

COERCIVE CONTROL IN DOMESTIC RELATIONSHIPS

Organisation: Domestic Violence Death Review Team

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Joint Select Committee on Coercive Control

By email: coercivecontrol@parliament.nsw.gov.au

Dear Chair

Thank you for the opportunity to make a submission to the Joint Select Committee on Coercive Control. I note that I make this submission in my capacity as Convenor of the Domestic Violence Death Review Team (DVDRT) and that the views expressed herein do not necessarily reflect those of the appointed members of the DVDRT.

Background

Established in 2010 under the *Coroners Act 2009* (NSW), the DVDRT is a multidisciplinary body that undertakes quantitative and qualitative analysis of all domestic violence related deaths occurring in New South Wales, including homicides, suicides and accidental deaths. Using this information the DVDRT aims to develop and promote domestic violence intervention and prevention strategies, so as to both reduce the likelihood of deaths occurring in similar circumstances in the future, and improve the response to domestic violence more generally. The DVDRT reports its findings and recommendations to the NSW Parliament every two years and since its establishment has published six reports. The DVDRT's most recent report, tabled in NSW Parliament in 2020, is **attached to this submission**.

Response to Terms of Reference

This submission responds to a number of the Terms of Reference (TOR) for the inquiry. These are addressed under headings as below.

TOR 1: That the committee inquire and report on coercive control in domestic relationships

The DVDRT's work highlights that coercive control is a feature of a considerable proportion of domestic violence homicides that occur in New South Wales. The DVDRT has identified that a significant proportion of its cases were not preceded by an evident history of physical abuse – instead homicides were preceded by histories of other forms of coercive and controlling behaviour. This finding was central to the DVDRT's Recommendation 9 in its 2017-2019 Report, which recommends:

That the Department of Communities and Justice examine the extent to which existing NSW laws (criminal and civil protection orders) respond adequately to non-physical forms of domestic and family violence and to patterns, rather than incidents, of violence. This examination should include:

- 1. a qualitative review conducted with NSW police about what forms of behaviour are being targeted under the offence of 'stalking or intimidation', whether such charges are laid on their own or in combination with other offences, and the relationship context of such offences; and*
- 2. monitoring the progress and implementation of offences of coercive control and domestic abuse in other jurisdictions*

This recommendation has been partially progressed through the preparation of the discussion paper informing this inquiry. Some of the DVDRT's work is also profiled in that discussion paper, and the DVDRT's broader work around coercive and controlling behaviour is available in the attached report.

To update the committee on work going beyond the DVDRT's most recent report, the DVDRT is currently undertaking a review of murder-suicide cases in New South Wales. Of all domestic violence context intimate partner murder-suicides that occurred in New South Wales over the past 18 years **there was evidence of physical violence prior to the fatal assault in less than half of those cases**. In contrast, coercive and controlling behaviours were the most common domestic violence behaviours used by the perpetrator towards the victim prior to the fatal event. These findings in intimate partner murder-suicide cases highlight the prevalence of coercive and controlling behaviours in fatal violence cases, and demonstrate the seriousness of these behaviours.

Formulating an enhanced response to coercive and controlling behaviours through the creation of a new criminal offence - either standalone or embedded in existing offences - may create a *new* response to domestic violence victims who do not experience or disclose physical violence from their abusive partners, as there are currently limited provisions within the criminal law addressing non-physical domestic violence behaviours. Any reform in this area must, however, be approached cautiously to ensure

that while the damage and impact of these behaviours is recognised and taken seriously, this is balanced with the importance of avoiding unintended or negative consequences for victims, including disproportionate negative effects on women, or First Nations peoples.

Although the DVDRT's attached report profiles a number of cases in which coercive and controlling behaviours have been used by an abuser against a domestic violence victim, one of the DVDRT's current cases highlights the nature and damage of coercive and controlling behaviours on domestic violence victims. An overview of this case is included below.

Thomas had a long history domestic violence against his intimate partners and children, but his partners and children disclosed few episodes of physical violence and abuse. Throughout his life Thomas formed relationships with young, frequently vulnerable, female partners (including some partners vulnerable due to trauma, or socially isolated and vulnerable recent immigrants). Once in a relationship Thomas would further isolate those partners, preventing them from calling and speaking to their families or friends. Thomas' partners often became pregnant within a short period of the relationship commencing, and when babies were born, Thomas required those partners to call their children either after him, or required them to give them names starting with the letter 'T'.*

Thomas would control where his partners could go, and would control what they could do. He forced them to behave and look in particular ways for him. He prevented some of his partners from cutting their hair, and required them to wear short dresses and high heels. One of Thomas' partners described that he wanted it to be 'just the two of them' all the time. Thomas would also control the finances, including controlling his partners' pay and giving them only a small fraction of their earnings.

When his relationships ended Thomas would stalk and intimidate his partners, often turning up at locations where he knew his partners would be, telling them that he knew where they were living and that they would never be able to escape him. In a number of relationships Thomas also commenced family law proceedings and used access to children as a way to manipulate and maintain control over his former partners.

Although some of Thomas' partners reported his abuse, including physical abuse, to police after their relationships with Thomas ended, Thomas was never convicted of any domestic violence offences, and had only been subject to a final AVO on one occasion. A number of years later, after his final relationship had ended, Thomas was able to procure a firearm, which he used to kill two of his children and then himself.

This case highlights some of the harms embedded in patterns of coercive control, and also highlights the wide range of behaviours that could constitute coercive and controlling behaviours. This case also highlights some of the challenges within the existing criminal justice response to domestic violence, including around physical and non-physical behaviours.

TOR 2 (b). The committee, in undertaking this [inquiry], will answer the questions posed in the discussion paper.

Having reviewed the questions posed in the discussion paper this submission seeks to provide answers to several of these questions that fall within the scope of works of the DVDRT. In some instances questions are collapsed together for the purposes of responding.

Question 1 - What would be an appropriate definition of coercive control?

Question 2 - How should it distinguish between behaviours that may be present in ordinary relationships with those that taken together form a pattern of abuse?

In considering these two questions I would like to highlight work currently being undertaken in other jurisdictions. In its 2017-2019 report, the DVDRT profiles a number of jurisdictions in which offences of coercive control have been implemented including Scotland (in 2019) and England and Wales (in 2015). As noted above, the DVDRT has recommended that the New South Wales Government continue to monitor these (and other) jurisdictions implementing coercive control provisions, including - most importantly – to carefully consider evaluations of these laws, their impact and whether these laws are having any unanticipated consequences for victims.

Recent research by Evan Stark highlights that while the Scottish domestic abuse provisions respond to many of the more serious shortcomings that have been identified by critics of the England and Wales provisions, and may represent a legislative ‘gold standard’ (Stark, 2020), simply replicating laws from one jurisdiction to the next should be avoided. This is likely to be particularly relevant in the Australian context, where the further criminalisation of domestic violence behaviours may have unanticipated consequences for populations that may already be vulnerable to over-policing, and institutional bias and discrimination, or disproportionately affected by increased ‘law and order’ responses to domestic violence, particularly First Nations Australians.

However, in his recent research Stark also describes being of the view that *more* law (although not necessarily a ‘bespoke offense’) is needed to ensure that the injustice of coercive control is recognised, and to promote accountability (Stark, 2020). Stark’s article overall provides a thorough analysis of the different provisions in England, Wales, and Scotland, including their various strengths and shortcomings as identified by Stark

and others. As Stark notes in this research, reflecting on the criminalisation of coercive control,

Work on coercive control is about changing the big picture, not adding new offensive behaviors to a series of (already unenforced) distinct offenses. This means joining as many elements as possible under a single offense, as Scotland does, including those, like violence and sexual assault which are now crimes but not considered together as part of coercive control; those like stalking or harassment, which are rarely considered criminal in the context of a relationship; and then, yes, psychological abuse, degradation, regulation, deprivation, exploitation and other forms of 'control,' whose significance as part of a criminal pattern of domination, arises from their context (Stark, 2020).

Stark's perspective needs to be considered alongside the carefully considered work of critics including Walklate, Fitz-Gibbon & McCulloch, 2018, Walby & Towers, 2017, and Tolmie, 2018, whose research and commentary raises cautions that should be considered when undertaking any reform in New South Wales. Reading Stark's work alongside these critical works may provide the committee with further guidance around some of the challenges endemic to creating an offence generally, including an offence predicated on a pattern of behaviours, as well as definitional challenges and issues arising.

The Committee should also ensure that First Nations perspectives are centrally taken into account when deciding whether, and how, to implement an offence of coercive control in New South Wales, in recognition of the inter-generational trauma and the continued discrimination experienced by Aboriginal people that has accompanied the ongoing processes of European colonisation.

Question 3 - Does existing criminal and civil law provide the police and courts with sufficient powers to address domestic violence, including non-physical and physical forms of abuse?

Question 4 - Could the current framework be improved to better address patterns of coercive and controlling behaviour? How?

Although this submission does not reflect on the status of the law, or police or judicial powers, in responding to these questions I would draw attention to the work of the DVDRT in its prior reports,¹ all of which have highlighted that non-physical forms of violence are frequently not identified as domestic violence nor effectively responded to by police. The DVDRT's prior work has also identified that police will repeatedly attend domestic violence callouts, frequently involving the same victim and perpetrator, but each episode will be recorded as a 'DV no offence' notwithstanding that many of these cases involving ongoing patterns of coercive control. The DVDRT has repeatedly drawn

¹ See, for example, pg 70 of the DVDRT 2017-19 Report.

attention to the ad hoc response victims of domestic violence receive from police and other responders, particularly where that violence is not physical in nature.

The attached report of the DVDRT also raises concern around the operation of stalking and intimidation offences in New South Wales, highlighting that the current provisions may be ineffective for victims of domestic violence seeking criminal redress. Concern around the operation of stalking and intimidation offences led to the DVDRT's *Recommendation 9*, outlined above, particularly the element related to a qualitative review of the operation of these provisions.

I would also draw the Committee's attention to the analysis provided by the DVDRT in its review of the case of Renae Marsden, which was furnished to the Attorney-General pursuant to the recommendations of Deputy State Coroner Truscott in May 2020. This review highlights limitations within the current legal regime around coercive and controlling behaviour, highlighting that stalking and intimidation offences would have been unlikely to be available in this case notwithstanding that the Renae was 'catfished', experiencing domestic abuse (coercive and controlling behaviours) through a character created by her friend and former intimate partner. I would recommend that if the Committee has not yet been furnished this case review, that it seek access to this from the Attorney-General to inform its work.

Question 7 - What are the advantages and/or disadvantages of creating an offence of coercive control?

There is a considerable literature regarding the advantages and disadvantages of creating an offence of coercive control, and I would urge the Committee to consider these issues as well as seek particular input from Aboriginal and Torres Strait Islander communities and organisations, so as to appraise itself of the range of advantages and disadvantages particular to the Australian settler colonial context.

One aspect that I would seek to draw the Committee's particular attention to in answering this question is the prevalence of 'systems abuse' in the DVDRT's cases, where perpetrators manipulate systems or justice interventions to exact further abuse and violence against victims. As with any innovation around domestic and family violence, the Committee should strongly consider the ways in which domestic violence abusers may be positioned to manipulate or co-opt new systems and laws within a pattern of abuse they are using against victims. This may include an abuser claiming or reporting coercive control where the victim has not demonstrated these behaviours.

Question 9 - If an offence of coercive control were introduced in NSW, how should the scope of the offence be defined, what behaviours should it include and what other factors should be taken into account?

A central challenge with coercive control is that many of the behaviours that may fall within this category, and cause considerable harm to victims, may seem inert or non-criminal in nature. As has been noted by the New Zealand Family Violence Death Review Committee, 'It is not just the behaviour but the instrumental effect of the behaviour that has to be understood' (Tolmie et al, 2018).

The DVDRT's cases highlight that behaviours constitutive of coercive control may range from behaviours such as controlling what a victim may wear, telling her where she can and cannot go, denigrating the food she prepares or her abilities more generally, manipulating her into doing certain things or behaving certain ways, telling her what she can and can't do, to controlling money and finances, as well as an indefinite range of other behaviours. Coercive and controlling behaviours themselves are wide-ranging, but are underpinned by an intention element - the intention to control, coerce or abuse the victim.

The DVDRT's recommendation reinforces the importance of monitoring the effectiveness and evaluations of offences in other jurisdictions to ascertain how these offences are working, police charging practices, and the outcome of prosecutions. This should all inform decisions around whether, and how, to proceed with any criminalisation of coercive control in New South Wales.

Question 15 - What non-legislative activities are needed to improve the identification of and response to coercive and controlling behaviours both within the criminal justice system and more broadly?

A key issue the DVDRT has identified in each of its reports is the considerable discrepancy between policy and the reality of practice/service responses. The work of the DVDRT highlights that organisations and agencies may have excellent policies that are not being complied with, and this can have significant, negative impacts on victims of violence. Embedding law and policy requires regular, repeated, innovative and routine training, as well as training and education that combats pre-existing attitudes or stereotypes that responders may have as members of society. Even absent legislative change, I would seek to reinforce the importance of training for all responders involved in tertiary responses, as well as primary prevention and early intervention, alongside education for bystanders and community members around the seriousness of coercive and controlling behaviours, as well as the supports and specialist services that are available for victims. Where supports and specialist services are not available, action must be taken to ensure that victims across NSW have equitable access to appropriate (including culturally appropriate), specialised, support systems in relation to their experiences of coercive and controlling behaviour.

The DVDRT commends the Joint Select Committee for holding this important inquiry. Any inquiries can be directed to the Team's manager, Anna Butler. Ms Butler's contact details are as follows:

[REDACTED]
[REDACTED]
[REDACTED]

Yours faithfully

[REDACTED]

Magistrate Teresa O'Sullivan
State Coroner
Convenor of the Domestic Violence Death Review Team

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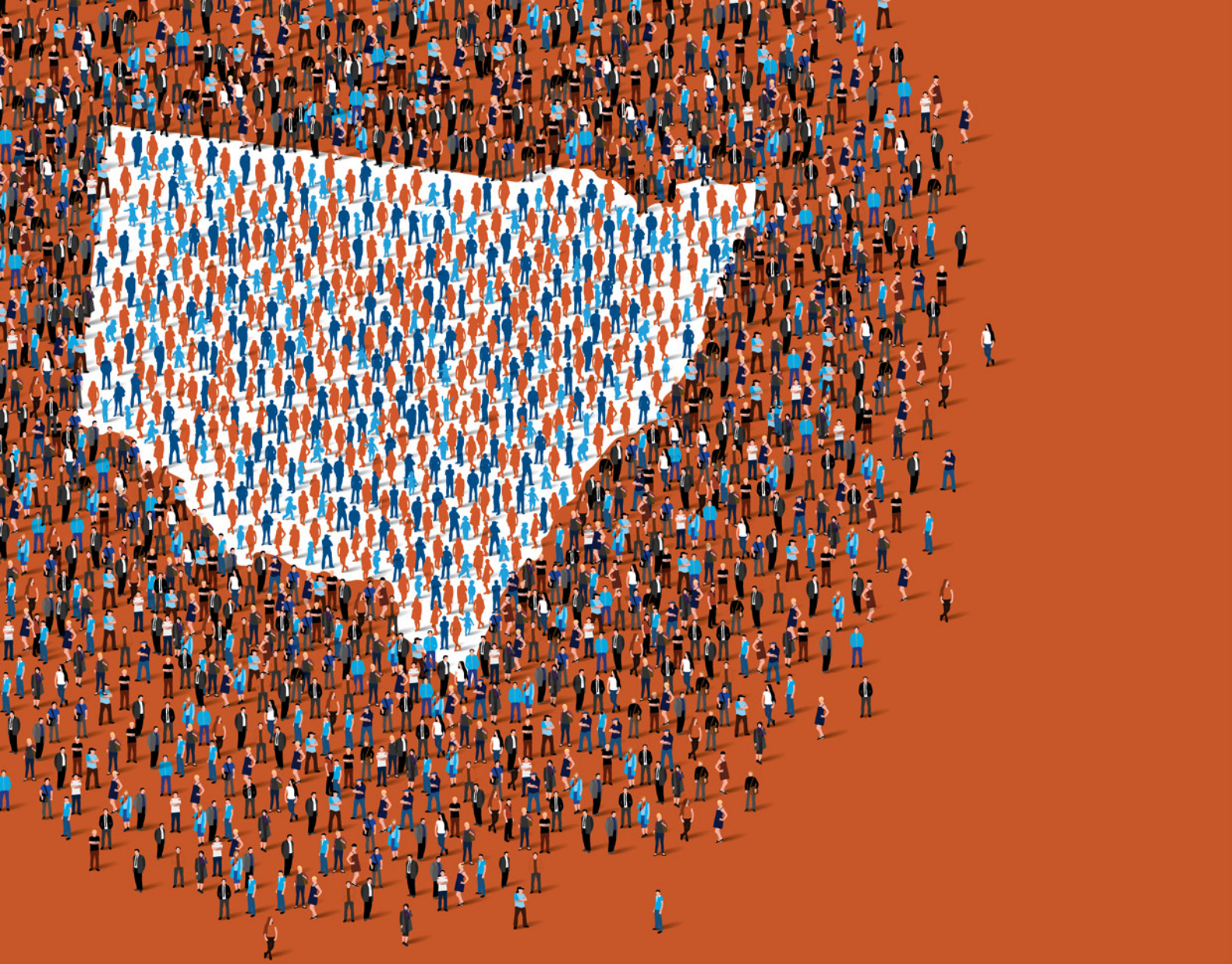
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NSW DOMESTIC VIOLENCE
DEATH REVIEW TEAM

REPORT

2017/2019





The silhouettes on the cover of this report represent the 272 women, 155 men and 103 children who lost their lives to domestic violence in NSW between 2000 and 2019. The image also reflects the profound and radiating impact of these tragic deaths, not only for surviving family and friends, but for our nation as a whole. Finally, the image reinforces that effective intervention and prevention of domestic violence requires sustained and coordinated efforts, not only by front line responders but by the whole community.

The Team remains steadfastly committed to shining a light on this devastating social harm, honouring the lives of those killed, learning from these tragedies and translating those learnings into action so as to prevent future loss of life.

NSW DOMESTIC VIOLENCE
DEATH REVIEW TEAM

REPORT

20172019



A report of the Domestic Violence Death Review Team

A report of the Domestic Violence Death Review Team pursuant to section 101J(1) of the *Coroners Act 2009* (NSW).

The views expressed in this report do not necessarily reflect the private or professional views of individual Team members or the views of their individual organisations. A decision of the majority is a decision of the Domestic Violence Death Review Team – Schedule 3, clause 11 *Coroners Act 2009* (NSW).

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The Domestic Violence Death Review Team
acknowledges the traditional owners of the
land on which we work and live.

We pay our respects to Aboriginal and Torres
Strait Islander Elders past, present and
emerging; and recognise the strength and
resilience of Aboriginal people in this land.

HELP & SUPPORT

If you or someone you know is experiencing domestic violence, there are a range of services that can provide assistance and support. In an emergency, always call 000.

Service	Location	Phone	Website
1800RESPECT	Nationwide	1800 737 732	www.1800respect.org.au
24/7 helpline that provides counselling, information and support for sexual assault, domestic and family violence.			
Domestic Violence Line	State-wide	1800 656 643	www.domesticviolence.nsw.gov.au
24/7 helpline that provides information, support and assistance about domestic violence.			
Women's Legal Service NSW	State-wide	1800 801 501	www.wlsnsw.org.au
A community legal centre that provides free specialised legal services for women, including domestic violence, sexual assault, family law, victims support and child protection, operating Mon-Fri 9am-1pm and 2pm-4:30pm. See website for legal advice line times.			
Men's Referral Service NSW	NSW, VIC, TAS	1300 766 491	www.ntvmrs.org.au
24/7 men's telephone counselling, information and referral service.			
Immigration Advice and Rights Centre	State-wide	02 8234 0700	www.iarc.asn.au
Provides free immigration advice and legal representation to refugees and financially disadvantaged immigrants in NSW, operating Mon-Fri, 9am-4pm.			
Wirringa Baiya Aboriginal Women's Legal Centre	State-wide	1800 686 587	www.wirringabaiya.org.au
Community legal centre for Aboriginal women, children and youth with a focus on issues relating to violence, operating Mon-Fri, 9am-5pm (closed Wed). Legal advice line 10am-4pm.			
Women's Domestic Violence Court Advocacy Services	State-wide	1800 938 227	www.wdvcasnw.org.au
Provides information, assistance and court advocacy services to women and children experiencing domestic violence. 29 locally-based services have different operating hours.			
NSW Ageing and Disability Abuse Helpline	State-wide	1800 628 221	www.ageingdisabilitycommission.nsw.gov.au
Provides information, support and referrals for older people and people with disability in NSW, operating Mon-Fri, 9am-5pm.			
Kids Helpline	Nationwide	1800 551 800	www.kidshelpline.com.au
24/7 counselling service for young people aged 5-25 years.			
Link2Home	State-wide	1800 152 152	www.housing.nsw.gov.au
24/7 information and referral service for people who are homeless or at risk of becoming homeless.			
Beyond Blue	Nationwide	1300 224 636	www.beyondblue.org.au
24/7 counselling, information and referral service for people experiencing anxiety and depression.			



CONVENOR'S MESSAGE



This is the sixth report published by the NSW Domestic Violence Death Review Team since its establishment in 2010. The culmination of two years of work, this report outlines findings from the 53 domestic violence context deaths examined by the Team between 2017 and 2019.

In undertaking this important qualitative review function the Team aims to both honour and give voice to victims and their surviving family and friends – voices that can be silent or silenced in the formal processes that follow these tragic deaths.

By sharing these stories the Team hopes to bring to light the diversity of victims' experiences. At the same time, however, the Team seeks to highlight the common themes and issues that run through these cases, many of which have persisted since the Team first commenced its review function. Hearing, understanding and learning from these stories is critical for the development of domestic violence intervention and prevention strategies that better respond to diversity and challenge the persistent underlying drivers of violence.

Effective domestic violence policies must also be underpinned by strong quantitative data and this report showcases the Team's new data collection methodology which allows for more detailed and up-to-date reporting.

Effective domestic violence policies must also be underpinned by strong quantitative data and this report showcases the Team's new data collection methodology which allows for more detailed and up-to-date reporting. Accordingly, this report presents incidence, case characteristic and demographic information in relation to all domestic violence context deaths occurring in NSW between 1 July 2000 and 30 June 2019. The Team has long recognised the importance of accurate and specialised domestic violence death data and hopes that this move towards real-time data reporting will inform the work of policy makers, service providers and advocates alike in their varied efforts at ending domestic violence.

Drawing together findings from its quantitative and qualitative review functions, this report also sets out the 34 recommendations developed by the Team in a series of case review workshops. Importantly, this process was informed by external consultation with a range of frontline service providers, including Settlement Services International, Multicultural NSW, People with Disability Australia, Family Planning NSW, and the Sex Worker Outreach Project, and I extend my sincere thanks to those organisations for their important contribution to the work of the Team. I would also like to take this opportunity to acknowledge the tireless work of those from the public and private sector engaged in domestic violence intervention and prevention across the country. While it is, of course, challenging to measure prevention, it is undeniable that their sustained efforts help to stem the tragic loss of life detailed in this report.

While it is clear that there has been significant and positive reform across the sector in recent years, more work is required to address the long lasting and radiating impacts of domestic violence in our community.

To date many of the Team's recommendations have focused on enhancing the domestic violence crisis response, and it is clear that effective and appropriate response systems, services and processes are critical in supporting victims of violence and holding perpetrators accountable. There is, however, a growing recognition that while victims must continue to be supported, if we as a society are going to effectively reduce domestic violence, we need to shift our focus and concentrate more efforts in early intervention and primary prevention. Accordingly, while the recommendations set out in this report address a wide range of complex issues, each has been developed with an outcomes-focus so as to promote early intervention and ultimately primary prevention.

I commenced my role as Convenor late in the Team's two-year reporting cycle but have been impressed by the goodwill and dedication demonstrated by the members in developing the Team's reform and prevention agenda. I thank each of the members and their deputies for their invaluable contributions to this report and look forward to working together as we move into the next reporting period. I would also like to extend my gratitude to the Team's Secretariat for their unwavering commitment to progressing the work of the Team. The breadth, complexity and specialised nature of the findings set out in this report, and its important contribution to system-wide reform, is a testament to the Secretariat's sustained efforts to end domestic violence and I thank them for this work.

Primary prevention requires a long-term and coordinated effort, not only by frontline domestic violence responders and policy makers, but by all of us every day. It calls on us to reject attitudes and behaviours that condone violence against women, limit women's independence, adhere to rigid gender roles and disrespect women. While it is clear that there has been significant and positive reform across the sector in recent years, more work is required to address the long lasting and radiating impacts of domestic violence in our community. On behalf of the Team I extend my sincere condolences to the surviving family and friends of those whose deaths are reviewed in this report. The Team remains steadfastly committed to shining a light on domestic violence deaths, honouring the lives of those killed, learning from these tragedies and translating those learnings into action so as to prevent future loss of life.



Magistrate Teresa O'Sullivan
Convenor, Domestic Violence Death Review Team
State Coroner



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* At the time of writing these members were not active as they were no longer engaged in their listed positions.

Carolyn Newbiggin attended several meetings representing Youth Justice.

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LIST OF ABBREVIATIONS

ACCO	Aboriginal Community Controlled Organisation
ACLO	Aboriginal Community Liaison Officer (NSW Police Force)
ADVO	Apprehended Domestic Violence Order
AHURI	Australian Housing and Urban Research Institute
AIWH	Australian Institute of Health and Welfare
ALRC	Australian Law Reform Commission
AOD	Alcohol and other drug
ANROWS	Australia's National Research Organisation for Women's Safety
BOCSAR	NSW Bureau of Crime Statistics and Research
Blueprint	NSW Domestic and Family Violence Blueprint for Reform 2016-2021
CAG	Council of Attorneys-General
COAG	Council of Australian Governments
COPS	Computerised Operational Policing System (NSW Police Force)
CSNSW	Corrective Services NSW
CTO	Community Treatment Order
DCJ	Department of Communities and Justice
DFV	Domestic and family violence
DPP	Director of Public Prosecutions
DVDRT	Domestic Violence Death Review Team
DVDS	Domestic Violence Disclosure Scheme
DVJS	NSW Domestic Violence Justice Strategy 2013-2017
DVLO	Domestic Violence Liaison Officer (NSW Police Force)
DVNSW	Domestic Violence NSW
DVSAT	Domestic Violence Safety Assessment Tool
ECAV	Education Centre Against Violence (NSW Health)
FIC	Family is Culture Review
FIM	Family Investment Model (Department of Communities and Justice)
FV	Family violence
GP	General Practitioner
ILGA	Independent Liquor and Gaming Authority
IPV	Intimate partner violence
IVF	In vitro fertilisation
LCP	Local Coordination Point (part of Safer Pathway)
MBCP	Men's Behaviour Change Programs
MCLO	Multicultural Community Liaison Officer (NSW Police Force)
MERIT	Magistrate's Early Referral into Treatment Program
MTCRS	Men's Telephone Counselling Referral Service
NDIA	National Disability Insurance Agency
NDIS	National Disability Insurance Scheme
NGMI	Not guilty by reason of mental illness
NSWPF	NSW Police Force



OIC	Officer in charge (police investigation)
OOHC	Out-of-home care
PAC	Police Command Area
PARVAN	Prevention and Response to Violence Abuse and Neglect (NSW Health)
PINOP	Person in need of protection
PTSD	Post-traumatic Stress Disorder
PWDA	People with Disability Australia
RACGP	Royal Australian College of General Practitioners
ROSH	Risk of Serious Harm
SAM	Safety Action Meeting
SOPS	Standard Operating Procedures (NSW Police Force)
UNA	Unfit and not acquitted (following a special hearing)
VAN	Violence, Abuse and Neglect
VIS	Victim Impact Statement
WAS	Witness Assistance Service
WDVCAS	Women's Domestic Violence Court Advocacy Service
WYP	What's Your Plan (DCJ initiative)

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EXECUTIVE SUMMARY 2017-2019

The Domestic Violence Death Review Team was established in July 2010 under the *Coroners Act 2009* (NSW). The Team's overarching objective is to examine domestic violence related deaths so as to reduce the incidence of such deaths and to facilitate improvements in systems and services.

The term 'domestic violence related death'¹ recognises that the scope of the Team's work includes examination of not only domestic violence homicides, but also domestic violence related suicides, as well as where fatal accidents are caused by domestic violence.

The Team undertakes quantitative and qualitative analyses of domestic violence related deaths and synthesises the information derived from these review processes to develop findings and recommendations for implementation by government and non-government agencies.

Accordingly, this report outlines:

- data findings for all domestic violence homicides occurring in NSW between 1 July 2000 and 30 June 2019 (Chapter 2);
- case summaries for the 53 domestic violence related deaths that were subject to in-depth review by the Team (Chapter 3);
- recommendations and commentary derived from the Team's quantitative and qualitative review findings (Chapter 4);
- a focused data analysis of intimate partner domestic violence homicides (Chapter 5); and
- the whole of government response and update to recommendations made in the Team's 2015/17 Report (Chapter 6).

Quantitative review findings

Complete homicide dataset - July 2000 to June 2019

Between 1 July 2000 and 30 June 2019 there were 1683 homicides in NSW resulting in the deaths of 1127 males, 555 females and 1 transgender person.

Key data findings:

- **31% of all homicides occurred in a context of domestic violence.**
- **57% of homicides with a female victim were domestic violence related.**
- **19% of homicides with a male victim were domestic violence related.**

Intimate partner homicide dataset - July 2000 to June 2019

Between 1 July 2000 to 30 June 2019 there were 292 cases where a person was killed by a current or former intimate partner in a context of domestic violence (234 women and 58 men).

Key data findings:

- **80% of intimate partner homicide victims were women.**
- **97% of women killed by an intimate partner had been the primary domestic violence victim in the relationship.²**
- **36% of women in this dataset were killed by a former intimate partner, and two-thirds of these women had ended the intimate relationship with the domestic violence abuser within three months of being killed.**
- **Women killed by an intimate partner were aged between 15 and 80 years of age.**
- **14% of women killed by an intimate partner identified as Aboriginal.**

¹ *Coroners Act 2009* (NSW) s101B.

² In three cases where a woman was killed by her male intimate partner, both parties had used domestic violence behaviours against each other and on the information available it was not possible to determine if there was a primary aggressor. There were a further four cases that will be subject to further review because it cannot yet be determined on the material available, who was the primary aggressor.

- 68% of women killed by an intimate partner were residing in a major city at the time they were killed.
- 84% of men killed by a female intimate partner had been the primary domestic violence abuser in the relationship. All 7 men killed by a male intimate partner had been the primary domestic violence victim in the relationship.
- 26% of men killed by an intimate partner identified as Aboriginal.
- 25% of men who killed an intimate partner suicided following the murder.
- Males who killed an intimate partner were aged between 17 and 87 years of age.
- 25% of females who killed an intimate partner were acquitted at trial.

Focused intimate partner homicide dataset - March 2008 to June 2016

Between 10 March 2008 and 30 June 2016 there were 112 intimate partner homicides in NSW which occurred in a context of domestic violence, resulting in the deaths of 93 women and 19 men. Each of these 112 cases has been subject to in-depth review by the Team thereby allowing for a more detailed examination of case characteristics for this dataset.

Key data findings:

- The majority of intimate partner homicides involved a domestic violence abuser killing a domestic violence victim (85%), but in other cases (14%) the domestic violence victim killed an abuser.
- Actual or intended separation was a characteristic in 47% of all intimate partner homicides.
- In over a third of all cases there were indications that the domestic violence abuser had strangled the domestic violence victim prior to the fatal assault (34%).
- Domestic violence abusers stalked victims in 42% of cases prior to the fatal assault.
- In 20% of cases there was no disclosed

history of physical violence prior to the fatal assault.

- In 15% of cases male abusers killed a female victim in breach of a current enforceable ADVO.
- At least 54% of domestic violence abusers were known to have abused prior intimate partners.
- For the 112 intimate partner homicides there were at least 154 child survivors of homicide.
- In 22% of cases a child was present during the fatal assault.

Relative/kin homicide dataset - July 2000 to June 2019

In the data reporting period there were 187 cases where a person was killed by a relative/kin in a context of domestic violence (84 adults and 103 children under the age of 18 years).

Key data findings: child homicide victims

- Child homicide victims in this dataset were aged between 4 weeks and 16 years of age, with 54% of child victims less than 4 years of age.
- 42% of children were killed by their biological father acting alone and 23% were killed by their biological mother acting alone.
- 18% of children were killed by a male non-biological parent acting alone and 3% were killed by a female non-biological parent acting alone.
- 18% of child homicide victims in this dataset identified as Aboriginal.
- 26% of male homicide perpetrators and 18% of female homicide perpetrators in this dataset suicided after killing a child/ren.

Key data findings: adult homicide victims

- 57% of adult homicide victims in this dataset were men and 43% were women.
- 58% of adults in this dataset were the primary domestic violence victim in the relationship



with the relative/kin who killed them.

- **51 % of adult homicide victims in this dataset were killed by their son/step-son.**
- **13% of adult homicide victims in this dataset identified as Aboriginal.**
- **34% of homicide perpetrators in this dataset were found not guilty by reason of mental illness.**

Qualitative review findings

The domestic violence system in NSW is complex. Through the case review process, however, the Team is afforded a unique opportunity to identify issues that might otherwise be obscured within this complex system.

For this report the Team undertook case reviews for the 53 closed domestic violence homicides which occurred in July 2014 to June 2016.³ The Team conducted an in-depth analysis of each case review to identify common themes, issues and areas for recommendation.

Chapter 3 sets out de-identified case reviews to assist readers in understanding the complex dynamics of domestic violence and the characteristics of these cases. Each case review is developed through a domestic violence lens and with a victim-focused orientation to counterbalance the dominant narratives of domestic violence perpetrators, who may have successfully concealed the violence and avoided responsibility up until the homicide. The Team hopes that these commentaries can help readers to understand more about these tragedies, so we can learn from these deaths and prevent future losses of life.

Many of the findings identified by the Team through its qualitative review process demonstrate that despite significant and positive reform across the domestic violence response system, sustained efforts are required to address the persistent and often highly complex issues evident in the Team's cases, such as:

- the need for greater awareness and understanding around non-physical manifestations of domestic violence, including technology-facilitated and systems abuse;

- the need for the response system to better address the complex co-occurrence of alcohol and other drug misuse, mental health, and domestic violence (both for victims and abusers);
- the continued overrepresentation of Aboriginal people as victims and perpetrators of domestic violence homicides and the particular barriers faced by Aboriginal women in accessing appropriate services including the justice system;
- the crucial role bystanders can play in supporting victims and holding perpetrators accountable;
- the critical role of healthcare professionals in the intervention and prevention of domestic violence;
- unique barriers and vulnerabilities that may arise for particular groups within the community including victims from culturally and linguistically diverse backgrounds and victims with disability;
- the availability of housing as a critical component in supporting victims of violence;
- sexual abuse and reproductive coercion as specific and unique tools of control employed by domestic violence abusers; and
- the need to better understand and respond to children's experiences of domestic violence.

Commentary and Recommendations

Since its establishment in 2010, the Team has produced five reports and made 88 recommendations aimed at improving the response to domestic and family violence in this state. To date many of the Team's recommendations have focused on enhancing the crisis response, and it is clear that effective and appropriate response systems, services and processes are critical in supporting victims of violence and holding perpetrators accountable. There is, however, a growing recognition that while victims must continue to be supported, if we as a society are going to effectively reduce domestic violence, we need to shift our focus and concentrate more efforts in early intervention and primary prevention.

Accordingly, Chapter 4 of this report provides commentary and analysis across a wide range of complex issues, with a focus on early intervention and prevention. The Team continues to recognise and

³ This figure includes cases that closed during the reporting period (but which may pre-date the current reporting period), and excludes cases that remained open when the Team completed its case review process.

emphasise the importance of conceiving of domestic violence death prevention as an intergenerational and sustained effort that transects agencies, committees and issues well beyond individual episodes of violence between an abuser and a victim.

To guide and inform these efforts, the Team has developed an ambitious reform agenda which aims to:

- improve supports for children who are exposed to domestic and family violence;
- address problematic attitudes towards women amongst young people;
- work more effectively with young people who are using violence;
- promote trauma-informed and trauma-based care for services working with vulnerable individuals and families;
- better understand victimisation and support victims who experience violence from multiple partners;
- promote greater information sharing between the Government and NGO sector;
- improve knowledge and awareness with respect to safety planning;
- explore opportunities for the domestic violence system to better respond to non-physical manifestations of violence;
- enhance awareness and understanding of non-fatal strangulation and its association with future violence, as well as serious or fatal harm;
- explore opportunities to enhance the police response to victims of violence, including to consider the co-location of specialist domestic violence services at police stations;
- improve perpetrator interventions;
- better respond to victims and abusers with alcohol and other drug use issues, including to challenge attitudes and practices that can promote victim blaming or foster stigma and discrimination against such victims; and
- explore opportunities to improve coordination between child protection systems and *Safer Pathways*.



RECOMMENDATIONS 2017-2019

Recommendation 1

That the NSW Government review available therapeutic services for children and young people who have experienced domestic and family violence, examining programs operating in government, community and crisis services such as refuges.

The review should identify gaps in service availability and funding and evaluate whether available programs use evidence-based approaches to respond to the spectrum of therapeutic needs (including, for example, individual therapy, rebuilding the relationship between the non-offending parent and children and responding to children and young people who engage in violent behaviour arising from a domestic violence context).

The review should identify referral pathways and service needs.

Recommendation 2

That the review of the *Young Offenders Act 1997* (NSW) by the NSW Government give consideration to removing the restrictions which prevent young people who have committed certain domestic violence offences from being diverted away from the criminal justice system. The review should also consider whether additional programs are needed to support diversion.

Recommendation 3

That the temporary/crisis accommodation needs of Youth Justice clients be considered as a priority by the *Homelessness Interagency Project Group* through the *No Exits into Homelessness Framework*, and further data analysis and research be conducted on the best approach to addressing the housing needs of young people who are excluded from mainstream services.

Recommendation 4

That Youth Justice develop and deliver educational

modules and programs to address gendered attitudes and juvenile domestic and family violence offending behaviour to young people under custodial and community supervision. Approaches to delivering this education should be trauma-informed and culturally competent.

Recommendation 5

5.1 That the NSW Government consider providing unlimited lifetime counselling to children who have a parent or sibling killed in a domestic violence homicide and extending the statutory restrictions on the ability of those children to lodge a claim under the *Victims Support Scheme* (currently up to the child's 20th birthday).

5.2 That Victims Services work with NSW Government agencies and relevant stakeholders to disseminate information so that victims and their carers are aware of the supports available under the *Victims Support Scheme*.

Recommendation 6

That the *Women's Domestic Violence Court Advocacy Program* work with the *Women's Domestic Violence Court Advocacy Services* to develop a mechanism to provide victims who have a history of Central Referral Point referrals and who do not engage with domestic violence services with information on how to access support.

Recommendation 7

That the Department of Communities and Justice consider actively engaging with service providers:

1. to ensure new pilots or programs relevant to domestic and family violence are clearly communicated to NGOs in the areas in which they are operating, including through attending monthly Interagency meetings of local Domestic Violence Committees; Regional Strategy Groups; and through the use of HSNNet; and
2. when developing, implementing and evaluating relevant programs to ensure that they are suitable and meaningful for the community and target population.

Recommendation 8

That the NSW Government develop increased guidance and resources to support safety planning, which may include consideration of standard resources or tools for use by responders and practitioners who work with victims of domestic and family violence.

In developing standard resources or tools the NSW Government may consider the work of *DVSM Sightlines* and literature around safety planning and responding to risk. Roll out of standard resources or tools should be accompanied by comprehensive training and education.

Recommendation 9

That the Department of Communities and Justice examine the extent to which existing NSW laws (criminal and civil protection orders) respond adequately to non-physical forms of domestic and family violence and to patterns, rather than incidents, of violence. This examination should include:

1. a qualitative review conducted with NSW police about what forms of behaviour are being targeted under the offence of 'stalking or intimidation', whether such charges are laid on their own or in combination with other offences, and the relationship context of such offences; and
2. monitoring the progress and implementation of offences of coercive control and domestic abuse in other jurisdictions.

Recommendation 10

That the NSW Government write to the eSafety Commissioner requesting that any curriculum development around eSafety for children and young people include modules around technology-facilitated abuse tailored towards children and young people.

Recommendation 11

That The Department of Communities and Justice collaborate with the Judicial Commission of NSW to explore opportunities to develop judicial education promoting awareness of non-fatal strangulation, and its association with future violence, as well as serious or fatal harm.

Recommendation 12

That the NSW Government make publically available information on the pathways into perpetrator programs.

Recommendation 13

That the NSW Government, in partnership with Aboriginal communities and organisations, develop a framework to prevent and respond to violence in Aboriginal families and communities.

The objectives of the framework, subject to consultation with communities and organisations, should be to improve the quality, availability and cultural competency of services across the broad domestic and family violence service system for Aboriginal people.

The framework must include a governance structure that draws together the diverse domestic and family violence service system and has strong connections to NSW Aboriginal communities.

Recommendation 14

14.1 That the NSW Government create a pool of independent Aboriginal specialist workers from a range of services to be involved in *Safer Pathway* for Aboriginal people experiencing domestic and family violence.

14.2 That the NSW Government ensure that *Safer Pathway* includes input from independent Aboriginal specialist workers for Aboriginal people experiencing domestic and family violence (with their consent).

Recommendation 15

That the NSW Police Force require Multicultural Community Liaison Officers to receive comprehensive commencement and regular training in domestic and family violence. This training should be modelled off the Domestic Violence Liaison Officer training, but should also include modules specific to violence in culturally and linguistically diverse communities, and working with culturally and linguistically diverse people, perpetrators of violence and victims of violence.



Recommendation 16

That the Department of Premier and Cabinet work with other jurisdictions to:

1. ensure all new and existing interpreters working in NSW are required to undertake domestic and family violence education at commencement, as part of accreditation and at the revalidation stage; and
2. develop a strategy to ensure compliance amongst interpreters with the rules, regulation and ethical expectations of their profession. This compliance strategy should also specifically ensure that interpreters do not put pressure on victims of domestic and family violence not to disclose violence, and that interpreters accurately represent the testimony or information being provided by victims of domestic and family violence.

Recommendation 17

That the Department of Communities and Justice develop a framework for responding to domestic and family violence in culturally and linguistically diverse communities in contact with the criminal justice system. This framework should be developed in partnership with communities to:

1. address the specific barriers facing culturally and linguistically diverse communities (including language barriers, barriers to reporting, acculturation stress, vulnerable immigration status and the impacts of torture and trauma); and
2. ensure the availability of culturally inclusive supports and responses to domestic violence.

Recommendation 18

That the NSW Government coordinate a roundtable with sex work organisations to examine how to reduce barriers to reporting and outreach for sex workers who experience violence and abuse from their current or former intimate partners, as well as violence and abuse in the context of their work. This roundtable should address the issue of stigma and discrimination against sex workers and how this interacts with victims' experiences of violence.

Recommendation 19

That the NSW Government convene an interagency working group to consider mechanisms to rapidly share information between NSW Health and the Department of Communities and Justice to allow informed interagency planning with respect to mental health consumers (in the community or in custody) who are considered to present a serious risk to themselves or to another person. This working group should consider the role of Community Treatment Orders, courts, police, bail and parole conditions with particular regard to those people at risk of domestic and family violence reoffending and their families.

Recommendation 20

That NSW Health through Phase 2 of its *Integrated Prevention and Response to Violence Abuse and Neglect*, prioritise initiatives aimed at improving NSW Health responses to victims and perpetrators of domestic and family violence accessing mental health and alcohol and other drug use (AOD) services. Action and initiatives should:

1. facilitate increased integration between NSW Health AOD, Mental Health and VAN services to support risk assessment, safety planning and pathways to further support clients and their families and carers, including *Safer Pathway*;
2. promote increased engagement of NSW Health AOD, Mental Health and VAN workforces, with learning and development initiatives that promote trauma-informed responses; and
3. facilitate collaboration with government partners, relevant peak bodies and NSW Health funded services to promote trauma-informed integrated responses and family inclusive practice between AOD and DFV NGO service providers.

Recommendation 21

That the NSW Government ensure service providers working in both alcohol and other drug, domestic and family violence services and the NSW Police Force, receive evidence-based training around working with clients who are experiencing alcohol and other drug use (AOD) issues and using or experiencing domestic

and family violence. This training should challenge attitudes and practices that can promote victim blaming, foster stigma and discrimination against victims of violence with AOD issues, and minimise and excuse perpetrators' use of violence and abusive behaviours against victims with AOD issues.

Recommendation 22

That NSW Health work with relevant stakeholders, including the Commonwealth, to continue to strengthen the pathways between GPs, mental health and/or alcohol and other drug services. This should include work to promote a range of resources to support GPs to identify and respond to victims and perpetrators of domestic and family violence.

Recommendation 23

That the NSW Government examine ways to improve coordination between *Safer Pathway* and the child protection system, including to consider ways to promote cross-referral within the systems and improve supports for parents and families who are experiencing concurrent child protection and domestic and family violence issues.

Recommendation 24

That the NSW Department of Education develop a specific strategy aimed at strengthening the Department of Education's overall response to students who are using or experiencing domestic and family violence at home.

This strategy should focus on increasing the competency of Departmental staff to:

1. identify where domestic and family violence is occurring in families or for students in the NSW public education system. This may include understanding risk and vulnerability indicators for domestic and family violence, as well as coexisting indicators such as non-attendance or educational neglect;
2. respond effectively and promptly to concerns around domestic and family violence where these are identified; and

3. support students where their families or parents are using or experiencing domestic and family violence.

This strategy should take into account legislative mandates around child protection matters, but should focus on providing additional practical support and training for staff and students involved in the NSW public education system, tailored to the specific issue of domestic and family violence.

Recommendation 25

That the Department of Communities and Justice (Housing), in consultation with specialist domestic violence service providers and victims with lived experience of domestic violence, examine opportunities and strategies to enhance engagement with victims of domestic violence using the *Link2Home* system.

Recommendation 26

That the Department of Communities and Justice (Housing) amend its *Antisocial Behaviour Management Policy* to build in safeguards to protect victims of domestic violence from eviction or the strikes notice process for minor, moderate, or serious breaches where those breaches are caused by domestic violence.

Recommendation 27

27.1 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.

27.2 That the NSW Government examine and review the *Orange Door (Support and Safety Hubs)* model being used to deliver services to victims of domestic and family violence in Victoria and consider whether this (or a similar) model should be adopted in NSW.



Recommendation 28

That the Department of Communities and Justice identify opportunities to better understand the circumstances in which an Apprehended Domestic Violence Order application or domestic violence-related criminal prosecution has been dismissed. Consideration should be given to improving the functionality of *Justicelink* to improve recording of the reasons as to why an application has been dismissed.

Recommendation 29

That the Department of Communities and Justice review the use of AVL/remote witness facilities in ADVO and criminal domestic violence matters with a view to increasing the proportion of matters in which these options are used.

Recommendation 30

That the NSW Police Force and the Department of Communities and Justice review the process for notifying domestic violence victims of the release of a defendant on bail by Police or a court, without the victim being present or if the defendant is released from custody at short notice. The process should link to *Safer Pathway* and provide for timely notification of victims and ensure they are linked to support services.

Recommendation 31

That Women NSW work with the Department of Social Services on the national primary prevention campaigns as part of the *Fourth Action Plan* to support the *National Plan to Reduce Violence Against Women and their children*.

Recommendation 32

That the NSW State Coroner issue a Case Management Note to ensure that all coronial cases involving murder-suicides are remitted to the State Coroner's Court at first instance to enable suitable allocation.

Recommendation 33

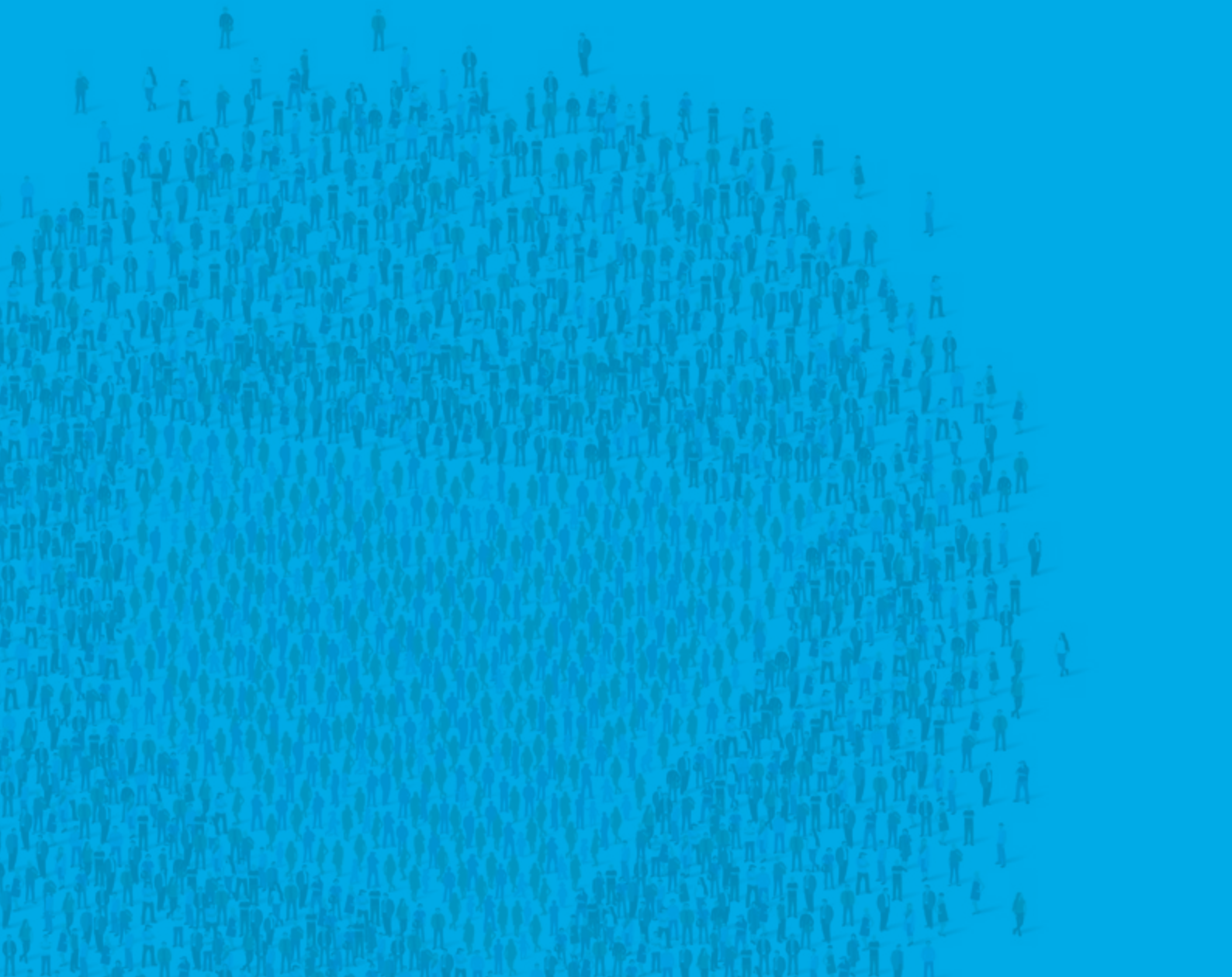
That the NSW Government in conjunction with the current review of the *Coroners Act 2009* (NSW) amend the definition of a 'domestic violence death' as defined in s101B of the Act to 'a death which occurs in the context of domestic violence'. The reference to relationship should be omitted.

Recommendation 34

That the Attorney-General, in conjunction with the current review of the *Coroners Act 2009* (NSW) amend the Act to create greater parity in the non-government and government membership of the NSW Domestic Violence Death Review Team.

Introduction

This chapter provides an overview of the underlying principles which guide the operation of domestic violence death review mechanisms and sets out the background, establishment and methodology of the NSW Domestic Violence Death Review Team.





Why review domestic violence homicides?

‘Domestic violence’ (or ‘intimate partner violence’) is a term used to describe a pattern of behaviour whereby a person intentionally and systematically uses violence and abuse to gain and maintain power over another person with whom they share (or have shared) an intimate relationship. At the heart of this definition is the abuser’s use of coercion and control to assert and maintain power and dominance over the victim.

Manifestations of domestic violence can include:

- psychological and emotional abuse;
- physical abuse;
- sexual abuse;
- verbal abuse;
- social and economic abuse; or
- any other forms of behaviour used by the abuser to coerce or control the victim.

Domestic violence includes violence perpetrated by heterosexual and same-sex current or former intimate partners. Domestic violence includes both criminal and non-criminal behaviours.⁴ It is acknowledged that while men can be victims of domestic violence, the vast majority of domestic violence is perpetrated by men against women.⁵ This has led to an understanding of domestic violence as a gendered harm, invoking issues of patriarchy, and inviting the examination of social and community norms.

In NSW, however, the term ‘domestic violence’ is used broadly in criminal and civil legislation to include abusive behaviours not only between intimate partners but also between family members, kin and other close relationships.⁶

Accordingly, this report uses the term ‘domestic violence’ to refer to both domestic violence and family violence. This report also recognises that children who witness or live with domestic violence in the home are victims of domestic violence.

Where appropriate, this report distinguishes between intimate partner violence and other kinds of family violence.

Despite changing community attitudes regarding the criminality of these behaviours, and decades of policy intervention, domestic violence remains one of the most serious social issues confronting NSW as a state and Australia as a nation.

Research has highlighted that an identifiable history of domestic violence is a common feature in a high proportion of homicides. This is particularly the case for women; a high proportion of whom are killed by a domestic violence abuser in a context of ongoing coercion and control.⁷

Domestic violence-related homicides are considered to exhibit predictable patterns and aetiologies.⁸ When a homicide occurs in a domestic violence context it can be characterised by a history of abusive behaviours that may have been known to service providers, friends and family prior to the homicide.

Accordingly, these deaths warrant particular attention and analysis. This has been the impetus for the establishment of domestic violence death review teams worldwide.⁹

Domestic violence death review teams are collaborative multi-agency committees which conduct in-depth analyses of domestic violence homicides. Such teams undertake a careful examination of the circumstances surrounding these homicides with a view to providing a

4 National Council of Australian Governments, *The National Plan to Reduce Violence Against Women and their Children 2010-2022*, (Commonwealth Government, 2011) available at https://www.dss.gov.au/sites/default/files/documents/08_2014/national_plan1.pdf (accessed 30 September 2017).

5 Australian Bureau of Statistics, *Personal Safety Survey Australia 2016*, ABS cat. No 4906.0, 2017, Canberra; Bryant and Cussen, *Homicide in Australia: 2010-11 to 2011-12 National Homicide Monitoring Program Annual Report*, (Australian Institute of Criminology, Canberra, 2015); Dobash, Dobash, Wilson and Daly, ‘The myth of sexual symmetry in marital violence’ (1992) 39(1) *Social Problems* 71; Grech and Burgess, *Trends and patterns in domestic violence assaults: 2001 to 2010*, (NSW Bureau of Crime Statistics and Research, Sydney, 2011).

6 *Crimes (Domestic and Personal Violence) Act 2007* (NSW).

7 Alderidge and Browne, ‘Perpetrators of Spousal Homicide: A Review’ (2003) 4(3) *Trauma, Violence & Abuse* 265; Virueda and Payne, *Homicide in Australia: 2007-2008 National Homicide Monitoring Program Annual Report* (Australian Institute of Criminology, Canberra, 2010).

8 Websdale et al, ‘Domestic Violence Fatality Reviews: From a culture of Blame to a culture of safety’ (1999) *Juvenile and Family Court Journal* (Spring), 61; Office of the Chief Coroner for Ontario, *Domestic Violence Death Review Committee 2012 Annual Report*, 2014, available at http://www.mcscs.jus.gov.on.ca/english/DeathInvestigations/office_coroner/PublicationsandReports/DVDR/DVDR.html (accessed 30 October 2019).

9 Dawson (ed.), *Domestic Homicides and Death Reviews: An International Perspective* (London, Palgrave Macmillan, 2017).

better understanding of agencies' roles and constraints in responding to domestic violence, as well as other barriers and limitations (*qualitative analysis*).

Teams can also undertake data collection and analysis with a view to mapping trends and dynamics across domestic violence homicide cases (*quantitative analysis*).

Examining homicides which occur in a domestic violence context enables the Team to identify where systems could be improved to better address the needs of domestic violence victims and abusers, but also more generally assist us to understand the broader dynamics and issues around domestic violence in the community.

The NSW Domestic Violence Death Review Team

Background and establishment

Recognising the long history of death review processes operating in other jurisdictions,¹⁰ from the early 2000s, advocates and various government agencies began campaigning for a domestic violence death review process to be established in NSW.¹¹

In December 2008, the NSW Government convened the Domestic Violence Homicide Advisory Panel, which considered the merit, key elements and best practice model of any ongoing review mechanism for NSW. The panel handed down its report in mid-2009, unanimously recommending that a permanent domestic violence death review team be established and identifying its key features and functions.

In July 2010, the *Coroners Amendment (Domestic Violence Death Review Team) Act 2010* (NSW) commenced, amending the *Coroners Act 2009* (NSW) by inserting Chapter 9A and thereby establishing the Domestic Violence Death Review Team (the 'Team').

The Team's overarching objective is to examine domestic violence-related deaths so as to reduce the incidence of such deaths and to facilitate improvements in systems and services.¹²

The functions of the Team are to:

- review and analyse individual closed cases of domestic violence-related deaths;
- establish and maintain a database so as to identify patterns and trends relating to such deaths; and
- develop recommendations from qualitative and quantitative data and undertake research that aims to prevent or reduce the likelihood of such deaths.¹³

The term 'domestic violence-related death' recognises that the scope of the Team's work includes examination not only of domestic violence homicides, but also domestic violence related suicides, as well as where fatal accidents are caused by domestic violence.

Since its establishment there have been a number of amendments to the Team's legislative framework to enhance and fine tune the Team's review function. Some amendments have been in response to recommendations made by the Team in prior reports¹⁴ and others as a consequence of the statutory review of Chapter 9A of the *Coroners Act 2009* (NSW).¹⁵

As a result of these amendments the Team now has the benefit of additional expertise in its membership including: representation from Corrective Services NSW, Department of Premier and Cabinet, Women NSW; the Commissioner of Victims Rights; an addiction specialist; and a mental health specialist.

The Team, as a consequence of legislative amendment, also moved to reporting biennially.

In this report, the Team outlines real-time data and closed case reviews regarding domestic violence-related homicides, recommendations and commentary derived from these reviews.

¹⁰ For example, in the United States and Canada such processes have existed since the 1990s, see David, 'Exploring the Use of Domestic Violence Fatality Review Teams' (2007) 15 *Australian Domestic & Family Violence Clearinghouse Issues Paper*.

¹¹ NSW Ombudsman, *Domestic Violence: Improving Police Practice* (NSW Ombudsman, Sydney, 2006).

¹² *Coroners Act 2009* (NSW) s101A.

¹³ *Coroners Act 2009* (NSW) s101F(1).

¹⁴ See, for example Recommendations 1-3 in the DVDRT Report 2011/12.

¹⁵ Statutory Review of Chapter 9A of the *Coroners Act 2009* – The Domestic Violence Death Review Team available at [https://www.parliament.nsw.gov.au/la/papers/DBAssets/tabledpaper/webAttachments/67991/Report%20on%20the%20review%20of%20Chapter%209A%20of%20the%20Coroners%20Act%20\(Domestic%20Violence.pdf](https://www.parliament.nsw.gov.au/la/papers/DBAssets/tabledpaper/webAttachments/67991/Report%20on%20the%20review%20of%20Chapter%209A%20of%20the%20Coroners%20Act%20(Domestic%20Violence.pdf) (accessed 30 October 2019).



Review and Recommendation: Understanding the function of the Team

The functions of the Team closely parallel the function of other investigative bodies and/or persons, including the recommendation function of Coroners, the investigative and reporting function of the Ombudsman, and the function of other death review bodies in Australian states and territories.

The purpose of these reviews is to investigate individual cases or groups of cases to identify issues within systems, including problems in the way systems operate, omissions or oversights, and to consider how systems and practices may benefit from change.

The domestic violence 'system' in NSW is complex, dynamic and multi-stratum. By virtue of the death however, the Team is afforded a unique opportunity to identify issues that might otherwise be obscured within this complex system. The Team's review process, therefore, acts as a lens into systems and affords a critical analysis of the effectiveness of those systems, where improvements have been made, or where systems and services do not, but should, reach.

The operation of death review processes, much like Coronial inquests, is premised on the understanding that the issues arising within single, or groups of cases can reveal inadequacies within systems and the ways in which systems do, or do not, work. Some death review processes select cases to examine based on the issues arising, conduct a review and make recommendations in relation to the ways systems are functioning based on individual cases. Other bodies produce targeted 'systemic reviews' based on individual cases only, which are published in individual reports or are available online.

The review approach adopted by this Team is to conduct reviews in relation to all cases, but derive recommendations from individual and groups of cases. This whole-of-population approach has been adopted to afford the Team the ability to review the broadest possible cross-section of cases.

The complexity of the domestic violence service system is reflected in the scope of the Team's recommendation

function, which anticipates that the Team will make recommendations as to legislation, policies, practices and services, and that these recommendations will be implemented by government and non-government agencies.

Review Methodology

The Team adopts a two tier approach to investigating and reporting on domestic violence deaths:

Tier 1: Development of a **complete 'real time' domestic violence homicide dataset** – which provides *quantitative data analysis* in relation to all homicides occurring in a domestic violence context in NSW within the data reporting period.

For this report, quantitative data analysis is presented in relation to the 530 domestic violence homicides that occurred between 1 July 2000 and 30 June 2019.

Tier 2: Examination of **in-depth case reviews** – which provide detailed *qualitative case analyses* in relation to all homicides occurring in a domestic violence context in NSW within the case review period, which for this report ranged from 1 July 2014 – 30 June 2016 (a 2 year period).¹⁶

From a synthesis of information derived from Tier 1 and Tier 2, the Team develops various findings and recommendations which aim to facilitate improvements in systems and services, highlight where changes have been made in the time that has elapsed between the homicide and the review, and promote better outcomes for victims of domestic violence.

Tier 1 methodology

To develop the **complete domestic violence homicide dataset** the Team identifies and examines every homicide that occurs in NSW, capturing detailed demographic information and case characteristics for every death.

This dataset is developed with a view to determining overall trends and patterns in relation to domestic violence context deaths, using a comparative dataset (where appropriate) of all non-domestic violence context deaths.¹⁷

¹⁶ The review includes cases that closed during the reporting period (but which may pre-date the current reporting period), and excludes cases that remained open when the Team completed its case review process.

¹⁷ While this data is captured by the Team, the data analysis of non-domestic violence related homicides is not included in this report.

From the total homicide dataset, each case is examined to determine the relationship between the homicide victim and the perpetrator and whether the death occurred in a domestic violence context.

To determine if a homicide occurred in a domestic violence context, case material is examined to identify any evidence (reported or anecdotal) of domestic violence behaviours.

It is acknowledged that the domestic violence context may not always be identified given the limitations inherent in the evidence available to the Team. The figures presented in this report may therefore represent an undercount.

Every domestic violence homicide is categorised by the relationship between the homicide victim and the homicide perpetrator, as follows:

- **Intimate partner homicide:** where a person is killed by a current or former intimate partner in a domestic violence context;
- **Relative/kin homicide:** where a person is killed by a non-intimate family member in a domestic violence context; and
- **‘Other’ domestic violence homicide:** where there is no intimate or familial relationship between the perpetrator and deceased, but the homicide nonetheless occurs in a domestic violence context (for example, cases where a bystander is killed intervening in domestic violence).

Most domestic violence homicides involve a single homicide perpetrator killing a single homicide victim and the process of categorising the homicide is straightforward.

There are, however, a number of cases where a homicide perpetrator kills multiple victims. In these circumstances, each homicide victim is taken to have a distinct relationship with the homicide perpetrator. For example, where a male domestic violence abuser kills his female intimate partner and their child, the women’s death will be categorised as an intimate partner homicide, and the child’s death a relative/kin homicide.

There are also a number of cases where a single homicide victim is killed by multiple perpetrators. Each perpetrator has a distinct relationship with the deceased which may mean that the death sits across categories. For example, a case where a domestic violence abuser, acting together with a friend, kills the abuser’s former female partner. In these circumstances, the woman’s death is both an intimate partner homicide (with respect to her former abuser) and an ‘other’ homicide (with respect to the friend as the woman had no intimate or familial relationship with the friend but her death occurred in a context of domestic violence).

Tier 2 Methodology

The Team conducts comprehensive in-depth reviews of individual domestic violence homicides which occur over a designated period considered to be sufficiently proximal to the homicides.

Examination of in-depth case reviews enables the Team to more thoroughly examine individual cases with a view to making meaningful and specific recommendations based on current practice and policy within agencies.

In-depth reviews are prepared following a comprehensive examination and analysis of all available case material, including:

- police reports to the Coroner;
- the brief of evidence (prosecutorial or coronial);
- post mortem and toxicology reports;
- remarks on sentence;
- coronial findings;
- media reports; and
- any additional information called for by the Team.¹⁸

¹⁸ Coroners Act 2009 (NSW) s101L.



In conducting the review, the Team's Secretariat prepares a case review report which sets out, in as much detail as possible, information including:

- deceased/homicide perpetrator profiles – including demographic information such as: age; sex; ethnicity; family history; education history; relationship status; housing status; employment history; and criminal history;
- a chronology of events – including any relevant events, both proximal and distal, to the death;
- the domestic violence 'status' of the deceased/homicide perpetrator, i.e. whether they were the domestic violence victim or domestic violence abuser in the relationship;
- relationship history – including the nature, duration and history of the relationship between the homicide victim and perpetrator;
- details of the death – as determined by the available material;
- any criminal justice outcome; and
- service contact and response history – including the availability and effectiveness of any services and systems, and any failures that may have contributed to, or failed to prevent, the death.

Each case review report is examined by the Team in a series of workshops to identify common themes, highlight areas where policy or law has shifted, discuss arising issues and develop areas for recommendation.

Recommendations are developed by Team members in consultation with agencies to ensure that the work of the Team is informed by current practice and policies.

This report accordingly provides in-depth reviews of the 53 domestic violence homicides which occurred in NSW between 1 July 2014 and 30 June 2016.¹⁹

¹⁹ This figure includes cases that closed during the reporting period (which may pre-date the current reporting period), and excludes cases that remained open at the conclusion of the Team's case review process.

Complete Dataset Findings

DOMESTIC VIOLENCE HOMICIDE IN NSW 2000–2019

This chapter presents data analysis in relation to the Team's complete dataset - all 530 domestic violence homicides that occurred in NSW in the 19 years between 1 July 2000 and 30 June 2019. The 530 domestic violence homicides are considered in three distinct groups: intimate partner homicides, relative/kin homicides, and 'other' domestic violence homicides.



Homicide overview

In the 19 years between 1 July 2000 and 30 June 2019 (the 'data reporting period') there were **1683** victims of homicide in NSW.²⁰

Of the 1683 homicide victims:

- **555** were female;
- **1127** were male; and
- **1** homicide victim identified as transgender.²¹

Of the 1682 homicides, **530 (31%)** occurred in a context where there was an identifiable history of domestic violence. Of the 530 homicide victims who were killed in a domestic violence context:

- **319** were female (57% of all female homicide victims; 60% of all domestic violence homicide victims); and
- **211** were male (19% of all male homicide victims; 40% of all domestic violence homicide victims) (Fig. 1).

These figures include the deaths of both domestic violence victims and domestic violence abusers (that is, cases where a domestic violence victim kills their abuser). These figures include both adult and child homicide victims.

Every homicide occurring in a domestic violence context in the reporting period has been examined, and the data is considered below in three distinct groups: intimate partner homicides; relative/kin homicides; and 'other' domestic violence homicides.²²

Intimate partner domestic violence homicide

Incidence – all intimate partner domestic violence homicides

Of the 530 homicide victims who were killed in a domestic violence context in the data reporting period, there were 292 cases (55%) where a person was killed by their current or former intimate partner.

Of these 292 intimate partner homicide victims, the majority (N=234, 80%) were women. Men comprised one-fifth of homicide victims in this category (N=58, 20%) (Fig. 2).

The 292 intimate partner homicides were perpetrated by 291 offenders; 239 men and 52 women.²³

Intimate partner domestic violence homicide – Female victims

Of the 234 women killed in this category, 233 were killed by a male intimate partner and one woman was killed by a female intimate partner (Fig. 3).

Almost all of the 234 women who were killed by their intimate partner in a domestic violence context had been the primary domestic violence victim in the relationship (N= 227, 97%).

In three cases where a woman was killed by her male intimate partner, both parties had used domestic violence behaviours against each other and on the information available it was not possible to determine if there was a primary aggressor. There were a further four cases that will be subject to further review because it cannot yet be determined on the material available, who was the primary aggressor.

There were no cases where a woman was a primary domestic violence aggressor who was killed by a male primary domestic violence victim (Fig. 4).

²⁰ Including both open and closed cases of homicide and cases of suspected homicide with homicide protocols employed by investigators.

²¹ The Team acknowledges that historically, limitations in data capture, as well as widespread transphobia, has contributed to rendering the experiences of transgender people invisible, resulting in a likely undercount of the number of transgender homicide victims.

²² It is noted that there are 11 cases where the death sits across categories due to the homicide being perpetrated by multiple parties (see Review Methodology for further explanation). Accordingly, the sum of the homicides across the three distinct groups gives a figure of 542.

²³ One man killed two male intimate partners 6 months apart.

Intimate partner domestic violence homicide – Male victims

Of the 58 men killed in this category, 51 were killed by a female intimate partner and 7 were killed by a male intimate partner (Fig. 5).

Almost all of the 51 men who were killed by their female intimate partner had been the primary domestic violence aggressor in the relationship (N=43, 84%).²⁴

There were no cases where a woman was a primary domestic violence aggressor who killed a male primary domestic violence victim.

All 7 men who were killed by their male intimate partner had been victims of domestic violence in the relationship (Fig. 4).

Intimate partner domestic violence homicide – relationship characteristics

Unless stated otherwise, the information set out below describes the findings from the dataset in terms of the characteristics of the homicide victim and homicide perpetrator (not by reference to who was the domestic violence aggressor or victim in the relationship).

Current intimate partner relationships

Of the 234 women in this category, most were killed by their current intimate partner (N=149, 64%) (Fig. 6).

Of the 149 women killed by their current intimate partner, 44% (N=66) were killed by their husband, 43% (N=64) were killed by their de facto husband, and 13% (N=19) were killed by their boyfriend (Fig. 3).

Although the relationships were current at the time of the woman's homicide, in over a third of these cases one or both parties had indicated an intention to end the relationship within three months of the killing (N=54, 36% of all current relationships). This meant that although the parties remained in a relationship at the time of the homicide, in a significant proportion of these

cases separation was contemplated or, in some cases, imminent (Fig. 6).

Of the 58 male homicide victims in this category, almost all were killed by their current intimate partner (N=48, 83%). This included three cases where one or both of the parties had indicated an intention to end the relationship within three months of the killing (but the relationship remained ongoing) (Fig. 6).

Former intimate partner relationships

Of the 234 female victims of intimate partner homicide, 85 (36%) were killed by a former partner (Fig. 6). Of the 85 women killed by a former partner, this included 36 cases where a woman was killed by her former de facto husband (42%); 32 cases where a woman was killed by her divorced/estranged ex husband (38%); 16 cases where a woman was killed by her former boyfriend (19%) and one case where a woman was killed by her former de facto wife (Fig. 3).

It is important to note that of the 85 women killed by their former intimate partner, two-thirds had ended the intimate relationship with the domestic violence aggressor within three months of the killing (N=56, 66%).

As has been noted in previous reports, the data findings for this category of domestic violence homicide continue to support evidence that the period immediately following separation may be particularly dangerous for women who leave an abusive partner²⁵ and it is critical that this information inform both system and service responses to domestic violence.

Of the 58 male intimate partner homicide victims, 10 were killed by a former intimate partner (Fig. 6) (four former girlfriends, three former wives, two former de facto wives, and one former boyfriend) (Fig. 5). Of the 10 men who were killed by a former partner, two men were killed within three months of the relationship ending.

24 In three cases where a man was killed by his female intimate partner, there had been domestic violence in the relationship perpetrated by both parties. In one case a female perpetrator (acting together with her abusive husband) killed a man she was having a covert intimate relationship with - accordingly, the male homicide victim was neither a domestic violence abuser nor domestic violence victim. There were a further four cases where a man was killed by his female intimate partner that will be subject to further review because it cannot yet be determined on the material available, who was the primary aggressor.

25 Hotton, 'Spousal Violence After Marital Separation' 21(7) *Statistics Canada* – Catalogue no. 85-002-XIE, 2001, available at <http://publications.gc.ca/collections/Collection-R/Statcan/85-002-XIE/0070185-002-XIE.pdf> (accessed 30 September 2017); Campbell et al, 'Risk factors for femicide in abusive relationships: results from a multisite case control study' (2003) 93(7) *American Journal of Public Health* 1089.



Relationship length

Of the 234 women who were killed by an intimate partner, half were killed by an intimate partner with whom they had been in a relationship for five years or less (N=118, 50%). For 14% (N=32) of women killed by an intimate partner the relationship had been ongoing for less than 12 months (Fig. 7).

Just under one-fifth of women (N=42, 18%) were killed by an intimate partner whom they had been in a relationship with for more than 20 years (Fig. 7).

Of the 58 men who were killed by an intimate partner, almost two-thirds (N=37, 64%) were killed by an intimate partner with whom they had been in a relationship with for five years or less. In five cases (9%) the relationship had been ongoing for more than 20 years (Fig. 7).

Intimate partner domestic violence homicide – homicide victim characteristics

Age

The most common age bracket for women killed in an intimate partner homicide was 30 to 34 years of age (N=39, 17%).

Almost one-fifth of the 234 women killed by an intimate partner, were aged 50 years or over (N=45, 19%).

The youngest female killed by an intimate partner was 15 years old and the oldest was aged 80 years (Fig. 8).

The most common age bracket for men killed in an intimate partner homicide was between 40 and 44 years of age (N=14, 24%).

The youngest man killed by an intimate partner was aged 19 years and the oldest was aged 68 years (Fig. 8).

Place of residence – remoteness (Australian Statistical Geography Standard)

Over two-thirds of the 234 women killed by an intimate partner were residing in a major city at the time they were killed (N=160, 68%).

Those women not living in major cities were residing in:

- inner regional areas (N=39, 17%);
- outer regional areas (N=25, 11%);
- remote areas (N=5, 2%); and
- very remote areas (N=2, 1%).

Three women were homeless at the time they were killed and accordingly were identified as having no fixed place of residence.

Over half of the 58 men killed by an intimate partner were residing in a major city at the time they were killed (N=34, 59%).

Those men not living in major cities were residing in:

- inner regional areas (N=10, 17%);
- outer regional areas (N=9, 16%); and
- remote areas (N=2, 3%).

Two men were homeless at the time they were killed and one man ordinarily resided overseas.

Country of birth

The rationale for collecting data in relation to country of birth accords with considerations around the availability of appropriate services for perpetrators and victims of violence from culturally and linguistically diverse backgrounds.

Most female (N=155, 66%) and most male (N=46, 79%) intimate partner homicide victims were born in Australia (including Aboriginal and Torres Strait peoples, discussed below). The 79 female and 12 male intimate partner homicide victims that were not born in Australia were born in 36 different countries.

Aboriginal and Torres Strait Islander status

New South Wales has the largest Aboriginal and Torres Strait Islander population in Australia (approximately 216,176 permanent residents) and Aboriginal and Torres Strait peoples represent approximately 2.9% of the total New South Wales population.²⁶

Of the 234 female intimate partner homicide victims, 14% identified as Aboriginal (N=32).

Of the 58 male intimate partner homicide victims, approximately one-quarter identified as Aboriginal (N=15, 26%).

26 Australian Bureau of Statistics, *Census of Population and Housing 2016*, cat. No. 2001.0, 27 June 2017, available at <http://www.abs.gov.au> (accessed 30 September 2017).

This data demonstrates an overrepresentation of Aboriginal victims of intimate partner domestic violence homicide. Additionally, this figure may represent an undercount due to limitations in data capture, as well as barriers to Aboriginal identification (see Chapter 3, *Aboriginal People and Communities*).

Employment status

Almost half of the 234 women killed by an intimate partner were engaged in paid work at the time they were killed (N=111, 47%).

Just over a third of the 58 men killed in this category were engaged in paid work at the time they were killed (N=21, 36%).²⁷

In this and previous reports, the Team has sought to highlight the critical role of bystanders (including work colleagues) in supporting victims of violence and holding perpetrators accountable and these findings highlight the importance of the workplace as a potential site for the intervention and prevention of domestic violence.

Intimate partner domestic violence homicide – case characteristics

Manner of death

Approximately one-third of women killed in this category died as a consequence of stab wounds (N=75, 32%). The second most common manner of death was assault (N=54, 23%), followed by shooting (N=32, 14%) and suffocation/strangulation (N=31, 13%) (Fig. 9).

Most men killed in this category died as a consequence of stab wounds (N=41, 71%). The second most common manner of death was shooting (N=6, 10%), followed by assault (N=5, 9%) (Fig. 9).

Location of death

Most women in this category were killed in their home (N=176, 75%), followed by a public place (N=25, 11%) (Fig. 10).

Most men killed in this category were killed in their home (N=40, 69%), followed by their partner's residence (N=7, 12%) (Fig. 10).

Multiple Homicide Events

The term 'multiple homicide event' is used to describe cases where two or more people are killed in an episode of violence.²⁸

Of the 292 intimate partner homicide cases there were 15 cases where a perpetrator killed their intimate partner as well as another person/s. Of the 15 multiple homicide events, 14 were perpetrated by men and one by a woman.

Of the 15 multiple homicide events:

- **10** involved the homicide perpetrator killing their intimate partner together with one or more of their children (including step, adopted and/or foster children);
- **1** involved the homicide perpetrator killing their former wife and her new intimate partner; and
- **4** involved the homicide perpetrator killing their intimate partner and another relative/s.

In 8 of these cases the perpetrator suicided after committing the multiple homicide event (7 male homicide perpetrators and one female homicide perpetrator).

Intimate partner domestic violence homicide – homicide perpetrator characteristics

Age

Of the 239 men who killed their intimate partner, the most common age bracket was between 35 and 39 years (N=41, 17%). The youngest male perpetrator was 17 years old and the oldest was aged 87 years (Fig. 11).

Of the 52 women who killed their intimate partner, the highest proportion were aged between 40 and 44 years (N=10, 19%) (Fig. 11). The youngest female

²⁷ Homicide victims not engaged in paid work included people undertaking home duties, retired and other pensioners, students, and people who are unemployed.

²⁸ Cases where a homicide perpetrator kills a single person and then suicides (thus resulting in a total of two deaths) are not classified by the Team as a multiple homicide event.



homicide perpetrator was 20 years old and the oldest was aged 55 years.

Country of birth

As noted above, rationale for collecting data in relation to country of birth accords with considerations around the availability of appropriate services for perpetrators and victims of violence from culturally and linguistically diverse backgrounds.

Most men (N=156, 65%) and most women (N=43, 81%) who killed their intimate partner were born in Australia (including Aboriginal Australians, discussed below).

The 92 remaining intimate homicide perpetrators that were not born in Australia were born in 39 different countries.

Aboriginal and Torres Strait Islander status

Of the 239 men who killed their intimate partner, approximately 10% identified as Aboriginal (N=23).

Almost a quarter of the 52 women who killed their male intimate partner in a context of domestic violence identified as Aboriginal (N=12, 23%).

Employment status

Just over half of the 239 men who killed their intimate partner were engaged in paid work (N=121, 51%).

Less than a third of the 52 women who killed their male intimate partner in a context of domestic violence were engaged in in paid work at the time of the homicide (N=15, 29%).²⁹

Intimate partner domestic violence homicide – criminal/coronial outcomes

Of the 239 male perpetrators of intimate partner domestic violence homicide, criminal or coronial proceedings in relation to the homicide were finalised in 218 cases (91%). At the time of writing criminal proceedings were ongoing for 21 male perpetrators (9%).

Of the 218 finalised cases for male perpetrators of intimate partner domestic violence homicide, 163 (75%) were dealt with by way of criminal proceedings and 55 (25%) were subject to coronial proceedings.

Of the 52 female perpetrators of intimate partner domestic violence homicide, criminal or coronial proceedings in relation to the homicide were finalised in 48 cases (92%). At the time of writing criminal proceedings were ongoing for 4 female perpetrators (8%).

Of the 48 finalised cases for female perpetrators of intimate partner domestic violence homicide, 47 (98%) were dealt with by way of criminal proceedings and one was subject to coronial proceedings.

Criminal proceedings

Of the 163 male perpetrators of intimate partner domestic violence homicide who were dealt with by way of criminal proceedings, two-thirds were convicted of murder (N=108, 66%) (Fig. 12).

The second most prevalent criminal court outcome for men who killed their intimate partners was a manslaughter conviction (including guilty pleas and guilty verdicts of manslaughter) (N=32, 20%) (Fig. 12).

Around 10% of male homicide perpetrators were found not guilty by reason of mental illness (N=15, 9%) and four males were acquitted.

Of the 48 female perpetrators of intimate partner homicide who were dealt with by way of criminal proceedings, approximately half were convicted of manslaughter (N=22, 46%) and one-quarter were acquitted (N=12, 25%) (Fig. 12).

Coronial findings (perpetrator suicide)

Of the 56 homicide perpetrators who suicided after killing their intimate partner, 55 were male and one was female. Accordingly, almost a quarter (23%) of all male intimate partner homicide perpetrators suicided after murdering their intimate partners (Fig. 16).

²⁹ Homicide victims not engaged in paid work included people undertaking home duties, retired and other pensioners, students, and people who are unemployed.

Relative/kin domestic violence homicide

Incidence – all relative/kin domestic violence homicides

Of the 530 homicide victims who were killed in a domestic violence context in the data reporting period, there were 187 cases (35%) where a person was killed by a relative/kin in a domestic violence context.

Relative/Kin domestic violence homicide – Child victims

Of the 187 homicide victims killed by a relative/kin in a domestic violence context, 103 (55%) were children under the age of 18 years.

Of the 103 children killed by a relative/kin in a domestic violence context, 56 (54%) were boys and 47 (46%) were girls.

Relative/Kin domestic violence homicide – Adult victims

Of the 187 homicide victims killed by a relative/kin in a domestic violence context, 84 (45%) were adults over the age of 18 years.

Of the 84 adults killed by a relative/kin in a domestic violence context, 48 (57%) were men and 36 (43%) were women.

Child relative/kin domestic violence homicide – relationship type

Of the 103 children killed by a relative/kin in a domestic violence context, the vast majority were killed by a biological or non-biological parent (N=99, 96%). Two children were killed by their grandfather, one by an uncle and one by their former brother-in-law (Fig. 13).

Of the 99 children killed by a biological or non-biological parent, most were killed by a biological parent acting alone (N=67, 68%) (Fig. 13). Of these 67 children, most were killed by their father (N=43, 64%). The remaining 24 children (36%) were killed by their mother (Fig. 13).

Of the 99 children killed by a biological or non-biological parent, in 22 cases (22%) the child was killed by a non-biological parent acting alone. Of these 22 children, most were killed by their step-father/de facto step-father (N=19), followed by their foster mother (N=2) and one child was killed by their de facto step-mother (Fig. 13).

In 10 cases children were killed in circumstances where their step-father (including de facto step father) and biological mother were both held criminally responsible.

Child relative/kin domestic violence homicide – victim characteristics

Age

The 103 child homicide victims in this category were aged between 4 weeks and 16 years of age. Over half of all children killed in a domestic violence context were aged less than 4 years (N=56, 54%) with a large proportion aged under 2 years (N=39, 38%) (Fig. 14).

Place of residence – remoteness (Australian Statistical Geography Standard)

Most of the 103 child homicide victims in this category were residing in a major city at the time they were killed (N=62, 60%).

Those children not living in major cities were residing in:

- inner regional areas (N=27, 26%);
- outer regional areas (N=10, 10%); and
- remote areas (N=1, 1%).

There were three cases where the family was homeless at the time the child was killed and accordingly each of those three children were identified as having no fixed place of residence.

Country of birth

All but four of the 103 child homicide victims in this category were born in Australia (N=99, 96%).

Aboriginal and Torres Strait Islander status

Of the 103 child homicide victims in this category, 18% (N=19) identified as Aboriginal.



Child relative/kin domestic violence homicide – case characteristics

Manner of death

Over one-third of the 103 child homicide victims in this category died as a consequence of a physical assault (N=39, 38%), followed by poisoning/noxious substance (N=12, 12%) and suffocation/strangulation (N=11, 11%) (See Fig. 15 for complete manner of death data).

Location of death

Over three-quarters of the 103 children killed by a relative/kin in a domestic violence context were killed in their home (N=82, 80%). Ten children were killed in public/open spaces (10%); eight children were killed at the perpetrator's residence (if different from the child's residence) (8%); and three children were killed in hotel/motels (3%) (Fig.16).

Multiple Homicide Events

There were 12 homicide events where a perpetrator killed more than one child (resulting in the deaths of 28 children).

Of the 12 multiple child homicide events, 8 were perpetrated by the children's biological father, three by the children's biological mother and one by the children's biological grandfather.

Child relative/kin domestic violence homicide – perpetrator characteristics

The 103 child homicide victims in this category were killed by 96 perpetrators: 62 men and 34 women.

Age

The youngest male perpetrator in this category was 18 years old and the oldest was aged 69 years (Fig. 17).

The youngest female perpetrator in this category was 18 years old and the oldest was aged 47 years (Fig. 17).

Country of birth

Most male (N=47, 76%) and most female (N=27, 80%) perpetrators who killed a child in this category were born in Australia (including Aboriginal Australians, see below).

The remaining 22 homicide perpetrators in this category that were not born in Australia were born in 15 different countries.

Aboriginal and Torres Strait Islander status

Of the 96 homicide perpetrators who killed a child in this category, 15 (16%) identified as Aboriginal – 11 males (18% of all male perpetrators in this category) and four female (12% of all female perpetrators in this category).

Child relative/kin domestic violence homicide – criminal/coronial outcomes

Of the 62 male perpetrators who killed a child, criminal or coronial proceedings in relation to the homicide were finalised in 54 cases (87%). At the time of writing criminal proceedings were ongoing for 8 male perpetrators (13%) (Fig. 18).

Of the 54 finalised cases for male perpetrators in this category, 38 (70%) were dealt with by way of criminal proceedings and 16 (30%) were subject to coronial proceedings.

Of the 34 female perpetrators of child domestic violence homicide, criminal or coronial proceedings in relation to the homicide were finalised in 31 cases (91%). At the time of writing criminal proceedings were ongoing for three female perpetrators (9%) (Fig. 18).

Of the 31 finalised cases for female perpetrators in this category, 25 (81%) were dealt with by way of criminal proceedings and 6 (19%) were subject to coronial proceedings.

Criminal proceedings

Of the 38 male homicide perpetrators in this category who were dealt with by way of criminal proceedings, 50% (N=19) were convicted of murder; 42% (N=16) were convicted of manslaughter; and two were found not guilty by reason of mental illness (Fig. 18). In one case the homicide perpetrator died prior to trial and the matter was accordingly no-billed.³⁰

Of the 25 female homicide perpetrators in this category who were dealt with by way of criminal proceedings, 68% (N=17) were convicted of manslaughter; 20% (N=5) were convicted of murder; two were found not guilty by reason of mental illness and one woman was found guilty of infanticide (Fig. 18).

Coronial findings (perpetrator suicide/death)

A third of the 96 homicide perpetrators who killed a child in a domestic violence context suicided (N=32, 33%).³¹

This included 16 males (26% of all male perpetrators in this category) and 6 females (18% of all female homicide perpetrators in this category) (Fig. 18).

Adult relative/kin domestic violence homicide – relationship type

Of the 84 adults killed by a relative/kin in a domestic violence context, 48 (57%) were men and 36 (43%) were women.

Of the 48 men killed by a relative/kin in a domestic violence context, 50% (N=24) were killed by their son/step-son. In the other 24 cases the man was killed by his:

- brother (N=5);
- brother-in-law (N=4);
- daughter/step-daughter (N=3);
- son-in-law (N=3);
- father/step-father (N=3)
- mother/step-mother (N=2);

- mother-in-law (N=2);
- nephew (N=1); and
- son and grandson acting together (N=1) (Fig. 19).

Of the 36 women killed by a relative/kin in a domestic violence context, 53% (N=19) were killed by their son/step-son. In the remaining 17 cases the woman was killed by her:

- daughter/step-daughter (N=6);
- nephew (N=3);
- grandson (N=2);
- brother-in-law (N=1);
- cousin (N=1);
- uncle (N=1);
- son-in-law (N=1); and
- son/s and daughter/s acting together (N=2) (Fig. 19).

Of the 84 adult homicide victims who were killed by a relative/kin in a domestic violence context, 49 (58%) were victims of domestic violence who were killed by a domestic violence abuser. A quarter of homicide victims in this category were domestic violence abusers who were killed by a domestic violence victim (N=21, 25%).

In five cases the homicide victim was neither a domestic violence victim or a domestic violence abuser meaning that they were killed by an abusive relative but had not ever been the direct target of that relative's abusive behaviour prior to the fatal assault. In four out of these five cases the abuser's primary victim/s was also killed in the fatal assault and in one case a man was killed intervening in a fight between his sister and her abusive partner.

A further six cases involved homicides where there had been violence perpetrated by both the homicide victim and the homicide perpetrator.

Additionally, there were three cases that will be subject to further review because it cannot yet be determined on the material available, who was the primary aggressor.

³⁰ That is, the prosecution was discontinued.

³¹ This included one perpetrator who died accidentally as a consequence of burns after he killed his intimate partner and her son.



Adult relative/kin domestic violence homicide – victim characteristics

Age

Adult homicide victims in this category were aged between 18 and 87 years.

The most common age bracket for male victims was between 50 and 54 years of age (N=8, 17%) and 54 to 59 years of age (N=8, 17%). Most female victims were aged 45 to 49 years (N=7, 19%) (Fig. 20).

Place of residence – remoteness (Australian Statistical Geography Standard)

Of the 48 men killed by a relative/kin in a domestic violence context, 65% were residing in major cities when they were killed (N=31).

Those men not living in major cities were residing in:

- inner regional areas (N=9, 19%);
- outer regional areas (N=6, 13%); and
- remote areas (N=2, 4%).

Almost three-quarters of the 36 women in this category were residing in a major city at the time they were killed (N=26, 72%).

Those women not living in major cities were residing in:

- inner regional areas (N=4, 11%);
- outer regional areas (N=5, 14%); and
- remote areas (N=1, 3%).

Country of birth

Two-thirds of all the adult homicide victims in this category were born in Australia (N=56, 66%).

The 28 remaining homicide victims in this category that were not born in Australia were born in 15 different countries.

Aboriginal and Torres Strait Islander status

Of the 84 relative/kin homicide victims killed in a domestic violence context, 13% identified as Aboriginal (N=11, 6 men and 5 women).

Adult relative/kin domestic violence homicide – case characteristics

Manner of death

Over half of the 84 adult homicide victims killed by a relative/kin in a domestic violence context died as a consequence of stab wounds (N=44, 52%). Other manners of death for adult homicide victims in this category included:

- assault (N=13, 15%);
- shooting (N=12, 14%);
- multiple causes (N=5, 6%);
- suffocation/strangulation (N=3, 4%);
- other (N=2, 2%); and
- drowning (N=1, 1%).

In four cases the cause of death was unknown (Fig. 21).

Location of death

Of the 84 homicide victims in this category, the vast majority were killed in their home (N=74, 88%) (Fig. 22).

Men were also killed in public/open places, other residences, and at the perpetrator's residence. One woman was killed in public place and one woman's place of death is unknown. (Fig. 22).

Multiple Homicide Events

There were 7 multiple homicide events involving a perpetrator killing an adult relative as well as another person/s, as described below:

- **1** case where a domestic violence abuser killed his father-in-law and his ex-partner;
- **1** case where a domestic violence abuser killed his brother-in-law and his wife;
- **1** case where a domestic violence abuser killed his father-in-law and his two children;
- **1** case where a domestic violence abuser killed his mother and nephew;
- **1** case where a domestic violence abuser killed both his parents;
- **1** case where a domestic violence victim killed both of her abusive parents; and
- **1** case where a domestic violence abuser killed his father and step-mother.

Adult relative/kin domestic violence homicide – perpetrator characteristics

The 84 adult homicides in this category were committed by 82 perpetrators. Of the 82 perpetrators, 68 were male and 14 were female.

