

**Submission
No 63**

**INQUIRY INTO DOMESTIC VIOLENCE TRENDS AND
ISSUES IN NSW**

Organisation: Police Association of NSW

Date received: 30/09/2011

Police Association of New South Wales

Level 4, 154 Elizabeth Street
SYDNEY NSW 2000



Domestic Violence Trends and Issues in New South Wales

*Police Association of New South Wales Submission
to the Standing Committee on Social Issues Inquiry
into Domestic Violence Trends and Issues in New
South Wales*

September 2011

Contents

Executive Summary	4
Recommendation 1	6
Recommendation 2	6
Recommendation 3	6
Recommendation 4	6
Recommendation 5	6
Recommendation 6	6
Recommendation 7	7
Recommendation 8	7
Recommendation 9	7
Recommendation 10	7
Recommendation 11	7
Recommendation 12	7
Recommendation 13	7
Introduction	8
Background	10
NSW Ombudsman's Report.....	11
Government's National and State Plan	11
Police Association of NSW's Position	12
Police Association of NSW's Pre-Election Submission	12
ABS Personal Safety Survey	13
Definition of Domestic Violence.....	14
Strategies to reduce breaches and improve compliance with Apprehended Domestic Violence Orders	15
Complex nature of Domestic Violence.....	16
An Integrated System-Wide Response.....	17
The Adequacy of Existing penalties for Domestic Violence	17
Research Findings by Heather Douglas	20
Hudson's Conception of Justice	20
The Problematic Role of Criminal Law in Domestic Violence matters.....	25
Sentencing For Breach of Protection Order Offences	26
The use of GPS bracelets.....	29
Early Intervention Strategies to Prevent Domestic Violence	33
Specialisation.....	39
Specialised family violence court	39
Specialised police	42
Education and training	44
National family violence bench book.....	44
Integrated responses	44
Improving police and prosecutorial practice	45
Police practice	45
Prosecutorial practice	46
Information sharing	47
Permitted disclosures	47
Protocols and MOUs	48
National register	48
Improving Responses to Family Violence in the Family Law System Report	49
Domestic Violence Perpetrator Programs	52
Impact of the pilot program on recidivism	54

The Increase in Women Being Proceeded Against by Police for Domestic Violence Related Assault	55
Data collection	55
Research methods	55
Theoretical basis for analysing partner violence	56
Implications for service providers	56
Other Relevant Matters	58
Police Health and Welfare	58
Vicarious Trauma	58
Recommendations.....	60
Recommendation 1	60
Recommendation 2	60
Recommendation 3	60
Recommendation 4	60
Recommendation 5	60
Recommendation 6	60
Recommendation 7	60
Recommendation 8	60
Recommendation 9	60
Recommendation 10	61
Recommendation 11	61
Recommendation 12	61
Recommendation 13	61
References	62

Domestic Violence Trends and Issues in New South Wales

Police Association of New South Wales Submission to the Standing Committee on Social Issues Inquiry into Domestic Violence Trends and Issues in New South Wales

Executive Summary

The following Police Association submission is in response to the Standing Committee on Social Issues inquiry into domestic violence trends and issues in New South Wales. The Police Association's considerations in preparing this submission have been informed by way of consultation with their members regarding their role in domestic violence cases in addition to a number of research reports by consulting committees, academics, legislative inquiries and policy and legal documents on domestic violence and its impacts on police. The Police Association's submission is divided into four parts in answer to the four questions as posed in the Standing Committee on Social Issues inquiry which are:

- Strategies to reduce breaches and improve compliance with Apprehended Domestic Violence Orders (ADVOs), including the use of GPS bracelets and whether existing penalties for domestic violence are adequate.
- Early intervention strategies to prevent domestic violence
- The increase in women being proceeded against by police for domestic violence related assault, and
- Other relevant matters.

As police are often the first point of contact in domestic and family violence incidents they are in a unique position to respond to, intervene in, and be proactive about, preventing family violence. With indications that the volume of recorded violence has increased and the complexity of family violence matters has increased police workloads, police face many challenges in responding in an effective and timely manner to reported incidents. While police (as do legal representatives and the courts) play a pivotal role in ensuring the safety of women and children they cannot combat and prevent family violence alone – a collaborative, coordinated, integrated interagency approach to addressing family and domestic violence is best practice¹. This has to be across all government and non-government agencies which assist women and children experiencing domestic violence in any way. It is difficult to accurately estimate the true incidence of domestic violence in society as a lot of incidents are not reported to police.

In 2008, the Police Association of NSW prepared a submission regarding the review of the role police play in the application and enforcement of ADVOs. In 2011 the issue of domestic violence was part of the Police Association of

¹Kiah Rollings and Natalie Taylor, Measuring police performance in domestic and family violence, Trends & Issues in crime and criminal justice, No. 367, December 2008.

NSW's pre-election submission. Recent consultations with Police Association members indicated the following concerns: the definition of Domestic Violence was somewhat confusing and there was a need to review the term; with the question of the adequacy of domestic violence penalties, members expressed frustration with the leniency in the penalties especially to AVO breaches and the consistent refusal by courts to impose these penalties. Members indicated there were no quick fixes in the area of domestic violence. The ALRC report referred to the Guiding Principles for Sentencing Contraventions of Family Violence Intervention Orders prepared by the Sentencing Advisory Council (Victoria) and asserted that these guidelines provide an instructive model for guiding judicial discretion in the sentencing for breach of protection order offences.

To combat domestic violence the use of GPS technology was scrutinized by Association members who deliberated that there were both positive and negative arguments to the monitoring of the location of offenders. Arguments in favor of GPS monitoring were mainly directed to the fact that these devices would be able to improve the tracking of offenders in remote locations as well as repeat offenders who held a serious risk in addition to removing the onus off the victim. Arguments against the implementation of GPS bracelets were more so directed to the unwillingness of civil libertarian groups to endorse GPS monitoring; the difficulty when victims decide to withdraw AVO applications; the issue of adding to police officers' already soaring workload; the fact that GPS will only amount to a waste of time, resources and money for police; the practicality associated with GPS monitoring and the issue that not all types of breaches are able to be addressed by the use of GPS monitoring.

Consultations with the Police Association of NSW members have indicated there is no uniformity in early intervention strategies but is more the case that each Local Area Command attempts to develop their own strategies. The ALRC's findings revealed that the improvement of police practice regarding the safety of women and children in the context of domestic violence would be achieved through:

- specialisation—bringing together, as far as possible, a wide set of jurisdictions to deal with most issues relating to family violence in one place, by specialised magistrates supported by a range of specialised legal and other services;
- education and training;
- the development of a national family violence bench book;
- the development of more integrated responses;
- information sharing and better coordination overall, so that the practice in responding to family violence will become less fragmented; and
- the establishment of a national register of relevant court orders and other information.

In recent years, the focus of most service provision in regards to domestic violence has been on providing appropriate and timely support to victims. While services and support for victims is paramount, there is now a greater acknowledgement that they must also be underpinned by appropriate prevention and intervention strategies which directly target domestic

violence perpetrators and assist and enable them to stop offending.² There is an absence of a substantial volume of Australian literature on perpetrator programs in Australia having been documented and evaluated. Research on men as victims of domestic violence is still limited. The final point made in this submission relates to an officer's health and welfare; due to the gravity and intensity of hearing victims' stories of abuse, police are at risk themselves of secondary or vicarious trauma (VT) which causes the officer to experience vicarious trauma symptoms similar to the original victims', after hearing about the victim's experiences with abuse.

The following recommendations were made as a result of the Association's consultation with its membership;

Recommendation 1

That the Standing Committee on Social Issues Inquiry into domestic violence adopts the position as stated in the Police Association of NSW's 2011 Pre-Election Submission on Domestic Violence particularly the Association's concerns regarding the procedures involved in issuing Apprehended Violence Orders.

Recommendation 2

There is no single common definition of Domestic Violence. The term "Domestic Violence" is too broad in its definition. The Police Association recommends that the definition of "Domestic Violence" be revised for a better understanding of the term.

Recommendation 3

That comprehensive and regular training regarding the complex nature and dynamics of domestic violence be offered to members of the NSW Police Force.

Recommendation 4

That the Standing Committee adopts the core themes identified by the ALRC (specialization; appropriate and regular education and training; the development of a national family violence bench book; integrated practice; improved police and prosecutorial practice; and improved information flow) as appropriate to NSW.

Recommendation 5

That the Standing Committee recognizes that the existing NSW penalties for domestic violence offences are ineffective and recommends that they be reviewed in the light of current research.

Recommendation 6

That the Standing Committee adopts in principle the state of Victoria's *Guiding Principles for the Sentencing of Contraventions of Family Intervention Orders*.

² Domestic Violence Perpetrators: Identifying needs to Inform Early Intervention, University of Bristol & Home Office, April 2006

Recommendation 7

That a trial of GPS bracelets for domestic violence offenders be conducted in order to assess their viability for use in New South Wales.

Recommendation 8

That the Standing Committee on Social Issues supports the various models and programs developed by Local Area Commands (such as the ADVICE model) regarding early intervention strategies to prevent domestic violence.

Recommendation 9

That the Standing Committee supports integrated responses to domestic violence (such as the liaison arrangements between police and victim support services) that include a set of common policies and objectives.

Recommendation 10

That the Standing Committee on Social Issues supports the improvement of the flow of information between the family law system, the family violence system, the child protection systems and police. Further we recommend the development of a national register of relevant court orders as per the ALRC's findings.

Recommendation 11

That the Standing Committee on Social Issues supports the provision of appropriate and timely support to victims of domestic violence, underpinned by appropriate prevention and intervention strategies that directly target domestic violence perpetrators.

Recommendation 12

That the Standing Committee recommend improvements in the collection of data about men's and women's experiences of domestic violence and encourages further qualitative studies in order to provide a better picture of victim's understandings and experiences of violence against them.

Recommendation 13

That the Standing Committee calls on the NSW Police Force to provide programs for police to prevent vicarious trauma as a result of attending domestic violence events and to promote self care practices among officers.

Domestic Violence Trends and Issues in New South Wales

Police Association of New South Wales Submission to the Standing Committee on Social Issues Inquiry into Domestic Violence Trends and Issues in New South Wales

Introduction

The following Police Association submission is in response to the Standing Committee on Social Issues inquiry into domestic violence trends and issues in New South Wales. The Committee is currently calling for submissions from interested organizations in order to gauge the latest trends and research in how effectively the police, the courts, the health system, and victim support services are working to prevent and address domestic violence. The Committee intends to ultimately prepare a report with recommendations to better protect and support victims and children, achieve more effective responses to perpetrators, and ensure better prevention of violence in the first place. The inquiry was referred to the Committee by the Minister for Family and Community Services and Minister for Women, the Hon Pru Goward MP.

