the United States, conducts research into crimes in the US, including in relation to self-defence. He states that:

“The ability to defend oneself with a gun is particularly important for those people who are relatively weak physically, such as women and the elderly.”

His research has shown that “for women, by far the safest course of action [when confronted by a criminal] is to have a gun. A woman who behaves passively is 2.5 times as likely to end up being seriously injured as a woman who has a gun.”

His research has also shown that firearms are the great equalizer among genders. “Murder rates decline when either more women or more men carry concealed handguns, but the effect is especially pronounced for women. One additional woman carrying a concealed handgun reduces the murder rate for women by about three to four times more than one additional man carrying a concealed handgun reduces the murder rate for men. (*More Guns Less Crime*, John R. Lott, Jr., p. 20.)

He points to Orlando, Florida, where high incidents of rape were recorded before the police offered a highly publicised gun-training program for women. The result was a 76 per cent decrease in rapes. (*Washington Times*, March 31, 2000.)

According to Dr. Gary Kleck, about 205,000 women use guns every year to protect themselves against sexual abuse. (*Gun Owners Foundation Firearms Fact Sheet*, 1999 cited to Kleck and Gertz “Armed Resistance to Crime” at 185.)

The number of rapes in states with nondiscretionary concealed handgun laws is 25 per cent lower than in states that restrict or forbid women to carry concealed handguns (*More Guns Less Crime*, John R. Lott, Jr., p. 46.)

It is also worth noting that studies in the United States show that prisons do not end domestic, family and sexual violence. According to The UCLA Center for the Study of Women, prisons intensify and institutionalise domestic and sexual violence, making existing cycles of violence more deadly, and creating new cycles of punishment for survivors (*Defending Self-defense: A Call To Action by Survived & Punished*, UCLA Center for the Study of Women, March 2022).

Imprisoning the perpetrator, while removing them from the community for a time, does not guarantee the behaviours will change, and can amplify the behaviour, putting the victim at further risk upon release.

The researchers also found in the same report that self-defence laws were not designed with the lived reality of gendered intimate violence, “because legal protection for self-defense was originally meant for property-owning white men. Therefore, domestic and sexual violence are often rejected as legitimate justifications for self-defense, either by the law’s design or through its interpretation and application in courts.”

Unfortunately in Australia, successive governments have failed to recognise self-defence as a solution, while “equal force” laws fail to recognise women are typically physically weaker. Self-defence by any means necessary must be the starting point.

3. *What existing initiatives are directed at addressing the attitudes and systems that drive domestic, family and sexual violence? Are they effective?*

This awareness can, and in my case, put my family and friends at risk, with instances of calling out the behaviour refuted or eliciting a threat of violence towards them.

In my experience in South Australia, I was aware that this could create a situation where the violence would be directed at my family, whom I was living with at the time. This resulted in me changing my behaviour, becoming introverted and silent about what I was enduring, to protect my family, which allowed the perpetrator to continue his behaviour in secret.

The family of the perpetrator refused to believe that their son could behave in such a violent manner, further isolating me and exposing me to more violence.

I relocated to my family home in regional South Australia and changed my mobile phone number in an attempt to escape, but my attacker contacted me through my new place of work, who were unaware of the situation. I did not disclose information about my perpetrator as I feared it would be perceived negatively and put my employment at risk.

The final incident resulted in a beating and sexual assault at my family home in Adelaide. On this occasion, the South Australian Police were called, after a witness saw the incident and called the Police.

My perpetrator had fled the scene by the time SAPOL arrived, after causing property damage, and physical and sexual assault.

I was in two minds about whether I wanted to formally report the incident. I do not, and have never seen myself, as weak, and have not been raised to be a victim, or see my gender as a disadvantage.

The decision to formally report the incident and previous domestic violence in South Australia was influenced by the responding SAPOL officers, who believed that my life was at risk if I did not report it. It was from a need to survive and escape from the ongoing assault that I cooperated and reported it, while feeling that putting my trust in the State to handle my extremely personal experience was against my nature.

The responding SAPOL officers recorded witness statements and gathered evidence (including photographic); however, the responding officers failed to record information accurately and gather sufficient evidence. This ultimately led to the case being withdrawn from the Adelaide Magistrates Court.

I was also dismissed from my job in regional South Australia as they would not allow me the time off to recover from the incident, due to having no personal leave acquired and a high absentee rate (there was no paid domestic violence leave at the time).