Age

The youngest male perpetrator in this category was 14 years and the oldest was aged 61 years (Fig. 23).

The 14 female perpetrators who killed an adult in this category were aged between 13 and 75 years (Fig. 23).

Country of birth

Of the 82 relative/kin homicide perpetrators who killed an adult victim, almost three-quarters were born in Australia (N=59, 67%). The 23 remaining homicide perpetrators in this category that were not born in Australia were born in 11 different countries.

Aboriginal and Torres Strait Islander status

Of the 82 relative/kin homicide perpetrators who killed an adult victim, 16% identified as Aboriginal (N=13, 12 males and 1 female).

Adult relative/kin domestic violence homicide – criminal/coronial outcomes

Of the 68 male perpetrators who killed an adult relative in this category, criminal or coronial proceedings in relation to the homicide were finalised in 54 cases (79%). At the time of writing criminal proceedings were ongoing for 14 male perpetrators (21%).

Of the 54 finalised cases for male perpetrators of an adult relative/kin domestic violence homicide, 49 (91%) were dealt with by way of criminal proceedings and 5 (9%) were subject to coronial proceedings.

Of the 14 female perpetrators of a relative/kin domestic violence homicide, criminal proceedings in relation to the homicide were finalised in all but two cases.

Of the 12 finalised cases for female perpetrators in this category, all were dealt with by way of criminal

proceedings (i.e. no female perpetrators in this category suicided after the homicide).

Criminal proceedings

Of the 49 male homicide perpetrators who were dealt with by way of criminal proceedings, over one-third were found not guilty by reason of mental illness (39%, N=19). For the remaining 30 perpetrators, 33% (N=16) were convicted of murder; 22% (N=11) were convicted of manslaughter; and three (6%) were acquitted on the basis of self-defence (Fig. 24).

Of the 12 female homicide perpetrators, five were convicted of manslaughter (42%), two were convicted of murder, two were found not guilty by reason of mental illness, two matters were no-billed and one woman was acquitted on the basis self-defence (Fig. 24).

Coronial findings (perpetrator suicide)

Of the 82 homicide perpetrators in this category, five (6%, all male) suicided following the homicide (Fig. 24).

‘Other’ domestic violence homicide

Incidence – all ‘other’ domestic violence homicides

Between 1 July 2000 and 30 June 2019, there were 63 cases where the homicide victim had no direct domestic relationship with the homicide perpetrator but the circumstances of the death were such that it was determined to have occurred in a context of domestic violence.

Examples of ‘other’ domestic violence homicides include cases where a bystander is killed intervening in domestic violence, or where a new intimate partner is killed by a domestic violence victim’s former abusive partner.

Of the 63 homicide victims in this category, 58 were men and 5 were women.

There were 65 homicide perpetrators in this category of which 60 were men and 5 were women.³²

³² In two cases the homicide victim was killed by two people (neither of which the victim had a direct domestic relationship with) acting together.



‘Other’ domestic violence homicide –relationship characteristics

Over a third of homicide victims in this category were killed by their intimate partner’s former abusive male partner (N=23, 37%).

In a high proportion of these cases, the male homicide perpetrator’s coercive and controlling behaviours against his former female partner continued after the dissolution of the relationship and the abuser’s behaviour intensified after his former partner started a new relationship.

In 10 cases (16%) the homicide victim was killed by their former intimate partner’s new partner and in six cases (10%) the homicide victim was killed intervening in a domestic violence episode (See Fig. 25 for complete relationship type data).

‘Other’ domestic violence homicide – victim characteristics

As noted above, 58 of the 63 homicide victims in this category were men.

Age

Homicide victims in this category were aged between 18 and 64 years (Fig. 26).

Place of residence – remoteness (Australian Statistical Geography Standard)

Of the 58 male homicide victims in this category 60% were residing in a major city at the time they were killed (N=35).

Those men not living in major cities were residing in:

- inner regional areas (N=13, 22%);
- outer regional areas (N=7, 12%);
- remote areas (N=2, 3%); and
- very remote areas (N=1, 2%).

All but one of the five female homicide victims in this category were residing in a major city at the time they were killed.

Country of birth

Almost three-quarters of homicide victims in this category were born in Australia (N=45, 71%).

The 18 remaining homicide victims in this category that were not born in Australia were born in 13 different countries.

Aboriginal and Torres Strait Islander status

Seven homicide victims (1 woman and 6 men) in this category identified as Aboriginal (11%).

‘Other’ domestic violence homicide – case characteristics

Manner of death

Over half of the homicide victims in this category died as a consequence of stab wounds (N=34, 54%). Other manners of death for victims in this category included:

- shooting (N=16, 25%);
- assault (N=8, 6%);
- heat-related injuries (N=1);
- multiple causes (N=1);
- suffocation/strangulation (N=1); and
- other (N=1);

In one case the cause of death was unknown (Fig. 27).

Location of death

Most homicide victims in this category were killed in their own home (N=28, 44%) followed by a public place (N=14, 22%); perpetrator residence (N=11, 17%); and other residence (N=10, 16%) (Fig. 28).

‘Other’ domestic violence homicide – perpetrator characteristics

As noted above, there were 65 homicide perpetrators in this category, 60 men and 5 women.

Age

Homicide perpetrators in this category were aged between 16 and 75 years (Fig. 29).

Country of birth

Over two-thirds of all the homicide perpetrators in this category were born in Australia (N=45, 69%).

The 20 remaining homicide perpetrators in this category that were not born in Australia were born in 16 different countries.

Aboriginal and Torres Strait Islander status

Thirteen homicide perpetrators in this category (12 men and 1 woman) identified as Aboriginal (20%).

Other’ domestic violence homicide – criminal /coronial outcomes

Of the 60 male homicide perpetrators in this category, criminal or coronial proceedings in relation to the homicide were finalised in 46 cases (77%). At the time of writing criminal proceedings were ongoing for 14 male homicide perpetrators.

Of the 46 finalised cases for male perpetrators in this category, 41 (89%) were dealt with by way of criminal proceedings and 5 (11%) were subject to coronial proceedings.

All criminal proceedings for the five female homicide perpetrators in this category were finalised at the time of writing and no matters were subject to coronial proceedings.

Criminal proceedings

Of the 46 perpetrators (41 male and 5 female) in this category who were dealt with by way of criminal proceedings, over half were convicted of murder (N=25, 54%) and 37% (N=17) were convicted of manslaughter.

Three homicide perpetrators (10%) in this category were acquitted, one on the basis of self-defence and two on the basis of defence of another. Another perpetrator in this category (N=1) was found not guilty by reason of mental illness (Fig. 30).

Coronial findings (perpetrator suicide/death)

Of the five cases in this category that were finalised by way of coronial proceedings, two involved the domestic violence abuser suiciding after the homicide, two involved the domestic violence abuser being killed by police during a domestic violence episode and one homicide perpetrator died of natural causes while on remand (having been charged with murder) (Fig. 30).

Case Review Summaries

DOMESTIC VIOLENCE HOMICIDE

This chapter sets out 53 domestic violence homicides reviewed by the Team for the reporting period 1 July 2014 to 30 June 2016.³³ Each case was subject to in-depth analysis by the Team in a series of case review workshops to identify common themes, issues and areas for recommendation. Names in these cases have been changed to protect the identities of people involved and respect the privacy of surviving family and friends.

WARNING: These case summaries include information that some readers may find distressing. The details in these summaries are included to assist readers in understanding the complex dynamics of domestic violence and the characteristics of these cases. The Team hopes that these commentaries can help readers to understand more about these tragedies, so we can learn from these deaths and prevent future losses of life.

³³ This figure includes cases that closed during the reporting period (but which may pre-date the current reporting period), and excludes cases that remained open when the Team completed its case review process.



Introduction

The Case Review Methodology is explained in detail in Chapter 1 of this report however it is important to note that the Secretariat develops each in-depth qualitative case review through a domestic violence lens and with a victim-focused orientation. This approach is adopted to counterbalance the dominant narratives of the domestic violence perpetrator, who may have successfully concealed the violence and avoided responsibility up until the homicide.³⁴ This work also seeks to highlight that victims may conceal or minimise the violence they experience to increase their safety and maintain maximum control of their circumstances.³⁵ With much of the violence obscured from service providers, responders and social networks, it is only through a holistic examination of patterns of behaviour over the life course of the victim and perpetrator that the complex dynamics of domestic violence become apparent. The Secretariat endeavours to uncover these patterns to ensure that the violence is represented in the case reviews in its most complete and contextual form, while also acknowledging that the true extent of violence may never be known in those cases where the victim is killed.

The Secretariat also acknowledges the limitations of identifying these complex dynamics by way of a desktop review, and is working with key stakeholders to explore opportunities to engage with the surviving friends and family moving forward.

³⁴ Coates and Wade, 'Language and Violence: Analysis of Four Discursive Operations' (2007) 22 *Journal of Family Violence* 511-522 (online, 26 July 2007) <https://www.responsebasedpractice.com/app/uploads/Language-and-Violence.pdf> (accessed 23 October 2019)

³⁵ See above Coates and Wade (n 34) p. 512.



Intimate partner domestic violence homicide case reviews

Domestic violence victim killed by domestic violence abuser

Case Review 3645

This case involved the homicide of an Aboriginal woman, Margaret, aged in her late 40s, by her de facto husband, Darryl, who was aged in his 30s. They lived in a regional area of NSW. Darryl was also Aboriginal although he did not identify, possibly due to trauma issues related to his childhood and his identity.

As a child Darryl had a long history of living with violence perpetrated by his father against his mother, as well as being the victim of physical and sexual abuse. He entered out-of-home care at a young age and moved between multiple youth shelters and residential or foster care placements in NSW and Queensland. From a young age Darryl misused drugs and started offending, serving numerous short custodial sentences for a range of offences throughout his adolescent years. Darryl also used domestic violence against a prior female intimate partner and while there was some police involvement in relation to that domestic violence, he was never convicted of any violence offences.

Darryl and Margaret were in a relationship for three years before the homicide and lived together in Margaret's social housing unit. During their relationship Darryl isolated Margaret, keeping her from her family and community. Darryl was also physically and emotionally abusive towards Margaret, although most of this violence was not reported to police. Margaret's children and other relatives would intervene in violent episodes by calling out Darryl's behaviour and helping Margaret get away from the abuse. Neighbours were also aware of Darryl's violence against Margaret, having witnessed assaults occurring and Darryl threatening to kill Margaret. On one occasion Margaret's neighbour offered to take her to a woman's refuge, and warned that Darryl may kill her unless she left him. Social housing providers observed damage to Margaret's unit, and this damage was the result of Darryl's violence towards Margaret in the home.

Darryl and Margaret had limited contact with police, and those occasions where violence was reported did not result in charges progressing. In one episode, family intervened when Darryl seriously assaulted Margaret, accompanying her to the police station and encouraging her to report the assault. Margaret was upset, and insisted that she did not want Darryl to be dealt with by police and she did not want the relationship to end. Margaret consented to police photographing her injuries but she was not able to provide further details to police, despite urging by family and police.³⁶ No charges were progressed against Darryl in relation to this assault.

On the day of the murder Margaret and Darryl were drinking alcohol together and socialising with some family members. An argument erupted and Darryl started assaulting Margaret in front of family, who attempted to intervene and protect her. Darryl assaulted Margaret a number of times. The next morning, family members found Margaret deceased on the floor of the unit from the injuries inflicted by Darryl. Darryl pleaded guilty to murder.

³⁶ Note the Secretariat intentionally uses language that acknowledges the omnipresent perpetrator control and coercion over the victim, and does not defer to victim blaming. For example the Secretariat avoids language that places on onus on the victim to behave in a certain way eg. 'the victim refused to provide police with further details' or 'the victim was non-cooperative'. Such phrasing is routinely found in police narratives.

Case Review 3545

This case concerned the homicide of Ellie by her de facto husband Harrison, both aged in their 30s and living in a metropolitan area of NSW.

Ellie had three children from a former relationship and was working full-time to support her family. She had an amicable relationship with her ex-husband who shared parental responsibility for their children.

Harrison joined the navy when he was a teenager and served in Iraq. His military personnel file identified that Harrison had anger management issues following allegations of workplace bullying, threats of physical violence and verbal abuse against colleagues. He had received psychiatric counselling through his workplace. After leaving the Navy, Harrison worked interstate as a fly-in fly-out (FIFO) worker. He also had a history of problematic drug (amphetamines) and alcohol use.

From early in the relationship Harrison was controlling and manipulative towards Ellie. Ellie moved in with Harrison because she couldn't afford to support her children by herself. Harrison threatened to kill Ellie's ex-husband and obstructed agreed parenting arrangements. Ellie had to change her passwords because Harrison would hack her online accounts to check who she'd been communicating with. Ellie disclosed to a friend that Harrison would be able to kill her due to his physical size and military training. One of Ellie's friends witnessed Harrison strike Ellie on the back of the head during an argument. After a serious assault, Ellie told her friends that she had to pretend things were okay for a while until she had saved enough money to move out. Ellie arranged for Harrison to see a psychiatrist, however he did not attend the scheduled appointment.

A few days before the homicide, Ellie disclosed to a friend that she was scared of Harrison and that she believed he might hurt her. Harrison killed Ellie by punching her in the head from behind while they were in public. Harrison was charged with murder and initially granted bail until he was found guilty of manslaughter and imprisoned.

Case Review 3585

This case involved the murder of Luna, aged in her 40s, by her boyfriend Yosef, who was aged in his 30s.

Luna was born in Lebanon and when she was a teenager, she married and moved to Australia to live with her husband, Rami. They had three children together. Rami was very abusive towards Luna and would regularly assault her in front of their children. Luna reported some of these assaults to police through an interpreter, but Rami was never convicted of any offence and no ADVO was ever finalised. Luna and Rami eventually divorced, by which time Luna's eldest son (now a teenager) had begun perpetrating violence against her.

Luna experienced violence from her next intimate partner and again she reported these assaults to police and showed them her injuries. Police charged the perpetrator and applied for an ADVO, however when the matter was listed in court Luna did not attend. The ADVO was dismissed and the charges were withdrawn. After a further episode of serious violence was witnessed by a bystander, as well as police, her abusive partner was imprisoned and an ADVO was finalised. As a consequence of the trauma she endured, Luna was diagnosed with depression and prescribed antidepressants.

Yosef was born in Iran and moved to Australia as a refugee with his wife. Yosef had a recorded history of violence against his wife, whom he threatened to stab with a knife. Despite an ADVO, Yosef's abuse continued and he was convicted of breaching the ADVO. Yosef and his wife eventually divorced and he became homeless and returned to Iran where he remarried.

Yosef and his new wife returned to live in Australia and Yosef commenced a secondary intimate relationship with Luna. There was no police reported history of violence between Yosef and Luna however there was anecdotal evidence that he was controlling throughout their relationship. Yosef began stalking Luna and threatened suicide



if she tried to end the relationship. During this time, Yosef was also convicted of indecent assault against two school-aged girls. After Luna refused to marry Yosef, he killed her by inflicting head injuries with a weapon and strangulation. Yosef then attempted suicide by overdosing on prescribed medication. At trial his defence argued that he was suffering from a substantial impairment³⁷ at the time of the homicide however this was rejected by the jury and Yosef was found guilty of murder.

Case Review 3919

This case concerned the homicide of Phoebe, aged in her 50s, by her de facto partner, Bruce, who was aged in his 40s. Phoebe and Bruce had been in an on-off de facto relationship for 15 years and lived in a metropolitan area of NSW.

Although there was evidence of violence perpetrated by both Phoebe and Bruce, Bruce was the primary aggressor. Bruce was physically violent towards Phoebe, but also used other tactics including verbal, psychological and economic abuse to control and coerce Phoebe.

Both Phoebe and Bruce had been diagnosed with schizophrenia and had a history of non-compliance with medication. They were often scheduled and spent periods in inpatient mental health facilities. They both also had lengthy and complex histories of polysubstance misuse (opioids, methamphetamine and alcohol) and extensive criminal histories.

For most of their lives Phoebe and Bruce did not have a permanent address and used shared accommodation, boarding houses, or slept on the street. At times Phoebe's family would assist her in finding accommodation. However, soon after Phoebe was settled, Bruce would move in and cause her to be evicted.

Phoebe had former partners who were both physically and verbally abusive towards her. She gave birth to a son, John, who was removed by child protection when he was a baby after Phoebe's partner admitted to assaulting John. John was placed into foster care but reconnected with Phoebe in his mid-teens, just before the homicide.

Phoebe died from the consequences of an acute subdural haemorrhage. The autopsy could not establish the manner of Phoebe's death and Bruce was not charged with her murder.

The matter was finalised by way of Inquest and the Coroner determined on the balance of probabilities that Phoebe had died as a result of an episode of interpersonal violence perpetrated by Bruce.

Case Review 3625

This case involved the stabbing murder of Maddy, aged in her 40s, by her former de facto husband, William, aged in his 50s, in a regional area of NSW. Maddy was killed by William while she was protected under an ADVO, a few months after she ended their four year relationship.

Maddy had a number of prior abusive intimate partners and reported many of these assaults to police. Only some of these episodes resulted in convictions and ADVOs, and many were dismissed despite severe injuries to Maddy. As a consequence of the trauma she endured, Maddy had a history of problematic alcohol use.

William also had issues with alcohol misuse as well as problems with gambling. He was employed at an abattoir and coached at his local rugby league club. Friends witnessed William pushing Maddy into walls, punching and shoving her, pulling her hair, and forcefully grabbing her arms. They would often see Maddy with injuries as a result of these assaults. Sometimes Maddy would use retaliatory violence to defend herself. William also used emotional abuse and regularly threatened self-harm as a tactic to control Maddy. He refused mental health treatment, but was involuntarily admitted as an inpatient on one occasion and diagnosed with depression.

37 See *Crimes Act 1900* (NSW) s 23A 'Substantial impairment by abnormality of mind'.

When Maddy ended the relationship, William became homeless for a period and so she agreed to let him move back in with her temporarily. They lived 'separately under one roof' until the homicide. William's abusive behaviour towards Maddy continued and police applied for an ADVO protecting Maddy after CCTV footage captured William assaulting her outside a licensed premise. When William killed Maddy, he also attacked and stabbed Maddy's best friend who was trying to protect her, however the friend survived her injuries. William pleaded guilty to Maddy's murder.

Case Review 3333

This case concerned the homicide of Felicity, aged in her 30s, by her former boyfriend, Jordan, aged in his 40s, at her home in metropolitan NSW. Felicity ended the relationship two months prior to the homicide and there was no known history of physical violence.

Felicity grew up in Canada and moved to Australia with her family when she was a teenager. She completed a university degree and commenced a successful career in sales.

Jordan also completed university and played professional rugby league. He had been married twice and was extremely controlling and abusive towards his former partners. He controlled all the finances and used threats of suicide as a means of keeping the victims in the abusive relationship. Jordan's violence and stalking towards his intimate partners only intensified when they ended the relationship. In one episode, he forced entry into a former partner's house and threatened her family members with a firearm. Another time Jordan broke into another former partner's house and hid under her bed until she came home and he threatened to kill her new partner. He continued his stalking behaviours for many years. He had an ADVO history with prior partners but he did not have any criminal record.

Jordan and Felicity met at work and commenced a brief extramarital relationship (as Jordan was still married to his current wife). Jordan began stalking and threatening Felicity as soon as she ended the relationship. He followed her interstate and to a work conference. Felicity reported Jordan's behaviour to police, but they did not take any action.

A week later, Jordan killed Felicity after following her home from an exercise class. He fatally stabbed her while neighbours were trying to get into the apartment to intervene. Jordan was found guilty of murder.

Case Review 3476

This case involved the homicide of Kayla, an Aboriginal woman in her 20s, by her former boyfriend, Mitch, a non-Aboriginal man aged in his 30s. The couple had only been in a relationship for a few months and lived separately in social housing in a metropolitan area of NSW. Kayla was 5 months pregnant when she was killed.

Kayla was a talented athlete and excelled at many sports during school. When she was in high school, her father suicided and her mother arranged counselling for all of the children. Kayla was the direct victim of domestic violence perpetrated by her step-father. She was also the victim in numerous assaults by classmates and neighbours, and was protected under several AVOs. Kayla had some issues with drug use (cannabis, methamphetamine and prescription medication) as well as mental health issues. She was scheduled once for self-harm but did not receive any ongoing treatment.

Mitch had a history of perpetration against former partners and family members. Despite police involvement, most of his assaults did not result in convictions and ADVOs were not finalised. Many of the assaults against his former partners were unreported: he attacked a former partner when she was pregnant and caused her to miscarry; he slammed her hand in the car door; and he assaulted her to the point of unconsciousness causing swelling of her brain. The evidence of these unreported assaults was excluded at Kayla's homicide trial, even though his former partner had records of her injuries at the time.



Mitch also had an extensive criminal history for other offending, including serious assaults on strangers and acquaintances for which he received terms of imprisonment. He had substance misuse issues (methamphetamine and prescription medication) and had been convicted for drug-related offences.

At the time of the homicide Mitch was on bail for domestic violence offences, but was not convicted in relation to these offences until after the murder. These offences related to an episode where Mitch had punched a former partner in the face, and then broken her father's arm when he tried to intervene.

Mitch was controlling from the outset of his relationship with Kayla. He demanded to know where she was and what she was doing at every moment of the day. He texted her constantly and would sit outside her house overnight to make sure she did not leave the house. Kayla disclosed to her friends that Mitch was violent and she wanted to end the relationship. A few months prior to the homicide Kayla called police on two occasions to report that Mitch was being abusive and stalking her. Both episodes were categorised by police as 'DV-No Offence' with no charges or ADVOs applied for.

Kayla ended the relationship with Mitch over text message after which he forced his way into her home where he stabbed and killed her in front of two of her friends. He also stabbed one of her friends who was attempting to intervene to protect Kayla.

Mitch was charged with murder but at the first trial the jury were unable to reach a verdict. At the second hearing, Mitch pleaded guilty to manslaughter on the basis of excessive self-defence.

Case Review 3651

This case concerned the stabbing murder of Aida, aged in her 20s, by her estranged husband, Saeed, aged in his 30s, in a metropolitan area of NSW. Aida was protected from Saeed under an ADVO when he killed her.

Aida and Saeed were both born in Iran but fled the country as refugees. After they married, they moved to Australia and were granted permanent residency.

Saeed had a history of mental health issues and had attempted suicide while living in Iran. He began using drugs as a teenager (cannabis, opioids, methamphetamine and prescription medication) and continued his drug use up until the murder. He also developed issues with gambling while living in Australia.

In Australia, Aida completed high school and began working at a local business. Saeed was physically and emotionally abusive towards Aida throughout their marriage. He began by verbally abusing Aida and would use threats and actual self-harm as a tactic to control her. He would not let Aida socialise by herself and isolated her from her friends and family. He also demanded money from her and would threaten to kill her if she did not comply. A year prior to the homicide, a friend observed large purple bruises around Aida's throat and she disclosed that Saeed had strangled and suffocated her during an argument. This was disclosed to a social worker who did not report this disclosure to police or refer Aida to any support services.

A few months later, a neighbour called police after overhearing a loud argument between Aida and Saeed. Aida disclosed to police that she had been previously injured by Saeed, but this episode was classified as 'DV-No Offence' with no further action.

Aida ended the relationship with Saeed approximately four months before he killed her and she became homeless. She sought help through housing services but was not provided with any stable or safe accommodation.

Saeed's abusive behaviour towards Aida continued and police applied for an ADVO protecting her. When Aida reported to police that Saeed had breached the ADVO by texting her, she was told that the ADVO was not yet enforceable (due to an administration error) and so they advised her to change her phone number. Aida changed

her phone number and the following day Saeed stalked her workplace and stabbed her multiple times in the car park. Saeed pleaded guilty to Aida's murder.

Case Review 3672

This case involved the murder of Brooke, an Aboriginal woman aged in her 50s, by her de facto partner, Adam, who was a non-Aboriginal man aged in his 40s. Brooke and Adam lived in a social housing unit in metropolitan NSW.

Brooke had been the victim of extreme violence by multiple intimate partners since she was a teenager. She gave birth to her first child at 18, and her children were also abused by her violent partners. As a consequence of the trauma she endured, she began self-medicating with drugs (opioids, alcohol, and prescription medication). Brooke had a number of criminal convictions for drug-related offences and public disorder. As a young child she was diagnosed with epilepsy and received the disability support pension throughout her life.

Adam grew up in a violent household and often witnessed his mother being seriously assaulted by his father, who misused alcohol. Adam's brother had cerebral palsy and required constant care. Adam left partway through high school and began using drugs (amphetamines, cannabis, opioids and prescription medication). He also had a criminal history, primarily for drug-related offences. In his 20s, Adam was diagnosed with epilepsy after a traumatic head injury and began receiving the disability support pension.

At the time of the homicide, Adam and Brooke had been living in a de facto relationship for over 20 years, with reports of violent assaults perpetrated by Adam for at least 15 years. Neighbours often saw Brooke with head injuries, black eyes, broken limbs, and teeth as a result of assaults by Adam. Brooke reported multiple episodes of non-fatal strangulation to police and hospital staff. Despite numerous witnesses and reports to both police and healthcare providers, there was minimal police engagement or intervention. Adam had never been charged with any domestic violence related offences and no ADVO had ever been applied for protecting Brooke from Adam. When Brooke disclosed these episodes of violence, even with many serious and visible injuries, she was often not believed and considered to 'lack credibility' due to her mental health issues and/or substance misuse. Adam was also very controlling of Brooke and would not let her access her own finances, food or a mobile phone. When Brooke was referred to services, the contact number she provided would always be for the phone that they shared.

Adam killed Brooke in a protracted assault and was convicted of murder, however he died of natural causes in custody prior to being sentenced.

Case Review 3743

This case involved the murder of Sofia, aged in her 50s, by her former boyfriend, George, aged in his 60s, at his residence in regional NSW. Sofia and George were in a relationship for three years and there was no known history of physical violence prior to the homicide.

George was born in Lebanon, but his family moved to Australia before he started high school. He had two children from a previous marriage, and operated a small business. He owned firearms and had a firearms licence, despite a history of mental health issues. Sofia had been the victim of abuse by former partners. She had a successful career and was working full-time in sales at the time of the homicide.

George was very controlling of Sofia, he called her constantly demanding to know her whereabouts, isolating her from her friends, and spreading false rumours about her to people in the town. He would constantly belittle and criticise Sofia and as a result Sofia's friends observed a change in her personality, as she became more pessimistic and insecure. Sofia disclosed to friends that she was concerned about George having access to firearms.



In the weeks prior to the murder, Sofia decided to end her relationship with George. In response, George told Sofia he could not live without her and attempted suicide. Shortly afterwards, Sofia agreed to see George at his house. She had no plans to reconcile with him and was about to embark on a long holiday overseas. When Sofia attempted to leave George's residence, he shot her in the back and killed her. George suicided after the murder and the case was finalised by way of Inquest.

Case Review 3628

This case involved the murder of Amanda by her de facto husband, Joe, both aged in their 50s in metropolitan NSW. Both Joe and Amanda had intellectual disabilities.

Amanda required assistance with daily activities and continued to live with her parents well into adulthood. After her parents died, Amanda's brother sold their parents' house, but Amanda was defrauded out of the proceeds by another relative. A financial guardianship order was granted and Amanda moved into a mobile home in a caravan park by herself. Amanda received daily support for personal and domestic assistance from an NGO provider.

Joe was bullied at school and attended specialist support classes although he never learned to read or write. As an adult, he developed issues with problematic gambling and alcohol use. He received some counselling for his gambling issues and had a short history of mental healthcare service contact, but otherwise was not engaged in any other services for most of his life.

Amanda and Joe met at a social event organised by a community group. From early in the relationship Joe was abusive towards Amanda. She disclosed episodes of violence to a community worker and friends, but there was no action taken in response to her disclosures. Amanda began cancelling home visit appointments with her service providers and if they attended, Joe would behave aggressively and refuse to let them into Amanda's house. Amanda's NGO provider recognised that Joe was controlling and isolating Amanda, and applied for new guardianship orders regarding Amanda's access to services. These were granted and were in force when Amanda was murdered.

Joe's mental health deteriorated and he began behaving erratically and suffering paranoid ideations. On one occasion he was taken to hospital and was treated with antipsychotic medication, however his erratic behaviour continued to escalate. Amanda's carers noticed injuries on her body that had been caused by Joe, but they were not reported to police. Amanda began staying at Joe's house and missed two weeks of appointments for her services, as a result the Public Guardian placed all of Amanda's services on hold.

Joe killed Amanda by striking her in the head multiple times with an axe. After murdering Amanda, Joe died of natural causes in custody and the case was finalised by way of Inquest.

Case Review 3734

This case concerned the death of Tanya, aged in her 30s, by her partner, Ryan, aged in his 40s in metropolitan NSW. Both Tanya and Ryan identified as Aboriginal and had been in a relationship for about two years.

As a young child, Ryan was the victim of physical violence perpetrated by his father and was homeless from 7 years of age. Ryan had a long history of problematic substance use (alcohol, cannabis, methamphetamine and opioids). He was diagnosed with an alcohol-related cognitive impairment. Ryan lived with no fixed address for over a decade as he was unable to secure stable housing.

Ryan had a history of domestic violence perpetration and assault convictions against former partners. He was charged with the attempted murder of a former partner, but was not convicted.

Ryan and Tanya were homeless and living in a boarding house at the time of the homicide. They had recently moved to NSW from interstate and there was no reported history of domestic violence in NSW. Family and friends were aware that Ryan was abusive towards Tanya.

Ryan killed Tanya in a series of protracted of assaults in many public places over 12 hours or more.

Ryan was charged with murder but he was found unfit to be tried. At a special hearing he was acquitted of all charges on the basis of causation and an inability to demonstrate intent, and he was released.

Case Review 3582

This case involved the stabbing murder of Salina, aged in her 20s, by her much older husband, Jemal, aged in his 40s at their home in a metropolitan area. Jemal killed Salina in front of their young child.

Jemal was born in Ethiopia and was imprisoned in the late 1980s for political reasons and tortured. Jemal came to live in Australia after been granted refugee status and was referred to specialist services for treatment of his mental and physical trauma. Jemal refused counselling because he believed that the interpreters used in the counselling sessions were spies for the Ethiopian government.

Salina was also born in Ethiopia and was an exceptional student but was unable to pursue further studies when her family arranged for her to marry Jemal, who was 20 years her senior. Salina and Jemal married in Ethiopia and moved to Australia.

Jemal was very controlling of Salina and used tactics such as violence, threats, sexual abuse, derogatory comments, stalking and social isolation. He had a reported history of violence against other women (not former partners) in Australia. Jemal's abuse worsened in severity and frequency when Salina was pregnant and he used reproductive coercion to prevent her from terminating a pregnancy.

Salina reported to police (through an interpreter) that Jemal had threatened to kill her. Police applied for an ADVO but Jemal was not charged. Later Jemal boasted to friends that it didn't matter if Salina complained to police because 'they did nothing about it.'

Salina tried to leave the relationship multiple times but community elders intervened and Salina resumed the relationship. Jemal killed Salina in front of their five year old child. Jemal was charged with murder but was found guilty of manslaughter on the basis of substantial impairment.

Case Review 3669

This case involved the murder of Tegan, aged in her late-teens, by her de facto husband, Corey, aged in his 20s, in a remote region of NSW. Both Tegan and Corey identified as Aboriginal and were in a relationship for four years.

Tegan was academically gifted and attended a high school where she was the only Aboriginal student. Tegan left in the first year because she felt too isolated. In her early-teens, Tegan was sexually and physically assaulted by an adult family friend. Tegan began drinking alcohol and using cannabis as a consequence of her trauma. She also was charged with a few minor criminal offences around this time.

As a child, Corey had experienced domestic violence and both of his parents had issues with alcohol misuse. He first came to police attention for not wearing a helmet when he was 9 years old and later ended up in juvenile detention for more serious offences. Corey left school in year 10, and was later assessed with having low to extremely low reasoning and comprehension skills. He developed problematic alcohol and drug use (methamphetamine and cannabis). Corey had a history of perpetrating violence against his family members, and was named as a defendant in an ADVO protecting his mother.



Tegan was only in her mid-teens when she met Corey and he was abusive towards her from early in the relationship. A few months into the relationship she became pregnant. Tegan's mother reported this underage relationship to police, but no action was taken. While Corey was in custody for driving offences, Tegan gave birth and became homeless.

After Corey was released from gaol, he began using violence against Tegan again. Tegan reported to police that Corey had punched her in the face, but she did not want to make a statement, so police did not apply for an ADVO or charge Corey. After another reported episode of violence, police applied for an ADVO protecting Tegan. Criminal charges and ADVOS did not deter Corey from assaulting Tegan. After another serious reported assault, police expressed the view that Tegan was 'facilitating' the ADVO breaches and 'placing herself at risk' by 'allowing' Corey to live with her. Despite numerous breaches, Corey had only one conviction for a domestic violence offence and another charge was withdrawn because Tegan did not attend court. While Corey was on bail he attacked Tegan again and failed to comply with the conditions of his good behaviour bond, but it was not revoked.

Tegan's mental health deteriorated as a result of Corey's relentless physical and mental abuse, and after episodes of self-harm she was scheduled in inpatient mental health facilities. She disclosed episodes of violence to medical practitioners, but did not receive any specialist referrals or support for domestic violence.

Corey killed Tegan in a brutal assault while there were several relatives present in their home. At trial, Corey claimed that Tegan's injuries were self-inflicted, but he was found guilty of her murder.

Case Review 3318

This case involved the killing of Nicole, an Aboriginal woman aged in her 30s, by her intimate partner, Shaun, a non-Aboriginal man, also aged in his 30s, in a regional area of NSW.

Nicole was the repeat victim of extreme domestic violence perpetrated by multiple partners. She developed epilepsy as a consequence of so many traumatic head injuries from her violent partners. This relentless abuse destroyed Nicole's self-esteem and caused her to use alcohol as a way of coping with her trauma.

One abusive partner fractured her newborn's skull during a domestic violence episode. All of Nicole's children were removed by child protection services, but Nicole could not leave the relationship because she was too afraid that her ex-partner would kill her. She continued to be regularly assaulted by the abusive partner and sometimes police intervened. Nicole was considered by some police to be 'non-cooperative' which meant that often charges and ADVOS were not pursued. On some occasions police did lay charges or apply for an ADVO, however Nicole did not attend court so these were dismissed. Nicole finally got the opportunity to escape to a women's refuge when her ex-partner was imprisoned.

Another violent partner attacked Nicole when she was six months pregnant, causing severe haemorrhaging. The ex-partner forbid Nicole to seek medical treatment, but she went to the hospital anyway and gave birth prematurely. After Nicole left this relationship, she became homeless. During this time she had a relationship with Shaun and his friend, Jeremy. Shaun had a history of problematic alcohol use and had been convicted of violent crimes (not domestic violence related). Jeremy also had long-term issues with alcohol use and was convicted for numerous domestic violence offences with corresponding periods of imprisonment.

At the time of the homicide, Nicole, Shaun and Jeremy had been drinking together for a few days. Bystanders described Nicole as disoriented while Shaun and Jeremy made derogatory sexualised comments about her to strangers. Shaun and Jeremy drove Nicole to a beach where Shaun viciously raped her. Jeremy also participated. Nicole began bleeding internally and lost consciousness. An expert described her fatal injuries to be worse than would be expected in childbirth. Nicole died at the scene and the two men tried to destroy evidence of the homicide.

Initially, Shaun was charged with manslaughter however these charges were discontinued by the DPP. An Inquest referred the charges back to the DPP, but again the DPP decided not to proceed. After negative media attention, the file was independently reviewed and Shaun was charged and found guilty of manslaughter and aggravated sexual assault. Jeremy was also charged and convicted of aggravated sexual assault.

Case Review 3559

This case involved the murder of Olivia, aged in her 30s, by her estranged husband, Sam, aged in his 50s, in metropolitan NSW. Olivia was protected under an ADVO at the time she was killed.

Sam grew up in England and had an extensive violent criminal history for which he served various terms of imprisonment, including a two year sentence after he punched a former partner in the face with a knuckle duster and broke her jaw. She required surgery to rectify the damage.

Olivia also grew up in England and after completing high school and a diploma, she travelled to Australia where she met Sam. After several years residing together in the UK, Olivia and Sam moved to Australia and were granted permanent residency.

From early in the relationship Sam was incredibly controlling as well as physically, psychologically, emotionally, economically and sexually abusive towards Olivia. He strangled her in front of their children, held a knife to her throat while threatening to kill her, and raped her. He also directed his abuse at their children and encouraged the children to be violent towards Olivia. Sam isolated Olivia from her family and forbid all contact with her friends, regularly checking her phone to keep track of who she was talking to. Olivia wanted to leave the relationship but she faced many barriers, in particular financial support. At one stage, Olivia's employer agreed to split her pay into two accounts, so that Olivia could start saving money in a secret account and eventually leave the relationship. However before she had saved enough to flee with her children, Sam found out about the secret account and forced Olivia to close it.

After years of violence, which continued to escalate in intensity and frequency, Olivia fled the family home homeless and broke. She arranged to stay temporarily at a friend's house but wasn't able to bring her children with her. Olivia was refused access to emergency financial aid through Centrelink. Sam immediately commenced Family Court proceedings seeking full-time parental responsibility for the children. Over the coming months Sam stalked Olivia, froze their joint accounts, erected derogatory signs outside her workplace, sued her for damages to their car, and sought to apply for an ADVO preventing her from seeing her children. Olivia reported most of these episodes to police but Sam gave conflicting statements to police to evade charges. After he erected a derogatory sign outside Olivia's place of work, police applied for an ADVO protecting Olivia – although Sam was not charged with any offence.

After a court date (relating to the vexatious damages case) Sam followed Olivia home then fatally assaulted and stabbed her. Sam claimed self-defence and provocation, but this was not accepted and at trial was he found guilty of murder.

Case Review 3759

This case involved the stabbing murder of Courtney, aged in her 40s, by her husband, Dylan, aged in his 50s, at their home in metropolitan NSW. There was an enforceable ADVO in place protecting Courtney from Dylan at the time of her murder.

Dylan identified as Aboriginal and grew up as the victim of extreme physical and emotional abuse perpetrated by his father. Dylan began offending at 13 years of age and was charged with theft-related offences.

Courtney and Dylan had been in a relationship since their teens and had five children together who were aged



between 7 and 30 years old at the time of the homicide. Dylan controlled every aspect of Courtney's life, from their finances, to who she was allowed to speak to and what she ate. He was also very physically and emotionally abusive towards Courtney throughout their 30 year relationship. He constantly called her derogatory names in front of friends and family and physically assaulted her causing visible injuries.

They had extensive contact with police, as well as contact with child protection services. All of their children witnessed Dylan's violence and at times they would put themselves at risk to intervene to protect their mother from their father. Dylan would often hide or destroy Courtney's mobile phone, meaning that the children would frantically search the house for spare change to call the police from a payphone in an attempt to stop the violence. Despite many reported episodes of violence and multiple ADVO breaches, Dylan had only been convicted of one domestic violence related offence against Courtney, and he had never served a custodial sentence. On one occasion, police determined that Courtney had made 'false allegations' after she supplied a new statement to police that retracted previous allegations of violence. Similarly, there was limited effective intervention by child protection services. Dylan and Courtney both had long histories of problematic substance use (alcohol, amphetamines, methamphetamine and cannabis).

In the years leading up to the homicide, Dylan's abusive behaviour escalated but Courtney believed that if she left the relationship, Dylan would kill her. Dylan fatally stabbed Courtney, but at trial claimed that her stab wounds were self-inflicted. This was rejected by the jury and Dylan was found guilty of murder.

Case Review 3918

This case involved the murder of Daniella, aged in her 40s, by her estranged husband, Emanuel, aged in his 50s, in regional NSW.

Both Daniella and Emanuel were from South Africa and had been living in Australia with their children for almost a decade. They were both qualified medical practitioners in South Africa, but only Daniella attained accreditation to work as a GP in Australia. Emanuel had a history of substance abuse and stopped practising medicine after he became addicted to prescription medication.

There was no known history of physical violence by Emanuel however he was extremely controlling and emotionally abusive throughout their relationship. Daniella's colleagues were aware that Emanuel would not let Daniella participate in social activities after work and that he checked her phone to monitor who she communicated with.

Daniella and Emanuel had been married for almost 20 years however it would appear that they had been separated but living under one roof for almost 10 years. Daniella was taking steps to leave Emanuel completely when he murdered her. Her family lawyer advised Daniella that because she still undertook household chores for Emanuel, she would not yet be able to apply for a divorce. Daniella researched online about applying for an ADVO against Emanuel because she believed that she may need protection from him when she moved out.

While she was sleeping, Emanuel attacked Daniella with a weapon, killing her and then himself. Their teenage children who were also asleep in the house at the time of the homicide, found their mother's body. The matter was finalised by way of Inquest.

Case Review 3652

This case involved the death of a woman, Bronwyn, in her 30s, following an assault by her intimate partner, Jake, in his 40s, in regional NSW. Both Bronwyn and Jake identified as Aboriginal.

Jake had a history of using alcohol and other drugs (methamphetamine, cannabis and prescription medication). He also had a long history of criminal offending which commenced when he was 13 years old. Jake was abusive towards his former partners with a reported police history for domestic violence.

Jake and Bronwyn had been in a de facto relationship for 20 years at the time of the homicide. Jake was controlling and used threats and violence to coerce Bronwyn. Jake demanded that Bronwyn be responsible for all of the household chores, run errands for him and hand over all of her money. Jake was extremely violent towards Bronwyn throughout their relationship and they had numerous contacts with police. Sometimes police applied for an ADVO protecting Bronwyn and charged Jake. However, in most cases when the matter was heard in court, Bronwyn did not attend and Jake was not convicted of any offence despite repeated and serious assaults. As a result of these assaults, Bronwyn suffered multiple serious head wounds that required hospitalisation. Bronwyn's resistance to Jake's violence and abuse was not recognised as retaliatory violence and on some occasions she was listed by police as the domestic violence perpetrator.

The fatal assault involved Jake attacking Bronwyn and breaking her leg. She died as a result of a complication from her broken leg. Jake was initially charged with Bronwyn's murder, but due to issues around causation, the charges were downgraded to manslaughter. At trial, Jake was found not guilty.

Case Review 3781

This case involved the murder of Annisa, aged in her 20s, by her boyfriend, Binh, aged in his 30s, in metropolitan NSW. They had been in an on-off relationship for 2 years prior to the homicide. Annisa was taking steps towards separating from Binh at the time he killed her.

Annisa was born in Indonesia and then gained permanent residency in Australia. Annisa was an academically gifted student. She had completed a tertiary degree and was undertaking further study in preparation to open her own business at the time of her murder.

Binh was born in Vietnam and when he was a child came to Australia as a refugee following the Vietnam War. Binh also studied at university but did not complete his degree because he was arrested for drug trafficking offences, resulting in a lengthy prison sentence. He reported experiencing physical and sexual assault in gaol.

Annisa and Binh commenced a relationship after he was released from prison. Binh continued his problematic use of alcohol and drugs (methamphetamine and steroids). During the relationship Binh was controlling and possessive towards Annisa and would stalk her, both in person and through technology. Binh would turn up at Annisa's home unexpectedly and twice arrived unannounced when she was overseas. Annisa changed her phone number but Binh tracked down the new number and continued to harass her after she ended the relationship.

At the time of the homicide Binh had threatened to release intimate images of Annisa unless she agreed to meet him. When they met, he killed her. Police found intimate images of Annisa in the back of Binh's car. Binh pleaded guilty to murder and received a discounted sentence for his early plea. There was some public outcry about his sentence length and the Attorney General asked the DPP to consider an appeal, which they did not direct.

Case Review 3725

This case concerned the murder of Kirralee by her boyfriend, Warren, both aged in their 40s and living in regional NSW. Both Kirralee and Warren identified as Aboriginal and had been in an on-off relationship for about 6 years.

Kirralee had been a repeat victim of abuse and there was a police recorded history of domestic violence with at least three former male partners. Kirralee had eight children, some of whom lived with her, and who were aged between 9 and 25 at the time of her murder.

Warren experienced significant poverty throughout his childhood and often went without food or basic necessities. He left school in Year 7 because of learning difficulties and was functionally illiterate. He had a history of problematic alcohol use, beginning as a young teenager. Warren was abusive towards former intimate partners



with occasional police intervention.

Warren was physically abusive towards Kirralee and had threatened her with a pitchfork when she attempted to end their relationship. Although it was reported to police, Warren was not charged (Kirralee and other witnesses did not provide statements) but an ADVO was granted protecting Kirralee. Warren was later charged with breaching the ADVO after setting fire to Kirralee's car.

The night of the homicide neighbours overheard a loud argument coming from the house but did not call police. A week later, Kirralee was reported missing by family members and an extensive police investigation commenced although her body was never recovered. Warren denied having anything to do with Kirralee's disappearance, but was charged with Kirralee's murder based on forensic and circumstantial evidence. Warren was found guilty of murder but Kirralee's body has still not been recovered and police have posted a reward for information that leads to the discovery of her body.

Case Review 3641

This case involves the strangulation murder of Kata, aged in her 40s by her husband, Ivan, aged in his 50s at their home in metropolitan NSW. Kata and Ivan were both born in Croatia and at the time of the homicide had been married for almost 25 years and they had three children.

There was anecdotal evidence that Ivan had been physically and verbally abusive towards Kata during their marriage. In the 12 months preceding the homicide, Ivan's mental health began to decline and Kata told a number of family members that she was afraid of him. He had contact with a range of mental health service providers and was admitted as an involuntary patient on a number of occasions. Following these mental health admissions he was continually released into Kata's care and eventually killed her.

Ivan was initially found unfit to be tried for murdering Kata due to his poor mental health. He subsequently became fit to be tried and was found not guilty by reason of mental illness.

Case Review 3426

This case involved the death of Victoria by her husband, Dennis, both aged in their 60s, in regional NSW. Victoria and Dennis had been married for 30 years. There were anecdotal reports from friends and family that Dennis was controlling, derogatory and sometimes violent towards Victoria. During the few years prior to her death, Victoria's self-esteem deteriorated, along with her mental health and she began to self-medicate with alcohol. Dennis undermined Victoria's attempts at rehabilitation.

On the night Victoria sustained her fatal injury, she had been drinking. While she was asleep in bed, Dennis admitted to physically assaulting Victoria by slapping and dragging her, as well as causing her to fall to the ground. As a result, Victoria sustained irreversible damage to her spinal column which rendered her a quadriplegic. She underwent two major operations to stabilise her spinal injury, but did not survive the second procedure.

Dennis was charged with manslaughter however this charge was subsequently withdrawn after concerns about proving causation. Ultimately Dennis was charged and convicted of common assault with no other penalty, which he unsuccessfully appealed.

Case Review 3659

This case involved the stabbing murder of Yasmine, aged in her 40s, by her husband, Mahmoud, aged in his 50s, at their home in metropolitan NSW. Their teenage daughter attempted to intervene in the fatal assault and was also stabbed by Mahmoud, but survived.

Mahmoud and Yasmine were born and married in Lebanon and were together for almost 30 years. Mahmoud was controlling and domineering towards Yasmine throughout their marriage and was also occasionally physically abusive. Their eldest son Ali grew up to become similarly physically abusive towards Yasmine and she had called police to intervene on a number of occasions. On one occasion, Ali assaulted Yasmine causing permanent damage to her vision and resulting in an assault conviction and ADVO.

Yasmine was not happy in her relationship and talked about separating from Mahmoud throughout their marriage. In the years prior to her murder, she had taken several steps towards separation and was regaining her confidence and independence. She re-entered the workforce and started socialising with colleagues after work. In the months preceding the homicide Yasmine made a final decision to leave Mahmoud and obtain a divorce.

In the weeks before the homicide Mahmoud left abruptly on a trip to Lebanon. Mahmoud returned to Australia earlier than expected and murdered Yasmine on the day he returned. Mahmoud was found guilty of Yasmine's murder and was also convicted for wounding his daughter.

Case Review 3579

This case involved the blunt force fatal assault of Hannah, aged in her 50s, at a property in regional NSW. At the time of the homicide Hannah was in a de facto relationship with two men - Carl, aged in his 60s, and Ben who was aged in his 50s.

Carl had been in a relationship with Hannah for one year and owned the property where Hannah was killed. Hannah and Carl both had a cognitive impairment and this was Carl's first relationship. There was no reported history of domestic violence between Carl and Hannah however friends had overheard verbal arguments between them. A few weeks prior to her death, Hannah disclosed to a friend that Carl had assaulted her. Hannah had been the victim of abuse from multiple former partners.

Ben grew up in New Zealand and had worked in the military. He had a history of perpetrating extreme violence against intimate partners and had a violent criminal history (including sexual violence). He boasted about having killed people and was under police investigation for an unsolved homicide. He was diagnosed with schizophrenia and spent time as an inpatient in mental health facilities.

Ben started living with Carl and Hannah approximately eight weeks prior to Hannah's death. Ben and Hannah had previously known each other in Sydney and they commenced an intimate relationship, while Hannah was also in a relationship with Carl. Ben and Carl were aware of both relationships. Carl, Hannah and Ben all had a history of alcohol and drug misuse (cannabis, opioids and methamphetamine).

Hannah was killed at the property in a brutal assault. Ben alerted police about Hannah's death and her body was located in the shed in a state of decomposition. Ben told police that Carl had assaulted Hannah and then Ben threatened Carl to go along with his story. Carl made admissions to police and was charged with Hannah's murder. Carl was later found to be unfit for trial the case proceeded as a judge-only special hearing. During the hearing Ben alluded to murdering Hannah. The judge acquitted Carl of all charges and remarked that the wrong person had been charged with Hannah's murder. Ben subsequently died and so was not charged with any offence. The Inquest into Hannah's death was dispensed with.

Case Review 3646

This case involves the homicide of Sue by her husband (and treating doctor) Owen at their home in metropolitan NSW. The couple had been in a relationship for over 20 years and there was evidence that the relationship was deteriorating in the period leading up to the homicide.



Owen was sometimes physically violent towards Sue and their children. He also acted as Sue's primary treating doctor despite their children encouraging Sue to seek independent medical advice. Owen diagnosed Sue with bi-polar and depression and prescribed her various medications. In the months prior to the homicide Owen had commenced a secondary intimate relationship with another woman whom he wanted to marry. Owen also stood to gain financially from Sue's death.

Owen killed Sue by injecting her with fast acting insulin. An inquest into Sue's death resulted in an open finding and the police investigations continued. A few years later, Owen was found guilty of Sue's murder.

Domestic violence abuser killed by domestic violence victim

Case Review 3220

This case involved the homicide of Joshua, aged in his late 20s by his former de facto, Belinda, aged in her early 20s in metropolitan NSW. The couple had been in a relationship for approximately four years and Belinda had ended the relationship two months before the homicide.

Belinda grew up in a supportive and stable family. She finished school in Year 10 and continued studying at TAFE while working part-time. She did not have a criminal history and did not misuse alcohol or drugs.

Joshua was born in New Zealand and his family immigrated to Australia when he was a child. Joshua left school in Year 8 and began using drugs at 14. As soon as he left school, he began accruing a serious and violent criminal history. He was convicted of an armed robbery and given a custodial sentence in juvenile detention. His pattern of violent offending continued as an adult and he served a significant period in prison. While in custody Joshua became interested in fitness and began injecting steroids. Following his release, he played rugby league at a professional level. After a knee injury, Joshua became involved in illegal drug supply and increased his own drug use (methamphetamine and amphetamine). At the time of the homicide, he was under investigation for the murder of a criminal associate.

Joshua met Belinda at the gym and they commenced an intimate relationship. Two years into the relationship they had a son and moved in together. Joshua was extremely violent, controlling and abusive towards Belinda and subjected her to verbal, psychological, sexual, reproductive and physical abuse. Joshua forbid Belinda to see her friends, and demanded that she undertake all the household chores, on top of caring for their child and working part-time. Joshua constantly made derogatory comments about her appearance and Belinda developed an eating disorder. Friends and family members knew about the violence because Joshua would assault Belinda in front of them and brag about the abuse. They saw bruising around Belinda's neck from episodes of strangulation but were too scared to intervene. Joshua also assaulted their young child.

Belinda was too afraid to contact police or receive medical treatment for her injuries because Joshua had threatened to kill her family however Belinda secretly kept photos of her injuries on her mobile. She considered suicide as a means of escaping the violence.

In the months prior to the homicide, Joshua increased his methamphetamine use and became more paranoid, delusional and violent. He moved accommodation every few days and used furniture to barricade the doors. Belinda moved out of the apartment they shared, and returned with their child, to live with her parents.

On the day of the murder, Joshua sent Belinda numerous abusive messages and phone calls and then turned up outside her family home threatening to kill her. When Belinda came outside, he punched her in the head and attacked her brother and father. During this assault, Belinda fatally stabbed Joshua. At trial, Belinda was found guilty of manslaughter but on appeal her conviction was overturned.

Case Review 3415

This case involved the homicide of Steve, aged in his 40s, by his de facto partner, Evelyn, who was aged in her 50s and lived in metropolitan NSW.

Evelyn was an Aboriginal woman who had been the victim of extreme physical and sexual abuse throughout her life, beginning as a child. Evelyn was illiterate and had a mild intellectually disability. She was removed from her parent's care as part of the Stolen Generation and placed in a children's home. As an adult, Evelyn lived in social housing for 30 years and received a disability support pension. Evelyn also volunteered in her local community to care for Aboriginal foster children and assisted child victims of sexual abuse.

Steve was an extremely violent and aggressive non-Aboriginal man with a history of repeat perpetration against prior partners. As a child, he was the victim of domestic violence perpetrated by his father. He had a significant criminal history (including sexual violence) and chronic problematic alcohol use.

During their seven year relationship, Steve brutally assaulted Evelyn regularly with both his fists and with weapons. He raped, strangled and suffocated her. Bystanders noticed that Evelyn would always have some type of injury or bruising from his assaults. Early in their relationship, Evelyn often called police when Steve became violent. Police charged Steve with domestic violence offences on a few occasions, but the majority of violent episodes were classified as 'DV-No Offence' and Evelyn's credibility was often questioned due to her alcohol use and cognitive impairment.

Evelyn did not engage with any specialist mental health services prior to the homicide. However, post-homicide, she was diagnosed with anxiety, PTSD, and depression. She received no specific support in relation to the domestic violence she endured for many years at the hands of her abuser. She slept poorly and would wake in the middle of the night anxious that Steve might attack her at any moment.

In the fatal episode Steve assaulted Evelyn and attempted to strangle her. She retaliated by hitting him with a metal pole and throwing boiling water on him. During the night, Steve died from the combined effects of burns, blunt force trauma and cirrhosis. Evelyn was found to be unfit to stand trial and in a judge alone special hearing she was found not guilty of murder, but guilty of manslaughter. The Judge granted Evelyn conditional release for the duration of her sentence.

Case Review 3724

This case concerned the stabbing death of Jonathan during an argument with his wife, Lily, in a metropolitan area of NSW. They were both aged in their 30s and had met and married in Australia four years prior. They had a two year old child who was present during the fatal episode.

Lily was born in China and immigrated to Australia with her parents when she was in her late-teens. She was a successful small business owner and worked long hours, but remained close with her family, who lived and worked with her.

Jonathan was born in Malaysia and immigrated to Australia in his 30s. He had issues with problematic gambling and was under serious financial pressure at the time of his death for various unpaid debts. He attempted to control and emotionally manipulate Lily throughout their relationship. Around the time of his death, he was stalking and harassing her with constant messages and calls whenever they were apart, and threatening to distribute intimate images of her. There was no police engagement and no recorded history of physical abuse prior to the fatal assault.

After Lily told him that she was considering a divorce, Jonathan brought two large knives into their home. While they were arguing, Lily took one of the knives from Jonathan. He struggled to reclaim the knife and was



fatally stabbed. Lily was charged with murder. At trial the defence successfully argued that the stabbing was unintentional and Lily was acquitted of the charges.

Case Review 3604

This case involved the stabbing murder of Nick by Alice. They were both aged in their 40s and living in a metropolitan area of NSW.

Nick and Alice had been in a de facto relationship for 18 months. They both had long histories of substance misuse and mental health issues and they had both spent significant periods of time in mental health inpatient facilities.

Alice was the victim of violence from previous abusive partners. Like her former partners, Nick was also psychologically and physically abusive throughout their relationship. Nick was HIV positive but did not disclose his HIV status to Alice and did not use preventative measures to stop her from contracting the virus. He made derogatory comments about Alice's appearance and put pressure on her to lose weight by forcing her to cease taking her prescribed medication for Bipolar, as it caused weight gain. Alice developed an eating disorder and became non-compliant with her medication.

On the evening of the murder, Alice and Nick had both injected amphetamines and consumed alcohol. Alice began to experience psychotic symptoms and fatally stabbed Nick once in the stomach. Alice was found to be medically unfit for trial. At a special hearing, she was found not guilty by reason of mental illness.

Case Review 3629

This case involved the stabbing homicide of Justin, aged in his 30s, by his de facto wife, Lynn, an Aboriginal woman aged in her 50s. The couple had been in a relationship for about six months and lived together in a tent in the parkland of regional NSW.

Justin was born in New Zealand and moved to Australia with his family as a teenager. He lived a nomadic lifestyle and moved around Australia living and working in different places. He had a history of substance abuse (alcohol, opioids and cannabis).

Lynn grew up as a child victim of domestic violence perpetrated by her father. After the assaults she was sometimes unable to go to school because of the visible injuries. Lynn's father also assaulted her mother, who used alcohol to self-medicate. Lynn left school at 14 and was functionally illiterate. Lynn also began to drink alcohol as a means of self-medication.

All of Lynn's former partners were abusive towards her and she was listed as the victim in numerous police reported episodes of domestic violence that did not result in ADVOs or charges. Lynn's four children were well cared for, but at times Lynn's mental health and problematic alcohol use would deteriorate. Lynn sought treatment from her GP for depression and made disclosures about her experiences of violence, but did not receive any referrals or intervention.

There was evidence that Justin was physically and verbally abusive towards Lynn, and Lynn would use retaliatory violence as a means of resistance. Throughout their relationship Justin and Lynn would drink excessively every day and also used cannabis and prescription drugs.

The fatal episode occurred when Lynn stabbed Justin in the leg during an argument. Lynn sought assistance for Justin immediately following the stabbing and maintained that Justin had fallen on the knife. Lynn was charged with Justin's murder but she was unfit to be tried and was ultimately found guilty of manslaughter at a judge-alone special hearing.

Case Review 3474

This case involved the homicide of Jacob, an Aboriginal man aged in his 30s, by two people; Alana, aged in her 20s and Cameron, aged in his 50s. Jacob was Alana's ex-partner, and Cameron was her new partner. They all lived in regional NSW.

Jacob had a history of violence against multiple partners, some of which was known to police. He had stalked and threatened to kill one of his former partners and had been named in an ADVO.

Jacob met and commenced an intimate relationship with Alana when he was in his 20s and she was 14. The relationship caused conflict between Alana and her family due to their age difference. Alana became estranged from her family and became pregnant with their first child at 16. She had four children with Jacob over the next 6 years. Jacob was physically, verbally, socially, psychologically, sexually and economically abusive towards Alana throughout their relationship. He treated her like a slave, forcing her to cook and clean for him and their children, while he remained unemployed. He maintained control of Alana through a pattern of intimidation, isolation and violence. Only one episode of violence was reported to police during their relationship. Jacob's mother lived with the couple and was also highly critical and abusive towards Alana. She and did not intervene when Jacob was violent towards Alana.

Alana met Cameron through a mutual friend and he offered to assist her with taking care of her children and the household chores. Alana and Cameron commenced an intimate relationship, and she soon became pregnant. After Alana disclosed Jacob's abusive behaviour to Cameron, they made plans to kill Jacob. Jacob's body was never recovered. Cameron was found guilty of murder, and Alana was convicted of manslaughter.

Intimate partner and relative/kin domestic violence homicide case reviews

Case Review 3920

This case was a multiple fatality event that involved the homicides of Claudia, aged in her 30s, and Tristan, a child, by their husband/father Kevin, aged in his 40s, in metropolitan NSW. Claudia was 30 weeks pregnant at the time of the homicide.

Claudia was born in Mexico and went on to complete a university degree, and work overseas. Kevin was also tertiary educated and met Claudia when he was on an overseas holiday. They moved to Australia and had two sons. After both pregnancies Claudia experienced post natal depression. Kevin also had a history of depression and had attended a psychologist for a number of years. There was no apparent history of police reported or anecdotal domestic violence.

When the boys were both a few years old, they were diagnosed with autism, and then later a genetic disorder. Kevin and Claudia had undergone IVF therapy to conceive a third child and were successful.

Kevin intentionally crashed their car killing Claudia, Tristan and himself, with their other son surviving the crash. Kevin had fastidiously planned the fatal crash, making notes on his computer, visiting the crash site earlier, loading the car with fuel canisters, and disabling the air bags. The case was finalised by way of Inquest.

Case Review 3620

This case was a multiple fatality event that involved the homicides of Kate, Riley, Sophie and Chloe by Patrick at their family home in regional NSW. After Patrick killed his wife and three children, he suicided.



Patrick was tertiary educated and operated a farming business with his brother. Kate had also completed a university degree and worked as a healthcare professional.

There was no anecdotal or reported history of domestic violence prior to the homicides. Family and friends suggested that the relationship was breaking down and the couple were intending to separate. Kate had temporarily left the home on two occasions. After the birth of their third child, Kate received counselling and medication for postnatal anxiety and depression.

Two years prior to the homicide, Kate was seriously injured in a car accident and spent a long period in hospital on life support and then in recovery in a rehabilitation facility. Kate suffered brain injuries and had a permanent physical disability. When she returned home, she received daily assistance with personal care and domestic duties and received ongoing counselling and physiotherapy. Her family observed that Kate's personality also changed following the accident. She experienced suicidal ideations, erratic behaviour and made derogatory comments towards Patrick. Police attended the home on one occasion after Kate disclosed suicidal ideation to a mental health line. They removed Patrick's firearms from the property but returned them after Patrick confirmed that Kate would not be able to access them. Kate and Patrick received joint counselling and Patrick expressed ongoing frustration with Kate's brain injury, and the way she was treating him. Patrick was also experiencing stress from an ongoing financial conflict with a family member.

When Kate's mental health stabilised, she was discharged from ongoing treatment and was able to return to part-time work. The three children all attended primary school. A week prior to the homicides, Kate received a discharge letter from her treating provider which indicated that her recovery had plateaued and her impairment and injuries were now unlikely to improve. Patrick fatally shot his wife and three children, before suiciding. The case was finalised by way of Inquest.

Relative/Kin domestic violence homicide case reviews

Child homicide victims

Case Review 3705

This case involved the murder of 12 year old girl, Melina, by her de facto step-father, Stanley, aged in his 30s at their family home in metropolitan NSW.

In the days leading up to her death Stanley subjected Melina to sustained and ferocious assaults, tying her to a bed and beating her with wooden slats as well as with his fists, knees and feet. These assaults were not isolated events and Stanley had a long history of abusing Melina, her younger sister Olivia, and their mother Sylvie.

Stanley was born in Africa and immigrated to Australia on a student visa. After arriving in Australia, Stanley was diagnosed with HIV but disengaged with specialists and was non-compliant with treatment. He had a history of domestic violence perpetration and had stalked and abused a previous intimate partner when the relationship ended. Stanley was convicted and fined for an assault and destroy/damage property. An ADVO was also made, which he subsequently breached but was not charged.

When Sylvie commenced a relationship with Stanley, she had two young daughters from a previous relationship, Melina and Olivia. Stanley was controlling from the outset and soon began to physically abuse Sylvie, and then the children. Over time Stanley's assaults increased in regularity and severity. He controlled Sylvie's every action, from what she could wear, to how to act. When they were socialising he would demand that she talk and dance

with other men but would later assault her in private as ‘punishment’. One of Stanley’s assaults caused Sylvie to suffer a miscarriage but he refused to let her seek medical assistance. Stanley also had a history of problematic alcohol use which often (but not always) coincided with serious violence. Sylvie developed depression and contemplated suicide.

When Sylvie became pregnant, she was diagnosed with HIV, and it was only then that she became aware that Stanley was HIV positive. He refused diagnostic testing for months and pretended he was unaware of his former diagnosis. Sylvie was allocated a social worker to assist with coordinating her HIV treatment and antenatal care.

The family struggled financially, and were unable to pay for basic necessities like rent or electricity which led to their eviction from multiple properties. A social worker worked closely with the family to assist with healthcare, financial aid, housing, and Stanley’s immigration issues, but the social worker was not aware of the domestic violence. Stanley’s physical violence against the children escalated. Every time Sylvie tried to intervene Stanley would assault her too and then increase the severity of the assault on the children.

Stanley pleaded guilty to Melina’s murder. Sylvie was also charged with negligent manslaughter (failure to protect and failure to seek medical treatment) and pleaded guilty.

Case Review 3834

This case involved the homicide of Keiron, aged two years, by his mother, Penny, aged in her 20s, who suicided at the same time. Despite being Aboriginal along maternal lines, neither Penny nor her mother identified as Aboriginal. The murder-suicide took place in metropolitan NSW.

Penny experienced considerable trauma during her childhood and was exposed to domestic violence from her mother’s partners. As an adolescent Penny was sexually abused and spent time in out-of-home care.

As a young adult Penny commenced a relationship with Bryce (a non-Aboriginal man aged in his 20s) who was abusive and manipulative from the outset. Early in the relationship Penny became pregnant with Keiron, and after he was born Penny told police about the violence she had been experiencing from Bryce. As a consequence of her disclosures, Bryce was arrested and served with an ADVO. He was not charged with any offences.

After their relationship ended Bryce commenced Family Law proceedings seeking contact with Keiron, amongst other things. Provisional orders were made granting him supervised access. These proceedings were still ongoing at the time of the murder-suicide and caused Penny considerable anxiety and distress. Around this time Penny, who had been experiencing mental health issues as well as postnatal depression, was admitted on multiple occasions as a voluntary patient into a mental health facility due to suicidal ideation.

On the day of the homicide, Penny took Keiron and jumped off a cliff with him in her arms, killing them both. The matter was finalised by way of Inquest.

Case Review 3736

This case involved the accidental drowning death of baby, Lucas, at his home in a metropolitan area. His mother, Angela, aged in her 30s had left Lucas unsupervised in the bath for several minutes while she attended to other household chores. During that time, Lucas drowned and was unable to be revived by paramedics. Initially Angela was charged with manslaughter, however these charges were subsequently withdrawn.

Angela was married to Lucas’ father, Richard, for two years prior to the drowning. Angela was born in the Philippines and she met Richard while he was visiting on holidays. She moved to Australia with Richard, but was required to leave behind her two young children from a previous relationship who stayed with relatives in the Philippines. There was no reported history of physical violence prior to Lucas’ death however Richard wielded



almost total control over Angela in all aspects of her life. She was expected to attend to all household duties as well as caring day and night for their young child. Angela was completely reliant on Richard financially, and her visa status was dependant on her remaining in a relationship with him. Richard isolated Angela from her family and didn't approve of her having friends. Richard also had a long history of alcohol misuse.

After Lucas' death, the couple remained together and had a significant history of police involvement for domestic violence, perpetrated by Richard against Angela. He was physically violent towards Angela including using non-fatal strangulation. He destroyed her property, threatened to kill her, and stalked her when she attempted to leave the relationship. ADVOs were made protecting Angela from Richard, which he continually breached and was convicted.

They had another child together, Angus, and Richard was also abusive towards the baby. Angus presented with suspicious injuries at his child care centre, which were reported to child protection and Angus was subsequently removed from Angela and Richard's care. As a toddler, Angus was identified as developmentally delayed and exhibiting behavioural problems which were likely to be a consequence of his exposure to violence and trauma.

Child and adult homicide victims

Case Review 3732

This case was a multiple homicide event that involved the homicides of Sharna, aged in her 60s, and Benjamin, a child, by Thomas (Sharna's son, and Benjamin's uncle) who was aged in his 30s. The family identified as Aboriginal and lived in metropolitan NSW.

Sharna was the full-time carer of a number of her grandchildren, including Benjamin. Thomas would also stay at Sharna's house most nights, and was periodically homeless. Thomas had a long childhood history of living in a household where his father perpetrated violence against his mother Sharna. Sharna constantly attempted to shield her children from abuse by their father, and after many years of enduring this abuse, Sharna started contacting police to help her escape from her husband's violence. Sharna's children all developed issues with drugs, alcohol and their mental health, and Sharna ended up caring for her grandchildren (as a result of child protection interventions).

Thomas had a long history of violence against his mother Sharna, as well as other family members including child family members. Thomas and his siblings would often steal Sharna's money and property, as well as physically assault and intimidate her. Sharna had been protected from Thomas under a number of ADVOs during her life, but none were in place at the time of the homicide.

Thomas had a significant history of substance misuse issues (both alcohol and other drugs) and had in the months prior to the homicide started using methamphetamine. He had been diagnosed with adult ADHD and self-medicated with drugs and alcohol as he could not access suitable medication for his ADHD.

On the day of the homicide, Thomas consumed methamphetamine, cannabis and alcohol. During the evening he stabbed and killed his mother with a blunt weapon. He then attacked Benjamin, stabbing him and using another blunt object to kill him. Sharna's surviving grandchildren witnessed the homicides and fled to a neighbour's house. Police attended and arrested Thomas at the scene, but before he was arrested he also assaulted one of the attending police officers and a passer-by. Thomas pleaded guilty to both murders.

Adult homicide victims

Case Review 3647

This case was a multiple fatality event that involved the homicides of Leonie, aged in her 60s, and her husband John, aged in his 70s, by their son Vincent, aged in his 40s, in a remote area of NSW. Family and friends described Leonie and John as being much loved members of their community.

Vincent was aggressive and defiant from a young age. As an adolescent, he began getting in trouble at school, using cannabis, and on one occasion his mother Leonie found a gun under his bed. Vincent would regularly steal from his parents, and had previously stolen their car.

As an adult Vincent started using violence against his partners and other family members – including physically abusing his brother-in-law and threatening to kill him on a number of occasions. Vincent also had a history of stalking and abusing a number of intimate partners during his life, some of which were reported to police. One of Vincent's former partners described that he was extremely physically, sexually and verbally abusive towards her, and shot and killed their dog during an argument. Vincent had also been subject to a number of ADVOs with former partners.

Vincent had drug and alcohol misuse issues, and became increasingly paranoid and delusional in the years before the homicide. Vincent had assaulted his parents on a number of occasions and the family began to isolate Vincent from family events. Family, including Leonie and John, said that they felt as though they had failed Vincent, and resisted reporting the majority of his violence and abuse to the police due to concerns that their reporting would make the situation worse for everyone. His parents were both very concerned that he would suicide.

In the lead up to the homicide, family and healthcare professionals had concerns that Vincent was not well, and his psychiatrist indicated that they might have to think about Vincent's access to firearms, due to concerns that he might use those weapons against himself. At no stage did Vincent have a firearms licence but nonetheless it was known that he had possessed unregistered weapons over a number of years. A few days before the homicide, Vincent told a relative that he was getting sick of his parents because they were old and he was frustrated with having to look after them. Vincent was living in his parents' home at the time of the homicide.

The night of the homicide Vincent argued with his parents over a minor matter, and during the argument his mother Leonie told him to leave. Vincent went to his room, came out with a gun and shot both of his parents. Vincent was found not guilty by reason of mental illness.

Case Review 3680

This case involved the homicide of Daniel, aged in his 80s, by his son, Trent, aged in his 40s, in regional NSW. Daniel was killed by Trent in the context of Trent's mental health issues and also in the context of family violence.

Trent had a significant mental health history which commenced when he was aged in his 20s, and resulted in him spending time in various mental health facilities as an involuntary patient where he was diagnosed with schizophrenia. Trent also had a criminal record relating to offending behaviours (such as trespass and assault officer) while he was mentally unwell, and this offending continued throughout his 20s and 30s.

In respect of family violence, Trent was convicted of assaulting his father Daniel, including an episode where he punched his father multiple times in the face and threatened to kill him. Trent also broke into the family's holiday home on one occasion. Trent continued to spend periods incarcerated for various offences, and hospitalised for mental health issues in the years before the homicide. Trent was also known to police for using violence against his intimate partner.



Daniel and his wife (Trent's mother) would not let Trent stay with them when he was non-compliant with medication. Trent's mother was scared of Trent when he was unmedicated, and had safety plans in place with her neighbour in case Trent turned up unexpectedly when she was home alone.

The evening before the homicide, Trent made comments to his mother indicating that he was having delusions in relation to his father. When he arrived at his parents' house the following morning, he was acting strangely, and later that morning, while chopping wood, Trent struck his father with an axe several times. Trent claimed he was hearing voices telling him to kill Daniel. Trent was found not guilty by reason of mental illness.

Case Review 3605

This case concerned the stabbing homicide of Hoa, a woman aged in her 40s, by her nephew, Khiem, aged in his 20s, in a metropolitan area of NSW.

Hoa was born in Vietnam and immigrated to Australia as a refugee after the Vietnam War. Hoa completed her tertiary qualifications and worked full-time. She also had a teenage daughter who lived with her part-time under a shared parenting arrangement with Hoa's ex-husband.

Four years prior to the homicide, Khiem arrived in Australia on a study visa, and remained in Australia on a temporary business visa. He was employed in financial services but lost his employment a few months before the homicide. Around the same time Khiem was charged with sexual assault offences against a female relative and failed an English exam to gain permanent residency. Khiem moved in to live with Hoa because he needed accommodation and their family was very close. In the weeks leading up to the murder, Khiem's mental health deteriorated and he exhibited self-harming and erratic behaviours. Hoa became fearful of Khiem and told her sister that she was concerned Khiem might kill her. After murdering Hoa, Khiem suicided.

Case Review 3703

This case involved the stabbing homicide of Jennifer, aged in her 70s, by her adult daughter, Ashleigh, aged in her 30s, in metropolitan NSW.

Ashleigh had a history of mental health issues dating back to an episode where she was sexually assaulted by a group of men as a teenager. As a consequence of her trauma, Ashleigh spent various periods as an inpatient in mental health facilities, and she also had ongoing issues with problematic alcohol use.

Ashleigh had an extensive police recorded history of family violence towards her parents, which often coincided with periods of non-compliance with the medication prescribed for her mental health issues. On one occasion she attempted to stab her father and police became involved. However, the charges against Ashleigh were dismissed in Court as she was mentally unwell at the time of the offence.

Ashleigh also had a history of family violence with her brother Brendan, who also had mental health issues. In the years prior to the homicide, there were episodes of escalating violence between the siblings - with the violence going both ways. Police were involved on several occasions resulting in ADVOs and assault charges for both Brendan and Ashleigh.

The parents made arrangements for Ashleigh to live independently, but she would regularly return to stay with her parents when she was mentally unwell. During one of these visits, she assaulted her father and then fatally stabbed her mother who was intervening in the assault. Ashleigh pleaded guilty to manslaughter on the basis of substantial impairment.

Case Review 3570

This case concerned the strangulation murder of Ana, aged in her 70s, by her son, Marko, aged in his 40s at her home in metropolitan NSW.

Ana was born in Croatia and immigrated to Australia with her husband and children in the 1970s. Ana's husband was physically violent towards her and the children. He also had a history of problematic alcohol use and gambling, and consequently died from cirrhosis.

After his father's death, Marko became estranged from his family and harboured significant resentment towards his mother and siblings. He had a reported history of domestic violence against his wife and had been convicted of stalking/intimidation and destroying property. Marko also had a history of problematic substance use beginning as a teenager (amphetamines and prescription medication) and had been scheduled for concurrent mental health issues on a number of occasions.

Over the years Marko demanded money from his mother Ana, and would assault her if she refused. Ana took out a mortgage to give Marko money to pay off his debts, which he never repaid. In the fatal episode, Marko broke into Ana's house when she was alone and strangled her. At trial he denied having killed Ana, but was found guilty of murder.

Case Review 3731

This case involved the homicide of Josefa, aged in his 60s, by his adult son, Ratu, aged in his 30s, in metropolitan NSW.

Josefa, his wife Tevita, and Ratu immigrated to Australia from Fiji when Ratu was in primary school. Ratu was a high achiever, but left school early after he was expelled for using drugs. At the time of the homicide, Ratu had an extensive criminal record for drug and violence offences against his parents. Throughout his adult life Ratu also had extensive contact with health services in relation to drug and alcohol use, as well as mental health issues, and these issues were ongoing at the time of the homicide.

Ratu's father Josefa was verbally and physically abusive towards Ratu throughout his life, and also used violence in relation to Ratu's mother, Tevita. As an adult, Ratu was known to police as both a victim and perpetrator of violence in relation to his father. In one of these episodes Josefa assaulted Ratu with a metal pole, causing him to sustain a traumatic brain injury requiring ongoing medical intervention. Josefa was convicted of assault, but no ADVO was put into place. Like his father, Ratu also used violence against his mother and some of these episodes were reported to police.

Ratu lived with his parents at the time of the homicide. In the years prior to the homicide, Ratu's violent behaviour, drug use and mental health issues, escalated. He threatened to kill his parents, attempted to strangle his mother, and seriously assaulted his father. While Tevita and Josefa engaged police to protect themselves from Ratu and were named as protected persons under several ADVOs, Ratu received few referrals and little intervention in relation to his polysubstance abuse and violence. Ratu killed his father Josefa in a fatal assault, and claimed he was acting in self-defence but eventually pleaded guilty to manslaughter.

Case Review 3711

This case involved the homicide of Jacinta, aged in her 50s, by her older teenage son Paul, in regional NSW. Paul killed Jacinta after having been the victim of long-term physical and psychological abuse perpetrated by his mother Jacinta.

Jacinta had been the victim of violence during her childhood and she experienced significant mental health



issues throughout her adult life, including being involuntarily admitted to mental health facilities on a number of occasions. Jacinta separated from Paul's father when Paul was about two years old. Paul lived most of the time with his mother Jacinta, with overnight visits with his father Michael and grandmother. When Paul was six years old his father Michael died.

During his childhood Paul was emotionally, verbally and physically abused by his mother Jacinta, and was sexually and physically abused by a number of her partners. Jacinta also experienced violence from a number of these partners which Paul witnessed. While in his mother's care Paul was subject to numerous reports to child protection services, many of which were made by his grandmother who was concerned for Paul's welfare. These reports were mostly closed due to competing priorities. The violence and abuse continued until Paul was about 14 years old, when he started living with his grandmother (in a family arrangement) after a serious episode of violence perpetrated by Jacinta was witnessed by police. An ADVO was put in place protecting Paul from his mother, however Jacinta breached this ADVO hundreds of times. Paul only reported some of the breaches and few of these episodes were prosecuted. Jacinta continued to harass Paul and his grandmother and would also contact his friends via Facebook.

In his mid-teens, Paul started misusing alcohol and drugs, and began experiencing significant mental health issues, including self-harm, suicidal and homicidal ideation. He was diagnosed with Borderline Personality Disorder with associated substance use. In his late teens, Paul was scheduled on a number of occasions. Paul attended an inpatient drug and alcohol rehabilitation facility a few weeks before the homicide, but was discharged from the program after he was violent towards a staff member. Within a few days of his discharge, Paul killed his mother Jacinta. Paul pleaded guilty to Jacinta's murder.

Case Review 3771

This case involved the 'one-punch' homicide of Marcus, aged in his 50s, by his son Nathan, aged in his 30s, at their home in metropolitan NSW. Nathan killed Paul after having been the victim of long-term physical violence perpetrated by Marcus.

As a teenager, Marcus was the victim of repeated sexual assaults which he reported to police. As a consequence of his trauma, Marcus engaged in problematic alcohol use up until his death. Marcus was a domestic violence abuser for more than 40 years and directed his violence towards his wife Sandy, and his children Nathan and Phillip. His violence intensified when he was drinking but he was also abusive when he was sober. Nathan was the primary target for Marcus' abuse, and he would assault Nathan almost daily from six years of age. They lived in social housing and Marcus received the disability pension for longstanding physical and mental health issues, including schizophrenia. Sandy called police to intervene in a few domestic violence episodes but these were classified as 'DV-No Offences' and resulted in no final ADVOs or charges.

As a young adult Nathan was diagnosed with severe Obsessive Compulsive Disorder and he began problematic use of alcohol and drugs. Nathan had a criminal history for assaulting police and his neighbours.

In the months prior to the homicide, Sandy ended the relationship with Marcus and moved out of the home. Marcus' mental health deteriorated while he remained in the house with Nathan and Phillip. On the evening of the homicide both Marcus and Nathan were intoxicated. They began to argue and Nathan fatally punched his father once. Nathan was prosecuted under the 'one-punch' legislation³⁸ and was found not guilty.

Case Review 3756

This case concerned the homicide of Phillip, aged in his 20s, by his mother, Michelle, who was aged in her 50s, in metropolitan NSW. Michelle killed Phillip after being the victim of long-term physical violence perpetrated by her son.

³⁸ Crimes Act 1900 (NSW), s. 25A

As a young teenager Phillip was sexually abused by his father, and as a consequence of these experiences, Phillip developed significant mental health issues, including suicidal ideation and self-harming behaviours. His father died by suicide a few years later. In adolescence, Phillip began to use verbal and physical violence against his mother Michelle. This pattern of violence continued into his adulthood, and Phillip used violence against both his mother and other intimate partners.

When he was in his late teens, Phillip sustained a significant and permanent brain injury in an accident. As a consequence of the accident he was awarded compensation and entered into a lifetime healthcare support scheme. Following the accident, Phillip began to use alcohol, cannabis and methamphetamine, and his violence towards his mother Michelle escalated. Phillip also stalked his former girlfriend and followed another woman to her workplace. Both of these episodes were reported to police, and they applied for ADVOs.

Phillip was diagnosed with schizophrenia a few years before the homicide, although this diagnosis was later changed to depression and adjustment disorder. Phillip was non-compliant with his medication and continued to use drugs and alcohol in the years before his death. Around this time, Michelle purchased a house for Phillip to live in with his compensation payment, and she continued to support him by doing his cooking, cleaning and shopping, as well as taking him to his numerous medical appointments. During this time Michelle's mental health declined, and she described experiencing stress and anxiety as a consequence of looking after Phillip. Michelle's friends and colleagues also observed that she had injuries consistent with Phillip using violence against her.

In the period leading up to the homicide, Phillip was receiving regular in-home care visits and workers observed that he was using excessive amounts of alcohol and drugs and behaving aggressively. The service provider was concerned for its workers' safety and threatened to withdraw Phillip's services. On the day of the homicide Michelle gave Phillip a high dose of sedatives and suffocated him while he was unconscious. She pleaded guilty to manslaughter on the basis of substantial impairment.

‘Other’ domestic violence homicides case reviews

Case Review 3662

This case involved the stabbing homicide of Blake by Peter, both aged in their 40s, in a regional area. Blake was the new partner of Peter's ex-wife, Lisa.

Peter and Lisa met when they were teenagers and were married for over 30 years and had 4 children together. They separated 2 years prior to the homicide. Lisa had grown up experiencing physical violence perpetrated by her father against her mother and told Peter that if he was ever violent, she would leave him. Peter was not physically violent (until they separated) but was psychologically abusive. He was extremely controlling and domineering towards Lisa throughout their marriage and isolated her from friends and family. Peter made all the decisions about where they lived, the style of their home, their finances and budget. He also made derogatory comments about Lisa in front of their children.

Lisa wanted to leave the relationship but she was concerned about how she would support herself financially. When she expressed her desire to leave, Peter would threaten self-harm with knives and prescription medication. Lisa and Peter's teenage child who had witnessed his father's abuse and continual threats of self-harm, similarly exhibited self-harming behaviours after his girlfriend told him she wanted to end the relationship.

Lisa continued to live in their family home, but moved out of their shared bedroom. Peter forced Lisa to engage in various sexual acts against her will while they were living separately under one roof. When she had saved enough money, Lisa moved out of the family home and enrolled in a tertiary education course. She began making new friends and commenced a relationship with Blake. Peter continued to harass Lisa with hundreds of abusive and threatening text messages and if she didn't reply, he would break into her house and damage her property.



Lisa first reported Peter's abuse to police following a serious assault that required her to seek medical treatment. Peter told police he had acted in self-defence and was listed as the victim in the domestic violence episode. Peter continued to leave threatening messages and Lisa reported his behaviour to police. This time he was charged with stalking/intimidation and police applied for an ADVO that prevented Peter from contacting Lisa or coming to her house. Peter breached the order by stalking Lisa and Blake. Lisa immediately reported the breach to police and Peter was charged. Lisa was told Peter would not receive police bail, but it was granted. Peter was given Blake's witness statement which included his full name. With that information, the next day Peter found and attended Blake's address and murdered Blake in front of Lisa. At trial Peter was found guilty of murder.

Case Review 3603

This case concerned the stabbing murder of Kassim, aged in his 40s, by Mustafa, aged in his 30s, in metropolitan NSW. Kassim was the ex-partner of Mustafa's wife, Lina.

Kassim, Mustafa and Lina were all refugees from Iran living in Australia. Lina and Kassim were in a relationship for approximately five years during which time they had a son. There was reported and anecdotal evidence that Kassim was abusive towards Lina. When Lina was pregnant, neighbours called police to attend a domestic violence episode. Lina did not disclose a physical assault and so police did not apply for an ADVO or charge Kassim with any offences. Kassim told a friend that Lina was taking advantage of gender equality in Australia and talked about reporting her to Iranian authorities for infidelity so that she could be sentenced to death if she ever returned.

Following Lina and Kassim's separation, there were disputes between the couple about the parenting arrangements for their son and they had commenced Family Court proceedings. Kassim threatened to kill Lina and she reported these threats to police but an ADVO did not progress. After Kassim followed her home in his car, police applied for an ADVO and charged Kassim with intimidation while driving (later dismissed in court).

Mustafa and Lina married two weeks after they met and were in a relationship for three years. Mustafa was a survivor of torture and trauma and received court-ordered counselling for his trauma after several criminal convictions. Two months prior to the homicide, the Family Court made orders for shared parental responsibility between Lina and Kassim. Kassim had threatened to take their son to Iran and Lina was frightened that he would never return. Mustafa arranged to meet Kassim and during this meeting, Mustafa fatally stabbed Kassim. Mustafa pleaded guilty to Kassim's murder.

Case Review 3270

This case involved the death of Callum who was run over by a car being driven by Tyler. Tyler was engaged to Rose, Callum's former partner. The homicide took place in a metropolitan area of NSW and both men were aged in their 30s.

Rose grew up interstate and had been the victim in multiple abusive relationships. As a child she had experienced domestic violence perpetrated against her mother by her mother's partners. Because her mother never engaged police, Rose said she was similarly reluctant to report her experiences of domestic violence as an adult.

Rose and Tyler met online and soon afterwards Tyler paid for Rose to come to Sydney, where they became engaged. Shortly afterwards, Rose and her three children moved from interstate to Sydney. When they arrived, Tyler was immediately violent and abusive towards Rose and her children. He punched her in the head and strangled her to the point of losing consciousness. Tyler was also psychologically abusive and blamed Rose for him losing his job and wrote degrading public posts about her on Facebook. Rose remained living with Tyler because she had no other family or friends in Sydney that she could stay with. She disclosed episodes of Tyler's

violence to her former partner Callum, who still lived in her hometown. One month before Callum's death, Rose reported Tyler's violence to police. Police initially applied for an ADVO but it was later withdrawn at Rose's request. No charges were laid.

On the morning of Callum's death, Tyler verbally and physically assaulted Rose. After the assault, Rose called Callum who was in NSW for work, and asked him to drive her to the hospital. When Callum arrived outside Rose's house, Tyler was leaving the property in his car. Neighbours heard yelling before Callum was run over by Tyler. Callum died at the scene. Tyler was charged with murder, manslaughter and dangerous driving occasioning death. Tyler said that the death was an accident and at trial, the jury acquitted him. Rose's young children were present when Callum was killed.

Case Review 3533

This case concerned the stabbing homicide of Gabriel, aged in his 30s, by Christian, aged in his 20s, in metropolitan NSW. Gabriel was in a secondary intimate relationship with Kyla, Christian's partner of five years, and Christian killed Gabriel after finding them together.

Christian and Kyla were born in the Philippines and immigrated to Australia together two years prior to the homicide. After arriving in Australia, Kyla commenced studying and Christian began working. There was no reported history of physical violence however once during an argument Christian stabbed one of Kyla's favourite soft toys. In the months leading up to the homicide Christian had begun to suspect that Kyla was seeing someone else and had been monitoring her emails and phone activity using tracking software. Christian was initially found guilty of murder, but successfully appealed and was found guilty of manslaughter in a re-trial on the basis of provocation.

Case Review 2295

This case involved the shooting homicide of Michael, aged in his 30s, by Rachel, aged in her 20s, in metropolitan NSW. Rachel was in a secondary intimate same-sex relationship with Michael's wife, Katrina.

Michael had been in a relationship with Katrina for almost 10 years. Neighbours often heard arguments between Katrina and Michael and there was reported and anecdotal evidence that Michael was verbally and physically abusive towards Katrina. Katrina told her friends that she couldn't leave the relationship or go to police because Michael would kill her. He was very controlling and often prevented her from socialising with friends or going to work.

Two years before the homicide, Katrina commenced a relationship with Rachel. Rachel had a significant trauma history which included repeated sexual abuse as a child, and an adult. As a teenager she was diagnosed with epilepsy and suffered seizures triggered by stress. Later a neurological assessment concluded that Rachel had an acquired brain impairment. A year before the homicide, Michael was shot in the face by a masked attacker and survived. No charges were laid by police. Michael told his friend that Rachel and Katrina had arranged a 'hit man' to kill him.

Rachel murdered Michael by shooting him in the chest with a flare gun at close range. Rachel and Katrina were charged with Michael's murder. Katrina pleaded guilty to being an accessory after the fact and Rachel pleaded guilty to murder.



Case Review 3676

This case involved the death of Tobey, aged in his 40s, who was fatally shot by a police officer attending Tobey's house in response to a complaint of domestic violence.

At the time of his death Tobey had been in a relationship with Kylie for about 25 years and they had three children together. At the time of his death Tobey and the family were residing in metropolitan NSW.

Tobey had been a child victim of domestic violence, perpetrated by his father. As a young child, Tobey was also sexually assaulted by his uncle. Tobey was diagnosed with a hyperactivity and conduct disorder and when he was 12, he was treated as an inpatient at a mental health facility. When his family visited on weekends, Tobey would cry and beg to come home. At 15 he attempted suicide and made numerous further attempts and/or threats throughout his adult life. He also had long-term and problematic cannabis use.

Tobey had a long history of domestic violence (including sexual violence) against Kylie and had been convicted on a number of occasions in relation to domestic violence offences. He also had convictions in relation to episodes of violence against other people and the police. Both Tobey and Kylie had chronic physical health problems as well as mental health and addiction issues. The family had extensive service contact with police, health and mental health service providers. As a result of these contacts, concerns were raised about Tobey and Kylie's children and many reports were made to child protection services over the years. This culminated in the children being removed a few years before Tobey's death.

On the morning of the fatal episode Tobey began verbally and physically assaulting Kylie. Kylie and their eldest daughter fled the house to a neighbouring property for help. Police attended the house a short time later and Tobey rushed at them armed with two knives. One of the responding officers shot Tobey once and he died at the scene. The matter was finalised by way of Inquest and Tobey's death was determined to be 'self-inflicted'.

Case Review 3229

This case involved the homicide of Ali, aged in his 40s, by his ex-wife's partner, Robert, aged in his 20s, in metropolitan NSW.

Ali was abusive and controlling towards his ex-wife Stephanie during their relationship. Some of these episodes were reported to police and an ADVO was finalised. When Ali and Stephanie divorced, their children lived full-time with Ali. Police were involved on one occasion in relation to Ali's violence against his eldest daughter, although charges and an ADVO were dismissed.

After ending her relationship with Ali, Stephanie started a relationship with Robert. Soon after starting this relationship Stephanie commenced Family Law proceedings seeking full-time parental responsibility of her children. Around this time, Ali also remarried overseas, returning to Australia with his new wife.

Stephanie told Robert about her ex-partner Ali, and said she had been trying to report him to police, but the police could not help her. Robert installed a tracking device on Ali's car and believed that the tracking device revealed that Ali was engaging in illegal activities. In the months before Ali's death, Stephanie obtained an interim Family Law Court order which required Ali to return the children to her care. In breach of this order, Ali travelled overseas with their youngest child. Stephanie advised the Australian Federal Police of the order, and Ali and the child were intercepted, with the child returned to Stephanie. The Family Law proceedings were still ongoing at the time of the homicide. Robert killed Ali and disposed of his body. Ali was reported missing and after a significant period of time Robert confessed to the homicide and pleaded guilty to murder.

Commentary & Recommendations

This chapter outlines the Team's findings and recommendations derived from cases and data within this review period. The Team developed recommendations in a series of case review workshops and these were additionally informed by external consultation with a range of frontline service providers.