The Police Association's considerations in preparing this submission have been informed by way of consultation with their members regarding their role in domestic violence cases in addition to a number of reports by consulting committees, academics, legislative inquiries and policy and legal documents on domestic violence and its impacts on police. The Police Association's submission is divided into four parts in answer to the four questions as posed in the Standing Committee on Social Issues inquiry which are:

- Strategies to reduce breaches and improve compliance with Apprehended Domestic Violence Orders (ADVOs), including the use of GPS bracelets and whether existing penalties for domestic violence are adequate.
- Early intervention strategies to prevent domestic violence
- The increase in women being proceeded against by police for domestic violence related assault, and
- Other relevant matters.

In an attempt to addressing the broad questions listed above the Police Association's submission will make reference to the following core themes;

- Police education and training and enhancing their capacity in the role they play in the investigation and management of domestic violence;
- Police research and knowledge and the sharing of evidence-based strategies and centralized statistics and database with other relevant stakeholders regarding domestic violence;
- Enhancing police policy and legal processes in the investigation and management of domestic violence and the prosecution of perpetrators.
- Improving police incident responses to domestic violence.

- Police intervention approaches in order to prevent domestic violence.
- Communication and information sharing between police and other agencies
- Enhancing police confidence in their dealings with diverse and emerging communities and indigenous communities regarding domestic violence.
- Protection and support for children, victims of domestic violence and young people.
- Police health and welfare when it comes to handling domestic violence incidents.
- Specialised police and the issue of a specialized family violence court.

As police are often the first point of contact in domestic and family violence incidents they are in a unique position to respond to, intervene in, and be proactive about, preventing family violence.³ With indications that the volume of recorded violence has increased and the complexity of family violence matters has increased police workloads, police face many challenges in responding in an effective and timely manner to reported incidents.⁴

While police (as do legal representatives and the courts) play a pivotal role in ensuring the safety of women and children they cannot combat and prevent family violence alone – a collaborative, coordinated, integrated interagency approach to addressing family and domestic violence is best practice⁵. This has to be across all government and non-government agencies which assist women and children experiencing domestic violence in any way. The overall aim of any domestic violence strategy must be its elimination.

Domestic violence is an issue that permeates all levels of society.⁶ It is difficult to accurately estimate the true incidence of domestic violence in society as a lot of incidents are not reported to police. The police have an important role in preventing and responding to domestic violence incidents and this adds to the difficulties faced regarding domestic violent incidents. For many police, responding to domestic violence incidents is a major part of their job. They attend inherently volatile situations, facing unknown risks and unpredictable outcomes. Responding to these situations presents police with significant challenges. Domestic violence incidents are often complex and time-consuming, and police officers express a variety of frustrations. Some feel hopeless and powerless to effect real change to the

³Kiah Rollings and Natalie Taylor, Measuring police performance in domestic and family violence, Trends & Issues in crime and criminal justice, No. 367, December 2008.

⁴Kiah Rollings and Natalie Taylor, Measuring police performance in domestic and family violence, Trends & Issues in crime and criminal justice, No. 367, December 2008.

⁵Kiah Rollings and Natalie Taylor, Measuring police performance in domestic and family violence, Trends & Issues in crime and criminal justice, No. 367, December 2008.

⁶Talina Drabsch, Domestic Violence in NSW, NSW Parliamentary Library Research Service, Briefing Paper No 7/07

lives of domestic violence victims, and are often disappointed when victims fail to provide a statement or attend court, making it difficult or impossible to prove an assault or breach of a protection order. Police also find the administrative and legislative requirements associated with responding to domestic violence onerous⁷.

Background

Few social issues have undergone a more profound transformation over the past 50 years than domestic violence (Guilliatt 2007). Barely spoken about up to the '50s, violence in the home is today a front-rank political issue and one of the most common police matters brought before the courts. The introduction of court-issued 'violence orders' in the early '80s was a pivotal step in the shift. These orders (AVOs) were designed to solve one of the most intractable problems police encountered when intervening in domestic assaults; the victims (and they are overwhelmingly women) are often reluctant to press charges because they fear retribution, or hope to reconcile, or don't want their partner to end up in jail. The AVO was a civil court order designed to protect women while giving men one last chance before criminal proceedings began.⁸

These orders have become so ubiquitous that courthouses in several states now set aside one or even two days per week to deal with them. The crowds that gather outside court on "AVO day" testify to a system that has mushroomed beyond all expectation, in part because people also use the order to settle all manner of family arguments and neighborhood arguments. (In one memorable case, a confrontation over a parking space in Sydney's "Toaster" building led a businessman to seek AVOs against ten people.) During the period 2005-2006, according to statistics provided by state and territory governments, more than 100,000 AVOs were processed by the courts nationally. How many involved domestic violence is difficult to determine because each state and territory compiles statistics differently, and there are anomalies in the figures. But in NSW, the state with the most detailed reporting, more than 44,000 AVOs were applied for 2006, a rate of around 850 per week; two-thirds of these involved domestic violence allegations. The NSW figures spiked upwards in the late '90s after police were instructed to seek an order even if the alleged victim did not want one, if they believed a threat was imminent or likely. Other states have repeated the pattern; the number of orders in Victoria jumped 17 per cent from 2004 to 2006, while in Queensland applications for orders rose more than 50 per cent from 2002 to 2004. The crushing workload for police (and courts) has in turn led to new laws designed to make orders easier to issue. Police in Tasmania and Western Australia can issue them without consulting a magistrate, while NSW and Queensland police have access to 24-hour telephone orders issued by off-duty court officers.⁹ The

⁷ Domestic violence: improving police practice, a special report to Parliament under s31 of the Ombudsman Act 1974, December 2006.

⁸Guilliatt, Richard, What's really happening behind these doors? The Weekend Australian Magazine, June 30-July 1 2007.

⁹Guilliatt, Richard, What's really happening behind these doors? The Weekend Australian Magazine, June 30-July 1 2007.

(footnote continued)

consequences arising out of these many core issues for police and their domestic violence workload are enormous and it is these issues as incident responses, specialization, early intervention, communication and information sharing and using inter-agency strategies that this paper will be referring to (but no means restricted to).

NSW Ombudsman's Report

In 2006 the NSW Ombudsman delivered a special report to Parliament on Domestic violence – improving police practice. This report made a number of recommendations for improving the police response to domestic and family violence; particularly in relation to operating procedures, education and training, legal issues and human resources. Because NSW Police has a strong commitment and a clear responsibility to develop and implement strategies for detecting, investigating and preventing domestic violence, it supported the majority of recommendations made by the Ombudsman and have been implementing the recommendations since 2007. One of the recommendations was for the development of a Code of Practice. The Code of Practice was developed soon after and is a document that provides information to the general public about the commitment of the NSW Police Force to work in partnership with other agencies to reduce and prevent domestic and family violence and explains the process that occurs when police receive a report of domestic and family violence. The Code of Practice also provides, in conjunction with operational procedures, a reference tool for operational police to perform their duties whilst investigating this significant crime.

Government's National and State Plan

The NSW Police Force plays a primary role in progressing the Government's Federal and State plans as part of a whole-of-government response and is reflective of their strong commitment to the issue of domestic violence. In very broad terms, the Government State Plan places the focus on dealing with the causes and effects of domestic violence with the NSW Police Force; police are the lead agency for the investigation and management of domestic and family violence; and lead more effective delivery of services to victims and their families in conjunction with other government and non-government agencies. The National Plan on the other hand brings together the efforts of all levels of government, the non-government sector and the wider community to address domestic violence. It identifies how the combined work of police, courts, legal systems, health and community services and education can contribute to a reduction in the levels of domestic violence.

The NSW Police Force recognizes that no one agency in isolation can provide an effective response to domestic and family violence. A multi-service approach is needed to provide the most effective support to victims. NSW Police has a commitment to meeting the needs of victims of domestic violence and encourages Local Area Commands to develop strong links within their communities to identify local needs that will further enhance the way in which the NSW Police responds. Referral to the appropriate

support service can assist victims to break the cycle of violence and obtain advice and support to assist them in the future if violence reoccurs. A list of referral services are found at the end of the Code of Practice. The police response to, and investigation of domestic and family violence is governed by the operational procedures, legislative requirements, the NSW Police Handbook, the Code of Practice and the Domestic and Family Violence Policy. The Code of Practice is one of many resources under the NSW Police Force Corporate Plan that creates opportunities for the NSW Police Force to work together with the community and interagency partners to reduce crime. The Domestic and Family Violence program is one of the Corporate Plan's key strategies.¹⁰

Police Association of NSW's Position

In 2008, the Police Association of NSW prepared a submission regarding the review of the role police play in the application and enforcement of ADVOs. Forums run by the Police Association revealed the Apprehended Violence Order procedure to be one of the most frustrating issues confronting police. As a direct result of the Law Reform Commission recommendations, the Government at the time moved to make a number of changes to legislation via the Crimes Amendment (Apprehended Violence) Act. These amendments came into effect in March 2007 and while these amendments were welcome additions to the legislation it was the Police Association's contention that they did not go far enough and hence the Association advocated further change. It was against this backdrop that the 2008 Police Association of NSW submission was made¹¹. A copy of the Police Association of NSW's submission is attached at the end of this report.

Police Association of NSW's Pre-Election Submission

In 2011 the Police Association of NSW compiled a pre-election submission that covered a broad range of topics and issues faced by police officers, as well as their families, victims of crime, and the wider community. The submission was developed after thorough consultation with the Association's members, and was based on sound research, statistics and practical evidence. The Association's aim was (and is) to make the profession of policing safer and more effective in a society that is rapidly evolving, and where one can see different challenges every day. The Association's pre-election submission sought a number of commitments from all sides of politics regarding a range of issues – from budget allocations, to police strength, to red tape and child care arrangements. In the submission, the Association reiterates that policing is a profession unlike any other, and it is up to the government of the day to ensure police have the right training, knowledge and equipment to be as effective, and as safe as police can be.

¹⁰ NSW Police Force, Code of Practice, NSW Police Force Response to Domestic and Family Violence, Policy and Programs Command, November 2009.

