

JOINT SELECT COMMITTEE ON COERCIVE CONTROL

Inquiry into coercive control in domestic relationships

Inquiry hearing: 22 February 2021
Jubilee Room, Parliament House, Sydney

QUESTIONS TAKEN ON NOTICE WITH ANSWERS

(NSW Police Force)

Page numbers below refer to the draft witness statement of Sean McDermott, Chief Inspector, Manager, Domestic and Family Violence Team, provided by the Joint Select Committee Manager (not to the full hearing day's Hansard, as this is not yet available).

1. Question, p5

Mr JUSTIN CLANCY: Thank you, Chief Inspector. DVNSW in its submission spoke about whole-of-government and a co-response model where specialist domestic violence services are collocated in police stations alongside DV teams. Given that you were talking earlier about time constraints that police face in that, do you have some thoughts around that particular model?

Mr McDERMOTT: Actually I have more than thoughts. My team is currently implementing that as a trial in four locations around the State. We are anticipating that, somewhere between May and June, we will launch a trial of that in four locations around the State. We are doing that for a variety of reasons. One of them includes that it was a recommendation from the NSW Domestic Violence Death Review team.

The CHAIR: Could you perhaps provide some more information about that to the Committee?

Mr McDERMOTT: Sure. That will affect—

The CHAIR: No, not now. Just on notice. I am sorry. We are out of time, unfortunately. But if you would be happy to take that on notice, we would be very grateful.

Answer

Current status of trial of co-locating Women's Domestic Violence Court Advocacy Service (WDVCAS) workers at several police stations

After consulting with police commands and the Women's Domestic Violence Court Advocacy Program (WDVCAP, within Legal Aid), the NSW Police Force Domestic & Family Violence Team (DVT) has identified five potential police sites for the progression of this trial. Both the DVT and WDVCAP have consulted with their respective workforces at these locations and are now in the process of compiling agreed protocols and guidelines for the trial.

As the trial is proceeding on the basis that all costs are to be met out of existing resources, some issues have been identified. Both organisations are working to see if these can be rectified. If not, scope and location changes may need to be made prior to launch. Both organisations are working towards a launch of the trial in May-June 2021.

Background – Domestic Violence Death Review Team recommendation

In 2008, the NSW Government established the Domestic Violence Homicide Advisory Panel. The purpose of this panel was to review domestic violence homicides and consider possible review mechanisms. The panel recommended the establishment of a formal review mechanism, which was subsequently formalised through the *Coroners Amendment (Domestic Violence Death Review Team) Act 2010*.

The Domestic Violence Death Review Team (DVDRT) reviews closed cases of domestic violence deaths in NSW to identify systemic issues, and tables recommendations for system improvements. The DVDRT reports every second year to NSW Parliament, detailing its findings. Since its inception, the DVDRT has released six reports. The most recent report was released in 2020, with recommendations arising from a review of 53 deaths that occurred in NSW between 2017 and 2019. It included the following recommendation (27.1):

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That the NSW Police Force consider opportunities to provide enhanced support to domestic violence victims who approach police stations, and other actions to improve responses to initial approaches for assistance, including to consider the co-location of specialist domestic violence services at police stations. Any co-location initiatives should be developed in partnership with local domestic violence specialist services, including Aboriginal services.

The previous DVDRT report (2015-2017) also included a recommendation (Rec 4) that referred to the experience of victims attending a police station for assistance in relation to domestic and family violence. The DVDRT recommended that Standard Operating Procedures be updated to require a victim (where there was no security risk) be taken to a private room to enable further inquiry with the victim. It also required that the victim be provided information on domestic violence and victim safety.

The expansion of that recommendation to its current form indicates there are opportunities to strengthen this response, from an interagency perspective and with consideration to the support needs of the victim.

Co-location trial as a response to Recommendation 27.1

To progress Recommendation 27.1, the NSW Police Force and Legal Aid NSW proposed a trial of co-locating a Women's Domestic Violence Court Advocacy Service (WDVCAS) worker at several police stations.

The following principles have informed the development of the trial scope and structure, underpin the framework, and inform all guidelines and documents:

- Victim safety, protection, and agency is paramount.
- Police will retain their statutory responsibilities in relation to the investigation of domestic and family violence.
- WDVCAS staff are independent of the NSW Police Force and are required to comply with WDVCAS policies and procedures.
- The overarching goal is to improve responses to victims of domestic and family violence.
- The project will occur within existing resources and will not impact on the day to day functions of the WDVCAS or NSWPF.
- A Try Test Learn method for implementation will be utilised and therefore, will enable a flexible and locally responsive model.
- This project will be developed and implemented in response to Recommendation 27 of the NSW Domestic Violence Death Review Team report.