This chapter builds on the Team's findings from its prior reports and highlights some emerging themes and issues, as well as some persistent and longstanding challenges in the service system's response to domestic and family violence. This chapter presents recommendations across a range of areas and highlights that responses to domestic and family violence continue to require coordination and integration.



Introduction

This chapter sets out findings and recommendations from the cases the Team has reviewed over the past two years. These findings should be read in conjunction with the data findings outlined in chapters 2 and 5 of this report, and the case review summaries set out in chapter 3.

In part due to the nature of the review process, this chapter also examines a range of issues that have been the subject of the Team's analysis and recommendations in prior reports. While the Team notes that the NSW Government and relevant agencies have supported the majority of its previous recommendations, it remains that some of these recommendations have not been fully implemented, and there continues to be a lack of clarity around the progress of actions anticipated under other recommendations the Team has made. While the Team acknowledges that there has been significant reform in the state's response to domestic violence since this review process was established, some Team members have expressed their frustration that so many years since the death review process became operational, the Team is now effectively re-making recommendations across a number of areas.

Commitment to change is a commitment to ending violence, and the Team urges those government and non-government stakeholders positioned to respond to domestic and family violence to continue to recognise this need for change and urgently act to end this devastating social harm.

Early Intervention

Improving supports for children

The Team's work in this and previous case review periods has highlighted the considerable number of children who experience domestic and family violence during their childhood. Living in a household with domestic violence is in itself a form of victimisation that can have profoundly negative impacts on children, and babies in utero.³⁹ For children, experiencing or living with domestic violence can include hearing or witnessing violence, being used in the course of violence, being told that they are to blame for the violence, defending a parent/family member/sibling, or intervening in violence.⁴⁰ Children can also be exposed to the traumatic aftermath of violence, including having to call emergency services or seek help, seeing a parent's injuries, dealing with a parent who alternates between violence and caring roles, witnessing parents being arrested, or being dislocated from their friends/family/school due to their having to leave their home when the non-offending parent is escaping violence.⁴¹ These experiences were evident in many of the Team's cases during this review period.

For example, in *Case Review 3759* the children described witnessing their father's violence against their mother from 'as early as they could remember.' During violent episodes, the children described hiding together in their bedroom or sometimes putting themselves at risk by trying to intervene to protect their mother from their father. During episodes of violence the father would often hide or destroy the mother's mobile phone, meaning that the children would frantically search the house for spare change to call the police from a payphone in an attempt to stop the violence. After domestic violence assaults, the children recalled seeing their mother with serious physical injuries.

39 Humphries 'Problems in the system of mandatory reporting of children living with domestic violence' (2008) 14(2/3) *Journal of Family Studies* 228.

40 Richards, 'Children's Exposure to domestic violence in Australia' *Australian Institute of Criminology* (online, June 2011) <https://aic.gov.au/publications/tandi/tandi419> (accessed 30 July 2019).

41 Richards (n 40).

Living with violence and its aftermath can have significant psychological or behavioural impacts on children including causing them to develop anxiety, depression, trauma symptoms, increased aggression, antisocial behaviour, lower social competence, temperament issues, reduced self-esteem, mood problems, loneliness, learning difficulties, peer conflict, impaired cognitive functioning and/or increased likelihood of substance misuse issues.⁴² For children, it is also well recognised that exposure to repeated traumatic events can have negative impacts on brain development, causing lasting physiological damage as well as immediate and longer term psychological distress. As is recognised by NSW Health's *The First 2000 Days Framework*, this is particularly the case for children from conception until 5 years of age as this is the critical period where children's developmental infrastructure is laid and their future trajectories are established.⁴³

The impact of abuse on children in the early years of their lives was evident in a number of the Team's cases including in *Case Review 3736* where a young child was diagnosed with a developmental delay and behavioural problems following repeated exposure to his father's violence against his mother in the first few years of his life.

As the Team has seen in its cases however, children's exposure to violence at any age causes significant distress, and can contribute to problematic behaviours including future use of violence, or future victimisation including in intimate partner relationships.

This was identified in *Case Review 3676* where two children lived in a household with domestic violence perpetrated by their father against their mother from early childhood until they were removed by child protection services during their teenage years.

While in out-of-home care, one of the teenage children used violent behaviours towards their carer, resulting in police involvement and the issuing of an ADVO. This teenager was later abusive towards his intimate partner and demonstrated self-harming behaviours. These behaviours were identified as a consequence of that child's experiences of trauma and abuse.

Domestic violence often occurs over a considerable period of time, and in NSW there is currently no coordinated governmental response to children's traumatic experiences of domestic and family violence unless they meet the Risk of Significant Harm (ROSH) threshold for child protection casework.⁴⁴ The Team acknowledges that improvements in the ROSH screening process in recent years may mean that a number of the children in the Team's case reviews – those who were repeatedly reported in relation to serious domestic violence but did not screen into child protection systems – would today be assessed as being at ROSH.⁴⁵ Nonetheless the Team also notes that not all reports of children living with domestic violence reach the ROSH threshold, and currently not all children assessed as at ROSH receive a service response due to a lack of service capacity (for example, where screened in reports are closed due to competing priorities). This response can be contrasted to current governmental responses to adult victims of domestic abuse and violence, who automatically receive a coordinated response through *Safer Pathway* when that violence becomes known or is reported to police or specialist services.

The Team's cases demonstrated that in lieu of a child protection intervention, children who experience domestic and family violence typically received no support or counselling in response to their trauma as no single agency presently coordinates this.⁴⁶ The Team's cases also highlight that where violence is not reported to police or services, children may be

42 Richards (n 40).

43 NSW Health, *The First 2000 Days Framework* (Policy Directive PD2019_008, 8 February 2019).

44 Where a report is made to the Child Protection Helpline staff use professional judgment and structured decision making to determine whether a report of a child experiencing domestic violence reaches the requisite threshold. Where a child is assessed as being at ROSH the matter is referred to as having 'screened in as at ROSH'.

45 The Team has been advised that in October 2017, the *Child Protection Helpline* (the Helpline) made changes to ensure that the definition of domestic violence was extended to include violence by a parent/carer towards any household or family member. Prior to this, only intimate partner violence was captured. The definition of domestic violence was then further extended to capture issues of power and control and to ensure that domestic and family violence was open to professional judgement and interpretation. More recently, the Helpline's practice has aligned with the NSW Practice Framework to ensure that appropriate language is used when documenting violence and that acts of resistance are documented as a strength for further assessment. Child protection practice and system reforms are discussed later in this chapter.

46 See for example, *Case Reviews 3732, 3676, 3759 and 3711*.



rendered invisible to systems and services, again receiving no coordinated systems response to their considerable and compounding trauma. The Team is of the perspective that further work is needed to address the particular needs of children who are exposed to violence, and interrupt the intergenerational cycle of violence and abuse that can continue throughout children's young lives and into their adult relationships. This work is needed to provide early intervention support to children, and promote their health and wellbeing now and into the future.⁴⁷

This gap in service provision has recently been identified by other research in the domestic and family violence space. For instance, the ANROW's project *PATHways and Research In Collaborative Inter-Agency Practice* (the PATRICIA Project) similarly identified that the cohort of children who experience domestic and family violence but do not screen in for child protection intervention is one that is currently missing out on critical services. The PATRICIA Project explored ways in which these children could be referred to specialist domestic violence services. The PATRICIA Project found that a differential response was necessary, making the recommendation:

*That policy be developed and implemented for a differential response for children living with DFV. This will require investment in diversionary pathways to ensure that, where appropriate, children and their mothers receive services outside child protection.*⁴⁸

The Team is of the view that this is an important recommendation and one that reinforces the need to better support this cohort of vulnerable children.

While the Team recognises that the *NSW Stronger Communities Investment Unit* (previously referred to as *Their Futures Matter*) is currently seeking to reshape the way the child protection system responds to vulnerable families, there has not yet been a focus on children experiencing domestic violence as part of

this work.⁴⁹ Further consideration of child protection practice and system reforms is set out later in this chapter.

This section has highlighted the inconsistent and uncoordinated response to children experiencing violence and reinforces the need for early intervention with this cohort of children. Accordingly, the Team recommends:

Recommendation 1

That the NSW Government review available therapeutic services for children and young people who have experienced domestic and family violence, examining programs operating in government, community and crisis services such as refuges.

The review should identify gaps in service availability and funding and evaluate whether available programs use evidence-based approaches to respond to the spectrum of therapeutic needs (including, for example, individual therapy, rebuilding the relationship between the non-offending parent and children and responding to children and young people who engage in violent behaviour arising from a domestic violence context).

The review should identify referral pathways and service needs

In developing *Recommendation 1* the Team has sought to highlight the importance of rebuilding relationships between the child and the non-offending parent - a relationship that can be significantly damaged by the perpetrator's abusive behaviour towards the adult and child victims. The Team notes that specialist programs aimed at re-establishing positive relationships between children and their mothers previously operated in refuge settings, but are now not routinely part of the

⁴⁷ The Team acknowledges that there are some localised projects on early intervention currently being trialled. For example, as part of the Domestic and Family Violence Innovation Fund Early Childhood Australia will develop and implement the 'Early signals. First response.' Project. Through training and research this two year project aims to build capability of early childhood services to identify and respond to children who have been exposed to domestic violence. It will offer free online and face-to-face training and webinars, expertise and coaching for service providers as well undertaking research to develop best practice. See <https://www.women.nsw.gov.au/commissioning/domestic-and-family-violence-innovation-fund/domestic-and-family-violence-innovation-fund-round-2> (accessed 5 December 2019).

⁴⁸ ANROWS, *Horizons: PATHways and Research Into Collaborative Inter-Agency practice* (Research Report, Issue 03, June 2017) Policy Recommendation 6.

⁴⁹ While there has not been a focus on children experiencing domestic violence, the Team notes that as part of funding from the NSW Domestic and Family Violence (DFV) Innovation Fund, OzChild's Stronger Families, Better Communities program was established on the Central Coast to deliver functional family therapy (FFT) to reduce the occurrence of adolescents using violent behaviours against their family members in the home through behaviour change. See <https://www.women.nsw.gov.au/commissioning/domestic-and-family-violence-innovation-fund/domestic-and-family-violence-innovation-fund-round-2> (accessed 5 December 2019).

offering under new refuge models. Prior to the 2014 *Going Home Staying Home* refuge reforms, women were positioned to spend a longer term in refuge/crisis accommodation when escaping violence, enabling workers to undertake sustained intervention and work with women and their children to rebuild their lives, relationships and self-esteem. Given their connection with healing and improving the wellbeing of children as well as mothers, the Team acknowledges the importance of these programs being returned to the refuge sector and this accordingly forms part of *Recommendation 1*. This issue is also further discussed later in this chapter in relation to victims who experience violence from multiple partners.

The Team considers it critical that any work undertaken to progress *Recommendation 1* be accompanied by the development of evidence-based and integrated services responding to the unique needs of this cohort and their families. Moreover, access to services should not be limited to a referral pathway through government agencies such as the police or child protection, but must also include community-based NGO referral pathways. Access should also include self-referral options, enabling family members or young people to access support without having to engage with or be referred via agencies.

Working with young people and adolescents who use violence

The Team's review process traces the life course of victims and perpetrators and highlights that in many cases as children aged they transitioned from being known to police or child protection services as domestic violence victims, to becoming known as perpetrators – often in the context of these children or adolescents using violence against their parents or other family members.

For instance in *Case Review 3711* a teenager was known to multiple agencies (including child protection services) as a long-term victim of violence and child abuse. Despite being reported as a victim on numerous occasions there was

never any coordinated response to his experiences of violence in childhood. As an adolescent, he began using violence against his mother and other relatives, and eventually killed his mother in an episode of violence.

Similar issues were identified in *Case Reviews 3731, 3732 and 3771*, all of which involved a young adult child killing their parent.

The Team acknowledges that most children and young people who experience family violence do not go on to perpetrate violence. Similarly, not all adolescents who use family violence against parents or other family members will have experienced violence themselves during their earlier childhood. However, the issue of child victims who go on to use violence as older children, adolescents and adults has highlighted to the Team the critical need to interrupt intergenerational cycles of violence and respond to children's trauma quickly and effectively. Earlier intervention will foster healthier relationships with family members and respond to the psychological effects of exposure to violence and abuse where these are contributing factors to offending. This reinforces the need to undertake the review anticipated in *Recommendation 1* to ensure the availability of early intervention services and programs for children and young people who experience violence, and who may then go on to use violence.

Young people and adolescents who use family violence present particular challenges for tertiary prevention, including in terms of police responses and in Youth Justice (previously known as Juvenile Justice) contexts. This form of violence, and in particular adolescent-to-parent violence, is a significant and long-standing theme in the Team's cases and there is a growing body of literature specifically examining this issue. Adolescent-to-parent violence is recognised as a unique form of family violence,⁵⁰ as the offenders are children with particular developmental needs, and maintaining and rebuilding family connections is recognised as a necessary focus of violence interventions – which can be contrasted with the many interventions around other forms of personal violence,

50 Jo Howard, 'Adolescent violence in the home: How is it different to adult family violence?' *Australian Institute of Family Studies* (Article, 8 December 2015) <https://aifs.gov.au/cfca/2015/12/08/adolescent-violence-home-how-it-different-adult-family-violence> (accessed 16 July 2019).



such as intimate partner violence.⁵¹ Adolescent-to-parent violence is often identified as a gendered form of violence, with the majority of cases involving a male aggressor and a female victim – although it is recognised that this violence may also be perpetrated by female aggressors, and male parents may also be victims.⁵² It is well recognised that particular barriers to reporting adolescent-to-parent violence exist due to parents not wanting to engage in criminal justice pathways for their children, and due to the often ongoing caregiving relationship of the adult victim to the offending child or young person.

When considering how the system currently responds to adolescent family violence offending, it was noted that some of these cases might be discussed at the *Safety Action Meetings* (SAMs) as a consequence of police intervention or other referral. However, the Team was of the perspective that there remains a considerable gap in the service response for young people who are using violence.⁵³ The Team was advised of a number of recent initiatives designed to better meet the needs of this cohort of offenders, including *Youth Action Meetings* (YAMs) – a pilot program which commenced in Campbelltown and Coffs/Clarence in October 2019 with the NSW Police Force. The program works with children and young people who are 10 to 17 years old and experiencing significant risks to their safety, wellbeing and welfare. The YAMs are chaired by a local senior police representative and are a forum to mobilise a local, multi-agency response by key government and non-government agencies to develop action plans and diversionary strategies to increase the young person's safety, wellbeing and welfare. The Team welcomes the introduction of YAMs for this cohort of young people and will continue to monitor the progress of this pilot throughout the next reporting period.

The Team has also been advised about a number of

services and programs specifically tailored to young people, such as *Getting on Track in Time – Got It*,⁵⁴ *Youth on Track* (in the early intervention space), and *My Journey My Life*,⁵⁵ as well as the forthcoming *Her Journey Her Life*⁵⁶ and *Trauma Service*.⁵⁷

Notwithstanding these programs and initiatives the Team considers that there continues to be a lack of coordinated response to young people who use violence and persistent barriers to effective service provision. When exploring this issue the Team particularly identified the need for increased and specialised support for young people with a cognitive impairment or mental health condition who also use violence against partners or family members. This was a feature of a number of the Team's cases in this review period.

For instance, *Case Review 3756* involved an adolescent perpetrator with a significant and permanent brain injury. He used violence against his mother, as well as stalking a former partner and a female stranger. He had problems with alcohol and other drug misuse which contributed towards his violent behaviours.

Responses to a recent survey of frontline Youth Justice staff revealed that young people who use violence in a domestic context and are in contact with Youth Justice frequently have health-related issues. Some of the most common issues identified were mental health issues (94%), cognitive impairment (41%) and intellectual disability (26%).⁵⁸ These findings corroborate those in the *2015 Young People in Custody Health Survey* (YPICHS), which found that the average functional IQ of a young person in custody in NSW is in the borderline range of ability, with one in six young people in the extremely low range (below 70) which is

51 Condry and Miles 'Adolescent to parent violence: Framing and mapping a hidden problem' (2014) 14(3) *Criminology & Criminal Justice*, 257–275; See also Fitz-Gibbon, Elliott and Maher (2018) 'Investigating Adolescent Family Violence in Victoria: Understanding Experiences and Practitioner Perspectives' *Monash Gender and Family Violence Research Program* (Research Report, July 2018).

52 In NSW a third of adolescents charged with domestic and family violence offences are female. See Freeman, 'Domestic and family violence by juvenile offenders: offender, victim and incident characteristics' Issue Paper No.136 NSW Bureau of Crime Statistics and Research Bureau Brief, September 2018.

53 The Team notes that this issue was considered in the *Safer Pathway Evaluation* (see Recommendation 21). The commentary around this recommendation identified that there may be gaps in the service provision for cases involving family violence and consequently recommended that agencies identify any service gaps in availability of longer-term supports for victims, family violence in particular, ARTD, *Safer Pathway Evaluation* (Final Report, February 2019).

54 An Early Mental Health Intervention services for children aged 5-8, delivered by the NSW Child and Adolescent Mental Health Services in partnership with the Department of Education.

55 A Youth Justice program for young Aboriginal men aimed at motivating young people to make changes to violent behaviours, educating young people about criminal behaviours, and providing skill development/practised learning in non-violent strategies.

56 An adaptation of the *My Journey My Life* program for young Aboriginal women who have contact with Youth Justice. It is in the final stages of development.

57 This service is being introduced through the *NSW Stronger Communities Investment Unit* for children who are aged under 16 and in out-of-home-care.

58 Juvenile Justice, *Issues Paper: Juvenile Domestic and Family Violence* (July, 2018).

indicative of an intellectual disability.⁵⁹ Over one quarter of the girls screened in the survey were identified as potentially having an intellectual disability. Disability can also be a result of violence having been inflicted on the young person, with one quarter of young people surveyed reporting a past head injury resulting in a loss of consciousness – with almost half of those injuries being caused by an assault, most commonly inflicted by a family member. Females were around twice as likely to have sustained a head injury compared to males (53% of females vs 23% of males). Serious head injuries of this nature can have long-term impacts on psychosocial development and academic and occupational functioning.

The proportion of children and young people in custody who have disabilities (including mental illness and cognitive impairment) is alarmingly high. This vulnerable cohort requires better protection and earlier intervention to prevent their entry into the criminal justice system. The question of how to better support and protect the needs of this vulnerable cohort is a highly complex one and further work is necessary to ensure that there are appropriate diversionary strategies out of the criminal justice system for children and adolescents with disabilities who use domestic and family violence. Consideration of this issue led the Team to examine diversionary strategies for young offenders more broadly.

In NSW, the *Young Offenders Act 1997* (NSW) (*Young Offenders Act*) establishes a scheme for diverting certain young offenders from court through a hierarchy of sanctions, including cautions and warnings (administered by the NSW Police Force) and *Youth Justice Conferences* (administered by Youth Justice). A key principle that underpins the diversionary scheme is that children who are alleged to have committed an offence should be dealt with in their communities in order to assist their reintegration and to sustain family and community ties.⁶⁰

In its current form young people who commit domestic violence offences cannot be dealt with under the *Young Offenders Act*.⁶¹ However, as discussed above, maintaining and rebuilding family and community connections is important for young people who

perpetrate family violence. This approach also clearly aligns with the principles of the *Young Offenders Act*.

The Team notes that following the *Parliamentary Inquiry into the adequacy of youth diversionary programs in NSW*, the NSW Government announced a review of the *Young Offenders Act*, including the diversion exemptions within this Act, in line with the Committee's recommendations.⁶²

In light of this work and previous recommendations, the Team recommends:

Recommendation 2

That the review of the *Young Offenders Act 1997* (NSW) by the NSW Government give consideration to removing the restrictions which prevent young people who have committed certain domestic violence offences from being diverted away from the criminal justice system. The review should also consider whether additional programs are needed to support diversion.

A further issue relevant to this cohort of young offenders relates to accommodation for children and young people who use violence and cannot remain in the family home. The Team has been advised that one of the biggest issues facing the effective management of child and adolescent perpetrators of domestic violence is difficulty accessing alternative accommodation when they have been excluded from their family home under an ADVO. Although the Department of Communities and Justice - Housing (DCJ Housing) provides temporary accommodation for many young people who do not have a safe place to stay and cannot be accommodated by other means, many Youth Justice clients may not meet the eligibility requirements for this accommodation due to risk assessment outcomes and age restrictions (for those under 16 years of age). There is also a 28-day limit for temporary accommodation, and while this period can be extended on a needs basis in certain circumstances, the Team has been advised that people seeking temporary accommodation (and particularly young people) are often not aware of this exemption.

59 Dean et al. 'Young People in Custody Health Survey' *Justice Health & Forensic Mental Health Network and Juvenile Justice NSW*, November 2017.

60 *Young Offenders Act 1997* (NSW) s 7(e).

61 *Young Offenders Act 1997* (NSW) s 8(2).

62 Law and Safety Committee, *The adequacy of youth diversionary programs in NSW* (Legislative Assembly Report no. 2/56, September 2018).



The Team has been advised that requests from child and adolescent perpetrators regarding crisis accommodation make up around 80% of calls to the *Youth Justice Bail Assistance Line*. If accommodation cannot be found the young person may be sent to a Youth Justice Centre, which is a negative outcome for that child or young person.

The Team understands that there are a number of current cross-agency projects which seek to address housing issues for a range of cohorts who are identified as particularly vulnerable to homelessness, which may contribute to better understanding and addressing these issues for young people involved in the criminal justice system.

In response to this issue, and in particular support of *Recommendation 2*, the Team recommends:

Recommendation 3

That the temporary/crisis accommodation needs of Youth Justice clients be considered as a priority by the *Homelessness Interagency Project Group* through the *No Exits into Homelessness Framework*, and further data analysis and research be conducted on the best approach to addressing the housing needs of young people who are excluded from mainstream services.

Addressing young people's attitudes towards women

Another issue the Team has considered in this review period is problematic attitudes towards women held by some young people, including attitudes permissive of gendered violence. The Team has considered this issue both generally and in Youth Justice contexts.

It has become increasingly recognised in recent years, due to the findings of long-running surveys such as the *National Community Attitudes towards Violence Against Women Survey* (NCAS), that a proportion of Australian young people possess attitudes supportive of violence against women.⁶³ According to results of the 2017 NCAS, nearly a third of young people aged

16 to 24 believe that many women who say they have been raped had 'led a man on and then had regrets'. Further, nearly a quarter of young people disagree that violence against women is common, one in seven believe that women often make false allegations of sexual assault, and one in eight did not believe that non-consensual sex in marriage was a criminal offence.

These results were largely mirrored in the older sample of respondents (aged 25 to 64), although the authors suggest that young people were more likely to be classified as having a low level of understanding of violence against women, and were less likely to have a high level of intention to intervene or respond where they witnessed abuse or disrespect. Findings indicate that young people were also more likely to have attitudes supportive of violence where they had attitudes endorsing gender inequality, had a low level of understanding of violence against women, held prejudicial attitudes towards others on the basis of other characteristics (such as race, ability, sexual orientation) and where they endorsed violence as a practice.⁶⁴

The stated policy implications of the most recent NCAS include the need to challenge violence supportive norms, structures and practices in the wider community, as well as the need to support active efforts to educate children and young people in educational settings, in sports, in the media and popular culture, in family contexts, and in the context of their peer relationships. The authors note that using methodologies and approaches that appeal to young people – such as peer to peer education – is likely crucial to the success of these educational strategies.⁶⁵ The Team strongly supports the early intervention and prevention focus of the NCAS findings, particularly as they relate to young people.

Cases in this review period also highlight that particular cohorts of children and young people likely require more intensified efforts around addressing violence supportive attitudes earlier in their lives. The Team notes that while programs such as *Respectful Relationships* and *LOVEBiTES* (when delivered appropriately by skilled facilitators) may be appropriate educational programs for cohorts of school children

63 Politoff et al, *Young Australians' attitudes to violence against women and gender equality: Findings from the 2017 National Community Attitudes towards Violence against Women Survey (NCAS)* (ANROWS Insights, Issue 01/2019, ANROWS).

64 Politoff (n 63) p. 6.

65 Politoff (n 63) p. 7.

to shape positive attitudes towards women and gender equality, evaluations of such programs have demonstrated mixed results in improving attitudes amongst different cohorts of young people.⁶⁶ In particular, the entrenched views and disrespectful attitudes of vulnerable cohorts of children likely require more targeted behavioural intervention. This is particularly the case for young people involved in the criminal justice system, as many of these young people have become disengaged from school and therefore have not been engaged in primary prevention education programs addressing gendered attitudes towards women.

In several cases in the Team's current review period – including *Case Review 3220* and *Case Review 3919* – male adolescents who became known to the Youth Justice system at an early age and for violent offending later perpetrated significant intimate partner violence against their female partners. It was also identified that within Youth Justice settings, while many young people engaged in programs may not have intimate partners, they may use violence against their parents or family members. It was noted that many of these behaviours appeared to be shaped by negative attitudes towards women, as well as other complex inter-related factors.⁶⁷

The Team has been advised that as part of the new *Youth Justice Domestic and Violence Strategy*⁶⁸ two modules of the *Changing Habits and Reaching Targets* (CHART) program are currently being reviewed and strengthened.⁶⁹ The Team encourages Youth Justice to continue collaborating and raising awareness with stakeholders to provide insights into the unique challenges of addressing adolescent domestic and family violence and to expand the program content beyond conceptualisations of intimate partner violence.

The Team is of the perspective that the new *Youth Justice Domestic and Violence Strategy* should aim to respond to problematic gendered attitudes and behaviours from young people's earliest engagements with this system and targeted work around these attitudes should be undertaken regardless of whether their offending relates to domestic violence.

Accordingly the Team recommends:

Recommendation 4

That Youth Justice develop and deliver educational modules and programs to address gendered attitudes and juvenile domestic and family violence offending behaviour to young people under custodial and community supervision. Approaches to delivering this education should be trauma-informed and culturally competent.

Supports for child survivors of homicide

In previous reports the Team has highlighted the need for increased specialised and coordinated support responding to the trauma of children who have had a parent or sibling kill, or be killed, in a domestic violence homicide.

The Team's *Focused Intimate Partner* dataset (Chapter 5) reveals that between 2008 and 2016 there were at least 154 child survivors of homicide who had a parent/s killed, or a parent perpetrate a domestic violence homicide. In this case review period alone there were numerous cases where children directly witnessed the homicide of one or more family members, causing those children profound and lifelong trauma and grief.⁷⁰ In a number of these cases, the Team was of the view that surviving children have not been extended sufficient and ongoing supports to respond to these life-changing, traumatic experiences.

For instance in one of the Team's cases, three children who witnessed a homicide were reported to FACS (as it then was) post-homicide, but they did not reach the ROSH threshold for ongoing case management. The children's surviving parent did not wish to engage with FACS and did not take up the referrals the family were offered in the immediate aftermath of the homicide. A few years

66 Flood and Kendrick, *LOVEBITES: An evaluation of the LOVEBITES and Respectful Relationships programs in a Sydney school* (Research Online, University of Wollongong, 2012).

67 For example, the social learning of violent behaviour through early exposure to family violence; a response to high levels of stress which vulnerable young people are not developmentally equipped to cope with; behavioural issues such as poor affect regulation, impulse control and oppositional defiance; alcohol and drug use; socialisation of aggressive behaviours with negative peers; and other environmental factors.

68 Department of Communities and Justice, 'Domestic and Family Violence Youth Justice Strategy 2019-2022' (Online and undated) <http://www.juvenile.justice.nsw.gov.au/Documents/youth-justice-domestic-and-family-violence-strategy-2019-2022.pdf> (accessed 5 December 2019).

69 The *Healthy Relationships Module* and the *Understanding Anger Module*.

70 See, for example *Case Reviews 3920; 3659; 3705; 3270; 3676; 3732; and 3474*.



later, one of the children was again reported to FACS by his school after he exhibited behavioural indicators for anxiety. Again, the child did not reach the ROSH threshold and the surviving parent declined engagement with FACS. These children are currently receiving no known support from any provider, with no coordinated follow-up planned or offered as they approach adolescence and adulthood.

The Team is of the perspective that this cohort of surviving children continue to represent a vulnerable group for whom there remains no integrated or consistent response.

This issue has been considered by the Team in its previous reports. In its 2012/13 Report the Team recommended that:

NSW Police Force amend its domestic and family violence policy to provide that when any domestic homicide event occurs police should notify FACS of any known biological or non-biological surviving children of the deceased or perpetrator (including children who may not be ordinarily resident with the deceased or perpetrator).

Once a notification is made, FACS should coordinate with agencies including DEC and Victims Services to ensure that counselling and services appropriate to the specific trauma experience, age, and geographic location of the child/ren is made available to the children in a timely fashion.

Victims Services, DEC and FACS should coordinate to develop a strategy and develop additional support services tailored for the group of child victims in cases where their families or carers are reluctant to engage with counselling and support services.⁷¹

While this recommendation was supported by the NSW Government, responses from agencies received in 2017 indicated that although the NSW Police

Force had updated their Domestic Violence Standard Operating Procedures (DVSOPs) to ensure that responding officers would notify (the then) FACS of surviving children following a homicide, there remained no specific coordination by FACS around those children. A FACS referral to Victims Services was only made where there was ongoing casework involvement with a child or young person (i.e. children who screened in as ROSH and had their case allocated). It was not clear whether child survivors of homicide would screen in automatically as at ROSH and invoke a system response.

In its 2015/17 Report the Team further recommended:

That Victims Services, Family and Community Services, NSW Health, the Department of Education and Communities and other relevant organisations work together to improve access to support and advocacy for young people and children who are secondary victims to a homicide, including where carers may be reluctant to engage with services.⁷²

This recommendation was again supported by the NSW Government, however implementation actions were limited to: improving information sharing across agencies; increasing the availability of school counselling (relevant to those falling within the school age cohort and attending school); Victims Services providing an information sheet about services to carers;⁷³ and FACS providing generalised support to children who screen in as at ROSH after police notification.

In terms of recent developments, the Team notes the NSW Coalition's 2019 election commitment to provide \$3.3 million to the Homicide Victims Support Group, supporting their building of *Grace's Place*, a bespoke facility for child survivors of homicide (previously discussed in the Team's 2015/17 Report). This is an important facility addressing an important need in the community, however the Team notes that this election commitment does not address the issue of ongoing supports for the broad range of children in this cohort who live across metro, regional and rural NSW. Accordingly, it is the Team's perspective that there remains a lack of ongoing support for these children

⁷¹ NSW Domestic Violence Death Review Team, *Annual Report 2012-2013*, Recommendation 9.

⁷² NSW Domestic Violence Death Review Team, *Annual Report 2015-2017*, Recommendation 33.

⁷³ Victims Services, *Support for family members of homicide victims* (PT07, September 2019), https://www.victimsservices.justice.nsw.gov.au/Documents/pt07_family-members-a4.pdf (accessed 5 December 2019).

where they are not under the care of the Minister.

The Team has also been advised of another recent development by Victims Services - the *Safer Pathway Internal Review Process Pilot* for domestic violence related deaths. Victims Services anticipates that this multi-agency death review process will provide an immediate opportunity to identify systematic gaps or opportunities within *Safer Pathway*, and will also support the needs of secondary victims such as surviving children. As this pilot is still in very early development stages, the extent of support offered to surviving children is not yet clear, however the Team is hopeful that this pilot presents an opportunity to provide greater support and oversight for secondary child victims of homicide, much like the long-term monitoring of siblings undertaken by the Serious Case Review Unit in DCJ (Child Protection) following a child death review.

In considering how to best meet the needs of surviving children, the Team acknowledges that in the immediate aftermath of a domestic violence homicide, relative or kin carers for surviving children may be overwhelmed with their own grief at the loss of a family member. While the Team understands that information about supports available through Victims Services is provided to families, the Team is of the perspective that in the highly emotional and stressful time following a homicide, family members may not be able to seek out support services for surviving children. In general, Victims Services implements a victim-driven process whereby once information is shared with that agency, it is up to the victim or their carer to decide when (if at all) they will access services. Victims Services have advised the Team that they do not proactively contact victims of crime to offer counselling and/or financial assistance on the basis that this respects the privacy and autonomy of the individual, or in this case, the caregiver, in determining what services and supports the child needs. However, this may result in some victims being unaware that they are entitled to support and financial assistance, or becoming aware of these supports only after the entitlement period has lapsed. This is particularly relevant for child survivors who may not be informed of their entitlements by their carer, or may require support at later times in their life, such as during adolescence or early adulthood.

In light of these issues, it remains the Team's perspective that this unique cohort of children should

have access to long-term, culturally appropriate and specialised supports as they require it, throughout their childhood, adolescence and into adulthood. Accordingly the Team recommends:

Recommendation 5

5.1 That the NSW Government consider providing unlimited lifetime counselling to children who have a parent or sibling killed in a domestic violence homicide and extending the statutory restrictions on the ability of those children to lodge a claim under the *Victims Support Scheme* (currently up to the child's 20th birthday).

5.2 That Victims Services work with NSW Government agencies and relevant stakeholders to disseminate information so that victims and their carers are aware of the supports available under the *Victims Support Scheme*.

Trauma-informed and trauma-based care with vulnerable individuals and families

A number of cases in this review period highlighted the particular challenges facing families with multiple complex issues in addition to domestic violence, including vulnerabilities around child protection, involvement with the criminal justice system, health, housing, and poverty.

For example, in *Case Review 3732* the family had complex social issues dating back at least four generations. The woman who was ultimately killed in a domestic violence homicide had been the victim of violence and abuse from multiple perpetrators throughout her life, beginning in her childhood. As an adult, she experienced violence from her intimate partner, then her own adult children, as well as other members of her local community. She made efforts to protect her children from her intimate partner's abusive behaviour however her children all developed difficulties with drugs, alcohol and experienced mental health issues. When the woman's children were unable to care for their own children and child



protection services intervened, she volunteered to take over parental responsibility for her four grandchildren. While caring for her grandchildren, her adult children would regularly come to her house seeking shelter, money and support, and while they were in her home, they continued to perpetrate violence against her.

The family lived in social housing and had regular contact with police, child protection, health providers, education, housing, and the criminal justice system. However none of these services were able to appreciate the true complexity of the victim's background and circumstances, and none were able to provide the meaningful support that she needed before her death.

This case was not an isolated example, with many of the cases the Team considered during this review period involving both victims and perpetrators with complex issues and vulnerabilities who were known to multiple systems and services concurrently during their lives.

The Team recognises that for these families and individuals, approaches to service delivery must be focused on early opportunities to provide intervention and support, and must demonstrate an awareness of and sensitivity towards understanding clients' needs in the particular context of their trauma histories.⁷⁴ This approach - referred to as trauma-informed, and sometimes trauma-based practice⁷⁵ in early intervention - has been used as a lever for recent programs and initiatives within NSW Government, such as the *Multisystemic Therapy for Child Abuse and Neglect*[®] (MST-CAN)⁷⁶ and the *Family Investment Model* (FIM).

The Team has been advised that MST-CAN is a 24/7 home-based treatment model for families with substantiated cases of physical abuse and/or neglect

of children and young people between the ages of six and 17 years. The program is targeted at high-needs families who have a complex history with the child protection system and are at imminent risk of having their children removed. Services are provided to all family members at least three times per week, for a period of six to nine months depending on the family's needs. There are currently six MST-CAN teams in priority locations in NSW. This program commenced in NSW in August 2017 and has not yet been evaluated.⁷⁷

The *Family Investment Model* (FIM) was piloted in Dubbo and Kempsey in 2017. FIM aimed to address entrenched intergenerational disadvantage and offending for families with high levels of need. It purported to take a trauma-informed approach to whole-of-family work and co-located different government agencies (justice, child protection, health and education) under the one roof, to enhance agency coordination and improve wraparound and holistic care for individual clients and their families. Participation in FIM was voluntary (opt-in).

The Australian Institute of Criminology (AIC) evaluated the FIM pilot in 2019.⁷⁸ The evaluation reported many positive outcomes for the clients who engaged with FIM and found that forming multidisciplinary teams substantially improved service delivery for families and also improved communication, understanding and coordination between government agencies and community service providers. Team members did, however, identify limitations with aspects of the evaluation methodology⁷⁹ and it was noted that the 'outcomes-analysis' was based only on anecdotal evidence and observations from caseworkers, or self-reported by clients who were willing to participate in the evaluation. No data was obtained from any government agencies to demonstrate, for example, reductions in child protection notifications, increases in school attendance, or decreases in criminal offending. The evaluation noted that this information would have been

74 Australian Institute of Family Studies, *Trauma-informed care in child/family welfare services* (CFCA Paper No. 37, February 2016).

75 Mark Wenitong and Victoria Hovane, 'Intergenerational trauma and family violence in Aboriginal and Torres Strait Islander Communities: State of knowledge and implications for policy and practice' (Conference Materials, ANROWS Conference, 17 May 2018).

76 For more information see <https://www.theirfuturematter.nsw.gov.au/our-initiatives/mst-can> (accessed 4 October 2019).

77 Research from other jurisdictions (USA and Queensland) have evaluated the effectiveness of MST-CAN ®. See for example, Swenson, et al. 'Multisystemic Therapy for Child Abuse and Neglect: A Randomized Effectiveness Trial', (2010) 24(4) *Journal of Family Psychology*, p. 497-507; Stallman, et al. 'New directions in the treatment of child physical abuse and neglect in Australia: MST-CAN, a case study' (2010) 9 *Advances in Mental Health*, 9, pp.148-161.

78 Willis et al, *Evaluation of the New South Wales Family Investment Model pilot program* (Final Report, Australian Institute of Criminology, November 2018 - amended April 2019).

79 For example, many of the results were based on a small sample of families that had strong engagement with the pilot for over 12 months, and included very limited (if any) feedback from people who disengaged with the service, or who lacked sufficient detail in their case file, or had 'not progressed' with the program.

valuable for assessing the impact of FIM, particularly in the longer term.

Further, some of the feedback received from stakeholders concerned the composition of the FIM team and the fact that there were no Aboriginal-identified positions, despite targeted engagement with a large proportion of Aboriginal families. It was also suggested that embedding drug and alcohol treatment services within FIM teams would have been valuable considering that many of the clients typically had long-standing substance use issues and were living in areas with limited service availability.

A number of Team members raised concerns around the limited communication with NGOs and community about this pilot, citing that many Aboriginal community leaders and service providers living in both Dubbo and Kempsey were not apparently aware that this program was ongoing in the town. While the Team understands that FIM was a small-scale pilot, it led the Team to broader discussions around the issue of information sharing and the community being aware of available services. This issue is discussed later in this chapter.

Although the particular issues facing Aboriginal communities in NSW are considered elsewhere in this chapter, from cases and consultation in both this and prior review periods it has also been identified that for Aboriginal families in particular, access to appropriate supports can be further impeded by reduced trust in government agencies as a consequence of colonisation, the ongoing effects of intergenerational trauma, and the often limited availability of culturally appropriate Aboriginal controlled community organisations (ACCOs), services and programs in metropolitan, regional and rural areas. ACCOs in healthcare and other human services settings are uniquely positioned to provide early intervention and support for Aboriginal families, reducing barriers to service access and building capacity within Aboriginal communities.⁸⁰

Within the domestic and family violence space, the organisation *Waminda*, an ACCO on the NSW South Coast, has been identified as an example of good practice working with vulnerable families with multiple complex needs. *Waminda*'s emphasis on the co-location of services around domestic violence, family preservation and restoration, healthcare, healing support, disability

support, education and social enterprise opportunities as well as community outreach has been identified as positive practice for the South Coast community, and a strong ACCO model responding to issues of trauma - as well as the need for comprehensive wraparound and targeted service delivery.

Both in the non-government and government sectors initiatives such as these highlight the importance of adopting trauma-informed, or trauma-based approaches to working with vulnerable families, and delivering quality, culturally safe, and strengths-focused programs and initiatives in the early intervention and prevention spaces, as well as tertiary support and assistance. These programs also highlight the importance of terms such as 'trauma-informed' or 'trauma-based' practice resulting in real action and real approaches, as these terms can – without such actions – be meaningless 'buzzwords'.

The Team reinforces the importance of these initiatives being adopted across the State, and any evaluations around the success of programs for Aboriginal families being developed in partnership with Aboriginal stakeholders and community (to ensure that measures are responsive to families' needs and interests).

This approach to early intervention should be included in the proposed framework around Aboriginal domestic violence responses discussed later in this chapter.

Responding to victims

Safety Action Meetings and Safer Pathway

As discussed by the Team in previous reports, *Safer Pathway* is the integrated approach to safety assessment, referrals and service coordination for victims of domestic violence in NSW. It includes a risk and safety assessment (the *Domestic Violence Safety Assessment Tool* or DVSAT), provides a single contact point for victims to access support and services (through the *Central Referral Point*), and facilitates agencies and service providers to work together to provide victims who are assessed as being at serious threat of harm with a priority integrated response through fortnightly *Safety Action Meetings* (SAMs).⁸¹

80 Panaretto et al 'Aboriginal community controlled health services: leading the way in primary care' (2014) 200(11) *The Medical Journal of Australia* 649-652.

81 Women NSW, *Safer Pathway* <https://www.women.nsw.gov.au/programs/safer-pathway> (accessed 14 August 2019).



Safer Pathway was established in 2014 under *It Stops Here: Standing together to end domestic and family violence in NSW – The NSW Government’s Domestic and Family Violence Framework for Reform* (It Stops Here), and aims to ensure that all domestic violence victims in NSW receive timely, effective, streamlined and consistent responses to their experiences of violence.

The Team notes that ARTD Consultants recently evaluated *Safer Pathway* (*Safer Pathway Evaluation*)⁸² and many of the evaluation’s recommendations are considered in this report in different sections and contexts. The Team is particularly interested in *Recommendation 4* of the *Safer Pathway Evaluation*, which recommends that the NSW Government:

*Continue to expand referral pathways to facilitate referrals to Safer Pathway from other agencies, funded services, and community and self-referral.*⁸³

In light of the Team’s cases in this and previous review periods, the Team lends its support to this recommendation. The NSW Government, in its response to the *Safer Pathway Evaluation*, has also indicated support for this recommendation.⁸⁴

According to the *Safer Pathway Evaluation*, the system level gateway into the SAM had not been established, and very few referrals into *Safer Pathway* came from agencies other than police. Data cited in that evaluation noted that over 99% of referrals into the system came from NSW Police, notwithstanding that the system was established with the intention of different services and agencies referring into the centralised system. As noted in the evaluation, and as is also evident from the Team’s cases in this and prior review periods, many victims do not engage with police in respect of their experiences of violence; and there may be particular barriers to victims accessing police. Accordingly, pathways from other agencies or services victims may encounter, including child protection, health and specialist domestic violence services, are necessary to respect and promote the rights of victims who may not engage in legal pathways.

In discussing this issue and *Recommendation 4* of the evaluation, the Team notes that there can be challenges for victims, who do not engage with police, having their cases presented at the SAM. Where

there is a referral from a non-government organisation or other agency, challenges may arise in cases that involve disclosure of a chargeable offence committed by an abuser. Disclosure of such conduct at the SAM (where police are in attendance) necessarily requires police to further investigate, contrary to that victim’s decision not to engage police in the first place. Navigating this issue, and balancing the intention and objective of *Safer Pathway*, needs to be borne in mind when responding to *Recommendation 4*.

The Team has been advised that in progressing this recommendation, Victims Services has improved its data collection around non-police referrals and has commenced a pilot process (in partnership with Legal Aid NSW) to examine the policy and procedural implications of actively encouraging non-police referrals into *Safer Pathway* and the SAMs. This pilot is being undertaken with a view to determining, amongst other things, how the system may need to be tailored (and the associated resourcing implications) to support these victims. This pilot is being conducted by the *Safer Pathway Referral Expansion Working Group*, which will inform the response around the policy and procedural implications of expanding non-police referrals into these meetings.

The Team notes the importance of *Recommendation 4* of the evaluation and seeks to reinforce the importance of *Safer Pathway* operating to protect the needs and interests of victims of violence who, for various reasons, may not seek help via police. In light of its cases, the Team in this report also considers the importance of active referral into *Safer Pathway* through child protection systems, given the supports that *Safer Pathway* can provide to vulnerable families experiencing violence and concurrently engaged with child protection systems. This issue is considered specifically later in this chapter.

Understanding victimisation and supporting victims who experience violence from multiple partners

In this reporting period the Team has sought to better understand the experiences of repeat victims of abuse – particularly the vulnerability of female victims

82 ARTD, *Safer Pathway Evaluation* (Final Report, February 2019). <https://www.women.nsw.gov.au/download?file=650328> (accessed 14 August 2019).

83 *Safer Pathway Evaluation* (n 82) Recommendation 4.

84 NSW Government, ‘Response to Safer Pathway Evaluation – Lead agencies’ (undated).

who have been abused by multiple male intimate partners across a number of relationships. In previous reporting periods the Team has acknowledged the challenges facing police who respond to repeat victims and perpetrators of domestic violence.⁸⁵ In this report the Team has sought to focus on victims themselves and the policy questions arising around issues of repeat victimisation and how to address the long-term impacts of experiencing domestic violence.

Although victimology – the study of victims of crime, the aetiology of victimisation, and the psychological effects of victim's experiences – has long been a contentious and disparate area of research within the social sciences,⁸⁶ understanding the vulnerabilities of particular groups of victims is essential to the development of responsive social policy around social vulnerability and also criminality.⁸⁷ Better articulating the needs and experiences of victims is central to effectively providing for their wellbeing and respecting their rights – just as understanding the characteristics and experiences of perpetrators who use violence is central to promoting accountability and behavioural change. The focus on victims in this section in the report should not be interpreted in any way to diminish perpetrator accountability for violence.

Cases in the review period, as well as the practice experiences of Team members, reinforced the importance of examining the particular experiences of women with long histories of domestic violence victimisation, and developing responses aimed at interrupting the cycle of violence. In numerous cases in the review period, women had multiple abusive partners throughout their lives, often experiencing a gradual loss of self-esteem, developing trauma-coping responses such as drug and alcohol misuse (which may increase vulnerability), and becoming increasingly isolated and disconnected from their families and communities as a result of the abuse perpetrated against them.⁸⁸ Interrupting this repeat victimisation, as with interrupting repeated uses of violence, is a pressing social policy concern. And yet to date there has been little work specifically undertaken to address the issue of repeat victimisation and provide sustained and long-term support for victims of violence.

For example, in *Case Review 3318* a woman (who was eventually killed in a domestic violence homicide) was a repeat victim of extreme domestic violence perpetrated by multiple intimate partners. She developed epilepsy as a consequence of the traumatic head injuries inflicted by her many abusers. This relentless violence destroyed her self-esteem and she used alcohol as a way of self-medicating and coping with trauma. Her children were removed by child protection as a consequence of domestic violence and her relationships with her family were strained by the violence and by the woman's alcohol use. She became increasingly isolated when her abusive partner forced her to leave her local community and they moved interstate. In the period leading up to the homicide, she had escaped another violent partner and become homeless as a result. With no stable accommodation or support networks, her alcohol use increased and she was frequently given move-on directions by police and charged with public disorder offences. Her former intimate partner and another male eventually killed her in the context of a brutal sexual assault.

The Team noted that existing educational resources such as *Charmed and Dangerous*, initially developed by Tweed Valley's Women's Service and now published by Legal Aid NSW, acknowledge and attempt to address the impacts of these histories of abuse on victims and provides practical as well as emotional support for victims. Legal Aid NSW has recently updated this resource and it is available in multiple languages to download or order in hardcopy from the Legal Aid NSW website, free of charge.⁸⁹

Despite the fact that there are excellent educative resources available, the Team has been advised that many women who have histories of victimisation by multiple partners are not aware of these resources or the support services that may be available to them. It is also noted that many of these repeat and long-standing victims are also repeat referrals into *Safer Pathway*. While the Team notes that many of these victims of

85 See, for example, DVDRT Report 12/13 (n 71), Recommendation 21.

86 See Sandra Walklate, 'Can there be a progressive victimology' (1994) 3 *International Review of Criminology* 1, 2.

87 Sandra Walklate, *Handbook of Victims and Victimology 2nd ed* (Routledge, New York, 2011).

88 See *Case Reviews* 3625; 3585; 3743; 3318; 3725; 3570; 3415; 3629; 3604; 3705; 3672; 3270; 3579; 2295; 3919; 3756; 3732; 3834; 3474; and 3711.

89 Tweed Shire Women's Services 'Charmed and Dangerous: A Woman's Guide to Reclaiming a Healthy Relationship' (Legal Aid NSW Booklet, June 2019). <https://laxextra.legalaid.nsw.gov.au/Publications/Website/Publications/Details/399> (accessed 14 August 2019).



violence will engage, the question remains how to best approach and connect with the large cohort of victims who are repeatedly being referred to *Safer Pathway*, but choose not to engage with the service. The Team acknowledges that this is a highly complex issue but considers that the provision of accurate, up-to-date information on how to access support services remains a priority for these long standing or repeat victims of violence.

Accordingly, the Team recommends:

Recommendation 6

That the *Women's Domestic Violence Court Advocacy Program* work with the *Women's Domestic Violence Court Advocacy Services* to develop a mechanism to provide victims who have a history of Central Referral Point referrals and who do not engage with domestic violence services, with information on how to access support.

As discussed earlier in this chapter, prior to the 2014 *Going Home Staying Home* reforms women were positioned to spend longer periods in refuge/crisis accommodation when escaping violence, enabling workers to undertake sustained intervention, work with women to rebuild their lives and self-esteem and interrupt the cycle of violence. Before these reforms refuges also delivered services and long-term supports to victims after they had left the refuge and returned to live in the community. However, the increasing 'crisis' and short term nature of refuge accommodation post-reforms has impacted the sector's ability to deliver longer term programs for women, or work in a sustained way with women and their children. Short-term interventions in crisis settings do not allow for sustained change or promote deeper understanding amongst victims about the dynamics of coercion and control.

Notwithstanding the importance of locating these services in the refuge sector, the Team also notes that women should not have to seek refuge accommodation to benefit from sustained, victim-focused services. Refuges and other service providers should be positioned to undertake active community outreach, offering programs to women and children who may choose to remain in their homes or other

non-refuge accommodation.

Addressing the longer-term traumatic effects of violence victimisation requires ongoing consideration. Accordingly, the Team is of the perspective that longer-term programs, aimed at sustained intervention and rebuilding relationships between women and their children in the aftermath of domestic and family violence should form part of the work undertaken to progress *Recommendation 1*.

Information sharing between the Government and NGO sector

Another issue raised by Team members during this reporting period is that there remains a considerable gap between program availability and community knowledge of what is accessible and available in the domestic and family violence sector. In other words, while programs may exist, practitioners and community members are often not aware that they may be eligible for programs, or that programs may exist at all. Practitioners working on the ground with families have advised the Team that knowledge of services or programs in particular areas are often confined to government agencies and information is not sufficiently disseminated to non-government organisations and community members. This was identified as being the case with the *Family Investment Model* (discussed above) in Dubbo and Kempsey, which was not known to some Aboriginal organisations working in the community, or Aboriginal community leaders.

The Team has been advised that pathways into programs - including basic operational aspects such as who to contact to gain access to a program, the eligibility criteria, and referral process - was not common knowledge amongst workers and community members. This was particularly identified as an issue for Aboriginal communities receiving state services, and for regional communities.

In the recent *Safer Pathway Evaluation*, it was recommended that longer-term supports for victims be identified by Women NSW and *Safer Pathway* partner agencies, particularly focusing on Aboriginal victims, male victims and victims of family violence.⁹⁰ This

90 See *Safer Pathway Evaluation* (n 82) Recommendation 21.

recommendation has been accepted by government, and is being progressed.

In progressing that recommendation, it is the Team's perspective that the Government should invest in long-term and sustained, accessible, culturally appropriate, and high quality programs tailored towards addressing and remedying the experiences of victims of violence and interrupting the cycle of violence. Programs should be developed in consultation with community and stakeholders, and should focus on building resilience and victims' knowledge of the dynamics of coercion and control, recognising early behaviours in future partners that may indicate abuse. The Government must also invest in ensuring that these programs are widely available and known to services and NGOs in the areas where they operate. Conversely, there is a dual responsibility for NGOs to work with the Government on new initiatives and keep up-to-date with new services and programs.

Accordingly the Team recommends:

Recommendation 7

That the Department of Communities and Justice consider actively engaging with service providers:

1. to ensure new pilots or programs relevant to domestic and family violence are clearly communicated to NGOs in the areas in which they are operating, including through attending monthly Interagency meetings of local Domestic Violence Committees; Regional Strategy Groups; and through the use of HSNet; and
2. when developing, implementing and evaluating relevant programs to ensure that they are suitable and meaningful for the community and target population.

Safety planning

Safety plans are often developed by caseworkers or specialists working with victims of domestic violence to put in place strategies that the victim may be able to use in the event of future episodes of violence. Safety plans can also be informal and developed by victims to

protect themselves or their family. Safety plans can be particularly important resources for victims when they separate, or are considering separating, from abusive partners. As the Team's data shows, separation is a characteristic in a high proportion of intimate partner domestic violence homicides, highlighting the particular risks this may pose to victims' safety. Safety planning may also have an educative function, helping victims to better understand the risks posed to them by abusers and their behaviours.

The Team has identified that safety planning occurred in a number of its cases, although resulting plans and approaches were not always appropriate and did not always promote realistic strategies likely to keep women safe. In several of the Team's cases frontline responders undertook safety planning with victims, but failed to appreciate the risk posed to those women by their abusers, often in circumstances where those women were demonstrating increasing resistance and independence in their relationships.⁹¹ In other cases women were developing informal safety plans with friends and neighbours, although these bystanders did not always have the skills or expertise to support victims with these plans. In some cases victims would use services in the course of their safety plans, such as calling police to intervene during times of crisis, but would then choose not to progress charges (knowing that this would likely increase their risk of future violence in the context of their relationships).⁹² In at least two cases victims, as a strategy for keeping themselves safe, commenced new intimate relationships with men they believed would keep them safe from their former abusive partners. In both of these cases the new intimate partners were also abusive towards the victims.⁹³

These cases highlight that approaches to safety planning are often ad hoc and not always informed by clear or consistent resources around the actions victims can take to increase their safety in particular contexts. The Team's inquiries have highlighted that while resources exist, there continues to be a lack of guidance around safety planning across agencies and services in contact with domestic violence victims. Moreover victims themselves are not always getting the best information about safety, and bystanders similarly require further guidance and education about how to

⁹¹ See, for example *Case Reviews* 3918, 3659, 3582 and 3759.

⁹² See *Case Review* 3415.

⁹³ See *Case Review* 3270 and 3603.



support victims who are experiencing violence and abuse.

In June 2018, *Sightlines*, the Professional Services Division of *Domestic Violence Service Management* (DVSM), released a report examining victim safety in the context of domestic and family violence.⁹⁴ The research determined that perpetrator behaviours were well ventilated in the existing literature, but much less was known about the way victims responded to violence, and particularly the tools and strategies victims use to routinely navigate safety issues in respect of their experiences. The report concluded that while practitioners are not best placed to ‘make victims safe’ through safety planning and other approaches, practitioners can work with victims in ways that uphold their dignity and support them to increase their safety awareness, anticipate and self-assess the harm or threats they face, and build on victims’ existing strategies to help them increase their wellbeing and safety.⁹⁵

As a result of this research DVSM *Sightlines* prepared several tools designed to help practitioners and services develop responsive and informed approaches to understanding victim safety. DVSM have also prepared a resource *Follow My Lead* which profiles the stories of people with lived experience of domestic violence, speaking to their need for ‘the professionals and their social networks to be more prepared to respond effectively.’⁹⁶ This resource was designed to support victims of domestic and family violence as well as their friends, family members, colleagues and peers.⁹⁷

The Team is of the perspective that this work is useful in reframing safety planning as victim-centred and considers that this approach to safety planning should form part of all domestic violence training. This training should also take into account understandings of safety from the literature so as to ensure that victims’ acts of resistance will be recognised, supported and channelled to enhance their safety during episodes of violence.

In considering this issue, the Team considered that practitioners on the ground may benefit from access to simple, standard safety planning tools in order to improve the overall quality of safety planning for victims of violence no matter which agency or service they encounter.

Accordingly, the Team recommends:

Recommendation 8

That the NSW Government develop increased guidance and resources to support safety planning, which may include consideration of standard resources or tools for use by responders and practitioners who work with victims of domestic and family violence.

In developing standard resources or tools the NSW Government may consider the work of DVSM *Sightlines* and literature around safety planning and responding to risk. Roll out of standard resources or tools should be accompanied by comprehensive training and education.

Responding to different types of abuse

Improving awareness and understanding of coercive control

In this and previous review periods the Team has identified that a number of its cases were not preceded by an evident history of physical abuse – instead homicides were preceded by histories of other forms of coercive and controlling behaviour. In a number of cases the perpetrator refrained from using physical violence apparently to avoid police intervention,⁹⁸ and in other cases perpetrators used extreme manipulation and controlling behaviours to attempt to control and

94 Domestic Violence Service Management, *Project Report: Concepts of Safety* (Report, June 2018) https://dvnsdsm.org.au/wp-content/uploads/2019/06/Concepts-of-Safety-Report-with-appendix-20.June_.2018-eCopy.pdf (accessed 7 August 2019).

95 DVSM Concepts of Safety Report (n 94), p. 2.

96 Domestic Violence Service Management, *Follow My Lead* (online resource 2018) https://www.insightexchange.net/wp-content/uploads/2018/08/Follow-my-lead_3.1-eCopy.pdf (accessed 7 August 2019).

97 DVSM Follow My Lead (n 96), p. 41.

98 See, for example, *Case Review 3426*.

limit their victim's freedom and rights.⁹⁹ Victims did not always identify that what they were experiencing was domestic violence and abuse, instead believing that their experiences were part of ordinary relationship dynamics. In many cases the relationship between the perpetrator and victim appeared to be 'normal' from the outside (for instance, to friends and relatives) despite perpetrators using a range of controlling, but not physically abusive, behaviours against the victim prior to the fatal episode. This appeared to be particularly prevalent in cases involving a murder-suicide.

For instance, in *Case Review 3918* (a murder-suicide involving the death of a woman by her husband) the male abuser had no prior recorded or anecdotal history of physical violence, however he was extremely controlling and emotionally abusive throughout their 20 year marriage. In this case the abuser socially isolated his partner and 'forbid' her to participate in any activities outside of work. He jeopardised her relationships with family and sent threatening messages to her friends. He also falsely reported to her religious leader that she was having an extramarital relationship. Another tactic he used involved coercing the victim into breaching her professional standards, information he then used to blackmail her into staying in a relationship with him.

The Team acknowledges recent research developments relevant to non-physical forms of abuse and notes that it is positive that this issue has been garnering increased attention in both literature and public policy.

In January 2019, Our Watch released its resource *Unpacking Violence* which (amongst other things) aims to support practitioners to understand (and thus help others understand) different non-physical forms of abuse, their impact and types of victim resistance.¹⁰⁰ This resource is supported through storytelling,

animated videos for practitioners and a public education campaign: *There's no excuse for abuse*.¹⁰¹

Recent quantitative research by BOCSAR has also found that emotional abuse is correlated with the future likelihood of physical violence, and recommended that this be considered in risk assessment tools as a way of better triaging domestic and family violence matters, and understanding risk.¹⁰² Coercive control is also recognised as a high risk factor within the Domestic and Family Violence National Risk Assessment Principles which identifies that these behaviours are 'particularly dangerous and can heighten the risk of lethality, in contexts where other high-risk factors are present, such as attempts by the victim to leave the relationship.'¹⁰³ The Team recognises the need for ongoing work to promote awareness of non-physical forms of violence and abuse and views this as central to better understanding domestic and family violence and its drivers.

In its 2013/15 Report, building on work from its 2011/12 Report, the Team examined non-physical manifestations of violence, particularly focusing on coercive and controlling behaviour (which underpins physical, as well as non-physical forms of domestic violence) and raised concerns about the common understanding that domestic violence is synonymous with physical abuse. Examining these issues led to the Team recommending further public education aimed at increasing public awareness of non-physical manifestations of violence and abuse at a Commonwealth level. This ultimately formed part of the joint Commonwealth and State campaign *Stop it at the Start* (launched April 2016).¹⁰⁴

In light of its cases, the Team has also previously recommended improving police education around non-physical forms of violence, including coercive and controlling behaviour.¹⁰⁵ This recommendation has informed subsequent practice developments in the NSW Police Force with data from BOCSAR showing

99 See, for example, *Case Review 3918*.

100 Our Watch 'Unpacking violence: a storytelling resource for understanding non-physical forms of abuse and the gendered drivers of violence against women' (Resource, January 2019) p. 6. [https://www.ourwatch.org.au/getmedia/92de0540-6e2d-4d69-b78a-03b42600ed92/Unpacking-Violence-Full-Resource-AA-FINAL2019-\(2\).pdf.aspx](https://www.ourwatch.org.au/getmedia/92de0540-6e2d-4d69-b78a-03b42600ed92/Unpacking-Violence-Full-Resource-AA-FINAL2019-(2).pdf.aspx) (accessed 7 August 2019).

101 Our Watch, 'There's no excuse for abuse' (Campaign, 2018) <https://www.ourwatch.org.au/no-excuse/home> (accessed 9 August 2019).

102 Rahman, 'Assessing the risk of repeat intimate partner assault' No.220 *NSW Bureau of Crime Statistics and Research Contemporary Issues in Crime and Justice Bulletin*, p.11.

103 Toivonen and Backhouse, National Risk Assessment Principles for domestic and family violence, ANROWS, p.14.

104 Australian Government, 'Stop it at the Start' (Campaign, 2019) <https://www.respect.gov.au/> (accessed 9 August 2019). This ongoing educational campaign focuses on disrespect towards women as a root cause of violence against women, and aims to address problematic attitudes and behaviours that underpin violent behaviours.

105 See, for example, DVDRT Annual Report 2012/13 (n 71) Recommendation 1.



a significant increase in charges finalised for stalking and intimidation offences since 2013.¹⁰⁶ In terms of legislative protections for victims experiencing non-physical violence, intimidation is the key provision in NSW, both as a criminal offence¹⁰⁷ and as an important ground on which an ADVO may be granted by a court.¹⁰⁸

While the BOCSAR data and associated advances are promising, the data collapses stalking and intimidation under a single offence and cannot reveal which behaviour, stalking or intimidation (or both), comprised the offence.¹⁰⁹ This may obscure the extent to which coercive and controlling behaviours are being effectively recognised in charging practice. The Team is accordingly of the perspective that to better understand the extent to which the offence of stalking and intimidation adequately addresses non-physical forms of abuse, it would be valuable to interrogate the data by reference to the specific behaviours when the offence is charged.

Further, notwithstanding the increasing awareness of non-physical forms of domestic violence and the apparent change in charging practices, the Team's cases clearly demonstrate that while some victims recognise and report non-physical abuse, this offending behaviour is still often not given the same weight as complaints of physical abuse, with limited investigation and/or consequences to the offender.

For example, in *Case Review 3333* a domestic violence abuser began harassing his former girlfriend, texting her constantly and making threats to defame her. He contacted one of her female colleagues and falsely reported that she was having a relationship with the colleague's husband. At the same time the woman was unaware that the abuser was also stalking her (both physically and through technology) to find out her new address

and monitor her movements. She disclosed to her friends that she was afraid of the abuser. On one occasion she attended her local police station (to enquire about an unrelated matter) and while she was there she expressed concerns to a police officer about the abuser's behaviour. The police officer did not make a record of the disclosure, nor did the officer inform the woman about the possibility of ADVOs or criminal charges. Over the next week the abuser continued to stalk and harass the victim but she did not contact police again. She was murdered by the abuser that same week.

The prevalence of non-physical abuse in the Team's cases demonstrates the need to improve awareness of coercion and control amongst service providers and in the community, and also highlights the limited reach of the domestic violence system in responding to such abuse.

A number of jurisdictions in Australia and elsewhere have sought to address non-physical forms of abuse and patterns of behaviour in their criminal law. For example, in Tasmania, emotional and economic abuse have been criminal offences since 2005. More recently, Scotland (2019) and England and Wales (2015) have introduced dedicated offences of domestic abuse and coercive control respectively.¹¹⁰ The Team understands, however, that despite these developments, there is some evidence that these jurisdictions continue to struggle to prosecute offences involving non-physical manifestations of violence. For example in Tasmania the two offences introduced in 2005 have rarely been used and challenges around enforcement have been identified.¹¹¹ Similarly, in England and Wales, recent statistics indicate that while the offence of coercive control is increasingly being charged,¹¹² research has revealed that at least in some police force areas, it is less likely to be charged or progressed when compared

106 NSW Bureau of Crime Statistics and Research, *NSW Records Crime Statistics Quarterly Update* (online, June 2019). https://www.bocsar.nsw.gov.au/Documents/RCS-Quarterly/NSW_Recorded_Crime_June_2019.pdf (accessed 12 November 2019).

107 *Crimes (Domestic and Personal Violence) Act 2007* (NSW) s 13.

108 *Crimes (Domestic and Personal Violence) Act 2007* (NSW) s 16(1)(b)(i).

109 It was suggested to the Team, anecdotally, that reports of intimidation alone are not routinely progressed by police as they are unlikely to result in a successful prosecution and that these matters will generally only be considered if they can be linked to another offence or to stalking.

110 The 'domestic abuse' offence was introduced in Scotland in 2018 and commenced in 2019. The 'coercive control' offence commenced in England and Wales in 2015.

111 Douglas, 'Do we need a specific domestic violence offence?' (2015) 39(2) *Melbourne University Law Review* 434; McMahon and McGorry, 'Criminalising emotional abuse, intimidation and economic abuse in the context of family violence: The Tasmanian Experience' (2016) 35(2) *University of Tasmania Law Review* 115.

112 Office for National Statistics, *Crime in England and Wales: year ending March 2018* (Statistical Bulletin, 19 July 2018). <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/crimeinenglandandwales/yearendingmarch2018> (accessed 12 November 2019).

to other domestic violence offences.¹¹³ The Scottish offence has only been in place for a short period but has been carefully drafted and accompanied by a roll-out of comprehensive training for responders, both of which are positive components of this change to policy and law resulting in promising early results.¹¹⁴

The Team considers that while codifying non-physical forms of domestic violence may recognise the harm caused by this behaviour (and therefore also potentially improve public education around non-physical violence) this codification may have negative or unintended consequences where such offences remain less likely to be charged or prosecuted, or where victims may be misidentified as offenders. Rather than promoting awareness and understanding about non-physical manifestations of abuse, this may reinforce the misapprehension that such violence is not as ‘serious’ or is different from, physical forms of abuse. A number of academics working in the area have sounded cautions about these new offences¹¹⁵ whilst others have been more positive.¹¹⁶ The Team will continue to monitor these new offences in the United Kingdom to assess how they are operating and whether similar offences should be codified in NSW.

A further legislative issue the Team considered in discussing the public policy profile of non-physical violence for this report was the lack of definition of domestic and family violence in the *Crimes (Domestic and Personal Violence) Act 2007* (NSW) (the *Crimes (DPV) Act*). It was noted that in other jurisdictions, such as Victoria and Tasmania, definitions of domestic and family violence are provided in legislation, and those definitions include non-physical manifestations of violence.

While the Object of the *Crimes (DPV) Act* includes a broad statement about domestic and family violence, and section 9(3) outlines what Parliament recognises in passing the Act (including ‘...that domestic violence extends beyond physical violence and may involve

the exploitation of power imbalances and patterns of abuse over many years...’¹¹⁷), it was noted that few people are likely to read these sections. Moreover, some Team members considered that the Object of the *Crimes (DPV) Act* could benefit from greater specificity to improve knowledge and awareness of non-physical abuse. The Team considered that better articulating behaviours amounting to domestic and family violence in legislation may improve public as well as practice knowledge amongst responders, and address some of the Team’s concerns with respect to recognising non-physical forms of domestic violence.

The Team recognises that this issue was considered during the 2015 statutory review of the *Crimes (DPV) Act* and the decision was ultimately made not to progress a specific definition of domestic violence.¹¹⁸ Reasons why a definition did not progress included stakeholder concerns that a definition would create uncertainty about what types or degrees of behaviour (including non-physical behaviour) warranted intervention. It was thought that expanding the scheme to address behaviours that could not easily be defined would create complexity for police and courts when making orders. The review noted that the Australian Law Reform Commission’s 2010 review of the Family Law system recommended that State and Territory legislation ‘should provide that family violence is violent or threatening behaviour, or any other form of behaviour, that coerces or controls a family member or such that family member to be fearful’ and then set out a (non-limiting) range of behaviours that may constitute family violence.¹¹⁹ The statutory review determined that the behaviours described by the ALRC were already covered by existing NSW legislation, and that the provision of a definition was at odds with the current offence-based approach to regulation in NSW. Rather than specifically define domestic violence the decision was instead made to extend the range of offences characterised as domestic violence offences under the *Crimes (DPV) Act* for the purposes of granting ADVOs

113 Barlow et al, ‘Putting Coercive Control into Practice: Problems and Possibilities’ (2019) *The British Journal of Criminology*.

114 Paper presented by Anne Marie Hicks, ‘Towards a just conclusion – a prosecutor’s perspective on effecting transformational change in tackling domestic abuse in Scotland’ at the Third European Conference on Domestic Violence, Oslo, Norway, 1-4 September 2019.

115 Tolmie, ‘Coercive Control: To criminalize or not to criminalize?’ (2018) 18(1) *Criminology & Criminal Justice* 50; Walklate et al. ‘Is more law the answer? Seeking justice for victims of intimate partner violence through the reform of legal categories’ (2018) 18(1) *Criminology & Criminal Justice* 115; Burman and Brooks-Hay, ‘Aligning policy and law? The creation of a domestic abuse offence incorporating coercive control’ (2018) 18(1) *Criminology & Criminal Justice* 67.

116 McGorrey and McMahon, ‘Prosecuting controlling and coercive behaviour in England and Wales: Media reports of a novel offence’ (2019) *Criminology & Criminal Justice* 1 (online first).

117 *Crimes (Domestic and Personal Violence) Act 2007* (NSW) s 9(3)(d).

118 Justice Strategy and Policy, ‘Statutory Review of the *Crimes (Domestic and Personal Violence) Act 2007* (NSW)’ (Review, NSW Department of Justice, 2015).

119 Australian Law Reform Commission, *Family Violence – A National Legal Response*, Report 114 (2010), Recommendation 5-1.



and this amendment was made in 2016.¹²⁰ At this time no further statutory review of the *Crimes (DPV) Act* is anticipated.

In light of the issues raised in this section, the Team recommends:

Recommendation 9

That the Department of Communities and Justice examine the extent to which existing NSW laws (criminal and civil protection orders) respond adequately to non-physical forms of domestic and family violence and to patterns, rather than incidents, of violence. This examination should include:

1. a qualitative review conducted with NSW police about what forms of behaviour are being targeted under the offence of 'stalking or intimidation', whether such charges are laid on their own or in combination with other offences, and the relationship context of such offences; and
2. monitoring the progress and implementation of offences of coercive control and domestic abuse in other jurisdictions

The Team looks forward to the DCJ reporting back to the DVDRT about the outcomes of this work to inform future cases in which non-physical forms of abuse are present in the history of the relationship.

Technology-facilitated or digital abuse

Technology-facilitated abuse is another issue the Team has considered in preparing this, as well as previous, reports.

Technology-facilitated abuse can manifest in many different ways and, like technology itself, is ever expanding. A common feature of this form of violence involves abusers using various forms of technology to abuse, stalk and harass victims. In directing their recent

research, Douglas et al adopted the following definition of technology-facilitated abuse, noting that behaviours include:¹²¹

the use of technologies such as smartphones, cameras, Internet-connected devices and computers, and platforms such as Facebook and YouTube, as part of the tactics in an overall pattern of DFV. It includes things such as defaming a partner on social media, identity theft, sharing personal details online (doxxing), unauthorised distribution of sexual images and sending abusive text messages.

As Douglas et al note an overarching framework for understanding this form of abuse is coercive control, discussed in the previous section of this chapter.¹²² While the definition (which can also be found in the *National Domestic and Family Violence Bench book*)¹²³ provides some specific examples of this form of abuse, the Team acknowledges that there are many behaviours beyond those described which would also constitute technology-facilitated violence (for example, tracking via apps and hardware, unauthorised access to property and accounts via remote access, and stalking via drones).

Many of the characteristics referred to in this definition were identifiable in the Team's cases, and perpetrators' use of devices to monitor, abuse and control victims (both while relationships were ongoing and after they ended) has been a characteristic of cases in this, and also previous, reporting periods.

For instance in *Case Review 3743* the homicide victim's former abusive partner stole intimate photos she had taken with a previous partner, and when she attempted to end the relationship with her abuser, he sent her a copy of the stolen photos accusing her of 'bigamy' and 'other immoral behaviour'. This behaviour formed part of an overall pattern of coercion and control.

While the Team acknowledged that the non-consensual recording and distribution of intimate images has now

¹²⁰ Justice Strategy and Policy Statutory Review (n 118).

¹²¹ Douglas, Harris and Dragiewicz, 'Technology-facilitated Domestic and Family Violence: Women's Experiences', (2019) 59(3) *The British Journal Of Criminology*, p. 551.

¹²² Douglas et al (n 121), p. 552.

¹²³ 'Australasian Institute of Judicial Administration, *National Domestic and Family Violence Bench Book*, (online, July 2019), <http://dfvbenchbook.aija.org.au> (accessed 8 November 2019).

been criminalised,¹²⁴ evidentiary barriers still remain for securing successful prosecutions for technology-related offences, as well as a lack of public awareness about these new laws and potential remedies for victims.

In its 2013/15 Report the Team made a recommendation aimed at improving public education about this form of violence.¹²⁵ In response to this (and other) recommendations, ADVOs were redrafted into plain English to include examples of technology-facilitated abuse. While the Team welcomes this development, it remains the case that new types of technology-facilitated abuse continue to emerge, and the response system struggles to keep-up and continually adapt policy, training, and public awareness of these behaviours. As a result, national or state-based responses to this form of violence can be ad hoc.

In the Team's cases for this report it was also evident that the sheer volume of communications by abusers – such as emails or text messages sent to victims – could also amount to technology-facilitated abuse. It was also common that victims or responders did not perceive this behaviour, without the inclusion of specific threats, to amount to domestic violence, even though it may have caused the victim considerable fear and concern and put their safety at risk.¹²⁶

For instance, in *Case Review 3662*, after the victim separated from her abusive husband he continued to harass her by sending up to 50 text messages daily demanding to know where she was and what she was doing. He would also harass their children with messages and phone calls, asking them to report back to him about the victim's movements and activities. When the victim didn't respond to his messages, the abuser would turn up at her house or her workplace uninvited. The victim described feeling extremely frightened and stressed all the time by the abuser's constant communication, but was reluctant to report his behaviour to police. The children similarly described feeling frightened and stressed by their father's behaviour. Later, when the abuser physically assaulted the woman she

reported his abusive behaviour to police but did not recount any of these experiences of non-physical and technology-facilitated abuse to police. In the period leading up to the homicide, the abuser continued to send text messages to the woman threatening self-harm, falsely claiming that one of their children had been hospitalised, and threatening to damage her house and kill her pet. Terrified by these messages, she went to the police station to report the abuser's behaviour. She showed the police officer the messages she had received, however the officer did not record any details of her complaint. When several other people came into the station, the woman left and there was no further follow-up by police. The abuser continued to torment the woman with constant messages, and a few days later he murdered the woman's new partner and attempted to kill her.

In discussing this issue, the Team noted that ongoing support is needed in NSW for domestic violence workers to stay up-to-date with the various behaviours that constitute technology-facilitated abuse, changing technologies, and the potential remedies that are available for victims. As noted above, technology-facilitated abuse, due to the nature of technology itself, is dynamic and the landscape of social media, digital and technological platforms is routinely changing and expanding (often out-pacing effective regulation). While there are a range of excellent resources targeted towards supporting frontline workers, such as through the *Women's Services Network* (WESNET),¹²⁷ and the Office of the eSafety Commissioner,¹²⁸ the Team noted that there was not always sufficient training available for frontline workers in NGO and government settings.

Team members also noted the importance of frontline workers being aware of possible remedies around image-based abuse, such as reporting image-based abuse to the eSafety Commissioner for removal, or showing victims how their various devices operate to prevent tracking and manage software updates.

Current failures to provide comprehensive training and education, and equip workers with the skills to identify

124 *Crimes Amendment (Intimate Images) Act 2017* (NSW) No 29.

125 NSW Domestic Violence Death Review Team, *Report 2013-2015*, Recommendation 8.

126 It is acknowledged that such behaviour may fall under the harassment components of the NSW criminal law.

127 Women's Services Network, *Events and Training*, <https://techsafety.org.au/events-training/> (accessed 13 November 2019).

128 eSafetyWomen, *Online training for frontline workers*, <https://frontlineworkers.esafety.gov.au/> (accessed 13 November 2019).



and respond to technology-facilitated abuse, are clear limitations in current responses to domestic and family violence. The Team encourages NGOs, government organisations, police and other domestic violence responders to regularly utilise the available training and resources to ensure they remain up-to-date on this constantly evolving form of violence, and the remedies available.

The Team also notes that for many forms of online abuse in social media landscapes (for instance, on Facebook and Instagram), there remain barriers for police effectively responding due to data and information being held by private companies. The Team notes that requirements under the *Evidence Act 1995* (NSW) can be difficult to meet due to time frames and other issues around accessing information from these companies (for instance, in breach ADVO proceedings) often placing police in a difficult position in terms of investigating and prosecuting these cases. The Team acknowledges these issues and considers that further work is needed to help police and other responders to navigate safety within these complex, dynamic and largely unregulated environments. While recent inquiries such as the *ACCC Digital Platforms Inquiry* raise concerns relevant to the dynamism of media platforms and the fast pace of technological development, specific attention is required to better support victims in local settings, where abuse and violence occurs through online platforms operated by international, private companies.¹²⁹

Other barriers to seeking support for technology-facilitated abuse may exist for specific communities such as Aboriginal women who may experience lower levels of digital literacy, decreased awareness of technology-facilitated abuse and lateral violence (violence towards peers), and may engage in the practice of sharing devices and changing phones regularly.¹³⁰ Similarly, women from culturally and linguistically diverse backgrounds may face culturally-specific forms of violence (as well as unique barriers to seeking help) such as sending images of a woman without her hijab.¹³¹ The eSafety Commissioner has undertaken specific research projects to explore the various intricacies for these communities and the Team

applauds and supports this important work.

The Team is also of the view that a similar focus is required to better understand adolescent experiences of technology-facilitated violence. While increasing work is being undertaken around the issue of eSafety for children and young people online,¹³² it is not clear how extensively or regularly this work adopts a domestic violence lens in unpacking and educating young people who may be experiencing or using abusive behaviours in social media and technological environments. Recent findings in the NCAS highlight that one in five young men did not understand that using technology to track their intimate partner's movements (including hacking social media or installing spyware) was a type of violence against women. Moreover 16% of young men did not understand that harassment by repeated emails or text messages constituted domestic violence.¹³³ Particularly in light of these findings, the Team wishes to reinforce the importance of eSafety education for children and young people focusing on both safety online (a victim focus) and also encouraging young people to adopt appropriate online behaviours towards peers, colleagues and partners.

Accordingly, the Team recommends:

Recommendation 10

That the NSW Government write to the eSafety Commissioner requesting that any curriculum development around eSafety for children and young people include modules around technology-facilitated abuse tailored towards children and young people.

Systems abuse

Another issue that the Team has considered this reporting period is systems abuse, where perpetrators have attempted to use, or have successfully used, systems such as the family law system, the criminal justice system or the child protection system to attempt to maintain or reassert power and control over victims. Systems abuse is well described in the *National*

129 Australian Competition & Consumer Commission, *Digital Platforms Inquiry – Final Report*, (June 2019) <https://www.accc.gov.au/publications/digital-platforms-inquiry-final-report> (accessed 17 December 2019).

130 eSafety Commissioner, *Online safety for Aboriginal and Torres Strait Islander women living in urban areas* (Research Report, October 2019) p. 6.

131 eSafety Commissioner *eSafety for Women from Culturally and Linguistically Diverse Backgrounds* (Summary Report, February 2019) p. 4.

132 For instance, <https://www.esafety.gov.au/youngandesafe/about>; See also *Royal Commission into Institutional Responses to Child Sexual Abuse*, 'Final Report and Recommendations' (undated) Recommendation 6.22.

133 Politoff (n 63).

Domestic and Family Violence Bench Book (Bench book), albeit focusing on legal settings. In describing systems abuse, the *Bench book* notes that:

*Perpetrators of domestic and family violence who seek to control the victim before, during or after separation may make multiple applications and complaints in multiple systems (for example, the courts, Child Support Agency, Centrelink) in relation to a protection order, breach, parenting, divorce, property, child and welfare support and other matters with the intention of interrupting, deferring, prolonging or dismissing judicial and administrative processes, which may result in depleting the victim's financial resources and emotional wellbeing, and adversely impacting the victim's capacity to maintain employment or to care for children.*¹³⁴

The *Bench book* also further emphasises that where systems do not respond adequately or appropriately to victim disclosures of abuse, this may constitute secondary forms of abuse thereby compounding the victim's negative experiences.

While developed in the context of legal proceedings, the *Bench book* raises concerns that are relevant to the range of government and other systems that victims and perpetrators interact with during their lives, and the way abusers may co-opt these systems in the course of their violent behaviours. The nature of systems abuse is best understood by way of example, and in this case review period there were numerous instances of perpetrators manipulating, or threatening to manipulate, systems in the course of their abusive and controlling behaviours towards victims.

For example, in *Case Review 3711* the abuser (the victim's mother) would repeatedly call police requesting welfare checks as a means to harass her son and disrupt his life by forcing him to respond to police inquiries. By making these requests of police the woman circumnavigated the ADVO that prohibited her from approaching or contacting her son and she was able to demonstrate to her son that she could still control and manipulate his life. Her relentless harassment

led the victim to develop debilitating mental health and substance misuse issues.

In *Case Review 3476* the victim was a young Aboriginal woman who became pregnant in the first few months of her relationship with a new partner. The abuser was an older non-Aboriginal male who threatened to make false allegations about the victim to child protection services to have her newborn baby removed from her care. As a non-Aboriginal man, he knowingly exploited the victim's fear of the child protection system, and her knowledge of the disproportionate number of Aboriginal children removed from their families. He also repeated this threat to the woman's mother.

In *Case Review 3918* the victim was a female medical professional, who was married to an extremely psychologically abusive male partner. The abuser coerced the woman into prescribing him inappropriate quantities of medications. He then lodged a complaint about this practice to the professional standards association and requested that her accreditation be cancelled. Although the abuser eventually withdrew the complaint, he continued to use this as a threat to prevent her from leaving the relationship.

In *Case Review 3646* the abuser was a general practitioner and also acted as his intimate partner's primary treating doctor. The abuser diagnosed the woman with bipolar disorder and depression and prescribed her various medications to treat these conditions. The woman's adult children encouraged her to seek independent medical advice because they did not believe that their mother had either condition and felt the abuser was not appropriately qualified to make such diagnoses. Later he falsified medical records to covertly obtain insulin, injecting the victim with a fatal overdose.

¹³⁴ ALJA National Domestic and Family Violence Bench Book (n 123) See 3.1.11 Systems Abuse.



Focus on Family Law

A particular system the Team has focused on this year is the Family Law system. This system, as well as other examples of systems abuse, came under scrutiny in *Case Review 3559*, but has also arisen as an issue in many of the Team's cases and has been discussed in previous reports.

In *Case Review 3559*, the abuser had a history of extreme physical and sexual violence against his intimate partner, as well as his former partners. He was also a skilled manipulator and used a variety of systems to control and torment the woman. The woman fled their home after the abuser strangled and threatened to kill her in front of their children. Before she left he forced her to give up her credit cards, her car keys, and froze their joint assets. The woman had no access to any money and was homeless.

The abuser immediately commenced proceedings in the Family Court seeking that their three children live with him. He falsely alleged that the woman physically disciplined their children and abused alcohol in front of them, despite there being no evidence that she did either of these things. He sought to have the children added to the 'no fly' list and requested an exemption from the usual mediation requirement, which were both granted by the Court. The abuser then asked police to take out an ADVO preventing the woman from seeing the children, but this was refused by police. The abuser, however, told the woman that police had instructed him not to contact her and he used this excuse to refuse to let her see their children. Later he falsely reported to police that the woman had assaulted him, and presented with superficial injuries that police suspected were self-inflicted. The abuser intended to use this false report as evidence in the Family Court Proceedings.

The abuser also used the Local Court system to sue the victim for thousands of dollars in damages to his car, for an accident that had occurred two years earlier while they were still together. A default judgement was entered in the abuser's favour

which caused the victim substantial distress. After a subsequent court hearing which set aside the default judgment, the abuser followed the victim home and murdered her.

The Team's examination of *Case Review 3559* reinforced that the Family Law system is often the final forum in which perpetrators can assert their control over the victim, due to this court becoming involved with families mostly at the point of, or in proximity to, separation. As review data has highlighted in this and previous reports, separation is a particularly dangerous time for victims of domestic and family violence. Family Law issues often coincide with this particularly high risk and dangerous time, and in *Case Review 3559* the Team was reminded of how powerless victims can become when abusers co-opt government systems in the course of their controlling behaviours. In this case in particular, the Team was concerned about the way the perpetrator used the system to control the woman's access to her children, and led the Team to consider how the 'best interests of the child framework' and the assumption of shared parental responsibility may facilitate this kind of abuse. In this case the Team noted that it was difficult not to be affected by the perpetrator's ongoing cruelty towards the victim, and towards his own children.

The Family Law system, including the Family Court of Australia and the Federal Circuit Court of Australia, comprises lawyers, judges and other professionals who will routinely be working with clients and court users who are experiencing or using domestic violence. In recent years there has been extensive work in the Family Law space aimed at improving practitioners' knowledge and awareness of domestic violence, including when clients may be using systems, or having systems used against them, in the course of domestic violence. Resources such as *AVERT Family Violence*¹³⁵ and *Family Doors (Detection of Overall Risk Screen)*¹³⁶ exist for family law practitioners, but little information is available around the uptake of these tools amongst family law practitioners and lawyers who may be working with clients experiencing domestic violence.

Consultation for the purposes of this and previous reports, has highlighted that lawyers practicing in the

¹³⁵ Avert Family Violence, <https://www.avertfamilyviolence.com.au/> (accessed 13 December 2019).

¹³⁶ Family Doors, <https://familydoors.com/> (accessed 13 December 2019).

area of Family Law often experience considerable ethical dilemmas arising from their duties to their client and their duties to the court and may be placed in a position where they can be co-opted by clients in the course of their abusive and controlling behaviours. Lawyers spoken to for this report noted that lawyers' ethics' in NSW do not always help them navigate effectively through complex issues around violence, power and control.

The integration of family law and family violence responses was also the subject of recommendations in the recent ALRC report *Review of the Family Law System*. This inquiry into the Family Law system was announced by the Government in May 2017 and the ALRC report was finalised in March 2019. The report recommended that the Australian Government consider devolving the family law jurisdiction to state and territory bodies (it is currently a Commonwealth jurisdiction, with reserved state powers in Western Australia only), partially on the basis of the family law and family violence system's limited interaction due to the State/Commonwealth divide. This inquiry also recommended improved information sharing between the family law, family violence and child protection systems to address many of the deficiencies arising in the current fragmented framework,¹³⁷ and made recommendations around re-framing the 'best interests of the child framework' to better take into account domestic and family violence.¹³⁸ This report in some ways followed and expanded upon earlier work foreshadowed by the ALRC in its 2010 report: *Family Violence – A National Legal Response*.¹³⁹ The Team notes that the Federal Government has not yet responded to these recent recommendations, but announced a further inquiry into the Family Law System on 17 September 2019 which is due to report in October 2020.¹⁴⁰

In May 2017 (following the Government's announcement of the ALRC review), the Council of Attorneys-General (CAG) Family Violence Working Group of senior justice officials was formed to examine

and improve interactions between family law, child protection and family violence systems.¹⁴¹ In August 2019 CAG released a consultation paper seeking views on possible ways to improve the family violence competency of all legal practitioners in Australia, but particularly those working in family law, child protection and domestic violence. The four key consultation areas outlined in the paper include: family violence capabilities; admission as a practitioner; practical legal training requirements; and post-admission training.

With regard to family violence capabilities the consultation paper refers to the *Capability Framework* developed as a result of the *Victorian Royal Commission into Family Violence*. The *Capability Framework* establishes the skills and knowledge different professionals should ideally possess to respond effectively to family violence victims, their children and perpetrators. For example, these include understanding the effects of trauma on victims and effectively identifying, assessing and responding to risk by making appropriate referrals and managing client safety. The other consultation areas focus on how these key competencies could be mandatorily incorporated into training (both for attaining qualifications and ongoing professional development) for legal practitioners.

In the recent 2019 ALRC report into the Family Law system, systems abuse was also raised as an issue in several sections¹⁴² although it was not examined in any depth in that report. Similarly, submissions to the 2010 ALRC report raised concerns that parents did not wish to be seen as unfriendly or vexatious by having recourse to the system (where it was likely necessary),¹⁴³ however there is little discussion of the way abusers may co-opt the system in the course of coercive and controlling behaviours. The CAG consultation paper identifies one of the suggested key family violence capabilities for legal practitioners is their ability to understand perpetrator behaviour and avoid collusion. The Team is of the perspective that much work needs to be done specifically around the issue

137 Australian Law Reform Commission, *Family Law for the Future: An Inquiry into the Family Law System* (Final Report, no. 135, March 2019) Recommendations 1 and 2.

138 ALRC Family Law Report (n 137) Recommendations 4 and 5.

139 Australian Law Reform Commission, *Family Law for the Future: An Inquiry into the Family Law System* (Summary Report, no. 135, March 2019) p. 27.

140 Prime Minister of Australia, *Joint Parliamentary Inquiry into Family Law and Child Support* (Media Release, 12 September 2019) <https://www.pm.gov.au/media/joint-parliamentary-inquiry-family-law-and-child-support> (accessed 23 December 2019).

141 Attorney General's Department, 'Council of Attorneys-General Family Violence Working Group' <https://www.ag.gov.au/FamiliesAndMarriage/Families/FamilyViolence/Pages/default.aspx> (accessed 13 December 2019).

142 For instance, in respect of appealing on unmeritorious grounds, see ALRC Report into the Family Law System (n 137) p. 349.

143 The Team notes that this was a particular concern before the law changed in 2012; See ALRC Report into the Family Law System (n 137) p. 701.



of systems abuse within the Family Law system, both within the court process and through the administration of the law such as through lawyers and other professionals (such as family report writers) working in that jurisdiction. The Team proposes to make a submission to this consultation process outlining findings from its cases and this report.

The Team looks forward to the findings and recommendations from the CAG consultation and reinforces the need to urgently address some of the apparent limitations and failings in the current family law, child protection and family violence systems.

Intimate partner sexual violence

In previous reports the Team has considered sexual violence as a tactic of domestic and family violence and noted that it appeared to be underreported as an abuse type in the cases reviewed by the Team.¹⁴⁴ However, in this reporting period, the Team has specifically identified that in its cases victims of intimate partner sexual violence appear to be increasingly making disclosures about their experiences of sexual abuse and violence. Notwithstanding this apparent increase in disclosure, the Team remains of the perspective that sexual violence often retains particular stigma when compared to other forms of abuse.

In recent years there has been increased community discussion of sexual violence and consent, largely thanks to the advocacy of prominent victim survivors and long-standing advocates and NGO services such as the NSW Rape Crisis Centre. The Team notes the review of sexual consent laws being conducted by the NSW Law Reform Commission (announced 2018 and currently underway) and supports the draft proposal calling for the law to recognise that a person does not consent to sex if the person ‘*does not do or say anything to communicate consent*’.¹⁴⁵ If the proposed laws were introduced, it would bring NSW sexual consent laws in line with those already operating in Victoria and Tasmania.

The Team also notes the NSW Government’s *Sexual Assault Strategy 2018-2021*, which constitutes a \$200 million investment over 4 years aimed at responding to victims and survivors of sexual assault

in NSW. As part of this strategy, Women NSW undertook a social media campaign over two phases (December 2018 and December 2019) regarding consent - the #makenodoubt campaign - involving interviews, social media videos and posters. This campaign was developed in collaboration with the community, universities and peak bodies, including Domestic Violence NSW, Rape & Domestic Violence Services Australia and students from the University of Technology, Sydney who shared their experiences.

While the Team seeks to reinforce the importance of stronger consent laws, and the importance of victims being supported to engage legal pathways in situations of sexual abuse or sexual assault, it also acknowledges the additional barriers that can impact victims of domestic violence where sexual assault forms part of an abuser’s suite of abusive and controlling behaviours. The nature of the Team’s work lends itself to a specific focus on sexual abuse in intimate partner violence contexts, which are often overlapping with, but also in some ways divergent from, broader discussions about sexual violence and consent.