¹¹ Hannon, Luke, Del Vecchio, Raff, Burgun, Prue, Apprehended Domestic Violence Orders, Review of the role of police in the application and enforcement of ADVO's. Cutting Red Tape – Looking After Victims, Police Association of New South Wales, December 2008

The issue of domestic violence was part of the Association's pre-election submission particularly as operation members consistently were voicing concerns about the procedures for issuing Apprehended Violence Orders (AVO). In the submission, the Association states that the current system, whilst recently overhauled, is unnecessarily legalistic, complex, bureaucratic, time consuming and costly whilst not providing victims the protection they deserve. There can be a considerable reluctance by victims to report domestic violence and more importantly for police to enforce their rights due to difficulties with service of AVOs to ensure the victim is protected. The Association has researched this issue and proposed a system that is designed to overcome the identified problems and significantly reduce court time but still maintain the legal rights of victims and alleged offenders. As mentioned already, a copy of the research paper is attached. Senior police should have the capacity to issue police AVOs with a right for the alleged offender to have this reviewed by the courts if they wish to contest, revoke or amend an order. Currently court attendance is compulsory even if both parties are satisfied with the orders and wish to consent to them. This system would provide victims with immediate protection, significantly reducing the burden on courts and encourage more victims to report domestic violence.

This proposal has previously been presented to Government as a part of the 2007 pre-election submission and also as part of the Association's plan during the 2009 negotiations. A committee comprising of the NSW Police Force, Police Association and Attorney General's representatives was established in late 2009 to examine the issues but has now concluded due to the reluctance of the Attorney General's department to provide legislative reform to enable police to detain a person for the purpose of application for and service of an AVO.

What would be of great assistance by police is the power by Sergeants and above to issue interim provision orders to prevent offender's movements and activities prior to it going to court. We currently have to apply and wait for a magistrate to make this decision. Under the Bail Act police have the power to restrict the movement, activities etc of offenders prior to court so I don't understand why we could also issue these orders. We only would require a tear off document such as a field can type book and it would have to be going to court within 2 weeks.

I estimate 40% of AVO's are sought due to the WDVCS (Women's Domestic Violence Court Advocacy Program) groups assisting females to report and this proven when the matter goes through the court and is eventually dismissed on the lack of integrity displayed by the victim. I saw many women reluctantly come to court and ask for fairly restrictive orders against their male partners on the advice of the WDVCS and then later wishing to withdraw as they realized the marriage was suffering as a result.

ABS Personal Safety Survey

As mentioned already, the difficulty in measuring the true extent of violence against women is because most incidences of domestic violence and sexual assault go unreported. In 2005, the Australian bureau of Statistics (ABS) Personal Safety Survey estimated that only 36% of female

victims of physical assault and 19% of female victims of sexual assault in Australia reported the incident to police. In recent years there have been many other studies and surveys on violence against women both in Australia and internationally. For instance, nineteen out of the top 20 NSW Local Government Areas for domestic assault are in rural or regional NSW according to a new report on domestic assault released by the NSW Bureau of Crime Statistics and Research. The Bureau examined all incidents of domestic assault recorded by the NSW Police for the period 2001-2010. The top Local Government Area for domestic assault was Bourke, with a recorded rate of domestic assault of 3,702 per 100,000 population. The only urban Local Government found in the top 20 in 2010 was Campbelltown, which had a recorded rate of domestic assault of 680 per 100,000 of population. The majority (86%) of incidents of domestic assaults occurred on residential premises.

The peak days for domestic assault are Saturdays (17%) and Sundays (19%). The peak time is between 6pm and 9pm (15%). 41% of all incidents of domestic assault are alcohol related. This percentage varies, however, from a low of 35% in the Sydney Statistical Division to a high of 62% in the Far West Statistical Division. The over-representation of indigenous Australians as both victims and offenders of domestic assault has not changed over the last decade. The rate of recorded domestic assault for indigenous women is more than six times higher than for non-indigenous women. Although males make up the largest proportion of offenders (82%) a surprisingly large percent of offenders are female (18%). A surprising 20% of all victims of recorded domestic assault are aged 10-24 years. Less than half of all respondents who had been the victims of a domestic assault in the previous 12 months reported the incident to the police. Older victims, those who were married and victims of assaults that did not involve weapons or serious injury were less likely to report to police. Recorded rates of domestic assault over the last ten years have been either stable or declining according to the Bureau's report.

Definition of Domestic Violence

The term "Domestic Violence" has been variously defined. Definitions differ in terms of the breadth of the relationship of parties included and forms the violence may take. Some definitions are gender neutral whilst others note that domestic violence commonly involves a male perpetrator and female victim. "Domestic violence" as opposed to "family violence" is often used to refer more specifically to violence between adults who are or have been in an intimate relationship. However, a number of definitions for "domestic violence" and "family violence" overlap to a large extent and the terms are sometimes used interchangeably. Domestic Violence is also known as domestic abuse, spousal abuse, family violence and intimate partner violence (IPV). Awareness, perception, definition and documentation of domestic violence differ widely from country to county and from era to era. Consultations with the Police Association's membership have indicated that the definition of Domestic Violence is somewhat confusing and there is a need to review the term.

The domestic relationship definition in its present format is too broad and should be reviewed to be more akin to the intention of the intimate relationship definition. Eg co tenants, boarders etc.

We have identified that the interagency descriptions of DV and D&FV are not always the same eg NSWPF v DOCS. This causes some problems and corporately this should be resolved.

Strategies to reduce breaches and improve compliance with Apprehended Domestic Violence Orders

Apprehended violence orders (AVOs) were first provided for in legislation in NSW following the enactment of the Crimes (Domestic Violence) Amendment Act 1982 (NSW). The objectives of AVOs are generally achieved by 'empowering courts to make apprehended domestic violence orders to protect people from domestic violence, intimidation, stalking and harassment. As the name suggest, AVOs are intended not only to put a stop to ongoing violence, but to prevent or apprehend potentially violent behavior before it can escalate. They key factor in granting an AVO is fear; if the court is satisfied that a person fears on reasonable grounds that an act of violence, intimidation or harassment will be directed against them by another person, the court may issue an order to prevent such behavior from occurring. AVOs are a civil matter and thus differ to the pressing of criminal charges. The type of behavior which may be grounds for an AVO is extremely broad. The actions may constitute criminal acts in themselves, such as actual or threatened acts of physical or sexual violence. Consequently AVOs involve elements of criminal and civil law. The order as mentioned is a civil order obtained from a local court on the balance of probabilities. Yet, an AVO may be based on actions which in themselves constitute serious criminal offences. Any conduct which breaches an AVO is also a criminal offence.

Hassle/delays in police applying for Interim AVOs in urgent cases. The workload of police can be high at the time and police can be hampered by being unduly delayed. To save time why can't police apply to a senior police officer not below the rank of Inspector who would then approve or deny such an application? I know some civil libertarian advocates would object to this and state that it should be the function of the judiciary/court. My argument is the Interim Order issued by a senior Police Officer would have a nominated court and date and therefore would be the subject of a court for determination.

Introduce legislation that allows DVEK recordings to be admitted into evidence as of right for the prosecution. The legislation needs to allow the magistrate to accept what he/she sees and hears as being at the very least prima facie the truth of the representations being made and recorded.

Like many police I believe there are definitely circumstances where PINOPS should be charged with aid and abet breach of AVO.

Victims reporting DV offences to police and then when it comes to the court hearing, they do not attend or do a complete back flip on police, and as a result the matter is dismissed. If police were able to tender the victim's statement in court in their absence, there would be less DV offences being dismissed at court and offenders could possibly re think their actions if they know police can use the victim's statement in their absence.

Complex nature of Domestic Violence

As mentioned already, police play a key role in responding to family violence and in obtaining civil protection orders, police may use powers and procedures mainly designed to enforce criminal laws – powers of entry, search, seizure, arrest, direction and detention. In NSW, a police officer investigating a family violence matter is obliged to make an application for a protection order under family violence legislation if he or she suspects that a family violence offence or child abuse related offence has been, is being, or is likely to be committed, against the person for whose protection the order would be made. Because the police officer is usually the first on the scene of family violence situations they should be receiving regular family violence and cultural awareness training to assist them in their investigative roles. Training is a fundamental starting point for effective responses. The training should include understanding the dynamics of relationships, communication skills, including cross-cultural communication to address the different needs and contexts of family violence in the case of marginalized groups.

Domestic Violence training should be mandatory.

Following on with the issue of understanding the dynamics of relationships, when police are attending domestic violence incidents it is difficult at times to identify the 'primary aggressor' and the 'primary victim'. Accurate and comparable data about dual arrests for family violence are not available in Australia, but the number of dual arrests has reportedly increased in the United States since the 1980s. Primary aggressor policies for instance require police to look beyond the incident they are presented with and consider a wider contextual framework including,

- Whether there is a history of violence perpetrated by one party against the other;
- The nature of the injuries sustained by both parties;
- The likelihood of violence in the future; and
- Whether one person was acting in self-defense.

Evidence concerning the impact of primary aggressor policies varies in the United States. Fewer women are being arrested in some jurisdictions. In other jurisdictions the arrest rate has continued to rise. A recent study from the United States concluded that the impact of primary aggressor legislation on the decision to arrest merited further examination, but found that the passage of a primary aggressor law clearly does not negate the relationship between mandatory arrest laws and higher dual arrest rates. Thus it is important for police to have an understanding of the complex nature of domestic violence and the manipulation and power dynamics that are involved to aid them in their role as domestic violence officers. Police need to know who is at greater risk and who should be excluded from the

home. Sometimes the aggressor gets to the police first; sometimes the victim is not a strong communicator. A female victim might be upset and take it out on the police officer and thus seem to be the aggressor when in fact she is not. As one can understand, this is a very complex area and training should be comprehensive.¹²

An Integrated System-Wide Response

AVOs have been instrumental in raising awareness about domestic violence in particular amongst the community, the legal profession and the police. AVOs are only one method of violence prevention. As mentioned already, AVO legislation should be part of an integrated system-wide response to violence prevention. Such a response should encompass the criminal law; the provision of safe accommodation; counseling programs for perpetrators and victims; education and violence prevention programs for children and young people; continuing education for police, lawyers and judicial officers, particularly regarding domestic violence; free legal advice and financial assistance. These points will be further highlighted in the Police Association's submission in the context of the role police play. The highlighted text indicated in italics are the opinions collated from police members through the Police Association's consultation phase. All long-hand member commentary included in this report is unedited in order to provide constructive comments.