The final call I received from a SAPOL bureaucrat advising me that the case had been withdrawn was a female, who suggested I “make better choices in men next time.” This highlights the attitudes within SAPOL towards domestic and sexual violence at the time, as I was made to feel that the abuse was partly my fault, despite relocating and changing my contact details to escape.

In Perth, Western Australia, in 2021, I turned to the Western Australia Police after a second break-and-enter incident by my former partner in my home. The Western Australian Police advised an Interim Family Violence Restraining Order (IFVRO) could only be served for 48 hours if the Police judged the offender to be a risk to my ongoing safety. A Family Violence Restraining Order (FVRO) could only be issued by the Magistrate Court.

The Police issued an IVFRO, and I attended the ████████ Magistrates Court, self-represented, seeking a FVRO, before the IVFRO expired. The Magistrates issued a FVRO for three years.

This did not prevent my offender from contacting me and breaching the order.

If I had the practical and legal ability to defend myself, particularly in my own home, there would be no need for this process, which involved reliving traumatic incidents, firstly to the police, and then the courts.

I am convinced that if I had the power to defend myself from my perpetrators, this alone would have deterred them - in both cases. Instead, I was put in a position where I had to rely on the police and the courts for my own personal and ongoing safety: both of whom failed me.

5. What is needed to allow for this information to be used by government and specialist domestic, family and sexual violence services?

The information gathered by SAPOL in the first instance, and WAPOL in the second, was shared with support groups who contacted me to offer a range of assistance, including counselling, legal advice and financial services that I could apply for.

In Western Australia, my real estate agent through whom I was renting at the time refused to accept my request to break the lease, despite advising them that I did not feel safe because of the break-and-enter incident.

There should be the ability for the judge or police to offer a direction to real estate agents to allow individuals who experience domestic, family or sexual violence to leave unsafe rentals in a fast and safe manner.

The other information that all Australians should have access to is how to defend oneself from an attack. In the United States of America, an organisation 'Black Guns Matter' provides free self-defence training courses, predominately for the African-American community, to learn how to safely defend oneself with both non-lethal and lethal means. This has resulted in self-reliant individuals who can safely defend themselves, without the need to rely on the police.

If all Australians had access to self-defence training by their desired means, this would in turn create a culture of self-reliant individuals who are trained or self-trained and confident in defending themselves against violent attacks, while deterring would-be attackers who are forced to assume that their victim has the means and skills to defend themselves.

6. What interventions should be considered to manage the risk of a person who is identified as being at high risk of experiencing or perpetrating domestic, family and sexual violence?

While a restraining order might offer some peace of mind, in reality this is an illusion: the police do not have the resources to monitor the perpetrator in an ongoing capacity, instead relying on reporting by the survivor.

In most cases, the restraining order is as worthless as the piece of paper it is written on, with incidents of individuals reoffending and in some cases causing severe harm - even death - to the victim.

The reality is, a restraining order can easily be breached. If the survivor has the practical ability to defend oneself in the instance of this order being breached (and to begin with), it is far less likely that the perpetrator will re-offend.

Part Three: Response

7. What are the barriers to reporting domestic, family and sexual violence to police or seeking support from domestic, family and sexual violence services?

In my experience in South Australia, the barrier came from being believed or not: at that time, domestic and sexual violence was seen as a private matter and not the responsibility of authorities to intervene, and in my case, partly to blame for it.

I am an advocate for personal responsibility and handling matters privately, preferring to turn to my family or community for assistance when required, instead of turning to the government or police to protect or save me.

If I had the practical ability to defend my life, and the life of my family, I would have been able to handle the situation myself, without involving the State.

Too often people turn to the government to “save them” instead of turning to themselves, their family or their community. If Australia had a culture that recognised that the right to life extends to the right to defend one’s life, and that of their family, we would not need to rely on the State to save us, when in reality, they can’t.

When seconds count, the police are minutes away (or more, in my case in regional South Australia).

The only person who can save someone is usually yourself. We should be given the right to defend ourselves with any means necessary.

8. What are the elements of a best practice crisis response which will meet the needs of: a. a victim-survivor? b. a victim-survivor who is a child? c. a perpetrator (acknowledging that one need is to hold a perpetrator to account for their use of violence)?

The best practice crisis response for any individual experiencing domestic, family or sexual violence is self-defence.

In the case of a child, the right to self-defence should extend to the child’s family, in the event the child cannot defend themselves.

In the case of the perpetrator, they would be far less likely to offend in the first place if self-defence by any means necessary was legislated.