Sexual violence as a tool of control was evident in a number of the Team’s current cases.

In *Case Review 3415* the victim’s abusive partner was very violent during sex and he would force her to engage in anal sex against her will, he would suffocate her during sex by forcing her face into the mattress and on occasion would also force her head into the toilet during sex.

In *Case Review 3662*, the abuser would force his victim to drive him to visit different sex workers, and discuss details about his visits. When they separated he forced the victim to perform oral sex on him in exchange for him signing their divorce papers.

¹⁴⁴ DVDRT Report 2015/17 (n 72), p.134.

¹⁴⁵ NSW Law Reform Commission, *Consent in relation to sexual offences* (Draft Proposal, October 2019).

In Case Review 3743, the victim's abusive husband would regularly force her to shower before performing oral sex on him, masturbating him, or having sexual intercourse with him. The victim cried when she told her friends about her husband's controlling behaviour, and her friend said that he treated her 'like a sex worker'.

In another two cases in the case review period, it was also identified that male domestic violence abusers with HIV engaged in unsafe sex with their intimate partner.¹⁴⁶ In both cases the men knowingly exposed their partners to this risk, and in one case the male even remarked to his partner – when she returned a HIV positive blood test result – that 'now we only have each other.' It was apparent in that case that the abuser transmitted HIV to his partner as a way to maintain his control over her by isolating her and preventing her from leaving the relationship. In this case, the victim felt unable to tell her family about her diagnosis and her partner's actions due to the shame and stigma she felt about being HIV positive.

The unique nature of sexual violence in the context of intimate partner relationships is reflected in the recent ANROWS report *Intimate partner sexual violence: Research synthesis* released in May 2019.¹⁴⁷ That report notes that intimate partner sexual violence:

*Should be considered a tactic of DV, not a separate phenomenon: it generally forms part of a larger pattern of coercive control and is perpetrated alongside other tactics of violence.*¹⁴⁸

The literature has also identified that sexual violence in intimate relationships may be considered less serious than other forms of violence, and reports may be more likely to be considered a lie or misconception than such violence outside of relationships.¹⁴⁹

The Team's cases highlight that intimate partner sexual

violence is a serious and concerning issue that causes considerable trauma to victims. The Team recognises that particular barriers exist for victims reporting this kind of abuse, and that the legal infrastructure for responding to this kind of abuse has considerable additional difficulties for victims. While the Team has not sought to make a recommendation regarding sexual abuse for this report, the need for sustained efforts to continue to support victims and break down barriers around reporting this type of abuse are paramount.

Reproductive coercion

Reproductive coercion is another form of domestic and family violence that the Team has considered in this and previous reports. Reproductive coercion is controlling behaviour related to reproductive health and includes behaviours such as pressuring a person into pregnancy, controlling access to and the use of contraception, and forced abortion, sterilisation or forced continued pregnancy.¹⁵⁰ An intimate partner or family member can engage in reproductive coercion, and it may also be used against men, transgender or non-binary people. In the Team's cases however, control in this context was typically used by men against their female partners.

Reproductive coercion is becoming increasingly recognised as a form of domestic and family violence in the broader literature, although the Team's cases in this case review period (discussed below) indicate that reproductive coercion remains both underreported and often unrecognised as a form of violence.

In recognition of the knowledge gap regarding this issue, in its 2015/17 Report the Team recommended:

That the NSW Government conduct or commission research examining the forms, prevalence and impact of reproductive coercion in NSW and use this, and the international evidence base, to develop a strategy for addressing reproductive coercion in its various manifestations, including through family planning clinics, women's health clinical services,

¹⁴⁶ Case Reviews 3705 and 3604.

¹⁴⁷ ANROWS, *Intimate partner sexual violence: Research synthesis* (ANROWS Insights, 05/2019).

¹⁴⁸ ANROWS Intimate Partner Sexual Violence (n 147) p. 2 (citing Cox, 2015).

¹⁴⁹ Cox, *Sexual assault and domestic violence in the context of co-occurrence and re-victimisation: State of knowledge paper* (ANROWS Landscapes, 13/2015).

¹⁵⁰ See for instance, Miller et al 'Reproductive coercion: connecting the dots between partner violence and unintended pregnancy' (2010) *Contraception*, 81z(6) pp. 457 - 459.



*termination providers, general practice and youth health services.*¹⁵¹

This recommendation was supported with Women NSW and NSW Health to progress this action.¹⁵² The Team acknowledges that over the past two years there has been some preliminary work undertaken to progress this recommendation, namely a number of meetings with relevant stakeholders (including Family Planning NSW, Marie Stopes, Women's Health NSW, Women's Safety NSW and ANROWS) however there has not yet been any further research or strategy developed as anticipated by the recommendation.

In response to the issue of domestic violence victims presenting at reproductive healthcare services, in its 2012/13 Report the Team recommended:

*That the Fertility Society of Australia together with the Australian and New Zealand Infertility Counsellors Association and the Fertility Nurses of Australasia, develop a communication strategy which ensures that practitioners providing assisted reproductive services (including doctors, nurses and counsellors) are recognising and providing appropriate referral information to clients who are experiencing or demonstrating domestic violence behaviours.*¹⁵³

This recommendation was supported, and NSW Health wrote to the Fertility Society of Australia with no response being received. There remains no training and guidance in this space around this issue.

Reproductive coercion remains a significant issue in the Team's current cases and it manifests in a number of different ways.

For example in *Case Review 3834* the abuser insisted that his girlfriend not terminate her unwanted pregnancy. She asked the abuser not to disclose the pregnancy to anyone until she had made a final decision about termination, however he disregarded her wishes and told his friends to harass her about the pregnancy to prevent her from having a termination. The abuser called the

woman a murderer and threatened to spread false rumours about the baby's paternity if she went ahead with the termination. The woman continued with the pregnancy and ultimately killed the child in a murder-suicide.

In *Case Review 3220* the abuser pressured his younger girlfriend into having sex without contraception early in their relationship because he 'wanted a son'. The woman did not want children because she felt she was too young and because she wanted to be married before becoming a parent. When the woman became pregnant, she felt ashamed because it wasn't acceptable in her community or religion to become pregnant when unmarried. Despite her reservations, the abuser convinced her to continue with the pregnancy. Throughout the pregnancy and after the child's birth, the abuser violently assaulted the victim, however she felt unable to end the relationship with the abuser because he was the father of their child.

Case Review 3750 involved multiple instances of reproductive coercion by the abuser who used physical assaults and threats to force the victim to have multiple terminations, despite it being contrary to her religious beliefs and wishes. She developed severe depression as a result of the shame she felt and the abuse, both emotional and physical, that he inflicted. On one occasion, the abuser turned up at the abortion clinic immediately after the victim's procedure. He was intoxicated and the victim said he attempted to 'rip the tubes out' and then dragged her to the car. This episode was not reported to police.

The prevalence of reproductive coercion is relatively unknown because there have been no large scale studies undertaken in Australia, however a recent article indicated that it is likely that more than 10% of women have experienced this form of abuse – and

¹⁵¹ DVDRT Report 2015/17 (n 72) Recommendation 24.

¹⁵² NSW Government, 'Government Response to Domestic Violence Death Review Team Report 2015-2017' (Received 29/6/2018) Recommendation 24.

¹⁵³ DVDRT Report 2012/13 (n 71) Recommendation 16.

this is most probably a significant underestimation since it is well-known that violence against women is substantially underreported.¹⁵⁴

Through consultations, the Team ascertained that Family Planning NSW is currently undertaking significant work around reproductive coercion and have incorporated questions about reproductive coercion into their domestic violence screening in an effort to build data and expertise around this relatively unexplored issue. Family Planning also noted existing limitations around the literature, indicating that most of the research to-date has focused on intimate partner violence (to the exclusion of family violence). Family Planning further advised that there is a lack of clarity around the work being undertaken in Australia to better understand and address this issue. Other stakeholders similarly raised concerns about reproductive coercion and the focus on intimate partner relationships, although they did not always use this terminology to describe the violence thereby demonstrating the disparity in understanding and awareness of this issue amongst responders and across the broader community.

Family Planning have advised the Team that they believe there is an opportunity for all health services to integrate routine screening for reproductive coercion as part of domestic violence screening, particularly within the antenatal and postnatal care context. A recent Australian article similarly considers that antenatal and abortion settings (as well as domestic violence and sexual assault services) may see high numbers of women experiencing reproductive coercion and therefore it is critical that these services develop processes and policies around collaboration and warm referral that are responsive to women's needs.¹⁵⁵

Consultations overall suggested that there remains only limited data collection or research being conducted in NSW/Australia, and there continues to be a lack of awareness of this issue amongst service providers. Further research is critical to create a robust knowledge base from which to develop best practice guidelines,

practitioner training, and public awareness campaigns.

In light of the limited progress around the Team's 2015/17 recommendation, and the issues raised during consultations for this report, the Team seeks to reinforce its previous recommendations relating to reproductive coercion and stresses the need for this work to be urgently progressed.

Violence against women during pregnancy

Australian and international research indicates that women are at an increased risk of experiencing domestic violence from a partner during pregnancy.¹⁵⁶ A number of the Team's cases during this review period also reflect these findings, with some women experiencing increases in the severity and frequency of violence during pregnancy,¹⁵⁷ and other women beginning or continuing to experience often very serious violence during pregnancy.¹⁵⁸ In at least one case it was specifically identified that a female victim of ongoing domestic violence did not disclose her experiences to healthcare providers during prenatal screening.¹⁵⁹ In two reviews, *Case Reviews 3920* and *3476*, the female homicide victims were pregnant when their abusive male partners killed them.

In its previous reports, the Team has recognised the importance of the prenatal period as providing opportunities to support vulnerable women and has made recommendations around increasing domestic violence screening for women in post-natal settings (in addition to existing antenatal screening).¹⁶⁰ This recommendation was supported by NSW Health, noting that it is covered by policy *PD2010_017* and that the NSW Health Prevention and Response to Violence, Abuse and Neglect (PARVAN) Unit was working to develop systems for electronic data recording and reporting of domestic violence routine screening.

The Team also notes that violence against women during pregnancy may have negative developmental

154 Tarzia, 'How can we improve the health systems response to reproductive coercion in the Australian context?' (*Safer Families Centre of Research Excellence Discussion Paper Series*, no.1, 2019).

155 Tarzia (n 154).

156 Campo, 'Domestic and family violence in pregnancy and early parenthood: Overview and emerging interventions' (CFCA Practitioner Resource, *Australian Institute of Family Studies*, December 2015) p. 1.

157 See for example, *Case Review 3582*.

158 For instance, *Case Reviews 3669, 3476* and *3220*.

159 *Case Review 3474*.

160 DVDRT Report 2015/17 (n 72), Recommendation 19.



impacts on children, as noted earlier in this chapter and acknowledged in the *NSW Health First 2000 days Framework*.¹⁶¹ Antenatal and postnatal screening accordingly form a core part of NSW Health practice under this framework, and the Team seeks to reinforce the importance of this practice – as well as responsive policy for women who do disclose experiences of violence when screened.

At this time the Team is not seeking to make further recommendations for development around this issue but seeks to reinforce the importance of agencies, including health and other care providers, recognising the unique challenges and barriers that women can face when they are experiencing domestic and family violence while pregnant.

Non-fatal strangulation

Non-fatal strangulation is recognised as a recurring feature in serious domestic violence assaults and homicides¹⁶² and has been a feature of many of the Team's cases in this reporting period. Cases involving non-fatal strangulation also frequently involved responders failing to appreciate its seriousness – both in terms of its medical consequences, and in terms of its association with the risk of future serious violence.

For instance, in *Case Review 3672*, the domestic violence victim experienced multiple episodes of non-fatal strangulation by her partner and reported these episodes to police and hospital staff. Neither police nor hospital staff appeared to believe these disclosures, apparently on the basis of a lack of physical evidence coupled with the victim's mental health and/or substance use issues. The victim was killed by her partner within 12 months of the first report of non-fatal strangulation.

Similarly in *Case Review 3415*, on at least two occasions the domestic violence victim disclosed to police that her partner had strangled her, but due to her level of intoxication police determined that

they would be unable to obtain a statement and coded the callouts as 'DV no offence - verbal arguments'. In this case, the domestic violence victim was Aboriginal and her partner was not. During the fatal episode of violence, the victim's partner attempted to strangle her and she retaliated and killed him. After the homicide, brain imaging revealed that the domestic violence victim had considerable brain abnormalities suggestive of cognitive impairment possibly related to multiple prior episodes of non-fatal strangulation.

In another case, *Case Review 3651*, the domestic violence victim disclosed to a social worker that her partner had attempted to strangle her during an argument and she had visible injuries to support this disclosure. The social worker did not appear to appreciate the seriousness of the episode of non-fatal strangulation and did not refer the woman to any DV specialist or health services in relation to her injuries. The victim was killed by her partner within 12 months of this episode.

In numerous other cases, friends and family were aware of episodes of non-fatal strangulation, although these were never reported to police.¹⁶³

In recent years, and as discussed in previous reports, this specific type of abuse has received increasing attention both in NSW and elsewhere in Australia. In its 2015/17 Report the Team provided considerable commentary around non-fatal strangulation in domestic violence contexts, and in response to this recommended:

That the Attorney General, in consultation with relevant stakeholders, review the operation of the NSW offence of strangulation (contained at s37 of the Crimes Act 1900 (NSW)) to determine whether this offence is operating effectively.

That the NSW Police Force update its Standard Operating Procedures to require that where a

¹⁶¹ First 2000 Days Framework (n 43).

¹⁶² See for example, Glass et al. 'Non-fatal strangulation is an important risk factor for homicide of women' (2008) 35(3) *The Journal of emergency medicine*, 329-35.

¹⁶³ See for example *Case Review 3220*.

*victim discloses strangulation, police advise the victim to seek urgent medical attention given the potential long-term health consequences of this form of assault.*¹⁶⁴

As a result of the Team's recommendations, the NSW Department of Justice (as it then was) commenced a review into the effectiveness of s37 of the *Crimes Act 1900* (NSW), the section outlining offences of non-fatal strangulation.¹⁶⁵ In reviewing this offence, the Government determined the need to provide for an additional simplified strangulation offence with a lower penalty of 5 years imprisonment, which did not require the person subject to the offence to be rendered unconscious.¹⁶⁶ As these reforms are relatively recent, the Team will continue to monitor uptake of this offence and consider whether it is working effectively. Early indications suggest that there are more charges being laid under the new offence provisions, although given the considerable time it can take for matters to progress through the courts, it is not yet clear whether the new provisions will result in a higher number of convictions.

In response to the Team's recommendation the NSW Police Force also updated its SOPS and has commenced additional training packages in relation to the new offence, support and charging practice.

Since the Team made this recommendation, NSW Health has also been making considerable headway in this area, through its *Violence, Abuse and Neglect Redesign Project* (the *VAN Redesign Project*). The *VAN Redesign Project* is supported by increased resources to enhance the capacity of the public health system to provide 24-hour, trauma-informed and trauma-specific, integrated psychosocial, medical and forensic responses to sexual assault, child physical abuse and neglect, and domestic and family violence presentations. This includes a project by the NSW Ministry of Health, in partnership with NSW Police and NSW Health's Forensic Analytical Science Services (FASS), to develop a crisis response for domestic and family violence, to be delivered in every local health district across the state. The model will provide an integrated psychosocial, medical and forensic response, including further guidance on strangulation.

NSW Health is also developing a specialised workforce for delivering medical and forensic examination for domestic violence victims, which will better facilitate the use of practitioner medical evidence to support prosecutions under relevant sections of the *Crimes Act 1900* (NSW) (including in relation to s37, non-fatal strangulation). This will build on the considerable expertise that NSW Health has developed in relation to providing forensic evidence with respect to sexual assault. While the first priority of health practitioners is always the health, safety and well-being of patients, it is promising that so much work has been done to use the sector's expertise to complement the new strangulation offences and respond to this form of violence.

Regarding the prosecution of strangulation offences, Team members have raised concerns regarding the magistracy's knowledge of this unique form of violence, indicating that improvements within practice likely need to be accompanied by judicial education. It was also noted that greater use of expert medical evidence may be required when prosecuting cases of strangulation. A foundational issue raised with the previous strangulation offence was that few prosecutions were successful, and accordingly the Team is of the perspective that education at all levels is likely to be decisive in the effectiveness of the offence going forward.

Accordingly the Team recommends:

Recommendation 11

That The Department of Communities and Justice collaborate with the Judicial Commission of NSW to explore opportunities to develop judicial education promoting awareness of non-fatal strangulation, and its association with future violence, as well as serious or fatal harm.

164 DVDRT Report 2015/17 (n 72) Recommendation 5.1 and 5.2.

165 NSW Parliamentary Research Service, 'NSW strangulation offence: Time for further reform?' (*Issues Backgrounder*, No. 3 September 2018).

166 Crimes Act 1900 (NSW) s37(1A).



Responding effectively to perpetrators

A persistent theme arising in the Team's work is how to better respond to men who use violence against their intimate partner, (or multiple intimate partners) and/or family members. The Team has identified that while some victims may be able to escape abusive partners, their abusers often go on to re-partner and continue the cycle of violence. Similarly, for people who use violence in family contexts, escaping or responding to violence can have particular challenges, including victim reluctance to engage in criminal law pathways, or ongoing cohabitation or dependency due to their ongoing familial relationship with the abuser. Some of these particular challenges around violence by children against their parents and other family members have been discussed in the context of adolescent-to-parent violence earlier in this chapter. The Team also acknowledges that additional barriers may operate in responding to perpetrators who use domestic violence in other contexts, such as perpetrators in LGBTIQ relationships, from culturally or linguistically diverse backgrounds, or female perpetrators.

Perpetrator Interventions

The challenge of responding effectively to perpetrators is evident across many of the Team's cases. In this and prior reports it has been identified that (usually male) abusers may come to the attention of police in relation to abuse against multiple different partners with their abusive behaviours worsening or at least continuing over time. The Team has considered the extent to which this may reflect a lack of coordinated or integrated intervention and response for this cohort of abusers. For many men in the Team's dataset, this behaviour escalates to the point where they are implicated in a homicide, usually as an offender. As outlined earlier in this chapter, interrupting this cycle of violence through early intervention, but also having effective tertiary responses, is an urgent necessity to effectively address domestic violence in our communities.

The Team acknowledges that since 2015, reducing domestic violence reoffending has been one of the

NSW Premier's Priorities and there has been an increase in multi-agency efforts to work with domestic violence offenders. The Department of Communities and Justice has coordinated implementation of a broad range of interventions aimed at changing offending behaviour, many of which are described further below. As part of this strategy, police have also increased monitoring and surveillance of offenders (discussed later in this chapter).

Despite increased dialogue around holding men accountable for their gendered attitudes and violent behaviours against women, and an increased focus on preventing reoffending, the reality remains that across Australia the primary mechanism for perpetrator accountability continues to be the criminal justice pathway. Given that many offences go unreported; do not reach the threshold for a charge (or the behaviours are not themselves 'criminal' despite constituting abuse – such as coercive and controlling behaviours discussed previously); or may not result in a conviction; the criminal justice system remains constrained in its ability to result in lasting change for men who use violence.

Men's Behaviour Change Programs

In recognition of the need to address men's violence towards women (and the gendered drivers of this behaviour) there has been increased attention to the area of *Men's Behaviour Change Programs* (MBCPs) in recent years. This has been a focus across Australian states and territories in accordance with the *National Plan to Reduce Violence Against Women and their Children (2010-2022)*, and specifically the articulated outcome of perpetrators stopping their violence and being held to account. Notwithstanding this increased attention, and the long history of these programs operating in Australia, the recent ANROWS report concerning MBCPs states:

*MBCPs remain contentious. Debates are ongoing about how MBCPs should be delivered, and the extent to which they are effective in improving the safety and freedom of victims/survivors.*¹⁶⁷

Working with abusive men remains controversial, and in addition to scepticism about the effectiveness of

¹⁶⁷ ANROWS, *Men's behaviour change programs: Measuring outcomes and improving program quality* (Research to policy and practice, 01/2019) p. 1.

such programs, pragmatic concerns remain around the potential redirection of funds from victims support services into MBCPs, the longer-term outcomes of which are generally not known. This area accordingly remains challenged despite increased investment in programs around Australia.

There are currently 35 MBCPs across NSW that are delivered by non-government organisations in the general community. In terms of practice MBCPs are predominantly group-based programs that can be run in community and correctional settings, and are usually shorter-term running between three or six months. They may be mandatory or voluntary and if they are funded by government they are required to provide supplementary support for victims.

At a national level, COAG has developed the *National Outcome Standards* (and associated performance indicators) for *Perpetrator Interventions* which guide and measure the actions and outcomes of perpetrator intervention systems including MBCPs.¹⁶⁸ In NSW there are *Practice Standards* for MBCPs,¹⁶⁹ and the Department of Communities and Justice operates the compliance monitoring system.¹⁷⁰ MBCPs must be registered to receive funding or referrals from the NSW Government and accredited training around MBCP facilitation is delivered through the NSW Health's Education Centre Against Violence. The organisation No To Violence is the sector coordinator around MBCPs in NSW.¹⁷¹

As noted previously, there is limited evidence around the long-term effectiveness of MBCPs in either correctional or community settings, and many evaluations are process-oriented rather than outcomes-focused, or looking at sustained change over time.¹⁷² One of the challenges in designing outcomes-based evaluations is the relatively small number of participants engaged in these programs. Stronger examples of evaluation include *Project Mirabal* in the UK, which used measures designed with the partners or ex-

partners of men who used violence to evaluate the success of MBCPs. This evaluation was unique in its focus on coercive control, and also looked at broader indicators of MBCP success beyond reductions in criminal violence/offences.¹⁷³ *Project Mirabal* also noted that evaluation should be based on program logic models, incorporating an articulated theory of change - meaning that MBCPs need to both clearly articulate what change they are hoping perpetrators to achieve, and assess effectiveness against this measure. Any programs working with men (not just MBCPs) should be able to articulate what success looks like, and evaluate according to that criteria.¹⁷⁴

A further challenge with MBCPs in Australia is that they (and associated practice standards and approaches) are primarily focussed on intimate partner relationships, with no tailored responses for family violence. This reflects similar challenges in current risk assessment frameworks such as the *Domestic Violence Safety Assessment Tool* in NSW, which is based on safety indicators derived from the intimate partner violence literature, rather than broader dynamics of family violence. In relation to this challenge with MBCPs, the recent ANROWS report notes:

*Current standards also generally focus only on the predominant dynamic of adult men's use of DFV against family members in the context of heterosexual relationships. Adolescent violence in the home, teenage dating violence, use of violence by women, violence in LGBTIQ communities, and other unique cohorts or types of DFV are often not covered.*¹⁷⁵

From the data available it is clear that only a small proportion of men who use violence will ultimately become involved in these programs. For instance, in the 2017-18 financial year police attended 126,150 domestic violence-related callouts in NSW, while 335 men participated in the four pilot MBCPs run by non-government organisations in the community (over an

168 Council of Australian Governments, 'National Outcome Standards for Perpetrator Interventions' (*Commonwealth Department of Social Services*, DSS1680.10.15).

169 Justice Strategy and Policy, 'Practice Standards for Men's Domestic Violence Behaviour Change Programs' (NSW Government, November 2017).

170 Justice Strategy and Policy, 'Compliance Framework for Men's Domestic Violence Behaviour Change Programs' (NSW Government, December 2018).

171 No to Violence, 'Men's Behaviour Change Network NSW', <https://www.ntv.org.au/mbcn-nsw/> (accessed 6 August 2019).

172 ANROWS Men's Behaviour Change Programs (n 171) p. 2.

173 Kelly and Westmarland 'Domestic Violence Perpetrator Programmes: Steps Towards Change' (Project Mirabal Final Report, January 2015) <https://www.dur.ac.uk/resources/criva/ProjectMirabalfinalreport.pdf> (accessed 6 August 2019).

174 The Team has been advised that all the programs associated with the *NSW Premiers Priority* are either being currently evaluated, or an evaluation is planned. This includes both process evaluations to ascertain if they are being implemented as intended, as well as outcome evaluations to determine impact.

175 ANROWS Men's Behaviour Change Programs (n 171) p. 6.



18 month period from 1 January 2017 to 30 June 2018).¹⁷⁶

Although it is important to respond effectively to men's violence against women, it is also important to recognise that some of the drivers of this, and other forms of domestic and family violence, will differ. Accordingly, MBCPs alone may not address the suite of behaviours or experiences constitutive of domestic and family violence.

Men's Telephone Counselling and Referral Service

In 2013 the *Men's Telephone Counselling and Referral Service* (MTCRS) commenced operation in NSW. This is a 24/7 service run by No To Violence (the sector coordinator of MBCPs organisations in NSW), contracted by the Department of Communities and Justice. This service is described as the 'central point of contact for men taking responsibility for their violent behaviour'.

Since January 2019, the NSW Police Force has been empowered to make referrals for men to this service through the Automatic Referral Pathway (ARP). Police make referrals when men are charged with domestic violence offences and/or are subject to an application for, or a finalised, ADVO.¹⁷⁷ Some men are risk assessed out of this referral pathway if they react negatively towards police when informed of the MTCRS. Engagement may also cease in circumstances where a referral is made but the man either cannot be reached by the MTCRS, refuses to engage with the caller or the referral process, or where it is determined that contacting the man may present a risk to the victim.

Men who choose to engage with the MTCRS receive telephone counselling, advice on court processes and ADVOs, are assessed with regard to their level of threat,¹⁷⁸ and are provided with assistance or onward referral into other programs and services (such as MBCPs or health programs). While these are all positive steps, this pathway is impacted by the same challenges affecting the broader challenge

of perpetrator accountability – that being motivating perpetrators to act as agents of self-change.

Information regarding the current level of perpetrator engagement with the ARP is not yet publicly available. Having commenced relatively recently (January 2019), the ARP is yet to be evaluated and it is unclear what measures will be used to evaluate its success. The Team has been advised that both a process and outcomes-evaluation will be undertaken in line with the *NSW Human Services Outcomes Framework* (e.g. client outcome) which is critical to developing a responsive and appropriate coordinated response to people who use domestic violence in NSW. The Team will continue to monitor this program and its evaluation over the next reporting period.

Local Coordinated Multi-agency offender management program

While the intervention initiatives discussed above may be appropriate for men who seek to be agents in their own change, for other men – including higher risk men, or men who may not wish to address their behaviours – engagement in change processes can be much more difficult.

Under *Safer Pathway*, while responses to perpetrators may be considered as part of *Safety Action Meetings* (SAMs), these meetings are largely oriented towards assisting victims of violence and coordinating supports for families. A challenge with increasing the focus on perpetrators in these settings is that, as noted previously, it is difficult to work with perpetrators who are not motivated to change.

The Team notes that while the SAMs may be a difficult space in which to coordinate responses to men who use violence, the *Local Coordinated Multi-agency Offender Management Program* (LCM Program) attempts to bring together the Department of Communities and Justice (including Corrective Services and Community Services), police and health to select and manage individuals residing in the community who have a history of reoffending, or are at risk of reoffending (including domestic violence offenders).

¹⁷⁶ Since this date, there has been some expansion in the number and location of services. See: No to Violence, 'List of Men's Behaviour Change Programs (NSW)' (online) <https://www.ntv.org.au/get-help/list-of-mens-behaviour-change-programs/> (accessed 8 October 2019).

¹⁷⁷ No to Violence, 'Automatic Referral Pathway Privacy Notice' 2019 <https://www.ntv.org.au/wp-content/uploads/2019/01/Automatic-Referral-Pathway-Privacy-Notice-003.pdf> (accessed 6 August 2019).

¹⁷⁸ The Team has been advised that the risk assessment tool has been developed by No to Violence. The process does not use the DVSAT, although the risk assessment tool used by the MTCRS has been informed by the DVSAT.

The objective of the *LCM Program* is to reduce reoffending, increase safety for community members, and improve confidence in the management of persistent offenders. This pilot commenced in Dubbo, Liverpool and Parramatta in September 2017, followed by Campbelltown and Wollongong in 2018. Five additional sites commenced in 2019, namely in Newcastle/Maitland, Mt Druitt, Moree, Taree and Wagga Wagga. The program is currently funded by the Department of Communities and Justice to operate in these ten sites across NSW until June 2020.¹⁷⁹

Eligibility for the program is limited to offenders under Corrective Services supervision, entry is by consent, and it requires that the offender is living (or is soon to be living) in the community where the pilot operates. A key strength of the program is that it is targeted to offenders with a medium to high-level risk of reoffending. It also provides a channel to share necessary and relevant information amongst the agencies involved to increase the effectiveness of organising interventions that may help stabilise an offender, reduce their risk of reoffending and increase community safety. This includes sharing information with SAMs to ensure services are arranged for offenders engaged with the *LCM Program* who have a domestic violence perpetration history (such as accommodation) that does not put the safety of the domestic violence victim at risk, who is being managed through *Safer Pathway*.

The *LCM Program* is currently undergoing evaluation to examine whether the program has improved service provision for the participants and to explore whether the multi-agency approach has improved the way in which stakeholders interact with the Community Corrections case management process. However, there does not appear to be any outcomes analysis available in terms of criminal reoffending rates or other measures of success. Corrective Services have indicated that the program currently has insufficient numbers to support a statistical analysis for further evaluation. The Team will continue to monitor this program over the next reporting period and encourages Corrective Services to undertake an outcomes-analysis once more participants have completed this program.

Corrective Services Programs

The Team has been advised of a number of offender programs operating within Corrective Services. *EQUIPS* is an evidence-based suite of behaviour change programs that are delivered by Corrective Services both in custody and under community supervision. The programs are designed to help offenders understand the factors that led to their offending, and to develop the skills they need to hopefully reduce their risk of reoffending.

EQUIPS is made up of four courses, beginning with a foundational course, and three other focus areas: domestic abuse, addiction and aggression. Each course is delivered over 20 x 2 hour sessions. *EQUIPS Domestic Abuse* is open to offenders who have a current domestic violence-related conviction and emphasises acceptance of responsibility for offending behaviour. *EQUIPS Aggression* focuses on managing difficult life events and minimising aggressive behaviour and is open to eligible offenders who have a current criminal conviction for a violence-related offence. The Team notes, however, that an evaluation of *EQUIPS Domestic Abuse* found that there was no evidence of a treatment effect (or decrease in reoffending rates) for those perpetrators who participated in the program while in custody.¹⁸⁰

The Team has been advised that for the highest risk violent offenders (receiving sentences of more than 24 months), Corrective Services delivers intensive therapeutic programs, including the *Violent Offender Therapeutic Program*, that provides custody-based intensive treatment for one year. This program has been evaluated by BOCSAR and demonstrated a 9% reduction in reoffending within a two year period.¹⁸¹ The Team notes, however, that prior to the homicide, almost none of the perpetrators in the cases reviewed by the Team had received terms of imprisonment of sufficient length so as to be eligible for this program.

The Team also notes that historically there have been difficulties in delivering programs to offenders on remand or with shorter sentences. The Team has been advised however that more recently Corrective Services

179 NSW Government, 'Reducing Reoffending: Local Coordinated Multi-agency offender management' (Fact Sheet, undated) <https://www.justice.nsw.gov.au/Pages/Reforms/reducing-reoffending/priority-offenders.aspx> (accessed 8 October 2019).

180 Rahman and Poynton, 'Evaluation of the EQUIPS Domestic Abuse Program' (No. 211, NSW Bureau of Crime Statistics and Research Contemporary Issues in Crime and Justice, March 2018).

181 Rahman et al, 'The effect of the Violent Offender Treatment Program (VOTP) on offender outcomes' No. 216, NSW Bureau of Crime Statistics and Research Crime and Justice Bulletin, August 2018.



has introduced a range of initiatives to overcome these challenges. *High Intensity Program Units* (HIPUs) have been established in seven correctional centres to deliver programs intensively to offenders with shorter sentences. HIPUs separate prisoners from the general prison population during sessions, with the aim of providing a therapeutic environment to maximise the program's effectiveness. On release, prisoners are provided additional support to facilitate successful transition back into the community. The Team has been advised that this program is currently undergoing an evaluation by BOCSAR which is due to be completed by July 2020.

The Team has also been advised that Corrective Services now delivers programs for inmates on remand, including *Remand Domestic Violence*, which is based on the cognitive behavioural principles and strategies in the *EQUIPS* suite of programs. The Team has been advised that BOCSAR undertook an outcomes evaluation of this program in 2019 however this evaluation has not been approved for public release.

There are a range of challenges associated with the delivery of offender programs in both custodial and community settings. For programs to be most beneficial, a minimum number of participants are required for each program. Where there are insufficient numbers for an offence specific program, offenders may be allocated to a *Foundation* or an *Aggression* program which generally (but not specifically) contributes to addressing domestic violence-related behaviours.

Community Corrections also face issues with program availability due to transport logistics preventing offenders from participating in programs, particularly in regional or remote areas. This has led to Community Corrections trialling new approaches focused on one-on-one service delivery.¹⁸² Corrective Services is also currently developing a program delivery model, *LiViT* (Live Virtual Therapeutic), that will allow regional and remote offenders from disparate locations to participate in a single program via an online delivery platform.

As this section has highlighted, working with

perpetrators of domestic violence is highly complex and represents a relatively new and emerging field of domestic violence response work. The Team will continue to monitor these programs as they evolve to determine their effectiveness at redressing perpetrator offending and improving outcomes for victims of violence.

Ongoing challenges for working with perpetrators

Although there have been significant efforts more recently in the perpetrator program delivery space, many challenges remain. Perpetrator programs are often only available in limited locations; are not always evaluated; and these programs can be unclear about what they are hoping to, or actually do, achieve. There are also limitations for access in custodial settings for community-based offenders. While *Safer Pathway* coordinates a response for victims, the Team seeks to reinforce its concerns around the lack of similar response to perpetrators – noting that in its cases many perpetrators move from victim to victim, with no cessation or reduction in their violent behaviours.

In response to these ongoing concerns, the Team has been advised that Women NSW has developed a *Perpetrator Accountability and Prevention Group* that will meet quarterly to discuss perpetrator accountability programs and prevention work in the sector and how this can be aligned with NSW Government policy implementation to develop a coordinated response to perpetrators of domestic violence. The Team looks forward to future updates from the group and will also continue to monitor program outcomes and examine evaluation findings as they are completed.

The *Safer Pathway Evaluation* identified that 40 per cent of domestic and family violence episodes attended by police and referred into *Safer Pathway* involved non-intimate partner violence.¹⁸³ Accordingly, the Team also seeks to reinforce its concern around gaps in responses to men who use violence in non-intimate partner contexts such as family violence, services available responding to women who use violence, people in LGBTQI relationships who use violence, and

¹⁸² In 2016 Community Corrections rolled out the *Practice Guide for Intervention* (PGI) as part of the *Enhanced Supervision Strategy* which involves a Community Corrections Supervisor instructing an offender to complete simple behaviour change modules during a regular 1-on-1 interview. Corrective Services have identified issues with the consistency in the delivery of the program, which remains largely dependent on the ability of the supervisor to engage with the offender. BOCSAR is currently undertaking a formal evaluation of the PGI Strategy but there is no information available publicly about the success of the strategy.

¹⁸³ See *Safer Pathway Evaluation* (n 82) p. 67.

perpetrators of other forms of domestic violence that do not fit the gendered intimate partner violence model. While it is acknowledged that increasing attention to gendered intimate partner violence has been a positive policy advancement in recent years, it would appear that gaps persist around the suite of other forms of domestic violence that may have similarly devastating impacts on families, individuals and communities.

A further challenge identified by the Team is that due to the relative infancy of perpetrator intervention work there is limited awareness amongst responders (and the public more broadly) about the nature and scope of the various programs, their inclusion criteria and in particular the pathways into such programs. Accordingly, the Team recommends:

Recommendation 12

That the NSW Government make publically available information on the pathways into perpetrator programs.

Ensuring that barriers to effective service provision are recognised and overcome within the NSW response

While previous sections of this chapter have examined responses to victims and perpetrators, as well as different forms of violence, the Team acknowledges that for particular groups, communities and people, there are additional barriers and challenges that can impact the suitability, effectiveness and accessibility of mainstream services and programs related to domestic violence. Mainstream service responses often require augmentation or specific program development to appropriately support victims and respond effectively to people using violence who experience discrimination or stigmatisation including, but not necessarily limited to, Aboriginal and Torres Strait Islander people, people from culturally and linguistically diverse backgrounds, people with disability and people of diverse genders and sexualities.

Aboriginal people and communities

Aboriginal women's experiences of violence

Aboriginal women are overrepresented in the Team's cases, accounting for 14% of women killed in intimate partner homicide cases but only 2.9% of the NSW population.¹⁸⁴

The Team's cases also highlight that Aboriginal women may experience particular barriers in accessing appropriate domestic and family violence services. The cases reflect that although Aboriginal women do access many services, the service system often fails as multiple services are unable to work collaboratively to secure victim safety, or there is a failure to follow-up or make referrals, as well as issues with intrinsic racism and a lack of cultural safety.

For example, in *Case Review 3415*, the domestic violence victim was an Aboriginal woman who ultimately killed her abusive partner. The woman had experienced extreme physical and sexual abuse throughout her life, beginning as a child. She was illiterate and had a mild intellectual disability exacerbated by physical abuse (including multiple head injuries and non-fatal strangulation), chronic substance misuse, and early onset dementia. She was removed from her parent's care as a child due to racist welfare policy (she was a member of the Stolen Generation), and placed in a children's home. As an adult, she lived in social housing for 30 years and received a disability support pension. Despite frequent contact with healthcare providers, she did not engage with any specialist mental health services until after she perpetrated the homicide, when she was diagnosed with anxiety, PTSD, and depression. During her relationship with the abuser, she regularly called police when her partner became violent, but most episodes were classified as '*DV-No Offence*' and police narratives highlight that officers questioned her credibility due to her alcohol use and cognitive impairment. She received no specific support in relation to the domestic violence she endured for many years at the hands of her abuser.

184 Australian Bureau of Statistics, Census of Population and Housing 2016, cat. No. 2001.0, 27 June 2017. <http://www.abs.gov.au> (accessed 8 January 2020).



This was despite many episodes of violence being reported to services, and suspicious injuries being observed by bystanders, medical professionals, police and other NGO service providers.

In its previous reports the Team has raised concerns around the particular challenges faced by Aboriginal women and has made numerous recommendations around this issue. In its 2015/17 Report the Team recommended:

*That the NSW Government review the support needs of victims in contested domestic violence matters, and the adequacy of current supports, with the aim of providing consistent support across NSW. This should include an examination of the specific needs of Aboriginal women, including in relation to attending court.*¹⁸⁵

This recommendation was supported, and the Team has been advised that the Department of Communities and Justice is commencing a co-design process with Aboriginal communities to progress this recommendation. Notwithstanding that the project has taken some time to get underway, the Team welcomes this development and seeks to reinforce the importance of this process reflecting true partnership approaches and Aboriginal-led design.

Criminal justice initiatives

In the criminal justice setting, over the past two years there have been a number of initiatives aimed at providing specialist Aboriginal support through the criminal justice system, such as through the Office of the Director of Public Prosecutions' (DPP) Witness Assistance Service (WAS). Specialist Aboriginal WAS Officers can provide culturally appropriate support to Aboriginal victims and witnesses to explain the court process and their rights, as well as providing culturally appropriate referrals for counselling and support. In 2018, the DPP undertook a restructure of its WAS program and increased the number of specialist Aboriginal WAS Officers from 3 to 7 (located in Sydney, Newcastle, Lismore, Dubbo, Wagga and Wollongong). It is not clear whether there are plans to further increase the number of WAS Officers across the state.

The Team has also been advised that the Aboriginal-specific program *What's Your Plan?* (WYP) is currently being piloted across 51 NSW Local Courts as one of the initiatives aimed at reducing perpetrator reoffending. This program was co-designed by the Government's Aboriginal Services Unit and the Department of Premier and Cabinet's Behaviour Insights Unit, throughout 2016 and 2017. The program aims to assist Aboriginal perpetrators of domestic and family violence to understand and comply with ADVO conditions. Under the program, ADVO defendants who volunteer to participate, meet with an Aboriginal Client and Community Support Officer to help them understand their ADVO conditions. Together, the client and the support officer develop a strategy to help the defendant comply with the ADVO, address any obstacles they are facing in respect of compliance, and learn how to take positive steps to change their behaviour. To help the client stay on track, they receive SMS reminders and a follow-up call to check on their progress.

WYP has been subject to a process evaluation by BOCSAR, which found that while this program was innovative and for the most part had been implemented as intended, there was a high level of non- or incomplete engagement with Aboriginal defendants.¹⁸⁶ Identification of Aboriginal defendants also proved difficult for support officers and there was limited time to locate and deliver WYP, particularly on busy court days. The BOCSAR sample found that 76% of Aboriginal identified defendants were offered WYP and 28% completed the WYP session. When compared to other voluntary programs offered at Court, the Department of Communities and Justice considered this a good engagement rate. The Team has been advised that BOCSAR will be undertaking an outcomes evaluation once the necessary number of participants has been reached. The Team would urge that the measures of success for this evaluation be developed in partnership with the Aboriginal community.

Community-led responses and promoting Cultural Safety

There is considerable evidence that many services (particularly mainstream services) are difficult to access, and not always culturally appropriate for Aboriginal people in Australia – including in the area of domestic

¹⁸⁵ DVDRT Report 2015/17 (n 72) Recommendation 7.2; See also Recommendation 23.1

¹⁸⁶ Nelson, 'What's Your Plan?' process evaluation' *NSW Bureau of Crime Statistics and Research*, Issue Paper no. 138, December 2018.

violence.¹⁸⁷ Challenges around access can arise due to issues such as services being unavailable in particular areas, or services being culturally unsafe.

‘Cultural Safety’ in policy and practice settings was conceived in the healthcare setting in New Zealand in the 1990s and extends beyond cultural awareness or sensitivity, encouraging providers to reflect upon their own cultural identity and to recognise the impact of their culture on their professional practice.¹⁸⁸ In Australia, the practice of cultural safety has been primarily used as a means by which to meet the needs of Aboriginal people and communities. Cultural safety can be defined as creating:

‘An environment that is spiritually, socially and emotionally safe, as well as physically safe for people; where there is no assault, challenge or denial of their identity, of who they are and what they need. It is about shared respect, shared memory, shared knowledge and experience of learning together.’¹⁸⁹

Australia is a colonised nation and colonising processes, including entrenched racism, have shaped the current challenges facing many Aboriginal Australians today, including poverty and intergenerational trauma. These factors - a legacy of colonisation - contribute to the disproportionate representation of Aboriginal people across areas indicative of social vulnerability – such as in child protection services, Youth Justice and prison populations, public health issues, and domestic and family violence statistics. These same legacies also result in mainstream services often being ill-equipped to manage the needs of Aboriginal people with respect to their emotional and physical wellbeing as individuals and in communities.

As discussed earlier in this chapter, these challenges have been one of the driving forces behind the establishment of Aboriginal Community Controlled Organisations (ACCOs), in areas such as healthcare, social services provision and law. Where they exist, ACCOs are recognised as providing culturally safe, accessible and appropriate services for community members.

The Team’s consultation and research for this report highlights that there are few ACCOs in the area of specialist domestic and family violence service provision, and those that do exist often struggle to receive comprehensive funding to respond to the scale and nature of community need. While existing commissioning approaches to service provision (under the *NSW Government Commissioning and Contestability Policy*) do focus on improved delivery, and the Government is looking at reforming tendering processes to make these easier for smaller organisations to compete, the Team nonetheless expressed concern about the current availability of ACCO domestic and family violence services, and the processes that these services have to go through to receive funding.

It was noted during consultations for this report that many Aboriginal services have an extremely high workload and require priority assistance to compete for tenders. It was noted that specialist ACCOs around domestic and family violence need to be supported to provide Aboriginal people with appropriate access to services (e.g. housing, education, health and counselling), and a diversity of services (such as culturally specific and mainstream services), including in regional and remote areas.

There is considerable evidence, both from and beyond the Team’s cases, highlighting the need for the Government to invest in community-driven and controlled solutions that address domestic and family violence for Aboriginal and Torres Strait Islander people. Investment in community-driven and government supported approaches is strongly encouraged by the Team. The Team is also of the perspective that all responses to domestic and family violence, including through mainstream services, should be developed in partnership with Aboriginal stakeholders and communities, so to ensure the capacity of mainstream service responses to truly deliver services and programs suitable for Aboriginal people and communities.

In this review period the Team has also considered that there is currently no peak body around Aboriginal domestic and family violence in NSW. In comparison

187 Blagg et al. *Innovative models in addressing violence against Indigenous women: Final report* (ANROWS Horizons, 01/2018).

188 ANROWS, ‘Culturally and Linguistically Diverse Projects with Action Research initiative Cultural Safety Principles and Guidelines’ (2018) https://201an81kynqg38bl33eh8bf-wpengine.netdna-ssl.com/wp-content/uploads/2019/01/Cultural-Safety-Principles_ANROWS-CALD-PAR.pdf (accessed 12 September 2018).

189 Williams, ‘Cultural safety – what does it mean for our work practice?’ (1999) 23(2) *Australian and New Zealand Journal of Public Health*, 213-214.



to other areas of service provision such as child protection or health, there are peak Aboriginal organisations that are engaged in partnering with NSW Government around policy and change. It was noted that the National Family Violence Prevention Legal Services Forum is a member of the National Coalition of Aboriginal and Torres Strait Islander Peak Organisations who are working jointly with governments revisiting *Closing the Gap*, but that this did not operate as a NSW-specific peak body with a sector-wide perspective. The Team also notes that in November 2019 the Federal Government indicated that it would cease funding the National Family Violence Prevention and Legal Services Forum as of June 2020.¹⁹⁰ The Team is of the perspective that further work needs to be undertaken to support and fund the establishment of a peak body around Aboriginal domestic and family violence service provision in NSW to ensure robust advocacy is supported and promoted, and partnership is encouraged. This peak organisation should be Aboriginal controlled and must be selected by community.

Aside from Aboriginal controlled services, the Team also acknowledges the importance of genuine partnership in developing solutions and responses to domestic and family violence. Genuine partnership approaches to working with communities can be seen through initiatives such as *Yuwaya Ngarra-Li* partnership between UNSW and Dharriwaa Elders Group in Walgett, NSW which is a culture, rights and strengths-focused, localised response to addressing a broad range of social, economic and environmental issues in Walgett. This initiative is premised on two-way learning, and is truly holistic - recognising the indivisibility of social issues for the purposes of healing and wellbeing in community, and the need for community to be involved as active participants in social development and change in Walgett.¹⁹¹ This initiative will be accompanied by evaluations developed and undertaken in partnership with community (against measures that are meaningful to community).

Other initiatives include Justice Reinvestment, which

is a data-driven approach to redirecting money from prisons to fund and rebuild infrastructure and communities in areas most affected by high levels of incarceration. This concept originated in the United States (in response to the issue of increasing African American incarceration) and has been used to underpin establishment of the *Justice Reinvest* program in Bourke, *Maranguka*, auspiced by the Aboriginal Legal Service, and aimed at building community infrastructure and improving community outcomes. The Department of Communities and Justice has advised the Team that key criminal justice programs purpose-built for *Maranguka* include the *Breach Reduction Strategy*; *Domestic Violence Home Visiting Program*; and *Driver Training*. The *Breach Reduction Strategy* aims to reduce offending in the Bourke community by allowing police to issue a warning for any technical breach of bail and pre-emptive contact when police form the view that an Aboriginal defendant may not comply with their bail conditions. The *Domestic Violence Home Visiting Program* aims to prevent (further) family violence by having police visit the home of a perpetrator with a member of community for a check-in, aiming to be both supervisory and supportive. *Driver Training* aims to reduce the high rates of driver licence offending by diverting offenders to take part in a driver training program that provides free access to registered cars and instructors, and assists in sourcing identity documents. This program also provides the opportunity for the person to obtain a *Certificate 1 in Automotive Mechanics*. To date, *Maranguka* has been described as demonstrating promising community development and broad social outcomes, however an evaluation measuring the impact of the work on justice-specific outcomes is yet to be developed.

In recent years there have also been a number of initiatives developed and implemented specifically in relation to domestic and family violence in Aboriginal communities, including publications by mainstream organisations such as Our Watch through their work *Changing the Picture* and *Background Paper*,¹⁹² and driven by Aboriginal communities and organisations

190 Holman, 'Federal Government axes funding to peak body representing Indigenous survivors of domestic violence' (ABC online, updated 6 December 2019) <https://www.abc.net.au/news/2019-12-06/aboriginal-domestic-violence-survivors-peak-body-defunded/11773066> (accessed 8 January 2020).

191 For background see Dharriwaa Elders Group, Submission No 23 to NSW Parliament Legislative Council, *Inquiry into the provision of drug rehabilitation services in regional, rural and remote NSW* (8 December 2017).

192 Our Watch, *Changing the Picture: preventing violence against Aboriginal and Torres Strait Islander women* (Report, 2018); Our Watch, *Changing the Picture, Background paper: Understanding violence against Aboriginal and Torres Strait Islander women and their children* (Background Paper, 2018) <https://www.ourwatch.org.au/What-We-Do/Prevention-of-violence-against-Aboriginal-and-Torr> (accessed 12 September 2018).

such as Wirringa Baiya's *Aboriginal Women's Corroboree* in Redfern,¹⁹³ and *Ochre Ribbon week*. There has also been increased interest in developing specific frameworks for action around addressing family violence in Aboriginal and Torres Strait Islander communities in jurisdictions such as Queensland.¹⁹⁴ In NSW, however, it remains that there is a lack of coordinated action specifically responding to Aboriginal and Torres Strait Islander peoples' experiences of domestic and family violence – notwithstanding that the state of NSW has the highest population of Aboriginal Australians in the country. The Team recognises that issues around Aboriginal peoples' experiences of domestic and family violence arising in this, and other reports, highlight the need for improved frameworks and infrastructure, including through mainstream service provision, to be urgently progressed.

Racism and discrimination

In this report, the Team was particularly concerned about the issue of entrenched racism against Aboriginal and Torres Strait Islander people. In one of the Team's cases involving an Aboriginal woman who was brutally raped and murdered by two non-Aboriginal men, one of the jurors expressed racist remarks in the course of the trial process, and as a result that juror was dismissed.¹⁹⁵ The Team considered that this was illustrative of a broader societal acceptance of racialised and damaging stereotypes, and racism towards Aboriginal and Torres Strait Islander people. The passage of this case through the criminal justice system similarly raised deep concerns about systemic injustice and racism – with charges against these men being initially dropped, a coronial inquest recommending charges again be laid, and it taking extensive community-led advocacy for the case to be re-opened and charges progressed. While the Team is of the perspective that addressing negative and discriminatory attitudes by way of recommendation is

challenging, it is also of the view that addressing racism can begin with addressing it within service provision and response, which can lead to wider conversations about the harm racism causes to individuals and communities.

In August 2019, the *Speak Out Against Racism* (SOAR) study, a first of its kind, surveyed 4,600 primary and secondary students at government schools in New South Wales and Victoria on their experiences of racial discrimination in schools.¹⁹⁶ The study found that 30% of Aboriginal students reported having students spit on them, push them or hit them on the basis of their race, and 20% reported experiencing racial discrimination from their teachers. Schools are microcosms reflective of the values and attitudes held by the wider society, and these results are concerning. According to lead researcher Associate Professor Naomi Priest:

*Racism and racial discrimination profoundly limit opportunities and have potential for serious lifelong consequences. The findings from SOAR show the extent of this burden for many Australian children and present an important call to action.*¹⁹⁷

The purpose of the study was to develop a pilot bystander program to encourage students and staff to address racism in schools and further findings will be released in 2020.

In many cases in this and prior reporting periods, the Team has identified that Aboriginal people also experience discrimination in accessing services while they are experiencing domestic and family violence – including having serious episodes of domestic and family violence fail to progress through police or court proceedings due to the victim being deemed intoxicated or uncooperative. The Team considered that this was indicative of racism, a lack of cultural competency, understanding, or cultural safety within

193 Wirringa Baiya Aboriginal Women's Legal Centre, 'Wirringa Baiya Aboriginal Women's Corroboree Event' at the Redfern Community Centre on Wednesday 5th December 2018. This event is held every couple of years. The event's steering committee is made up of Aboriginal women from community and community organisations to ensure that the community has ownership and feels invested in the outcomes. The services supporting the event are made up of both Aboriginal and non-Aboriginal organisations and government agencies.

194 In 2019, in response to a recommendation of the *Queensland Domestic and Family Violence Death Review and Advisory Board*, the Queensland government released its framework for action around reshaping approaches to Aboriginal and Torres Strait Islander domestic and family violence; recognising the urgent need for a coordinated state-based response to the particular needs of this group. See End Domestic and Family Violence, 'Reshaping our approach to Aboriginal and Torres Strait Islander domestic and family violence' (Queensland Government, 1 September 2019) <https://www.csyw.qld.gov.au/campaign/end-domestic-family-violence/our-progress/enhancing-service-responses/reshaping-our-approach-aboriginal-torres-strait-islander-domestic-family-violence> (accessed 18 October 2019).

195 Case Review 3318.

196 Priest et al, 'Findings from the 2017 Speak Out Against Racism (SOAR) student and staff surveys' *Australian National University* 2019 no.3.

197 Western Sydney University, 'Students face 'confronting' levels of racism at school and in wider society' (News Centre online, 27 August 2019) https://www.westernsydney.edu.au/newscentre/news_centre/more_news_stories/students_face_confronting_levels_of_racism_at_school_and_in_wider_society (accessed 29 August 2019).



some public sector responses to Aboriginal people.

Additionally, challenges were identified in terms of Aboriginal identification, with the Team noting that in a number of its cases Aboriginal people were not always, or not consistently, identified as being Aboriginal. The Team acknowledges that for many reasons, such as fear of racism and discrimination, sometimes Aboriginal people may choose to not identify to services, and in other cases service providers do not ask, or did not see this as important information relevant to service delivery or provision.¹⁹⁸ As noted above, this was one of the challenges identified in the BOSCAR evaluations of the WYP pilot.

The Team is of the perspective that improving cultural safety across services would improve identification: noting that if services were culturally safe, questions around identification would be viewed as relevant to service delivery, and Aboriginal people would feel more comfortable to identify.

In light of these issues, the Team notes the importance of NSW public sector employees working in domestic and family violence-related fields having cultural capabilities, and recognising the challenges Aboriginal people may face in accessing and using systems. As domestic violence is a considerable issue that transects such a broad range of industries, public services and responders, the Team is of the perspective that any attempt to improve competency around service provision likely needs to engage public servants across the breadth of different agencies and portfolios; not just those specifically working in the domestic and family violence sector. Similarly, the Team is of the perspective that similar competencies are necessary for NGOs who are delivering public services. While the Team acknowledges that cultural capability requirements may exist in departments and often in NGOs tendering for government contracts or work, these capabilities need to be improved across service delivery universally, and this improvement needs to occur in partnership with Aboriginal people to ensure these capabilities are meaningful and consistent.

The Team is aware that the NSW Public Service Commission is currently developing a cultural capability framework for the NSW public sector in consultation with Aboriginal Affairs. The new capability framework

will aim to be effective in increasing cultural safety across the public sector for Aboriginal people. In the child and family services sector, the Team also acknowledges that the NSW Stronger Communities Investment Unit (formerly Their Futures Matter) is also currently considering how to build and maintain a culturally competent workforce. The Team notes that this work could be used to model capacity building in the domestic and family violence space. It is noted that the NSW Stronger Communities Investment Unit appears to have demonstrated a preference toward engaging ACCOs to deliver services for Aboriginal families or communities, an approach that the Team would reinforce as critical in the domestic and family violence sector.

Accordingly, in responding to these issues, the Team recommends:

Recommendation 13

That the NSW Government, in partnership with Aboriginal communities and organisations, develop a framework to prevent and respond to violence in Aboriginal families and communities.

The objectives of the framework, subject to consultation with communities and organisations, should be to improve the quality, availability and cultural competency of services across the broad domestic and family violence service system for Aboriginal people.

The framework must include a governance structure that draws together the diverse domestic and family violence service system and has strong connections to NSW Aboriginal communities.

Aboriginal representation in Safer Pathway

Another issue raised during this reporting period were challenges around Aboriginal representation within *Safer Pathway*, including the lack of an independent Aboriginal advocate at *Safety Action Meetings* (SAMs) and representation at the Local Coordination Points (LCPs). The recent *Safer Pathway Evaluation* found that:

¹⁹⁸ For more information on Aboriginal identification and barriers to this, see: NSW Aboriginal Affairs, *Aboriginal identification in NSW: A way forward. An Aboriginal peoples' perspective* (Report, October 2015).

'LCPs with an Aboriginal specialist worker were more likely to make warm referrals than those without, indicating that a specialist worker facilitates a greater degree of culturally appropriate service delivery for Aboriginal victims referred into Safer Pathway'.¹⁹⁹

Accordingly, the *Safer Pathway Evaluation* recommended:

'Legal Aid NSW and Victims Services review the availability of Aboriginal Specialist Worker positions and identify how to address availability gaps in areas with high Aboriginal populations to facilitate greater contact and engagement with Aboriginal victims of DFV'.²⁰⁰

This recommendation has been 'supported in principle' by the NSW Government.

The Team has been advised that not all WDVCS offices are specifically funded to have an Aboriginal Specialist Worker and those that do may not be sufficiently funded for a full-time position. These current constraints mean that WDVCS Aboriginal Specialist Workers are not always able to attend the SAMs due to conflicting commitments, part-time work or leave. Aboriginal victims are therefore often left without any cultural representation at the SAMs. The Team has been advised that from 1 July 2020 each WDVCS will have a full-time Aboriginal Specialist Worker position. The Team acknowledges that this is an important step towards improving the cultural appropriateness of these processes for Aboriginal women and families, but considers that further work is necessary. In order to improve the accessibility and cultural competency of *Safer Pathway*, the Team considers that a pool of Aboriginal Specialist Advocates from a range of services should be created and funded to ensure that there is always independent Aboriginal representation at the SAMs. This advocate should act as an independent representative for the victim – as opposed to attending the SAM in the capacity as an employee of another service (for example a WDVCS Aboriginal Specialist Worker). It was noted that this would give the victim the opportunity to determine who they want representing them in this forum, and would also ensure the cultural safety of these processes.

A further issue raised during consultations for this report is that Aboriginal organisations already working with families were not consistently being invited to the SAMs, and that this represented a missed opportunity for both information exchange and effective work with victims and their families. In relation to this issue, the Team has been advised that there is a limit to the number of NGO providers invited to the SAMs (limited to only one or two), the rationale being that by limiting the number of attendees, meetings remain effective and focused on threat reduction rather than case management. The Team has been advised that additional NGOs may be invited to attend a SAM on an occasional basis, when that organisation is specifically working with a victim on the agenda. However, as it is not always possible to contact each victim prior to the SAM. There are cases in which the SAM Coordinator is not aware of all of the services with which a victim is engaged.

The importance of funding Aboriginal Specialist positions also recognises the disproportionate burden that can be placed on Aboriginal organisations and Aboriginal workers in mainstream organisations to provide advice around working safely with families, when those workers are often expected to undertake additional work as an Aboriginal Specialist Worker and ACCOs already operate on very limited budgets.

In light of these issues, the Team recommends:

Recommendation 14

14.1 That the NSW Government create a pool of independent Aboriginal specialist workers from a range of services to be involved in *Safer Pathway* for Aboriginal people experiencing domestic and family violence.

14.2 That the NSW Government ensure that *Safer Pathway* includes input from independent Aboriginal specialist workers for Aboriginal people experiencing domestic and family violence (with their consent).

In making this recommendation, the Team also reiterates the importance of Aboriginal women being able to choose between Aboriginal and non-Aboriginal support services and resources.

199 See *Safer Pathway Evaluation* (n 82) p. 104.

200 See *Safer Pathway Evaluation* (n 82) Recommendation 19.



Culturally and linguistically diverse people and communities

As a result of the many waves of immigration since British colonisation, Australia today has a diverse and multicultural population. Although it makes little sense to combine the experiences of the range of very different cultures and groups in Australia (as the experiences of different groups are considerably different to one another and shaped by a range of factors internal, and external, to those communities and cultures), culturally and linguistically diverse groups and people are often united by the fact that mainstream service solutions are not always culturally appropriate or adequately tailored to their circumstances. Similarly, culturally-based services, run by community members for community members, may not be adequately funded, or may not exist at all. Culturally and linguistically diverse people and groups can accordingly experience discrimination and racism both in accessing services, and also from the broader community. These experiences impact on the accessibility, suitability and quality of responses to domestic and family violence affecting people in those communities and groups, and contribute to barriers to accessing and receiving these services.

Better understanding the experiences of violence for culturally and linguistically diverse women

The Team's cases demonstrate that people from different cultural communities and backgrounds may experience considerable racism in service delivery, mimicking racism in the broader community, when experiencing issues around domestic and family violence.²⁰¹ Similar concerns with systemic and racist attitudes from service providers were raised during *Kitchen Table Conversations* with women from more than 40 different cultural backgrounds as part of the *National Plan to Reduce Violence Against Women and their Children* consultation processes.²⁰² Women

who participated in the discussions described that mainstream service providers and government agencies may lack compassion for women from culturally and linguistically diverse backgrounds who experience violence, noting:

*They may not believe a woman's experience of violence and may assume she has ulterior motives such as claiming benefits she is not entitled to... some Muslim women participants described abuse and discrimination they experienced while wearing the hijab in public at times of heightened tensions over terror threats in Australia... Some Muslim women do not want to discuss or report family violence or sexual assault in case the issues are framed as specifically Muslim problems and increase prejudice against them.*²⁰³

The Team notes that there is work being undertaken through domestic violence-related pilot projects under the *Women NSW Domestic and Family Violence Innovation Fund* (Innovation Fund) to support culturally and linguistically people and communities. These funded pilots relate to actions under the *NSW Blueprint*,²⁰⁴ which notes that work must be undertaken with both high risk groups, and the whole community. For example, *From the Ground Up to Equality* is a whole-of-community prevention program in Bankstown and Liverpool designed for the Arabic speaking community which is aimed at challenging specific drivers of violence within that community.²⁰⁵

Another program funded through the Innovation Fund is the *Finding Safety* (Jesuit Refugee Service) program, located in Parramatta, Auburn, Blacktown and Cumberland areas. This program is intended to deliver a range of programs aimed at increasing women's knowledge and awareness of domestic and family violence in the refugee community. The *Safety Without Borders* program run by Relationships Australia is another similar program. There is little information publically available around the extent to which these

201 The Team's cases demonstrate that women from culturally and linguistically diverse backgrounds experienced violence from men also from culturally and linguistically diverse backgrounds, as well as men who were born in Australia.

202 Department of Social Services, *Hearing her voice: Report from the kitchen table conversations with culturally and linguistically diverse women on violence against women and their children* (Report, July 2015) https://plan4womenssafety.dss.gov.au/wp-content/uploads/2015/07/cald_womens_safety_report.pdf (accessed 18 October 2019).

203 DSS Kitchen Table Conversations Report (n 202) pp. 22-23.

204 NSW Ministry of Health, *NSW Domestic and Family Violence Blueprint for Reform 2016-2021: Safer Lives for Women, Men and Children*, (August 2016) http://domesticviolence.nsw.gov.au/_data/assets/pdf_file/0004/379849/dfv-blueprint-for-reform.pdf (accessed 18 October 2019).

205 Women NSW, *From the Ground Up to Equality, Arab Council Australia* (online factsheet, 21 August 2018) <https://www.women.nsw.gov.au/download?file=637607> (accessed 18 October 2019).

programs have been developed by, or in partnership with the relevant communities, and the Team has been advised that there will be an outcomes-evaluation for each of these programs. The Team will continue to monitor the implementation and evaluation of these programs over the next reporting period.

The Team also notes that for culturally and linguistically diverse people and families living outside of major cities, there can be further barriers to accessing culturally appropriate services due to limited service availability and choice. The Team notes that this should be taken into account when implementing the recommendations set out below.

Policing of culturally and linguistically diverse people and communities

In a number of the Team's cases in this review period, issues were also specifically raised with the policing of culturally and linguistically diverse people including police: failing to use an interpreter; doubting or minimising victims' experiences of violence; and making culturally insensitive comments.

In *Case Review 3582* the police attended a domestic violence call out and did not use an interpreter when speaking with the victim (a woman who had recently arrived in Australia). The victim had limited English proficiency compared with her abuser who had lived in Australia for many years and spoke English fluently. As officers did not use an interpreter, they were only able to communicate with the abuser when they attended the home. Based on his false account of what had happened, officers incorrectly determined that the victim was the primary aggressor. This was notwithstanding a police history of ADVOs protecting the victim from the abuser.

In a similar case, *Case Review 3585*, police responded to a report of domestic violence and attended the victim's home. The abuser had physically assaulted the victim and attempted to

strangle her shortly before police arrived. Although police noted that the victim appeared visibly upset, they declined further investigation because she spoke '*limited English*' and was determined to be unwilling to report. As with the previous case, police did not use an interpreter.

In *Case Review 3585* police officers interviewing a witness questioned whether the victim wore '*the full face thing*' when she was described as wearing a hijab. The same police officer made several comments to the witness that they had never heard of their religion (prominent in the Middle East) and asked them to spell it out several times.

In previous reporting periods, the Team has identified several instances where police described female victims from certain culturally and linguistically diverse backgrounds as '*emotionally unstable*'²⁰⁶ or '*carrying on*'.²⁰⁷ The Team was of the perspective that these descriptions ultimately undermined these women's experiences of violence and were suggestive of cultural stereotyping and underlying racist attitudes. Similar attitudes were also identified in the current reporting period.

In *Case Review 3603* the victim's new partner killed her ex-husband. While in custody, the new partner made threatening calls to the victim after she tried to end their relationship. When she reported these threats to police she was described as '*appears to be paranoid*' and police classified the report as '*DV-No Offence: No Offence Detected*'. Police did not take further action to protect the victim.

Women from African communities participating in *Kitchen Table Conversations* expressed concerns that police did not treat their experiences of violence with sensitivity and discussed experiencing racism.²⁰⁸ All of the participants in this discussion called for cultural competency training for all frontline services, including police, hospital emergency staff, social

206 *Case Review 3492*.

207 *Case Review 3492*.

208 DSS Kitchen Table Conversations Report (n 202) p. 43.



workers and Centrelink officers. In addition, participants considered that all services should always use professional interpreters, rather than relying on children or perpetrators. This suggestion aligns with current government policies but isn't always adhered to in practice.

During its consultations for this report, the Team spoke to stakeholders who had previously been engaged as NSW Police Force Multicultural Liaison Officers (MCLOs). MCLOs are civilian officers that work alongside police to improve relationships between responding officers and the various communities in the police area command. It was noted that there were few MCLOs operating in NSW at the time of that consultation (31 MCLOs) and that there are challenges in recruiting for these positions. It was also noted that MCLOs tended to gravitate towards working with their own communities, which could cause issues for other groups and nationalities living in the command area who did not always receive the same level of attention. Many MCLOs were nonetheless described as doing exceptional work, and it was noted that the success of these positions was largely personality driven - dependent on the relationship between the MCLO, the community, and the command.

Stakeholders raised particular concern that the education of MCLOs around domestic violence is currently limited and could be improved. It was suggested that given the serious nature of domestic violence affecting culturally and linguistically diverse people and communities, MCLO training/education should be at the same level as that of Domestic Violence Liaison Officers (DVLOs) in the NSW Police Force.

The Team has been advised that there are plans to increase MCLO domestic violence training through a generalist training module starting in 2020. However, the Team remains of the perspective that in order to more strongly support culturally and linguistically diverse people and groups, MCLOs need to have specific education which considers the range of internal and external barriers facing groups and people in the communities they are working with. This should also include training that examines the particular pressures that are placed on women in some communities, threats of shame and exclusion and unique barriers to

seeking help. These themes are also discussed further below.

In light of these issues the Team recommends:

Recommendation 15

That the NSW Police Force require Multicultural Community Liaison Officers to receive comprehensive commencement and regular training in domestic and family violence. This training should be modelled off the Domestic Violence Liaison Officer training, but should also include modules specific to violence in culturally and linguistically diverse communities, and working with culturally and linguistically diverse people, perpetrators of violence and victims of violence.

Community pressure: stereotypes, stigma and shame

The Team notes that some of the most compelling recent discussion of the multiple pressures brought to bear on women from minority communities is expressed by Amani Haydar, a Muslim woman whose mother was killed in a domestic violence homicide. According to Ms Haydar:

Between the screeches of Islamophobes and the booming voice of patriarchy within our own community, there is little room left for Muslim women to share their truths freely.

We want to critique patriarchy, to talk frankly about how rigid gender roles and inequality fuels violence and abuse. But we're also worried our stories will feed the racists or invite family disapproval, victim-blaming and slander.

So, we self-censor, and contain our struggles to private spaces, where our power and influence is limited.²⁰⁹

This sentiment was echoed by woman who participated in the *Kitchen Table Conversations* who raised concerns that culture would be perceived as the cause of domestic violence and that particular culturally and linguistically diverse communities could

²⁰⁹ Amani Haydar, 'I lost my mum to domestic violence but I won't let fear or racists keep me silent' *ABC News* (online, 7 September 2018) <https://www.abc.net.au/news/2018-09-07/muslim-women-are-speaking-about-domestic-violence/10207234> (accessed 18 June 2019).

be stigmatised as more violent than other Australian communities.²¹⁰

The Team reinforces the need to listen to the struggles, activism and perspectives of women from diverse cultures about issues that affect them. In respect of doing this in the context of domestic and family violence, Our Watch notes that:

*Programs must ... be informed and led by communities themselves by drawing on community knowledge, leadership and strengths. Prevention calls for a universal, nationwide approach, in which a range of mutually-reinforcing strategies are tailored to the contexts and needs of different groups. There is also a need for specific and intensive effort with communities affected by multiple forms of disadvantage and discrimination, or experiencing the cumulative impact of many negative factors.*²¹¹

A related issue the Team acknowledges is that many culturally and linguistically diverse women who experience violence censor, or do not report their experiences, due to shame from the community. The threat of being ostracised from their communities can mean the difference between women seeking help, and women remaining to live in fear and violence. This was evident in many of the Team's cases, particularly in respect of victims who survived homicide and were subject to ongoing victimisation through trolling, stigmatisation and shame from other community members.²¹²

This issue was also identified by women who participated in the *Kitchen Table Conversations* who noted that there was a strong distrust of domestic violence services amongst some communities due to a perception these services favour separation and divorce. These community pressures may also discourage women from confiding in counsellors or social workers for the same reason, and can lead to women experiencing violence for decades in isolation.²¹³

The importance of listening to women from culturally and linguistically diverse groups, and developing programs and services which respond to the issues and challenges they identify, cannot be overstated and has led the Team to develop *Recommendation 17*, set out below.

Interpreters

The role of stigma, generally, is an issue requiring specific consideration in terms of responding effectively to domestic violence, but it is noted that stigma was evident in *Case Review 3651*, where a court interpreter did not interpret the words of the witness in Court when she was recounting episodes of domestic violence, and further put pressure on the woman not to disclose to the Court such evidence because it was damaging to the reputation of men in their community. The Team was deeply concerned that for victims and their families, denial of voice and speaking out about domestic violence, represents a deep injustice.

During consultations for this report, the Team was advised that while there is increasing knowledge of domestic violence amongst many interpreters, misrepresentation or stigma remains a considerable issue. Some interpreters would tell women disclosing violence to go back to their husbands, or would withhold their evidence or information in the course of the interpretation. Women interviewed in *Kitchen Table Conversations* raised similar concerns, reporting that interpreters would insert their own opinions into victims' statements or tell victims not to disclose abuse so that incidents of violence in their community would not be exposed. That study also highlighted that interpreting and translating in situations of family violence and sexual assault can be particularly challenging where there is no word or phrase for concepts such as domestic violence or sexual assault within marriage.²¹⁴ In its own consultations, the Team was also advised that interpreters may avoid interpreting for domestic and family violence matters due to the confronting nature of the work.

The Team acknowledges that issues with respect to

210 DSS Kitchen Table Conversations Report (n 202) p. 31.

211 Our Watch, 'Working with Culturally and Linguistically Diverse Communities (Victoria)' (What we do, undated) <https://www.ourwatch.org.au/What-We-Do/Culturally-and-Linguistically-Diverse-Communities> (accessed 30 September 2019).

212 See, for example *Case Reviews 3659 and 3603*.

213 DSS Kitchen Table Conversations Report (n 202) p. 32.

214 DSS Kitchen Table Conversations Report (n 202) p. 40.



interpreters are both widespread and long-standing, and there are several challenges in responding to this issue; including an irregular and casualised work force, with few incentives for unaccredited interpreters to gain or upgrade qualifications. NSW Health provides free domestic violence training for NSW Health Care Interpreter Service practitioners through Education Centre Against Violence (ECAV), however interpreters must be willing to attend voluntarily as this training does not form part of any accreditation process.²¹⁵

The Team has previously made recommendations around interpreters and improving knowledge of domestic violence, and although these recommendations were supported in principle and partially progressed, there remains a lack of mandatory domestic violence training for new and existing interpreters. While training and knowledge about domestic violence is an important education strategy for the cohort of working interpreters, the Team acknowledges that this is unlikely to address the issue of professionalism raised in *Case Review 3651* and is of the view that more compliance mechanisms are likely required to guard against this happening.

Accordingly, the Team recommends:

Recommendation 16

That the Department of Premier and Cabinet work with other jurisdictions to:

1. ensure all new and existing interpreters working in NSW are required to undertake domestic and family violence education at commencement, as part of accreditation and at the revalidation stage; and
2. develop a strategy to ensure compliance amongst interpreters with the rules, regulation and ethical expectations of their profession. This compliance strategy should also specifically ensure that interpreters do not put pressure on victims of domestic and family violence not to disclose violence, and that interpreters accurately represent the testimony or information being provided by victims of domestic and family violence.

Torture and Trauma

The Team's cases from this and previous review periods highlight that people who come to Australia as refugees may have experienced significant trauma (including state sanctioned torture) in their country of origin and that this trauma history has an impact on their use of violence against their partners and families, or their experiences of violence as victims. The compounding effects of this trauma often go unrecognised and unaddressed in mainstream responses to violence.

For example, the homicide perpetrators in *Case Review 3603* and *Case Review 3582* were both victims of torture and trauma in their countries of origin. One of the homicide perpetrators did not disclose his experiences of torture and trauma upon arrival in Australia because he did not want his participation in militant forces and subsequent imprisonment and torture to negatively affect his claim for asylum. Accordingly, he was not offered any support when he came to live in Australia.

The Team notes that addressing trauma is important to ensure that responses to both perpetrators and victims of violence are effective, sustainable and informed and this issue has been considered when developing *Recommendation 17* below.

Visa status

As canvassed in the Team's 2015/17 Report, one of the most significant issues facing women from culturally and linguistically diverse backgrounds is vulnerability arising from impermanent visa status, and this issue was reflected in a number of cases during that review period.²¹⁶ As a result, the Team made a series of recommendations directed at the Commonwealth Government²¹⁷ however there has been very little, if any, action in response to these recommendations (see Chapter 6). Through consultation with Settlement Services International the Team has been advised that vulnerable or impermanent visa status remains one of, if not the most, significant issue for their clients who are experiencing domestic violence.

²¹⁵ The training is available at a cost of \$80 for other NSW based interpreters and \$200 for interstate and private interpreters.

²¹⁶ See *Case Reviews 3312, 3735 and 2969*.

²¹⁷ DVDRT Report 2015/17 (n 72) Recommendation 20.1 – 20.5

Settlement Services International described how temporary migration status can impact all facets of a victim's life when she is seeking safety from a violent partner. Depending on her visa class, she may not be allowed to enter the workforce or have access to free medical care, and may struggle to find stable housing and other relevant supports. Through its consultations the Team learned that, in practice, many women and children on certain visas²¹⁸ are forced to live in poverty as childcare responsibilities prevent them from entering the workforce and they do not have access to other financial support. Notwithstanding that temporary visa status is a well-known barrier to safety for victims and one that has been the subject of numerous reports and recommendations, this issue still persists.²¹⁹

As has been discussed by the Team in previous reports, the immigration system is complex to navigate, and even when there is a visa pathway that supports a victim to leave a violent partner, for example through the family violence provisions in the *Migration Regulations 1994* (Cth), victims may not be aware of these pathways. Further, victims who may be aware of these provisions may not be able to access them due to language barriers or limited access to legal advice.

Improving coordination and visibility of initiatives

The issues and complexities highlighted in this section necessarily impact a victim's capacity to escape a violent partner and reinforce the Team's perspective that investment in targeted services, developed by community for community, is required, as well as investment and a sustained commitment to improving cultural competency in all areas of mainstream service provision.

Having regard to the various issues considered in this section, the Team acknowledges that there are a range of initiatives currently being developed by NSW Government in relation to culturally and linguistically diverse people and communities in the domestic violence space, and that there are also extremely valuable community-led programs operating in various pockets around the State. However, in examining this

issue the Team has raised concerns that there remains a lack of coordination or visibility around this work. It is important that existing programs for culturally and linguistically diverse people and groups are visible, evaluated (with evaluations made publically available) and accessible to community members. The Team also notes that coordinated efforts need to cut across prevention, early intervention and tertiary spaces addressing some of the particular drivers of violence generally, and in culturally and linguistically diverse communities; supporting women to report and receive appropriate services; and providing a comprehensive, culturally competent and supportive responses to both victims and perpetrators of violence.

Accordingly, the Team recommends:

Recommendation 17

That the Department of Communities and Justice develop a framework for responding to domestic and family violence in culturally and linguistically diverse communities in contact with the criminal justice system. This framework should be developed in partnership with communities to:

1. address the specific barriers facing culturally and linguistically diverse communities (including language barriers, barriers to reporting, acculturation stress, vulnerable immigration status and the impacts of torture and trauma); and
2. ensure the availability of culturally inclusive supports and responses to domestic violence.

People with disability

In its previous reports the Team has examined violence against women with disability and it has sought to revisit this critical issue in the current review period. According to the co-published work by People with Disability Australia (PWDA) and Domestic Violence NSW (DVNSW), *Women with Disability and Domestic and Family Violence*, women with disability are more vulnerable to violence due to a combination of disability and gender-based discrimination.²²⁰ Women with

218 For example, visa subclass 444 (ie. a woman in a relationship with a New Zealand citizen).

219 The ASPIRE Project recommended to 'Remove barriers to Centrelink income support and Medicare-funded services for any victim of family violence regardless of visa status.' ANROWS, *Promoting community-led responses to violence against immigrant and refugee women in metropolitan and regional Australia. The ASPIRE Project: Key findings and future directions.* (Compass Research to policy and practice, Issue 08, December 2016) p. 5.

220 Domestic Violence NSW and People with Disability Australia, 'Women with Disability and Domestic and Family Violence: A Guide For Policy and Practice' (2015), p. 2. http://dvnsw.org.au/pwd_doc1.pdf (accessed 30 September 2019).



disability often face discrimination in access to services, for instance women with psychosocial disability (or indeed any form of disability) may experience discrimination and barriers to accessing services due to demonstrating what are deemed 'challenging behaviours' resulting from their disability and their trauma, and may not be believed (or may feel they will not be believed) because of their lived experiences of discrimination.²²¹

Women with disability can also be placed in unique danger where relationships of dependency exist between themselves and their abuser, who they may rely on for their day-to-day care. Combined with a fear of institutionalisation (or actual institutionalisation, for instance in residential care facilities), this may operate to isolate and drive down reporting levels amongst women with disability.²²² Women with disability can face physical, sexual, emotional, and financial violence and abuse unique to their circumstances, and experience particular forms of coercive and controlling behaviour from carers, partners or family. In several of the Team's cases it was also identified that using or experiencing violence could be grounds on which supportive disability services could be terminated.

For instance, in *Case Review 3628* the victim had an intellectual impairment and struggled with daily activities. After her parents died, she was defrauded out of a large portion of her inheritance by a relative, and as a consequence a financial guardianship order was put in place. The woman received daily support for personal and domestic assistance from an NGO service provider to assist her with living independently. She began a relationship with a man who was violent and controlling and she disclosed episodes of violence to service providers, and was observed with injuries caused by the abuser. NGO service providers did not report these injuries to police. Eventually the abuser began refusing to allow the NGO provider access to the woman's home. After several missed appointments, all services involved with the woman determined to place her services on hold. Shortly after the services stopped engaging with the woman, she was killed by the abuser.

In its 2015/17 Report the Team specifically focused on the need to reduce barriers to accessing services for women with disability, recommending:

That Women NSW engage more directly with women with disability and women living in regional and remote areas regarding their challenges in accessing domestic and family violence services with a view to developing specific actions to better support and respond to these priority groups.

This recommendation was supported and the Team has been advised that in response two projects targeting women with disability have been funded by Women NSW under the *Domestic and Family Violence Innovation Fund*.

Building Access for Women with Disability (Building Access Project) is a four year pilot that commenced in 2017 and is currently being rolled out by PWDA in partnership with DVNSW and Women's Community Shelters.²²³ The *Building Access Project* aims to increase accessibility to domestic violence services across NSW for women with disability by inviting these services to audit their accessibility and develop plans to address barriers in order to better meet the needs of women with disability.

The *Building Access Project* is ongoing, however at the time of writing approximately 10 domestic violence service providers had undergone the audit process, developed *Disability Inclusion Action Plans* and received *Disability Awareness* and *National Disability Insurance Scheme* (NDIS) training. Importantly, women with disability were engaged as Disability Access Consultants, to provide input, advice and critical lived-perspectives during the audit process. At least another 10 service providers are scheduled to engage with this project over the next two years.

The Team has been advised that the training component of the *Building Access Project* has significantly contributed to a shift in attitudes, language and practice for the participant domestic violence service providers. Many participants expressed the importance of this training being made available more broadly to the domestic violence sector to address the

221 PWDA Domestic Violence Guide (n 220) pp. 3-4.

222 PWDA Domestic Violence Guide (n 220) p. 5.

223 People with Disability Australia, 'Building Access' (Projects, undated) <https://pwd.org.au/our-work/projects/building-access/> (accessed 30 September 2019).

current lack of understanding around the issues and barriers faced by women with disability, and the scope of this issue. For a number of the services engaged in the audit processes, the audit reports - which included an assessment of service attitudinal, language and physical accessibility - were confronting. These services recommended the development of a resource or tool-kit with more comprehensive information on how to effect change. PWDA also acknowledged the immediate need for this resource however the *Building Access Project* is currently restricted by funding constraints.

Another limitation for domestic violence service providers involved in the project were restrictions and resource constraints relating to the physical accessibility of their premises. Regardless of the level of commitment and enthusiasm from leadership and staff, this issue requires sector wide resourcing from Government to support services to make the changes required. The Team will continue to monitor this project as it progresses and will revisit these issues in its next report.

Between 2017 and 2019 PWDA also delivered an accessible education package, *Respectful Relationships Peer Educators*, for women and girls with intellectual disability.²²⁴ This package (funded for two years by Women NSW) was co-designed and delivered in partnership with women and girls with disability to provide information and practical strategies about safety planning and seeking support. The Team understands that funding for this project has not been extended and that delivery was limited to major metropolitan areas (Newcastle, Central Coast, Wollongong and Sydney) and did not extend to regional or remote areas (as was anticipated in the Team's 2015/17 recommendation).

In considering the issue of the experiences of violence by women with disability, the Team also notes the recently announced *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (announced in April 2019 and scheduled for completion within five years). While there is nothing in the Terms of Reference to indicate that domestic violence will be a focus of this Commission (although it is acknowledged that the Terms of Reference are broad), the Team has undertaken to make a

submission to the Commission in light of its work and the issues identified across cases.

The Team also notes that in NSW the Department of Communities and Justice has recently announced and appointed an Ageing and Disability Commissioner, whose role is to better protect adults with disability, and older people from abuse, neglect and exploitation in home and community settings. The Team hopes that this will promote greater awareness of the issues faced by women with disability who experience domestic violence and improve access to services, support and information for this cohort. The Team is of the perspective that this should be a key focus of the newly appointed Commissioner.

Another issue considered by the Team in this review period has been the limited support options for family members who are caring for people with disability, and may be concurrently experiencing violence from family members that they are caring for (or other family members without disability).

For instance, in *Case Review 3756* after the abuser sustained an acquired brain injury, his violence towards his mother escalated along with his substance misuse. The woman continued to provide support to her adult son with all of his daily living needs, but as a result of his ongoing violence towards her, her mental health declined. Service providers who were assisting the man also threatened to withdraw services due to his aggressive behaviour and substance misuse. As services were contemplating withdrawing from the family, the woman killed her son.

The Team notes that with the introduction of the NDIS a range of family supports can be incorporated into a participant's NDIS plan (and funded by the NDIS) including: counselling; building carer skills and capacity; increasing the independence of people in receipt of NDIS; and increasing the sustainability of family care arrangements. The National Disability Insurance Agency (NDIA) notes, however, that carers who are young, Aboriginal, from culturally and linguistically diverse communities, or from rural and remote areas, may experience particular barriers in accessing support

²²⁴ People with Disability Australia, 'Respectful And Healthy Relationships Training 2019' (Past Projects, undated) <https://pwd.org.au/our-work/projects/past-projects/healthy-relationships/> (accessed 29 November 2019).



and services. The Team also remains concerned that the NDIS only captures a smaller number of complex clients, creating challenges for other carers for people with disability in accessing support.

The Team notes the *NSW Carers Strategy 2014-2019* remains in place at the time of writing, although it is not clear what specific actions have been undertaken under this strategy in respect of responding to the issues identified in this report. Should another strategy be implemented at the conclusion of 2019,²²⁵ the Team is of the perspective that domestic violence involving care recipients and carers should be considered as a priority - to further enhance carer support and access to appropriate services in NSW. This work should also examine the particular barriers experienced by family or kin carers of children or young people with disability who may be concurrently using violence in the home. The Team remains of the view that increasing and enhancing supports for these carers must be a priority in NSW.

Ultimately, while there are a number of initiatives in place in NSW (including as supported by the *Blueprint*) there remain gaps at the intersection of domestic violence and disability for women and victims in NSW. Following from the numerous recommendations of the *Victorian Royal Commission into Family Violence*²²⁶ the Team seeks to reinforce: the importance of further data collection and transparency to determine the scope of the intersection between domestic violence and disability; further supports and coordinated responses to issues at the intersection of domestic violence and disability; and solutions to be developed in NSW in true partnership with people with disability, their advocates, and people involved in disability care.

As a correlate to this issue, and one that has been demonstrated in a number of cases in the current review period, media reporting of domestic violence deaths involving people with disability continues to sensationalise these crimes by focusing on themes such as people with disability being a 'burden' and these homicides being a 'natural reaction' to the

pressures of caring for vulnerable or high-needs people and family members. The Team condemns these characterisations and, while acknowledging the need for appropriate carer support, is of the perspective that the media must improve its reporting – valuing the life and dignity of people with disability.

Finally, it is noted that the Team's current constitution does not include specialist expertise with respect to people with disability. Accordingly, in implementing *Recommendation 34* (discussed later in this chapter but which recommends amendment to the Team's constitution) the Team considers that it is critical that its ongoing work be informed by expertise from a non-government disability service provider.

People engaged in sex work

Over a number of years, the Team's cases have highlighted that women who undertake sex work may experience unique vulnerabilities in respect of domestic violence. While sex work in NSW is partially decriminalised, the Team's cases demonstrate that issues around stigma and discrimination against sex workers persist,²²⁷ and these can interact with victims' experiences and systemic responses to domestic violence in particular ways, which create additional vulnerabilities and barriers for these victims.

Women who currently, or have previously, undertaken sex work appear to be overrepresented in the Team's intimate partner homicide dataset²²⁸ as well as those cases captured in the Team's broader unsolved homicide dataset.²²⁹

During consultations for this report, the Team was advised that the primary issue contributing to sex workers' additional vulnerability to domestic violence is ongoing stigma and discrimination. In 1995 sex work was partially decriminalised as a consequence of sustained sex worker advocacy and in part as a response to the *1995 Royal Commission into the New South Wales Police Service* (also known as the *Wood Royal Commission*). It was initially hoped that this

²²⁵ The Team has been advised that consultations are well advanced on the next strategy. See: <https://www.facs.nsw.gov.au/inclusion/carers/nsw-carers-strategy> (accessed 3 December 2019).

²²⁶ *Victorian Royal Commission into Family Violence*, 'Summary and Recommendations' (Parliamentary Paper No 132, 2014-2016) Recommendations 170 – 179.

²²⁷ *Cases Reviews* 3270 and 3919.

²²⁸ *Cases Reviews* 3270; 3919; and 3724.

²²⁹ These cases fall outside the scope of the Team's review as the homicide perpetrator is unknown and therefore the domestic violence context of the homicide cannot be established.

decriminalisation would legitimise sex work as gainful employment, and that this would have a flow on effect to reduce the stigma and discrimination experienced by workers. However, during consultations for this report the Team was advised that this has not occurred in practice. While there have been some reductions in the stigma around sex work, there remain considerable barriers to sex work being regarded as ordinary work, and sex workers being treated with dignity, and respect - including by their intimate partners. This stigma influences the way victims understand and react to their experiences of violence, the way responders react to victims and perpetrators, and has tacit influences on how domestic violence against sex workers is understood in broader society.

The Team has been advised that stigma and discrimination impact people engaged in sex work professions in many ways, including to:

- Limit victims' willingness to seek help after experiences of any violence (including domestic violence) due to fears around being 'outed' as a sex worker, or being treated differently due to being a sex worker. Consultations highlighted that many victims who were sex workers did experience discrimination from responding police and services due to the stigmatised nature of their work, such as violence against them not being taken seriously. It was noted in discussions that in respect of complaints to police, sex workers should be able to provide evidence and make complaints using their sex working names, rather than using their birth names, particularly where violence occurred in the context of their work.
- Form part of the abusive partner's tactics of coercion and control towards victims. The Team was advised that sex workers' abusive partners would threaten to 'out' them as part of their abusive tactics, or would use victims' tacit fear of being 'outed' to limit their eagerness to approach police responders. If sex workers were conducting their business in ways contrary to law (for instance, in breach of council guidelines around sex work premises) this could be used by abusers, or commercial partners, to intimidate and coerce victims into not reporting.
- Prevent victims from speaking out about domestic violence in family law contexts. As with other

women experiencing domestic violence, children may further complicate this issue for sex workers, with threats about parenting arrangements often made to prevent sex workers from speaking out about domestic violence. Raising sex work history can be done vexatiously as an abuse of process in the family court system. Parties can employ stigma against sex workers to imply the other party is an unfit parent. Litigants can also use outing, or threats of outing, the other party to intimidate, undermine or bully them into agreeing to unfair fiscal arrangements concerning the marital home, or parenting arrangements. This issue is compounded by stigma meaning both sex workers and their partners have the impression, either perceived or real, that a family court would not decide parenting arrangements in their favour if their occupation were to be revealed.

- Influence society's perceptions around the victim's worthiness and perceptions of their responsibility for the violence they experience. Stigma around sex work may make a sex worker feel that their work was the 'cause' of their partner's violence, and thus they might be less likely to identify their experiences as domestic violence. They might excuse violent and controlling behaviours as their partner's ordinary and/or reasonable 'jealousy' about their job – and accept it under the assumption that all will be well when/if they change jobs. The example of the deaths of Jill Meagher and Tracy Connolly (a sex worker) – both women murdered – was raised as an example citing the difference in social visibility between victims who are considered 'innocent' and those whose lives are not deemed as worthy by society.

In light of these issues, the Team is of the perspective that reducing stigma and discrimination around sex work, both for female and male sex workers, is necessary to addressing the additional barriers that sex workers experience when they experience domestic violence. Reducing stigma and discrimination requires a coordinated and holistic approach involving both NSW Government stakeholders, and sex work organisations (such as Sex Workers Outreach Project and Scarlett Alliance).

Accordingly, the Team recommends:



Recommendation 18

That the NSW Government coordinate a roundtable with sex work organisations to examine how to reduce barriers to reporting and outreach for sex workers who experience violence and abuse from their current or former intimate partners, as well as violence and abuse in the context of their work. This roundtable should address the issue of stigma and discrimination against sex workers and how this interacts with victims' experiences of violence.

Issues intersecting with domestic and family violence

Domestic violence in our communities can be augmented, and responses frustrated or challenged, by intersections with other cumulative social issues experienced by perpetrators or victims, including mental health issues and various forms of addiction, such as to alcohol, drugs and gambling. While these issues are not causative of violence, and indeed many people engage in alcohol and other drug use, or gamble, without using or experiencing violence, it is acknowledged that these behaviours – when they become problematic – can intersect with abuse behaviours to worsen violence, create barriers to help-seeking, and create stigma and discrimination. In this reporting period the Team has sought to examine the ways in which social issues such as alcohol and other drug misuse, gambling or mental illness can interact with issues of domestic violence.