It is close to impossible to stop a person from breaching a domestic violence order if they are set on contacting or committing an offence against the victim. The only way an offender will stop breaching an ADVO is if the court imposes a harsher penalty instead of good behavior bonds and section 10s. Offenders of ADVO have stated to police while being charged for breaches that they don't care as they will be walking out of court with a "slap on the wrist".

The Adequacy of Existing penalties for Domestic Violence

Consultation with the Police Association membership regarding whether existing penalties for domestic violence were adequate had the following to say; most comments referred to the fact that there were no quick fixes in the area of domestic violence. Other members mentioned their frustration with the leniency in existing penalties (especially in breaches to AVOs) and the consistent refusal portrayed by the courts in their role to not impose these penalties. Mention was made of the frivolous nature of the complaints being reported and officers concern with victim's loss of faith in the court systems because of breaches in protection orders.

Yes, certainly adequate.

With incidents of recidivist offenders for domestic assaults the legal system seems to be quite lenient in regards to their penalties. Of course there is always a direct link between the abuse of alcohol and the high

¹²Family Violence – A National Legal Response, Police and Family Violence, Chapter 9, ALRC Report 114, 11 November 2010

incidents of domestic violence. Perhaps the legal system needs to consider placing bail conditions of rehabilitation and drug/alcohol counseling for the recidivist offenders.

Certain issues are quite complex and there is no quick fix in relation to the problems of domestic violence. I believe the penalties for serious domestic violence related crimes are seriously insufficient.

Maximum penalties are adequate but in reality these are not being imposed by the courts;

Consistently lenient penalties;

In our experience defendants are receiving greater penalties for traffic offences;

Should be fixed or mandatory penalties without discretion;

Firstly, it has come to my attention that orders have been granted on frivolous pretences such as "he called me a slut" or "I am going to kill you". Having dealt with many cases such as these it has become apparent that comments like these are now considered common place. This way of speaking with people does not seem to affect people adversely unless one of the parties is looking to get square with the other party. In effect they use the Police and Courts as a tool to cause problems for the other party. To combat this we need to gain a finer definition of what in today's world is considered offensive and in line with how people speak to each other. Secondly AVOs need to focus on whether there is a real possibility of physical violence and not just name calling.

I am the full time DVLO . I find that breaches to AVOs result in the DV offender receiving some light sentencing or just a slap on the wrist. Offenders continue to breach AVOs but victims do not have faith in the court system so the continued minor breaches are not reported and the offender gets away with it. Police would support heavier penalties.

I don't think existing penalties are adequate for DV offenders. I also don't think the courts will apply heavier sentences if they are given the opportunity.

I believe to improve ADVOs compliance check is to make this task as mandatory visits i.e. like bail condition. I believe existing penalties for DV are a joke because they are not utilized by Local Courts. Magistrates are not handing down/giving defendants the appropriate penalties. Just attend DV day at court every Friday and you will understand what I mean. 99% of defendants are placed on good behavior bond S10 and maybe S9.

I believe existing penalties for domestic violence are adequate. It comes down to what penalty the court decides to impose. Most breach ADVO matters involve other more serious offences such as assault or malicious damage and the public interest in this area of enforcement is already able to be taken into account.

In my experience I would like to suggest that DV assault penalties and breach of AVO penalties are not harsh enough. A good behavior bond seems inappropriate for a breach of AVO as the defendant has already shown they have no regard for good behavior.

The Magistrate appears to escalate his sentences consistent with the disregard for his court orders. However if an offender is displaying blatant disregard for his AVO then perhaps there should be minimum sentencing guidelines to bind Magistrates to strict penalties for blatant non compliance. This occurs in this LAC on a regular basis where we average around 30 breaches of AVO's per month. This Command strictly enforces AVOs with proactive checks of premises eg where a POI has an Intox clause personnel proactively attend the premises to ensure he is not breaching this clause in the presence of the victim; ensuring bail and AVO conditions are being met and proactively monitoring victims to ensure the AVO is being complied with and that no further breaches or harassment/intimidation is occurring. This Command however, has the relative luxury of the ADVICE model and commitment to personnel for the Unit which makes this a viable option in our circumstances-however it may be a bit labor intensive and unrealistic in a LAC where only 1 DVLO operative works.

Penalties are adequate but the application of those penalties is poor and anecdotally POI's will suspect that they are not likely to receive a serious punishment. The nature of DV is that DV offenders often have associations with other like-minded offenders including relatives and friends. Once the information circulates amongst them and they learn how to mitigate their offences, the evidence or control the victim they have little fear of any meaningful penalty being applied. Victims see this time and time again and they also see the trend in a very judicious application of penalties nothing like those make out in legislation. BAVO should not be a summary matter for a start it is a serious conscious breach of a magistrate's order often resulting in further trauma to vulnerable victims and children. Again the nature of DV while known is not being treated by those in authority mitigating all the work done to support, empower and encourage victims of this crime. BAVO and some related DV offences are not being taken seriously by way of court practice or penalty is our experience . They are like PCA offences in other courts too readily resolved by Sect 9, 10 and 12 bonds or dismissed readily because the victim is vulnerable and recants. We recommend that like offences relating to children, sexual assaults and a trend in assaults against elders these matters should be considered as an aggravating factor, special offences should be recognised against children under 10 and 16 years and assaults and offences against elder victims should be specific. Further and again like traffic offences repeat offenders should be declared "habitual offenders" or with each re-offence the penalty increase must mandatorily increase. Again, while we know what the cycle and environment of DV it is not being applied in the judicial environment.

There are enough legislative regimes, policy, practice, procedure and SOPS in relation to domestic violence to sink a ship. It should be as

simple as investigating an offence as any other but with heightened public interest and acknowledgement of vulnerability of alleged victims. The only additional requirement should be a provisional order to be applied for where a criminal offence is the result of domestic violence. There is sufficient legislation to cover this. It is absolutely necessary to examine the opportunity to create a community or government agency to deal with civil applications that are non urgent and that are not linked to commission of any other offence.

Research Findings by Heather Douglas

Taking a step back and in light of the opinions expressed above by the Association's membership; there continues to be debate about the values of applying the criminal law in this field. Firstly, the current Australian Government campaign against domestic violence states clearly that domestic violence is a crime. Research conducted by Heather Douglas draws on a study of criminal prosecutions of breaches of domestic violence protection orders in Queensland and explores the process of criminal intervention in the context of domestic violence. The analysis shows that although criminal charges are laid, criminal responsibility is often minimized by police prosecution authorities in terms of the type of charge applied. Further the research shows how defendants also minimize their responsibility in the offending conduct often by blaming the victim. This study reveals three key findings: that defendants charged with breach of a domestic violence order are less likely to plead guilty than defendants charged with non-domestic violence matters; defendants are usually legally represented; and that criminal prosecutions of domestic violence matters take longer to finalise than other criminal matters.

The case analysis presented also shows that in most cases penalties are relatively low, usually resulting in fines. Sentencing justices often fail to tailor an appropriate sentencing response that takes into account the particular background of the offence and the relationship between the perpetrator and the victim. In many cases examined in this study the victim was drawn into the prosecution process to assist in withdrawing charges or to support mitigation of penalty. The approaches of respondents, police, lawyers and magistrates in colluding in the minimisation and trivialisation of violence and the shifting of blame to the victim in the course of applying criminal justice responses found in this study have been recognised elsewhere. This research supports previous research based claims that criminal justice processes often add to the violence already experienced by women at the hands of their partners. This article explores whether there are shifts and changes that can be made in the criminal law in this area that can re-orient the criminal law so that it better embraces the three principles of justice being discursiveness, relationalism and reflectiveness (Hudson 2003).

Hudson's Conception of Justice

Hudson's conception of justice maybe helpful in reconceiving the way that the criminal law responds to domestic violence. These principles (i.e. discursiveness, relationalism and reflectiveness) would be embraced in all justice processes and seem particularly important in the domestic violence

context. Hudson explains that discursive justice, 'is responsive to the circumstances of the particular case rather than subsuming individual acts and actors under general classes' and also 'represents a wider range of standpoints'. Her idea of justice argues that it should also be relational. That is justice must recognise individuals as part of a 'network of relationships' with the State and with the community. This principle accepts that identity is 'relationally' contingent. According to Hudson, justice should also be reflective. That is each case should be considered in terms of all its unique circumstances and situating them in the wider social context. Given the particular context of domestic violence offending, where relationships between offenders and victims are often ongoing and where the victim's continuing safety is a key issue, her approach may be particularly helpful.

In contrast to Hudson's key principles for justice, writers about the criminal law have noted that criminal law tends to operate in a top down linear fashion rather than reflecting webs of connection; that the approach of the criminal law is individualized rather than relational and rules and responses are generalized rather than tailored to particular experiences. Criminalisation of behaviors that affect women has been problematic particularly in relation to sexual assaults and domestic violence. On the one hand the criminal justice system has continuously refused to recognise harms perpetrated against women in the private sphere as crimes. On the other hand, where harms perpetrated in the intimate sphere are prosecuted as criminal acts, the approach of criminal law often results in these criminal offences being treated like other crimes; that is, as 'one off' incidents that are abstracted from their context. Intimate personal violence is a crime with a number of unique elements. Regardless of whether the victim and the perpetrator are separated there are usually complex and continuing emotional, financial and legal ties between them and continuing complex power dynamics.

Some parties will not separate until years after the violence first began or not at all and separated parties may re-unite. Financial responsibilities and visiting rights to children often continue post-separation. Violence also often continues despite separation and indeed often becomes heightened after separation. Despite such continuing connections, victims of domestic violence tend to be excluded from the criminal justice process. Only rarely do victims become involved when called upon by either prosecutors or defendants to assist with the determination of penalty or the level of criminal responsibility. The criminal process often ignores or fails to accommodate the complications and individual characteristics of the parties and the relationships that exist in domestic violence cases. Of particular concern is the fact that faced with the possibility of criminal charges some women may choose not to call on the police for assistance and protection.

In Australia there is research available that shows that indigenous women in some communities may be particularly reluctant to call on police to protect them from violence where arrest and prosecution focused strategies are in place. However there is also research that suggests that indigenous communities are under-policed and that there is a lack of police support for those women who do call on their assistance. Despite this domestic

violence should be understood as criminal assault not just a private or civil matter and will both improve victim's safety and secure community denunciation. In practice domestic violence continues to be mainly dealt with as a civil matter through domestic violence protection order legislation.