9. What are the elements of a best practice health response?

The elements of a best practice health response include access to support services when required. In South Australia, the Victim Support Service provided mental health support in my case, while my doctor provided the physical health support needed.

It is worth noting that the needs of each individual will differ, along with access to services, particularly in regional South Australia.

The best form of support for my health, including mental health, came from my family and community.

10. What are the elements of a best practice police response?

In my case in South Australia, the South Australian Police failed to gather sufficient evidence, of which there was plenty, and properly document witness statements that later led to the charges brought against my perpetrator being withdrawn from the Adelaide Magistrates Court.

In my Freedom Of Information request asking for a copy of my witness statement from the incident, the response from SAPOL stated that portions of my statement had been redacted because “the disclosure of such information is unreasonable.”

This included the name of my perpetrator, with the following reason given:

“A portion of the redacted texts contains allegations of criminal conduct or other improper conduct on the part of a person, the truth by which has not been established by judicial process.”

Due to SAPOL’s failure to gather sufficient evidence and accurately record witness statements, justice through the judicial system was never served. This means that my perpetrator essentially walked away with no punishment, no conviction, and left me feeling no sense of justice for the pain and suffering he caused me.

I had similar fears this would be the outcome in later years in Western Australia, having been grossly let down by the system in South Australia.

If the practical ability to exercise the right to self-defence was clearly legislated, the best practice police response would be to respond to the incident after self-defence has been used, for reporting purposes only.

There should not be any threat of legal recourse for incidents where self-defence is a warranted response to a perpetrator or those violating the non-aggression principle.

Castle doctrine, along with the practical ability to use lethal or non-lethal means tools in self-defence situations, should be clearly enshrined in law.

The culture of relying on the police to save us needs to change. This can be addressed through self-defence laws and empowering individuals to take personal responsibility for their own safety.

11. What are the elements of a best practice justice system response?

In the absence of self-defence as a practical means to defend oneself, the justice system response failed in my case in South Australia. This was due to the failure of SAPOL to accurately document witness statements and gather sufficient evidence required to secure a conviction.

This resulted in no justice being delivered, and my perpetrator walking away with no consequences for his violent behaviour.

While we have a society that relies on the police, the courts, and the government, to be the only ones with the power to deliver justice, we will continue to live in a society where domestic, family and sexually violence will continue, with little to no consequences.

12. Taking into account your response(s) to questions 8 to 11, which elements are already in place in the domestic, family and sexual violence systems in South Australia?

While the police may have changed their policies and procedures for responding to domestic, family and sexual violence since my case in 2010, including cultural change facilitated by advocacy groups demanding a better response, the reality is that the best response to any violence is self-defence.

Part Four: Recovery and Healing

13. Acknowledging that every victim-survivor will have different needs depending on their personal circumstances, are there universal needs that will arise for all victim-survivors?

Every incident of domestic, family and sexual violence is unique. A collectivist approach creates situations where the needs of some may be met, while others are not.

I am fortunate to have a community of family and friends who offered varying levels of support following each incident. For others, this may not be the case.

It is their needs that need to be heard, noting that access to services in regional areas differs from those available in city centres.

All individuals should, first and foremost, have access to the means to be able to access self-defence tools, and the ability for training or self-training with their preferred tool.

14. What are the best practice approaches to supporting a victim-survivor to recover from trauma and the mental, physical, emotional and economic impacts of violence?

The family, friends and local community is best placed to support victim-survivors along with responding to the perpetrator.

This will foster closer community relations, and create a community where violent behaviour is not tolerated.

If a perpetrator was aware that the community consisted of individuals who view self-defence by any means necessary as a legitimate response to their violence, it would create a community where such behaviour is not tolerated. This would, in-turn, create self-empowered and self-reliant individuals that do not need to rely on the police to save them, particularly in regional areas where the local community is closely connected and police resources lacking.

The services delivered by the Victim Support Service in South Australia at the time fulfilled some of my needs, particularly specialised counselling services; however, I found the best support came from my family and community.

15. Taking into account your response to question 14, what best practice approaches are already in place in the domestic, family and sexual violence systems in South Australia?

In my experience in South Australia, the Victim Support Service provided support for me mentally, and helped navigate the court system. I was fortunate to have a lawyer assist me pro bono, who attended the court hearings and provided more detailed information on the process.

My local GP provided physical support in addressing my injuries.

My family and friends provided the best support, particularly my father. It was after this incident that I joined my local pistol club and furthered my skills as a proficient shooter, in the event that one day, I would be allowed to defend myself against any future violence instead of relying on the police, who severely mishandled my case in South Australia.