Mental health issues

Although in recent decades there have been considerable improvements in the availability of quality services in NSW for people with mental health issues, there continue to be barriers to effective service provision. These include challenges around availability of and access to services across metro, regional and remote areas and stigma around mental illness generally which can result in discrimination, and difficulties associated with treating complex, reinforcing

social issues (such as mental health issues as well as alcohol and other drug issues). Service providers can experience challenges when working with victims or users of domestic violence in these contexts; and victims of domestic violence can also experience various barriers to receiving help when they need it.

Violence victimisation and mental health

A particular issue that the Team raised during this reporting period was perpetrators of violence exploiting victims' mental health issues in the course of their abusive behaviours. In the Team's cases, it was identified that victims of domestic violence appeared more likely to experience mental health issues as a consequence of the violence and abuse that they experienced, but also that women with mental health issues and vulnerabilities appeared more likely to be targeted by perpetrators - who would use access to mental health services, stigma and discrimination to control and coerce their victims. This included women who experienced postnatal depression.²³⁰

For instance, in *Case Review 3604* the abuser told the victim to stop taking her prescribed medication for Bipolar Disorder because weight gain was a side effect. The abuser continually made derogatory comments about her appearance and as a result she developed an eating disorder and ceased taking her medication. A short time later she stabbed and killed her abuser during a manic episode.

In *Case Review 3672* the victim reported multiple episodes of non-fatal strangulation and serious assaults by her intimate partner to both police and healthcare providers. However, when she disclosed these episodes of violence, often with serious and visible injuries, she was frequently not believed and considered to '*lack credibility*' due to her mental health issues and substance misuse. During one emergency department presentation, the victim was described by hospital staff as being an '*inconsistent historian*' with '*discrepancies in her recollection*' after she reported that the abuser

230 See Case Reviews 2295, 3474 and 3834.

had strangled her, before kicking her in the head and throat. A medical examination noted significant bruising over the woman's body, but she was not admitted. The abuser arrived at the hospital and escorted the victim home. A few months later, he killed her.

The particular vulnerability of women experiencing violence and concurrent mental health issues was recognised by the Team in its 2015/17 Report, where it recommended:

12.1 That the revised NSW Health Domestic Violence Identification and Response policy address the safety needs of victims of violence who are being discharged from mental health institutions.

12.2 That NSW Health develop strategies to improve screening rates for women in mental health services.

The Team has been advised that the NSW Health PARVAN Unit is coordinating a Working Group to facilitate implementation of the Team's recommendations. In progressing the recommendations above, Health has undertaken groundwork to revise its *DFV Identifying and Responding* policy and procedures and enhancing IT capability to monitor screening practices across program areas and districts. Although more time is required to complete implementation of this recommendation, this work forms part of a suite of reforms to the NSW Health response to violence, abuse and neglect. For instance, Phase 2 of NSW Health's *Violence Abuse Neglect Redesign Program* (VAN Redesign Program) will focus on promoting integrated responses to violence, abuse and neglect with partner agencies and across the NSW Health system in priority health areas such as mental health and alcohol and other drugs. This is discussed in further detail below.

Carers and families

During this reporting period the Team also considered the ways in which mental health issues can impact

on families in domestic and family violence contexts. Where mental health issues intersect with family or intimate partner violence, family members can experience particular challenges when seeking or receiving help – including where victims are positioned in caring roles for people with mental illness who are concurrently using violence against them. Mental health issues can augment the already significant barriers to help-seeking for family members where there continues to be an ongoing living arrangement and relationship between the victim and the perpetrator.

For instance, in *Case Review 3703* the abuser had a complex history of adolescent trauma, mental health issues, and substance misuse. She would use violence against her parents both when she was using drugs and alcohol and when she wasn't. Similarly, she was abusive both when she was compliant with her mental health treatment regime as well as during periods of non-compliance. Her elderly parents would often use police to de-escalate episodes of violence but were then reluctant to pursue criminal justice charges against their daughter. The daughter spent periods in mental health inpatient facilities, and would then return to live with her parents.²³¹ The parents made arrangements for the daughter to live independently, but she would regularly return to stay with them, particularly during periods when her mental health was declining. During a period where she was living with her parents, the abusive daughter fatally stabbed her mother.

Similarly, in *Case Review 3641* the abuser had a long history of mental health service contact including multiple admissions to hospital, sometimes on a voluntary basis and other times as an involuntary patient. Like *Case Review 3703*, the abuser had a history of perpetrating domestic violence against his intimate partner both when he was well, and also during periods when he was unwell. The abuser's intimate partner told his healthcare providers that she was afraid of her husband and on a number of occasions staff witnessed the man assaulting the woman in

²³¹ It was unclear what supports were provided to the parents upon discharge from the mental health facilities.



healthcare settings (including an episode where the abuser attempted to strangle the woman when she was visiting him in hospital). In the period leading up to the homicide, the abuser was again admitted to hospital on an involuntary basis for a period. He then returned to live with his wife and children and six weeks later, fatally strangled his wife.

The Team has previously made recommendations relevant to supporting family members who care for relatives who are mentally unwell and using violence. In its 2015/17 Report, the Team recommended:

That NSW Health convene a working group to consider strategies to support the safety of family members or carers looking after or living with persons who are suffering from mental illness and concurrently using domestic and family violence (police reported or anecdotal). The working group should consider risk assessment processes concerning the safety of family members or carers (including their risk of violence victimisation from their family member experiencing mental health issues) as part of Community Treatment Order assessments, discharge plans from mental health institutions or from other institutions who may be providing mental health care, and outpatient management plans.²³²

While this recommendation was supported, the Team has been advised that the working group did not progress.

The Team acknowledges that this is a particularly challenging area of work and is encouraged by the *VAN Redesign Program*, which demonstrates commitment by NSW Health to enhance and integrate its response to violence, abuse and neglect. The Team has been advised that NSW Health is intending to work towards addressing the areas outlined in the Team's 2015/2017 recommendation through the *VAN Redesign Program*, including enhancing risk assessment processes and safety planning for family members experiencing

violence by perpetrators with concurrent mental illness. The Team is of the perspective that additional cases considered in this review period reinforce the need to urgently progress substantive actions under both Recommendation 12²³³ and 25 of the Team's 2015/17 Report.

Community Treatment Orders

A number of cases during this review period also led the Team to discuss Community Treatment Orders (CTOs), and specifically compliance with these orders and actions taken in response to breaches. A CTO is a legal order under s51 of the *Mental Health Act 2007* (NSW). The order authorises compulsory care for a person living in the community and is made by the *Mental Health Review Tribunal* or by a Magistrate. The order lasts for a period of up to twelve months and consecutive CTOs are possible. The order sets out the terms under which a person must accept medication and therapy, counselling, management, rehabilitation and other services while living in the community. If a person breaches a CTO, by not complying with the conditions of the order, the person may be taken to a mental health facility and given appropriate treatment, including medication.²³⁴

In a number of the Team's cases in this and previous reporting periods, persons subject to a CTO were using violence and were non-compliant with their CTO conditions. In a small number of cases these orders were in force at the time of the homicide. Through cases and consultation the Team identified that CTO breaches were at times not being responded to by way of admission to a mental health facility or compulsory medication as is anticipated under the *Mental Health Act 2007* (NSW).

For instance, in *Case Review 3680* the abuser had regular police and criminal justice contact in relation to a long history of violent offending against his parents and his intimate partner. The abuser ultimately killed his father. The abuser also had a long history of mental health issues, was

²³² DVDRT Report 2015/17 (n 72) Recommendation 25.

²³³ DVDRT Report 2015/17 (n 72) Recommendation 12: '12.1 That the revised NSW Health Domestic Violence Identification and Response policy address the safety needs of victims of violence who are being discharged from mental health institutions. 12.2 That NSW Health develop strategies to improve screening rates for women in mental health services.'

²³⁴ NSW Mental Health Review Tribunal, 'Community Treatment Orders' (25 September 2018) <https://www.mhrt.nsw.gov.au/civil-patients/community-treatment-orders.html> (accessed 30 September 2019).

regularly admitted to mental health facilities as an involuntary patient, and over the years was subject to numerous CTOs. The abuser had a history of absconding from mental health inpatient facilities and of breaching his CTOs. The man's family were extremely frightened of him and would often inform police and mental health providers when the abuser was breaching his orders, however the abuser would evade authorities by travelling interstate until the orders had expired.

The Team notes that coerced mental health treatment remains contentious. Stakeholder consultations highlighted that while there are good reasons for CTOs to be sought in some cases, these orders can also be punitive and paternalistic. This is especially so where non-compliant clients are brought back to court for coerced treatments when they breach original conditions of the order, as this effectively criminalises that which should properly be regarded as a public health issue. It was noted, however, that concerns about coerced treatment need to be balanced with the need to protect the community, and the person with mental illness, from harm. The Team's cases highlight the difficulties in striking this balance and the tragic outcomes that can result.

This issue has attracted some attention in recent years (see, for instance, the *Coexisting Disorders Project*), however the Team notes that there still appear to be limited structures in place facilitating collaboration between mental health workers, court services and police in respect of CTOs - particularly where clients are breaching CTOs and using violence against family members or partners (including unreported violence). There appears to be an ongoing challenge in responding to people who are using violence concurrently with their mental health issues and ensuring the protection of carers and family members. Some Team members have expressed concerns that CTOs do not have 'teeth' – meaning that they remain difficult to enforce, and this can limit their utility in serving their original purpose under the *Mental Health Act 2007* (NSW).

The Team acknowledges that this is an extremely complex issue that requires a considered and collaborative response from a range of stakeholders. The ability to share information between agencies can

ensure a shared interagency understanding of the risks/context leading to a more effective, supportive and integrated plan for people with a mental illness and who may benefit from a CTO. Accordingly, in its 2015/17 Report (Recommendation 17) the Team recommended:

That NSW Health convene an interagency working group to consider mechanisms by which to rapidly share information between NSW Health and Justice with respect to any existing Community Treatment Orders, clients who may be in breach of Community Treatment Orders when offending, or clients who may benefit from the inclusion of Community Treatment Orders as part of bail conditions. This working group should also consider ways to monitor compliance with Community Treatment Orders for domestic and family violence offenders.

While this recommendation was supported the Team has been advised that the interagency working group did not progress. The Team has been further advised that due to the complexity of this work, a broader discussion is required in relation to the sharing of information in high risk cases so as to facilitate and promote informed interagency planning.

Accordingly, the Team has revised the approach adopted in its 2015/17 Report and recommends:

Recommendation 19

That the NSW Government convene an interagency working group to consider mechanisms to rapidly share information between NSW Health and the Department of Communities and Justice to allow informed interagency planning with respect to mental health consumers (in the community or in custody) who are considered to present a serious risk to themselves or to another person. This working group should consider the role of Community Treatment Orders, courts, police, bail and parole conditions with particular regard to those people at risk of domestic and family violence reoffending and their families.



Alcohol and other drug use

The Team has examined issues around drug and alcohol misuse, and intersections with violence, in a number of its previous reports. These examinations have ranged from considering ways to provide outreach to alcohol and other drug users experiencing or using violence,²³⁵ to addressing liquor licensing laws in NSW – encouraging the Government to exercise care around the availability of alcohol licences in areas considered domestic violence ‘hotspots’ across the State.²³⁶

Methamphetamine use

During this reporting period, an issue of particular concern has been the use of methamphetamine (or ‘Ice’) in the Team’s cases. Methamphetamine use – predominately by domestic violence abusers but in some cases also by domestic violence victims – was a characteristic in almost a third of the cases reviewed by the Team during this reporting period.²³⁷ A number of these cases involved chronic methamphetamine use by abusers in the period leading up to, and at the time of the homicide.²³⁸

For example, in *Case Review 3732* the abuser had started using methamphetamine in the months prior to the homicide while he was concurrently using violence. The abuser also had a long history of domestic violence perpetration before he started using methamphetamine. On the day of the homicide he used methamphetamine then brutally assaulted four people, killing both his mother and a child relative.

In *Case Review 3220*, the abuser was extremely violent and controlling towards his intimate partner, however his abusive behaviour became

increasingly severe when he became involved in methamphetamine drug supply and increased his own usage. He also became paranoid and delusional which intensified the victim’s fear that he would kill her. Ultimately the victim stabbed her abuser in self-defence after he arrived at her house, assaulted several family members and threatened to kill her. After his death he was found to have high levels of methamphetamine in his blood in quantities indicative of ‘chronic use’.

As noted by Dowling and Morgan, there has been an overall increase in the use of methamphetamine in Australia and internationally over the past decade.²³⁹ There is a popular assumption of the association between methamphetamine and violent behaviour, and a large number of studies have highlighted that use of this type of drug can have impacts on social-cognitive functioning and increase general violence.²⁴⁰ According to Dowling and Morgan’s meta-analysis of existing research, there is a high prevalence of domestic violence offending among methamphetamine users, and that these users are more likely to be violent towards their partner than non-users. They note that:

*...as suggested by the literature on substance use and violence more broadly, methamphetamine use likely influences domestic violence offending both directly through its pharmacological effects, and indirectly through its broader lifestyle, relationship and financial effects.*²⁴¹

However, it is important to note that methamphetamine users still only account for a small proportion of all domestic violence offenders and that the direct link between methamphetamine use and domestic violence is not clear.²⁴² Moreover, caution must be exercised when drawing any conclusions about the causal role of methamphetamine use (or any drug or alcohol use) in the resultant domestic violence context death and there remains a need to recognise that many domestic

235 DVDRT Report 2015/17 (n 72) Recommendation 13.

236 DVDRT Report 2015/17 (n 72) Recommendation 14.

237 Ice use was a characteristic in 17 out of 55 (or 31%) of the Team’s in-depth case reviews in this review period.

238 *Case Reviews 3732 and 3220*.

239 Dowling and Morgan, ‘Is methamphetamine use associated with domestic violence?’ *Australian Institute of Criminology Trends and issues in crime and criminal justice*, No. 563 December 2018, p. 2.

240 Dowling and Morgan (n 239) p. 2.

241 Dowling and Morgan (n 239) p. 11.

242 Dowling and Morgan (n 239) pp. 12-13.

violence offenders who use drugs are abusive both when they are drug affected and when they are not. Importantly, methamphetamine use is frequently present along with other risk factors, including polysubstance use and vulnerability to psychosis.²⁴³

The Team notes that at the time of writing the NSW Government is conducting a *Special Commission of Inquiry into the Drug 'Ice'* which aims to investigate the nature, prevalence and impact of methamphetamine and other amphetamine type stimulants in NSW.²⁴⁴ The Convenor made a public submission to this Inquiry, and additionally provided non-public information to the Inquiry – including data and de-identified case summaries – to support the Inquiry's work. The Team looks forward to receiving the findings of this Inquiry in relation to the co-occurrence of domestic violence and methamphetamine use and will consider this issue in future reports.

Carers and families

Another related issue considered by the Team during this reporting period has been how to better support families who are caring for or living with people with problematic alcohol and other drug use, where those people are concurrently using violence. This was a feature in a number of the Team's cases in this reporting period.

In *Case Review 3756* the abuser had experienced significant childhood trauma and as an adolescent developed mental health issues. He began using violence against his mother, which increased in severity after he sustained an acquired brain injury. Following the injury, he also developed problematic drug and alcohol use issues. The mother tried to support her son with his complex and chronic issues, but he continued to use violence against her. The woman's mental health began to decline and she sought help from health providers (GP and a counsellor), disclosing that she wasn't coping with caring for her son. She took sick leave from her job and was diagnosed with depression.

About a month before the homicide, the son seriously assaulted his mother and she contacted various healthcare providers for assistance as she didn't want to engage with police. The woman told healthcare providers that she was afraid her son would end up killing her or someone else, however she received no response following these disclosures. Ultimately the woman ended up killing her son by giving him a fatal overdose of prescription medication.

During consultations the Team was advised that the NSW Government is increasingly providing supports to families for domestic violence and alcohol and other drug use, including through the *2016 Drug Package*. This package was released as part of the 2016-2017 Budget and included a commitment of \$1.5 million to boost support for families and carers with de-escalation strategies, information on understanding relapse, and increased access to parenting programs.²⁴⁵

The Team has been advised that the *Family Drug Support* service and a range of youth treatment services are providing direct support for family members, and there has been targeted health worker training around family inclusive practice, as well as training for GPs around supporting patients affected by family members' drug use.

The Team has also been advised that NSW Health has commissioned the development of evidence-based content focused on de-escalation information and skills to support adults, adolescents and children affected by family members' alcohol and other drug use. This content has also been adapted for Aboriginal families and families from culturally and linguistically diverse backgrounds. Resources around this, which are not yet available, are scheduled to be published on the *Your Room* website²⁴⁶ and print publications for distribution through a variety of settings.

The Team recognises and applauds these initiatives to better support families caring for people with drug and alcohol misuse issues. The Team did, however,

²⁴³ Dowling and Morgan (n 239) p. 13.

²⁴⁴ The Special Commission of Inquiry into the Drug 'Ice', <https://www.iceinquiry.nsw.gov.au/> (accessed 30 September 2019).

²⁴⁵ NSW Health, 'NSW Drug Package - NSW Budget 2016-17' (Booklet, 27 June 2016) <https://www.health.nsw.gov.au/about/budget/Pages/drugs.aspx> (accessed 5 October 2019).

²⁴⁶ NSW Health and St Vincent's Alcohol and Drug Information Service, 'Your Room' <https://yourroom.health.nsw.gov.au/Pages/home.aspx> (accessed 5 October 2019).



query whether de-escalation strategies in a context of domestic and family violence sufficiently addressed underlying concerns for the safety of family members. This was identified as a particular concern with cases that involved elderly parents caring for an adult child.

For instance, in *Case Review 3731*, an abusive adult son with substance misuse and mental health issues, was living with his elderly parents. In the years prior to the homicide the son's violent behaviour, drug use and mental health issues continued to escalate. He threatened to kill his parents, attempted to strangle his mother, and seriously assaulted his father. Meanwhile the abuser was treated for multiple drug overdoses with follow up care by his GP but without any specific drug and alcohol intervention. The man's parents regularly called police to request help with accessing drug and alcohol services but it appears that they received very few (if any) referrals or other intervention strategies. The son's abusive behaviour continued and eventually he murdered his father.

The Team notes that family support is available online, as well as through a 24-hour telephone-based service²⁴⁷ and face-to-face support groups are available through *Family Drug Support*, a state-wide service. Providing multiple avenues to access information for family members is particularly important to overcome access barriers such as remoteness, technological capability, disability and literacy. From the Team's cases, however, it would appear that there remains a lack of awareness about such support services for both victims and responders and highlights the need for further efforts to enhance supports for family members dealing with abuse and violence.

Building integrated response systems

The Team's cases highlight the need for more integrated system responses to address the complex intersections between substance misuse, mental health and domestic violence. This is similarly reflected

in the broader health service population with NSW Health's mental health and AOD services reporting that between 70 and 90 per cent of patients have a history of violence, abuse and neglect.²⁴⁸ NSW Health acknowledges that these patients and their families often have complex needs requiring multiple interventions from a range services but challenges remain in delivering services in a coordinated and holistic manner.

Navigating an intricate and siloed service system can, in itself, be traumatic for an individual and as NSW Health has noted:

*Inconsistent and uncoordinated service responses can further compound poor health and wellbeing outcomes for individuals, families and communities, through secondary (systems-created) trauma and increasing the risk of clients' multiple and interrelated service needs not being met.*²⁴⁹

Accordingly, an effective response system for victims, families and carers experiencing violence necessarily requires an integrated public health approach. Some of the benefits of such an approach include:

- Improved health outcomes;
- Reduction in secondary (systems-created) trauma, in part through coordinated and transparent information sharing arrangements;
- Better meeting immediate and long-term needs through a continuum of post-crisis care;
- Improved access to services through robust referral pathways and service agreements;
- Increased accountability for perpetrators and offenders; and
- Cost effectiveness and service efficiency through minimising duplication.²⁵⁰

247 Family Drug Support Australia Support Line: 1300 368 186, <http://www.fdsonline.org.au/> (accessed 5 October 2019).

248 NSW Ministry of Health, *Integrated Prevention and Response to Violence, Abuse and Neglect Framework* (August 2019), p.42, <https://www.health.nsw.gov.au/parvan/Publications/iparvan-framework.pdf> (accessed 29 November 2019).

249 NSW Ministry of Health, *The Case for Change: integrated prevention and response to violence, abuse and neglect in NSW Health*, (January 2019) p. 6, <https://www.health.nsw.gov.au/parvan/Publications/case-for-change.pdf> (accessed 29 November 2019).

250 The Case for Change (n 249), p.8 (citing Breckenridge, 2016; Humphreys & Healey, 2013; Polaschek, 2016; WHO, 2013).

The Team has been advised that NSW Health is currently undertaking a state-wide *Violence, Abuse and Neglect Service Redesign and Planning Project* (the VAN Redesign Project).²⁵¹ This includes the development of the *Integrated Prevention and Response to Violence, Abuse and Neglect Framework* (the IPARVAN Framework) which aims to promote holistic, collaborative care and enhanced service integration.²⁵²

The implementation of the IPARVAN Framework will be undertaken in two overlapping phases:

- **Phase 1** will focus on identifying the specific efforts required for NSW Health's violence, abuse and neglect services to strengthen integrated responses. This will include developing *Service Standards* which list a range of performance criteria relating to working with families, responding to complex needs and working collaboratively with other NSW Health services and external agencies.
- **Phase 2** will broaden the focus to integrating responses across the whole NSW Health system and with partner agencies. This will include, for example, mental health, alcohol and other drugs, cultural healing services and services for people with disabilities.²⁵³

It appears to the Team, therefore, that there is an opportunity through the implementation of Phase 2 of the IPARVAN Framework to enhance NSW Health's responses to clients and families impacted by substance misuse, mental health and domestic and family violence.

Accordingly, to address this issue and to ensure that practical benefits flow to families and carers, the Team recommends:

Recommendation 20

That NSW Health through Phase 2 of its *Integrated Prevention and Response to Violence Abuse and Neglect*, prioritise initiatives aimed at improving NSW Health responses to victims and perpetrators of domestic and family violence accessing mental health and alcohol and other drug use (AOD) services. Action and initiatives should:

1. facilitate increased integration between NSW Health AOD, Mental Health and VAN services to support risk assessment, safety planning and pathways to further support clients and their families and carers, including *Safer Pathway*;
2. promote increased engagement of NSW Health AOD, Mental Health and VAN workforces, with learning and development initiatives that promote trauma-informed responses; and
3. facilitate collaboration with government partners, relevant peak bodies and NSW Health funded services to promote trauma-informed integrated responses and family inclusive practice between AOD and DFV NGO service providers.

Victimisation and substance misuse

In this review period the Team has also reflected on the additional barriers facing victims of violence who also experience alcohol and other drug misuse issues. A number of the Team's cases in this and prior reporting periods highlighted that women who experience violence may not be believed or may be considered unreliable due to their alcohol or other drug use issues. The Team has also identified that women may use alcohol and other drugs as a way to cope with the trauma from their experiences of violence.

The Team has identified that alcohol and drug use by victims of violence can lead to victim blaming by services and institutions where these victims do not present as an 'ideal' victim. In several cases, perpetrators manipulated negative stereotypes around women who were 'drinking' to undermine or influence

²⁵¹ Violence, Abuse and Neglect (or VAN) is an umbrella term used to describe three primary types of interpersonal violence that are widespread in the Australian community. It refers to domestic and family violence, sexual assault and all forms of child abuse and neglect. It also refers to children and young people displaying problematic sexual behaviour or engaging in harmful sexual behaviour, who often have their own experiences as victims of abuse and neglect. (IPARVAN Framework (n 248), p.10)

²⁵² The Case for Change (n 249), p.4.

²⁵³ For more detail see, IPARVAN Framework (n 248).



service providers' responses to those victims. This reflected instances where perpetrators were able to control the narrative to responders, casting the victim as 'hysterical', uncooperative and intoxicated and themselves as being calm, in control and co-operative. This was particularly a feature of police narratives where, in a number of cases, the victim of violence received a poor police response due to being intoxicated, or having persistent drug and alcohol use issues as a consequence of their trauma, and victimisation.

For example, the victim in *Case Review 3318* endured extreme domestic violence perpetrated by multiple partners which destroyed her self-esteem. The woman used alcohol as a way of self-medicating in response to her experiences of abuse. When police intervened in violent episodes the victim was frequently described as '*non-cooperative*' or as an unreliable witness due to her levels of intoxication. On a number of occasions this appeared to influence the police deciding not to pursue charges and/or ADVOs.

In *Case Review 3919* the victim had a significant criminal history, chronic substance use issues, and a poor relationship with police after she was repeatedly convicted and fined for sex work-related offences in the 1990s. During a reported domestic violence episode police described the woman, the victim of violence in that episode, as having '*a history of lying to police and making false allegations*'. It would appear that this perception of the victim influenced the way police responded to subsequent episodes of domestic violence between the victim and her abusive partner. In the period leading up to woman's death, her abuser called police and falsely accused the woman of assaulting him. Police applied for an urgent ADVO protecting her abusive partner without speaking with the victim who had left the premises prior to police arriving (noting that for urgent ADVOs it is common police practice not to speak with the defendant before applying for the ADVO). A few days later the victim and abuser were drinking together and began to argue. The abuser called the

police and reported that the victim had breached the ADVO. She was later convicted and imprisoned for these offences. She was eventually killed by her abusive partner.

The Team acknowledges that there may be significant challenges for responders when dealing with victims of violence who are intoxicated, including difficulties obtaining statements which may in turn lead to difficulties in successfully prosecuting offences for violence perpetrated against the victim.

However there remains considerable evidence that alcohol and other drug use can attract stigma and discrimination, particularly for marginalised people and groups in society. While experiencing stigma and discrimination may impact peoples' willingness to seek treatment and support for their substance use, responders may also be influenced by negative perceptions of victims of domestic and family violence with co-occurring substance misuse. Stigma and discrimination may mean that disclosures of domestic violence are either not believed or minimised. Team members also noted the disproportionate impact that this stigma and discrimination can have on Aboriginal women who become known to services in relation to domestic and family violence. In a number of cases in this review period Aboriginal women had negative experiences with responding police officers who described them as uncooperative or resistant when police attended in relation to domestic and family violence.²⁵⁴

The Team has been advised that in the healthcare sector training has been developed in an effort to reduce the experience of stigma and discrimination for clients/patients who use alcohol and other drugs in health services. A range of resources are currently available for health workers including online training modules and workshops. For example, NSW Health's Education Centre Against Violence includes a pilot course *Engaging Perpetrators of Domestic & Family Violence: Health Workers Responding in Non-Collusive Ways* which focuses on improving practitioner capacity to identify tactics used by perpetrators to control and manipulate victims and workers and develop strategies to minimise collusion with perpetrators.²⁵⁵ There is also

²⁵⁴ See *Case Reviews 3582, 3318, 3629, 3415 and 3672*.

²⁵⁵ Other examples are 'DV-608 Domestic violence for drug & alcohol & mental health workers' and 'MB-706 - Skills in working with male family violence'.

the *Safe and Together Addressing Complexity* (STACY) project which is a national research project focusing 'on how health workers assess and manage the complexity of intersections of mental health, alcohol and other drug use and domestic and family violence, while maintaining a focus on domestic and family violence.'²⁵⁶

While these healthcare service initiatives are encouraging, the Team is of the perspective that more specific training for service providers and responders is needed in relation to this issue, and specifically additional strategies and initiatives need to be developed to challenge attitudes and stereotypes. The Team accordingly recommends:

Recommendation 21

That the NSW Government ensure service providers working in both alcohol and other drug, domestic and family violence services and the NSW Police Force, receive evidence-based training around working with clients who are experiencing alcohol and other drug use (AOD) issues and using or experiencing domestic and family violence. This training should challenge attitudes and practices that can promote victim blaming, foster stigma and discrimination against victims of violence with AOD issues, and minimise and excuse perpetrators' use of violence and abusive behaviours against victims with AOD issues.

It was also noted that for both victims and perpetrators of violence, the criminalisation of drug use in NSW may operate as a barrier to help-seeking. In a number of the Team's cases in this review period, concerns around drug use impacted both the way victims and perpetrators sought help. The Team identified that victims were unwilling to report violence due to concerns that the perpetrator would be arrested for drug related activity, and that then the victims would suffer further violence and abuse as a consequence of their actions. Victims similarly would not report violence due to concerns they would be arrested or targeted as a drug user.

For instance, in *Case Review 2295* the victim called a relative and disclosed that her abusive husband had threatened to burn the house down while their children slept if she ended the relationship. She also disclosed that the abuser had a gun in the house. The victim was reluctant to report this to police because the abuser was growing illegal drugs on the premises. The relative reported the abuser's threats to police and when police attended they found the drugs. The victim assumed criminal liability for the abuser's drugs and was charged and convicted of drug offences.

The Team remains concerned about this barrier, and notes that this reinforces the importance of access to domestic violence programs and services that do not require engagement with police. This also reinforces the need to consider the relationship between alcohol and other drug use as a public health issue, and not as a crime.

The Team also notes with some concern that through court processes it was common for drug and alcohol use to reduce access to justice for victims and perpetrators of violence. Issues ranged from intoxication impacting legal causation in homicide cases (for instance, the cause of death or the chain of causation being affected by the victim's drug and alcohol use) to the perpetrator's use of alcohol and drugs being used in remarks on sentence to excuse violent behaviours, or reduce perpetrator accountability.

For example, in *Case Review 3426* the abuser was controlling and physically violent towards the victim over the course of their 30-year marriage. Over time the woman's self-esteem and mental health deteriorated and she used alcohol to self-medicate. On the night she was fatally injured, the abuser physically assaulted her while she was intoxicated. She was rendered a quadriplegic and did not survive the operation to stabilise her spinal injury. Ultimately, the abuser was only convicted of common assault, with no other penalty, after the manslaughter charge was withdrawn due to challenges around causation, partly due to the victim's intoxication.

256 IPARVAN Framework (n 248) p.86.



Similarly, in *Case Review 3919* the abuser had a history of using physical violence (as well as other abuse tactics) against his female intimate partner. The woman had been subject to violence from multiple intimate partners and, as a way of coping with her trauma experiences, developed issues with substance misuse. Some of these episodes were reported to police and resulted in charges and ADVOs protecting the victim. A month before the homicide, she disclosed to her son that the abuser had hit her over the head with a brick. On the evening the victim died, a neighbour reported hearing a protracted argument between the couple. The post mortem indicated that the victim had suffered a brain haemorrhage and had numerous assault-like injuries. However, as she was intoxicated at the time of her death and suffered from liver disease (as a consequence of substance misuse), her manner of death could not be sufficiently established. Accordingly, the abuser was not charged with any offences.

The Team seeks to reinforce the importance of not viewing alcohol and other drug use as having a causal relationship with domestic violence. Many people in the community who use drugs or alcohol do not have problems with violence, and many people who use violence do not have issues with drugs and alcohol. Navigating this complex issue is accordingly necessary in both alcohol and drug services and in responses to domestic violence. It is hoped that commentary around the Team's cases can help shed light on these issues.

Perpetration and substance misuse

In this and previous reports the Team has identified issues around men who use violence and are concurrently receiving treatment or intervention for alcohol or other drug issues. The Team has raised concerns around the siloed functioning in particular of domestic violence and alcohol and other drug services, and emphasises the need to establish more integrated approaches to working with people who present to alcohol and other drug services and also use violence.

In relation to this issue, the Team has previously examined the operation of the *MERIT program*, which

is available in most Local Courts in New South Wales. The *MERIT program* provides the opportunity for adult defendants with substance misuse issues to work, on a voluntary basis, towards rehabilitation as part of the bail process. The *MERIT program* provides participants with case management and alcohol and other drug treatment services for a period of three months. Under the program magistrates may refer defendants into treatment which is provided by NSW Health (and some NGOs in a small number of sites). MERIT teams provide health and rehabilitation programs and final reports to the Court which may be considered by the Magistrate in determining the outcome of court matters. This program has been operating in NSW since 2000.²⁵⁷

In its 2015/17 Report the Team raised concerns about the *MERIT program's* treatment of domestic violence offenders. In one case considered in that report the perpetrator was offending against his partner while participating in the *MERIT program*, and despite being charged with domestic violence offences, the focus of his rehabilitation remained solely around drug and alcohol issues. The Team took issue with this siloed approach, and again seeks to reinforce the importance of any intervention around drug and alcohol use and domestic violence addressing both issues at the same time.

In that report, the Team recommended:

That Justice NSW work with NSW Health in relation to the redesign of MERIT to explore strategies to integrate MERIT into the current referral and information sharing framework under Safer Pathway. This redesign should include a requirement that all workers involved in the MERIT program be trained in domestic and family violence.

This recommendation was supported and the Team has been advised that the *MERIT Program* is now engaged with *Safer Pathway* and MERIT workers have been trained in domestic and family violence assessment and referral. It is unclear however whether this training specifically addresses the co-occurrence of alcohol or drug use and domestic violence perpetration, or only relates to assessment and referral of domestic violence victims.

²⁵⁷ Department of Communities and Justice, 'Magistrates Early Referral Into Treatment (MERIT)' <http://www.merit.justice.nsw.gov.au/> (accessed 30 September 2019).

Examination of this issue in this review period led the Team to further consider the availability of appropriate treatments for people using alcohol and other drugs who are also using violence, including to consider the availability of involuntary high-level treatments for people with alcohol and other drug use issues.

This was an issue in *Case Review 3731* which involved an abusive adult son with multiple complex issues including an acquired brain injury; mental health issues; a history of domestic violence perpetration; and substance misuse. At the time of the homicide, the service providing in-home care visits threatened to withdraw services because of his substance misuse and aggressive behaviour towards staff. His healthcare provider was considering having him scheduled to attend a rehabilitation program but this was not progressed before the homicide.

The Team notes that there are very few involuntary inpatient alcohol and other drug treatment facilities in NSW, and that for some patients – such as in the case above – these intensive treatments are likely necessary to prevent harm to the person with substance use issues, and prevent harm to their family or carers. Although these facilities are highly specialised and an option of last resort, access is challenging – with only 12 beds available in NSW (for a period of up to 28 days residency for the inpatient – noting that in some circumstances this can be extended).²⁵⁸

The Team has been advised that increasing awareness of the treatment options available to people who are experiencing alcohol and other drug related issues, particularly for individuals with highly complex needs, is a current priority for NSW Health. While there are a limited number of involuntary drug and alcohol treatment beds, there are other options available such as *Assertive Community Management teams*. These teams target people who fall just below the threshold for involuntary treatment and involve intensive case management and support. Access can be enabled through contacting the *Alcohol and Drug Information Service* or Local Health District alcohol and drug intake lines.

Facilitating access to the most appropriate treatment options available is critical to meeting the individual needs of people with alcohol and other drug related issues. While there may be limited availability of some treatment approaches, building awareness among service providers about what options are available for people who have substance use issues and their families, and how to access these, is an important step towards a more responsive system. Similarly, where there are multiple agencies working to manage the needs of complex individuals, a more integrated approach may assist in establishing clearer pathways between services and service systems.

The Team also discussed more generally the limited availability of these programs and the under-resourcing of this sector more broadly. The Team acknowledges that this is a highly complex issue and one that has been and continues to be examined in detail by multiple government inquiries and inquests. Accordingly, at this stage the Team has determined not to make a recommendation in relation to this issue.

Gambling

During this review period the Team has identified a link between problematic gambling and domestic violence.

For example, in *Case Review 3625* the abuser was a problem gambler and had chronic substance misuse issues. He would steal money from his intimate partner and would also use threats and violence to coerce money from her. The abuser's violence escalated in severity as his gambling escalated. When the victim tried to end the relationship, the abuser would threaten or attempt suicide. After one admission to hospital for self-harm, the abuser was given information about support options for problem gambling but he did not pursue treatment. The abuser fatally stabbed the victim after she told another woman that he had stolen money from her.

²⁵⁸ This program will be subject to evaluation around the time this report is tabled to the Parliament of NSW.



Similarly, in *Case Review 3724* the abuser had a long history of problem gambling and concurrent untreated mental health issues. The abuser used emotional abuse, technology-facilitated abuse and stalking to control and manipulate his wife. As a result of his gambling, he accrued a large credit card debit, pawned items and borrowed large sums of money from his friends and family in attempts to appease his debt collectors. When the abuser eventually disclosed his financial situation to the victim, she took over responsibility for her husband's debt and began to repay the amount through the proceeds from her small business. The abuser continued to gamble without the victim's knowledge and again accrued significant debts. The woman told the abuser that she was going to end the relationship and he grabbed a knife and threatened self-harm. The woman tried to take the knife from the abuser and in the ensuing struggle, he was fatally stabbed. Prior to his death the abuser never sought any treatment or support in relation to his mental health or gambling issues.

While there is only limited research around the co-occurrence of domestic violence and gambling, the existing literature recognises that gambling and domestic violence can intersect in a number of ways including: that perpetrators may use violence against a victim following gambling losses; or gambling may manifest as a way for victims to cope with their experiences of trauma, violence and abuse.²⁵⁹ It is suspected that economic abuse may be particularly associated with domestic violence where it co-occurs with gambling.

In recognition of the limited knowledge around the co-occurrence of domestic and family violence and problem gambling, ANROWS has funded a research project through the University of Central Queensland which is examining the relationship between gambling and domestic violence. The Team notes that this research project is ongoing and looks forward to reviewing the results of this research to inform its future work.

Working with clients with complex issues and needs

This section has considered the challenges and barriers facing people who are using or experiencing violence and also experiencing other complex social issues, such as problematic drug and alcohol use, mental health issues and problematic gambling. In a number of the Team's cases however, people who are using or experiencing violence are suffering these issues concurrently, in complex and reinforcing ways, and as a consequence may become involved in siloed systems that do not manage the complexity of their social issues. Victims may also be forced to elect to prioritise addressing some social issues over others (such as getting housing needs met in advance of addressing domestic violence issues).

For instance, in *Case Review 3919* the abuser used various forms of violence against his partner over their 15-year relationship. Despite the victim reporting some of the violence she experienced to police, these episodes were often categorised as 'DV-No Offence'. Often the primary concern (for her family and responders) was her lack of fixed address and non-compliance with her medication for schizophrenia. The victim was often dealt with by police under mental health provisions and spent periods of time in inpatient mental health facilities. Being homeless made outpatient treatment, support and referrals challenging. She also had a lengthy and complex history of polysubstance misuse and criminal offending. When the victim disclosed episodes of violence by the abuser to healthcare providers, police or her family, she was offered little support in the context of her other issues. She was eventually murdered by her abusive partner.

In its 2015/17 Report the Team recommended:

16.1 That NSW Health conduct a literature review and convene a working group within NSW Health to ventilate relevant issues and develop a model of practice around working with complex

²⁵⁹ Nerilee Hing, 'Project Overview: The Relationship between gambling and domestic violence against women' (Presentation, *European Association for Gambling Studies Conference*, 11-14 September 2018). See also *Case Reviews 3625, 3645, 3651, 3628 and 3724*.

clients with cumulative alcohol or drug, mental health and domestic violence issues.

16.2 That NSW Health convene an interagency forum including with relevant expertise in drug and alcohol, mental health and domestic violence, to develop strategies for improving and coordinating responses to people with mental health, drug and alcohol and domestic violence perpetration or victimisation issues. This may include the development of a coordinated plan of action, referral pathways and complex program interventions across agencies.²⁶⁰

NSW Health has advised the Team that the literature review is expected to be completed in January 2020 and the forum will take place in June 2020. The research questions for the review were developed collaboratively by relevant teams in the Ministry of Health and have been framed to identify existing evidence-based policy and models of practice to respond to service system gaps and issues identified by the Team. This includes a proposal for further analysis of identified best practice models against system design principles of the *IPARVAN Framework* discussed earlier in this chapter.

The Team seeks to reinforce the importance of complex service delivery responses to complex social issues, and cases in this reporting period highlight that this still remains a challenge for current systems. Accordingly, the Team emphasises the need for ongoing progression of its previous recommendations and is of the perspective that this sustained effort will support the implementation of *Recommendation 20* of this report.

Responding to domestic and family violence in healthcare contexts

The Team has previously sought to highlight that healthcare services operate as soft entry points into the domestic violence system. This has also been recognised at both a state and federal level, most notably through COAG who has sought through Health Ministers to reinforce its commitment to improving the primary care response to people experiencing violence,

and take relevant action.²⁶¹

In this report, the Team has chosen to focus on emergency healthcare settings and general practitioner services, seeking to better understand from its cases how these responders can be equipped to more appropriately respond to victims and perpetrators of domestic violence who interact with healthcare systems.

Emergency healthcare settings

In a number of its previous reports the Team has examined cases where victims of violence present at hospital emergency departments with domestic violence related injuries, but do not disclose domestic violence. This has again been a feature of cases reviewed in the current reporting period.

For instance, in *Case Review 3545* the abuser threw the victim across the room in a domestic violence episode causing her to lose consciousness. When the victim regained consciousness she began vomiting and went to the emergency department. She presented with injuries to her tailbone and head and told staff that she had fallen while she was intoxicated. She was prescribed pain relief but there was no evidence that any inquiries were made by staff about domestic violence. She did not report the matter to police but confided in a number of close friends about the assault.

In its 2015/17 Report the Team recommended:

That the NSW Government appropriately resource NSW Health to ensure that Level 4 and above hospitals with a 24-hour emergency department are appropriately supported by 24-hour psychosocial resources to support the safety of victims.

The Team has been advised that the NSW Health *VAN Redesign Program* (described earlier in this chapter) will enhance the capacity of the public health system to provide 24-hour, trauma-informed and trauma-

²⁶⁰ DVDRT Report 2015/17 (n 72).

²⁶¹ Council of Australian Governments Health Council, 'Improving the primary care response to family violence' (Communique, 13 April 2018) <https://www.coaghealthcouncil.gov.au/Announcements/Meeting-Communiques1> (accessed 15 August 2019).



specific integrated psychosocial, medical and forensic responses to sexual assault and child physical abuse and neglect presentations, as well as broadening the scope of these services to respond to domestic violence presentations. The Team will continue to monitor this issue in subsequent reporting periods to determine the extent to which the *VAN Redesign Program* is redressing this issue.

The Team has also previously made recommendations regarding improving responses to domestic violence in hospital emergency departments by implementing domestic violence screening in that setting. In response to these recommendations, NSW Health completed a feasibility study which found screening in Emergency Departments to be both feasible and acceptable. However, the study highlighted areas for further testing and modifications to support increased screening rates and streamlined responses.²⁶² In 2019 NSW Health was awarded funding through the *Commonwealth Health Innovation Fund* to pilot *Domestic Violence Screening and Response* in selected Emergency Departments. The *DV Screening in Emergency Departments Pilot* will build on the findings of the *NSW DV Screening and Response Feasibility Study*. The three year project will be delivered in six Emergency Departments across three LHDs and will inform the ability to scale routine screening in emergency departments across NSW. The Team welcomes this development and will monitor the implementation of this project in future reports.

General Practitioners

The Team has previously highlighted the important role that healthcare service providers, and in particular General Practitioners (GPs), can play in responding to domestic violence. Cases reviewed by the Team for this report, however, continue to demonstrate that GPs often lack the specialised knowledge required to mitigate risk and ensure the safety of victims - for instance problematic practices such as co-counselling victims and perpetrators can augment risk and endanger victims. Moreover, the Team's cases demonstrate that many health workers (including GPs) do not have the requisite skills to undertake interventions with perpetrators. In recognition of these

issues the Team has previously identified the need to support GPs in respect of recognising and responding to domestic violence, and also highlighted the importance of GPs having the ability to refer into *Safer Pathway*.²⁶³

The role of GPs has again been the subject of consideration by the Team in this reporting period although with a more specific focus. In numerous cases reviewed by the Team for this report general practitioners (GPs) were providing the majority of mental health care to victims and/or abusers with mental health issues. Additionally, the Team's cases demonstrate the significant support provided by general practitioners for patients who are experiencing alcohol and other drug use issues and concurrently using or experiencing violence.

For instance, in *Case Review 3676* the abuser had longstanding physical and mental health issues which were managed by the same treating GP for over 20 years. The GP prescribed the abuser various antidepressants, although he was aware that the abuser was often non-compliant with his medication regime. The abuser was admitted to hospital on a number of occasions following episodes of self-harm, with his post-discharge care to be managed by the same GP. The victim, who also attended the same GP as the abuser, disclosed to the GP that the abuser was aggressive towards her during arguments. It does not appear that the GP made any referrals for domestic violence services for either the victim or the abuser following these disclosures.

In *Case Review 3426* the abuser reported to the victim's GP (as well as her employer) that she had problematic alcohol use. The GP requested that the abuser accompany the victim to her subsequent appointments as a result of this. The GP prescribed the victim medication for alcohol dependency as well as antidepressants, however, there was no evidence that the GP ever screened the victim for domestic violence or sought to otherwise explore

²⁶² Prevention and Response to Violence, Abuse and Neglect, *NSW Health domestic violence screening and response in NSW Emergency Departments: Feasibility Study* (NSW Ministry of Health, August 2019) <https://www.health.nsw.gov.au/parvan/DV/Pages/dvs-emergency-departments.aspx> (accessed 30 November 2019).

²⁶³ DVDRT Report 2015/17 (n 72) Recommendation 9; and the commentary at p. 95.

this issue in the context of the victim's alcohol use and depression. The victim self-referred to a residential alcohol rehabilitation clinic but the abuser undermined her attempts to overcome her alcohol issues by serving her alcohol as soon as she returned home. The abuser also discouraged the woman from attending Alcoholics Anonymous or from receiving any ongoing mental health treatment. The victim eventually stopped attending her GP (who continued to insist that the abuser accompany the victim to her appointments) or any other healthcare provider, and did not receive any further support for her alcohol dependency or disclose the violence she was experiencing.

In addition to highlighting limitations in responding to domestic and family violence, these cases highlight that managing mental health issues and/or alcohol and other drug issues can present particular challenges for GPs, who may have limited consult times and/or expertise in co-occurring health and social issues.

The opportunity to improve primary healthcare responses to domestic violence has been recognised as a national issue. In April 2018 the COAG Health Council committed to enhancing primary care responses to domestic and family violence.²⁶⁴ Further, the Commonwealth Health Minister has recently announced \$9.6 million in funding to expand the Brisbane South PHN's *Recognise, Respond and Refer Program* to a further four regions and, to provide training to up to 5000 GPs across Australia.²⁶⁵

The Team welcomes these Commonwealth initiatives and is of the perspective that this highlights the need for sustained and coordinated efforts at the state level to promote and improve linkages between GPs, mental health and AOD service provision.

Accordingly, the Team recommends:

Recommendation 22

That NSW Health work with relevant stakeholders, including the Commonwealth, to continue to strengthen the pathways between GPs, mental health and/or alcohol and other drug services. This should include work to promote a range of resources to support GPs to identify and respond to victims and perpetrators of domestic and family violence.

Responding to domestic and family violence in child protection contexts

In recent years inquiries such as the Victorian Royal Commission into Family Violence have examined the interrelationship between child protection and domestic violence issues.²⁶⁶ Amongst its many findings, the Commission found that the siloing of services had detrimental impacts on victims and their families, and criticised (and sought to rectify) the lack of coordination around implementation of responses to domestic violence within and across government agencies. For the Team in this review period, it has raised similar concerns about some of the gaps in the system, particularly for children who experience domestic violence. For these children, the Team has focused on examining aspects of the way in which the child protection system operates to respond to children living with violence.

A key concern for the Team during this review period is the triage of Risk of Significant Harm (ROSH) reports concerning domestic violence. As discussed at the beginning of this chapter, in many of the Team's cases in this and prior review periods, child protection services had been notified of police-reported domestic violence but these reports failed to reach the ROSH threshold and therefore did not receive a statutory response - often despite multiple reports being made by police over short periods of time. In other cases, reports reached the ROSH threshold, but were then closed without allocation, or closed due to competing priorities. The Team considered that these cases demonstrate missed opportunities to provide support to, or work with, vulnerable children and families,

264 COAG Health Council Communique (n 261).

265 NSW Ministry of Health, '\$9.6 million to boost domestic violence care' (Media Release, 5 March 2019) <https://www.health.gov.au/ministers/the-hon-greg-hunt-mp/media/96-million-to-boost-domestic-violence-care> (accessed 12 November 2019).

266 Victorian Royal Commission into Family Violence (n 226) p. 23.



and can expose children to ongoing trauma. While it is acknowledged that case management and triage approaches require reports to be prioritised (and 'screened out' where not meeting the threshold) the Team remains concerned that domestic violence exposure may not be treated as sufficiently serious in child protection contexts, despite its traumatic and long-term impact on affected children.

For example in *Case Review 3711* a child victim remained in the care of an abusive parent until their mid-teens despite over 75 reports being made to child protection outlining concerns about domestic violence, physical, verbal and psychological abuse, deteriorating mental health and psychosis, neglect and drug use. When reports were closed for competing priorities or not followed up, further reports were also made to the child's school, the police and a local Member of Parliament. However, these concerns were all referred back to child protection services and there was limited intervention until a police officer witnessed an episode of violence when the child was a teenager and an ADVO was made to protect the child from their parent. As a consequence of their childhood trauma, the victim developed serious mental health and substance misuse issues, and was unable to complete his schooling despite being academically gifted.

In *Case Review 3732* child protection services placed four grandchildren in the care of their grandmother without providing any ongoing support or oversight of the placement. The grandmother was herself a victim of domestic violence from multiple perpetrators including her intimate partner, her three adult children and their partners. Police regularly attended the woman's property in response to reports of domestic violence, and during many of these episodes the grandchildren were present and/or victims to the violence. Police reported these episodes to child protection services however there was no assessments or support provided to the family. Ultimately the woman and one of the children in her care were killed by her abusive adult son.

As described earlier in this chapter, the 2017 ANROW's *PATRICIA Project* examined this issue, comparing how child protection systems dealt with families where domestic violence was reported to cases where such violence was not reported. This analysis was undertaken in response to concerns that the child protection system was being inundated with reports involving domestic violence, many of which did not meet the threshold for significant harm and were not being adequately dealt with. The project identified that across Australia domestic violence accounted for 19% of all reports to child protection. Reports made about children exposed to domestic violence were less likely to be investigated in comparison to children reported for other non-domestic violence-related concerns, with only a third of reports about domestic violence investigated.²⁶⁷

The Team acknowledges that in response to recent recommendations made in the *Inquests into the deaths of BLGN and DG*,²⁶⁸ DCJ (Child Protection) has indicated that it is undertaking work to specifically examine the types of ROSH reports being allocated, referred to services, or closed due to competing priorities at triage, and undertaking further evaluation around the triage and closure of ROSH reports more generally.

The Team has also been advised that in progressing this work, the *Child Protection Helpline* has implemented a number of changes to screening processes and decision making tools, such as re-defining the domestic violence indicators in the *Screening & Response Prioritisation Tool (SCRPT)* to incorporate a broader range of domestic violence categories and to support consideration of the cumulative impact, severity and chronicity of violence in the home. The Team has been advised that this re-definition seeks to challenge narrow understandings of violence, aiming to promote better identification of domestic violence as a repeated pattern of behaviour presenting a risk to safety, and ensuring greater consistency in screening decisions.

The Team has been advised that there has also been a significant increase in face-to-face assessments for children and the rollout of new supervision strategies for child protection workers, including Group Supervision across NSW to promote shared decision making for complex casework decisions.

²⁶⁷ ANROWS PATRICIA Report (n 48), p. 26.

²⁶⁸ *Inquests into the deaths of BLGN and DG* (Unreported, State Coroners Court of NSW, DSC Grahame, 8 June 2018)

On a broader scale, the Team has been informed that work is underway on the *System Transformation* (formerly known as *Access System Redesign*) which is a proposed 10-year multi-agency transformation of the child and family service system and includes the work being undertaken by the NSW Stronger Communities Investment Unit (formerly Their Futures Matter). The stated goal is to design a system where child wellbeing and protection is delivered in the context of family and community, and vulnerable children and families are connected with the services and supports they need at the earliest opportunity. This includes strengthening intake, assessment and referral pathways before children and families require a statutory intervention. The Team notes that many of these projects are still underway and will continue to monitor the progress of these reforms in future reporting periods.

However, one area that the Team has identified which does not form part of a specific area of reform are the barriers to effective integration between the child protection system and the primary mechanism for responding to violence in NSW, namely *Safer Pathway*. Discussion of the issues arising in the Team's cases highlighted that there is a lack of integration in referral pathways and limited engagement between these two large social service systems. In many of the Team's cases it was identified that parents experiencing domestic violence did not receive integrated support from child protection systems (although they were engaged with these while experiencing violence).

For instance, in *Case Review 3669* the teenage victim, who was also pregnant with her first child, experienced physical and psychological abuse from her older intimate partner. The abuse was reported to police and the victim's unborn child was referred to child protection services, but no support was provided to the victim herself. Similarly there was no acknowledgment that the victim was also herself a child-at-risk, and had her own extensive child protection history. After the baby was born, the victim became homeless and despite multiple reports to child protection services about domestic violence, these reports were determined not to reach the ROSH threshold. The victim was ultimately killed in a brutal assault by the abuser.

The Team's consultations in this and prior reporting periods continue to highlight the siloed approach to child protection and domestic violence matters, including that tools such as the DVSAT are still not completed by child protection workers to coordinate effective triage into domestic violence response systems. Based on the recent *Safer Pathway Evaluation* it would appear that there continues to be little coordination at any stage between *Safer Pathway* and child protection systems. Further, the *Safer Pathway Evaluation* identified irregular and low attendance by child protection representatives at the SAMs which involved discussion of children who were known to child protection services. This minimal involvement in *Safer Pathway* by child protection representatives limits the knowledge and engagement of these services with specialist domestic violence services and other agencies.²⁶⁹ As noted earlier in this chapter the lack of non-police referrals into the SAMs was also identified as an area of concern in the *Safer Pathway Evaluation*. While it was recommended that referral pathways into the SAMs be expanded, the Team has been advised that child protection is not one of the agencies specifically targeted in the *Safer Pathway Referral Expansion Working Group* pilot - as the focus is on non-government service providers.

The recently released *Family is Culture Report* (FIC Report), which presents the findings of an independent review of Aboriginal children and young people in Out of Home Care (OOHC), also examined this issue and made similar findings. The FIC Report found that:

Despite the NSW Safer Pathway system being in place, cases highlighted that FACS records revealed little knowledge of, or outreach to, this domestic and family violence system. There is also no evidence of families becoming involved in the multi-agency Safety Action Meetings (SAMs), despite in at least one case it being suggested that FACS actively refer a family into this meeting, and in one case the family being assessed as meeting the Domestic Violence Safety Assessment Tool (DVSAT) threshold for SAM entry (high risk of serious domestic violence).²⁷⁰

²⁶⁹ Safer Pathway Evaluation (n 82) p. 36.

²⁷⁰ Davis, *Family is Culture: Independent review of Aboriginal children and young people in OOHC* (Review Report, October 2019) p. 169.
https://www.familyisculture.nsw.gov.au/_data/assets/pdf_file/0011/726329/Family-Is-Culture-Review-Report.pdf (accessed 12 November 2019).



Accordingly, the FIC Report recommended:

Recommendation 30: *The Department of Communities and Justice should mandate the use of the Domestic Violence Safety Assessment Tool by caseworkers where parents are present, or screen-in, in relation to domestic and family violence related issues. This tool should be used to coordinate parents' involvement in the Safer Pathway system. Roll out of this approach needs to be accompanied by further training and education for caseworkers and casework managers around identifying domestic and family violence including coercive and controlling behaviours. Consideration should be given to involving caseworkers in Safety Action Meetings where parents are assessed as being at serious threat and become involved in these meetings.*²⁷¹

The Team supports this recommendation and hopes that the recent integration of the departments of Justice and Family and Community Services in NSW (now known as the Department of Communities and Justice), will promote and enhance further integration between child protection and domestic violence systems.

In light of the issues raised in this section the Team recommends:

Recommendation 23

That the NSW Government examine ways to improve coordination between *Safer Pathway* and the child protection system, including to consider ways to promote cross-referral within the systems and improve supports for parents and families who are experiencing concurrent child protection and domestic and family violence issues.

The Team has raised concern in this and prior reporting periods about the ways in which gender and responsibility have been constructed through child protection services to hold female victims of violence responsible for the violence used against them and their children by male perpetrators. In many of its cases the Team has identified that female parents - who are also victims of violence - continue

to be held to a high standard of responsibility for exposing their children to violence, when they are in fact victims of violence who should be treated and supported as such. Concerns also remain about the limited accountability extended to male parents, or perpetrators, in these settings.

For instance, in *Case Review 3676* child protection services conducted a home visit and observed the parents' house to be in an untidy and unhygienic state. Shortly afterward, caseworkers returned with police to remove the children. One of the grounds for the warrant listed the mother's inability to cope with household and family responsibilities, but did not list the father as similarly responsible for these domestic duties. The father's abusive and aggressive behaviour towards the mother and the children was also listed in the warrant as a reason for the children's removal. No support was provided to the mother, who was a long-term victim of violence, after or prior to the children's removal.

The Team has been advised that in recent years the DCJ (Child Protection) has sought to rectify some of these issues by reviewing its approach to practice with vulnerable families, including those experiencing domestic violence issues. In 2017, FACS (as it then was) launched its *NSW Practice Framework*, which contains the principles, values, mandates, approaches and systems that underpin child protection work. As part of this Framework FACS incorporates dignity-driven practice, which is underpinned by the work of Dr Allan Wade and the Centre for Response Based Practice.²⁷² This approach seeks to support caseworkers and staff members to identify victims' acts of resistance to violence, and to recognise their behaviours as manifestations of resilience. What is not clear, however, is the extent to which this high level policy approach has influenced casework practice on a broader scale within the department, including on the ground, or the extent to which it has shaped departmental responses to mother's who are experiencing violence and attempting to care for and protect their children.

²⁷¹ Family is Culture Report (n 270) p. 171.

²⁷² Centre for Response-Based Practice, <https://www.responsebasedpractice.com> (accessed 5 August 2019).

The Team notes that the submission by Women's Legal Service NSW to the FIC Report indicated:

In the context of domestic violence, it is often the case that rather than holding the perpetrator (often the father) to account, the mother is punished for not acting in a so-called 'protective manner' ... [and it is] the mother who is unfairly seen as responsible for dealing with the consequences of violence in a child protection context.²⁷³

The FIC Report also found examples in cases where the mother's violence victimisation was conflated with their failure to meet caseworker's gendered expectations around their responsibility as mothers. Accordingly, the Review made the following recommendation:

Recommendation 31: *The Department of Communities and Justice should provide targeted and ongoing education about the Dignity Driven practice approach to staff at all levels of the agency, including caseworkers and senior managers. Education should require all staff to complete training developed by and delivered in partnership with Aboriginal domestic and family violence specialists regarding the issues facing Aboriginal women who experience domestic and family violence.²⁷⁴*

The Team supports this recommendation and has been advised that research has commenced to examine the attitudes and skills of over 1000 DCJ (Child Protection) and OOHC practitioners in relation to their work with families where domestic violence is a reported issue. The Team has been advised that the findings of this research will inform targeted strategies to support practitioner's understanding of gendered imbalances of power and responsibility and skills to address this when intervening in these cases.

Further, the Team has been advised that the training program for new caseworkers – the *16 week Caseworker Development Program* – is currently being redesigned by the Office of the Senior Practitioner, with the intention of aligning content with the *NSW Practice Framework* which will include contemporary training about domestic violence.

DCJ is also currently developing the *Communities Domestic and Family Violence Strategy 2020–2025* which will include further recommendations for workforce development.

Given the above, the Team will continue to monitor this issue throughout the next reporting period.

Responding to domestic and family violence in education contexts

In a number of the Team's cases during this and previous review periods, children were attending school while experiencing significant domestic violence at home. While it has long been recognised in this, and other reports, that school can act as a site of early intervention and education for children (for example through programs such as *Respectful Relationships* in NSW), to date the Team has undertaken little analysis of the way in which schools manage the day to day reality of working with children and families who are using or experiencing violence, including child abuse and neglect.

In Case Review 3705 a girl in Year 7 was the victim of extreme physical abuse by her step-father. She often did not attend school due to her injuries and these absences were often unexplained. On one occasion she missed a number of weeks of schooling because her step-father had broken her jaw and knocked out a number of her teeth in a brutal assault. The girl's parents told the school she was away overseas and despite her history of chronic absenteeism and lateness this assertion was apparently accepted by the school. The girl's school friends observed her with bruises and cuts but the teachers at the school said that they did not notice these injuries and commented that she was simply a quiet and diligent student. The girl died as a consequence of a brutal and sustained assault by her abusive step-father.

273 Family is Culture Report (n 270) p. 168.

274 Family is Culture Report (n 270) p. 171.



In *Case Review 3711* a teenage boy was protected by an ADVO from his mother who had been physically and emotionally abusive towards him from a young age. The ADVO included conditions that precluded the mother from contacting or approaching the son, however the mother began using the boy's school to try and facilitate contact. The boy would often be taken out of class to deal with his mother's contact requests, which disrupted his learning and caused him severe stress and anxiety. Despite being a highly academically gifted student who enjoyed school, he was unable to complete Year 11 due to serious mental health issues. He engaged in problematic substance use in an attempt to self-medicate his trauma.

The Team acknowledges that there is strong coordination between the Department of Education and DCJ (Child Protection), and that the *Mandatory Reporter Guidelines* provides robust pathways between these systems and the *Child Wellbeing Unit* (CWU) system. However, as discussed earlier in this chapter, the Team remains concerned with the adequacy of the child protection response to domestic violence, and specifically the limited support that is often offered to vulnerable children and families through this pathway. Earlier in this chapter it is also noted that where children do not receive a child protection response, there is little integrated support available responding to their experiences of domestic violence. Further, while the *CWU system* has been established in NSW for almost a decade, the Team remains concerned that some families may still fall through the cracks of these systems. This can expose children to a significant risk of violence and abuse, and in some cases death.

The Team has been advised that the Department of Education is currently undertaking a review of its child abuse and neglect indicators, including indicators of domestic violence. This is important work – the need for which is supported by cases during this review period - and the Team looks forward to the release of the updated indicators. These revised indicators are

also to be supported by training, and the Team seeks to reinforce the importance of all Departmental staff being trained to identify and respond to indicators of domestic violence.

The Team has also been advised that the Department of Education has recently reviewed policies around student non-attendance, strengthening correlation between chronic non-attendance and child protection concerns about educational neglect. As the Team's cases highlight, non-attendance may be an indicator of issues at home (including domestic violence) and must be taken seriously, and responded to, to ensure the safety and wellbeing of school-aged children.

To improve staff awareness and support schools in understanding the domestic violence service system (for instance, ADVOs with exclusion orders) the Department of Education has introduced *Family Law and The School Guidelines*, as well as the *Incident Support Response Unit*. The Health and Safety Directorate has an *Incident Report and Support Hotline* staffed by police officers and education staff to provide a point of contact for immediate expert advice and response on police and safety matters and incidents in schools.

The Team welcomes the various initiatives described above however in light of the issues arising in the cases, the Team believes that the Department of Education would benefit from a specific strategy to address domestic violence which involves responding to families and children where this is a feature of their lives. This strategy should take into account the Department's existing work, and should aim to equip staff with the skills to identify and respond effectively and safely to issues of domestic violence.

Accordingly, the Team recommends:

Recommendation 24

That the NSW Department of Education develop a specific strategy aimed at strengthening the Department of Education's overall response to students who are using or experiencing domestic and family violence at home.

This strategy should focus on increasing the competency of Departmental staff to:

1. identify where domestic and family violence is occurring in families or for students in the NSW public education system. This may include understanding risk and vulnerability indicators for domestic and family violence, as well as coexisting indicators such as non-attendance or educational neglect;
2. respond effectively and promptly to concerns around domestic and family violence where these are identified; and
3. support students where their families or parents are using or experiencing domestic and family violence.

This strategy should take into account legislative mandates around child protection matters, but should focus on providing additional practical support and training for staff and students involved in the NSW public education system, tailored to the specific issue of domestic and family violence.

Responding to domestic and family violence in housing contexts

Domestic violence is the main reason women and children leave their homes in Australia and is consistently one of the most common reasons clients seek assistance from Specialist Homelessness Services.²⁷⁵ In a number of its prior reports the Team has identified issues with access to accommodation for people affected by domestic and family violence.

Temporary accommodation

The Team has previously raised concerns about

the availability of temporary refuge and emergency accommodation for victims of violence in NSW. The availability of temporary housing is fundamental in many cases to victims being able to escape violence, and in a number of the Team's cases, the limited availability of such housing (where sought by the victim) was decisive in the victim remaining in the home with the perpetrator.

For example, in *Case Review 3545* the victim attempted to leave the perpetrator several times, but could not afford to move out of their shared residence with her three children. She decided that she would remain living with the perpetrator until their lease expired, however the abuser killed the woman before she was able to move out.

In *Case Review 3672* the victim repeatedly presented to hospital as a means of escaping her violent de facto partner. On a number of occasions social workers at the hospital attempted to access refuge accommodation for the victim but were informed that there was no availability. Each time the victim was discharged from the hospital she returned to live with the abuser. The abuser ultimately killed her.

For those victims who did leave their homes, many were unable to secure accommodation. Out of the 35 victims of intimate partner violence in the Team's current case reviews, 14% of the victims were homeless at the time of the homicide.

In its 2015/17 Report, the Team made several recommendations regarding the availability and processes around social housing and temporary accommodation, including recommending:

29.1 That the NSW Government fund FACS-Housing to expand its allocation of housing for clients escaping domestic and family violence.

This recommendation was supported in principle (subject to available resources), however it is unclear what action has been taken to specifically address the availability of housing for clients escaping domestic and family violence (see Chapter 6).

²⁷⁵ Spinney, *Home and safe? Policy and practice innovations to prevent women and children who have experienced domestic and family violence from becoming homeless* (Final report/Australian Housing and Urban Research Institute no. 196.) cited in Australian Institute of Health and Welfare, *Clients who have experienced domestic and family violence, Specialist homelessness services annual report 2017–18* (Web Report, 13 February 2019).



In this review period, *Case Review 3651* highlighted a range of issues in relation to the challenges that may arise for domestic violence victims in accessing temporary housing. In that case, the victim had come to Australia as a refugee with her extremely violent and abusive partner and was only able to speak limited English. Approximately four months before the abuser killed her, she fled the relationship after an episode of non-fatal strangulation. The woman presented to a specialist homelessness service for domestic violence victims seeking access to crisis accommodation and was assisted with calling *Link2Home* and the *DV Line*.

In response to the questions from *Link2Home*, the woman advised that she had left her husband due to domestic violence and had reported this to police. *Link2Home* advised the woman that there was no refuge accommodation available nearby, so instead she was given a two nights' crisis accommodation in a hotel and was told to present to her local FACS Housing Office. She was not referred to any specialist domestic violence providers for further assistance or risk assessment. After the hotel accommodation expired, the victim moved in to live with her sister temporarily. She did not feel safe there because her abuser knew her sister's address and was continuing to stalk and threatening to kill her.

Over the next few months, the victim contacted *Link2Home* on three more occasions but each time she was advised that there were no suitable refuges available and she was not eligible for anymore crisis accommodation because she had not yet attended a FACS Housing Office. The victim presented to an NGO provider and was allocated a caseworker to assist her with applying for housing. The NGO caseworker called *Link2Home* who again advised the victim to make an application at a FACS Housing Office. The victim attended a FACS Housing Office but was told her application was incomplete because she had brought the wrong type of bank statement. The victim was not provided with any accommodation. This was the last recorded contact that FACS Housing had with the victim before she was murdered by her estranged husband.

The Team has been advised that as a consequence of this case, (the then) FACS Housing (now known as DCJ Housing) undertook an internal review of its practices and processes and implemented several changes, including: to ask questions about safety when people seek temporary accommodation via *Link2Home*; to provide temporary accommodation to people experiencing domestic violence even where the people seeking temporary accommodation had exceeded their 'allocation' of 28 days per year; to provide warm referrals to the *Domestic Violence Line* (DV Line) for victims of violence seeking accommodation via *Link2Home*; and to provide brokerage supporting transport to safety and other practical assistance. Other changes and improvements are continuing to be made with a view to enhancing the housing response to domestic violence and the Team is encouraged by these developments. However, the Team is of the perspective that issues remain in relation to victim engagement with temporary accommodation services.

To better understand this issue the Team requested current data in relation to *Link2Home*. The data provided revealed that in 2017 *Link2Home* answered 192,695 calls from people seeking assistance with accommodation. From these calls 114,382 assessments for accommodation were completed and callers were asked the following three questions:

1. *Do you feel safe?*
2. *Do you have concerns about your safety and or the safety of your children?*
3. *Are there any locations where you do not feel safe?*

From these questions 6,716 callers (or 6%) disclosed that domestic violence was the reason that they needed accommodation. Given the widespread prevalence of domestic violence, it would appear that 6% is a significant undercount of the number of victims seeking accommodation due to violence in the home. A 2019 report by the Australian Institute of Health and Welfare (AIHW) identified domestic violence as the main reason that women and children leave their homes with 121,000 clients (nationally) assisted by specialist homelessness services due to family or domestic violence.²⁷⁶ Another AIHW Report from 2017-18

276 Australian Institute of Health and Welfare, *Family, domestic and sexual violence in Australia: continuing the national story 2019* (Cat. No. FDV 3. 2019) p. 18.

indicated that in the preceding 5 years there had been a trending increase in the proportion of housing clients who had experienced domestic and family violence: 2013-14 (33%); 2014-15 (36%); 2015-16 (38%); and 2016-17 (38%). In 2017-18 the AIHW found that family violence made up 42% of the total demand on homelessness services.²⁷⁷

The reason for the significant undercount by *Link2Home* is not clear to the Team but may be due to: callers feeling unsafe to disclose their experiences of violence in the *Link2Home* format; victims of violence not being aware of the *Link2Home* service; or other reasons. Accordingly, the Team considered how well the system is functioning for victims of domestic violence, and highlighted the importance of having an accurate picture of the system burden of domestic violence on temporary housing. This is fundamental for DCJ Housing to ensure that the system is effectively meeting the needs of this vulnerable population and is being met with commensurate funding and resources (including available accommodation).

A further issue the Team considered in the context of *Case Review 3651* was the over-the-phone assessment process for victims seeking temporary accommodation when escaping domestic violence. The Team has been advised that as a result of the internal review into *Case Review 3651*, DCJ Housing introduced a policy that any clients experiencing domestic violence are automatically provided with temporary accommodation, even if they don't otherwise satisfy the eligibility criteria or they have exceeded their entitlement. Despite this change in policy, the Team notes that out of the 6,716 callers to *Link2Home* who disclosed experiencing domestic violence in 2017, only 4,955 (or 74%) were provided with accommodation, support and referrals.²⁷⁸

In its 2015/17 Report, the Team made the following recommendation in relation to the *Link2Home* Service:

29.3 That FACS-Housing continue to liaise with DVNSW and other relevant stakeholders to ensure that the Link2home processes for clients experiencing domestic or family violence remain appropriate.

This recommendation was supported with DCJ Housing to continue to network with relevant stakeholders on a regular basis to ensure communication and feedback on processes are taken into account to facilitate system improvements.

The Team is of the perspective that ongoing issues detailed in this section highlight that further consultation is needed to improve DCJ Housing's engagement with victims experiencing violence in the home. The Team accordingly recommends:

Recommendation 25

That the Department of Communities and Justice (Housing), in consultation with specialist domestic violence service providers and victims with lived experience of domestic violence, examine opportunities and strategies to enhance engagement with victims of domestic violence using the *Link2Home* system.

A further issue that was considered in the Team's 2015/17 Report (and also considered in relation to *Case Review 3651*) is the exception to the 28-day limit for temporary accommodation for domestic violence victims, with concerns that responders (including domestic violence specialist responders) were not aware of this exception. Accordingly, the Team recommended:

*That FACS-Housing include information about the availability of temporary accommodation on its website 'Link2Home' highlighting that for victims of domestic violence such accommodation is not subject to the 28-day limit.*²⁷⁹

This recommendation was supported and the Team has been advised that it has been actioned by way

277 Australian Institute of Health and Welfare, 'Clients who have experienced domestic and family violence', *Specialist homelessness services annual report 2017-18* (Web Report, 13 February 2019).

278 The Team has been advised that this figure may not represent all the temporary accommodation DCJ Housing may have provided to a caller as temporary accommodation and *Link2Home* are two different datasets and DCJ is currently unable to accurately match the numerous parameters between the data to provide a more accurate figure.

279 DVDRT Report 2015-17 (n 72) Recommendation 29.2.



of an update to the *Rentstart Assistance Policy* to clearly state that the accommodation entitlement can be extended beyond 28 days in exceptional circumstances.²⁸⁰ However, the Team remains concerned that the 'exceptional circumstances' requirement does not specifically mention domestic violence and so responders and victims may still be unaware that such an exemption exists.

Availability of stable housing

Aside from the issue of temporary accommodation, unstable housing and a lack of medium-to-long-term accommodation continues to be a feature across many of the case reviews in the current reporting period. To further explore this issue the Secretariat has prepared a data snapshot in relation to the 35 victims of intimate partner violence in the cases reviewed in the current reporting period.

At the time of the homicide, 14% of the victims were homeless and 9% of the victims were on the *NSW Housing Register* awaiting housing. Prior to the homicide, 31% of victims had made an application to DCJ Housing for assistance however 64% of these applications by victims had been closed or suspended. Reasons provided for these applications being closed or suspended were similar to the victim's experience in *Case Review 3651*, with either additional documentation not being provided, or no response being received from the victim.

A 2019 report by the AIHW on unmet demand for specialist homelessness services in 2017-18 reported that across Australia, there were on average 175 requests per day for accommodation support which were unable to be met. Two-thirds of these unmet requests were made by women.²⁸¹

In light of these findings the Team seeks to re-enforce the recommendation made in its 2015/17 Report:

29.1 That the NSW Government fund FACS-Housing to expand its allocation of housing for clients escaping domestic and family violence.

The role of Housing in responding to domestic and family violence

The Team notes that 20% of domestic violence victims in its Focused Intimate Partner Dataset were living in social housing while concurrently experiencing violence at the time of the homicide. This led the Team to again consider the opportunity for DCJ Housing to reimagine its role in the domestic violence response space.

The Team has been advised that in this regard DCJ Housing is continuing to take steps to improve staff education and training with respect to domestic violence. The Team has been advised that in May 2018 DCJ Housing introduced domestic violence accreditation and training for all DCJ Housing Managers (to be rolled out over 18 months). By the end of 2020 all DCJ Housing Client Service Officers - who are the frontline staff responding to complaints and conducting investigations - will be qualified in the *LEAP Program* which includes a *Certificate IV in Social Housing Design* with a module on recognising and responding to domestic violence.

The Team applauds the introduction of additional training regimes and considers that this will promote and support a housing workforce that is better equipped to meet the needs of its clients. The Team is, however, of the perspective that challenges remain in the DCJ Housing response to victims of violence, noting that the cases reviewed for this and previous reports demonstrate a range of issues for social housing clients that will not be remedied by simply up-skilling the housing workforce.

For instance, in *Case Review 3645* the victim and abuser lived together in social housing premises that were leased by the victim. The FACS Housing Office (as it was previously called) received numerous complaints about noise and visitors to the unit. When one of the complaints was investigated, FACS Housing Officers observed damage to the apartment which had been caused by the abuser in the course of domestic violence. FACS Housing Officers asked the victim how a door had come to be pulled off its hinges and the

²⁸⁰ Department of Communities and Justice, 'Rentstart Assistance Policy' (Online, 30 April 2019) <https://www.facs.nsw.gov.au/housing/policies/rentstart-assistance-policy> (accessed 22 October 2019).

²⁸¹ AIHW Specialist homelessness services annual report 2017-18 (n 277).

victim said it had 'just fallen off'. FACS Housing Officers reminded the victim of her obligations under the tenancy agreement, and there was no further enquiry regarding the damage to the property or the nature of the noise that had constituted the complaints despite the victim having previously reported episodes of domestic violence to police.

During its discussions for this report, the Team was advised that anecdotally (notwithstanding the existing policy framework and the commitment to up-skilling its workforce) there continues to be punitive responses by DCJ Housing in respect of clients who experience domestic violence in circumstances where that violence presents to housing via noise and nuisance complaints or as property damage and disrepair.

The Team has considered whether DCJ Housing Officers would benefit from a standard guide to assist them when investigating noise or damage complaints, including to consider whether those complaints may be related to domestic violence. The Team understands that home investigations by DCJ Housing Officers are guided by the *IVY app* however this resource does not currently contain any specific guidance in respect of identifying or responding to domestic violence.

A further issue considered by the Team in this space is DCJ Housing's *Antisocial Behaviour Management Policy* (introduced in 2016). This policy includes a 'three strikes' rule which means that if a tenant is held responsible for three 'minor' or 'moderate' breaches of anti-social behaviour, within a 12-month period, their housing will be revoked. Termination proceedings can be commenced immediately in response to breaches characterised as 'severe illegal behaviour' or 'serious anti-social behaviour'.

A 2019 report by the Australian Housing and Urban Research Institute (AHURI) examined the impacts of social housing responses to anti-social behaviour on vulnerable families and found that some women were held to be in breach and evicted because of violence perpetrated against them, noting:²⁸²

Tenancy obligations and extended liability - and

social housing landlords' use of them - impose hard expectations that women will control the misconduct of male partners and children. Even violence becomes framed as a 'nuisance' in tenancy legal proceedings, some women are evicted because of violence against them.

DCJ Housing has advised the Team that safeguards have been built into the existing policy framework to ensure that clients who are experiencing domestic violence are not subject to the *Antisocial Behaviour Management Policy*. However, after reviewing this policy, it would appear that the safeguards only apply to immediate termination responses for 'severe illegal behaviour', and do not protect victims who are accused of 'minor' or 'moderate' anti-social behaviour - including excessive shouting or damage to property. Accordingly, the Team remains concerned that this combination of factors will disadvantage victims of violence residing in social housing and may result in a punitive response, or eviction.

In light of these issues, the Team recommends:

Recommendation 26

That the Department of Communities and Justice (Housing) amend its *Antisocial Behaviour Management Policy* to build in safeguards to protect victims of domestic violence from eviction or the strikes notice process for minor, moderate, or serious breaches where those breaches are caused by domestic violence.

Police responses to domestic and family violence

Police remain the primary crisis responder to episodes of domestic violence in the community and are considered in a number of sections in this report. The Team applauds the transformative and positive change the NSW Police Force has undergone over the past decade to improve the way it responds to domestic violence. In particular, the Team notes the recent introduction of a range of initiatives designed to hold perpetrators to account through targeted and proactive policing of domestic violence including: compliance checking of many ADVOs; *Domestic Violence Suspect*

282 Martin et al, 'Social housing legal responses to crime and anti-social behaviour: impacts on vulnerable families', *Australian Housing and Urban Research Institute Final Report* no. 314, 2019. <http://www.ahuri.edu.au/research/final-reports/314> (accessed 6 November 2019).



Target Management Plans (DVSTMPs) for persistent domestic violence offenders; and deployment of *High Risk Offender Teams* for repeat offenders.

In response to a recommendation made by the Team in its 2015/17 Report,²⁸³ the *NSW Police Force Domestic and Family Violence Team* has reviewed the capture, recording and display of data within COPS to support general duties police officers to view domestic violence episodes holistically and in the context of the history of the parties and relationship. These changes include the introduction of the *DV Summary* that displays if a Person of Interest has a domestic violence history, which assists Police to make informed decisions when responding to episodes of domestic violence.

While the Team welcomes these many changes, it also notes that for many victims of violence, negative or challenging engagement with police and other services shapes future help-seeking, as well as perpetrator accountability. This has been evident from the Team's cases in this, and previous reporting periods, where prior negative engagements with police have impacted victims' help-seeking going forward. The Team is of the perspective that continuing to improve police responses, as well as harnessing the expertise of police to inform other aspects of integrated domestic and family violence service delivery, remain urgent priorities in NSW.

Co-location of police and other specialist services

During this reporting period the Team has continued to explore ways to better support police and enhance police service provision in responding to domestic violence. In 2017-18 police responded to approximately 126,000 domestic violence related events in NSW, attending domestic violence episodes occurring in the home or other locations, and receiving reports made in person at police stations. Over a number of reporting periods the Team has identified that victims or bystanders who report violence at the police station may not always receive a consistent positive response from officers at the front counter. Issues identified from the Team's cases in recent reports have included that in some cases: information or complaints have not been recorded correctly, or in

some cases not recorded at all; officers have provided victims with inaccurate advice; and the way victims have been treated by some officers in these settings has led the victim to desist from reporting future episodes of domestic violence.

In response to these issues the Team has previously made a number of recommendations, the majority of which have been supported and progressed.²⁸⁴ Notwithstanding positive progress in response to these recommendations, the Team has continued to identify instances of limited service delivery for victims who choose to report episodes of violence at the police station. It has been suggested to the Team that victims of domestic violence are more likely to receive a higher level of service when police car crews respond to '000' phone calls or calls for assistance at a residence or another location, than they do when they present at the police station in person.

In *Case Review 3333* a woman's former boyfriend who had been abusive and controlling throughout their relationship, began stalking her (both in person and through technology) after she ended their relationship. The abuser sent the woman constant and sometimes threatening text messages. The woman told colleagues that she was afraid of the abuser and coincidentally went to her local police station to enquire about another unrelated matter. While she was there, she disclosed to the officer at the front desk that she was 'having trouble' with the abuser and described how he had been stalking her, had followed her interstate, and expressed concern about this behaviour. The officer did not record a COPS event, nor did she provide the victim with any information about ADVOs or referrals. They spoke generally about the abuser's behaviour and the victim gave the officer her phone number. Both the victim and the officer were not aware that the abuser had a police history for domestic violence offences and had previously been named in an ADVO protecting another woman. Over the next week the abuser continued to stalk and harass the victim, but she did not approach police again, and was murdered by the abuser that same week.

283 DVDRT Report 2015/17 (n 72), Recommendation 2.1.

284 DVDRT Report 2015/17 (n 72), Recommendation 2 and 4; DVDRT Report 2013/15 (n 125), Recommendation 7; and DVDRT Report 2012/13 (n 71), Recommendation 1.

This was not an isolated example, and there were a number of other cases where victims or bystanders reporting domestic violence received an inadequate response at a police station.²⁸⁵

In *Case Review 3918* a close friend of the victim attended the local police station to report fears she had about the victim. The friend spoke with the DVLO (Domestic Violence Liaison Officer) and provided details of the victim's name and her concerns, but the DVLO did not record any of this information on COPS. The DVLO said she provided the friend with advice about police response and accessing services but did not undertake any further investigation. Within 3 days the victim was murdered by the abuser.

As public messaging around domestic violence instructs victims and bystanders to report episodes of violence and abuse to police as the primary responder, these poor responses to reporters are particularly concerning.

The Team has been advised that these service issues are reflective of the workload and the environment of the police station, rather than reflecting cultural or other issues within police. The Team acknowledges that officers who work on front counter duties have considerable administrative as well as public and phone duties including in respect of people reporting crimes and processing people reporting on bail. For victims of violence who attend the station, this environment may not be conducive to making a report about violence – yet as is demonstrated in many of the Team's cases, this continues to be the preferred method for some women to engage with police.

The Team is of the perspective that this current service gap may be addressed and responses enhanced by the inclusion of specialist domestic violence support services within police stations. This co-location of services (police and specialist domestic and family violence) could also serve other functions including:

- *Triage*: support workers may be positioned to assist police to triage reports made at the station. Workers could help officers distinguish between reports requiring a criminal justice response, and those where referral to specific support services may be more appropriate. In many cases this will also enable support services to conduct more effective outreach directly to victims where they are seeking a criminal justice response.
- *Collaboration*: workers from domestic violence support services already have strong relationships with DVLOs but the co-location of support services at police stations may assist to build and strengthen relationships with general duties police, increase communication and gain a greater understanding of each other's work.
- *Workload*: co-locating services may reduce the workload of front desk officers, for instance by administering the DVSAT.
- *Linkages with existing Safer Pathway*: the co-location of support workers and police may build upon *Safer Pathway* with specialist workers assisting with administration of the DVSAT and subsequent referrals to *Safer Pathway*.

The Team understands that a model seeking similar outcomes, the *Crisis Assistance Service* (CAS), was trialled in NSW in 2016, although this was not co-located. The CAS pilot ran from 2016-2018 and provided out-of-hours service support to victims of domestic violence immediately following a police-reported episode of domestic violence. CAS was trialled in four police Local Area Commands - Oxley, Shoalhaven, Sutherland, and St George.²⁸⁶

After a police-reported episode of domestic violence, victims were offered a referral to CAS. In the majority of cases the CAS worker met the victim face-to-face (usually at the police station) to undertake an assessment of risk and urgency of need, as well as the provision of support or information. Victims with non-urgent needs were given information about *Safer Pathway* and told that they would be contacted by a *Safer Pathway* service worker. Some victims with

285 See for example *Case Reviews 3545; 3651; 3672; 3834; 3662; 3559; and 3918*.

286 Family and Community Services, *Domestic Violence Disclosure Scheme (DVDS) evaluation and Crisis Assistance Service (CAS) review summary*, (online, August 2018) https://www.women.nsw.gov.au/__data/assets/pdf_file/0004/596704/Domestic-Violence-Disclosure-Scheme-Evaluation-and-Crisis-Assistance-Scheme-Review-Summary.pdf (accessed 6 November 2019).



urgent needs may have been provided with assistance in finding suitable accommodation, travel and the provision of emergency packs containing basic items for the victim and their children.

The evaluation of CAS had mixed results for a number of reasons. Firstly, CAS was introduced alongside another pilot, the *Domestic Violence Disclosure Scheme* (DVDS), and was unaccompanied by any program guidelines or training for police. It was also implemented at the same time as a number of other police-led domestic violence interventions (including *Safer Pathway* and the DVSAT) and consequently, referrals to the service were not prioritised by police. Both of these factors could explain the apparently low number of referrals made to the service by police during the pilot period.

However, the outcomes-evaluation with six victims who were referred and did engage with CAS indicated that they were satisfied with the crisis response – although the bulk of the support referred to was on-going in nature and included longer-term support and counselling; assistance with housing applications and rent; and referrals to other services. Ultimately it was determined after this pilot was completed in April 2018 that CAS would not be further funded by the NSW Government.

Domestic Violence Victoria has highlighted that co-locating agencies presents greater opportunities for early intervention and facilitation of contact with specialist services for victims. Particularly with the integration of health services, because ‘women are generally safe to visit doctors for themselves and their children, they are more likely to respond well to co-location within these settings.’²⁸⁷ Victims are also less likely to experience retraumatisation and service engagement fatigue because they don’t have to attend multiple appointments to see different services at different locations, with the expectation that they are to relive their trauma each time.

On this basis the Team considers that there is a strong case to be made for further integration and co-location of police and domestic violence services at police stations and this forms part of a recommendation set out below. However, the Team is also of the view that co-location of services outside a police station setting

is also important to improve responses to victims more generally.

In the Victorian Royal Commission it was recommended that:

The Victorian Government introduce Support and Safety Hubs in each of the state’s 17 Department of Health and Human Services regions [by 1 July 2018]. These hubs should be accessible and safe locations that:

- receive police referrals (L17 forms) for victims and perpetrators, referrals from non-family violence services and self-referrals, including from family and friends;
- provide a single, area-based entry point into local specialist family violence services, perpetrator programs and Integrated Family Services and link people to other support services;
- perform risk and needs assessments and safety planning using information provided by the recommended state-wide Central Information Point;
- provide prompt access to the local Risk Assessment and Management Panel;
- provide direct assistance until the victim, perpetrator and any children are linked with services for longer term support;
- book victims into emergency accommodation and facilitate their placement in crisis accommodation;
- provide secondary consultation services to universal or non-family violence services; and
- offer a basis for co-location of other services likely to be required by victims and any children.²⁸⁸

This recommendation was supported and as a consequence *Support and Safety Hubs* (Hubs) are currently being rolled out across Victoria and are now referred to as ‘The Orange Door’.

The Hubs build on the reforms of the mid-2000s which encouraged greater coordination and integration of services for the whole family. The Team notes that

²⁸⁷ Victorian Royal Commission into Family Violence (n 226) Chapter 13, p. 259.

²⁸⁸ Victorian Royal Commission into Family Violence (n 226) Recommendation 37.

in NSW public policy there has been a broader shift towards coordinated multi-agency service provision.²⁸⁹

In developing the model for the Hubs, the Commission looked at the established *Multi-Disciplinary Centres* (MDCs) which co-locate police, child protection practitioners and sexual assault counselling services at one site, to provide integrated support for adults and children who have experienced sexual assault. MDCs are purpose-built centres funded by Victorian Treasury with each agency renting space at the MDC which houses several interview rooms, including a purpose-built child interview room, medical examination suites, counselling rooms and an AVL suite through which victims can provide remote evidence. There are no police markings or uniforms at the MDC, but a police representative and a specialist sexual assault worker sit at the front reception to triage enquiries. An evaluation found that the MDC models had 'significant capacity to deliver improved outcomes for victims of sexual offences' as well as fostering close working relationships and information sharing between agencies.²⁹⁰

Multi-Agency Safeguarding Hubs (MASH), established in the United Kingdom, were also examined by the Commission as a co-located model that has been proven effective for children at risk of abuse and violence. The evaluation of MASH found that the success factors for multi-disciplinary co-location were: several agencies working together in an integrated way; the involvement of a healthcare professional; co-location of agencies; a shared risk assessment tool; good leadership and clear governance (including an operational manager who is seen to be independent); frequent scrutiny and review; strategic buy-in from all agencies involved; and an integrated IT system.²⁹¹

With these, and other co-located models in mind, in 2018, *Support and Safety Hubs* were built and rolled

out in five launch areas in Victoria, with plans to expand across each of the 17 health regions by 2021.²⁹²

According to the *State-wide Concept Paper*, the Hubs are ultimately intended to provide:

- an initial contact point;
- screening and multi-disciplinary triage;
- immediate crisis response;
- specialist multi-disciplinary risk assessment and management (including safety planning);
- multi-disciplinary needs assessment and planning;
- connections to supports and services that meet people's needs and preferences;
- support to navigate different elements of the system (e.g. courts, housing, counselling);
- monitoring of people's engagement and outcomes with all service providers to increase accountability of the system for individual cases.²⁹³

The Hubs have been designed to make the client experience safe, welcoming and positive, and importantly, have been designed in consultation with people who have lived experience of family violence, as well as responders. There is a strong but discreet security presence, child friendly areas, and culturally appropriate features.

At this early stage (with the first tranche of Hubs became operational in November 2018) it is arguably still too soon to make a reliable assessment for how well the Hubs are performing, however there have been some challenges identified by the *Family Violence Reform Implementation Monitor*, who report yearly on the progress of the Commission's recommendations. According to the Monitor:

289 In NSW, generalist initiatives such as *Community Health Justice Partnerships* involve collaboration between health professionals and lawyers to respond to vulnerable people. The Team is advised that through programs such as this some victims of domestic violence are supported to access timely legal advice and therapeutic support, including counselling and safety planning. The *NSW Integrated Domestic and Family Violence Services* (IDFVS) program also provides high-risk groups with case management - coordinating responses from police, courts, child protection workers, women's refuges, men's education and behaviour change programs, health and domestic violence support services. Although not a multi-agency team per se, this initiative helps victims navigate complex systems. The program is currently offered in 11 locations across NSW and has recently been evaluated. No additional funding has been provided at this stage to support the implementation of recommendations contained in that evaluation.

290 Victorian Royal Commission into Family Violence (n 226), Chapter 12, p. 225.

291 Victorian Royal Commission into Family Violence (n 226), Chapter 13, p. 264.

292 Note: The Family Violence Reform Implementation Monitor has criticised the challenging deadlines as being unrealistic, generating risks around recruiting a suitably experienced workforce and acquiring fit-for-purpose locations to deliver the service safely. See Family Violence Reform Implementation Monitor, *Report of the Family Violence Reform Implementation Monitor: As at 1 November 2018* (online, March 2019) pp.15-17.

293 Victorian Government, *Support And Safety Hubs: State-wide Concept Paper*, (online, July 2017) p. 12. <https://apo.org.au/sites/default/files/resource-files/2017/07/apo-nid97056-1202706.pdf> (accessed 6 August 2019).



*There are anecdotal reports that the interface between the Hubs and the surrounding service provider agencies is not yet working smoothly. The introduction of a Hub may draw workforce from the surrounding service delivery agencies, reducing the capacity of these agencies to respond to demand at least temporarily, and potentially leading to the Hub's workers trying to fill the gap.*²⁹⁴

The introduction of the Hubs represents a major change to the existing service system in Victoria, which, like NSW, had previously only directed victims to police, and they are considered the flagship element of the Victorian family violence reforms. Although it may be still early days for the Hubs, there are many other models of co-location that have proven to be effective at significantly improving service delivery for both victims and responders.

Accordingly, the Team recommends:

Recommendation 27

27.1 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.