The development of protection order legislation grew to some extent out of frustration with the failure of the criminal justice system. As mentioned already protection orders aim to stop the violence but also provide a public statement to the respondent that certain behavior will not be tolerated. They also put the perpetrator 'on notice' to the police. The effectiveness of a protection order in stopping the unwanted behavior often relies at least in part on the threat of the consequences for breach. A number of studies have shown that there is a higher rate of successful criminal prosecution when police are mandated to arrest, charge and prosecute domestic violence matters and where mandatory reporting by service providers is required. However, more recent research suggests that there is an inclination towards 'preferred arrest' policy rather than mandatory arrest due to some of the problems associated with it such as dual arrests and retaliatory arrests (when the perpetrator has his or her partner wrongfully arrested).

There have been very cautious moves towards 'pro-arrest' approaches in two of the eight Australian jurisdictions. Breach offences are usually dealt with in the Magistrates' Courts and are therefore not reported in the law reports. There has been limited research in this area. State Government data collection from the Magistrates' Courts in Queensland is very limited and not contextual. Nevertheless, many victims of domestic violence are ambivalent about the benefits of supporting or pursuing criminal prosecution. There are a number of reasons, for this, for example women from non-English speaking backgrounds may experience linguistic and cultural issues in their dealings with police. Uncertain immigration status may also impact on a victim's willingness to involve police. Victims may fear increased violence or they may perceive that assisting to prosecute may break up the family unit. Sometimes victims feel that they are, in various ways, responsible for the violence and feel guilty. Victims often decide not to assist the prosecution because they assume that their involvement with police and the court process will be stressful and traumatic and that the sentencing regime is, in any event, ineffective, overly lenient and inconsistent.

These reasons too are voiced by frustrated police officers investigating domestic violence cases. Both individual judges and research have recognized that the cyclical and complicated nature of domestic violence relationships often leads victims to seem to withdraw charges or understate the harm of particular conduct during periods of calm in the relationship. Research and case law has recognized that many men engage in blame shifting in relation to domestic violence matters. In a number of cases examined in the Douglas study defendants attempted to shift the blame for the breach from themselves to some other matters or source. This blame shifting included claims of provocation, intoxication, that the defendant was 'just visiting the children' or 'worried about the children's welfare' or that the order was not properly explained. According to sentencing data

gathered in this study, penalties are often inappropriate and generally very low for breach matters. Generally the approach to sentencing breaches reflects a trivializing or minimizing view by magistrates. The majority of matters resulted in lower order fines and many matters resulted in no conviction being recorded.

The current system is a revolving door. Police are called to the same premises where the victim makes an allegation of an offence. Police take action against the offender and by the time the court hearing date arrives the victim does not turn up to court or they do not wish the matter to go ahead because they allege the police made up their statement or have given the offender another chance.

The victim is assaulted by their partner. A statement is taken and photographs of injuries are also taken. The victim is subpoenaed to court but does not attend on the day and the matter is dismissed. The accused gets away with it and history shows they'll do it again. This is so frustrating for police who attend these domestics.

My biggest bug-bear with DV is when there is a subpoena for a victim to attend court and fail to show. I had a case recently where the victim was seen that morning back living with the accused at their home and come 10am she's a no show at court. The accused sat there poker faced at court claiming he doesn't know where she is and the equally grubby solicitor says he too doesn't know where she is. Clearly telling lies in court if you're the accused or their legal representative is acceptable. Personally, they should be both done for contempt of court or Pervert the Course of Justice. The magistrates DONT enforce any subpoenas hence throwing the case out. What's easily forgotten by Magistrates is by the time the matter gets to court the OIC has had to do a stack of work to ensure the brief complies with the rules of evidence act. Not to mention witnesses who have also had subpoenas issued. Many have taken time off work to attend. Can you see how far the knock on effect is? So when it's tossed out cops just then think "Well, why bother next time". Personally, I have experienced this many times. Fix the break down between the Magistrates ease in which they throw cases out and cops may start to be a lot less hesitant in dealing with DV and start to care again.

That victims that attend and make false misleading complaints or by way of contacting the accused and by inviting them to meet thereby breaching the AVO have some proceedings put against them and not just automatically lock up the accused. I know it is up to the accused to abide by the order but some of them are not that bright and as soon as the victim calls them they forget everything and go and meet up after which the victim normally calls us reporting the breach. This type of event is happening all the time wasting not only our time but the courts and remand centers.

For ease we have placed these issues in point form: (Domestic Violence Team)

Poor use of compellability provisions for victims of DV offences leading to hostile witnesses, recanting and alleged admissions to false statements.

Courts are not supporting victims and witnesses by the open use of CCTV evidence, victim screens or unsupported counter allegations by the accused.

The time between arrest and decision at court is too long and often outside court practice targets. Ideally matters should be resolved in 4-6 weeks. Part fault for this rests with often poor compliance with DV mini brief practice note.

Victims of DV should be able to give their evidence on the first occasion at court while this has obvious issues for the court the victim is more likely to give a truthful account closer to the date of offence. We would suggest that like vulnerable person's victims of DV should be able to give electronic evidence and that be accepted as evidence in chief. The NSWPF would of course suggest electronic evidence should be presented in that form without the added expense of transcribing.

Perceived leniency towards repeat offenders and a tendency towards bonds rather than custody even for serious matters.

Government and corporate statements on DV and the scourge that it is not backed up by results at court. The poor results at court have an impact on the morale of police and certainly victims of DV serving only to make victims even more vulnerable.

The time consuming nature of proper DV practice at Commands is not recognised and the workload and risks involved lead to poor quality of records and at times action. We estimate that at least 4 hours is required to properly investigate, record and action an alleged DV offence.

The court system appears to have little appreciation of the DV environment police are working in particularly in high DV workload Commands.

The "failed prosecutions" policy needs to be reviewed particularly as it applies to DV related offences and the particular difficulty is prosecuting them.

Legislation needs to allow the admission into evidence of tendency and co-incidence evidence in a way that is effective and not time intensive.

There is difficulty with condition 2 on AVO's eg "not to reside....." in proving the breach of that condition.

The time required to record verbal argument or no offence detected incidents is extensive particularly when children are present.

The study showed that 42 percent (n 270) of matters resulted in fines. In most of the matters (32 percent, n206) where fines were ordered, the fines were less than \$500. Fines are generally considered to be a lower order penalty; they are the most common form of penalty in relation to criminal offences throughout Australia. Fines are often inappropriate in the context of breach matters as there are potential problems associated with this form of penalty in the context of domestic violence. Considering the frequently ongoing connections between the victim and defendant in the domestic violence context there is a risk that it will actually be the victim of the breach who will pay the fine from the family income. Alternatively there is a risk that the fine will be paid from money that should be paid as child

support. The imposition of fines could provide an opportunity for further intimidation, harassment or actual violence towards the victim in circumstances where the defendant tries to obtain money from the victim in order to pay the fine or withholds family support money in order to pay the fine. In Lewis' study women claimed that fines were 'futile'. This approach suggests a magisterial culture of minimising or trivialising the seriousness of breaches of domestic violence orders and a failure to recognise the particular context of domestic violence.

The Problematic Role of Criminal Law in Domestic Violence matters

Sentencing hierarchy, implicit in most sentencing regimes, limits discretion in the imposition of the type of sentence. This tends to foster a 'one-size fits all' approach. Generally sentencing justices will move up the sentencing hierarchy with each subsequent offence of the same type. This may make it difficult to apply an appropriate penalty and consideration should be given to amending sentencing so that there is greater flexibility for magistrates to provide more individualized sentences. As with many studies of domestic violence the data discussed here comes from a very local study of three magistrates' courts in Queensland. However, there would appear to be no theoretical reason why the data and conclusions would not be generalisable, at the least to most other Australian states as there are similar legislative regimes in place. Further, given the concerns raised by American and English studies of domestic violence it seems likely that the results can, to some extent, be generalised to other countries as well. Some of the observations of this study are reflected in international studies. Clearly the role of criminal law in domestic violence matters is problematic.

A number of researchers have asserted that responses to domestic violence must be survivor-centered and women focused. Generally sentencing should be individualized. Domestic violence responses must always be holistic; education, health and social policy are all crucial in this area. Many of the changes and reforms recommended in the Douglas Report and in other research, recognize the need for cultural shifts about how violence against women is perceived and dealt with, as well as legislative shifts, if the 'implementation problem' is to be avoided. Research has shown both the potential value of criminal prosecution for those who have experienced domestic violence but it has also shown that there are dangers.¹³

Association member feedback indicated they were in favor of sanctions that could help change the behavior of those who commit violence. Therefore there was support for perpetrator programs such as violence and drug and alcohol rehabilitation programs; probation with special conditions, such as attending 'perpetrators' courses or counseling; men's behavior programs; psychiatric assessment and treatment; anger management programs; and (as already mentioned) educational programs on family violence with 'therapeutic interventions'. These same sanctions were also recommended

¹³ Douglas, Heather, The Criminal Law's Response to Domestic Violence: What's Going On? Sydney Law Review, Volume 30 2008, pages 439-469.

by the NSW's Law Reform Commission Family Violence Final Report.¹⁴ There was also mention in the same report of the significant concerns about leniency in sentencing for breach of protection orders (as too often quoted above by the Association's members), as well as concerns about inconsistency in sentences. The Report's findings maintain their preliminary views expressed in the Consultation Paper that a national bench book on family violence could play a significant and valuable role in guiding judicial officers in sentencing in family violence matters. In particular, courts should be given guidance on how to sentence for breaches of protection orders.

Sentencing For Breach of Protection Order Offences

The ALRC report referred to the Guiding Principles for Sentencing Contraventions of Family Violence Intervention Orders prepared by the Sentencing Advisory Council (Victoria) and asserted that these guidelines provide an instructive model for guiding judicial discretion in the sentencing for breach of protection order offences. In particular, some of the content of these guidelines could form the basis of material to be included in a national bench book, with adjustments made to accommodate jurisdictional differences in maximum penalty levels for breaches, and in sentencing options. Some of the key matters addressed by the Victorian guidelines, which the ALRC Report considered worthy of consideration on sentencing for breach of protection orders in a national bench book on family violence include:

- The Sentencing Advisory Council stated that the primary purpose 'is to achieve compliance with the [protection] order or future orders to ensure the safety and protection of the victim and those other purposes are denunciation, deterrence and punishment. The Council stated that 'caution should be exercised that these[other] purposes do not conflict with considerations of community protection, particularly as regards the victim', noting that immediate incarceration may provide short term protection but that the long-term protection of a victim is also an important consideration.
- The potential impact of particular sentencing options on a victim of family violence, including the possible deleterious repercussions of imposing fines on offenders for family-violence related offences. In this regard, the Council's guidelines note that 'measures intended to protect the victim can place them at increased risk, and sentences designed to punish the offender may indirectly punish the victim'. The guidelines further state: there will be occasions where a sentence with coercive rehabilitation requirements (such as mandatory attendance at a behavioral change course) as well as a punitive element (such as community work or a financial condition) strikes a better balance between the purposes of sentencing than a sentence such as a fine.
- The identification of sentencing factors relevant to the victim—including the nature of the contravention and its impact on the victim; abuse of power;

¹⁴NSW Law Reform Commission, Family Violence – A National Legal Response, Final Report, ALRC Report 114, NSWLRC Report 128, October 2010.

the presence of children; the contribution of the victim; and the vulnerability of the victim.