The resourcing requirements for this project – human and material – are expected to be met within the existing budget of both organisations.

Trial purpose, desired outcomes, and objectives

The purpose of the co-location trial is to improve access to support and assistance for victims of domestic violence where they decide to attend a police station. The DVDRT has identified the limitations in front-counter environments for victims as well as opportunities to strengthen the victim pathway. This trial seeks to develop a more comprehensive understanding of the number of victims who report their experience of domestic violence through this pathway and provide victims with information, advice, support, and protection through trialling an integrated cross-agency service model in suitable locations.

The trial seeks to achieve the following outcomes:

- Development of a co-located service model with capacity to adapt to ensure responsiveness to local needs, including co-located WDVCAS specialist workers.
- Development of a dataset that enables more comprehensive understanding of the number of victims who attend a police station for assistance and support.

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- Increase the number of victims who attend police stations in relation to their experience of domestic violence over the period of the trial.
- Improve the response provided to victims when they attend a police station to report domestic and family violence or seek information regarding domestic and family violence.
- Enhance and strengthen outcomes for victims through streamlined access to safety and support.
- Build an understanding of the factors that influence victims' reporting pathway choice to inform future system response.

The trial objectives are as follows:

- To increase the support provided to victims of domestic and family violence when they attend police stations.
- To improve the outcomes for victims following their report of a domestic violence incident.
- Increased assistance to victims ensuring improved service provision and protection.
- Earlier access to supports for victims.
- Increased avenues and opportunities for victims to seek and receive support and protection.
- Increased victim engagement to facilitate progress of criminal proceedings.
- To provide victims greater self-determination on the response they receive based on informed decision making.
- To implement a Try Test Learn approach enabling flexibility in the service delivery model therefore responsive to and reflective of local needs and issues.

2. Question, p5

Ms TRISH DOYLE: Can I ask also on notice, Chief Inspector, whether you could provide some statistics or a comment at least about the problem of misidentification of aggressors.

Mr McDERMOTT: Primary aggressors, yes I can.

Ms TRISH DOYLE: Yes, primary aggressors.

Mr McDERMOTT: I will do that.

Ms TRISH DOYLE: If there are any statistics that you could share with the Committee, that would be great.

Answer

The NSW Police Force responds to between 130,000 and 140,000 domestic violence incidents every year.

Within this number, there will be situations where police will determine a party has committed a criminal offence and decide to proceed (noting the availability and applicability of various defences at law, such as self-defence), despite there being cross allegations.

This also comes against the backdrop that, on occasion, investigating police may be encouraged by both parties to commence proceedings against both parties in a domestic and family violence incident. Generally, this practice is not recommended. However, in certain circumstances it is an unavoidable outcome. Police are taught and instructed that every domestic and family violence incident should be investigated fully with the intention of identifying whether a domestic violence offence has been committed by any person, and also with the intention of identifying the primary aggressor.

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To make an informed decision about whether a charge should proceed and in identifying the primary aggressor, police are instructed to take a number of considerations into account. These include whether:

- a domestic violence offence has just been committed.
- a domestic violence offence has been committed in past incidents.
- a domestic violence offence is imminent.
- a domestic violence offence is likely to be committed.
- there is any history of domestic violence between the parties, providing it can be reasonably ascertained by the investigating officer and any information provided by a potential witness.
- any statements can be made by witnesses to assist in detecting any offences.
- there are patterns of behaviour involving the parties.
- any person appears fearful and the extent of that fear.
- any party is threatening or has threatened future harm against another party, family, or household member.
- there are any current or previous orders against any involved person.
- any party acted in self-defence, or defence of any other person.
- actions of the parties are acts of retaliation, as opposed to self-defence or defence of another person.
- there is enough evidence to support criminal proceedings. Note that police must apply for a Provisional Apprehended Violence Order (AVO) against any person when they are charged with a domestic violence offence, unless there is an existing AVO.
- there is good reason not to proceed with an AVO application against any of the parties. Note that this reason must be recorded, as required by sections 27(5) and 49(5) of the *Crimes (Domestic and Personal Violence) Act 2007*.

To assist operational police in their decision making, the NSW Police Force made changes to its WebCOPs recording and reporting systems in 2020. These changes give police easy access to a specific 'Domestic Violence Summary' of the history of all parties they deal with (including any relevant history of domestic violence reports between the parties).

The NSW Police Force does not have statistical data that relates to the 'misidentification of aggressors'.