27.2 That the NSW Government examine and review the *Orange Door (Support and Safety Hubs)* model being used to deliver services to victims of domestic and family violence in Victoria and consider whether this (or a similar) model should be adopted in NSW.

Criminal justice system responses to domestic and family violence

The criminal justice system is another aspect of the domestic violence response where the Team has identified some strengths and limitations in practice. This system is considered here, as well as in other sections of this report. In particular, this section considers ways to strengthen victims' access to justice, transparency and accountability within this system.

Reasons for withdrawing/dismissing ADVOs

Apprehended Domestic Violence Orders (ADVOs) remain a primary arm of the criminal justice response to domestic violence, providing for civil protection orders binding perpetrators of violence and protecting victims, where a breach of the order constitutes a criminal offence. In many of the Team's cases police or victims have applied for ADVOs which do not then proceed to final orders. In many cases, on review it is not clear why these ADVOs have not proceeded, and the current data capture from the Justice system (through *Justicelink*) is limited to simply stating that the ADVO was 'withdrawn/dismissed'.

The Team has discussed the considerable difference between cases being withdrawn by the victim, or cases being dismissed by the Magistrate, and is of the view that unpacking this distinction is necessary to improve the visibility and transparency of why many ADVOs do not proceed to final orders.

The Team has been advised that data is being collected in Justice systems about why ADVOs do not proceed, but this data is not routinely made available or communicated to court workers on the ground (for instance, workers from the Women's Domestic Violence Court Advocacy Service, who provide specialist support for victims at court). Better understanding the reasons ADVOs are not finalised is important to assessing the overall functioning of the system, and highlighting weaknesses and strengths in the current response.

In light of these issues, the Team is of the

294 Report of the Family Violence Reform Implementation Monitor (n 292) pp. 20-21.

perspective that minor amendments to *Justicelink* are needed to improve – at a basic level – visibility and data around how the criminal justice system is functioning in respect of ADVOs. However, this should form part of a bigger piece of work aimed at improving transparency around why some ADVOs do not proceed to final orders. Promoting better understanding of the reasons why orders do not proceed is important to understanding how ADVOs are being used and sought, and making improvements to systems.

Accordingly, the Team recommends:

Recommendation 28

That the Department of Communities and Justice identify opportunities to better understand the circumstances in which an Apprehended Domestic Violence Order application or domestic violence related criminal prosecution has been dismissed. Consideration should be given to improving the functionality of *Justicelink* to improve recording of the reasons as to why an application has been dismissed.

Remote access facilities for domestic violence victims in court

In this review period the Team has also identified that there are issues in NSW around the availability of remote access facilities for domestic violence victims who are required to give evidence in court.

In *Case Review 3662* the woman's abusive ex-husband fatally stabbed her new partner and attempted to kill her as well. The ex-husband had been extremely psychologically abusive throughout their relationship, and continued to be physically and sexually abusive after the relationship ended. The Post Committal Summary indicated that the victim was 'terrified at the prospect of coming face to face with the accused in the court room' and had been advised by her counsellor to request to give her evidence remotely. Upon making this request to an officer from the DPP, the victim was

advised that this could not be guaranteed because the remote witness facilities are only available to a particular class of witnesses. After receiving advice that she would have to make a legal application to give her evidence remotely, the victim decided not to proceed with this application, and ultimately gave her evidence, including recounting details about the sexual abuse she had experienced, in Court in the presence of her abuser. This was evidently very traumatising for her.

Through consultation processes the Team has also identified that this issue is rather more widespread than the narrow circumstances of the above case. When police undertook a review of their 'failed prosecutions' it was determined that a high proportion of domestic violence matters were being withdrawn at court because the victim did not attend. The number one reason given by victims for not attending court was fear of giving evidence in the presence of their abuser.

The Team acknowledges that domestic violence victims, like all victims, are able to make an application to provide evidence via audio-visual link (AVL) which must be approved by the Magistrate.²⁹⁵ Following a state-wide technology rollout in 2018, all courts either have onsite remote witness facilities or can arrange for portable equipment to be provided to the court (if staff are aware it is required). Despite this application process and increased technology capability, through consultations the Team was advised that this still presents a barrier for victims of domestic violence. For instance, applications are not made because the victim is not aware of this right or is informed too late in the court process to be able to make the application.

The Team acknowledges that the availability of AVL facilities requires additional court resources to setup and monitor the AVL suite and may create some delays in courts, particularly as new systems are being implemented. The Team has been advised that in NSW police stations AVL is available for priority witnesses, guarding against some of the resource implications for courts and providing a safe environment for victims to give evidence at a different location from the abuser and the abuser's family. Police are currently conducting a trial at

²⁹⁵ This is embedded in Court Services policy 'Applying the Charter of Victim's Rights in Court Services – Code of Practice' which sets out Court Services responsibility to 'Provide access to remote witness facilities for vulnerable witnesses when applied for' (Victims Right 7 – Protection from contact with the accused). Applications are made by completing an 'Application for Witness to Give Evidence via Audio Visual Link or Telephone' which must be approved by the Magistrate.



Bankstown PAC whereby police are trained to ask victims at the scene whether they would like to give evidence via AVL at the police station. Police then provide this information to the prosecutor with reasons to support the application. If the application is approved, on the hearing day the victim attends the police station and is supported by a social worker from WDVCS.

The Team is of the perspective that to ensure and promote access to justice, victims of domestic violence should have the right to give evidence without fear or intimidation. While it is not anticipated that all victims would seek to give evidence via remote access, the Team is of the perspective that promoting this option widely through both police and courts will overcome some of the barriers that victims currently face when providing evidence against perpetrators in these settings.

Accordingly, the Team recommends:

Recommendation 29

That the Department of Communities and Justice review the use of AVL/remote witness facilities in ADVO and criminal domestic violence matters with a view to increasing the proportion of matters in which these options are used.

Bail

In a number of the Team's cases in this reporting period, concerns were raised about the bail notification procedure with respect to domestic violence perpetrators. In particular, Team members raised concern around victims not being advised that a perpetrator had been granted bail, or information about a perpetrator's bail status otherwise not becoming known to processes such as the *Safety Action Meetings* (who take into account a perpetrator's custodial status when making decisions and plans for victims' safety).

In *Case Review 3662* the victim and her new partner reported a breach of an ADVO by the victim's abusive ex-husband who had been stalking them that evening. In the early hours of the morning, the ex-husband was charged for the breach and granted bail. Police did not inform the victim that he had been granted bail because it was in the early hours of the morning. After being

granted bail, the ex-husband went directly to the new partner's house and killed him in front of the victim.

Under the *Charter of Victims' Rights* the officer in charge (OIC) of the investigation is obliged to notify victims about perpetrators being granted bail from a NSW court (local, district or supreme) in a reasonable time. This is also contained in the *NSW Police Force SOPS* where it is stated that the OIC is to notify the victim in a 'timely manner'. The Team raised concern that what constitutes 'reasonable' or 'timely' may take into account things such as the OIC having rostered days off, which may in practice result in considerable delay for victims in finding out about a perpetrator's bail status. The Team also raised concern that there is no current mechanism by which the courts inform police (including the OIC) about a perpetrator's bail status and the OIC is required to find this information out by making independent inquiries. The issue becomes more complex in relation to proceedings which do not involve the victim and which may be heard in a different court (e.g. District Court), and where bail may have been granted by the Court but not immediately entered into the court system.

The lack of clarity around bail notification is likely to disadvantage victims, as well as victim advocates or specialist workers such as those in the SAMs. Further, while it would in many ways be ideal for victims to be automatically notified as soon as a perpetrator is granted bail, the Team was of the perspective that it would be more appropriate for any notification to be accompanied by a support referral, such as into a specialist organisation to assist the victim with safety planning.

Accordingly, the Team recommends:

Recommendation 30

That the NSW Police Force and the Department of Communities and Justice review the process for notifying domestic violence victims of the release of a defendant on bail by Police or a court, without the victim being present or if the defendant is released from custody at short notice. The process should link to *Safer Pathway* and provide for timely notification of victims and ensure they are linked to support services.

Whole-of-community responses to violence

As with its previous reports, the Team has continued during this reporting period to consider ways to increase public knowledge and understanding of domestic violence, reduce social tolerance and acceptance of such violence, and improve supportive social and cultural networks for victims. Since the Team was established there has been a very apparent shift in public attitudes, particularly in respect of calling out men's violence against women, as a result of powerful and sustained advocacy and work of feminist advocates, survivors and sector experts. This has led to considerable shifts in policy and approaches to violence, and a promising public dialogue around how to remediate social attitudes permissive of gender inequality and violence. The Team hopes that its work in this space contributes to this social effort and can effect meaningful change within society, as well as within the system's response to violence. Accordingly, this section considers ways to influence victims' and perpetrators' informal networks to address persistent attitudes permissive of domestic violence.

Bystanders

During this review period the Team has continued to examine bystander attitudes to domestic violence in its cases, identifying the range of responses and reactions that family, friends, neighbours, colleagues or other people may have to victims or perpetrators of violence. The Team has identified that these responses vary, but have a considerable impact on the way victims and perpetrators perceive and understand the violence they experience or use.

For instance, in *Case Review 3734* bystander responses were poor and reflected underlying racist attitudes towards female Aboriginal victims of domestic violence. In this case on the day of the homicide, the abuser assaulted the victim in a shopping mall in front of numerous witnesses. When security was called, the victim and abuser were simply told to move on. As they left, the abuser threw the victim to the ground and prepared to kick her. The security guard called out, and

the abuser momentarily stopped his assault, but continued again as soon as the guard had turned away. No one called the police or tried to assist the victim who was already seriously injured. Later, while travelling on a train, passengers complained to staff that the abuser was assaulting the victim. The train security guard attended and observed the victim with bruising and other injuries to her face. The victim and perpetrator were both told to leave the train and the guard saw the abuser kicking the victim while she lay on the ground. Again, police were not called and the victim was not provided with medical or other assistance. That same evening, a number of witnesses watched as the abuser continued to violently assault the victim in the street, including stomping on her body. One of the witnesses sent a message to their friend that read '*Good junkie fight out the front.*' Only one person called police during this prolonged and public assault. Many witnesses said they didn't intervene because this type of behaviour happened frequently in the area. The victim died later that evening with significant injuries and broken bones all over her body, including 12 broken ribs.

There are many other cases that the Team has reviewed in this and previous reporting periods which involve Aboriginal women as victims, and a poor bystander response which reflect the complex intersection of racism and violence that Aboriginal women experience (discussed earlier in this chapter).²⁹⁶

The Team's cases continue to highlight workplaces as an important site for bystander interventions.

In *Case Review 3756* an abusive adult son who perpetrated violence against his mother for many years attended his mother's workplace unannounced and abused her in front of colleagues (NSW Government employees). The son would also telephone his mother constantly while she was at work. The same colleagues also observed the mother with suspicious injuries including bruises, abrasions and cigarette burns caused by episodes of violence perpetrated by the son. When her colleagues asked about the injuries, the mother

296 See for example *Case Reviews 3645; 3672; and 3318*.



would not discuss how they had been caused. The mother was not offered any support or referrals by her colleagues or the workplace despite clear indications she was experiencing family violence.

The cases in this review period also included some examples of positive bystander intervention which supported and protected victims from violence.

In *Case Review 3333* the victim and her abusive ex-boyfriend were both employed by the same company, but in different offices. After the relationship ended, the abuser continued to stalk, threaten, and harass the victim in person and using technology. When the victim reported these behaviours to her company's human resources department, they arranged for the victim to work remotely whenever the abuser was required to attend her branch of the company. The employer also arranged for security officers to escort the victim to her vehicle each evening.

In the same case, there was also a positive and protective bystander response by hotel staff. On one occasion the abuser stalked and followed the victim interstate to a work conference and contacted her when he arrived. When the victim checked in at her hotel, the victim requested that she be marked as a 'silent guest' because she was having trouble with a male colleague and ex-partner. The abuser then stalked the hotel and enquired about the victim's room number. The hotel staff did not disclose the victim's details and told him that she was not staying there. The staff then informed the victim that the abuser had enquired about her room details and they facilitated a transfer to another hotel to protect her.

It is also apparent that for bystanders who are in a victim's social network, there can be periods of support followed by periods of withdrawal or non-support, and this appears to be due to the fatiguing and challenging nature of engaging long-term with victims (who may do things such as return to the perpetrator against the

bystanders' advice or expectations).

In *Case Review 3672* the victim had been in a relationship with her abusive intimate partner for over 20 years. Neighbours often saw the victim with head injuries, black eyes, broken limbs, and missing teeth as a result of assaults by the abuser. Sometimes neighbours intervened in the episodes to protect the victim and called police. However, over time they intervened less frequently and on the evening of the homicide, despite more than ten neighbours seeing or hearing the abuser viciously attack the victim, no one contacted police.

The Team has previously made a number of recommendations relevant to the issue of bystanders, exploring ways to improve domestic violence responses (and eliminate responses permissive of violence) amongst community members, family and friends.²⁹⁷ In response to these recommendations, the NSW Government has supported the Commonwealth education campaign *Stop It At The Start* which aims to improve knowledge and awareness of domestic and family violence as well as its drivers.

The Team remains of the perspective that sustained efforts are needed in the bystander education space and considered whether there may be an opportunity to progress this issue as part of the implementation of the *Fourth Action Plan 2019-2022*. The Team understands that a core focus of the *Fourth Action Plan* is primary prevention and the Commonwealth has committed to a range of initiatives and activities that aim to raise awareness and understanding of domestic and family violence and change attitudes to such violence.²⁹⁸

Accordingly, to progress the issues identified in this section, the Team recommends:

Recommendation 31

That Women NSW work with the Department of Social Services on the national primary prevention campaigns as part of the *Fourth Action Plan* to support the *National Plan to Reduce Violence Against Women and their children*.

²⁹⁷ For instance see Domestic Violence Death Review Team, Annual Report 2011/12, Recommendation 10; DVDRT Report 2013/15 (n 125), Recommendation 8.

²⁹⁸ DSS, *National Plan to Reduce Violence against Women and their Children 2010-2022: Fourth Action Plan 2019-2022*, (online, August 2019) https://www.dss.gov.au/sites/default/files/documents/08_2019/overview-commonwealth-key-initiatives-under-fourth-action-plan-5-august-2019.pdf (accessed 7 January 2020).

Community leaders

During this reporting period the Team specifically examined the role of community leaders – such as Aboriginal Elders, community leaders in culturally and linguistically diverse communities, and faith leaders – in respect of permitting or rejecting attitudes supportive of violence.

In *Case Review 3582* both the victim and her abusive husband were from a culturally and linguistically diverse community. The victim, who was more than two decades younger than her abuser, asked her friends for advice about his violent and controlling behaviour. One friend advised the victim to seek independent assistance from the police or the court. However, another friend told the victim that she needed to seek input and advice from their community leaders as this was common practice in their community. It was arranged that a respected elder couple would mediate between the victim and abuser. The victim disclosed that the abuser constantly threatened to kill her and isolated her from her family. She was advised by the elder couple that she should ‘*work hard at the marriage*’ and ‘*not give up so easily*’. However, the elder couple also criticised the abuser for his treatment of the victim and told him that if he continued to behave in this manner they would assist the victim to divorce him. The abuser apologised and the victim returned to live with him. The victim did not seek advice from the community leaders again and 18 months later the woman was killed by her husband.

In *Case Review 3918* the victim attended church regularly and emailed her faith leader disclosing her husband’s abusive and controlling behaviour in order to seek the leader’s advice. At some point the faith leader also received a message from the abuser falsely stating that the victim had an extramarital affair. The faith leader said that he did not respond to either of these messages, and did not provide the victim with any support, advice or referrals.

The Team has previously made recommendations in respect of faith leaders, noting the important role that these people can play in influencing and directing community attitudes towards domestic violence.²⁹⁹ Similarly, other community leaders, like bystanders and informal support networks more generally, can have a substantial impact on the way victims perceive their experiences, the way they seek help, and the way perpetrators may view their behaviour. Harnessing the leadership of senior community members is therefore important in the elimination of domestic violence in NSW.

The Team has been advised that in recognition of the importance of informal networks and leadership the DCJ Diversity Services branch has developed a strategy to engage with religious leaders. The strategy aims to provide religious leaders with information about domestic violence and the criminal justice system response. The objective is for religious leaders to be better equipped to respond to domestic violence in their communities and understand how the criminal justice system can assist victims. The strategy is delivered through seminars, an information manual and ongoing engagement with communities.

Further, under *AMES Australia Leadership Program* (in partnership with Our Watch), there have been programs developed which aim to build the leadership capacity of immigrant and refugee men and women in a bid to prevent violence against women in communities by creating informed community leaders.

The Team is of the perspective that these initiatives are important and seizing opportunities to support influential community members to learn about, and respond to, violence is likely to represent a significant opportunity to change and impact peoples’ attitudes on a broader scale. Listening to the experience and knowledge of leaders is also key to responding effectively to issues of violence in the community, as is recognised in the section of this report considering Aboriginal communities and particularly recognising the role of Elders in partnering to end violence.

In progressing these opportunities, the Team notes *Recommendations 13 to 17* of this report, which recommend the development of strategies supporting Aboriginal and Torres Strait Islander and culturally and linguistically diverse communities in respect of

299 DVDRT Report 2011/12 (n 297), Recommendation 12.



responding to domestic violence. Due to the nature of these communities, which are extremely diverse but often inclusive of familial or kinship structures (resulting in strong informal community leadership), the Team is of the perspective that strategies and frameworks to engage community members must draw on, and support the expertise of senior community members and leaders. The Team is of the perspective that drawing on strong informal networks, including to learn from those networks as well as educate leaders where necessary, is likely to hold the key to longer term sustained change in attitudes towards domestic violence for all community members. These informal structures must be engaged in order to ensure the legitimacy and effectiveness of those strategies for communities and individuals.

Media reporting

The Team recognises that other informal forces such as advocacy, media and public discourse have a strong effect on social attitudes amongst the broader public. The Team notes that the media in particular – including mainstream print and television media, as well as organic forms of social media and public platform media, play a critical role in shaping attitudes and guiding social dialogue. During this reporting period the Team has continued to identify strengths and limitations in the print and mainstream media response to domestic violence – particularly focusing on responses to high profile or sensationalised domestic violence homicides.

One mainstream media article that stood out for its profound insight into a victim's experience (and referred to earlier in this chapter) was written by the surviving daughter of a woman who was killed by her intimate partner, the author's father.³⁰⁰ The author articulates the 'double bind' faced by Muslim women who are both victims of domestic violence and victims of racism. She reflects on her own personal journey since her mother's death and openly criticises the ways in which the media manipulated her mother's story to both 'feed the racists' and 'invite victim-blaming'. She recalls that one of the conservative political parties published an article on their website which stated, 'Muslim immigrant to Sydney murders his wife because she wouldn't pass the salt', while another source incorrectly referred to the murder as an 'honour killing'. The author also expresses her frustration by the lack

of opportunities to vocalise her grief and frustration as a secondary victim. Throughout the article, the author uses family photographs to celebrate her mother's life and disempowers the perpetrator by refusing to name him. She concludes with an empowering call to action directed at men and the Muslim community more broadly, stating:

So, to the men who are annoyed at outspoken women like me, who tell me my faith is holding me back, that I cannot be a feminist: you cannot have my story.

To the Muslim men I used to know, those who are silent and complicit, and those who see religion only as a validation of their desire for power and control: you cannot have my story.

I stand for neither of you. Whether you are my brother in faith or only in humanity, if you are not ready to listen, to help change the story, you cannot have mine.

Despite some positive examples of insightful and responsible reporting of domestic violence homicides, the Team observed many more instances of the media failing to hold abusers to account and reinforcing the abuser's narrative, which often blames the victim and excuses the abusive behaviour.

For example, in *Case Review 3333* the abuser stalked, threatened and terrorised his former girlfriend for months before he followed her home and murdered her.

After the homicide, the headline of a prominent Australian online newspaper read 'Love story turned tragedy ended in attack that left [the woman] dead'. The Team considers it highly problematic to describe the perpetrator's calculated and vicious murder of the victim as a 'tragedy' or misfortune. This passive framing significantly reduces perpetrator accountability in that it suggests that fortuitous circumstances, as opposed to the premeditated actions of the perpetrator, were to blame. The substance of the article then focuses on the fact that the victim and abuser had an extramarital relationship salaciously described as a

300 Amani Haydar, (n 209).

'tumultuous affair'. The common use of words such as 'tumultuous', 'stormy' or 'volatile' to describe abuse within a relationship mutualises the violence, attributing it to the relationship as opposed to the actions of the perpetrator. The effect of this is that the abuser, and their abusive behaviours, is never clearly articulated and this ultimately serves to blame the victim for remaining in this kind of relationship.³⁰¹

This idea is further reinforced by the emphasis placed on the fact the relationship was covert, inviting moral judgements about the victim's culpability by choosing to enter into such a relationship. The article also includes a text message from the perpetrator to the victim in which he described his heart being '*crushed*' by her ending the relationship and blames the victim for ruining his marriage. The inclusion of this message without an explicit rejection of the perpetrator's justification for his behaviour effectively attributes blame to the victim, as opposed to holding the perpetrator accountable for his actions.

As raised earlier in this chapter, other cases in this reporting period demonstrate how perpetrator accountability is often significantly reduced or completely excused by the media in cases involving victims with disability – the unacceptable inference being that providing care to a person with disability justifies killing them, as well as killing everyone else in the family.

For instance, *Case Review 3920* involved a husband who murdered his pregnant wife and child (their second child survived) in a methodically planned intentional car crash. The husband had filled the car with excess petrol in an attempt to ensure the crash would be fatal for the whole family. The media articles that reported this case described the offender as '*a great dad*' and that they were '*just a normal happy couple*'. One of the articles goes on to explain that the offender was apparently driven to '*obliterate himself and his family*' because his children were diagnosed

with a genetic disorder which caused physical and cognitive disability. This undue emphasis on the fact that the children had a disability gives the impression that disability was a causative trigger to the violence and ultimately places blame on the person with disability. The article also noted that this genetic disorder had been passed onto them through their mother, seemingly providing justification for the perpetrator murdering his wife, as well their child.

This was not the only case in this reporting period where disability has been used to excuse or alleviate perpetrator accountability.³⁰² Problematic phrases associated with these crimes include '*mercy killing*'³⁰³ which unacceptably depicts the act of violence as an act of love. There is a false assumption that people with disability are assumed to have a low quality of life, not to enjoy their lives or be suffering. Often this is assumed without voicing the person with disability's own experience. Moreover, because people with disability are often marginalised, there is little opportunity for their voices to be heard. Failing to condemn such murders and hold perpetrators to account sends a message that this type of violence is justified and acceptable, arguably increasing the likelihood of another abuser acting violently towards a person with disability.

In response to concerns about the media landscape, the Team has previously recommended that the NSW Government become a member of Our Watch, and that the Team work together with Our Watch to analyse examples of media reporting in its cases.³⁰⁴ This recommendation was not supported when it was initially made, however in May 2019 the Attorney General announced that NSW would join Our Watch – opening the door for future collaboration between the Team and this organisation.

The Team continues to reinforce the need for media reporting to be careful and responsive to issues of domestic violence, and will continue to advocate for strong and positive media reporting which ensures the visibility of victims of violence, and holds perpetrators accountable for the violence they use.

301 Buxton-Namisnyk and Butler (n 313) p. 52.

302 For example see *Case Review 3621*.

303 For example *Case Review 3756*.

304 DVDRT Report 2015/17 (n 72), Recommendation 1.



Issues with the response to domestic violence homicide

A unique aspect of the Team's work is its ability to focus on post-homicide justice processes and evaluate the ways in which current systems triage or manage issues, trauma, family grief and accountability following fatal episodes of domestic violence. This section accordingly considers ways to strengthen justice and other responses to domestic violence homicide – ensuring the ongoing visibility of this serious social issue, and contributing to public knowledge and awareness of violence and its dynamics.

Coronial Inquests: perpetrator accountability and the therapeutic role of the court

In this and previous reports the Team has identified challenges in the current coronial response to domestic violence related murder-suicides. In NSW under s27 of the *Coroners Act 2009* a coronial inquest must be held where a person died or might have died as a result of homicide, and there has been no other official inquiry held (such as criminal justice proceedings, or an inquest in another jurisdiction). This section accordingly requires a coroner (or magistrate exercising coronial jurisdiction) to hold an inquest where there is a murder and the perpetrator suicides before criminal justice proceedings are held. Murder-suicide inquests, particularly where these involve domestic violence, constitute an important site where perpetrators of domestic violence can be held accountable for their abusive behaviours and violence, and victims' lives can be acknowledged and their value celebrated. However, in this and prior reporting periods the Team has identified some limitations in the way coroners, or magistrates exercising jurisdiction under this section of the *Coroners Act*, have achieved these outcomes – including to effectively ventilate and appropriately condemn behaviours and histories of domestic violence.

For instance, *Case Review 3918* involved an abusive husband who murdered his wife before dying by suicide. Following this murder-suicide there was extensive media coverage, as well as comprehensive local reporting of the case as it had an enormous impact on the local community.

The victim was well-known in the community and their teenage children were present while the murder took place. However, when the matter was listed for Inquest, no witnesses were called and no evidence was presented publicly. The surviving family were not present at the Inquest. The Magistrate's findings were very limited at approximately four paragraphs in length. There was no reference to the controlling and abusive behaviour the husband had inflicted on his wife over two decades and the relationship was simply described as '*not a harmonious one.*'

The importance of judicial officers' public messaging around domestic violence is considered elsewhere in this report, particularly in respect of sentencing remarks. However, due to the specialised nature of the coronial jurisdiction – which has a therapeutic component – this public messaging role is unique, and coroners have to balance their therapeutic role with effectively acknowledging violence and fostering perpetrator accountability. Due to this need for specialised attention, the Team is of the perspective that murder-suicide inquests under s27 of the *Coroners Act* should be held by Senior Coroners from the NSW State Coroner's Court. Such Coroners can then request assistance from the Team's secretariat for coronial support and research in open cases should they wish.

Accordingly, the Team recommends:

Recommendation 32

That the NSW State Coroner issue a Case Management Note to ensure that all coronial cases involving murder-suicides are remitted to the State Coroner's Court at first instance to enable suitable allocation.

Use of language and understanding of domestic violence dynamics in court settings

The importance of language in court for domestic violence matters has been the focus in a number of

the Team's previous reports and recommendations.³⁰⁵ Judicial discourse is always influential no matter what the subject matter, however the power of language in promoting awareness and understanding about domestic violence is particularly relevant given that domestic violence homicides generally attract considerable and widespread media attention. The language of the court is often echoed through the media and in turn, the community, shaping attitudes about violence against women. Judicial officers are positioned to send clear messages, not only to domestic violence perpetrators, but to the wider community, that this type of behaviour will not be tolerated. Judicial officers can set the standards of what is acceptable and unacceptable behaviour, and guide social dialogue to ensure that perpetrators are held accountable, dispel misleading stereotypes, and guard against victim-blaming.

Since the Team first raised this issue in its 2012/13 Report, it is encouraging to observe some positive progress by the judiciary in promoting a more sophisticated and nuanced understanding of domestic violence dynamics and its complexities. For example, the 2018 update to the *National Domestic and Family Violence Bench Book*³⁰⁶ includes a section which dispels many common myths and misunderstandings and includes a diverse array of de-identified case reviews that detail victim's first-hand experiences of domestic violence. Importantly, the Bench Book identifies examples of the various ways in which:

'judicial perceptions of domestic and family violence may have the effect of minimising or denying the experience and impact of violence for victims and children and may overlook the risks of future violence.'

The Team considers that the best remarks on sentence denounce the perpetrator's behaviour while highlighting the rights and agency that should have been afforded to the victim. For example, in the recent judgment of *R v June Oh Seo*³⁰⁷ the abuser killed his former partner after using a suite of non-physical violence tactics to control and coerce the victim. His abusive behaviours

are discussed in detail in the judgement and included socially isolating the victim from her friends and workplace, using technology-facilitated violence to stalk and harass her and threatening self-harm to prevent her from ending the relationship. In her Honour's judgment, Wilson J said:

'This was a brutal crime, committed as a consequence of the offender's inability to accept that Ms Choi had a life of her own, and a right to make her own choices. ... The offender's moral culpability for these crimes is high. His conduct towards Ms Choi demonstrated a violent disregard and disrespect for her rights as an individual who could live as she chose, and is explained by nothing more than his inability to accept, and irrational anger at, her decision to end their relationship...'

Like too many women before her, Ms Choi died because the man with whom she had been involved could not accept her right to autonomy. The offender acted from a profound sense of entitlement, clearly believing that Ms Choi had to conform to his wishes rather than pursue her own...

*Whilst there are men in the community, and it is mostly men, who view women as second class citizens who must bend to their will, when that attitude results in the commission of crime, and particularly violent crime, the courts will impose heavy punishment. Such conduct is never acceptable and it will be strongly repudiated by the courts.'*³⁰⁸

While acknowledging that there are many examples of well-informed judgements that positively influence public discourse, in the current reporting period the Team has continued to identify examples of problematic language in remarks on sentence or in open court.

These cases included examples where judges described perpetrators as having simply 'lost control', or 'snapped' when they committed the homicide.³⁰⁹ This diminishes perpetrator accountability and ignores the fact that

305 DVDRT Report 2012/13 (n 71) Recommendation 15 and commentary on p. 28 - 29; DVDRT Report 2013/15 (n 125), Recommendation 1 and commentary on pp. 53-55 http://www.coroners.justice.nsw.gov.au/Documents/DVDRT_2015_Final_30102015.pdf (accessed 6 August 2019).

306 ALJA National Domestic and Family Violence Bench Book (n 123).

307 *R v June Oh Seo* [2019] NSWSC 639. **Please note that this case has not been de-identified because it does not form part of this Report's de-identified case reviews as it does not fall within the established case review period.**

308 *R v June Oh Seo* (n 307) [57] - [79].

309 *Case Reviews* 3333 and 3585.



domestic violence is part of a pattern of controlling behaviour, as opposed to an isolated one-off ‘incident’. These descriptions were then often used as headlines or repeated throughout media reports.

Some judges also used mutualising language such as ‘volatile’, ‘tempestuous’ or ‘troubled’ relationship to describe cases where a domestic violence abuser had a long history of using violence against the victim. Variations of this terminology were evident in a number of cases, including both criminal proceedings as well as coronial inquests, and served to minimise perpetrator accountability for violent behaviours.³¹⁰

One particularly problematic example was evident in *Case Review 3474*. In this case the victim and her new partner killed her abusive husband. Despite evidence that the abuser was physically, verbally, socially, psychologically, sexually and economically abusive towards the victim throughout their 9 year relationship, the judge described that the victim had ‘*never faced any serious violence*’. One episode of physical violence involved the abuser pushing and dragging the pregnant victim along their hallway. He then punched a hole in the wall. In Court, the Judge described this episode of violence as a ‘*non-event*’ and ‘*a minor scuffle*’ concerning a ‘*non-existent threat*’. When the victim called her new partner for help the Judge described her behaviour as a ‘*very considerable manipulation*’ and said that the woman created a situation where she was a ‘*maiden in distress*’. Later in the remarks the Judge described the abuser as a ‘*pussy cat*’.

In this same case, the Judge also questioned the victim as to why she had not considered leaving the abuser. The Judge did not accept that the abuser’s violent and controlling behaviours meant that it was extremely difficult for her to leave him and remain safe, even though the abuser had repeatedly threatened to kill her if she ended the relationship. At the time, the victim was also socially and geographically isolated, had never been employed, and had four young children.

The *National and Family Violence Bench Book* addresses the unrealistic expectation that a victim is able to leave the abusive relationship as one of the most common myths, noting that:

*‘Many victims of domestic and family violence may be motivated to leave, however they may face a myriad of barriers, including: lack of financial resources; concerns for the welfare of children, family and pets; disability, lack of alternative, safe accommodation; inadequate formal support systems; disrupted social networks; religious and cultural beliefs preventing them from leaving; and fear of retaliation by the perpetrator. A perpetrator may also use a variety of coercive and manipulative tactics to actively prevent the victim from leaving. These barriers may be too great for a victim to ever overcome, or they may explain why a victim leaves and returns to an abusive relationship on multiple occasions before finally leaving.’*³¹¹

The Team acknowledges that one of the challenges faced by the court is that often the complete histories of domestic abuse aren’t admissible as evidence in criminal proceedings. For instance, anecdotal evidence in witness statements from family and friends cannot be verified because the victim has been killed, and that victim may never have reported the abuse to police. Even though it is widely acknowledged that the vast majority of domestic violence is never reported to police, the Team has observed many instances where relevant evidence about a history of domestic violence perpetration does not make it into evidence unless the abuser has been convicted of a domestic violence offence.

For example, in *Case Review 3582* the abuser was very controlling towards the victim and used a range of abuse tactics including violence, threats, sexual abuse, derogatory comments, stalking and intentionally isolating the victim. On one occasion, the victim reported to police that the abuser had threatened to kill her. Police applied for an ADVO and final orders were made, however the abuser

310 *Case Reviews 3333, 3759, 3628, 3629, 2295, 3582 and 3474.*

311 *AlJA National Domestic and Family Violence Bench Book (n 123).*

was not charged with any offence. After the abuser was convicted of the victim's murder, the Sentencing Judge considered that there was no history of violence and relied on the fact that the abuser had never been convicted of a domestic violence related offence as evidence of this. The defence was then able to put forward an argument of 'good character' to mitigate the offender's sentence due to the absence of convictions and despite a clear and identifiable history of abuse towards the victim. This was then framed by the Sentencing Judge as follows: *'I accept that the offender loved his wife and was deeply committed to her and the child. His good character belies any intention to kill her...'*

The Team has observed that these and other positive statements, such as describing relationships as 'happy' and 'normal' despite evidence of domestic violence behaviours, is particularly evident in cases where the history of domestic violence was anecdotal or primarily non-physical. Without a complete understanding of the perpetrator's suite of abuse tactics (both physical and non-physical) it is much harder to view the homicide as the culmination of an intentional pattern of behaviour used to control and coerce the victim, as opposed to a one-off 'incident'.

For instance, in *Case Review 3585* the abuser's behaviour in killing the victim was described as 'uncharacteristic' because the Court found that there was no evidence of any other violence on his part during the relationship. However, there was evidence from several witnesses that the abuser was extremely possessive and would stalk the victim by arriving unannounced at her home. He also threatened self-harm when she tried to end the relationship. These non-physical forms of abuse were not referred to in the judgment. The judgment did mention the abuser's criminal history and indicated that he had been convicted of domestic violence related offences perpetrated against a former partner. However, the judge reasoned that because the offender had committed the offending several years earlier and

had been penalised by way of a bond, the Court could place 'little significance' on this offending.

In a number of the Team's cases where the domestic violence victim killed her abusive male partner, the history of domestic violence and nuanced understanding of domestic violence dynamics was well-ventilated through the use of domestic violence expert reports, for example by expert Associate Professor Carolyn Quadrio.³¹² However, the Team acknowledges that in these cases the victim is still alive to disclose her experiences of abuse and it is not currently a widespread practice to use expert evidence of this kind.

The Team is aware that the NSW Sentencing Council is currently undertaking a review of sentencing for murder and manslaughter, with a particular focus on domestic violence homicides. The Secretariat has engaged with the Sentencing Council on this reference and raised the aforementioned issues. Accordingly, given this review is in train, the Team has determined not to make any recommendations in this reporting period, but seeks to reinforce the recommendations previously directed at the judiciary in its 2012/13 and 2013/15 Reports.

The Team also notes that the DCJ is in the process of consulting with representatives from the Chief Magistrate's Office as part of the review of the *Domestic Violence Justice Strategy* (DVJS). The review includes identifying existing good practice in courts and opportunities for its further enhancement. The DVJS is expected to be released in early 2020 and the Team hopes that this Strategy will address some of the issues that have been raised above in relation to judicial discourse.

Throughout the reporting period the Secretariat has continued to explore opportunities to work collaboratively with the judiciary to further enhance the ways in which judges and magistrates discuss domestic violence, particularly in the context of remarks on sentence, and within the coronial jurisdiction.

As highlighted in the activities section of this report, the Secretariat has been invited to present at and participate in many opportunities for judicial education in both NSW and Victoria, including conferences and a

312 *Case Reviews 3220 and 3474.*



publication in the *NSW Judicial Bulletin*,³¹³ which was cited favourably by the then President of the Court of Appeal, Margaret Beazley writing extra-curially.³¹⁴ In 2019 the Secretariat presented its findings and published research to the Victorian Judicial College and at the Victorian Coroner's Conference.

In doing this work, however, the Secretariat is mindful that the narratives used in judgments often reflect the agreed statement of facts presented to the court. Accordingly, while the focus of the Secretariat's study concerned the language employed directly by judicial officers, it recognises that perceptions of domestic violence portrayed by the court are frequently constructed by a range of actors operating within the criminal justice system. Accordingly, many of the comments made in the study regarding judicial discourse are equally applicable across the legal profession, including to defence and prosecution lawyers.

Victim Impact Statements and promoting victim visibility

Victim Impact Statements (VISs) are presented as an opportunity for family members of homicide victims to, at least partially, shift the focus away from the offender and shine a light on the victim's life and the loss suffered as a result of the offender's behaviour. The utility and influence of VISs has been the subject of considerable debate in recent years.

In July 2014, the NSW Government introduced an amendment to the *Crimes (Sentencing Procedure) Act 1999* (NSW) following the high-profile manslaughter of Thomas Kelly. This amendment allowed courts to take into account VISs from the victim's family in formulating the offender's penalty. Prior to this, the law prevented VISs from influencing penalties imposed on homicide offenders.³¹⁵

A recent study has found that the new laws have made little practical difference to the use of VISs in homicide matters, and raises concerns about potential adverse consequences for families in the sentencing process,

one being the substantial editing of statements by lawyers to fit within evidential parameters.³¹⁶ This removes the family member's freedom of expression, without apparently achieving any significant practical outcome on the offender's sentence. The study concluded that as a result, family members may experience significant dissatisfaction with the criminal process. It was evident that many of the VISs in the cases reviewed by the Team for this report had been significantly redacted or edited for the Court.³¹⁷

The Team has previously made a recommendation aimed at enhancing victim visibility through the VIS.³¹⁸ This recommendation was to be progressed through the now disbanded *Victim Impact Statement Working Group* and it is unclear what progress had been made to action this recommendation.³¹⁹

Notwithstanding this, the Team has noticed a positive shift towards improving victim visibility in a number of the remarks on sentence for its more recent cases. Rather than simply discussing the homicide victim in narrow terms as 'the person who was killed', a number of these more recent judgments give an insight into the victim and thereby provide a greater sense of who the individual was and the extent of the harm suffered by the community in losing that individual to domestic violence. These insights are often set out as an opening to the judgment and have the effect of reinforcing the humanity of the sentencing process which can often become a highly technical balancing exercise that effectively renders the homicide victim invisible.

For example, in *R v May (No 2)* [2016] NSWSC 1070, Justice Wilson opens the judgment with the following statement:

Daubed in white paint on the foundational brick work of a residential apartment block in Redfern is a personal memorial to Judith Townsend from her husband, Ralph Townsend. It records Mrs Townsend's death, and the loss and grief caused by that loss to those who loved her.

Another example of can be found by Hamill J in the

313 Buxton- Namisnyk and Butler, 'What's language go to do with it? Learning from discourse, language and stereotyping in domestic violence homicide cases', July 2017 *NSW Judicial Officers' Bulletin*.

314 Beazley, 'Language the Law's Essential Tool' [2017] 12 *The Newcastle Law Review* 1-22.

315 *R v Previtera* (1997) 94 A Crim R 76.

316 Booth, 'Victim Impact Statements and Sentencing Homicide Offenders: A critical analysis of recent changes to the *Crimes (Sentencing Procedure) Act 1999* (NSW)' (2018) 41 *University of New South Wales Law Journal* 130.

317 See for example *Case Review* 3732.

318 DVDRT 2013/15 Report (n 125), Recommendation 2.

319 DVDRT 2015/17 Report (n 72), p. 149.

opening paragraph of *R v JK* [2018] NSWSC 250:

CN would have turned 13 years old on 23 October 2015. She had a caring nature, cute dimples and a beautiful smile that could light up a room. However, CN did not make it to her thirteenth birthday. Instead, she was buried on that day... The loss of CN has had a lasting and devastating impact on all of the members of her family who are left behind to grieve and to try to pick up the pieces of their shattered lives. The pain is raw and deep and it will not go away. MP was CN's grandmother. When her son, AP, read his mother's victim impact statement to the Court last Monday, there was a deep and still sadness permeating the courtroom. His anger, grief and bewilderment were palpable.

Definition of 'domestic violence death' under the Team's legislation

The Team also discussed the limitations around the scope of its work due to the statutory definition of domestic violence. Under the *Coroners Act*³²⁰ the functions of the Team are outlined and put simply, the Team is to identify, record and review closed cases of domestic violence deaths in NSW to identify patterns and trends, and make recommendations that aim to prevent future deaths from occurring.

Prior to October 2013, the definition of a 'domestic violence death' in s101B of the *Coroners Act* was 'a death of a person that is caused directly or indirectly by a person who was in a domestic relationship with the deceased person'. Following recommendations in the Team's 2011/12 Report, this definition was expanded to include the deaths of people who were third parties to domestic relationships,³²¹ such as the death of a person who was killed by their partner's abusive former partner, bystanders to domestic violence and other cases of domestic violence homicide where there was no domestic relationship between the deceased and the perpetrator. The definition was also amended to stipulate that a domestic violence death is one which occurs in the context of domestic violence.

As the Act currently stands, a 'domestic violence death' is defined in s101B as:

The death of a person caused directly or indirectly by a person (the perpetrator) where, at the time of the death:

- a. the deceased person was in a domestic relationship with the perpetrator and the death occurred in the context of domestic violence, or*
- b. the deceased person was in a domestic relationship with a person who was or had been in a domestic relationship with the perpetrator and the death occurred in the context of domestic violence, or*
- c. the perpetrator mistakenly believed that the deceased person was in a domestic relationship with a person who was or had been in a domestic relationship with the perpetrator and the death occurred in the context of domestic violence, or*
- d. the deceased person was a witness to or present at, or attempted to intervene in, domestic violence between the perpetrator and a person who was or had been in a domestic relationship with the perpetrator.*

On a strict interpretation, some of the cases that have been identified by the Team as 'deaths occurring within the context of domestic violence' do not fit within this definition.

For example, *Case Review 3676* involved an abuser who was killed by police officers intervening in a domestic violence episode where the abuser was physically assaulting his intimate partner and was holding two knives. The abuser had a long history of perpetrating violence against his intimate partner and had been convicted for some of these offences.

The Team has also reviewed cases that have ultimately been ruled not to be a homicide due to issues around causation, such as *Case Review 3734* wherein the victim died after several serious assaults, some witnessed in public, causing significant bruising and many broken bones. However, the abuser was

³²⁰ *Coroners Act 2009 (NSW)* s101F(1).

³²¹ DVDRT Report 2011/12 (n 297), Recommendations 1 and 2.



ultimately acquitted on the basis of causation issues because the victim was intoxicated could have sustained some of her injuries from falls. There are several other cases which resulted in the abuser not being held criminally responsible for the death of the victim, despite a history of domestic violence and evidence of a physical assault. All of these cases raised issues with causation relating to the victim's intoxication and health issues.³²²

A different type of case, which raises similar issues because there has been no official finding is *Case Review 3579*. This case involved a female victim who was murdered by one or both of her intimate partners in a brutal and prolonged assault. One of the men had a long history of domestic violence perpetration, but the other man, who had a cognitive impairment, confessed to the murder. At trial, the man who confessed was ultimately acquitted of all charges and the Magistrate alluded to the fact that the wrong person had been charged with the murder. The other suspect died before any charges could progress and the Inquest was dispensed with.

Reviewing these types of cases is important as it allows the Team to examine the way the justice system is responding to deaths that occur in a context of domestic violence.

A further category of cases which are not covered under the current legislative definition are cases where domestic violence perpetrators die by suicide (in circumstances where there is no murder or other domestic violence death associated). In the pilot suicide study undertaken by the Secretariat in the Team's 2015/17 Report, it was identified that over half of the male suicides had a history of domestic violence, relationship conflict or relationship breakdown, either proximal or distal to the suicide. Unfortunately, due to limited resourcing and capacity issues within the Secretariat, this study has been unable to progress further. There is considerable value in the Team's ability to review perpetrator suicides that occur following a history of domestic and family violence.

Accordingly, to address these limitations in the Team's operational definition, it recommends:

Recommendation 33

That the NSW Government in conjunction with the current review of the *Coroners Act 2009* (NSW) amend the definition of a 'domestic violence death' as defined in s101B of the Act to 'a death which occurs in the context of domestic violence'. The reference to relationship should be omitted.

Membership of the Domestic Violence Death Review Team

The membership of the Team is prescribed by legislation and is currently comprised of 14 government representatives (with appointed Deputy members), two non-government sector experts and two non-government service provider representatives. Since the Team was established in 2011, additional government representatives have been added (Department of Premier and Cabinet, Mental Health and Alcohol and Other Drugs) without the creation of equivalent non-government positions. Following the integration of the Department of Communities and Justice, there are now seven government representatives from a single department which could lead to less opportunity for a diversity of perspectives around the table.

The Team is of the perspective that the general deliberation and consideration of cases and recommendations would be enhanced with an increase in representation from non-government service providers with 'on the ground' experience to shed light on issues where current practice may differ from policy or law.

As discussed earlier in this chapter, inviting non-government service provider expertise from the disability and culturally and linguistically diverse sectors would be valuable to ensure a diversity of perspectives and interests are represented on the Team.

Accordingly, the Team recommends:

Recommendation 34

That the Attorney-General, in conjunction with the current review of the *Coroners Act 2009* (NSW) amend the Act to create greater parity in the non-government and government membership of the NSW Domestic Violence Death Review Team.

322 Case Reviews 3919; 3426 and 3734.

Focus on Intimate Partner Violence

VICTIMS AND ABUSERS, 2008- 2016

This chapter provides an extended data analysis in relation to all closed intimate partner homicides occurring in a domestic violence context in NSW between March 2008 and June 2016. Each case in this dataset has been subject to an in-depth review by the Team thereby allowing for a more detailed examination of the characteristics of people who use and experience intimate partner violence. This focused chapter presents findings beyond the broader homicide dataset outlined in Chapter 2, including to present information about the nature of abuse histories in fatal cases.

Introduction

Domestic, or intimate partner, violence describes a spectrum of behaviours whereby a person intentionally and systematically uses violence and abuse to gain and maintain power over another person with whom they share (or have shared) an intimate relationship. At the heart of this definition is the abuser's use of coercive and controlling behaviours to assert and maintain power and dominance over the victim.

Research has demonstrated that the vast majority of domestic or intimate partner violence is perpetrated by men against women.³²³ This has led to an understanding that domestic violence is a gendered harm.

The Team acknowledges that domestic or intimate partner violence requires particular consideration in light of these characteristics and accordingly has used this report to further develop its dataset.

To date the Team has undertaken in-depth reviews of the 112 closed intimate partner domestic violence homicides that occurred in NSW between 10 March 2008 and 30 June 2016.

Due to its review methodology the Team is uniquely placed to undertake enhanced data analysis derived from these reviews.

Accordingly, this chapter provides further data in relation to these 112 homicides but frames this data primarily in terms of the domestic violence abuser/victim relationship (rather than focusing throughout on the homicide perpetrator/victim). This enables a more accurate framing of the gendered patterns of these behaviours: highlighting that most men who killed an intimate partner, and most men who were killed by an intimate partner, were the primary domestic violence abuser within the relationship.

Intimate partner domestic violence homicide

Case identification and classification

Between 10 March 2008 and 30 June 2016 there were 150 intimate partner homicides in New South Wales. Of these 150 homicides, 135 (90%) were classified by the Team as having occurred in a domestic violence context.

For the 15 homicides that were categorised as *not* occurring in a domestic violence context (cases that were excluded from this dataset), there was no identifiable history of domestic violence prior to the fatal episode. These cases instead occurred in circumstances, including:

- suicide pact/assisted suicide where the homicide victim had a chronic illness (N=3);
- sexual misadventure/accident (N=3);
- financial motivation (N=1);
- dementia/mental illness (N=4); and
- where there was otherwise no identifiable history of domestic violence (N=4).

Given the limitations inherent in relying on the brief of evidence, including the affidavits and statements of friends, family members and often the accused homicide perpetrator, it is acknowledged that these cases may include histories of violence that were not disclosed or known. Accordingly, the resulting dataset may represent an undercount of intimate partner homicides occurring in a domestic violence context.

Of the 135 intimate partner domestic deaths that occurred in a context of domestic violence, 21 cases were still open in the reporting period and therefore not yet subject to in-depth review by the Team.³²⁴

323 Australian Bureau of Statistics, *Personal Safety Survey Australia 2005*, ABS cat. No 4906.9, 2006, Canberra; Chan and Payne, *Homicide in Australia: 2008-09 to 2009-10 National Homicide Monitoring Program Annual Report*, (Australian Institute of Criminology, Canberra, 2013); Dobash, Dobash, Wilson and Daly, 'The myth of sexual symmetry in marital violence' (1992) 39(1) *Social Problems* 71; Grech and Burgess, *Trends and patterns in domestic violence assaults: 2001 to 2010*, (NSW Bureau of Crime Statistics and Research, Sydney, 2011).

324 These cases will be reviewed by the Team once all criminal or coronial proceedings have been finalised and will be included in the Team's subsequent reports.

There were two additional cases where the homicide occurred in NSW but the case was more closely linked to another jurisdiction and an in-depth review was undertaken by the domestic violence death review mechanism in that jurisdiction.

Accordingly the focused findings presented in this chapter are derived from the 112 intimate partner domestic violence homicides that have been subject to in-depth review by the Team.

The 112 intimate partner domestic violence homicides in this dataset were perpetrated by 95 men and 17 women. The 95 men killed 93 female and 2 male current or former intimate partners, and the 17 women killed 17 male current intimate partners.

Although these figures already highlight that domestic violence homicide is a gendered pattern of behaviour primarily perpetrated by males against females, examining the history of domestic violence in these cases represents a unique contribution that death review bodies can make in understanding the nature of domestic violence.

Domestic violence victim/abuser status

For 111 of the 112 intimate partner homicides considered in this dataset there was a clear primary domestic violence victim and a primary domestic violence abuser. This signifier relates to violence within the relationship, prior to the fatal episode, and reflects that the fatal episode may have been perpetrated by a primary domestic violence abuser against a primary victim, or a primary domestic violence victim against an abuser (for example in circumstances of self-defence).

There was one case in which both the homicide victim and homicide perpetrator used violence against one another throughout the relationship, prior to the fatal episode of violence.

Importantly, 109 of the 111 primary domestic violence victims in this dataset were women and two were men. For these cases, all 111 primary domestic violence abusers in this dataset were men.

In the remaining case where violence went both ways, a female homicide perpetrator killed her male intimate partner after a history in which they both used violence

against one another. This was the only case in which a female in this dataset was using domestic violence behaviours against a male.

Of all 112 cases in this focus dataset:

- 95 (85%) involved homicides where male and female primary **domestic violence victims** were killed by their **male intimate partner**, the primary domestic violence abuser;
- 16 (14%) involved homicides where a male primary **domestic violence abuser** was killed by a **female primary domestic violence victim**; and
- 1 (1%) involved a homicide perpetrated by a female who was both a domestic violence victim and abuser, against her male intimate partner, who was also a domestic violence victim and abuser, i.e. the violence went both ways.

Of the 95 primary domestic violence victims who were killed by an abusive current/former male intimate partner (the primary abuser), 93 were women and 2 were men.

All 16 of the primary domestic violence abusers who were killed by their current/former intimate partner were men, and all were killed by a female domestic violence victim.

Again, these findings highlight that domestic violence is a gendered behaviour, as these intimate partner homicides demonstrate that the majority of domestic violence abusers in relationships were male.

Relationship characteristics

Current relationship

In over two-thirds of the 112 cases in this dataset, the homicide victim and homicide perpetrator were in a current relationship at the time of the homicide (N=77, 69%). This included 18 cases where the relationship was current however the victim of domestic violence in the relationship had indicated to friends, family or the abuser that they were intending to end the relationship with the abuser

In each of the 18 cases where the domestic violence victim had indicated an intention to end the relationship, they were killed by the abuser.



Separated

In the remaining 35 cases (31%), the homicide victim and homicide perpetrator were no longer in a relationship at the time of the homicide.

In two-thirds of cases where the homicide victim and homicide perpetrator were no longer in a relationship, the relationship had ended within 3 months of the homicide (N=23, 21% of all homicide cases in this dataset).

Separation as a factor

Overall, separation (actual or intended) was a characteristic in just under half of all intimate partner domestic violence context homicides (N=53, 47%).

Separation was not a characteristic of the one case in which violence went both ways.

Violence/abuse histories

Another unique contribution that death review processes can make is to better highlight histories of violence and abusive behaviours that precede fatal episodes of violence, whether those fatal episodes involve an abuser killing a victim, or a victim killing an abuser. This section accordingly discusses this dataset in terms of the primary victim and primary abuser of violence within the relationship so as to highlight the nature of domestic violence behaviours in fatal cases.

In 111 of the 112 cases in this dataset (99%), the relationship between the domestic violence victim and the domestic violence abuser was characterised by the abuser's use of coercive and controlling behaviours towards the victim. In each of these cases the domestic violence abuser (all male) perpetrated various forms of abuse against the victim, including psychological abuse and emotional abuse.³²⁵

Verbal abuse

Almost all of the 111 cases involving a primary domestic violence victim and abuser involved the domestic violence abuser (all male) using verbally abusive behaviours towards the victim (N=105, 95%).

This included the abuser using language that was belittling, derogatory, humiliating, and insulting towards the victim, or otherwise using language in ways with the apparent intention of undermining the victim's self-esteem and self-empowerment.

In just under half of the cases where the perpetrator was known to be verbally abusive towards the domestic violence victim, this included a history of the domestic violence abuser (all male) directly threatening to kill the domestic violence victim (N=51, 46% of all cases in this dataset involving a primary domestic violence victim and abuser).

Social abuse

In over half of the 111 cases where there was a primary domestic violence victim and abuser in the relationship, the domestic violence abuser (all male) socially controlled the domestic violence victim (N=63, 57%).

This included the abuser using such behaviours as:

- preventing the victim from seeing friends and family;
- systematically isolating the victim by way of being abusive, threatening or rude to friends and family;
- intentionally relocating the victim away from support networks, friends and family; and
- controlling the victim's appearance, for example, only allowing certain clothes or hair styles.

Financial abuse

Of the 111 cases involving a primary domestic violence victim and abuser, 48 cases (43%) involved the primary domestic violence abuser exercising financial control over the domestic violence victim.

This included behaviours such as withholding and controlling use of bank cards, cash and other forms of money, controlling access to bank accounts, scrutinising the victim's spending and setting unrealistic expectations/budgets for day to day living and other necessary household expenditures.

Other cases included the domestic violence abuser preventing the victim from working or seizing and controlling the victim's earnings from her work. A

³²⁵ The one remaining case is where violence went both ways with a female homicide perpetrator killing her male intimate partner after a history in which they both used violence against one another. In this case there was no primary aggressor or victim.

number of cases also included the domestic violence abuser forcing the victim to borrow money from third parties.

Physical abuse

In 89 of the 111 homicides involving a primary domestic violence victim and abuser, physically abusive behaviours were known to form part of the male domestic violence abusers violence towards the victim (80%). These behaviours ranged from physical assaults without a weapon (eg. hitting, slapping, shoving, kicking) to strangulation, and assaulting the victim with weapons (eg. bricks, glass, boiling water).

The frequency of physical assaults ranged from one or two assaults reported to friends and family, to extensive and sustained patterns of physical abuse and torture by the male abuser against the victim.

Assault with a weapon

Of the 89 cases where the abuser was known to use physical violence, in 28 cases (31%) this included the abuser using a weapon to assault the domestic violence victim.

Strangulation

In over a third of the 89 cases where male abusers used physical violence, the male abuser had attempted to strangle or smother the domestic violence victim prior to the fatal assault (N=31, 34%).

Sexual abuse

On the material available to the Team, approximately one-fifth of the cases involving a primary domestic violence victim and abuser included histories where the male domestic violence abuser sexually abused the victim (N=20, 18%). Each of these cases involved a male abuser sexually assaulting a female victim.

This is a significantly lower figure than other total population estimations which suggest that between 40-45% of women who are physically abused are also sexually abused by their intimate partner.³²⁶ It is therefore suspected that the figure derived from this dataset may not reflect the true prevalence of sexual violence in these relationships.

There are a number of reasons to explain this presumption including that the domestic violence victim may not have disclosed histories of sexual violence to friends and family or other service providers (whose testimonies are relied upon for the review process) prior to the homicide. Additionally, victims may not recognise or characterise the abuse they are experiencing from their partners as sexual violence.³²⁷

Similarly, it is recognised that sexual violence may attract particular stigma and victims may be more unlikely to disclose these experiences to others.

Stalking

In 47 of the 111 cases (42%) involving a primary domestic violence victim and abuser, stalking formed part of the domestic violence abuser's (all male) coercive and controlling behaviours towards the victim prior to the homicide. Stalking included behaviours such as: following the victim, parking outside their house/workplace, breaking into the victim's house, and reading the victim's diary.

In 24 of the 47 cases (51%) where stalking formed part of the abuser's behaviour, the relationship was ongoing at the time of the homicide. Of the other 23 cases, in 21 cases the abuser stalked the victim both while the relationship was ongoing and after it had ended and in two cases the stalker commenced stalking the victim only after the relationship had ended.

Technology-facilitated abuse

In over two-thirds of the 47 cases where stalking formed part of the abuser's behaviour (N=29, 26% of all cases involving a primary domestic violence victim and abuser), the abuser used technology to stalk the victim, such as persistent text messaging, checking the victim's phone, covertly recording the victim's activities, installing keylogger software on the victim's computer, and engaging with the victim on social media/dating sites under a false identity.

History of abuse by prior partners

Of the 111 cases where there was a primary domestic violence victim and abuser identifiable, in 35 of these cases (32%) the (all female) victim's relationship with the abuser was their only significant intimate

³²⁶ Wall, *Asking women about intimate partner sexual violence* (Australian Centre for the Study of Sexual Assault: Australian Institute of Family Studies, 2012) <http://www3.aifs.gov.au/acssa/pubs/sheets/rs4/rs4.pdf> (accessed 30 September 2017).

³²⁷ Ibid.



relationship (i.e. they had had no prior intimate partners).

For the remaining 76 cases, the material reviewed by the Team revealed that at least 34 (45%) primary domestic violence victims had been abused in prior intimate relationships (including both recorded and unrecorded histories of violence by other intimate partners).

Domestic violence offending by abuser against victim

Police recorded history of violence

Of the 111 homicides in which a primary domestic violence victim and primary domestic violence abuser was identifiable, in 43 cases (39%) there was a police recorded history of the abuser's domestic violence behaviours against the primary domestic violence victim.

Of the 43 abusers who were known to police as domestic violence abusers against the victim, in 10 cases the abuser had been convicted of a domestic violence offence against their victim, of which six had served a custodial sentence in relation to domestic violence offences against the victim.

Domestic violence offending against prior partners

Of the 111 cases where there was a primary domestic violence victim and abuser identifiable, for 19 of these cases (17%) the (all male) abuser's relationship with the victim was their only significant intimate relationship (i.e. they had had no prior intimate partners).

For the remaining 92 cases, the material reviewed by the Team revealed that at least 50 (54%) primary domestic violence abusers (all male) had been abusive in prior intimate relationships (including both recorded and unrecorded histories of violence against other intimate partners).

In 30 of these 50 cases (60% of cases where there was an identifiable history of offending against prior partners) the male abuser had been convicted of an assault/s against a prior partner.

These figures highlight that abusers often repeatedly use violence against different intimate partners.

ADVO histories

Of all 112 intimate partner domestic violence homicide cases in this dataset, in 17 cases (15%) a male abuser killed a victim (all female) when that victim was protected under an ADVO naming the male abuser as the defendant.

An additional 19 female domestic violence victims (17%) had been protected under an ADVO naming their male abuser as the defendant but the order had expired at the time of the homicide. Fourteen of the 19 women who had previously been protected under an ADVO were killed and 5 of the women killed their abusive partner.

Victim characteristics

Victim level of education

The rationale for collecting data in relation to the highest level of education attained for victims and perpetrators accords with considerations around the availability of appropriate educational programs about domestic violence for young people. Particularly in circumstances where programs may only be targeted at students in the later years of high school.

Of the 111 cases where there was a primary domestic violence victim and abuser identifiable, the victim's highest level of education was able to be ascertained in 60 cases.

Of the 60 cases where the highest level of education attained was known, one-quarter of victims finished schooling in Year 10 (N=15, 25%).

For one-fifth of victims the highest level of schooling attained was between Year 7 and Year 9 (N=12, 20%). One-third of victims attained between Year 11 and 12 (N=20, 33%) and 12 completed tertiary education (20%).

One victim was not engaged in any formal education after completing Year 6.

Victim histories of drug and alcohol use

The additional barriers faced by victims of violence who also use alcohol and other drugs are discussed in *Chapter 4: Commentary and recommendations*. For example, women who experience violence may not be believed or considered reliable due to their alcohol or other drug use issues. Moreover, women may use alcohol and other drugs as a way to cope with the trauma from their experiences of violence. This rationale similarly underpins the collection of data in relation to victim histories of substance use.

Alcohol misuse

Of the 111 cases where there was a primary domestic violence victim and abuser identifiable, one-third of the victims (N=37, 33%) had a history of problematic alcohol use identifiable from information on the brief.

Drug/substance misuse

Of the 111 cases where there was a primary domestic violence victim and abuser identifiable, 25 of the victims (23%), had a history of regular psychoactive substance misuse.

Co-occurrence of alcohol and drug misuse

Of the 111 cases where there was a primary domestic violence victim and abuser identifiable, 20 victims had a history of both problematic alcohol and psychoactive substance use (18% of all victims).

Abuser characteristics

Abuser level of education

Of the 111 cases where there was an identifiable primary domestic violence victim and abuser, the abuser's highest level of education was able to be ascertained in 74 cases.

Of the 74 cases where the highest level of education attained was known, just under a third of abusers finished schooling in Year 10 (N=22, 30%).

For 23 abusers the highest level of schooling attained was between Year 7 and Year 9 (31%). Eleven abusers attained between Year 11 and 12 (15%) and 17 completed tertiary education (23%).

One abuser was not engaged in any formal education beyond Year 6.

Abuser histories of trauma

The Team's review process traces the life course of victims and perpetrators and highlights that in many cases, as children age, they transitioned from being known to police or child protection services as domestic violence victims, to becoming known as perpetrators – often in the context of them using violence against their parents or other family members. A trauma-informed response is now widely recognised as best practice across the NSW service system and is being incorporated into many new programs and interventions. This is discussed further in *Chapter 4: Commentary and recommendations*.

Of the 111 cases where there was a primary domestic violence victim and abuser, 44 abusers (40%) were known to have experienced significant trauma, including having experienced family violence as a child (N=24), other types of trauma (N=7)³²⁸ or both family violence and other trauma (N=13).

Abuser histories of alcohol and drug misuse

Alcohol misuse

Of the 111 cases where there was a primary domestic violence victim and abuser identifiable, 57 of the abusers (51%), all male, had a history of problematic alcohol use identifiable from information on the brief. A significant proportion of these abusers were using alcohol at the time they killed, or were killed (N=44, 40% of all abusers).

In the one case where violence went both ways, the female homicide perpetrator and the male homicide victim both had histories of problematic alcohol use and both were using alcohol at the time of the homicide.

Drug/substance misuse

Of the 111 cases where there was a primary domestic violence victim and abuser identifiable, 49 of the abusers (44%), all male, had a history of regular psychoactive substance use. Just over half (N=25) of these 49 abusers (23% of all abusers) used cannabis as well as one or more substance/s such as heroin,

³²⁸ For example sexual abuse by a non-family member, the death of a parent or sibling, or experiencing the trauma of war.



cocaine, meth/amphetamines, misuse of prescription medication or inhalants.

At the time of the homicide 28 of the 49 abusers (all male) who had a history of regular psychotic substance use were using at the time they killed, or were killed.

In the one case where violence went both ways neither the female nor male had histories of regular psychoactive substance use and neither were using these substances at the time of the homicide.

Co-occurrence of alcohol and drug misuse

Of the 111 cases where there was a primary domestic violence victim and abuser identifiable, 43 abusers had a history of both problematic alcohol and psychoactive substance use (39% of all abusers). One third of the 43 abusers who had a co-occurrence of alcohol and drug use had been in contact with the criminal justice system and had been convicted of one or more criminal offences (N=37, 33% of all abusers).

Surviving children

The domestic violence victims and domestic violence abusers in this dataset were parents (either together or separately) to at least 154 children who were aged less than 18 years at the time of the homicide.

Of the 154 child survivors of homicide, 34 children (22%) were present during the fatal assault. As discussed in Chapter 4, this group of 154 children represents a traumatised cohort for whom integrated, specific and consistent service responses are critical.

2015-17 Recommendations

RESPONSE & UPDATE

Section 101J(2) of the *Coroners Act 2009* (NSW) provides that the Team is to report on the extent to which previous recommendations made by the Team have been accepted. Accordingly, this chapter details the 36 recommendations made by the Team in the 2015-17 Report together with the whole of government response and update in relation to those recommendations.



Introduction

The Team's work continues to highlight the complexity of domestic violence and the domestic violence service system, and this complexity is reflected in the nature and scope of the Team's recommendations. These recommendations are aimed at the NSW and Commonwealth Governments and Ministers as well as non-government agencies with respect to legislation, policies, practices and services, including recommendations that call for significant system reform and others that anticipate more modest or incremental change.

The process for government agencies and Ministers to respond to recommendations made by the Team is set out in a 2017 Premier's Memorandum to ensure that a consistent process is adopted across government.³²⁹ The Minister for the Prevention of Domestic Violence, in consultation with the Attorney General and relevant agencies, is responsible for the coordination of the whole of government response, which is to be provided to the Team within six months of receiving the report. The whole of government response should indicate whether the NSW Government accepts the Team's recommendations and outline any action being taken to implement the recommendations. The response is then published on the Team's website.³³⁰

Monitoring implementation and uptake of these recommendations is key to the Team fulfilling its prevention mandate. Additionally, s101J(2) of the *Coroners Act 2009* (NSW) calls on the Team to publically report on the extent to which recommendations have been accepted. By publically reporting on the implementation and uptake of recommendations, the Team aims to promote agency accountability and transparency in relation to its processes.

Since its establishment in 2010 the Team has produced five reports and made 88 recommendations. In previous reports, the Team has included an update in relation to all past recommendations so as to continue to report on the progress of implementation. However in this report the Team has narrowed its focus to only reporting on the most recent recommendations made in its 2015/17 Report. This has been done for a number of reasons.

Firstly, the resource implications of indefinitely monitoring a growing body of now over 100 recommendations detracts from the Team's capacity to undertake its core functions moving forward. The Team also acknowledges that a number of major system-wide reforms have been implemented since 2011, including the introduction of *Safer Pathway* in 2014, which has significantly changed the policy and practice landscape with respect to domestic and family violence. The Team queries the utility of continuing to monitor recommendations (particularly process-focused recommendations) that were made prior to the introduction of many of these changes.

Notwithstanding these developments, however, the Team also recognises that many of the broader issues sought to be addressed in previous recommendations persist today. Rather than monitoring the implementation of old recommendations, the Team is of the perspective that these persistent issues should be reimagined in the context of the current and future policy landscape through the development of new outcomes-focused recommendations.

Moreover, the recently established Domestic and Family Violence Reforms Delivery Board³³¹ will also provide oversight over agency progress in responding to the Team's past recommendations, and determine how their implementation can intersect and align with the broader domestic and family violence agenda (see Appendix D).

329 Department of Premier and Cabinet, *M2017-04 - Response to DVDRT Report recommendations* (Date issued 10 October 2017) <https://arp.nsw.gov.au/m2017-04-response-dvdr-report-recommendations> (accessed 2 August 2019).

330 Domestic Violence Death Review Team, http://www.coroners.justice.nsw.gov.au/Pages/Publications/dv_annual_reports.aspx.

331 The Domestic and Family Violence Reforms Delivery Board provides overarching guidance and direction of the Domestic and Family Violence Outcomes Framework under the NSW Domestic and Family Violence Blueprint for Reform 2016-2021. The DFV Reforms Delivery Board comprises senior representatives of government agencies including the Justice, FACS, Police, NSW Health, Premier and Cabinet, Treasury, Education and Aboriginal Affairs. For more information see Women NSW, 'Domestic and Family Violence: Outcomes Framework' (online, June 2018) https://www.women.nsw.gov.au/__data/assets/pdf_file/0020/641702/DFV-Outcomes-Framework_Final-Report_FACS.pdf (accessed 2 August 2019).

In relation to the monitoring of the 2015/17 recommendations, Women NSW is the lead agency coordinating the whole of government update, in consultation with each relevant agency, organisation or Minister. The whole of government update for the 2015-17 recommendations was provided to the Team on 19 November 2019 and is set out in its entirety below.

2015-2017 DVDRT Report

The Team's 2015/17 Report was tabled in NSW Parliament in October 2017 and made 36 recommendations to government and non-government agencies. The whole of government response in relation to the 2015/17 Report was received in June 2018 and can be accessed via the NSW State Coroner's Court website.

Recommendation 1

1.1 *That the NSW Government give consideration to becoming a member of Our Watch.*

Whole of government response - 2018: Not Supported

Lead agency: FACS (Women NSW)

Details of implementation: The NSW Government is committed to the prevention of violence against women and children, however does not intend to become a member of Our Watch.

Whole of government update - 2019

Update: Complete

Details of implementation: In July 2019, the NSW Government joined *Our Watch*.

1.2 *That the DVDRT Secretariat work together with Our Watch to analyse media reporting around murder suicides in New South Wales and disseminate its research findings.*

Whole of government response - 2018: Not Supported

Lead agency: DVDRT Secretariat

Details of implementation: The NSW Government will consider working with the Australia's National Research Organisation for Women's Safety (ANROWS) to progress implementation of this recommendation.

Whole of government update - 2019

Update: Complete

Details of implementation: Recommendation 1 was not supported by the NSW Government in 2018 and accordingly the Secretariat did not progress action under 1.2. In July 2019, NSW joined Our Watch. Our Watch has released guidelines for reporting violence against women and delivers training for reporters. No further action required by the DVDRT Secretariat.

Recommendation 2

2.1 *That the NSW Police Force reviews how it captures, records and displays data on domestic violence events with a view to making appropriate changes that would support operational police to view the incident holistically and in the context of the history of the parties and relationship. This will assist police to make informed decisions as to what action to take in the context of the incident they are dealing with.*

Whole of government response - 2018: Supported

Lead agency: NSW Police Force



Details of implementation: The NSW Police Force continuously reviews the way domestic and family violence events are recorded in the Computerised Operational Policing System and has identified opportunities to make changes to the system to allow for operational police to view incidents holistically. The detail of these proposed changes and the timeframe for implementation is currently being developed.

Whole of government update - 2019

Update: Complete

Details of implementation:

Since this recommendation, the NSW Police Force (NSWPF) Domestic & Family Violence Team reviewed the capture, recording and display of data within COPs. As a result, a number of changes within the existing COPs system have been implemented.

DV Summary: Police are now able to view a 'DV Summary' that displays if a person of interest has a domestic violence (DV) history, which assists Police to make informed decisions as to what action to take.

Pre-filled DV narrative: A large portion of the narrative is now pre-filled from the incident field/Computer Aided Dispatch message and the DV Safety Assessment Tool (DVSAT). This information is also included in the Apprehended Domestic Violence Order (ADVO) application to assist the magistrate.

Alignment of ADVO conditions and bail conditions: Changes have been made to align the ADVO and bail conditions, which allows for accurate and complementary conditions to be imposed on DV offenders for the protection of victims.

Allow for DV Events where there is no charge or ADVO resulting to be completed in the field on tablet ('Mobipol') devices: Police record over 80,000 DV 'No- Offence detected' events per year. Enhancements commenced in June 2019 to allow police to complete a large number of DV events, including the DVSAT, while at the scene and to provide the victim with the reference number straight away.

Opportunities, challenges and/or consequences:

NSWPF has made these changes to support frontline police to make informed decisions by increasing the information available to them and reducing the time spent on the input of data.

2.2 That the DVDRT identify real life case studies which demonstrate issues/difficulties of identifying domestic violence as a complex pattern of behaviours and supply these case studies to the NSW Police Force together with relevant commentary. That the NSW Police Force incorporate these real-life case studies into the police training regime.

Whole of government response - 2018: Supported

Lead agency: DVDRT Secretariat/NSW Police Force

Details of implementation: Both the DVDRT Secretariat and the NSW Police Force support this recommendation. The NSW Police Force already uses real life case studies in its training programs offered at the Police Academy, as well as in the ongoing education and training of police officers. These programs are updated as necessary with new and more current case studies. The DVDRT Secretariat will, within the next 6 months, supply the NSW Police Force with relevant case studies drawn from across section of metropolitan, regional, rural and remote locations, for their potential inclusion in the relevant courses.

Whole of government update - 2019

Update: Underway

Details of implementation: The DVDRT Secretariat is working with the NSW Police Education and Training Command to determine how to incorporate learnings from the case studies into the revised post-Academy training material.

Recommendation 3

That the Attorney General consider mechanisms to ensure that ADVOs are made for an appropriate duration, including:

- *increasing the default length of ADVOs from 12 months to a longer duration to promote enhanced victim safety; and*
- *requesting that the Judicial Commission of NSW update the Local Court Bench Book or other education and training to invite judicial officers to consider factors relevant to setting an appropriate duration for an ADVO (including any period of time an offender is in custody, to ensure that the person in need of protection is protected upon the defendant's release).*

Whole of government response - 2018: Supported

Lead agency: Department of Justice

Details of implementation: A review will be undertaken to consider the appropriate duration of and mechanisms for the length of apprehended domestic violence orders (ADVOs) and any related issues. The review will include analysis regarding the current length of ADVOS, the timing of breaches and related offences and the period of time an offender is in custody.

Consideration will be given to current approaches in other jurisdictions. The review will involve consultation with government, non-government, legal and judicial stakeholders.

The review will begin in the second quarter of 2018.

Whole of government update - 2019

Update: Underway - Legislation was passed on 22 November 2018.

Details of implementation:

The 2018 ADVO review led to the development of key reforms to ensure ADVOs are made for an appropriate duration including:

- extending the default period for which a final ADVO for adult defendants will be in force to two years.
- providing guidance on the duration of an ADVO that should be sought by an applicant for a final ADVO.
- setting out the factors to be considered by a court in determining the duration of a final ADVO.
- extending the period of an ADVO following an adult defendant's release from custody.
- enabling police to vary an existing ADVO in certain circumstances.
- allowing orders in relation to adult defendants to be made for an indefinite period.

These reforms were introduced in the *Crimes Legislation Amendment Act 2018*. Some legislative amendments are required in late 2019 and 2020 to clarify the operation of the reforms.

While the legislation is yet to commence, the NSW Police Force has implemented a practice change and has commenced applying for ADVOs for a two-year period by default.

Opportunities, challenges and/or consequences: In preparing for implementation, agencies have identified a number of challenges that require minor legislative amendments. The Department of Communities and Justice is consulting with stakeholders to resolve operational challenges.

Recommendation 4

That the NSW Police Force update its Domestic Violence Standard Operating Procedures (DVSOP) to require that where ADVO enquiries are made at the front desk of police stations, the inquirer is taken



to a private interview room (except in circumstances where this would present as a security risk). The Standard Operating Procedures should also be updated to ensure that the inquirer is provided information about domestic violence and victims' safety.

Whole of government response - 2018: Supported

Lead agency: NSW Police Force

Details of implementation: The current NSW Police Force Domestic Violence Standard Operating Procedures (DVSOPS) instruct police to speak to victims away from the counter area. While the NSW Police Force agrees that the inquirer should be taken to a private interview room, this may not be always possible due to security risks or resource reasons (for example, the station counter should not be left unattended if there is only one armed officer in the station).

The NSW Police Force will update the DVSOPS to ensure an inquirer is provided with information on domestic violence and the risk factors as identified by the NSW Police Force Domestic Violence Safety Assessment Tool. The NSW Police Force will produce a concise information sheet and promote this internally.

Whole of government update - 2019

Update: Complete

Details of implementation: New DVSOPs launched in 2018 incorporate this change. A domestic and family violence brochure is now available to operational police to give to people making inquiries at the station.

Recommendation 5

5.1 *That the Attorney General, in consultation with relevant stakeholders, review the operation of the NSW offence of strangulation (contained at s37 of the Crimes Act 1900 (NSW)) to determine whether this offence is operating effectively.*

Whole of government response - 2018: Supported

Lead agency: Department of Justice

Details of implementation: The NSW Government recognises the need for an offence that effectively addresses the serious harm caused by non-fatal strangulation.

The Department of Justice has commenced consideration of the operation of the offences of strangulation (sections 37(1) and 37(2) of the *Crimes Act 1900* (NSW)), including analysis of BOCSAR data on charges and convictions. Relevant stakeholders will be consulted on the existing offences and any potential amendment in early 2018.

Whole of government update - 2019

Update: Complete - Following the review, the NSW Government introduced a new strangulation offence into section 37 of the *Crimes Act 1900*. The legislation commenced on 3 December 2018. The new section 37(1A) provides that it is an offence to intentionally choke, suffocate or strangle another person without consent. The maximum penalty for the offence is five years imprisonment.

Details of implementation: The offence was introduced in the *Crimes Legislation Amendment Act 2018* and commenced on 3 December 2018.

Opportunities, challenges and/or consequences: The NSW Government will monitor the implementation of the new offence.

5.2 *That the NSW Police Force update its Standard Operating Procedures to require that where a victim discloses strangulation, police advise the victim to seek urgent medical attention given the potential long-term health consequences of this form of assault.*

Whole of government response - 2018: Supported

Lead agency: NSW Police Force

Details of implementation: The NSW Police Force will update its Standard Operating Procedures to reflect this requirement. It is noted this recommendation has arisen from a need to increase community and agency awareness of the serious (and often unnoticeable) injuries that can be caused by strangulation.

The NSW Health Education Centre Against Violence has taken a proactive role in this important area and incorporated the issue of strangulation into a number of courses available to NSW Health staff including the Graduate Certificate in Medical and Forensic Management of Adult Sexual Assault. Further work will follow.

Whole of government update - 2019

Update: Complete

Details of implementation: The Domestic Violence Standard Operating Procedures (DVSOPs) were updated to include this information in 2018.

Beyond this recommendation, the NSW Police Force also produced:

- a strangulation training package
- a guide to the investigation and prosecution of strangulation offences
- a field reference card for the investigation of strangulation offences (over 10,000 printed and distributed to front line police) which included the change to the DVSOPs.

Recommendation 6

That the NSW Attorney General review the issue of intractable domestic violence offenders – offenders who are not deterred by civil or criminal penalties for domestic and family violence – with a view to determining whether any additional strategies can be developed for this cohort.

Whole of government response - 2018: Supported

Lead agency: Department of Justice

Details of implementation: In October 2017, the NSW Parliament passed a suite of reforms to community-based sentences as part of its criminal justice reform package. The sentencing reforms apply to all offenders dealt with by the adult courts and replace the current set of community-based sentences with three new flexible orders with differing intensity of sanctions. In descending order these are the Intensive Correction Order, Community Correction Order and the Conditional Release Order.

The reforms increase offender access to supervised sentences and increase offenders' participation in programs to change their behaviour and reduce reoffending. With respect to domestic violence offences, under the new orders there will be a presumption at law that all offenders sentenced for a domestic violence offence should receive a supervised community based sentence or a sentence of full-time imprisonment, unless the court is satisfied another penalty is appropriate.

The *Crimes (High Risk Offenders) Amendment Act 2017* (NSW) was also passed in October 2017. This reform allows for better management of high risk sex and violent offenders, including eligible domestic violence offenders, who pose an unacceptable risk of committing a further serious sex or violence offence. More of these offenders will now become eligible for detention or intensive supervision at the end of their sentences.

As part of the work under the Premier's Priority program to reduce domestic violence reoffending, the application of the above criminal justice reforms to high risk, intractable domestic violence offenders will be monitored over a 12 month period. Monitoring will begin at the time the reforms come into force by October 2018. A review will then be initiated one year after the implementation of the reforms with a view to determining whether any additional strategies can be developed for this cohort. Other existing penalties, such as fines and dismissal of the charges without conviction, will also continue to be available.



Whole of government update - 2019

Update: Underway - Estimated completion in the second half 2021.

Details of implementation: Sentencing reforms commenced in September 2018. The impact of these reforms to intractable domestic violence offenders will be subject to ongoing monitoring which will help inform whether additional strategies can be developed for intractable domestic violence offenders. This work will be led by the Department of Communities and Justice. It is not expected that additional strategies will be identified or implemented until the second half of 2021.

The sentencing reforms apply to all offenders dealt with by the adult courts and replace the current set of community-based sentences with three new flexible orders with differing intensity of sanctions. In descending order, these are the Intensive Correction Order, Community Correction Order and the Conditional Release Order.

The reforms increase offender access to supervised sentences, increase offenders' participation in programs to change their behaviour and reduce reoffending. With respect to domestic violence offences, under the new orders there will be a presumption at law that all offenders sentenced for a domestic violence offence should receive a supervised community-based sentence or a sentence of full-time imprisonment, unless the court is satisfied another penalty is appropriate.

Opportunities, challenges and/or consequences: Results from ongoing monitoring of the sentencing reforms will inform the development of any interventions or programs to prevent domestic violence reoffending, including as part of the Premier's Priority on reducing domestic violence reoffending.

Recommendation 7

7.1 *That the Attorney General, in consultation with relevant stakeholders, consider how the approaches reflected in the Domestic Violence Justice Strategy, such as the application of specialist court practice in all local courts, can be further advanced.*

Whole of government response - 2018: Supported

Lead agency: Department of Justice

Details of implementation: In 2018, the Department of Justice will review the Domestic Violence Justice Strategy. The review will include a focus on improving the court experience for particularly vulnerable victims, and include consideration of:

- how the application of specialist court practice in local courts can be further advanced – per recommendation 7.1
- support needs of victims in contested domestic violence matters, and the adequacy of current supports including an examination of the specific needs of Aboriginal women attending court – per recommendation 7.2
- how the expertise of judicial leaders can be harnessed to further improve responses to domestic violence in courts - per recommendation 7.3
- other matters arising from consultation.

Consultation will commence in the second quarter of 2018 and will include key judicial, government, and non-government stakeholders as well as service users. The review will be completed in late 2018.

Whole of government update - 2019

Update: Underway - Expected completion in early 2020.

Details of implementation: The Department of Communities and Justice is currently undertaking a review of the Domestic Violence Justice Strategy (DVJS) to explore opportunities to improve justice responses to domestic violence. This aligns with recommendations 7.1, 7.2, 7.3 and 23.1 of the DVDRT 2015-2017 Report. The DVJS is

expected to be released in early 2020.

Opportunities, challenges and/or consequences: The establishment of the Department of Communities and Justice provides an opportunity to align the DVJS with strategies for other human service systems, e.g. housing, homelessness, out-of-home-care, child protection, early intervention and targeted intensive services aimed at reducing the risk of children entering care.

Policy progress since recommendation was made: Consultation with peak bodies, government agencies, service providers, victims and perpetrators took place between May 2018 and February 2019.

7.2 *That the NSW Government review the support needs of victims in contested domestic violence matters, and the adequacy of current supports, with the aim of providing consistent support across NSW. This should include an examination of the specific needs of Aboriginal women, including in relation to attending court.*

Whole of government response - 2018: Supported

Lead agency: Department of Justice

Details of implementation: As above for recommendation 7.1

Whole of government update - 2019

Update: Underway

Details of implementation: The Department of Communities and Justice is undertaking a review of the Domestic Violence Justice Strategy (DVJS) to explore opportunities to improve justice responses to domestic violence. The review will include how to best support victims including Aboriginal women and consider how existing good practice can be enhanced and what opportunities there are to implement further reform. The review and development of a new DVJS will be completed in early 2020. See the response to recommendation 7.1 for further information.

Responding to the unique needs of Aboriginal women, including in relation to attending court, is also being addressed through a co-design pilot, currently under development by the Department of Communities and Justice and Aboriginal Affairs. The co-design pilot will develop a trauma-informed and culturally safe pilot for Aboriginal women experiencing domestic and family violence. The pilot will be co-designed with Aboriginal community groups, Aboriginal women, service users and other stakeholders. The objectives of the pilot will be to ensure that Aboriginal women feel safer, supported, more empowered and have stronger relationships with the justice system and that the justice system service responses are directly informed by the needs of Aboriginal women. Stage 1 pilot co-design is expected to finish by the end of 2019.

Opportunities, challenges and/or consequences: See the response to recommendation 7.1.

7.3 *That the Attorney General approach the Chief Magistrate to discuss how the expertise of judicial leaders can be harnessed to further improve responses to domestic violence in courts.*

Whole of government response - 2018: Supported

Lead agency: Department of Justice

Details of implementation: As above for recommendation 7.1

Whole of government update - 2019

Update: Underway

Details of implementation: The Attorney General is continuing to engage with the Chief Magistrate about how to leverage the expertise of judicial leaders to improve responses to domestic violence in courts.

The Department of Communities and Justice is consulting with representatives from the Chief Magistrate's Office



as part of the review of the Domestic Violence Justice Strategy (DVJS). The review includes identifying existing good practice in courts and opportunities for its further enhancement. The DVJS is expected to be released in early 2020.

The Chief Magistrate's Office has also been engaged in preparation for the implementation of reforms to the Apprehended Domestic Violence Order Scheme. These reforms are in response to the review undertaken by the (then) Department of Justice in response to Recommendation 3 of the DVDRT 2015-2017 Report. The Department of Communities and Justice is leading the implementation of the reforms.

Opportunities, challenges and/or consequences: See the responses to recommendations 3 and 7.1.

Recommendation 8

8.1 *That the NSW Government consider the need for regulation of generalist counsellors, and/or other mechanisms to ensure generalist counsellors are operating in a way that respects and enhances the safety of victims and children in respect of domestic and family violence.*

Whole of government response - 2018: Supported

Lead agency: FACS (Women NSW)

Details of implementation: Women NSW, with support from NSW Health, will progress this recommendation.

Whole of government update - 2019

Update: Underway - Options paper to be completed in the first quarter of 2020.

Details of implementation:

Generalist counsellors are not regulated by the NSW Government. They are bound by Schedule 3 of the Public Health Regulation 2012, which sets out a code of conduct for unregistered mental health practitioners.

Women NSW has consulted the Australian Counselling Association (ACA) and the Psychotherapy and Counselling Federation of Australia (PCFA), to understand current regulatory frameworks. The ACA and PCFA perform a regulatory function and provide members with access to accredited domestic and family violence education, but do not require members working with victim-survivors or perpetrators of domestic and family violence to receive training.

Women NSW is currently developing an options paper to:

- consider potential regulatory approach to generalist counsellors (including risks and costs)
- consider other approaches that would ensure victim safety
- review of other jurisdictions' practice in this area.

The options paper is expected to be provided to Government for consideration in the first quarter of 2020.

Women NSW will continue to work with professional bodies in an attempt to embed best practice through their organisations.

The Black Box Parenting Program is funded through the NSW Domestic and Family Violence Innovation Fund. It is building the capacity of clinicians and counsellors to work with parents with a history of domestic and family violence. The project concludes in June 2021.

ACA is developing a Domestic Violence Specialist College. To join this community of practice, counsellors are required to participate in formal domestic and family violence training through accredited tertiary courses, formal providers or government agencies.

Opportunities, challenges and/or consequences:

Regulation of counsellors is a complex policy area. The NSW Government will consider the options to respond to this recommendation, including the professional, legal and regulatory impacts and financial implications.

The Australian Register of Counsellors and Psychotherapists has advised that they are exploring options for potential co-regulation with the Commonwealth Government to recognise counsellors under the medical benefits scheme.

8.2 *That the NSW Government engage with the Australian Psychological Association, Australian Counselling Association, Australian Association of Social Workers and other relevant professional bodies to examine ways to improve associated professionals' awareness of and response to domestic and family violence such as through continuing professional education or registration processes.*

Whole of government response - 2018: Supported

Lead agency: FACS (Women NSW)

Details of implementation: Women NSW, with support from NSW Health, will progress this recommendation.

Whole of government update - 2019

Update: Underway - Domestic and Family Violence Service Quality Standards to be developed by December 2020. The standards will only apply to NSW Government funded services, but will provide guidance to professional bodies in relation to professional education and registration.

Details of implementation:

To better understand their approaches to domestic and family violence, Women NSW has consulted with professional bodies, including the:

- Australian Psychological Society
- Australian Clinical Psychology Association
- Australian Association of Social Workers
- Australian Counselling Association.

Women NSW will continue to meet with stakeholders to identify common approaches and areas of opportunity.

Women NSW will commence co-design of the Domestic and Family Violence Service Quality Standards in early 2020. The Domestic and Family Violence Service Quality Standards will be considered by the NSW Government in late 2020, and are expected to be piloted in early 2021.

Opportunities, challenges and/or consequences: Professional bodies act as primary sources of domestic and family violence capacity building for practitioners through providing educational opportunities and mandating ongoing professional development. None of the organisations consulted reported mandated training specific to domestic and family violence.

Recommendation 9

That NSW Health work with Primary Healthcare Networks, Royal Australian College of General Practitioners, Australian College of Rural and Remote Medicine, Aboriginal Medical Services, Women NSW, Australian Primary Healthcare Nurses Association and any other relevant agency or service as required, to support the development of strategies and materials for providing ongoing education to General Practitioners and practice nurses in relation to domestic and family violence.

Consideration should be given as to how to maximise uptake of training and whether domestic and family violence training should be required as part of Continuing Professional Development for General Practitioners.

Whole of government response - 2018: Supported

Lead agency: NSW Health



Details of implementation: Work has commenced through Safer Pathway to encourage General Practitioners (GPs) to refer patients to Local Coordination Points. NSW Health is a key partner agency in Safer Pathway.

The NSW Health Education Centre Against Violence currently offers adult sexual assault medical and forensic training that is available to GPs, this is being expanded to include a focus on domestic violence.

NSW Health is also collaborating with the Royal Australasian College of General Practitioners to provide information to GPs about supporting vulnerable families to ameliorate child protection risks including domestic and family violence. This includes a webinar which will be made available to GPs about recent legislative changes around information exchange provisions and give them access to NSW Health Child Wellbeing Units. The webinar includes case studies about domestic and family violence.

Whole of government update – 2019

Update: Complete

Details of implementation: The NSW Ministry of Health collaborates with the Royal Australasian College of General Practitioners (RACGP) and provides information to General Practitioners (GPs) about supporting families and responding to child protection risks, including domestic and family violence. This includes the *Child Protection and Wellbeing in General Practice* webinar held in mid-2018 with 165 GPs participating.

The need to improve primary care responses to domestic and family violence has been acknowledged through the Council of Australian Governments (COAG) Health Council. In April 2018, the Council agreed to progress this work.³³²

NSW Health will continue to work with the Commonwealth on this issue, as appropriate.

Recommendation 10

That the NSW Government appropriately resource NSW Health to ensure that Level 4 and above hospitals with a 24-hour emergency department are appropriately supported by 24-hour psychosocial resources to support the safety of victims.

Whole of government response - 2018: Response is pending further consultation and consideration.

Lead agency: NSW Health

Details of implementation:

NSW Health has conducted a three site six month trial of screening for domestic and family violence in Emergency Departments. The final report for the *Domestic Violence Screening and Response in NSW Emergency Departments Project* will be received in May 2018. This Report will determine future feasibility of screening in Emergency Departments, and provide recommendations about response models. NSW Health will defer consideration of this recommendation until after the publication of the report.

On-call social workers are available in Emergency Departments in most of the larger hospitals, however it is unlikely that this is the case across all Level 4 and above hospitals.

The NSW Government has invested an additional \$10 million per annum from 2017/18 to strengthen NSW Health services for victims of sexual assault, child abuse and neglect, and domestic and family violence. This funding is intended to support a state-wide *VAN Services Redesign and Planning Project*, to be undertaken by the Ministry of Health in partnership with Local Health Districts (Districts) and the Sydney Children's Hospital Network during 2017/18 and 2018/19. The funding is intended to enable Districts to target the provisions of 24/7 integrated psychosocial medical forensic services for sexual assault, child abuse and neglect and domestic and family violence. Future service priorities for enhancement will also be identified by the Ministry in collaboration with the Districts.

³³² COAG Health Council, 2018, COAG Health Council Communique: April 18 2018, <https://www.coaghealthcouncil.gov.au/Announcements/Meeting-Communiques1>

Whole of government update – 2019

Update: Underway - Expected to be completed by June 2022.