- The identification of sentencing factors relating to the offender—including the culpability of the offender which entails a consideration of whether the offence was committed intentionally, recklessly or negligently and the offender's level of understanding of the order; findings of guilt about other family violence offences; and the timing of the breach. On the latter issue, the guidelines provide, 'where an order is contravened only a short time after [its making] or there has been an earlier contravention, this should be an aggravating factor'.
- Factors relevant to determining the severity of sentencing range and the appropriateness of particular sanctions for levels of severity of breach. In this respect, the guidelines usefully set out factors and sanctions appropriate for breaches of varying degrees of seriousness—categorised as low, medium and high.

In addition, the ALRC report considered that the guidance to be provided in the national bench book should address the benefits of sentencing options that aim to change the behaviour of the offender. Sentencing options with a rehabilitative aspect have an important role to play in long term strategies to break the cycle of violence.

It appears to me that domestic violence crimes are one of the few major crime areas left where we don't treat and support the offender to stop the offences reoccurring. Drug and traffic related offences are reduced by offenders being referred to programs as part of their sentences. In the case of DV where support all tend to be for victims, means that a victim is taken out of a relationship the offender moves on to another one and the problem starts over again.

I based my thoughts on the 'Cycle of Violence' which appears to be nearly universal in domestic cases although it has been pointed out that sometimes part of the cycle is missing (eg no pursuit phase etc) and it struck me that whilst a Domestic Violence relationship is often insular (for many reasons including embarrassment, the perpetrators efforts to isolate the victim from help etc) that we as the COPS get an invitation to or immediately after the least stable part of that cycle - The Explosion Phase. I think that successful interventions into Domestic Violence should seek to expand and exploit the remorse phase that immediately follows the explosion both in terms of assisting the Victim and in terms of capitalizing on the perpetrator's awareness that he is in trouble and the relationship is not healthy. I experienced a great deal of resistance amongst Victim Support groups for the idea of doing anything but punish the perpetrator and the reasons given for the resistance were many and varied including; "There is no evidence that perpetrator programs work" to "By offering help to the perpetrator we are justifying their actions to them saying that they are understandable." It took me a long while to figure out why they would resist something or anything that might help but in the end it came down to this; any money spent on perpetrator programs comes from the same pool of money that goes to Victim Programs and they see it as stealing their money. I know this sounds cynical but that was my

experience. There is a Domestic Violence Perpetrator Program that was run by the Department of Probation and Parole in NSW that had a good follow up study and excellent results. From memory the follow up with these convicted DV offenders revealed that after 12 to 21 months of finishing the program that some 63% had not reoffended. That is a phenomenal statistic in terms of crime prevention.

Greater consistency with Magistrates imposing penalties as well as a consistent approach to the AVO process.

The ALRC report agrees that the level of seriousness of a breach may not necessarily be linked to the level of violence used by an offender in breaching the order, or to whether the violence was physical, and that a key factor is the impact a breach has on a victim's sense of security. That is why they consider guidance in sentencing should address specifically the impact of an offence on a victim. In addition the guidance in the bench book should also make the point—as is made in the Council's guidelines—that 'breaches not involving physical violence can have a significant impact on the victim and should not necessarily be treated as less serious than those breaches involving physical violence'. Because of the significance of the impact on the victim of a breach of a protection order, the Commissions further consider that police operational guidelines—reinforced by training—should require police when preparing witness statements to ask victims about the impact on them of the breach, and advise them that they may wish to make a victim impact statement—which is one way of informing a court about the harm and injury suffered by a victim as result of a breach. Police should also be required to explain what use can be made of victim impact statements.

In the ALRC's view, the preservation of judicial discretion in sentencing is essential to enable individualised justice to be done on a case-by-case basis. The Commissions do not support the inclusion in state and territory family violence legislation of provisions directing courts to adopt a particular approach on sentencing for breach of a protection order where such legislative direction removes the exercise of judicial discretion. In particular, the Commissions oppose mandatory sentencing for breach of protection orders—including specification of mandatory minimum penalties, or directions to impose imprisonment in particular circumstances. In this regard, the Commissions acknowledge the concerns expressed by stakeholders that such provisions can have an adverse impact on vulnerable offenders, particularly indigenous offenders; act as a deterrent for victims to report violence and breaches; and that imprisonment may not necessarily represent the best outcome in any particular case. Sometimes imprisonment will be an appropriate sentencing option for breaches of protection orders involving violence. However, as a general principle, the Commissions consider that imprisonment should be regarded as a sentencing option of last resort.

As noted in ALRC Report 103, mandatory sentencing has been the subject of considerable criticism by commentators, and by government bodies and committees that have examined the issue. Criticisms of mandatory sentencing include: that such schemes escalate sentence severity; are unable to take account of the particular circumstances of the case; redistribute discretion so that decisions by the police and prosecuting authorities become increasingly important; and contravene a number of accepted sentencing principles—including proportionality, parsimony and individualised justice—and international human rights standards. The maintenance

of individualised justice and broad judicial discretion are essential attributes of our criminal justice system, outweighing any potential deterrent effect that mandatory sentencing might have. The Commissions thus recommend that state and territory family violence should not impose mandatory minimum penalties or mandatory imprisonment for the breach of a protection order. The Commissions consider that the provision of guidance to judicial officers in a national bench book on family violence on how to sentence for breach of protection orders is preferable to mandatory sentencing provisions.¹⁵

The use of GPS bracelets

To combat domestic violence, the consideration in the implementation of GPS technology to monitor the location of offenders has been put forward by the Standing Committee on Social Issues. Basically this may mean the requirement of high risk domestic offenders to wear GPS bracelets which would immediately notify the police of any violation of the offenders' restraining orders. Association members consider this type of prevention has both positive and negative effects. In Queensland, 12 of Queensland's most dangerous sex offenders were to be fitted with GPS trackers after a successful test run in August 2011.¹⁶ The state-side trial of four GPS devices proved the technology could adequately monitor sex predators. Police and Corrective Services Minister said the successful trial involved 20 staff members who were fitted with bracelets and created a whole range of scenarios that Corrective Services officers would be expected to monitor as to whether a person was complying with their order.

In Massachusetts, USA, where about one-quarter of restraining orders are violated each year according to the state's probation office, a recent law has expanded the use of global positioning devices to include domestic abusers and stalkers who have violated orders of protection. Twelve other states have passed similar legislation and about 5000 domestic abusers are being tracked nationwide. The tracking system enables law enforcement authorities to not only monitor a convicted offender but respond quickly when an offender goes near specified locations such as a victim's home, school or place of employment. Newburyport, a city of 17 000 (near Boston) has been the testing ground for the training programs in preventing domestic abuse. Associate Director, Kelly Dunne of the Jeanne Geiger Crisis Centre has assisted seven cities to follow the model of the Greater Newburyport High Risk Response Team, which brings together police officers, district attorneys, probation officers and others to decide which domestic violence cases should be recommended for GPS monitoring and alerting them to the danger signs in offenders' behavior. Experts say the program can help save lives. Domestic-violence-related homicides increased 300% in Massachusetts from 2005 to 2007 according to Jane Doe Inc, the Massachusetts Coalition Against Sexual Assault and Domestic Violence, while in Newburyport where a High Risk Team was in place,

¹⁵ NSW Law Reform Commission, Family Violence – A National Legal Response, Final Report, ALRC Report 114, NSWLRC Report 128, October 2010

¹⁶ AAP NewsWire, QLD: Qld sex offenders to be tracked, from NewsPlus@aap.com.au, 18 August 2011

there was no such homicides in that period.¹⁷ According to advocates for the use of GPS monitoring to enforce an order of protection makes the order more than just a piece of paper. It's a way of making the criminal justice system treat domestic violence as potentially serious. By detecting any escalation in the behavior of an abuser, GPS can prevent unnecessary tragedies (Rosenfeld 2011). The following comments from Association members support the enforcement of GPS monitoring for reasons such as removing the onus off the victim; improving the tracking of offenders in remote locations; and for repeat offenders who hold a serious risk.

I put my support for the ability for GPS tracking bracelets to be an option for courts but also as an option on an AVO condition that requires the defendant to have their phones (home, mobile and/or work) listed on a system that creates a link with the victim's phone so in some circumstances police can be given automatic result by email if a Person of Interest's phone contacts a victim (I'm sure the phone companies have the ability to monitor this already).

I believe the GPS bracelet is a great idea because often times there is no evidence other than the victim's word that an AVO has been breached. In the country, where the victim and offender reside in close proximity it can aid us in identifying whether the offender has been for example at her home, work etc. I'd feel more comfortable charging someone for a breach AVO if I had more proof than the victim's word.

It takes the onus off the victim in reporting breaches (police able to proceed with the victim); Less likely to commit offences due to accountability; Ensure offenders are serious repeat offenders; and an alternative to keep offenders out of jail.

I think that bracelets for offenders would be a great idea for those with restrictions made for approach conditions limiting their movements in relation to victims.

I think GPS bracelets are the best idea, the only catch is making sure they aren't pulling shifties with it. Perhaps a requirement that it set off an alarm if it doesn't detect heartbeat (for the POI's own safety of course) would work but that's a matter for the future. In any case I do think proof of POI's whereabouts is an acceptable part of the AVO process and should be pushed.

GPS bracelets would be a good idea for repeat offenders or in cases where there is a serious risk.

GPS bracelets may assist in certain matters-but would arguable be a waste of resources if they were utilised for all unless it is cost effective for the bracelets and detection capabilities.