Details of implementation: Since 2017-18, an additional recurrent \$10 million per annum has been provided for the *Violence, Abuse and Neglect (VAN) Redesign Project* to redesign, integrate and enhance the NSW Health response to violence, abuse and neglect. This includes working towards 24-hour integrated responses to sexual assault, child abuse and neglect, and domestic and family violence patients presenting to hospital.

In addition to the *VAN Redesign Program*, NSW Health, through the Commonwealth Health Innovation Fund, will pilot *Domestic Violence (DV) Screening and Response* in selected emergency departments. Locations are being finalised for the pilot, which is expected to run for three years and be completed by June 2022.

The project will provide improved identification and recording of the prevalence of domestic violence in emergency departments. It will also enable clinicians to provide timely access to services, support and information for victims.

Opportunities, challenges and/or consequences: Implementation of the *VAN Redesign Project* in NSW will provide further guidance for appropriate 24-hour psychosocial resources across health services in NSW. The resources will be localised to emergency departments, hospitals and community health needs during the redesign process.

The *DV Screening in Emergency Departments Pilot* will build on the findings of the *NSW DV Screening and Response Feasibility Study* that concluded in 2017. This project found screening for DV in NSW emergency departments to be both feasible and acceptable. However, the project also indicated that further testing and modification is required. The pilot will conclude by June 2022.

The pilot will provide evidence on the resourcing that needs to be on site and the appropriate referral pathways for support over a 24-hour period.

Policy progress since recommendation was made: Funding arrangements for the *VAN Redesign Project* is complete. The NSW Ministry of Health continues to work with local health districts on local implementation.

This work will be supported by the *Integrated Prevention and Response to Violence, Abuse and Neglect Framework* (the Framework). All NSW Local Health Districts were consulted in developing the Framework, which provides guidance to drive local responses. The Framework is underpinned by a comprehensive evidence base, highlighting the importance of integrated service responses for clients who are experiencing violence, abuse and/or neglect. This evidence base is further articulated in *The Case for Change*.

Recommendation 11

That the Ambulance Service of NSW work with the Ministry of Health (Health and Social Policy branch) to develop a specific domestic and family violence standard operating policy.

Whole of government response - 2018: Supported

Lead agency: NSW Health

Details of implementation: The *NSW Health Domestic and Family Violence Policy* is currently under review and recommendations related to policy change for all NSW Health services are appropriately considered as part of this review in consultation with specific clinical areas.

The Prevention and Response to Violence, Abuse and Neglect Unit within the NSW Ministry of Health is also currently developing a state wide toolkit of domestic and family violence resources and information for staff. It is planned that this toolkit be shared with NSW Ambulance Services as part of the roll out of these resources.

Whole of government update – 2019



Update: Underway - Final release of policy expected in 2020.

Details of implementation: The Prevention and Response to Violence Abuse and Neglect (PARVAN) Unit within NSW Health has released draft *Domestic Violence - Identifying and Responding* policies and procedures for targeted internal consultation, including with the Ambulance Service of NSW.

The publication of the revised *Domestic Violence - Identifying and Responding* policies and procedures will follow the completion of the *NSW Health Domestic and Family Violence Strategy 2019 – 2023*.

The release of the strategy forms part of the greater NSW Health response to violence, abuse and neglect and aligns to the *NSW Domestic and Family Violence Blueprint for Reform 2016-2021* and the *NSW Domestic and Family Violence Prevention and Early Intervention Strategy 2017 – 2021*.

Recommendation 12

12.1 That the revised NSW Health Domestic Violence Identification and Response policy address the safety needs of victims of violence who are being discharged from mental health institutions.

Whole of government response - 2018: Supported

Lead agency: NSW Health

Details of implementation: To progress this recommendation, a NSW Health working party will be established to coordinate and facilitate implementation of the DVDRT recommendations. The Prevention and Response to Violence, Abuse and Neglect Unit will coordinate the working party.

An action from this working party will be to develop strategies to address the safety needs of victims who are discharged from mental health institutions. This will be inserted into the revised policy.

Whole of government update – 2019

Update: Underway - Final release of policy expected in 2020.

Details of implementation: The Prevention and Response to Violence Abuse and Neglect (PARVAN) Unit within NSW Health is developing *Domestic Violence - Identifying and Responding* policies and procedures in consultation with local health districts, NSW Health pillars and all Ministry of Health branches. The policy will cover discharge from mental health institutions. PARVAN will undertake targeted internal consultation on mental health service procedures for the remainder of 2019 with the final release expected in 2020.

12.2 That NSW Health develop strategies to improve screening rates for women in mental health services.

Whole of government response - 2018: Supported

Lead agency: NSW Health

Details of implementation: The NSW Health Service Agreement with Local Health Districts and Specialty Health Networks includes individual key performance indicators against NSW Health Strategic Priorities. In the 2017/18 Service Agreements, this includes a KPI on Routine Domestic Violence Screens conducted (%), with a target of 70%. Local Health Districts and Networks are assessed against performance targets. Data is reported quarterly and screening rates are monitored by service stream.

The NSW Health Education Centre Against Violence (ECAV) provides ongoing training in Districts and holds an annual forum for all NSW Health practitioners. The 2018 forum will focus on mental health and will specifically target improving screening rates.

ECAV also distributes Z cards to targeted health areas upon request to disseminate to women throughout the screening process so they receive information about domestic and family violence, and support services. These cards are available in 18 languages.

Whole of government update – 2019

Update: Complete.

Details of implementation: In 2018, NSW Health's Education Centre Against Violence ran a forum to address screening rates for women in mental health services called 'Listening Between The Lines: Uncovering women's experiences of Domestic & Family Violence and Mental Health across the lifespan: Implications for Practice.'

All local health districts have key performance indicators for domestic violence routine screening rates.

NSW Health provides a range of training options for Domestic Violence Routine Screening including a specific unit for mental health and drug and alcohol workers on domestic violence.

In late 2019, NSW Health will publish a revised *Protocol for Domestic Violence Routine Screening*, which will provide a spotlight on screening processes.

Recommendation 13

That Justice NSW work with NSW Health in relation to the redesign of MERIT to explore strategies to integrate MERIT into the current referral and information sharing framework under Safer Pathway. This redesign should include a requirement that all workers involved in the MERIT program be trained in domestic and family violence.

Whole of government response - 2018: Supported

Lead agency: Department of Justice/NSW Health

Details of implementation: Both the Department of Justice and NSW Health support this recommendation.

In February 2017, the Department of Justice, through Corrective Services NSW, convened a working group to commence the redesign of the MERIT program. This work is expected to be completed by late 2018. NSW Health is represented on this working group. This recommendation will be progressed through the working group.

NSW Health supports drug and alcohol workers, including MERIT workers, being trained to identify domestic and family violence and to provide appropriate referrals for those at risk while maintaining the therapeutic objectives of the MERIT program. Many already receive such training through the Local Health Districts, including modules on My Health Learning. NSW Health sees value in linking Alcohol and Other Drugs workers into the Safer Pathway framework.

Whole of government update – 2019

Update: Complete

Details of implementation: Magistrate's Early Referral into Treatment Program (MERIT) is a local court program that coordinates entry into drug treatment as part of the bail process for adult defendants. MERIT workers have been trained in domestic and family violence assessment and referral. The revised MERIT Operational Manual was published in June 2019. This includes the mandatory screening for domestic and family violence for women as part of the comprehensive assessment.

Safer Pathway has been operational state-wide since November 2018 and accepts non-statutory referrals, which includes referrals from the MERIT program.

Opportunities, challenges and/or consequences: The current implementation screening for domestic and family violence is only for women.



Recommendation 14

That the Independent Liquor and Gaming Authority, when making determinations regarding any alcohol licensing related applications in areas identified by the NSW Bureau of Crime Statistics and Research as domestic violence ‘hot spots’, apply the following criteria:

- 1) For any applications pertaining to an extension of trading hours, or the development of new liquor outlets or bottle-shops in domestic violence hot spots, there should be a rebuttable presumption against granting the application;*
- 2) The Authority should require applicants to prepare Community Impact Statements for their applications and these should require the applicant to consult with community members, including a Domestic Violence Liaison Officer from the relevant Local Area Command or a Safety Action Meeting Representative from the Local Coordination Point, and applicants must respond to the concerns of these parties. Applicants also required to provide local alcohol sales industry data as part of their application; and*
- 3) In the case that licences or applications are successful after the applicant completes the Community Impact Statements, the licence holder should be required to display domestic violence educational material within public areas of the venue, including posters by NSW Police Force or other relevant educational material concerning domestic violence.*

Whole of government response - 2018: Supported in principle

Lead agency: Independent Liquor and Gaming Authority

Details of implementation:

- 1) It should be noted that the Independent Liquor and Gaming Authority already places significant weight upon domestic violence rates in the Local Government Area when making its licensing determinations. Indeed, domestic violence data has been a key reason for the Authority refusing a number of applications.
- 2) Under the existing Community Impact Statement process, there is already a requirement for applicants to consult with community members. The Community Impact Statement process is currently under review by Liquor & Gaming NSW, and this recommendation to require specific community members, including the Domestic Violence Liaison Officer, to be consulted as part of the process will be considered in the review. It should be noted that the provision of local alcohol sales industry data by applicants is not possible as this data is unavailable to applicants or to regulators.
- 3) Industry is concerned about the amount of material that already needs to be displayed in licensed venues, and there is a lack of certainty around effectiveness across a range of venues at different times of the day and in different environments. Further work would be required to ensure there are appropriate benefits that outweigh the costs.

Whole of government update – 2019

Update: Underway

Details of implementation:

- 1) The Independent Liquor and Gaming Authority considers local and state-wide rates of alcohol-related domestic violence in its decision-making processes, particularly with regard to applications for packaged liquor licences. It also considers public submissions from individuals, advocacy organisations and government agencies relating to domestic violence issues. While the relevant legislation does not presently allow the authority to adopt a rebuttable presumption against granting applications in domestic violence ‘hot

spots', local rates of alcohol-related domestic violence hold significant weight in the authority's decision-making process.

- 2) Applicants for higher risk liquor licences (including packaged liquor licences) are required by law to prepare Community Impact Statements as part of the licence application process. Liquor and Gaming NSW is currently implementing a range of data reporting improvements to strengthen the evidence base underpinning liquor licensing decision-making. Data on alcohol-related domestic assaults will be included as part of this process.
- 3) The Independent Liquor and Gaming Authority can impose conditions on a liquor licence where there is sufficient supporting evidence. This could include a requirement to display educational material to assist in reducing the risk of alcohol-related harm.

Recommendation 15

That NSW Health provide resources to a consumer based organisation and/or family and carers organisation who work with people who use drugs to collaborate with the DVDRT Secretariat to develop a strategy for improving awareness of, and intervention in relation to, domestic and family violence amongst people on Opioid Treatment Programs in NSW.

This strategy should aim to raise awareness and highlight the importance of this intervention point in a holistic and coordinated response to violence, highlight referral pathways available to this group of clients, increase capacity to identify and respond to domestic and family violence across the workforces administering and delivering these programs, and should be tailored to the different Opioid Treatment Program pathways currently available in NSW.

Whole of government response - 2018: Supported.

Lead agency: NSW Health/DVDRT Secretariat

Details of implementation: To progress this recommendation, a NSW Health working party, including the Prevention and Response to Violence, Abuse and Neglect Unit, will be established to coordinate and facilitate implementation of the DVDRT recommendations. This recommendation will be addressed through this working party, which will collaborate with the DVDRT Secretariat and other relevant stakeholders.

NSW Health, through the Alcohol and Other Drugs Branch, supports alcohol and drug workers, including staff of Opioid Treatment Program clinics, being trained to identify domestic and family violence and to provide appropriate referrals for those at risk while maintaining the therapeutic objectives of the Opioid Treatment Program. Many already receive such training through the Local Health Districts, including through modules on My Health Learning.

NSW Health sees value in linking alcohol and drug workers into the Safer Pathway framework, including training on the use of the risk assessment tool and the information sharing mechanisms.

Whole of government update – 2019

Update: Underway - Anticipated completion in 2020-21, but it will depend on agreed timeframes negotiated with NSW Health funded partners.

Details of implementation: In 2018-19, NSW Health entered into a new contract with consumer organisation NSW Users and AIDS Association (NUAA) to partner on the development of a range of Alcohol and Other Drugs consumer-led resources and other peer initiatives. The Alcohol and Other Drugs Branch included this in the 2019-20 work plan of NSW Health-funded partners including NUAA. NSW Health will liaise with the DVDRT Secretariat on this work.

Opportunities, challenges and/or consequences: This work will be linked to existing contract management arrangements, which include the development of targeted consumer focussed resources. Consumer focus



groups will assist in the development of the content.

Recommendation 16

16.1 That NSW Health conduct a literature review and convene a working group within NSW Health to ventilate relevant issues and develop a model of practice around working with complex clients with cumulative alcohol or drug, mental health and domestic violence issues.

Whole of government response - 2018: Supported

Lead agency: NSW Health

Details of implementation: NSW Health will progress this recommendation. The Mental Health Branch and the Alcohol and Other Drugs Branch will collaborate in the proposed working group and literature review.

The NSW Clinical Guidelines for the Care of Persons with Comorbid Mental Illness and Substance Use Disorders in Acute Care Settings 2009 set out legal obligations of workers in Mental Health and Alcohol and Other Drugs in relation to domestic violence (page 8). Page 13 requires that a standard Alcohol and Other Drugs assessment includes screening for domestic violence. The working group may present an opportunity to review these guidelines.

NSW Health Education Centre Against Violence (ECAV) has developed a position paper on 'Interrupting Male Violence with Men who use Domestic and Family Violence.' The focus is on brief, safe and effective male family violence intervention (MFVI) practice for generalist Health and human services sector workers to respond, in a range of settings, to maintain the safety of women and children, whilst increasing responsibility and accountability of men who use domestic and family violence. This is available on the ECAV website and is distributed throughout ECAV domestic and family violence courses.

Whole of government update – 2019

Update: Underway - Literature review expected by January 2020.

Details of implementation: The Prevention and Response to Violence, Abuse and Neglect (PARVAN) Unit within NSW Health has developed the draft scope for the literature review in consultation with the Mental Health Branch and Alcohol and Other Drugs Unit. The draft scope and proposed research questions have been framed specifically to explore issues and service system gaps identified by the DVDRT and identify existing evidenced-based policy and practice responses to these issues. This includes a proposal for further analysis of identified best practice models against system design principles of the Integrated Prevention and Response to Violence, Abuse and Neglect Framework.

Opportunities, challenges and/or consequences: Learnings from the literature review will support a range of priorities including those relating to the delivery of NSW Health mental health, and drug and alcohol services.

16.2 That NSW Health convene an interagency forum including with relevant expertise in drug and alcohol, mental health and domestic violence, to develop strategies for improving and coordinating responses to people with mental health, drug and alcohol and domestic violence perpetration or victimisation issues. This may include the development of a coordinated plan of action, referral pathways and complex program interventions across agencies.

Whole of government response - 2018: Supported

Lead agency: NSW Health

Details of implementation: NSW Health will progress this recommendation. The Mental Health Branch and Alcohol and Other Drugs Branch will collaborate in the proposed interagency working group and literature review.

Whole of government update – 2019

Update: Underway - The forum is planned for June 2020.

Details of implementation: The literature review will be completed by January 2020 and will inform the forum program.

Opportunities, challenges and/or consequences: In addition to the forum, there are a number of other NSW Health projects that will support and inform the ongoing development of integrated responses to people with mental health, drug and alcohol, and domestic violence perpetration or victimisation issues. Some key initiatives include:

- The *Violence, Abuse and Neglect (VAN) Redesign Program* - Phase one of this project will strengthen the capacity of the public health system to provide 24-hour, trauma-informed and trauma-specific integrated psychosocial, medical and forensic responses to sexual assault, and child physical abuse and neglect. The second phase of the project will focus on development of integrated responses to VAN across all NSW Health services, including in priority health areas such as mental health, and alcohol and other drugs.
- *Safe and Together Addressing Complexity (STACY)* research project focuses on how workers, as part of case management, assess and manage the complexity of the intersections of mental health, alcohol and other drugs and domestic and family violence. The research project will conclude in December 2019.
- The *integrated specialist treatment service for adult survivors of child sexual abuse with complex needs pilot project* includes development of a therapeutic treatment and case management model between sexual assault services, mental health, and drug and alcohol services. The pilot project and subsequent state-wide rollout of the new specialist service, forms part of NSW Health's response to the *Royal Commission into Institutional Responses to Child Sexual Abuse*. Given the significant intersections between domestic and family violence, and sexual assault (including childhood sexual abuse), progression of recommendation 16.2 - including any agreed actions from the forum - will be coordinated with policy developments and further program rollout arising from this initiative.

Recommendation 17

That NSW Health convene an interagency working group to consider mechanisms by which to rapidly share information between NSW Health and Justice with respect to any existing Community Treatment Orders, clients who may be in breach of Community Treatment Orders when offending, or clients who may benefit from the inclusion of Community Treatment Orders as part of bail conditions.

This working group should also consider ways to monitor compliance with Community Treatment Orders for domestic and family violence offenders.

Whole of government response - 2018: Supported

Lead agency: NSW Health

Details of implementation: NSW Health will progress this recommendation. This recommendation is highly complex in relation to people with lived experience of mental illness under Community Treatment Orders and domestic and family violence offences. The Mental Health Branch will collaborate with the interagency working group to be convened by NSW Health to address this specialised area. Legal Aid NSW will be invited to participate in the working group.

Whole of government update – 2019

Update: Underway

Details of implementation: Compliance for Community Treatment Orders is monitored for all people on Community Treatment Orders whether they present with a history of domestic and family violence or not. Monitoring is conducted by Local Health Districts and the Mental Health Review Tribunal as per PD2016_056 Transfer of care from mental health inpatient services and the Mental Health Act 2007 (NSW).

The establishment of Interagency Working Group and further work to support improvements to information sharing processes will be monitored by the Ministry of Health's Integrated Prevention and Response to



Vulnerability, Violence, Abuse and Neglect Steering Committee.

Opportunities, challenges and/or consequences: This area involves interfaces with NSW Police, and the Department of Communities and Justice.

Further planning regarding the implementation of this recommendation will address intersections between recommendations 17 and 25.

Recommendation 18

That the NSW Police Force update its Standard Operating Procedures and adjust training material to reflect preferred practice around Elder Abuse as contained in the NSW Police Notebook Card (developed by the Elder Abuse Helpline Resource Unit).

Whole of government response - 2018: Supported

Lead agency: NSW Police Force

Details of implementation: The NSW Police Force will amend the Standard Operating Procedures and is currently developing training and information packages in relation to abuse of vulnerable people and the elderly.

Whole of government update – 2019

Update: Underway - Expected to be completed by the end of November 2019.

Details of implementation: In November 2018, the NSW Government announced the establishment of a new Specialist Elder Abuse Officer position in every Police Command, to strengthen the Government's response to elder abuse and assist the functions of the Ageing and Disability Commissioner. The first phase of establishing the Specialist Elder Abuse Officer positions consists of six officers as a pilot, which commenced in July 2019. A concurrent evaluation of their roles and responsibilities will be conducted throughout the first 12 months.

As part of the establishment of the new Specialist Elder Abuse Officers, an education strategy is currently being developed and NSW Police Force has commenced a comprehensive review of all existing elder abuse education and training material, and is developing new resources for the specialist officers, as well as other related police roles. NSW Police Force is currently liaising with the *Elder Abuse Helpline* and *Resource Unit* to develop the resources that will build on the NSW Police Notebook Card.

In the interim, the use of the information in the Notebook Card is regularly reinforced, most recently in an awareness-raising article on elder abuse, published in the internal *Police Monthly Magazine*.

By the end of November 2019, the *Domestic Violence Standard Operating Procedures* will capture corporate implementation of the new Specialist Elder Abuse Officer positions.

Opportunities, challenges and/or consequences: The collaboration between NSW Police Force, particularly through the Specialist Elder Abuse Officers, and the Ageing and Disability Commissioner to respond to elder abuse will introduce new systems and procedures. This will require regular reviews of existing training resources and possibly the development of new ones. This need may not be limited to these new agencies, but extend to include others in the sector.

It is also possible that, due to the Ageing and Disability Commissioner receiving, triaging and investigating abuse, neglect and exploitation of older persons in home and community settings, new trends would emerge. Identifying and responding to these trends by NSW Police Force, and possibly other agencies, might require reviews, adjustments and evaluation. The Specialist Elder Abuse Officers will play a significant role in this.

Recommendation 19

19.1 *That NSW Health give consideration to adopting a policy whereby women who do not receive antenatal screening receive postnatal screening.*

Whole of government response - 2018: Supported

Lead agency: NSW Health

Details of implementation: NSW Health's current policy (*PD2010_017 Maternal & Child Health Primary Health Care Policy*) already meets the recommendation as it requires women to be screened antenatally and postnatally.

A comprehensive primary health assessment which includes the DV routine screening questions:

- Occurs antenatally – at the first point of contact with NSW Health during pregnancy. This will occur at the first presentation for antenatal care or as early as possible in the antenatal period before 20 weeks of pregnancy.
- Is reviewed (or conducted if there was no antenatal comprehensive primary health assessment) at the first health home visit.
- Is conducted by the child and family health service at the six to eight week health check postnatally.
- The previous assessments will be reviewed and any new or emerging issues identified. If no previous assessment has been undertaken, a comprehensive primary health care assessment will be conducted.
- Will recommend that a further assessment be conducted at six to eight months postnatally as part of the schedule of visits to the early childhood health service when the child health assessments recommended in the child's Personal Health Record (blue book) are completed.

The Policy specifically notes that rapport should be established so as to engage the mother prior to asking sensitive questions. The interview is to only to be conducted when privacy can be assured. Questions that are sensitive for the mother, such as those asked about domestic violence and questions about past pregnancies/terminations, must be asked with the mother alone. In circumstances where a child is present, the questions should be asked only if the child is aged under three years. It is recommended that sensitive questions be asked at the beginning of the interview and then the family can be invited into the interview with the nurse and mother. It is suggested that the requirement to see the mother alone initially be included in the letter confirming the antenatal booking, to provide an expectation that this will happen. Interviews need to be conducted in a manner that facilitates the parents identifying issues and concerns, and participating in making choices about the type and level of care and support they require.

The Prevention and Response to Violence, Abuse and Neglect Unit is working to develop systems for electronic data recording and reporting of Domestic Violence Routine Screening.

Whole of government update – 2019

Update: Complete

Details of implementation: NSW Health's current policy *PD2010_017 Maternal & Child Health Primary Health Care Policy* requires antenatal and postnatal screening.

The *First 2000 Days: Conception to Age 5 Framework* was released as a NSW Health policy directive in February 2019. The framework outlines what actions the NSW health system needs to take to ensure that all children have the best possible start in life. Antenatal and postnatal screening form a core part of this process to ensure that families in need are identified as early as possible, and intervention, care and supports are provided in a timely manner.

Opportunities, challenges and/or consequences: The implementation of full electronic reporting of the *Domestic Violence Routine Screening* program will provide a more comprehensive picture on screening rates and potential areas for improvement.



19.2 That NSW Health update its policies and practice to ensure that, where required, appropriate healthcare interpreters are made available to women in NSW receiving post-natal care in the form of home visits.

Whole of government response - 2018: Supported

Lead agency: NSW Health

Details of implementation: This is underway. In December 2017, the Health and Social Policy Branch, Ministry of Health published the updated Policy, *Interpreters – Standard Procedures for Working with Health Care Interpreters*. It is NSW Health policy that health care interpreters are made available to people who are receiving care and are not fluent in English or are Deaf.

The policy includes a component on trauma-informed training for Interpreters. It describes the role of health care interpreters in providing trauma-informed care. The policy also guides health practitioners on what steps to take if a woman declines a health care interpreter and the health practitioner has concerns about domestic and family violence being present.

Supporting this process is an ongoing training program run by the NSW Health Education Centre Against Violence (ECAV). ECAV provides domestic and family violence training for interpreters interfacing with NSW Health. They also run courses for NSW Health staff on working with women in Culturally and Linguistically Diverse Communities who are experiencing violence.

In late 2017 ECAV ran a highly successful forum for Interpreters and Bilingual Community Educators (BCEs) in collaboration with the Health Care Interpreter Services. The Forum provided opportunities to explore strategies to address complex practice issues and ethical dilemmas that arise for interpreters and BCEs in engagement with victims and perpetrators from their community. The forum discussed topics including navigating boundaries between professional and community responsibilities, safety issues and referring to specialist services.

At this forum ECAV launched their DVD – *Engaging Interpreters with a Trauma Informed Approach: Screening for Domestic Violence in NSW Health Service* with an accompanying resource booklet *Information For Health Workers When Engaging Interpreters in Domestic Violence Screening* – which provides guidelines for health workers on when and how to book, and work with face to face telephone Interpreters, when screening migrant and refugee women for domestic violence.

The current policy (*PD2010_017 Maternal & Child Health Primary Health Care Policy*) requires that for the comprehensive primary health assessments (which incorporate the DV screening) conducted antenatally and postnatally:

If the parent does not speak or understand English, the use of an interpreter will be necessary. Services are to ensure that they have the capacity to identify those parents who speak little or no English and provide appropriate access to interpreters. (page 10)

There are no plans to remove this requirement.

Whole of government update – 2019

Update: Complete

Details of implementation: NSW Health's *Interpreters – Standard Procedures for Working with Health Care Interpreters* policy requires that interpreter services are made available to people receiving care who are not fluent in English, including people with hearing impairment. This policy emphasises the importance of using interpreters with training in trauma-informed care where clients have experienced domestic violence.

The NSW Health Education Centre Against Violence (ECAV) provides specialist course for Health Care Interpreters on interpersonal violence including *CE201: Interpreting for people who have experienced domestic and family violence*.

In addition to training, another capacity building activity of ECAV is the Annual Forum for Interpreters and BCEs

(Bilingual Community Educators). The 2018 forum, *Being Visible and Being Heard*, focussed on exploring the increased vulnerabilities of older people from culturally and linguistically diverse communities. This followed the 2017 forum, *Putting Ethics into Domestic & Family Violence Work: Practice Issues for Interpreters & Bilingual Community Educators*.

Recommendation 20

20.1 *That the Commonwealth Government work with state governments and other relevant stakeholders to develop and fund a specific initiative to enable vulnerable individuals with impermanent visa status, or without a valid visa, to access affordable, appropriate and expedient medical care. This initiative must recognise the unique vulnerability of victims of domestic and family violence who may be precluded from accessing affordable services due to residency issues or barriers to access arising from fear of deportation.*

Whole of government response - 2018: Not indicated if supported

Lead agency: FACS (Women NSW)

Details of implementation: Minister Goward wrote to the Minister for Home Affairs on 20 December 2017 regarding this recommendation.

Whole of government update – 2019

Update: Underway - Follow-up letters will be sent to relevant Commonwealth ministers by end of 2019.

Details of implementation: Former Minister for the Prevention and Domestic Violence and Sexual Assault, Ms Pru Goward, wrote to the then Minister for Immigration and Border Protection, the Hon Peter Dutton, on 20 December 2017 regarding this recommendation.

A reply was received from Assistant Minister for Immigration and Border Protection, the Hon Alex Hawke MP in May 2018 advising that the correspondence had been forwarded to the Minister for Health, The Hon Greg Hunt MP, for consideration. To date, a response has not been received.

Opportunities, challenges and/or consequences:

The NSW Attorney General and Minister for Prevention of Domestic Violence will write to the Commonwealth Minister for Home Affairs MP, to follow up on this recommendation.

20.2 *That the Commonwealth Government give consideration to expanding the Family Violence Provisions currently applicable to spousal visas to ensure that victims who are applying for permanent residency under different classes of visa are supported when escaping domestic or family violence.*

Whole of government response - 2018: Not indicated if supported

Lead agency: FACS (Women NSW)

Details of implementation: Minister Goward wrote to the Minister for Home Affairs on 20 December 2017 regarding this recommendation.

Whole of government update – 2019

Update: Complete

Details of implementation: Former Minister for the Prevention and Domestic Violence and Sexual Assault, Ms Pru Goward, wrote to the then Minister for Immigration and Border Protection, the Hon Peter Dutton, on 20 December 2017 regarding this recommendation.

A reply was received from Assistant Minister for Immigration and Border Protection, the Hon Alex Hawke MP in May 2018. The Commonwealth advised that the *Migration Amendment (Family Violence and Other Measures) Bill 2016* proposes the introduction of a sponsorship framework for the family visa program.



On 10 December 2018, the *Migration Amendment (Family Violence and other measures) Act 2018* was assented.

20.3 *That the Commonwealth Government work with the Office of the Migration Agents Registration Authority to update accredited graduate certificate courses to include a specific topic about domestic and family violence as part of the syllabus. This update should highlight the specific vulnerabilities that may arise for domestic and family violence victims by virtue of having uncertain or impermanent visa status (across categories) and issues relevant to, but not confined to, the operation of the Family Violence Provisions. That the Office of the Migration Agents Registration Authority give consideration to incorporating mandatory domestic and family violence continuing professional development into educational requirements for registered Migration Agents in Australia.*

Whole of government response - 2018: Not indicated if supported

Lead agency: FACS (Women NSW)

Details of implementation: Minister Goward wrote to the Minister for Home Affairs on 20 December 2017 regarding this recommendation.

Whole of government update – 2019

Update: Complete

Details of implementation: Former Minister for the Prevention and Domestic Violence and Sexual Assault, Ms Pru Goward, wrote to the then Minister for Immigration and Border Protection, the Hon Peter Dutton MP, on 20 December 2017 regarding this recommendation.

A reply was received from Assistant Minister for Immigration and Border Protection, the Hon Alex Hawke MP in May 2018. The Commonwealth advised that the Office of Migration Agents Registration Authority (OMARA) requires course providers to base their course content on the Occupation Competency Standards, which include matters relating to domestic and family violence. Some OMARA providers also offer continuing professional development activities related to domestic and family violence issues.

20.4 *That the Commonwealth Government work with state governments and other relevant stakeholders to identify how non-residents experiencing domestic or family violence can be better supported in respect of access to shelter accommodation, access to more permanent housing solutions and access to appropriate financial and other supports. That as part of this work, the Commonwealth Government resource the NSW Government to provide accommodation and other services for domestic and family violence victims who are non-residents.*

Whole of government response - 2018: Not indicated if supported

Lead agency: FACS (Women NSW)

Details of implementation: Minister Goward wrote to the Minister for Home Affairs on 20 December 2017 regarding this recommendation.

Whole of government update – 2019

Update: Underway - Follow-up correspondence will be sent to the relevant Commonwealth minister by the end of 2019.

Details of implementation: Former Minister for the Prevention and Domestic Violence and Sexual Assault, Ms Pru Goward, wrote to the then Minister for Immigration and Border Protection, the Hon Peter Dutton MP, on 20 December 2017 regarding this recommendation.

A reply was received from Assistant Minister for Immigration and Border Protection, the Hon Alex Hawke MP in May 2018 advising that the correspondence had been forwarded to the Minister for Social Services, The Hon Dan Tehan MP for consideration. To date a response has not been received.

Opportunities, challenges and/or consequences: The NSW Attorney General and Minister for Prevention of Domestic Violence will write to the new Minister for Social Services, Senator the Hon Anne Ruston.

20.5 *That the Commonwealth Government give consideration to either updating the Life in Australia booklet, or producing another publication to be distributed to all persons entering Australia on a provisional or permanent visa, to highlight what domestic and family violence is, and what victims can do to seek help in Australia (including referral information).*

Whole of government response - 2018: Not indicated if supported

Lead agency: FACS (Women NSW)

Details of implementation: Minister Goward wrote to the Minister for Home Affairs on 20 December 2017 regarding this recommendation.

Whole of government update – 2019

Update: Underway - To date the *Life in Australia* publication has not been updated. Women NSW will continue to monitor.

Details of implementation: Former Minister for the Prevention and Domestic Violence and Sexual Assault, Ms Pru Goward, wrote to the then Minister for Immigration and Border Protection, the Hon Peter Dutton MP, on 20 December 2017 regarding this recommendation.

A reply was received from Assistant Minister for Immigration and Border Protection, the Hon Alex Hawke MP in May 2018. The Commonwealth advised that the updates to the *Life in Australia* publications are planned.

Recommendation 21

That Women NSW engage more directly with women with disability and women living in regional and remote areas regarding their challenges in accessing domestic and family violence services with a view to developing specific actions to better support and respond to these priority groups.

Whole of government response - 2018: Supported

Lead agency: FACS (Women NSW)

Details of implementation: Women NSW leads the development of whole of government policies to improve the safety, wellbeing and economic security of women. Consultations with priority groups, such as women with disability and women living in regional and remote areas, form a key part of the policy development process.

With respect to the NSW Government's current domestic and family violence reform agenda, priority groups, including women with disability and women living in regional and remote areas, have been directly engaged in the development of the:

- *Domestic and Family Violence Blueprint for Reform 2016 – 2021: Safer Lives for Women, Men and Children*
- *NSW Domestic and Family Violence Prevention and Early Intervention Strategy 2017-2021*
- *Domestic and Family Violence System Redesign.*

Additionally, in 2017, through round one of the *NSW Domestic and Family Violence Innovation Fund* the NSW Government funded three projects which specifically address the access challenges faced by women with disability and women living in regional and remote areas:

- *Respectful Relationships Peer Educators* (People with Disability Australia)
- *Building Access for Women with Disability* (People with Disability Australia, Domestic Violence NSW, and Women's Community Shelters)
- *Linking Communities Education Van* (Linking Communities Network).



The NSW Government is also rolling out the Safer Pathway program across regional NSW, an initiative that is supported by key Government agencies include NSW Police.

Whole of government update – 2019

Update: Complete

Details of implementation: Women NSW continue to engage with priority groups including women with disability and women living in regional areas through our current domestic and family violence reform agenda.

Policy progress since recommendation was made: The NSW Government has rolled out Safer Pathway across the state to 48 sites. In addition, the Safer Pathway non-statutory entry points pilot where referral sources are expanded, is being undertaken in two regional areas.

Several *NSW Domestic and Family Violence Innovation Fund* projects target women with disability and women living in regional and remote areas. One of these projects, *Building Access for Women with Disability*, is being delivered by People with Disability Australia. Through this project (funded until June 2021), domestic and family violence services are supported to develop and implement their own disability inclusion action plans and improve the disability inclusion capacity of communities of practice. This project is being implemented in selected domestic and family violence services across NSW, including regional and remote areas, and locations in greater Western Sydney, metropolitan Sydney and New England.

Recommendation 22

That the NSW Police Force Aboriginal Coordination Team update the Aboriginal Client Liaison Officer position description to include an additional criteria under the 'Knowledge, Skills and Experience' section, namely the 'Ability to work effectively in dealing with domestic, family and community violence in the local community, and in particular an ability to advocate for and reinforce the importance of supporting victims of domestic violence.'

Whole of government response - 2018: Supported in principle

Lead agency: NSW Police Force

Details of implementation: The NSW Police Force acknowledges the important role of Aboriginal Client Liaison Officers (ACLOs) in supporting all Aboriginal people, including those experienced in dealing with domestic, family and community violence. While responding to domestic violence matters is a responsibility of police officers and other specialist positions within the NSW Police Force, the ACLOs can support these other staff in working with communities.

The NSW Police Force will explore opportunities to reflect this supportive role in the ACLO position description.

Whole of government update – 2019

Update: Underway - Completion expected by the end of November 2019.

Details of implementation: The Aboriginal Client Liaison Officer (ACLO) role description will be updated by the end of November 2019.

Recommendation 23

23.1 That NSW Justice NSW, in partnership with Aboriginal community groups, develop a pilot program aimed at supporting Aboriginal women to attend court in relation to domestic violence offences in which they are a witness or victim.

Whole of government response - 2018: Supported.

Lead agency: Department of Justice

Details of implementation: The Department of Justice will engage with Aboriginal communities, relevant government agencies and legal and other stakeholders to develop a pilot program.

As part of the upcoming review of the Domestic Violence Justice Strategy the Department of Justice will also review support needs of victims in contested domestic violence matters, and the adequacy of current supports - including an examination of the specific needs of Aboriginal women attending court. It is expected this will also inform development of the pilot.

Consultation will commence in the second quarter of 2018. The proposed model will be finalised in late 2018, aligning with the finalisation of the review of the Domestic Violence Justice Strategy.

The need for future funding will be determined through the development of the pilot.

Whole of government update – 2019

Update: Underway - Stage 1 to be completed by the end of 2019.

Details of implementation: The Department of Communities and Justice is working with Aboriginal Affairs on a project to develop a trauma-informed and culturally safe pilot for Aboriginal women experiencing domestic and family violence. The pilot will be co-designed with Aboriginal community groups, Aboriginal women, service users and other stakeholders. The scope of the project will address the objectives of recommendation 23.1 and ensure that justice system responses are informed by the needs of Aboriginal women, and that Aboriginal women feel supported, safer, more empowered and have strong relationships with the justice system.

The project will be developed over two stages. Community consultation (stage 1) will be completed by the end of 2019 and include engagement with Aboriginal women who have experienced domestic and family violence, including older women and those with complex needs in metropolitan and regional areas. Timeframes for co-design (stage 2) will be determined following the outcomes of stage 1.

Opportunities, challenges and/or consequences: The scope of the pilot will be informed by the needs of Aboriginal women and may result in a broader suite of supports that assist Aboriginal women to feel safer and more empowered throughout their engagement with the justice system.

Policy progress since recommendation was made: The Domestic and Family Violence Reforms Delivery Board is the project sponsor. The board considered an initial scoping paper at their April 2019 meeting. A further update was noted at the August 2019 meeting.

A literature review is currently being undertaken to inform the project which will be completed by the end of November 2019.

23.2 That the NSW Government fund the pilot program anticipated in 23.1.

Whole of government response - 2018: Supported in principle

Lead agency: Department of Justice

Details of implementation: This recommendation is supported in principle subject to funding approval.

Whole of government update – 2019

Update: Underway - Funding for the pilot will be considered once the design has been further developed.

Recommendation 24

That the NSW Government conduct or commission research examining the forms, prevalence and impact of reproductive coercion in NSW and use this, and the international evidence base, to develop a strategy for addressing reproductive coercion in its various manifestations, including through family planning clinics, women's health clinical services, termination providers, general practice and youth health services.



Whole of government response - 2018: Supported

Lead agency: FACS (Women NSW)

Details of implementation: Women NSW, with support from NSW Health, will progress this recommendation.

Whole of government update – 2019

Update: Underway

Details of implementation: Women NSW is scoping the issue to understand the forms and impact of reproductive coercion, and review current data collection and research.

Women NSW has met with key stakeholders including Family Planning NSW, Marie Stopes, Women's Health NSW and the Women's Safety NSW (formerly Women's Domestic Violence Court Advocacy Service).

Women NSW will meet with the Australia's National Research Organisation for Women (ANROWS) in September 2019 to scope options for research on this issue.

Opportunities, challenges and/or consequences: Stakeholder feedback indicates that there is limited data collection and research on reproductive coercion in NSW and Australia in general. There is also a lack of awareness about the issue with frontline workers, including medical practitioners, and domestic violence and child protection workers. Stakeholders have identified a range of individual risk factors to reproductive coercion.

Policy progress since recommendation was made: Women NSW, in consultation with NSW Health, is developing a proposed approach to research on this issue, based on stakeholder meetings and available research. Women NSW will provide an update at the December 2019 meeting of the Domestic and Family Violence Reforms Delivery Board.

Recommendation 25

That NSW Health convene a working group to consider strategies to support the safety of family members or carers looking after or living with persons who are suffering from mental illness and concurrently using domestic and family violence (police reported or anecdotal).

The working group should consider risk assessment processes concerning the safety of family members or carers (including their risk of violence victimisation from their family member experiencing mental health issues) as part of Community Treatment Order assessments, discharge plans from mental health institutions or from other institutions who may be providing mental health care, and outpatient management plans.

Whole of government response - 2018: Supported

Lead agency: NSW Health

Details of implementation: NSW Health will progress the recommendation through the NSW Health working party which will include the Prevention and Response to Violence, Abuse and Neglect Unit. At a policy level the Mental Health Branch is revising and extending the current state-wide policy for mental health discharge planning and transfer of care. The draft policy makes specific reference to assessing for the risk of domestic violence, for both the perpetrator and the victim. The treating team will be required to explore strategies for managing identified risk to be included in discharge planning and communication as part of the transfer of care process. The updated *Mental Health Act 2007* (NSW) and the current mental health transfer of care policy stipulate a requirement to involve parents and/or carers in the care planning process from admission through the transfer of care.

Whole of government update – 2019

Update: Underway

Details of implementation: Discussions are underway with Local Health Districts and speciality networks about the risk assessment process. Currently district community mental health services refer mental health patients to the Community Forensic Mental Health Service for a comprehensive risk assessment of problem behaviour relating to domestic violence to determine the risk posed to the community/victims.

Actions and potential improvements will be set out in within the NSW Ministry of Health DVDRT Implementation Plan. This plan will support the Integrated Prevention and Response to Violence, Abuse and Neglect Steering Committee's (VAN Steering Committee) ongoing monitoring of progress against existing and forthcoming DVDRT recommendations.

The VAN Steering Committee was established in June 2019 to enhance cross-branch collaboration that promotes the development of integrated policy, program and systems development across NSW Health services preventing, identifying and responding to violence, abuse and neglect. Broadly, its purpose is to support and monitor collaboration that promotes policy, program and systems development to guide and support:

- a shared understanding within NSW Health of the intersections of mental health, alcohol and other drug use and violence, abuse and neglect, and the roles and responsibilities of the different service sectors in preventing, identifying and responding to violence, abuse and neglect
- consistent trauma-informed practice that prioritises the often complex health and social needs of vulnerable families, survivors and people experiencing, or at-risk of experiencing, violence, abuse and neglect
- collaborative practice within NSW Health services and other agencies to support the delivery of integrated responses to violence abuse and neglect.

Recommendation 26

That Corrective Services NSW approach the Chief Magistrate to discuss strategies to ensure that Corrective Services NSW has sufficient time to conduct risk assessments for offenders who are on remand prior to the offender being sentenced and released. If it is determined that change in court practices is required, consideration should be given to how best to effect such change and whether changes should be codified.

Whole of government response - 2018: Supported

Lead agency: Department of Justice (Corrective Services NSW)

Details of implementation: The Department of Justice is exploring options to amend legislation regarding the back dating of sentences, which will assist in the management of offenders exiting custody to the community.

Whole of government update – 2019

Update: Underway - An options paper will be complete by the end of 2019.

Details of implementation: Non-legislative options to ensure Corrective Services NSW has time to conduct risk assessments for offenders on remand are the subject of NSW Government decision making. This work is led by Corrective Services NSW and the Department of Premier and Cabinet.

Opportunities, challenges and/or consequences: The non-legislative options developed by Community Corrections do not address the causative factors in the increase in the remand population. This is outside Community Corrections' scope.

Policy progress since recommendation was made: In 2018, the Department of Justice consulted on legislative responses to mitigate risks related to offenders on remand being sentenced and released. Stakeholder feedback was mixed. The Department of Premier and Cabinet requested non-legislative options be explored before legislative options were brought forward.



Recommendation 27

27.1 That NSW Health ensure that any domestic and family violence training delivered to NSW Health staff, or by NSW Health staff to healthcare service providers (such as by Education Centre Against Violence), discuss and provide referral information relevant to workers who themselves may be experiencing domestic and family violence.

Whole of government response - 2018: Supported.

Lead agency: NSW Health

Details of implementation: NSW Health Education Centre Against Violence (ECAV) currently runs a course 'Domestic violence for LHD senior executive/board members' which specifically target NSW Health Managers to improve their awareness and knowledge about the prevalence and effects of domestic and family violence and develop management strategies in regard to the implementation of domestic violence workplace provisions. There is scope to expand this pending further funding.

ECAV will continue to promote training opportunities and support to health workers, including for managers, in relation to domestic and family violence.

With suitable resources the Emergency Care Institute would be well placed to develop appropriate training packages for Emergency Department Staff in NSW.

Whole of government update – 2019

Update: Complete

Details of implementation: NSW Health Education Centre Against Violence (ECAV) continues to promote training opportunities and support to health workers, including for managers, in relation to domestic and family violence.

This includes continued delivery of *Domestic violence for district senior executive/board members* training. ECAV has also developed and delivered the course *Domestic Violence in the Workplace*. This is a one-day workshop for NSW Health managers/supervisors to support staff experiencing domestic and family violence. Both of these training opportunities are promoted through the employment landing page of the NSW Health intranet. ECAV also promotes awareness of the domestic and family violence leave provisions through the *Practical skills in responding to people who experience domestic & family violence* and *Domestic violence for NSW Health worker courses*.

The Prevention and Response to Violence Abuse and Neglect (PARVAN) Unit within NSW Health is liaising with ECAV and Health Education and Training regarding promotion of NSW Health initiatives and supports available to staff, including the domestic and family violence leave provisions and promotion of the *Domestic and Family Violence Flipcharts*, as discussed in recommendation 27.2.

27.2 That NSW Health provide information about domestic and family violence leave to all staff by circulating a bulletin which should also include educational information about domestic and family violence. Information about supports available for workers should also be displayed on local health district intranets and other relevant intranets administered by NSW Health.

Whole of government response - 2018: Supported

Lead agency: NSW Health

Details of implementation: Information Bulletin 2011_029 – *Family Leave Provisions* previously outlined information about domestic and family violence leave for NSW Health staff. In late 2017, this was reviewed and updated and information is now incorporated in the NSW Health PD2017_028: *Leave Matters for the NSW Health Service* (Section 12.10). Chief Executives are required to ensure that this Policy Directive is communicated

to, and implemented by all employees involved in the administration, management or approval of leave.

In addition to this, a domestic and family violence toolkit of resources is currently being developed for each Local Health District with key information including referral pathways and information for health workers who may be experiencing violence themselves. This will be available in 2018 in hard copy in hospitals and online.

Whole of government update – 2019

Update: Complete

Details of implementation: In January 2019, NSW Health published a *Domestic and Family Violence Leave Information Bulletin* advising NSW Health staff of new domestic and family violence leave provisions. Information on the provisions have also been included in the revised *Leave Matters for the NSW Health Service* policy directive released in March 2019.

Policy progress since recommendation was made: The forthcoming revision of the *NSW Domestic Violence - Identifying and Responding* policies and procedures will include a section 'Staff Safety' which details further information on support available to staff who may be experiencing domestic and family violence.

The Ministry of Health will publish the *NSW Health Domestic and Family Violence Flipchart* in November 2019. The flipchart supports clinicians who receive disclosures of domestic and family violence and provides brief guidance on responding, supporting and making referrals. It includes tailored information for each district with referral services listed. Districts are responsible for the ongoing update of this service information.

District wide promotion and dissemination of the DFV Flipcharts will be accompanied by communications on NSW Health initiatives and supports to staff who may be experiencing domestic and family violence, including DFV leave provisions.

27.3 That the Commonwealth Government require that all aged care providers deliver information to their staff about domestic and family violence, including information about how to access support.

Whole of government response - 2018: Supported

Lead agency: FACS (Women NSW)

Details of implementation: Minister Goward wrote to the Minister for Aged Care on 20 December 2017 regarding this recommendation.

Whole of government update – 2019

Update: Underway

Details of implementation: The previous Minister for the Prevention of Domestic Violence and Sexual Assault, Ms Pru Goward, wrote to the Commonwealth Minister for Aged Care, on 20 December 2017 regarding this recommendation. Ms Goward wrote a follow-up letter to the Minister for Aged Care on 25 January 2019.

Opportunities, challenges and/or consequences: NSW has drafted correspondence to the new Minister for Aged Care and Senior Australians, Senator the Hon Richard Colbeck.

Recommendation 28

28.1 That the NSW Government give consideration to amending its domestic and family violence leave guidelines to include a statutory declaration as evidence of domestic and family violence.

Whole of government response - 2018: Supported in principle.

Lead agency: NSW Industrial Relations

Details of implementation: Clause 84A of the *Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009* (Award) provides that in respect of leave for matters arising from domestic and family



violence, a Department Head will need to be satisfied, on reasonable grounds, that domestic and family violence has occurred.

Although the Award states that evidence may be presented in the form of an agreed document issued by the Police Force, a Court, a Doctor, a Domestic Violence Support Service or Lawyer, provision of evidence is not mandatory but 'may' be required by a Department Head.

NSW Industrial Relations will give consideration to amending the Award and associated guidelines to include the ability for presentation of a statutory declaration as evidence of domestic and family violence, when it undertakes a broader review of the current provisions for domestic and family violence leave for NSW Government employees.

Whole of government update – 2019

Update: Complete

Details of implementation: In 2018, the NSW Government reviewed entitlements to domestic and family violence leave and introduced 10 days paid domestic and family violence leave per calendar year for government sector employees from 1 January 2019. The leave entitlement can be accessed without the need to exhaust other existing leave entitlements. As part of the review process, consideration was given to including a statutory declaration completed by a medical practitioner as evidence of domestic and family violence. It was determined that provision of a medical certificate was less onerous for employees.

Opportunities, challenges and/or consequences: Provision of evidence is not mandatory, but 'may' be required by an agency head to ensure they are satisfied, on reasonable grounds, that domestic and family violence has occurred.

Policy progress since recommendation was made: The evidence requirements are similar to those introduced in recent residential tenancy reforms for victims of domestic and family violence.

28.2 That the NSW Government monitor the uptake and use of the domestic and family violence leave provisions, including to monitor how frequently and on what grounds the leave provisions are being used.

Whole of government response - 2018: Supported in principle

Lead agency: Public Service Commission/NSW Industrial Relations

Details of implementation: NSW public sector employees are required to first exhaust sick leave and family and community services leave before accessing special leave for absences from the workplace to attend to matters arising from domestic and family violence situations. Therefore, it may be difficult to capture useful data on the uptake and use of this leave.

Notwithstanding these limitations, the Public Service Commission and NSW Industrial Relations, in collaboration with public sector agencies, will examine the feasibility of monitoring the uptake and use of domestic and family violence leave.

Whole of government update – 2019

Update: Underway

Details of implementation: The NSW Government reviewed entitlements to domestic and family violence leave and introduced 10 days paid domestic and family violence leave per calendar year for government sector employees from 1 January 2019.

To support this initiative, the Public Service Commission's annual Workforce Profile will collect data on the number of hours of domestic and family violence leave taken by an employee during the reference period. The data item will be optional for the collection scheduled for June 2019, but will be a requirement for the collection in June 2020.

Reporting on uptake of domestic and family violence leave by all government sector agencies is required from 1

July 2019.

The first full set of data covering all NSW Government sector agencies (including state-owned corporations) will be available for the period 1 July 2019 to 30 June 2020. This data will be available in the Workforce Profile to be published in November 2020.

Opportunities, challenges and/or consequences: The new entitlement will enable the Public Service Commission to require government sector agencies to report on the number of hours of domestic violence leave taken by an employee.

Policy progress since recommendation was made: To support the implementation of this initiative, Women NSW has collaborated with other NSW Government sector agencies to develop a domestic and family violence leave workplace policy. The policy will provide guiding principles to assist government sector agencies to support employees who experience domestic and family violence.

Recommendation 29

29.1 *That the NSW Government fund FACS-Housing to expand its allocation of housing for clients escaping domestic and family violence.*

Whole of government response - 2018: Supported in principle, subject to available resources.

Lead agency: FACS (Women NSW)

Details of implementation: The NSW Government is committed to supporting people who are escaping domestic and family violence and will consider additional accommodation solutions in any future funding made available for social and affordable housing.

Whole of government update – 2019

Update: Complete

Details of implementation: The Department of Communities and Justice has a number of housing initiatives targeting clients escaping domestic and family violence:

- *Rent Choice Start Safely* provides short to medium-term financial support for people escaping domestic or family violence to help them establish themselves in the private rental market.
- *Staying Home Leaving Violence* supports women and children experiencing domestic and family violence to remain safely in their home, or their home of choice, while the perpetrator is removed.
- Through the *NSW Homelessness Strategy 2018-2023*, \$6.2 million over four years has been invested to expand the program to five new services/six new sites.
- The *Social and Affordable Housing Fund (SAHF)* program has nine contracts with service providers to deliver over 3,400 social and affordable dwellings throughout NSW over the next three years. The SAHF increases the supply of housing through outcomes-focused contracts that includes housing for families impacted by domestic violence.

Policy progress since recommendation was made: In addition to the above, in 2018-19 *Staying Home Leaving Violence* was expanded to new sites in Griffith, Port Stephens, Albury, Richmond Valley and Coonamble/Walgett.

29.2 *That FACS-Housing include information about the availability of temporary accommodation on its website 'Link2Home' highlighting that for victims of domestic violence such accommodation is not subject to the 28-day limit.*



Whole of government response - 2018: Supported in principle

Lead agency: FACS (Housing State-wide Services)

Details of implementation: Temporary accommodation is administered under the *Rentstart Assistance Policy*. This policy already specifies that the temporary accommodation entitlement can be extended beyond 28 days for exceptional circumstances. This includes domestic violence. The wording in this policy has been updated to be clear on this inclusion. Other relevant web pages have also been amended.

Whole of government update – 2019

Update: Complete

Details of implementation: Temporary accommodation is administered under the *Rentstart Assistance Policy*. This policy specifies that the temporary accommodation entitlement can be extended beyond 28 days for exceptional circumstances. This includes domestic violence.

Policy progress since recommendation was made: Wording in the policy has been updated to clearly state that the accommodation entitlement can be extended beyond 28 days for exceptional circumstances.

29.3 That FACS-Housing continue to liaise with DVNSW and other relevant stakeholders to ensure that the Link2Home processes for clients experiencing domestic or family violence remain appropriate.

Whole of government response - 2018: Supported

Lead agency: FACS (Housing State-wide Services)

Details of implementation: FACS (Housing State-wide Services) and Link2Home continue to network with relevant stakeholders on a regular basis to ensure communication and feedback on processes is taken into account to make improvements.

Whole of government update – 2019

Update: Complete

Details of implementation: Department of Communities and Justice (Housing State-wide Services) and Link2Home continue to network with relevant stakeholders on a regular basis to ensure communication and feedback on processes is taken into account to make improvements.

Recommendation 30

That FACS-Housing evaluate its current pilot project which provides perpetrators with temporary accommodation linked to referrals and support.

Whole of government response - 2018: Supported.

Lead agency: FACS (Housing State-wide Services)

Details of implementation: The project commenced in November 2017 and will be evaluated in mid-2018, however note that the pilot only looks at low level perpetrators of violence and is contained to the Mt Druitt and Blacktown Police Command, hence the application of its findings will be limited.

Whole of government update – 2019

Update: Underway - The evaluation is expected to be completed by 31 December 2019.

Details of implementation: The pilot, which aims to provide short-term accommodation of up to three nights (72 hours) to house the perpetrators of domestic violence and link them to appropriate supports and services, commenced in November 2017 in the Mt Druitt location. Referrals to the program were made by NSW Police.

The primary intent of providing accommodation is to prevent the perpetrator returning to residential accommodation occupied by the victim, thereby reducing the risk of an immediate re-offence, especially in the

instance of an Apprehended Domestic Violence Order (ADVO).

Opportunities, challenges and/or consequences: NSW Police made 32 referrals during the pilot period.

The evaluation aims to identify barriers in the referral process and what benefits and challenges those included in the sample experienced.

Policy progress since recommendation was made: The Department of Communities and Justice in conjunction with the University of NSW (UNSW) is currently evaluating the outcome of the pilot which is expected to be completed by 31 December 2019.

Recommendation 31

31.1 *That FACS-Housing monitor the uptake and use of its new client information and service 'app' once launched, and consider strategies to ensure the 'app', and the broader Housing Connect Program, is accessible to clients, and in particular culturally and linguistically diverse clients and clients who are not digitally savvy.*

Whole of government response - 2018: Supported

Lead agency: FACS (Housing State-wide Services)

Details of implementation: FACS has taken a User Centric Design approach to the app, and over the past few months has engaged directly with many end users including Housing clients from diverse backgrounds and support providers that work with these clients in order to ensure the design is as far as possible best suited to the various audiences and users of the app.

The design is also intended to cater for clients who have a basic knowledge of mobile technology and may be new to using apps i.e. the design will be simple, intuitive and will use graphics, icons and diagrams as far as possible which is a clear design trait to which our clients have responded favourably too with other online services that we have developed.

End users will also be integral to the FACS user experience testing regime to ensure the app has been built in accordance with the design requirements and principles.

Once in operation FACS will have access to analytics which will help us understand how our clients are using the app, and demographic information on use which will help inform future enhancements.

As with all FACS Online/mobile services we will also produce both digital and hard copy collateral that helps explain to our clients in simple terms how to access and use the app. Digital information such as videos are usually translated into multiple languages.

The app is scheduled for release in the second half of 2018.

Whole of government update – 2019

Update: Complete - The Department of Communities and Justice launched its first customer app MyHousing on 9 August 2019.

Details of implementation: The state-wide rollout of the MyHousing app followed a trial of the app from May 2019 to June 2019. The trial allowed the Department of Communities and Justice to monitor how clients use the app, identify if participants have any issues and respond to them before the app was released to the wider community. Clients completed a weekly survey outlining their experience.

Opportunities, challenges and/or consequences: There was positive feedback from those involved in the trial. The design catered for clients who have a basic knowledge of mobile telephone technology and may be new to using apps, i.e. the design is simple, intuitive and uses graphics, icons and diagrams. DCJ clients have responded favourably to this design trait with other online services which have been developed.



Policy progress since recommendation was made: DCJ will have access to analytics and demographic information from the app to help understand how clients are using the app and inform any changes or enhancements required in the future.

31.2 That FACS Housing update its security contracts to require that subcontractors call police where they see, suspect or are informed about domestic violence episodes occurring on, or in relation to, FACS-Housing properties.

Whole of government response - 2018: Supported

Lead agency: FACS (Housing State-wide Services)

Details of implementation: The recommendation is supported, noting that the reference should be to FACS properties where security and maintenance activities are undertaken by contractors.

The contract being referred to is the Land and Housing Corporation's (LAHC) Security Contract including Monitoring of CCTV and Foot Patrol Service (the Security contract).

The Security contractor is required to

- ...for any emergency incidents contact the appropriate emergency services (e.g. ambulance, fire brigade or police) as soon as possible....
- Immediately report any person/s to the NSW Police and the Principal who are engaged in:...(b) acting aggressively or violently towards other people; and (c) engaging in suspicious or illegal activities...(Clause 2.3.4, Specification)

Because the Asset Maintenance Services (AMS) contractors also deal with clients and may encounter emergency situations, these provisions are also contained in the AMS contract.

In addition to the specific requirements of the Security Contract, both the Security Contract and the AMS Contract require the contractor to comply with the contractor's code of conduct, which requires:

- Clause 20 – If any person sees an illegal act or a crime in progress they must immediately inform the Police; and
- Clause 22 - If there is any immediate danger to life and property, the appropriate emergency service must be called immediately. Also notify the Principal's representative.
- Both contracts require LAHC's contractors to pass on their contractual obligations to sub-contractors, including the requirement to report illegal activities and call emergency services.

Whole of government update – 2019

Update: Complete

Details of implementation: Both the asset maintenance services contract and the security contract require contractors to report illegal acts (such as domestic violence) to police.

31.3 That FACS-Housing work with the NSW Police Force to ensure the provision of timely and up to date housing information for use by officers (including in relation to the information referred to in Recommendation 29.2).

Whole of government response - 2018: Supported

Lead agency: FACS (Housing State-wide Services)/ NSW Police Force

Details of implementation: Both FACS (Housing State-wide Services) and the NSW Police Force support the recommendation. FACS (Housing State-wide Services) will review and update housing information provided to Police once changes to the *Residential Tenancies Act 2010* (NSW) relating to domestic and family violence have

been approved by Cabinet. In the interim, FACS (Housing State-wide Services) will provide the NSW Police Force with relevant information to be included in the Domestic Violence Standard Operating Procedures, and publicised to operational police.

Whole of government update – 2019

Update: Complete

Details of implementation: Department of Communities and Justice (Housing State-wide Services) have provided the NSW Police Force (NSWPF) with relevant information to be included in the Domestic Violence Standard Operating Procedures and publicised to operational police.

Department of Communities and Justice and the NSW Police Force have a Memorandum of Understanding that allows information to be shared between the two agencies.

Under Part 13A of the *Crimes (Domestic and Personal Violence) Act 2007* (NSW), information sharing is regulated in cases of domestic violence and allows information to be shared to prevent or reduce a serious domestic violence threat to the life, health and safety of the victim, children or other persons, despite any provisions under NSW privacy legislation.

Recommendation 32

32.1 *That Victims Services work with the NSW Police Force to formalise a policy or memorandum of understanding in relation to crime scene clean up in all cases where a crime scene is established following a homicide or serious assault from which death may result. This policy should clearly articulate the role of each agency in ensuring that crime scene clean-up is coordinated in a timely fashion and that families are appropriately supported in accessing financial assistance where required.*

Whole of government response - 2018: Not Supported

Lead agency: Department of Justice (Victims Services)/NSW Police Force

Details of implementation: The NSW Police Force and the Department of Justice support the need to streamline the coordination of crime scene clean ups and to ensure families are appropriately supported in accessing financial assistance under the *Victim's Rights and Support Act 2013* (NSW).

The Victims Advisory Board (VAB) is currently examining the issue of forensic cleaning generally, including for domestic violence. This includes consideration of minimum standards for forensic cleaning and accountability for cleaners in the handover of crime scene following the clean. It also includes supporting families to access financial assistance under the *Victim's Rights and Support Act 2013* (NSW) to aid with crime scene clean-up.

Through these detailed considerations, the VAB will identify the most appropriate mechanisms for addressing the issues raised by the DVDRT in this recommendation in the wider NSW crime scene context. This work will be undertaken by the VAB in 2018, with a view to completion by the end of the year.

Victims Services, which provides secretariat support to the VAB, will lead this process. This will include consultation with NSW Police Force and other relevant stakeholders.

Whole of government update – 2019

Update: Underway

Details of implementation: While the NSW Government did not support this recommendation in 2018, the Government committed the Victims Advisory Board to identifying the most appropriate mechanisms to address the issues raised by the DVDRT in the wider NSW crime scene context.

This includes the need to streamline the coordination of crime scene clean-ups and to ensure families are appropriately supported in accessing financial assistance under the *Victims Rights and Support Act 2013* (NSW). The NSW Government's response also noted the Victims Advisory Board was examining the issue of forensic



cleaning generally, including for domestic violence.

Victims Services has consulted the NSW Police Force and the NSW Coroner's Court on ways to improve supports for victims of crime who access forensic cleaning services. Victims Services expects to submit a consultation paper to the Victims Advisory Board on options to strengthen supports to victims of crime who require forensic cleaning services by December 2019.

Victims Services aims to finalise the identification of the most appropriate mechanisms to address the issues raised by the DVDRT during the current term of the new Victims Advisory Board (January 2019 - November 2020).

Opportunities, challenges and/or consequences: Victims Services continues to work with stakeholders, including the Victims Advisory Board, the NSW Police Force and the NSW Coroner's Court, to ensure that victims and families of victims are adequately supported when forensic cleaning is required.

Policy progress since recommendation was made: In May 2019, Victims Services and the NSW Police Force met with the Coroner's Court to discuss options to improve forensic cleaning information resources for family victims. Improvements to the brochure *Initial steps after a death is reported to the Coroner* have been identified. Further consultation with the Coroner's Court will be necessary.

Victims Services will consult on a draft factsheet that provides advice to family members of homicide victims and victims of serious assaults by December 2019. The fact sheet will include information about who is responsible for arranging and paying for forensic cleaning, what financial assistance may be available to victims and third parties, and what to do if a party is not satisfied with a forensic cleaning service. The fact sheet will be available on the Victims Services website.

32.2 That Victims Services and the NSW Police Force work together with homicide victims support organisations to develop or update any existing information package, such as the Family Members of Homicide Victims brochure, for secondary victims of homicide. This package should contain clear and plain English information about victims' immediate needs, actions required of the secondary victim, support services available and how to engage support, and next steps after a family member or loved one is killed. Agencies should develop a strategy for making this package available to all secondary victims of homicide as soon as practicable after the fatal assault.

Whole of government response - 2018: Supported in principle.

Lead agency: Department of Justice (Victims Services)/NSW Police Force

Details of implementation: The NSW Police Force and the Department of Justice support enhancing the care and support available to secondary victims of homicide following a fatal assault.

Victims Services currently maintains an information package: 'Family Members of Homicide Victims'. Victims Services will update this information package to address the points raised by the DVDRT in this recommendation, in consultation with the NSW Police Force and other stakeholders.

Victims Services will work with the NSW Police Force and other relevant stakeholders to develop a strategy to ensure this information package is made available to all secondary victims after a fatal assault. Victims Services will work towards producing a preliminary strategy by December 2018.

Victims Services has ongoing regular discussions with NSW Police to identify update needs [sic] to the information provided and to ensure it is made available to all relevant victims. Victims Services and NSW Police will continue to do so into the future.

Whole of government update – 2019

Update: Underway - Expected completion by the end of 2019.

Details of implementation: Victims Services is continuing consultation with the NSW Police Force and the

Homicide Victims' Support Group to identify information needs and tailor resources to support family victims. A new publication is in development, with consultation aiming to be concluded by October 2019. Victims Services expects to complete and publish the new *Support for Family Members of Homicide Victims* publication by the end of 2019.

Victims Services will continue collaborating with stakeholders on any future updates required after the implementation.

Opportunities, challenges and/or consequences: Victims Services and the NSW Police Force have worked collaboratively with stakeholders to ensure a consistent understanding of victims' needs and to ensure resources are adequately tailored to their needs.

Policy progress since recommendation was made: Victims Services developed the *Victims Services Communication Strategy – Homicide Family Victims Support* featuring a needs analysis that recommends publications be reviewed in consultation with stakeholders. The strategy also recommends channels for distribution of the new publication in collaboration with stakeholders to ensure the information is easily accessible to victims' families. This includes resources being available in print and on the Victims Services website. The strategy also includes promotional activities via networks to raise awareness of the new resource and monitoring of feedback after implementation.

Recommendation 33

That Victims Services, Department of Family and Community Services, NSW Health, the Department of Education and Communities and other relevant organisations work together to improve access to support and advocacy for young people and children who are a secondary victim to a homicide, including where carers may be reluctant to engage with services.

Whole of government response - 2018: Supported

Lead agency: Department of Justice (Victims Services)/Department of Family and Community Services/NSW Health/Department of Education

Details of implementation: The Department of Justice (Victims Services), FACS, NSW Health and the Department of Education all support this recommendation.

Each of these agencies is represented on the Safer Pathway Implementation Working Group (IWG), convened by Victims Services, and participate in the IWG's Homicide Death Review process.

IWG members support the principle of streamlining information sharing on an interagency level to improve supports and advocacy as part of the formalised DV Homicide review process. Victims Services is currently in the process of designing a 'Frontline Agency Internal Record Review' template to facilitate consistent information sharing which can incorporate information pertaining to support needs of secondary victims into the DV Homicide review.

Victims Services respects the autonomy and the role of the carer as guardian for the child, and will provide additional information and options to support the carer in making decisions in the best interest of the child.

FACS will also continue to work with the other agencies to enhance service delivery to this cohort of children. Amendments to casework practice will be considered to ensure this cohort of children receive the same comprehensive level and quality of care as children in the care of the Minister for Family and Community Services (which the Coroner commends).

The Department of Education provides personalised support to school aged children and young people as needed. This support includes school counselling services available to all students in NSW public schools.

Whole of government update – 2019

Update: Underway - Expected completion by mid-2020, pending resolution of concerns in relation to



information-sharing protocols.

Details of implementation: Victims Services is leading the development of the *Safer Pathway internal review process pilot* for domestic and family violence related deaths. As part of the internal death review process, Safer Pathway agencies can prioritise support for secondary victims such as children.

Victims Services circulated a draft internal death review policy (the policy) to NSW Government agencies for comment, as part of Safer Pathway. This policy seeks to provide a responsive opportunity to identify systematic gaps or opportunities, and support needs of secondary victims. Feedback has been received and adopted into the policy. Inter-agency consultation is ongoing regarding privacy concerns in relation to information-sharing protocols.

Opportunities, challenges and/or consequences: School counselling staff participate in interagency case planning and management meetings to support the wellbeing of children and young people identified as secondary victims to a homicide. Following such meetings, school counsellors, conscious of the effects of trauma on learning, advise adjustments to the student's learning program.

Policy progress since recommendation was made: All NSW public schools have access to the school counselling service. School counselling staff play a major role in the efforts of schools in supporting students who have been exposed to domestic violence including those students who are a secondary victim to a homicide.

There are currently 1,081 school counselling positions across NSW. Over the next three years, up to an additional 100 positions will be established so that every high school will have a full-time school counselling position on site, making access to mental health support easier for students.

Recommendation 34

That Victims Services update its online information and any material that accompanies the making of a Provisional Order for restitution to indicate that the defendant can challenge the making of an order in circumstances where the defendant has an ongoing relationship with a victim who has been granted compensation.

Whole of government response - 2018: Not Supported

Lead agency: Department of Justice (Victims Services)

Details of implementation: Provisional Orders are circumstantial, and therefore they must be considered on a case-by-case basis. It is not always the case that defendants are able to have their debt reduced or waived on the specific grounds that they have an ongoing relationship with a victim who has been granted support. Rather, Victims Services has discretion under the *Victims Rights and Support Act 2013* (NSW) to consider the defendant's individual situation and their objections to a Provisional Order.

Victims Services is additionally concerned that if information about objecting on the basis of a continuing relationship is made available, that the defendant may be encouraged to maintain a potentially harmful relationship with the victim in order to reduce or avoid payment of the restitution debt.

For these reasons it is not appropriate to publish generic information on objections to a provisional order made on the basis of a continuing relationship.

Victims Services acknowledges that defendants should be informed of their right to object to a Provisional Order that has been made. Victims Services maintains a practice of providing clear, direct and simple information on Provisional Orders available online, and in correspondence that accompanies Provisional Orders.

Whole of government update – 2019

Update: Recommendation was not supported.

Recommendation 35

That the NSW Government review legislation to allow for the making of Victim Impact Statements in circumstances where the defendant is found unfit and not acquitted, or not guilty by reason of mental illness under the Mental Health (Forensic Provisions) Act 1990 (NSW).

Whole of government response - 2018: Pending.

Lead agency: Department of Justice

Details of implementation: Making VIS available to victims in circumstances where the defendant is found unfit and not acquitted or not guilty by reason of mental illness under the *Mental Health (Forensic Provisions) Act 1990* (NSW) has been considered as part of the Review of the Mental Health Tribunal ('Whealy Review'). It is expected the Government response to the Whealy Review will be finalised mid-2018.

The NSW Department of Justice Sentencing Council's review of victims involvement in sentencing is also currently considering this issue. The Sentencing Council's review is expected to conclude in March 2018.

Whole of government update – 2019

Update: Completed - The *Crimes (Sentencing Procedure) Act 1999* (CSPA) was amended in 2018. The amendments to the CSPA commenced in May 2019.

Details of implementation: The relevant CSPA provisions were introduced by the *Mental Health (Forensic Provisions) Amendment (Victims) Act 2018* Schedule 3. Section 30L of the CSPA prescribes that a court may receive a victim impact statement after a verdict of not guilty by reason of mental illness (whether or not following a special hearing) or limited finding of guilt.

Policy progress since recommendation was made: In 2018, the Hon Anthony Whealy QC published a review commissioned by NSW Health on forensic patients (Mental Health Review Tribunal: A Review in Respect of Forensic Patients). Recommendations 4-6 of that report recommended legislative amendment to provide for victim impact statements in findings of not guilty due to mental illness and findings of unfit, but not acquitted. The Government response supported this recommendation in principle. The CSPA was amended following consultation led by the then Department of Justice.

Recommendation 36

That NSW Health together with the Mental Health Commissioner review the adequacy of supports available for victims of domestic and family violence, or secondary victims of domestic violence related homicides in NSW, where the person charged has been assessed as having a mental illness or intellectual disability.

Whole of government response - 2018: Pending.

Lead agency: NSW Health

Details of implementation: The Mental Health Tribunal review that is currently under Government consideration examined the processes and procedures used by the Tribunal to ensure it is appropriately balanced particularly as they relate to community safety, the interests of victims and their families, versus the care and treatment needs of forensic patients. This will include how victim support and engagement can be better provided.

The Mental Health Commission was consulted as part of this review. The Commission as well as other agencies will be consulted in the implementation of this recommendation.

Whole of government update – 2019

Update: Underway

Details of implementation: A Specialist Victims Support Service has been established by Victims



Services within the Department of Communities and Justice to provide support for victims of forensic mental health patients. It is co-funded by NSW Health. The service commenced operations in February 2019. The establishment of the Specialist Victims Support Service was part of the NSW Government response to Mental Health Review Tribunal in respect of forensic patients.

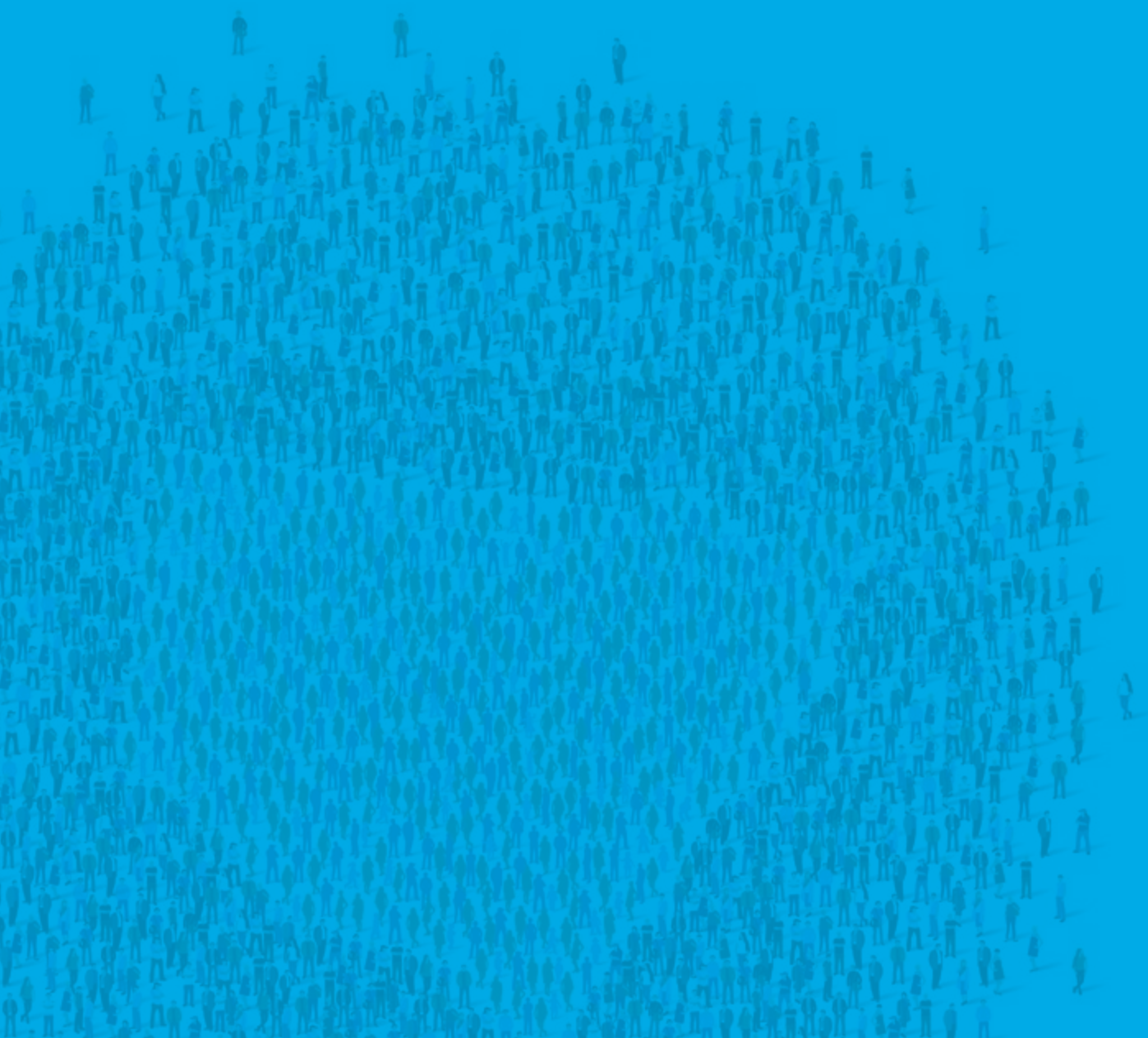
Policy progress since recommendation was made: The continued implementation of recommendations from *Mental Health Review Tribunal* in respect of forensic patients is an action within the *NSW Strategic Framework and Workforce Plan for Mental Health 2018–2022: A Framework and Workforce Plan for NSW Health Services*.

Key NSW Health strategies and initiatives, incorporating workforce development initiatives that support the response to this recommendation, include:

- *NSW Strategic Framework and Workforce Plan for Mental Health 2018–2022: A Framework and Workforce Plan for NSW Health Services*.
- *NSW Health Domestic and Family Violence Strategy [forthcoming]* which identifies priority actions to support health service responses that will enable perpetrator actions and the impact of these on victims to be kept 'in view'.
- Ongoing training and development initiatives of the NSW Health Education Centre Against Violence (ECAV). ECAV is the state-wide unit responsible for workforce development in the specialist areas of prevention and response to violence, abuse and neglect. They provide state-wide, face-to-face and online worker training, including specific training for staff responding to clients who experience domestic and family violence or who may be providing health interventions for perpetrators of domestic and family violence.
- Phase 2 of the *Violence, Abuse and Neglect Redesign Program*, that is described in further detail above in response to recommendation 16.2.

Appendix A:

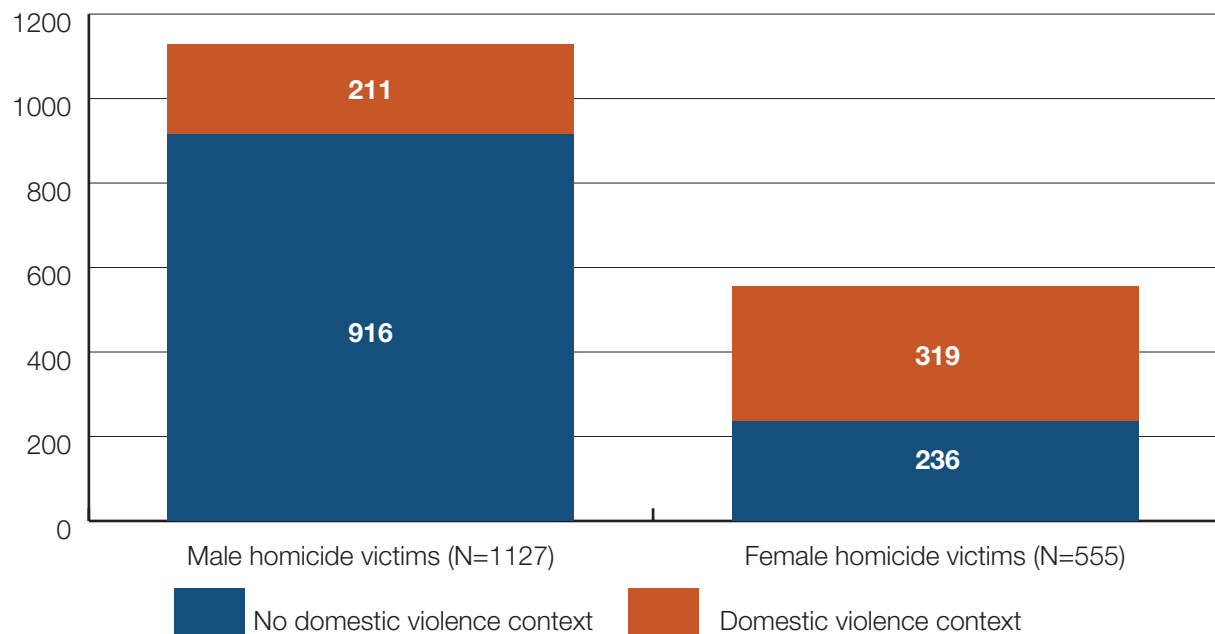
DOMESTIC VIOLENCE HOMICIDE IN NSW, 2000-2019





Homicide in NSW, 2000-2019

FIGURE 1: All homicide victims by domestic violence context, NSW, 2000-19*



*There was one transgender homicide victim and that victim was not killed in a domestic violence context

Intimate partner domestic violence homicide, NSW, 2000-2019

FIGURE 2: Intimate partner domestic violence homicide victims by gender, NSW, 2000-2019

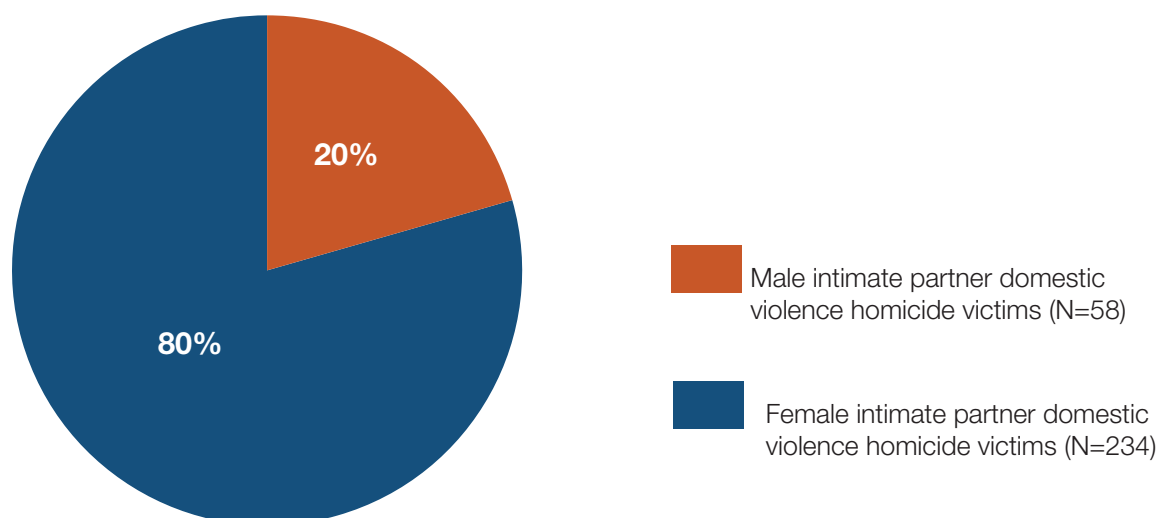


FIGURE 3: Relationship of homicide perpetrator to female intimate partner domestic violence homicide victim, NSW, 2000-2019

Relationship Type	Female Intimate Partner Homicide Victim (N=234)	%
De Facto Husband	64	27%
Husband	66	28%
Boyfriend	19	8%
Divorced/estranged ex husband	32	14%
Former de facto husband	36	15%
Former de facto wife	1	1%
Former boyfriend	16	7%
TOTAL	234	100%*

* For ease of reference, these figures have been rounded to the nearest whole percentage and accordingly the figures do not add to 100%.

FIGURE 4: Intimate partner homicide victim by victim/abuser status in relationship, NSW, 2000-2019

Domestic Violence 'Status'	Male Intimate Partner Homicide Victim	Female Intimate Partner Homicide Victim
Primary Domestic Violence Victim	7*	227
Primary Domestic Violence Abuser	43	0
Evidence Of Violence and Abuse used by Both Parties	3	3
Neither Domestic Violence Victim Nor Abuser	1#	0
Still Enquiring	4	4
TOTAL	58	234

*All 7 males who had been the primary domestic violence victim in the life of the relationship were killed by a male intimate partner.

One male was the extramarital intimate partner of a woman and was killed by her and her abusive husband acting together.



FIGURE 5: Relationship of homicide perpetrator to male intimate partner homicide victim, NSW, 2000-2019

Relationship Type	Male Intimate Partner Homicide Victim (N=58)	%
De Facto Wife	31	53%
Wife	6	10%
Girlfriend	5	9%
De Facto Husband	4	7%
Boyfriend	2	3%
Divorced/Estranged Wife	3	5%
Former De Facto Wife	2	3%
Former Girlfriend	4	7%
Former Boyfriend	1	2%
TOTAL	58	100%*

* For ease of reference, these figures have been rounded to the nearest whole percentage and accordingly the figures do not add to 100%.