GPS monitoring as a result of being a relatively new and modern concept has shown also to have some drawbacks, though there is not a lot of

¹⁷Ariana Green, More States Use GPS to Track Abusers, from The New York Times, <http://www.nytimes.com> May 9, 2009

comparable literature to draw from because of its contemporary status. Some of the concerns include the fact that it can be difficult to protect families who live in rural areas or where there are not enough police officers to respond quickly. According to United States literature, with the economic downturn, states have cut money for training the police and judges in GPS use and some places with legislation in place say they cannot afford it. It is up to a judge, in cases of extreme violence, to decide whether to order its use before trial, as a condition of bail or as a sentence. This has led to complaints by the American Civil Liberties Union and others of too much leeway for judges. Until they know how GPS can be used and how successful it can be, judges are reluctant to order it because it's unfamiliar (Doyle 2011). Besides raising civil liberties concerns, other issues noted from the American literature was that it was possible that the occasional abuser might be so enraged by the police keeping an electronic eyeball on them that they would be more rather than less likely to get violent again. This issue comes up with restraining orders, too. The best solution, domestic violence experts say is for police to talk to victims who can predict fairly accurately how abusers will respond to different punitive measure. In addition, victim advocates point out that GPS monitoring cannot protect women from the damage abusers can do long-distance-like leaving threatening voice messages or ruining their credit rating.

Another real barrier to GPS monitoring is paying for it. In addition to the bracelets themselves, the cost would include the GPS servers and software and the salaries for the people operating the computers. Some states in America like Massachusetts, plan to make offenders pay for the monitoring themselves. That approach could backfire, however, in the case of a guy who's also required to pay child support. While he goes to jail if he refuses to pay for GPS monitoring, all that happens if he doesn't write his child-support check is that his wages may be garnished. So, an abuser low on funds might logically avoid child support instead of GPS payments. And if he does face jail then he cannot earn the money to pay the child support. Victim advocates would prefer that the government cover the cost of monitoring. They hope it will pay for itself with saving in other areas like a reduced need for family shelters and fewer pricey trials. The question is how much money will Government put behind it? Policing domestic violence is already a complex and frustrating task and police are already in need of greater funding and resources particularly for support services like the WDVCS and DVLOs which are said to be working well and should be more widely available.

Consultations with Association police members revealed an almost equal amount of negative comments aimed against the enforcement of GPS monitoring. Their reasons included civil libertarian groups' unwillingness to endorse GPS monitoring; victims withdrawal of AVO applications; police officers' already high workload; a waste of police time, resources and money; the practicality of GPS monitoring; the issue that not all types of breaches are able to be addressed by the use of GPS monitoring.

I would support the use of these bracelets for AVO offenders where serious injury is threatened. I can't see civil libertarian groups accepting this without a fight though.

GPS ankle bracelets will not assist when the alleged victim will attend locations etc to meet the offender. Too often after police have attended within days or sometimes hours the victim and offender are back to their normal living arrangements and the victim is assisting the offender to breach the AVO orders etc.

I do not believe GPS bracelets is feasible and it would be too difficult to police. There are too many breaches and ADVOs to monitor.

I am totally opposed to the introduction of GPS bracelets. This is an extremely intrusive measure to inflict on someone in relation to a civil application. Also just because the defendant cannot go within the vicinity of certain places his/her movements ANYWHERE should not be subject to monitoring and/or recording. Like many of these types of things no matter how protective the initial legislation is once this type of technology is allowed against one group it is only a matter of time before it is applied to other groups and don't think that the police or friends/relatives will be exempt. There are recidivist thieves, break and enter merchants, car thieves, fraudsters, robbery offenders, sexual assailants and even murderers wandering around our community who are not tracked in this way and yet this strategy is suggested in relation to ADVOs.

I don't think this would prevent ADVOs being breached. This would involve a lot of expense for little gain.

GPS bracelets would be a waste of time and money. The offenders would only damage the items until they didn't work and simply remove them.

The practicality of the use of these devices is an issue. At Mount Druitt we processed 112 fresh AVO applications in January, 2011. It is difficult to imagine how much of the resource would be needed to make a difference given the number of AVO's in circulation. Additionally there are application problems with how the limited number of POI's would be identified and selected. We suggest that a target group be selected from DV HRO's with exclusion orders as either part of AVO orders or bail conditions.

The use of these items would not address directly a large number of alleged breaches which occur by phone text or face book other than perhaps to place the POI at a location at the time of the contact. It also raises the questions of who would monitor the program, the movement of POI's and notify police and what capacity the monitoring would have. One area of risk and a "duty of care" is what happens if the POI is seen moving towards a protected address. What would be the response and how timely would it be etc.

Early Intervention Strategies to Prevent Domestic Violence

In 2006, Chief Commissioner Nixon, Victoria Police, and former Commissioner Moroney, NSW Police Force co-hosted a conference that brought together police, who were experts in the field of Domestic and Family Violence, from all of the Australian States and Territories, New Zealand, Hong Kong and Singapore to discuss the issue of Domestic and Family Violence . From that first conference, a commitment was made by all of the Australian Police Forces, together with New Zealand Police, to develop a single strategy to form a unified front against the challenge that Domestic and Family Violence presents to the policing and wider community. The development of Australasian Policing Strategy for the Prevention and Reduction of Family was formed. The strategy is embraced by police at every level. It supports the right of every adult and child to a safe environment, and demonstrates the commitment of all police to hold perpetrators accountable for their actions.¹⁸

A research report to come out of the United States refers to domestic violence having focused, to date, primarily on intervention after the problem has already been identified and harm has occurred. There are however, new domestic violence prevention strategies emerging, and prevention approaches from the public health field can serve as models for further development of these strategies. This research report authored by David Wolfe and Peter Jaffe (1999) describes two such models. The first involves public health campaigns that identify and address the underlying causes of a problem. Although identifying the underlying causes of domestic violence is difficult – experts do not agree on causation, and several different theories exist – these theories share some common beliefs that can serve as foundation for prevention strategies.

The second public health model can be used to identify opportunities for domestic violence prevention along a continuum of possible harm: (1) primary prevention to reduce the incidence of the problem before it occurs; (2) secondary prevention to decrease the prevalence after early signs of the problem; and (3) tertiary prevention to intervene once the problem is already clearly evident and causing harm. Examples of primary prevention include school-based programs that teach students about domestic violence and alternative conflict-resolution skills, and public education campaigns to increase awareness of the harms of domestic violence and of services available to victims. Secondary prevention programs could include home visiting for high-risk families and community based programs on dating violence for adolescents referred through child protective services. Tertiary prevention includes the many targeted intervention programs already in place.

Early evaluations of existing prevention programs show promise, but results are still preliminary and programs remain small, locally based, and

¹⁸Australasian Policing Strategy on the Prevention and Reduction of Family Violence, November 2008.

scattered throughout the United States and Canada. What is needed is a broadly based, comprehensive prevention strategy that is supported by sound research and evaluation, receives adequate public backing, and is based on a policy of zero tolerance for domestic violence. According to the report, despite the diversity of views regarding the underlying causes of domestic violence, there are some beliefs common to all these theories. They include; (1) that domestic violence has been ignored as a major social problem until recently and remains poorly understood; (2) that domestic violence is a complex problem impacted by multiple variables; (3) that childhood trauma, either through exposure to violence or some other trauma, influences the likelihood of domestic violence; and (4) that as long as domestic violence is condoned as accepted behavior by public attitudes and institutions, there is little chance of preventing it.¹⁹

Consultations with the Police Association membership have indicated that there is no uniformity in early intervention strategies but it is more the case that each Local Area Command attempts to develop their own strategies. The following quotes are examples of some of the programs currently running at some Local Area Commands.

ADVICE (Area Domestic Violence Integrated Case-management and Education) Model

Tuggerah Lakes LAC is one of only six LACs that are currently piloting the ADVICE model which is managed by NSW Police and funded by the Department of Family and Community Services. Central Coast ADVICE (comprising of Brisbane Waters and Tuggerah Lakes LACs) provides information, support and case management strategies, in partnership with a range of services, to people on the Central Coast who have been affected by violence in their relationships. Two teams of workers (one in Gosford and one in Wyong) provide a confidential, holistic and integrated service for victims of domestic and family violence. One strategy some members have found to be extremely effective in regards to the ADVICE model is the early intervention from social workers at the victim's time of crisis. Despite formal statistics not yet made available, members have experienced some particularly strong results from this early intervention which is proving it to be a beneficial strategy that serves to empower the victim. ADVICE model philosophy is that the greater success rate of empowering victims increases their understanding of the process and their attending court matters, which in turn will enable them to have the best chance to break the cycle of violence.

Domestic violence related incidents are prevalent offences in Tuggerah Lakes LAC. Non-compliance of AVO conditions occurs in this LAC on a regular basis with an average of approximately 30 Breaches of AVOs per month. In order to address the issue of domestic violence with the resources available, Tuggerah Lakes LAC conducts a preventative (Pro-active) 'compliance' operation each month involving DV Advice (Police)

¹⁹ Wolfe, David and Jaffe, Peter, Emerging Strategies in the Prevention of Domestic Violence, The Future of Children, Domestic Violence and Children, Vol. 9 No. 3 – Winter 1999.

and General Duties. The thrust of these operations is to increase compliance by offenders and take action for any infractions. Tuggerah Lakes LAC also conducts a weekly 'compliance' operation either on a Wednesday or Thursday as long as two extra police are available to perform the operation.

In achieving the objectives of the mission, DV ADVICE has identified 55 repeat domestic violence offenders with AVOs and bail conditions. Proactive checks are conducted on these repeat DV offenders and designated teams are given copies of current AVO'S and Bail conditions imposed on each offender along with a photograph of the offender, warnings and other relevant information. Teams are sent out to attend the victim's residence to ensure compliance of these conditions and all compliance checks are carried out by 10pm so as to not unnecessarily inconvenience victims. Offenders found in breach of their AVO and/or bail conditions are then arrested and charged by Police.

Not only does the proactive checks of premises ensure that bail and AVO conditions are being met, it is also proactively monitoring victims to ensure that the AVO is being complied with and that no further breaches or harassment/intimidation is occurring. The operation is currently showing promising results and appears to be working well, with positive feedback from members such as the following:

"The operation is having a tremendous effect on repeat offenders as they are being held to account and the victims are impressed because the police follow up regularly."

It must be noted that this particular Command has the relative luxury of the ADVICE model and commitment to personnel for the Unit which makes this a viable option in their particular circumstance. It may however be too labor intensive and unrealistic in some other LACs where only 1 DVLO operative works.