FIGURE 6: Intimate partner domestic violence homicide victim by relationship separation, NSW, 2000-2019

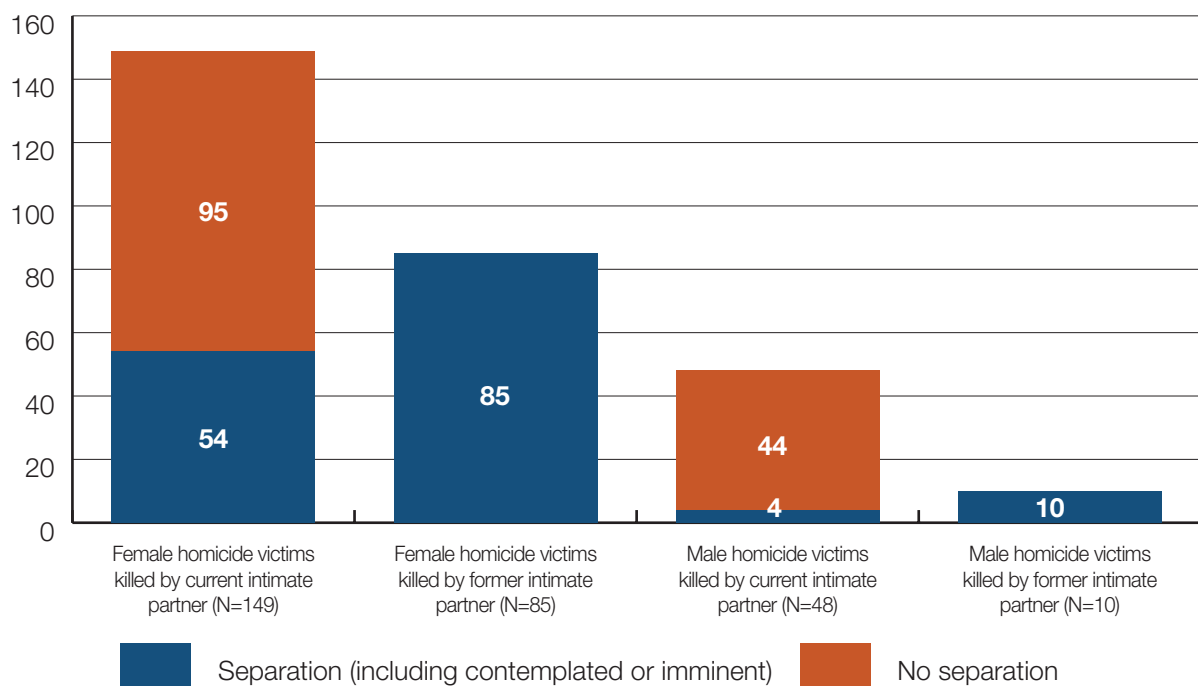


FIGURE 7: Intimate partner domestic violence homicide victim by relationship length, NSW, 2000-2019

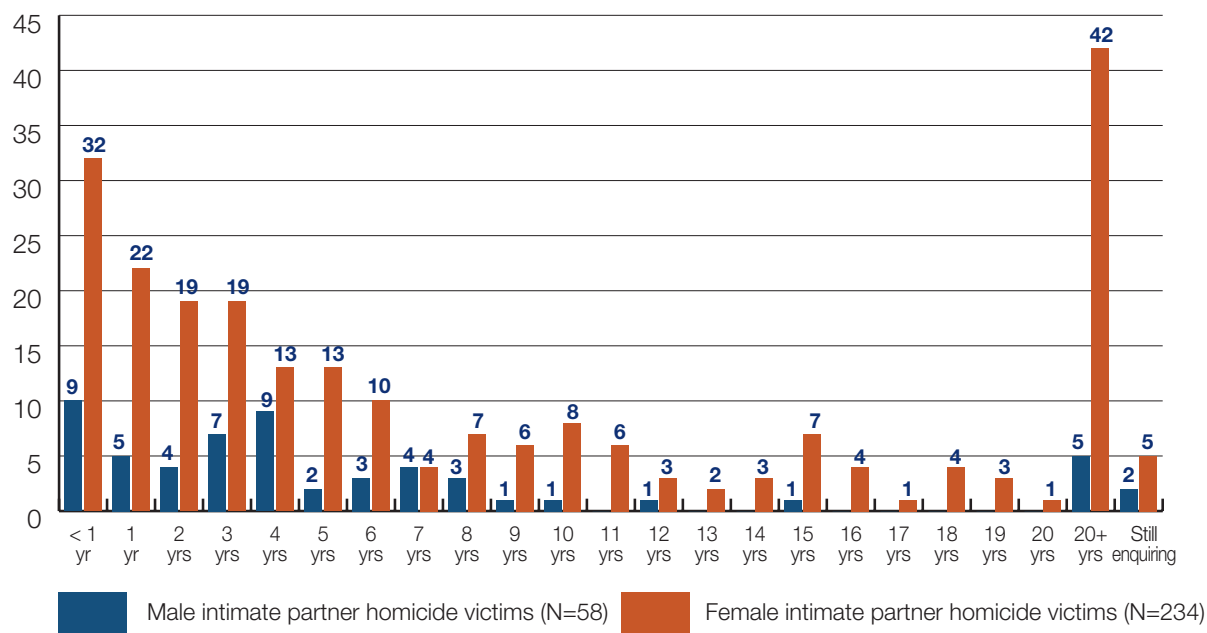


FIGURE 8: Age of intimate partner domestic violence homicide victim, NSW, 2000-2019

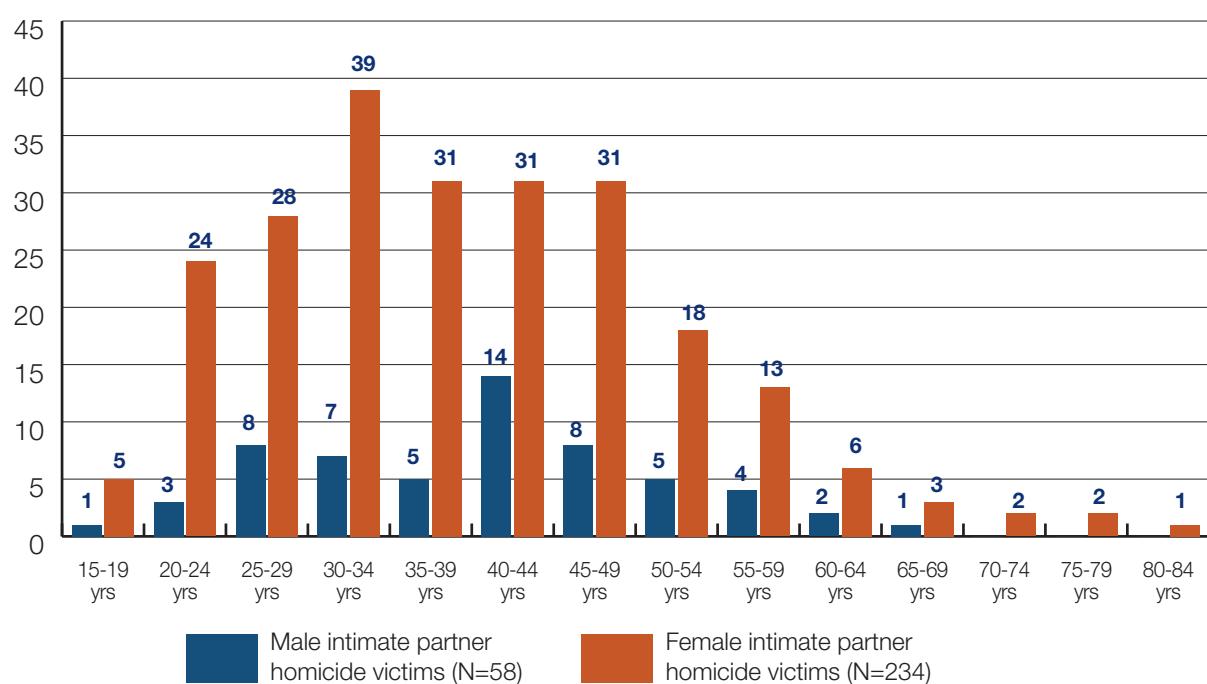




FIGURE 9: Intimate partner domestic violence homicide victim by manner of death, NSW, 2000-2019

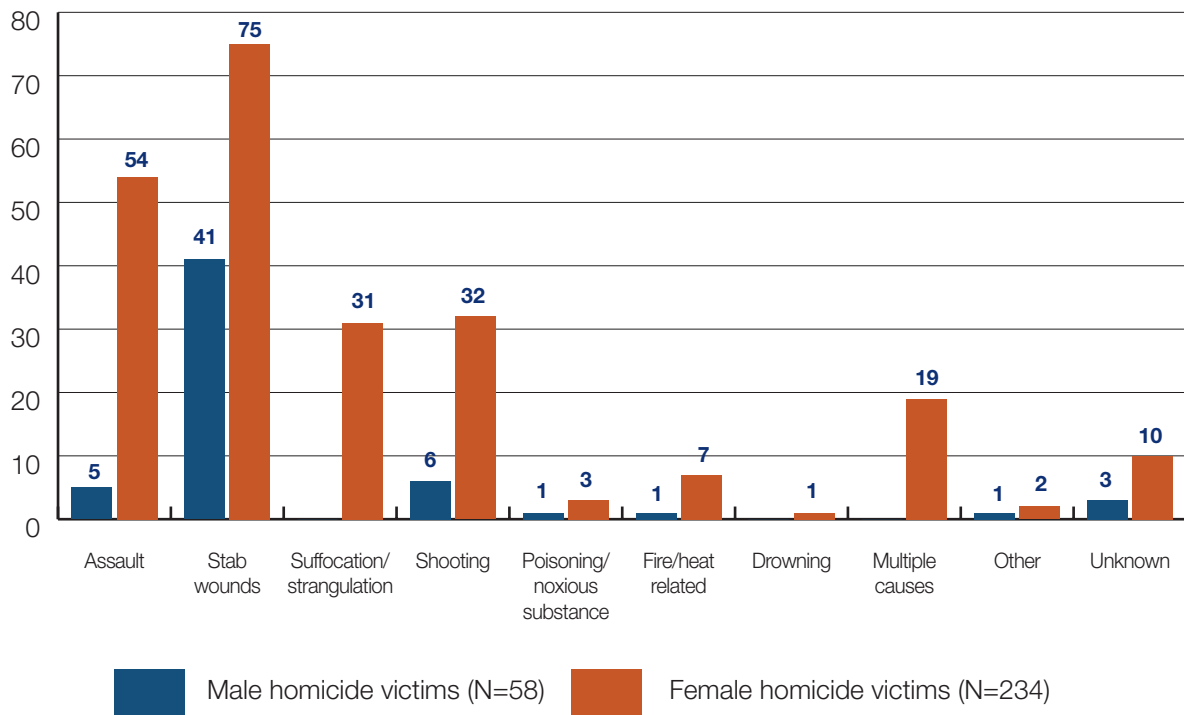


FIGURE 10: Intimate partner domestic violence homicide victim by location of fatal episode, NSW, 2000-2019

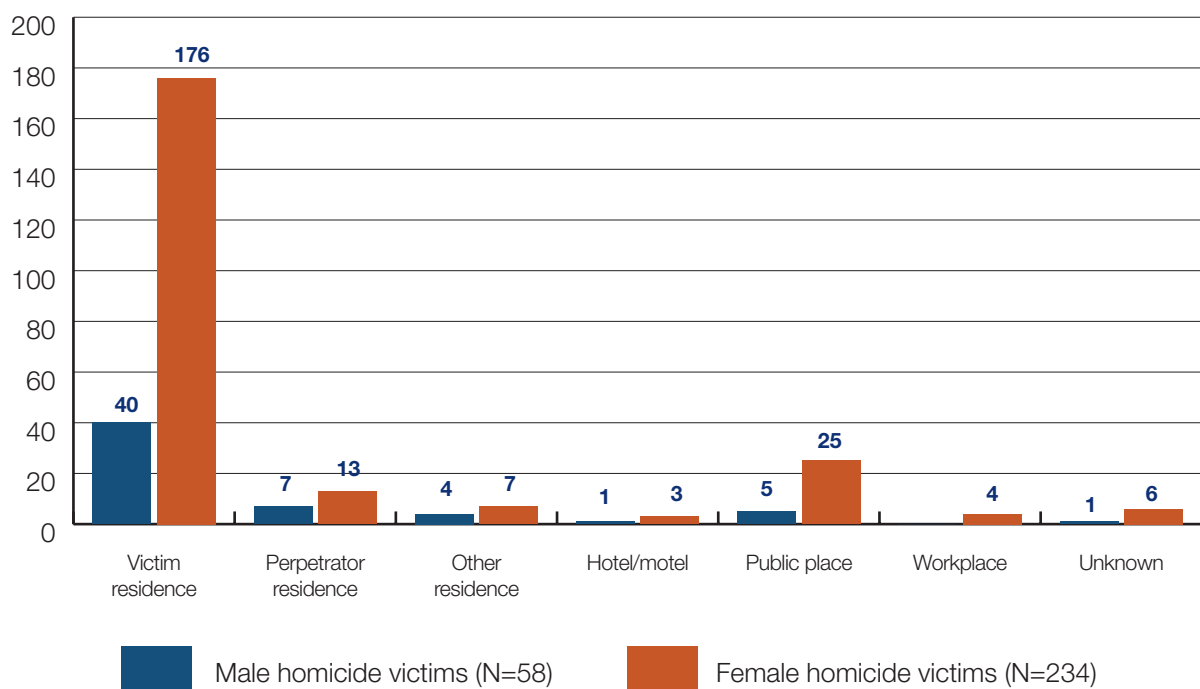


FIGURE 11: Age of intimate partner domestic violence homicide perpetrator, NSW, 2000-2019

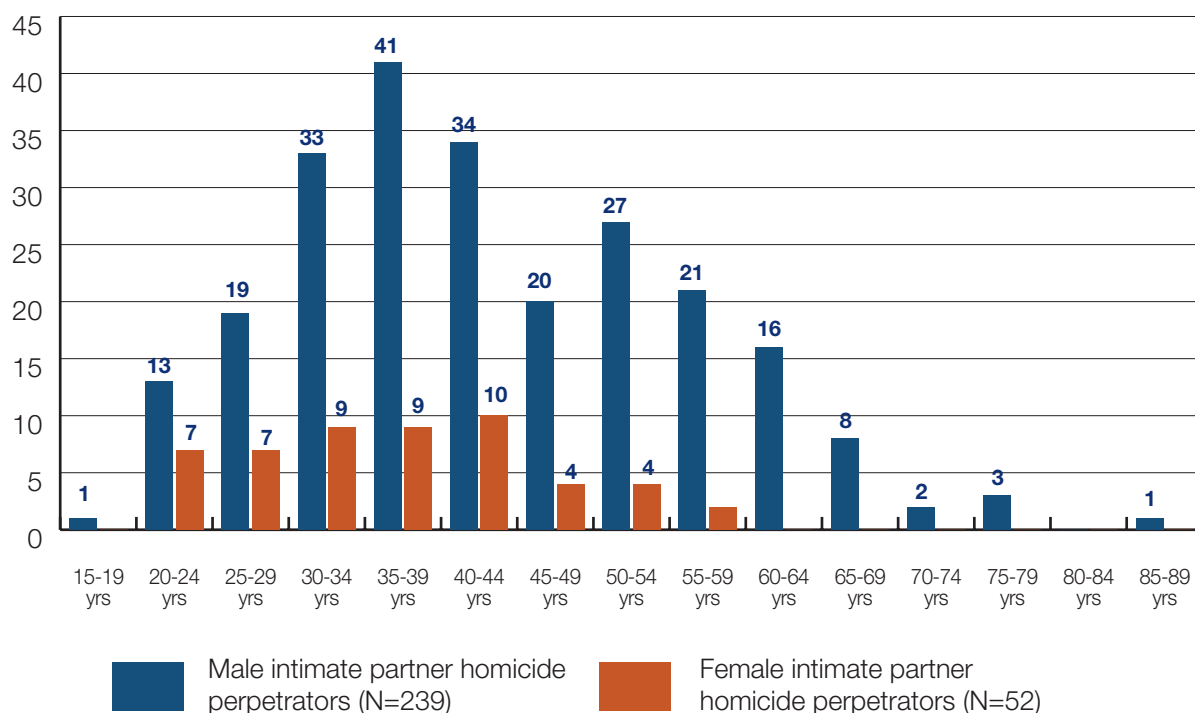
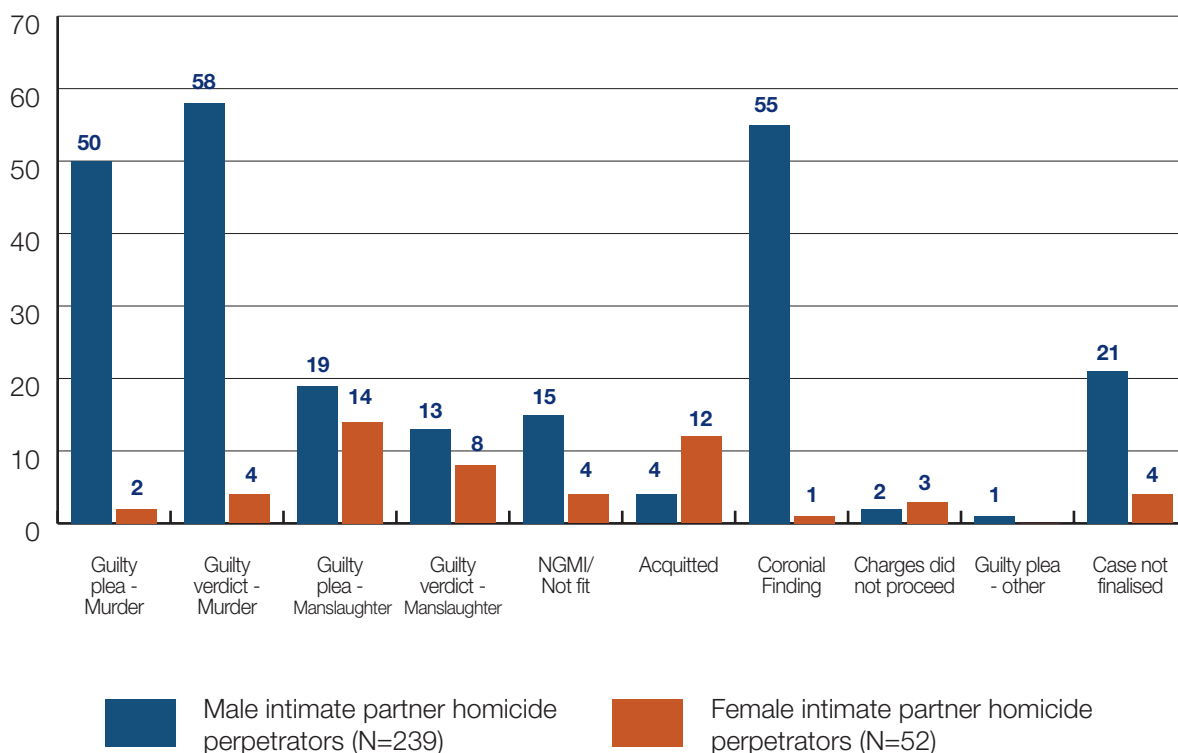


FIGURE 12: Intimate partner domestic violence homicide perpetrator by outcome, NSW, 2000-2019





Relative/kin domestic violence homicides, NSW, 2000-2019

Child homicide victim

FIGURE 13: Relationship of perpetrator to child relative/kin domestic violence homicide victim, NSW, 2000-2019

Relationship of Homicide Perpetrator to child homicide victim	N	%
Biological father	43	42%
Step-father/de facto step-father	19	18%
biological mother	24	23%
Step-mother/foster mother	3	3%
Grandfather	2	2%
Mother & father/step-father acting together	10	10%
Uncle	1	1%
Brother-in-law	1	1%
TOTAL	103	100%

FIGURE 14: Age of child relative/kin domestic violence homicide victim, NSW, 2000-2019

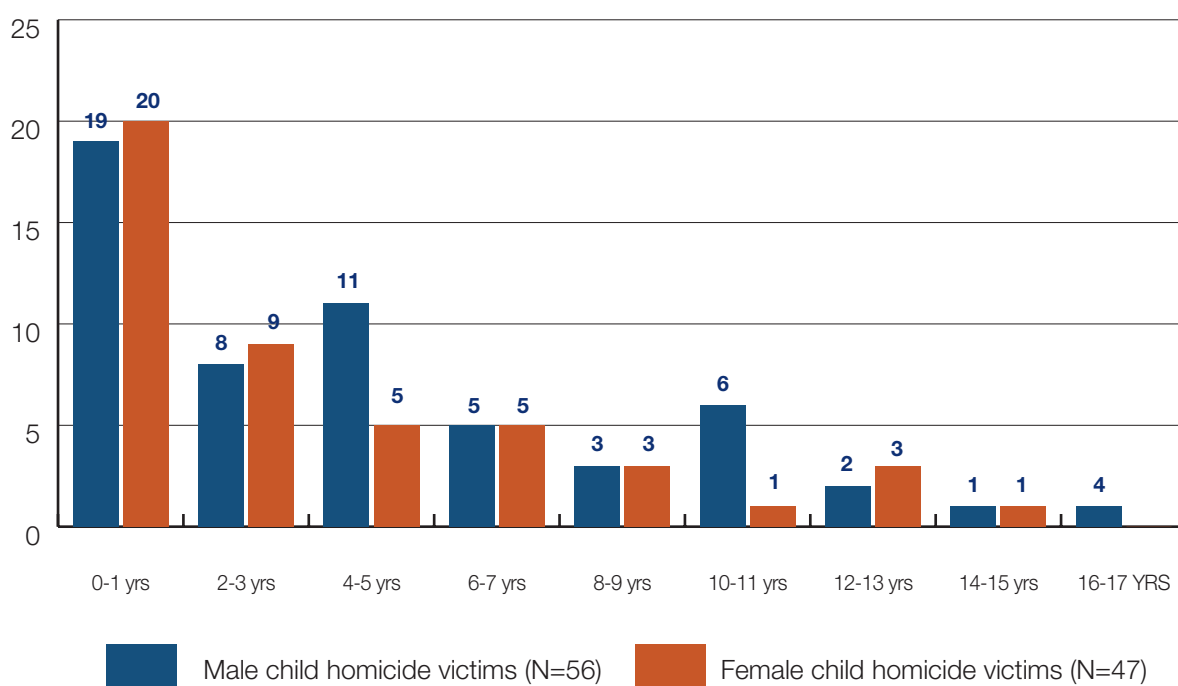


FIGURE 15: Child relative/kin domestic violence homicide victim by manner of death, NSW, 2000-2019

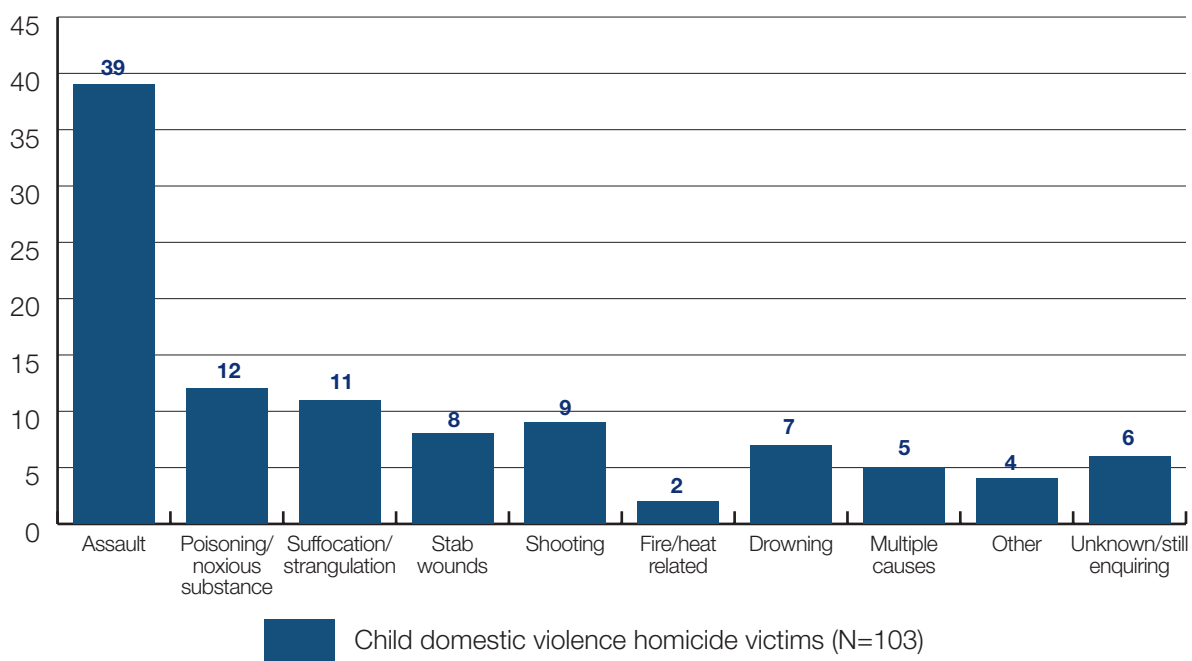


FIGURE 16: Child relative/kin domestic violence homicide victim by location of fatal episode, NSW, 2000-2019

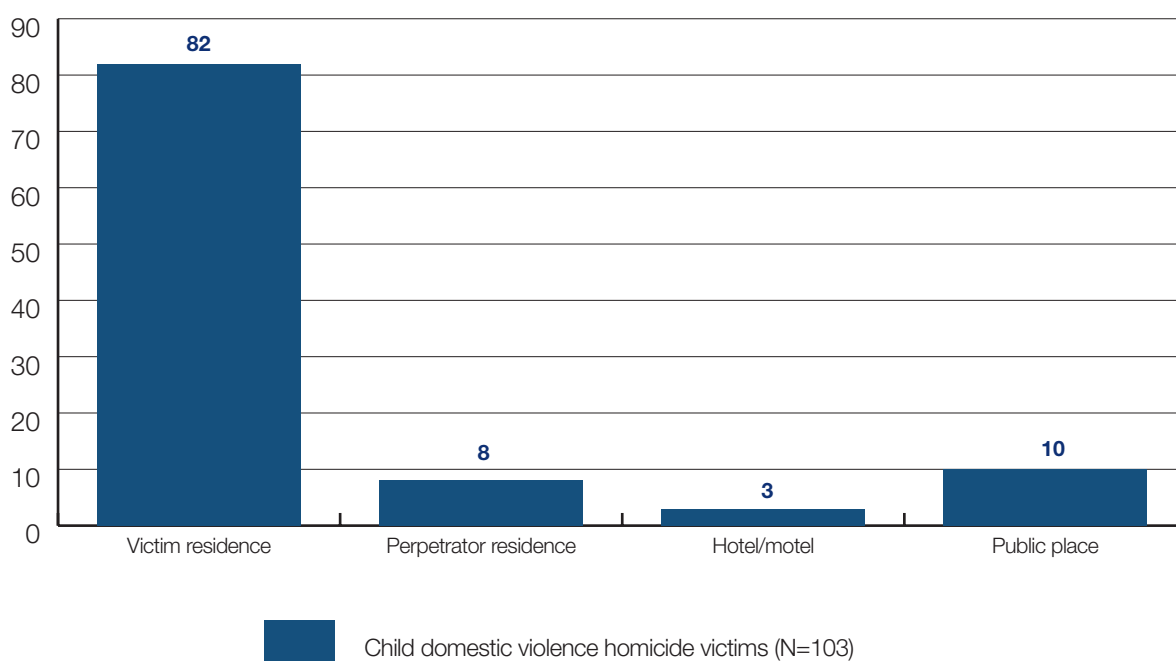




FIGURE 17: Age of child relative/kin domestic violence homicide perpetrator, NSW, 2000-2019

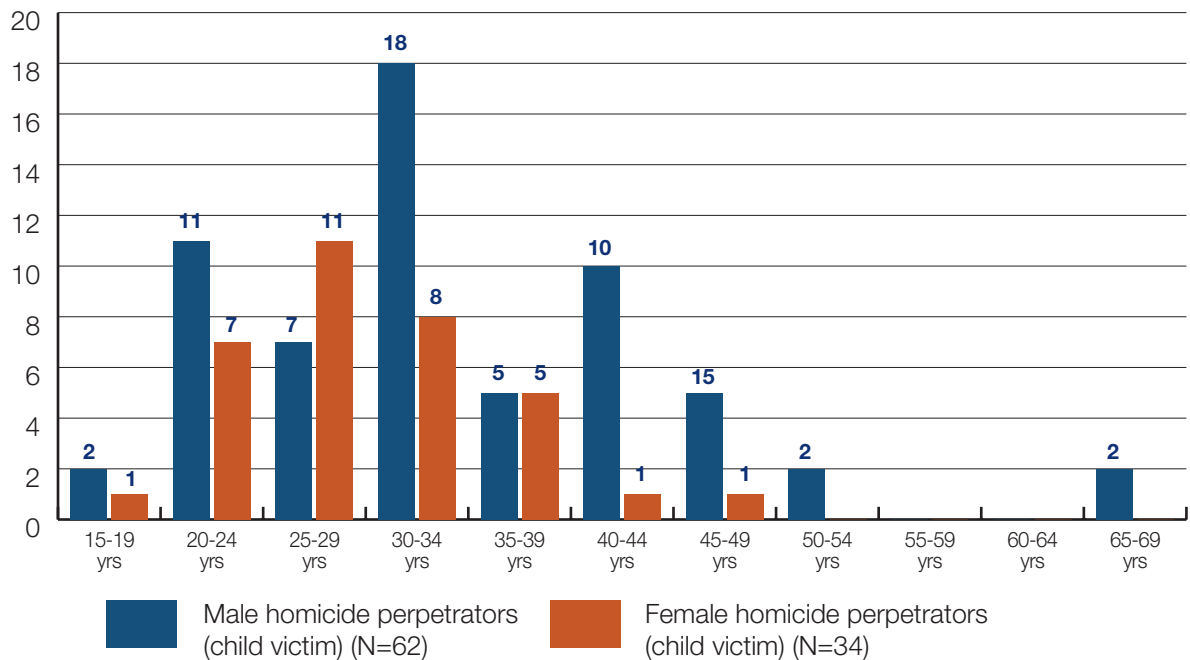
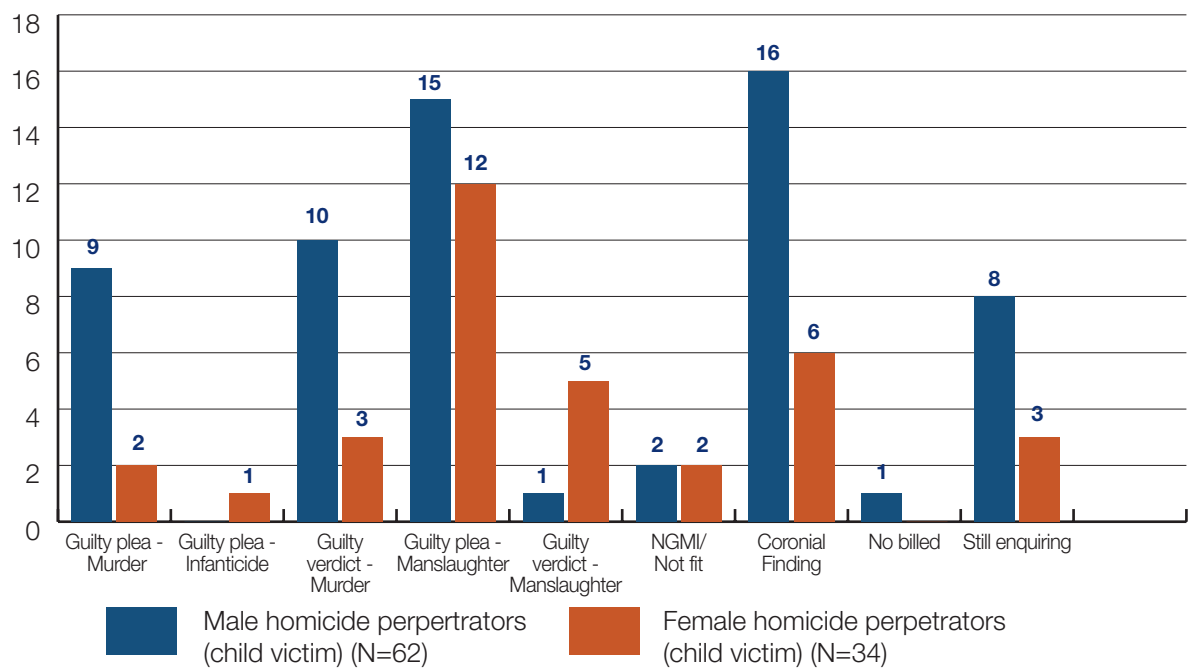


FIGURE 18: Child relative/kin domestic violence homicide perpetrator by outcome, NSW, 2000-2019



Relative/kin domestic violence homicides, NSW, 2000-2019

Adult homicide victims

FIGURE 19: Relationship of homicide perpetrator to adult relative/kin domestic violence homicide victim, NSW, 2000-2019

Relationship of homicide perpetrator to deceased	Male homicide victim (N=48)	Female homicide victim (N=36)	Total
Son/step-son	24	19	43
Daughter/step-daughter	3	6	9
Sons/daughters (acting together)	0	2	2
Son & grandson (acting together)	1	0	1
Brother	5	0	5
Brother-in-law (including de facto)	4	1	5
Father/step-father	3	0	3
Mother	2	0	2
Mother-in-law	2	0	2
Grandson	0	2	2
Nephew	1	3	4
Son-in-law (including de facto)	3	1	4
Cousin	0	1	1
Uncle	0	1	1
TOTAL	48	36	84



FIGURE 20: Age of adult relative/kin domestic violence homicide victim, NSW, 2000-2019

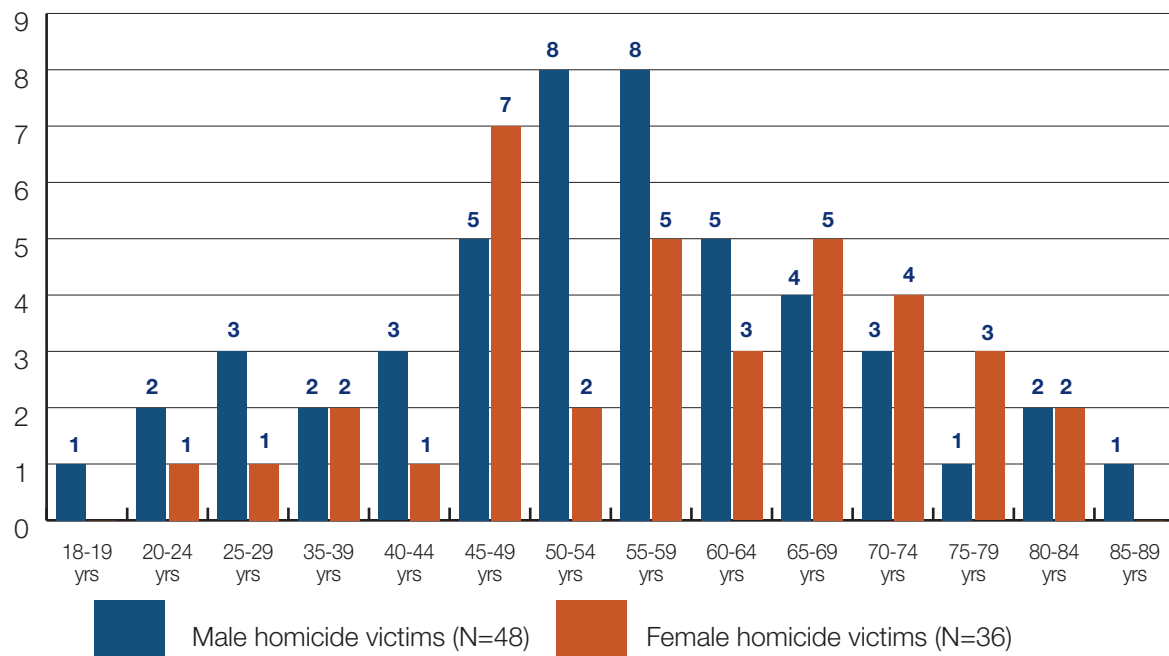


FIGURE 21: Adult relative/kin domestic violence homicide victim by manner of death, NSW, 2000-2019

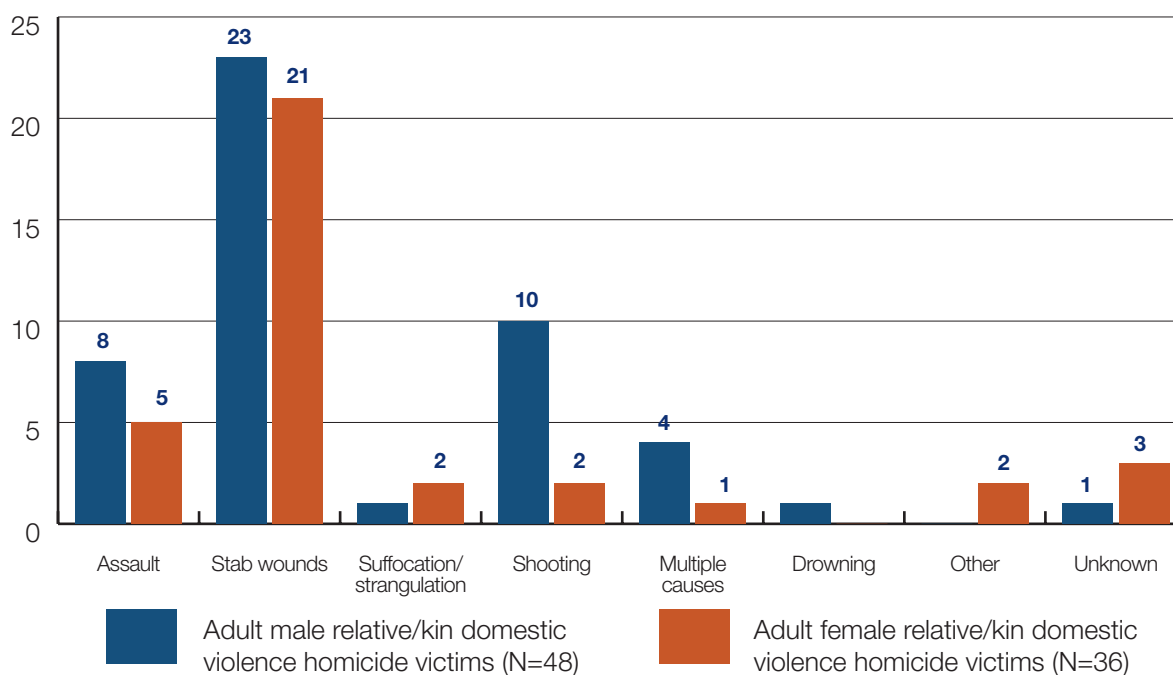


FIGURE 22: Adult relative/kin domestic violence homicide victim by location of fatal episode, NSW, 2000-2019

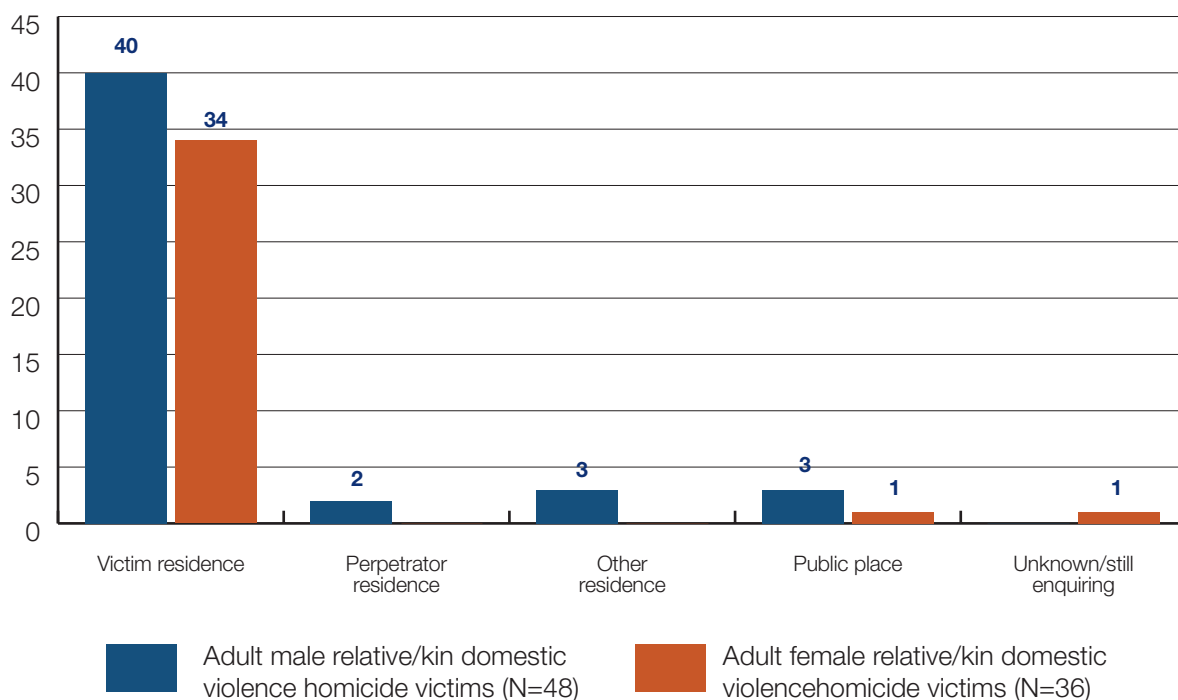


FIGURE 23: Age of adult relative/kin domestic violence homicide perpetrator, NSW, 2000-2019

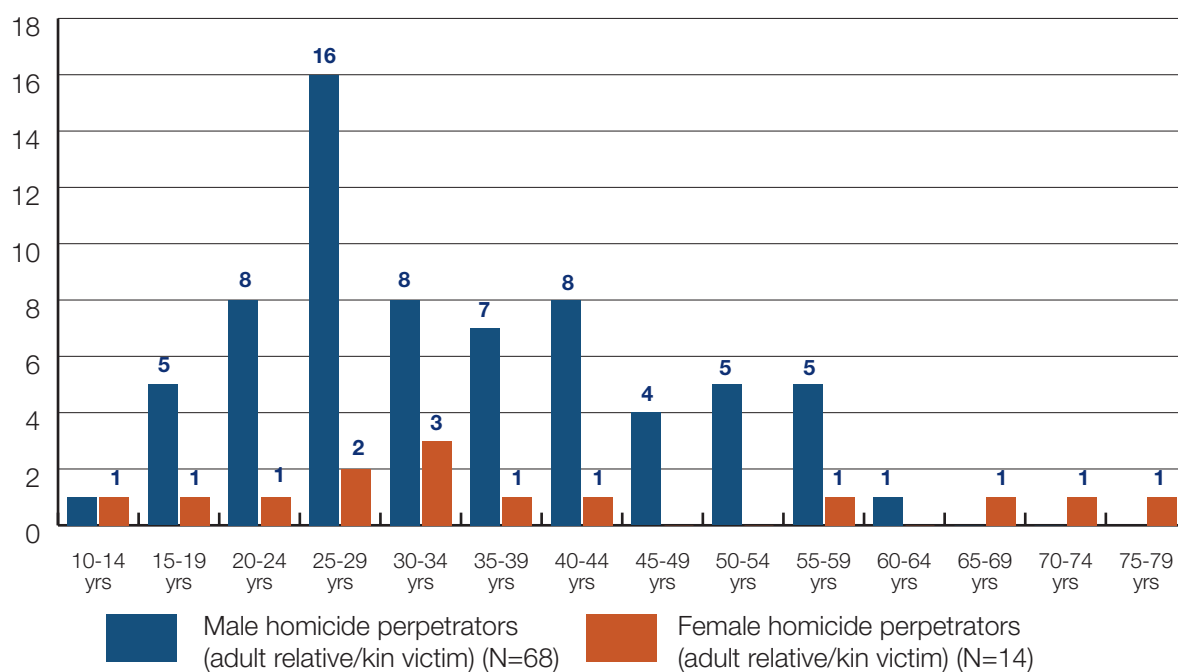
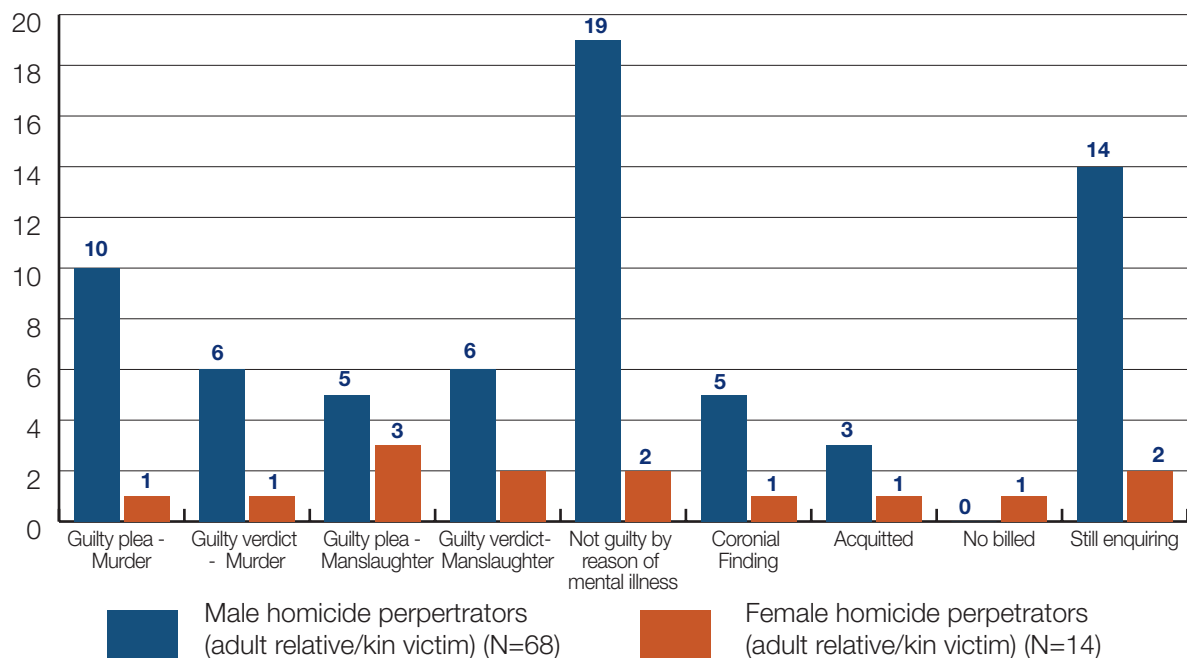




FIGURE 24: Adult relative/kin domestic violence homicide perpetrator by outcome, NSW, 2000-2019



‘Other’ domestic violence homicides, NSW, 2000-2019

FIGURE 25: Relationship type in ‘other’ domestic violence homicide cases, NSW, 2000-2019

The homicide victim was killed....	Male Homicide Perpetrator (Adult Relative/Kin Victim)
by their intimate partner's former partner	23
by their former intimate partner's new partner	10
by their intimate partner's secondary/additional partner	5*
intervening in a domestic violence episode	6
by a person intervening in a domestic violence episode perpetrated by the homicide victim	7**
by a person incited/paid to carry out the homicide	6
as a bystander to a domestic violence episode	3
in other circumstances	3
TOTAL	63

* Includes one case where the additional/secondary partner acted together with his son.

** Includes two cases where a person was killed by police officers intervening in a DV episode perpetrated by the deceased.

FIGURE 26: Age of ‘other’ domestic violence homicide victim, NSW, 2000-2019

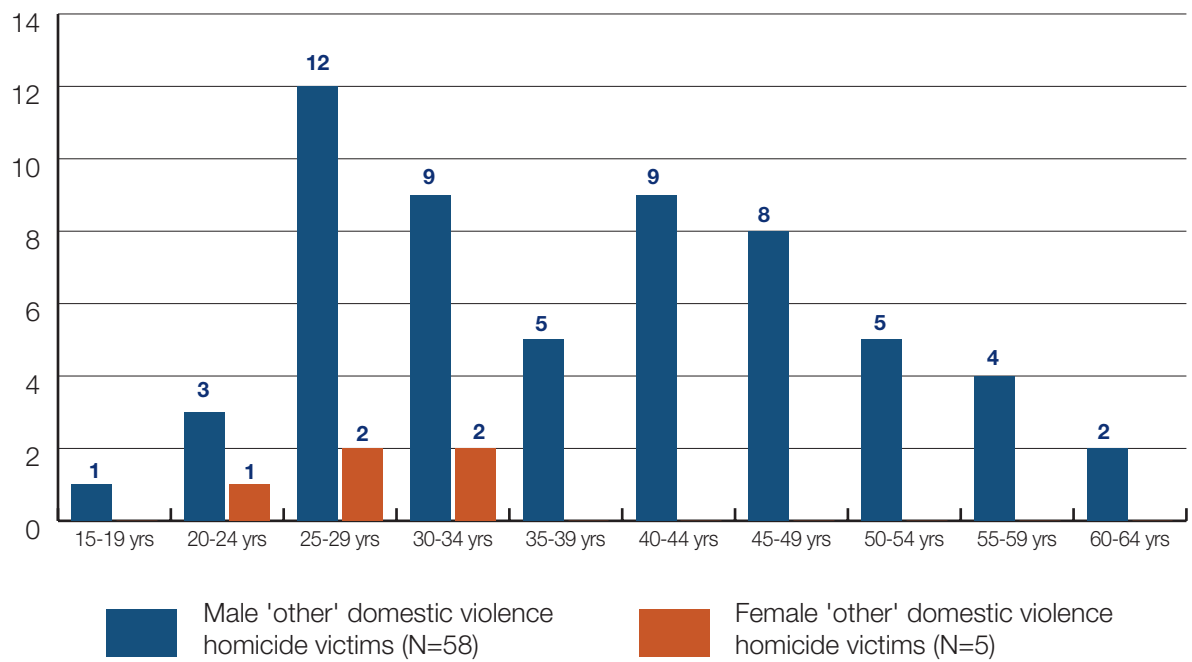


FIGURE 27: ‘Other’ domestic violence homicide victim by manner of death, NSW, 2000-2019

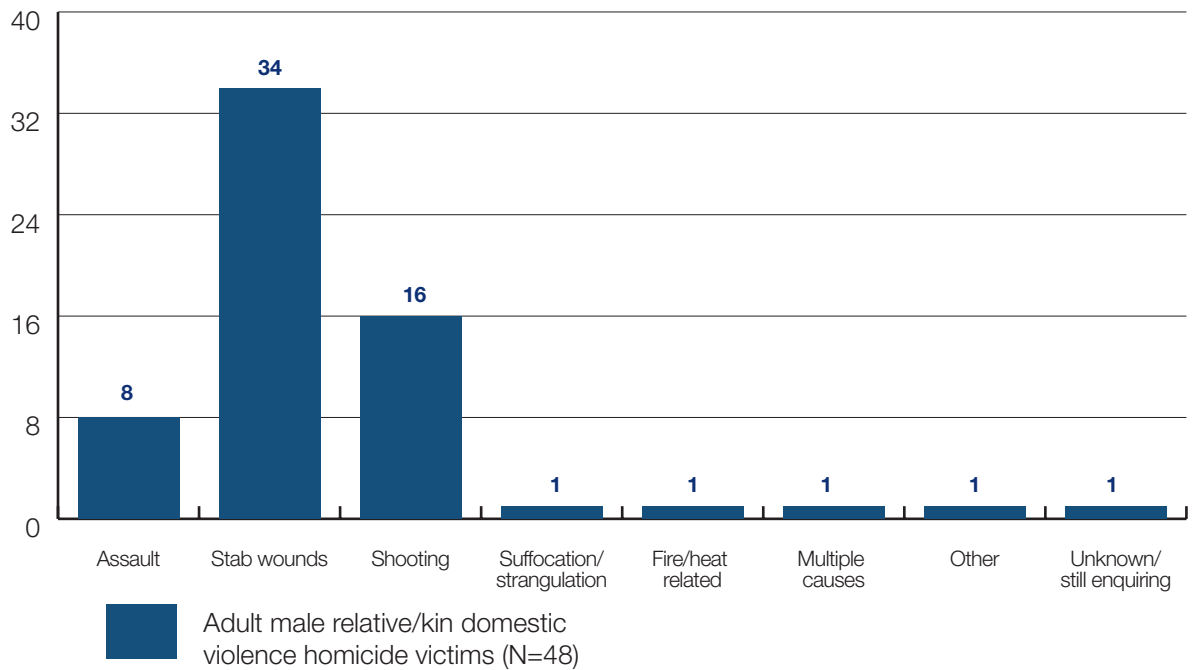




FIGURE 28: 'Other' domestic violence homicide victim by location of fatal episode, NSW, 2000-2019

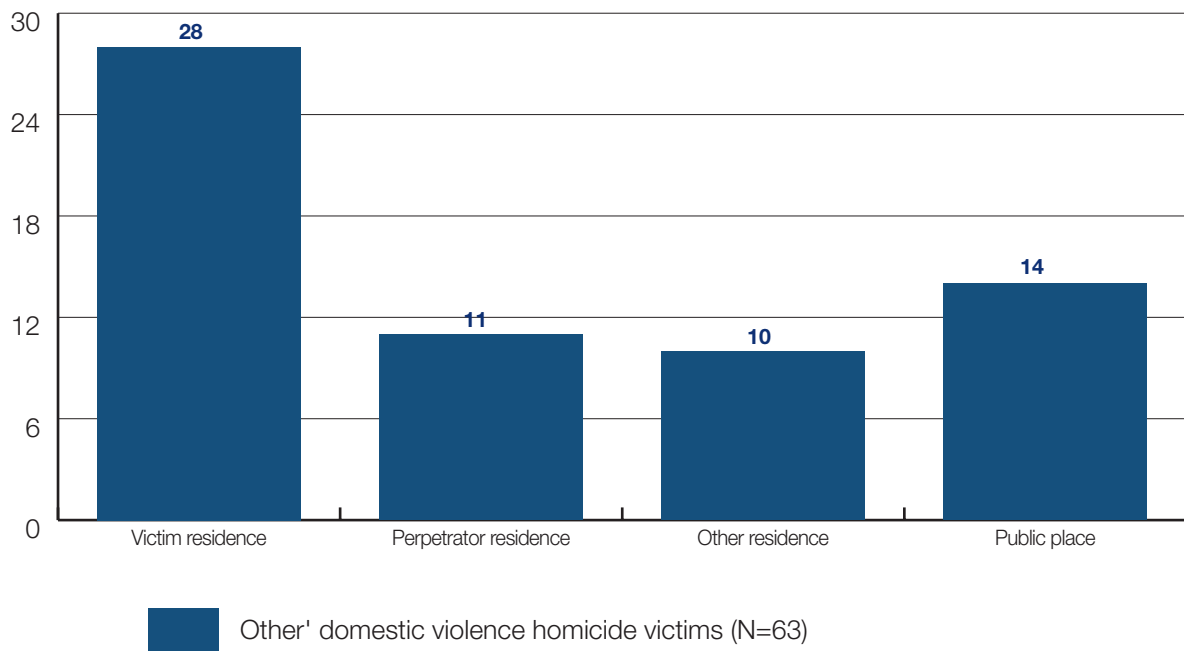


FIGURE 29: Age of 'other' domestic violence homicide perpetrator, NSW, 2000-2019

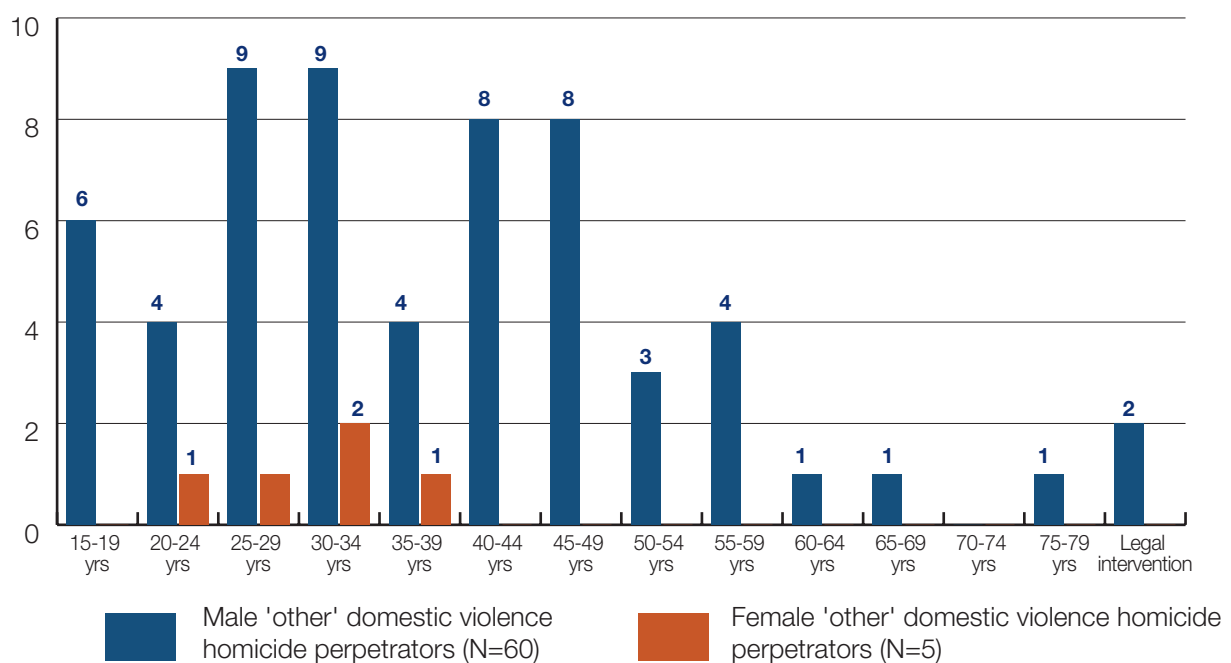
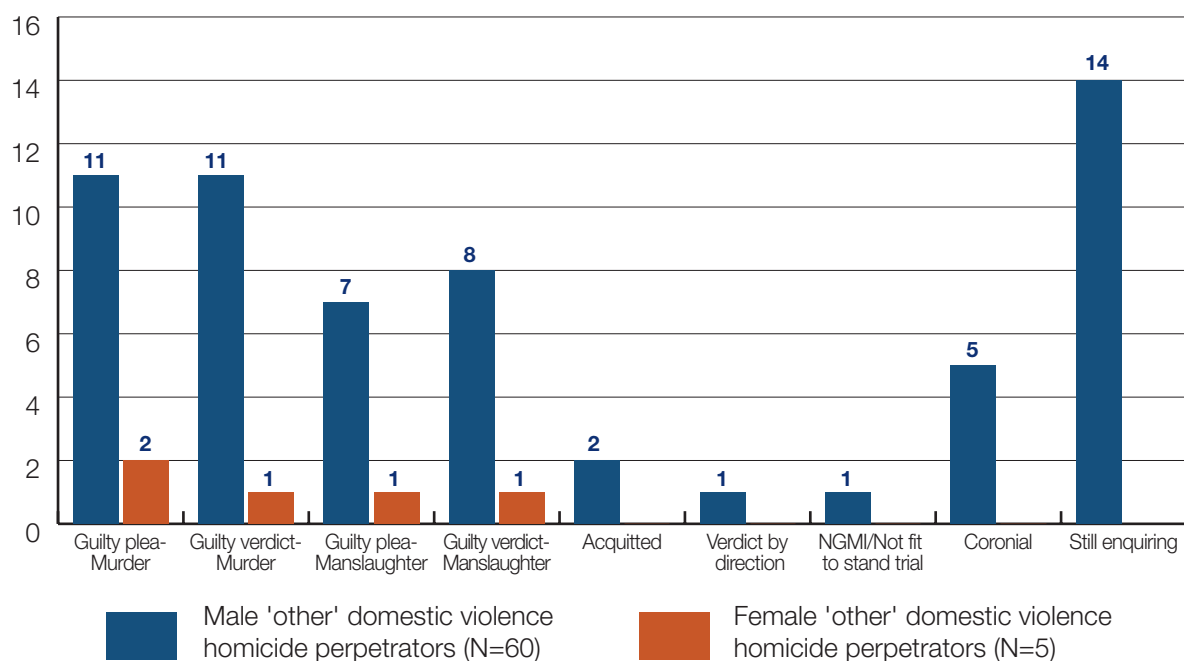
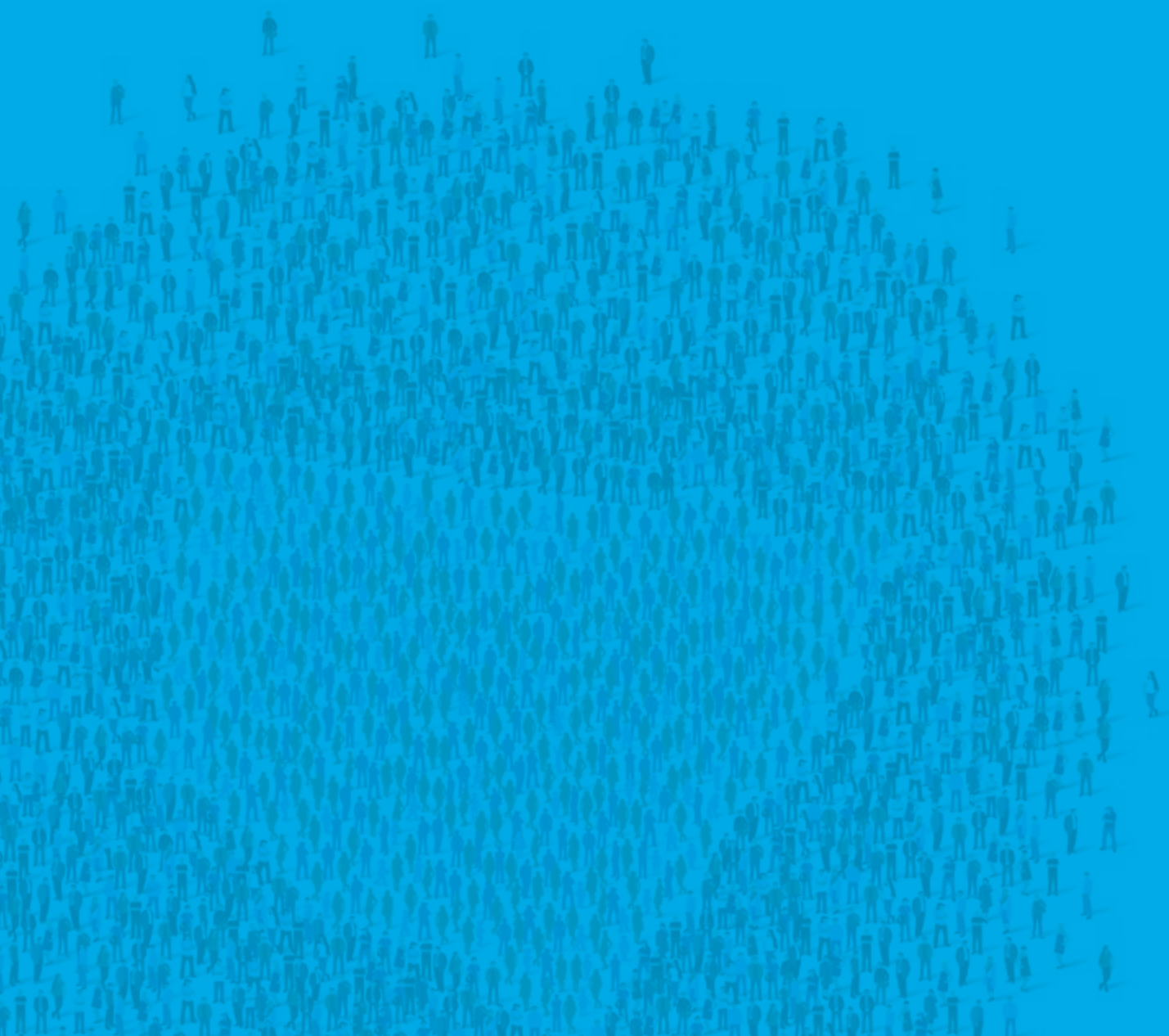


FIGURE 30: 'Other' domestic violence homicide perpetrator by outcome, NSW, 2000-2019



APPENDIX B:

SECRETARIAT ACTIVITIES REPORT, 2017-2019



The DVDRT Secretariat comprises a Manager and a Research Analyst and is permanently based in the NSW State Coroner's Court in Sydney.

Since it tabled the Team's last report the Secretariat has shared its research and learnings with numerous government inquires, worked closely with the Australian Domestic and Family Violence Death Review Network (the Network) to produce the first National Data Report, assisted NSW Coroners on open cases and sought to promote the work of the Team through various forums and presentations.

Activities with the Australian Domestic and Family Violence Death Review Network

An additional key role of the Secretariat has been to collaborate with equivalent review bodies in other jurisdictions to share information and learnings. In 2011 this engagement culminated in the establishment of the Australian Domestic and Family Violence Death Review Network. The Network is comprised of similar domestic violence death review mechanisms in all of the other states and territories (except for Tasmania). One of the key achievements of the Network has been the development of National Data Collection and Data Sharing Protocols which enabled the Network to publish its first *National Data Report* in May 2018 providing, for the first time in Australia, national data with respect to all intimate partner homicides that occurred in the context of domestic violence.³³³ This report was the culmination of years of extensive work and collaboration. As the jurisdiction most progressed in terms of data reporting, the NSW Secretariat drove the development, design and implementation of this project. The report was extremely well received and was the subject of significant media reporting.

In October 2019, the national domestic violence research organisation ANROWS launched a new factsheet *Domestic & Family Violence Lethality*:

The facts about intimate partner homicide based on the 'ground breaking' findings of the National Data Report.³³⁴ The launch was accompanied by a panel discussion lead by ANROWS CEO, Dr Heather Nancarrow with panellists NSW State Coroner Teresa O'Sullivan, Heidi Ehrat (former Chair from the Australian Domestic and Family Violence Death Review Network); Amani Haydar (Domestic and Family Violence Advocate); and Christine Robinson (DVDRT Team Member and Coordinator at Wirringa Baiya Aboriginal Women's Legal Centre).

In its role as part of the Network, the Secretariat also presented the National Data Report findings at the Department of Home Affairs *Community of DFV Practice* forum (June 2018, Canberra) and attended the Annual Domestic and Family Violence Death Review Network Conference in March 2019 in Canberra. Given that NSW Secretariat is one of the most established and experienced death review teams in Australia, it also provided advice and training to other states (Tasmania and ACT) to assist in fatality review scoping for those jurisdictions.

International Networks

In continuance of its international collaborations, the Secretariat established relationships with domestic homicide review teams in the United Kingdom through assisting an international research project, led by Churchill Fellow James Rowlands from the University of Sussex, investigating approaches to domestic and family violence death reviews in the England, Wales, Australia, Canada, New Zealand and the United States. Heidi Ehrat also represented the Network in an inaugural international death review summit in Arizona in June 2019.³³⁵ This summit was attended by domestic violence death review delegates from around the world, including representatives from review teams in 20 US states.

333 Australian Domestic and Family Violence Death Review Network, *2018 Data Report* [http://www.coroners.justice.nsw.gov.au/Documents/ADFVDRN_Data_Report_2018%20\(2\).pdf](http://www.coroners.justice.nsw.gov.au/Documents/ADFVDRN_Data_Report_2018%20(2).pdf) (accessed 2 August 2019).

334 ANROWS, *Domestic & Family Violence Lethality: The facts about intimate partner homicide* <https://www.anrows.org.au/notepad/anrows-notepad-17-october-2019/> (accessed 19 October 2019).

335 The Clearinghouse for Domestic Violence, *1st National Clearinghouse Fatality Review Team Summit* (24-26 June 2019, Arizona) <https://nau.edu/family-violence-institute/national-clearinghouse-fatality-review-team/> (accessed 19 October 2019).



Australian conferences, publications and other information sharing forums

In addition to producing the research and case reviews for the Team, the Secretariat has continued to promote the Team's research and function to different academic, sector and more general audiences.

In 2018 the Secretariat continued to contribute towards enriching judicial discourse by publishing the article *Judicial Discourse versus Domestic Violence Death Review: An Australian Case Study*³³⁶ and was invited to present on its body of work by the Judicial College of Victoria for a *Twilight Seminar* for Supreme and County Court judges, as well as at the *Coroners Court of Victoria's Annual Conference* in 2019.

In the last report the Secretariat published the findings of its domestic violence suicide pilot study, with a view to expanding this research. Although resource limitations restricted the Secretariat's capacity to further progress this research, the Secretariat was asked to share its unique research and learnings in this area at the *Parliamentary Inquiry into the Prevention of Youth Suicide* public hearing in February 2018. After this consultation, the Inquiry recommended that the NSW Government establish a suicide register and a suicide death review team in NSW and the Secretariat and NSW State Coroner have been working closely with NSW Health throughout the reporting period with a view to implementing these recommendations.

The Secretariat has also provided assistance to a number of government investigations and inquiries, including making a public submission to the *Special Commission of Inquiry into the Drug 'Ice'* with accompanying data findings and de-identified case reviews,³³⁷ as well as briefing the NSW Sentencing Council in relation to its current review of sentencing for murder and manslaughter, including domestic and family violence homicides.³³⁸

The Secretariat presented its research and findings at various conferences and forums around Australia including: *No to Violence Men's Behaviour Change forum* (April 2018, Sydney), *NSW Education Centre against Violent Annual Conference* (May 2018, Sydney), *Relationships Australia Conference* (June 2018, Tasmania), *Women's Domestic Violence Court Advocacy Service Annual Conference* (August 2018, Sydney), *Hunter Valley Family Law Practitioners Association Annual Conference* (August 2018, Hunter Valley), *NSW Police Force Aboriginal Community Liaison Officer Conference* (October 2018, Sydney), *Wirringa Baiya (Aboriginal Women's Legal Service) Women's Corroboree* (December 2018, Sydney), *Victims and Witnesses of Crime Court Support Quarterly Training Day* (June 2019, Sydney), *Judicial College of Victoria Twilight Seminar for Supreme and County Court judges* (June 2019, Melbourne), *Coroners Court of Victoria 2019 Conference* (August 2019, Melbourne).

The Secretariat has also shared its expertise with stakeholders at several roundtables and briefings including: the Office of the Department of Public Prosecution's Witness Assistance Service (October 2018, Sydney), Women NSW Branch Meeting (March 2019, Sydney), and the NSW Domestic and Family Violence Reforms Delivery Board (April 2019, Sydney).

Open case function

Pursuant to the enhanced function of the Secretariat as described in the Report of the Statutory review of Chapter 9A of the *Coroners Act 2009* (NSW)³³⁹ the Secretariat continued to work with Coroners on open cases throughout the reporting period. In this role, the Secretariat assisted Coroners by preparing a domestic and family violence report based on the brief of evidence and other research, and supported Coroners in recommending additional brief requisitions to enhance the investigation.

336 Buxton-Namisnyk and Butler, 'Judicial Discourse versus Domestic Violence Death Review: An Australian Case Study' in *Femicide and the Power of Law* 2018 (ed. A Howe and D Alattinoglu).

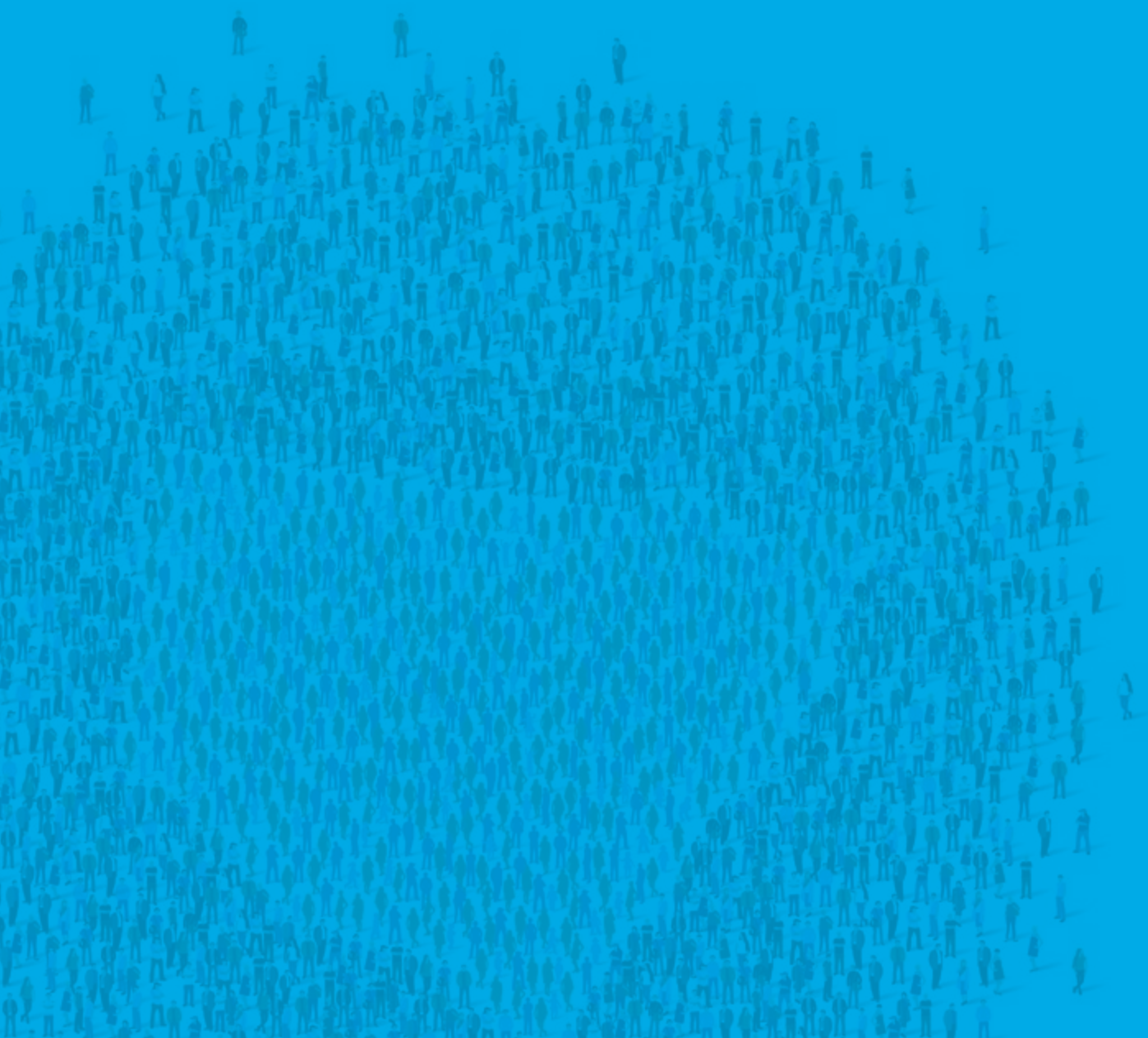
337 Domestic Violence Death Review Team, Submission No 132 to the Special Commission of Inquiry into the Drug 'Ice' (15 May 2019) <https://www.iceinquiry.nsw.gov.au/assets/scii/response-submissions/132-Acting-State-Coroner-Domestic-Violence-Death-Review-Team.pdf> (accessed 27 September 2019).

338 Sentencing Council, *Review of sentencing for murder and manslaughter* (online, undated) <http://www.sentencingcouncil.justice.nsw.gov.au/Pages/Homicide.aspx> (accessed 28 September 2019).

339 Statutory Review of Chapter 9A of the *Coroners Act 2009* (NSW) – The Domestic Violence Death Review Team, available at [https://www.parliament.nsw.gov.au/la/papers/DBAssets/tabledpaper/webAttachments/67991/Report%20on%20the%20review%20of%20Chapter%209A%20of%20the%20Coroners%20Act%20\(Domestic%20Violence\).pdf](https://www.parliament.nsw.gov.au/la/papers/DBAssets/tabledpaper/webAttachments/67991/Report%20on%20the%20review%20of%20Chapter%209A%20of%20the%20Coroners%20Act%20(Domestic%20Violence).pdf) (accessed 30 September 2017).

APPENDIX C:

GLOSSARY OF TERMS





Aboriginal people and communities	Includes Aboriginal and Torres Strait Islander people and communities.
Abuser	A person who uses domestic and family violence behaviours against a victim (See also Perpetrator).
Boyfriend	A male person who has a relationship with another person, but the parties do not regularly cohabit.
Bystander/informal support network	Encompasses friends, family, neighbours, faith leaders, and other members of the community who have a formal or informal relationship with the domestic violence victim or abuser.
Children experiencing (or living with) domestic violence	Experiencing or living with domestic violence includes children hearing or witnessing violence, being used in the course of violence, being told that they are to blame for the violence, defending a parent/family member/sibling, or intervening in violence. ³⁴¹ Children can also be exposed to the traumatic aftermath of violence, including having to call emergency services or seek help, seeing a parent's injuries, dealing with a parent who alternates between violence and caring roles, witnessing parents being arrested, or being dislocated from their friends/family/school due to their having to leave their home when the non-offending parent is escaping violence. ³⁴² The Secretariat has intentionally refrained from using the terms 'exposed to' or 'witnessed' when referring to children living in households with domestic violence, as these descriptors make the child's experience appear passive and detached from the violence and abuse and does not capture the true extent of the traumatic impact that can permeate many facets of the child's everyday existence (as described above).
Country of birth	Designates the country a person was born in. A person's country of birth may not reflect a person's ethnicity or ethnic background.
Cultural Safety	An environment that is spiritually, socially and emotionally safe, as well as physically safe for people; where there is no assault challenge or denial of their identity, of who they are and what they need. ³⁴³
NSW Police Force Computerised Operational Policing System (COPS)	An operational database used by the NSW Police Force to record information relevant to all victims, offenders and incidents that require police action (including to create a record of an event only).
Domestic violence	A pattern of behaviour whereby one person intentionally and systematically uses violence and abuse to gain and maintain power over another person with whom they share (or have shared) an intimate or familial relationship. Abusive behaviours can be physical, sexual, verbal, social, economic, psychological, emotional, and spiritual. Abusive behaviours can be direct or indirect, actual or threatened.

³⁴⁰ Richards (n 40).

³⁴¹ Richards (n 40).

³⁴² Williams, 'Cultural safety – what does it mean for our work practice?' (1999) 23(2) *Australian and New Zealand Journal of Public Health*, 213-214.

Domestic violence hotspot	A geographic region identified by the NSW Bureau of Crime Statistics and Research as having a high density of recorded domestic assaults.
Domestic violence victim	A person who has domestic and family violence behaviours used against them.
De facto husband	A male who is in an intimate relationship with another person with whom they cohabit, but the parties are not married.
De facto wife	A female who is in an intimate relationship with another person with whom they cohabit, but the parties are not married.
Default judgment	A binding judgment in court proceedings in favour of either party based on some failure to take action by the other party.
Economic abuse	A spectrum of abusive behaviours related to a partner or family member's access to economic resources (including limiting access to finances, access to work etc.). This behaviour is intended by an abuser to diminish a victim's ability to support themselves and forces them to depend on the abuser financially.
Emotional abuse	A broad spectrum of behaviours employed by abusers in order to frighten, belittle, humiliate, unsettle and undermine a victim's sense of self-worth. This can include verbally denigrating the victim; making threats about parenting arrangements as a means to control the victim; blaming the victim for all adverse events; fabricating or exploiting a victim's mental illness; and deliberately creating dependence (see also Psychological abuse).
Fatal assault	The assaultive injuries, actions, or inaction that lead to the death of the homicide victim (including negligence and starvation).
Former girlfriend/de facto wife/wife	A female person who was in a girlfriend/de facto wife/wife relationship with another person but that relationship has ceased with parties being separated or alienated. This is notwithstanding the fact one party may wish the relationship continue and/or where the parties continue to co-habit (in de facto wife/wife relationships).
Former boyfriend/de facto husband/husband	A male person who was in a boyfriend/de facto husband/husband relationship with another person but that relationship has ceased with parties being separated or alienated. This is notwithstanding the fact one party may wish the relationship continue and/or where the parties continue to co-habit (in de facto husband/husband relationships).
Gender	The term 'gender' is used to indicate a person's gender identity notwithstanding their biological sex classification. It is acknowledged that a person's biological sex may differ from their gender identity. This term also more comprehensively reflects the gendered nature of domestic and family violence; related to the socially constructed classifications and characteristics attributed in particular to male and female sex categorisations.



Girlfriend	A female who is in an intimate relationship with another person, but the parties do not regularly cohabit.
Homicide offender	The person who's actions inflicted the injuries that caused the death/homicide.
Homicide victim	The person who died because of the injuries inflicted by the homicide offender.
Husband	A male person who is legally married to a female person (a wife), with that marriage being legally recognised or capable of being legally recognised in Australia.
Intergenerational trauma	The transmission of trauma and its negative consequences across generations. Intergenerational trauma can impact individuals, families and communities.
Intimate partner violence	A pattern of behaviour whereby one person intentionally and systematically uses violence and abuse to gain and maintain power over another person with whom they share, or have previously shared an intimate relationship.
Intimate partner domestic violence homicide	A homicide where a person is killed by another person with whom they share or shared an intimate relationship, following a history of domestic violence.
Intractable offender	A repeat domestic violence abuser that is not dissuaded from offending by civil orders or criminal sanction.
LGBTIQA+	This term is used collectively to represent the communities who identify as lesbian, gay, bisexual, transgender, gender diverse, intersex, queer, asexual and questioning.
Manner of death	The manner by which a person perpetrates a fatal assault against another person, or the way in which one person kills another person and can include: assault, stab wounds, suffocation/strangulation, shooting, fire/heat related, poisoning/noxious substance and drowning. Where a manner of death is attributed to multiple causes in the post mortem report, and the evidence indicates that multiple kinds of assaultive or injurious force were used against the deceased, the manner of death is recorded as 'multiple causes'.
Multiple homicide event	Cases where two or more deaths occur in the context of an episode of violence (excluding perpetrator suicides or unintentional perpetrator deaths).
'Other' domestic violence homicide	A homicide where a person is killed by another person with whom they share no domestic relationship but the death occurs in a context of domestic violence. For example, a bystander intervening in a domestic violence episode.
On-off relationship	Describes a relationship between a couple who have periods of time when they are separated and then later reconcile and continue the relationship.

Out-of-home care	Out-of-home care refers to alternative accommodation for children and young people who are unable to live with their parents.
Perpetrator	A person who uses domestic and family violence behaviours against a victim (See also Abuser).
Physical violence	Any assault on the body without a weapon such as shaking, slapping, pushing, spitting, punching, non-lethal strangulation, kicking or pulling hair. Physical violence also includes any assault on the body using a weapon.
Primary aggressor	The person who primarily initiated domestic violence in the life of the relationship and/or was the main aggressor of domestic violence after the relationship had ended. This term is designed to highlight that a person may have been the primary user of domestic violence prior to the homicide, and the homicide may have been perpetrated by a person who was typically a victim of domestic violence (for instance, a victim who kills an abuser in self-defence).
Primary victim	The person who primarily had domestic violence used against them (was victimised) during the relationship with an abuser, or after that relationship had ended. The term designates a person who experienced, but did not initiate domestic violence. This term is designed to highlight that a person may be the primary victim of domestic violence prior to the homicide, but may ultimately perpetrate the homicide (for instance, a victim who kills an abuser in self-defence).
Psychological abuse	A broad spectrum of behaviours employed by abusers in order to frighten, belittle, humiliate, unsettle and undermine a victim's sense of self-worth. This can include verbally denigrating the victim; making threats about parenting arrangements as a means to control the victim; blaming the victim for all adverse events; fabricating or exploiting a victim's mental illness; and deliberately creating dependence (See also Emotional abuse).
Relative/kin domestic violence homicide	A homicide where a person is killed by another person with whom they share or shared familial or kin relationship, following a history of domestic violence.
Repeat Perpetration	A domestic violence perpetrator who uses violence against multiple victims in their lifetime.
Repeat Victimisation	A victim of domestic violence who has experienced domestic violence from multiple perpetrators in their lifetime.
Reproductive coercion	A range of controlling behaviour related to reproductive health and includes abusive behaviours such as pressuring a person into pregnancy, controlling access to and use of contraception and forced abortion, sterilisation or forced continued pregnancy.
Residence	An owned or rented premises where a person resides. Includes social housing residences and boarding or other accommodation.



Retaliatory violence/violent resistance	Describes the use of violence by a primary victim in response to coercion and control by the primary aggressor.
Safety Action Meeting	A regular meeting of local service providers that aims to prevent or lessen serious threats to the safety of domestic violence victims through targeted information sharing. These meetings are part of <i>Safer Pathway</i> .
Scheduled/involuntarily admitted	When a person with mental ill health is admitted involuntarily, or against their will, to a mental health inpatient facility in accordance with the procedure outlined under section 19 of the <i>Mental Health Act 2007</i> (NSW).
Secondary homicide victim	Describes the surviving family, friends or other close associates of the homicide victim.
Secretariat	NSW Domestic Violence Death Review Secretariat.
Separated but living under one roof	A couple that have ended their relationship, but remain living in the same accomodation.
Set aside	To annul or negate a court order or judgment by another court order.
Sexual abuse	Unwanted or non-consensual sexual behaviours used by an abuser against a victim.
Sex Worker	People who receive money or goods in exchange for sexual services, and who consciously define those activities as income generating.
Special Hearing	Where a court determines that the accused is unfit to be tried, it conducts a special hearing under the <i>Mental Health (Forensic Provisions) Act 1990</i> (NSW).
Spiritual abuse	A range of abusive behaviours used by an abuser against a victim under the guise of religion, including harassment or humiliation, which may result in psychological trauma. Behaviours may include an abuser denying a victim's spiritual or religious beliefs and practices in an attempt to control and dominate them.
Social abuse	A range of abusive behaviours designed to prevent a person from spending time with family and friends, and participating in social activities. Socially abusive behaviours often isolate victims, allowing abusers to maintain control over them.
Stalking	A range of tactics whereby an abuser intentionally and persistently pursues a victim in order to control or intimidate that victim or seek to make the victim fearful. Stalking behaviours can include the abuser following the victim, loitering near the victim's home or work, and breaking into the victim's house. Stalking also includes acts of technology-facilitated abuse such as persistent text messaging, maintaining surveillance over the victim's phone or email, covertly recording the victim's activities, and engaging with the victim on social media/dating sites under a false identity. Stalking can occur both during an intimate relationship, or after a relationship has ended

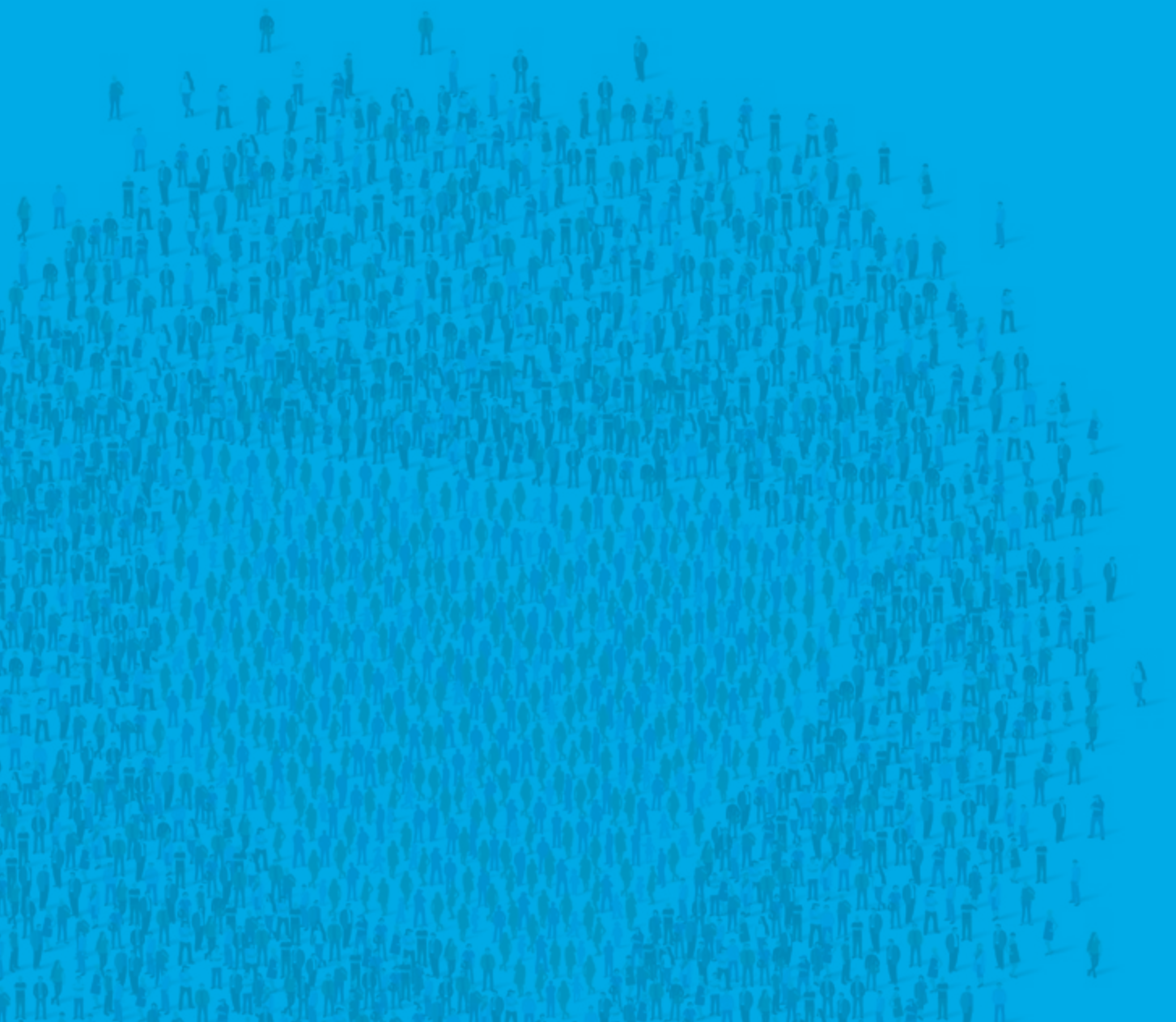
Substance	A pharmacological or non-therapeutic drug used for non-medical purposes. Substances may include illicit drugs or other non-illicit substances that are being used in ways contrary to their intended medical or other purpose.
Team	NSW Domestic Violence Death Review Team.
Trauma-informed	A program, organisation or system that is trauma-informed realises the widespread impact of trauma and understands potential paths for recovery; recognises the signs and symptoms of trauma in clients, families, staff and others involved with the system and responds by fully integrating knowledge about trauma into policies, procedures and practices and seeks to actively resist retraumatisation. ³⁴⁴
Verbal abuse	A range of spoken abusive behaviours used by an abuser to belittle or denigrate a victim (See also Psychological abuse, Emotional abuse).
Violence going both ways	Describes a situation where abusive behaviours are used by both people in a domestic relationship to control and coerce the other person in the relationship, with no consistent primary victim or aggressor.

³⁴³ Substance Abuse and Mental Health Services Administration (2014) *SAMHSA's concept of trauma and guidance for a traumainformed approach*, p.9.

APPENDIX D:

MONITORING AND REPORTING FRAMEWORK:

DVDRT Report Recommendations, August 2019



Background

The Domestic Violence and Death Review Team (DVDRT) was established in 2010 under the *Coroners Act 2009* (NSW) to review deaths occurring in the context of domestic violence in New South Wales. In the data reporting period 1 July 2000 to 30 June 2014 there were 204 cases where a person was killed by a current or former intimate partner in a domestic violence context.

The DVDRT is a multi-agency committee chaired by the State Coroner with representatives from key government agencies and non-government service providers and sector experts. The DVDRT reports to Parliament biennially on the closed cases of domestic violence. Through its recommendations, the DVDRT aims to develop and promote domestic violence intervention and prevention strategies so as to reduce the likelihood of deaths occurring in similar circumstances in the future, and to improve the response to domestic violence more generally.

As at July 2019, the DVDRT have published five reports: 2010–2011, 2011–2012, 2012–2013, 2013–2015, 2015–2017. The report for the period 2017–2019 will be tabled in October 2019.

NSW Government response and reporting

The [Premier's Memorandum M2017-04 *Response to DVDRT Report Recommendations*](#) sets out a consistent process across government for responding to DVDRT recommendations to ensure increased accountability and transparency in reporting.

Report (public): Government response to DVDRT Report

- Within six months of the release of a DVDRT report, the NSW Government must provide a response that indicates whether the NSW Government accepts the DVDRT recommendations.
- This whole-of-government response is coordinated by Women NSW and must be endorsed by the Domestic and Family Violence Reform Delivery Board and then submitted to Cabinet (note: Cabinet submission can take approximately 70 days).

Report (public): NSW Government Progress Report to the DVDRT Report Recommendations

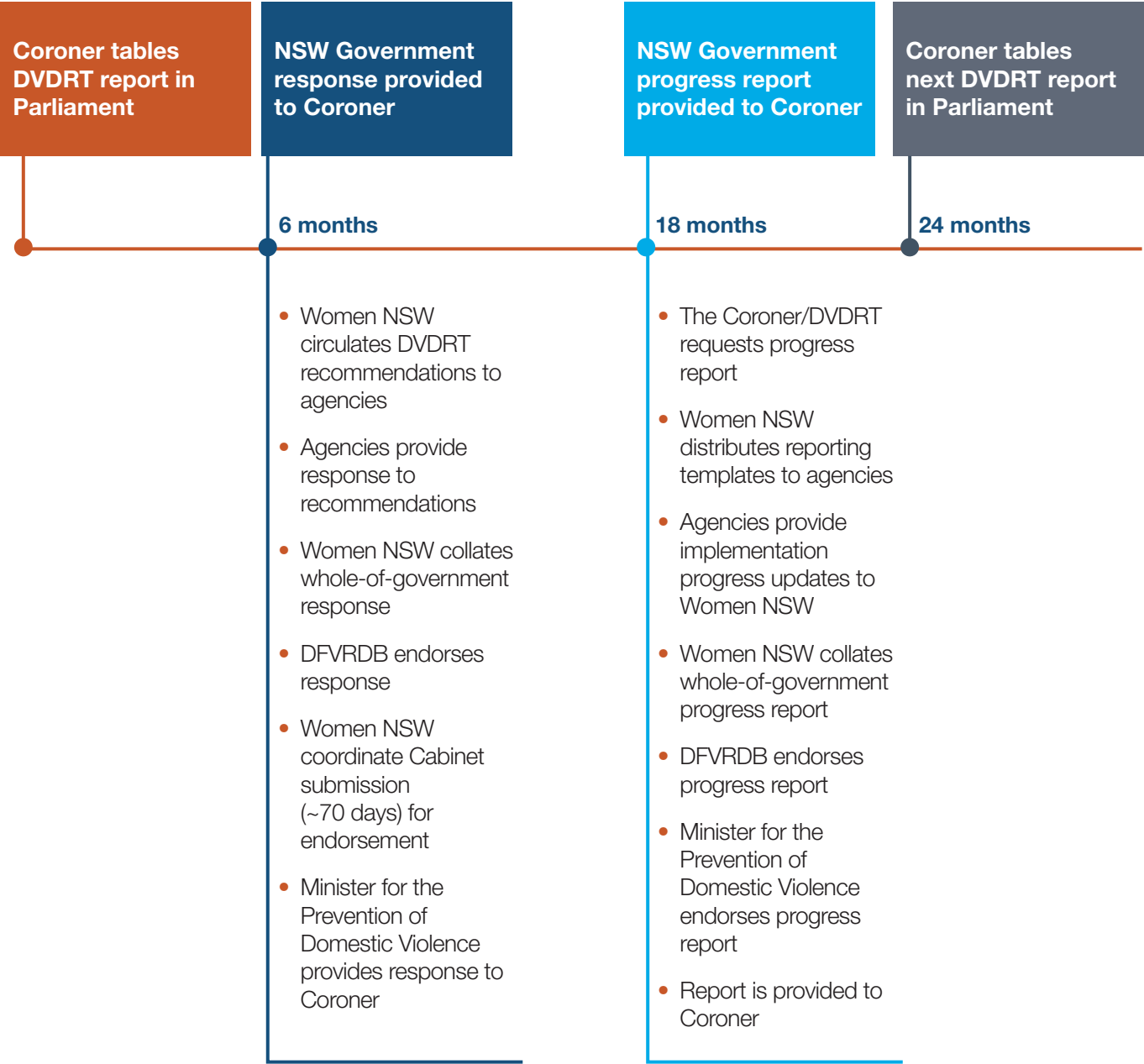
- Within 18 months of the release of a DVDRT report, the NSW Government must provide the Coroner with a report outlining progress toward implementing the recommendations.
- This whole-of-government progress report is coordinated by Women NSW and must be endorsed by the Domestic and Family Violence Reform Delivery Board and then submitted to the Coroner.



Accountability

Role	Responsibilities
State Coroner	Convenor of the DVDRT. When the DVDRT provides its biennial report to the NSW Parliament, the State Coroner will also provide a copy of the report to the Attorney General and the Minister for the Prevention of Domestic Violence.
DVDRT	Responsible for producing the biennial DVDRT Report to be tabled in Parliament and for requesting progress reports.
Minister for the Prevention of Domestic Violence	The Minister for the Prevention of Domestic Violence, in consultation with the Attorney General, is responsible for the coordination of the whole-of-government response to the DVDRT recommendations. The Minister is also responsible for progress reporting when requested by the DVDRT.
Women NSW	Lead agency responsible for the coordination of the whole-of-government response to the DVDRT, and for progress reporting when requested by the DVDRT or Coroner.
Agency Secretaries	Accountable for the delivery of recommendations as agreed to and endorsed by Cabinet.
Individual agencies	Responsible for providing a response to the DVDRT, for ensuring that the actions committed to are implemented, and for reporting on the progress of implementing these actions 18 months after the DVDRT report is tabled.
Domestic and Family Violence Reform Delivery Board (DFVRDB)	Recommendations and their implementation intersect and align with the broader domestic and family violence agenda. For this reason, the DFVRDB will provide oversight of agency progress reporting (not implementation) and endorse all reports prior to submission to Cabinet and/or the Coroner.

Process



See Appendix A for a detailed timeline



Monitoring and reporting framework

In line with the Premier's Memorandum, Women NSW has developed a reporting framework to enable consistent reporting from agencies. The reporting template (Appendix B) will be circulated to agencies for them to provide their 18-month progress reports.

Progress reporting is an opportunity for the NSW Government to gather a more complete picture of the many ways agencies are working to support victims-survivors and prevent domestic and family violence. This provides important policy context for the DVDRT, as they continue to examine opportunities to improve system responses to domestic and family violence.

Appendix A: Response and reporting timeline

Action	Date
Coroner tables DVDRT report in Parliament	Every two years
Women NSW to request agency responses to DVDRT report	Approx. one month after DVDRT report is tabled
Women NSW to collate whole-of-government response to DVDRT, coordinate DFVRDB endorsement, Ministerial endorsement and submit to Cabinet for approval	Approx. four months after DVDRT report is tabled to allow 70 day Cabinet submission process
Minister for the Prevention of Domestic Violence to submit whole-of-government response to Coroner	Six months after DVDRT report is tabled
Women NSW to provide agencies with template for progress reporting	Approx. 15 months after DVDRT report is tabled
Women NSW to collate whole-of-government progress report and coordinate DFVRDB and Ministerial endorsement	Approx. 17 months after DVDRT report is tabled
Minister for the Prevention of Domestic Violence to submit whole-of-government progress report to Coroner	18 months after DVDRT report is tabled
Coroner includes progress report in the next DVDRT report	Approx. 24 months after DVDRT report is tabled

Appendix B: Reporting template

DVDRT Recommendation: [Recommendation number for each Lead Agency will be pre-populated]		
Status update		
<input type="checkbox"/> Completed Date completed: [Date]	<input type="checkbox"/> Underway Expected completion date: [Date]	<input type="checkbox"/> Not started Expected start date: [Date]
<p><i>If implementation is underway or not started, where possible, please provide detail of timelines relating to work plans, expected deliverables, or dependencies, including areas of focus, upcoming high-level milestones, or plan to resolve challenges. For example: Current focus is on delivering A by date B / Pilot to be rolled out in A location by date B / identification of delivery challenge A is being project managed in B timeframe.</i></p> <p>[Insert text]</p>		
Is Ministerial review required for implementation of recommendation? YES / NO If possible, please indicate expected timeframe for Ministerial review (for example, June 2020): [Insert text]		
Details of implementation Where recommendations have been implemented, please detail the precise mechanics of completion and implementation. Where recommendations have not yet been implemented, please detail what the barriers are to implementation (e.g. changes in policy landscape that impacted the implementation of recommendations). Where recommendations are not proceeding, please indicate and provide in detail why.		
<p>[Insert text]</p>		
Opportunities, challenges and/or consequences Where recommendations have been implemented, please detail any specific challenges that arose in implementation. Please detail any consequences (positive or negative, anticipate or unanticipated) of implementation that could inform the ongoing work of the DVDRT.		
<p>[Insert text]</p>		
Policy progress since recommendation was made Please provide any details of related policy progress that has been made since the DVDRT recommendation. Please provide details of any further policy work/evaluations that will enable further implementation of the recommendation.		
<p>[Insert text]</p>		

Domestic Violence Death Review Team

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