The Wyong Domestic Violence Perpetrator Referral Project

Another early intervention strategy employed in the Tuggerah Lakes LAC, which has only recently been launched, has been the development of the Wyong Domestic Violence Perpetrator Referral Project. The aim of the project is to provide perpetrators of domestic violence the opportunity to voluntarily link into Men's Domestic Violence Treatment Programs based on best practice.

The program is not part of the sentencing process and is outside of the Criminal Procedures Act. Participation and/or completion of the domestic violence treatment program do not necessarily have any bearing in regards to sentencing determinations. The program is aimed at perpetrators who agree to the conditions of an AVO and/or plead guilty to a Domestic Violence Offence. An assessment is conducted as to whether the perpetrator is appropriate to undertake the Domestic Violence Perpetrator Program. A two week adjournment is sought by the magistrate by consent of both the Police Prosecutor and defense for the purpose of the initial assessment. If deemed appropriate to undertake the program, the perpetrator elects which of the two service providers (FamilyCare or Lifecare) he will use and consents to the free exchange of information between the service provider, NSW Police and solicitor.

A further 8 weeks adjournment is sought for attendance at the course and the perpetrator commences the 24 week program. After the 8 week adjournment, the magistrate determines whether to sentence the perpetrator or adjourn the matter to a further date. At any time during the 24 weeks, the perpetrator can be deemed no longer suitable for the program and the program will be suspended. Once the course is successfully completed, the completion reports/results are sent to NSW Police, Prosecutors, CCADV and Court.

Objectives of the project are for perpetrators to take responsibility for their actions and work towards respectful relationships and to end the cycle of power and control in their interpersonal relationships. The project will undergo a process and outcome evaluation after 12 months of operation which will be conducted by the partner agencies using data collected over the period of the project.

Programs such as Love Bites and Billy Blue are excellent programs that get the message across – unknown outcomes. Some measuring or feedback would be good but excellent initiatives and positive responses.

I am a police prosecutor and have been a police officer for 15 years. I would like to comment on early intervention strategies to prevent domestic violence. I am also a children's court prosecutor at Sutherland and have noticed a rise in the amount of domestic violence amongst the younger generation. I believe there should be more awareness about domestic violence in schools. We teach sex education to our children and have anti-bullying policies in our schools but I don't believe students are taught about healthy relationships and indicators to look for when you are starting a relationship which might suggest the person may be abusive. I read a book once called "Because he loves me", it is by Dina McMillan who often gives lectures at police training days. That little book should be given to each girl in their primary school years. It shows how easy it is to get pulled into an abusive relationship and how hard it is to get out. I believe prevention is better than cure and this book shows that too. The education would also be of benefit to young males who might be future perpetrators. Many young women who often come from good families are increasingly becoming victims of domestic violence because no one has ever spoken to them about what a healthy relationship looks like. Sometimes the first relationship they might form might be with a young male who gets jealous and controlling. If no one has educated the young woman that this is not acceptable and is a form of abuse then she may see this as normal or as the book indicates "because he loves me". I also believe that parents should also receive education on this issue. Some parents have no idea that their daughter or son is the victim of domestic violence until it's too late. Parents should be made aware of what to look out for i.e. long phone calls, always on the phone to him/her, bruises on upper arms, keeping things to themselves, withdrawing from family events etc. The list goes on but most parents who have not had any experience with domestic violence would not know what to look out for. The effects of domestic violence on victims and their children are so profound and people never fully recover. There is always something to remind them. I think it's only when there is more education on the issue and how bad the effects are

that we will see change. There needs to be more advertisements on television too.

This Command has the relative luxury of the ADVICE model and commitment to personnel for the unit which makes this a viable option in our circumstances, however it may be a bit labor intensive and unrealistic in Local Area Commands where only one DVLO operative works. The ADVICE model is when a Sergeant (supervisor) has been drawn from the GD Teams to ensure a consistent approach is adopted by ADVICE personnel. One strategy I can see that is currently extremely effective is early intervention from Support Workers at the Victim's time of crisis. We have had some particularly strong results from this early intervention which I suspect we will be able to later firm up with numbers and specific examples to show this is a very beneficial strategy that empowers the victim. Our philosophy is that the greater success rate with empowering Victims and increasing their understanding of the process and their attending court matters will enable them to have the best chance to break the cycle of violence.

Early intervention strategies should start with educating children at school about what to look out for. Signs that a relationship isn't right or may be heading in the wrong direction.

Pro-active childhood education. The government needs to pro-actively educate kids in schools and through the media over a lengthy period. Much like the 'don't litter' or 'don't smoke' campaigns that was used to influence consequential change within adult behavior.

In regards to early intervention – could we look at some offender programs?

We fully support this initiative that was thwarted due to privacy issues and interagency mistrust. At Mount Druitt we have a well developed referral network with government and non government partners and are commencing intensive case management in the near future for vulnerable victims and repeat offenders. There needs to be more programs for offenders because without treating their behavior they will continue to make only more victims and the cycle cannot be broken. Chap 16a has been a godsend for us and our partners.

Other examples of intervention strategies proposed by the Police Association membership included the following;

Just as we have a coroner's pamphlet, we need a DV pamphlet that explains AVO and charge processes. As well as emphasizing the need of the victim to be honest with police (even if they have done the wrong thing as well).

There is no uniformity in early intervention strategies. Every LAC attempts to come up and create a strategy. You need more programs with willing staff and incentives.

Consultations with the Police Association membership indicated that there were negative responses according to the provision of early intervention strategies by police in preventing domestic violence which mostly had to do with the already burdensome workload of police.

Early intervention by police is not the answer. Front line police have too much work as it is without being relationship councilors.

Senior Constable who is now attached to the PCYC put in a great deal of work to get funding for programs and support for DV offenders as a way to break the cycle. I was told however that he met a great deal of resistance from victim support groups who would have to share their funding to support such an initiative. If trends of DV are on the increase and the usual punishment solutions are found not to be effective would be worth talking to about his ideas. It would be good to see the Association back his initiatives.

Court Listing ADVICES not being enforced by the courts resulting in numerous police standing around courts on hearing days. Hearing days in this Command are on Fridays which coincides with one of our 'peak' operational days and as a result of Court attendance requirements these personnel are unable to be utilized effectively in 'reactive' activities but also in the proactive roles such as enforcing compliance with AVOS and Bail.

The ALRC inquiry into family violence makes some recommendations in their report that indirectly affect the role that police play in domestic violence that are worth mentioning. The ALRC report was one of a number of concurrent inquiries on the subject – reflecting intense and ongoing concern in relation to victims of such violence and the public cost over time. The Inquiry's specific objective was to improve safety for women and children in the context of family violence through recommendations for reform of legal frameworks. In this context, the idea of 'frameworks' extended beyond law in the form of legislative instruments to include education, information sharing and other measures to improve police and prosecutorial practice. In undertaking the Inquiry and in developing a comprehensive response, the Commissions embarked on a wide consultative process; using a broad mix of face-to-face consultations and roundtable discussion; online communication tools; 236 consultations were conducted nationally to reach key stakeholders around the country, including many groups representing indigenous clients; and internet communication tools were also integrated into the consultation process.

The ALRC's findings revealed that the improvement of practice regarding the safety of women and children in the context of domestic violence would be achieved through:

- specialisation—bringing together, as far as possible, a wide set of jurisdictions to deal with most issues relating to family violence in one place, by specialised magistrates supported by a range of specialised legal and other services;
- education and training;
- the development of a national family violence bench book;

- the development of more integrated responses;
- information sharing and better coordination overall, so that the practice in responding to family violence will become less fragmented; and
- the establishment of a national register of relevant court orders and other information.

Specialisation

The ALRC concluded that the specialisation of key individuals and institutions is crucial to improving the interaction in practice of legal frameworks governing family violence, and sexual assault in the family violence context. It considers ways to foster and improve the effectiveness of specialised family violence courts and specialised police units with the aim of producing safe, fair and just outcomes for victims and their families.

I believe there should be a separate community or government agency (not the court and not the police) that deal with all ADVO applications. This could be as simple as a team of two annexed to each of the local courts. This organisation should include support for victims of domestic violence both male and female. These support people should be able to triage the complainant and if necessary refer to a quasi legal representative that deals purely with ADVO applications. This person should make the ADVO application and have it filed at court. The police prosecutor could still appear in the matters BUT this agency should provide a support person at the court to deal with all ADVO applicants. Police should not be making any ADVO applications UNLESS they are urgent provisional applications linked to an offence. I have heard people discussing the idea of a duty officer having authority to issue an ADVO. This is wrong, it is a civil application that police should have no part other than to assist the court when unrepresented PINOPS appear with the community or government agency charged with assisting.

Specialised family violence court

The term ‘specialised court’ can be used to refer to a number of things. For example, the term can be used to refer to separate stand alone courts that deal only with a particular subject matter—such as the Family Court of Australia, which ‘specialises’ in matters under the *Family Law Act*. Children’s courts, similarly, may be considered as specialised courts dealing with child-related matters. There are, however, no stand alone specialised family violence courts in Australia.

In courts that deal with a range of subject matters, there can be a division or special program embedded within existing court structures that deals with a particular subject matter. For example, in Victoria, there is the Family Violence Division of the Magistrates’ Court of Victoria. In other instances, a court may operate a ‘specialised list’, in which certain categories of cases are heard on certain days of the week, often by dedicated judicial officers. Both these types of ‘specialised courts’ are common in the Australian legal system.

Many specialised courts simply operate as a matter of practice, and their structures are established through administrative mechanisms. However, some specialised courts may be expressly established by legislation.

Specialisation can help to ensure that victims have contact with those in the system—including judicial officers, lawyers, prosecutors, police and family dispute resolution practitioners—who have the best understanding of the nature, features and dynamics of family violence. This knowledge and understanding allows these individuals better to assist victims in navigating the legal, social and health systems by connecting legal frameworks and social services.

Specialisation can also operate to improve the system as a whole. As many stakeholders have emphasised, attitudinal and behavioral change—although highly desirable—can be slow to achieve. Specialisation acts both as a way of attracting those with an interest and aptitude for family violence work, and allows education, training and other resources to be focused upon a smaller group for more immediate results and improved outcomes. Specialists can help to promote attitudinal change if they are given opportunities to share information with, and to contribute to, the education and training of those in the general system.

Specialisation can improve consistency and efficiency in the interpretation and application of laws, as a result of shared understandings and the awareness and experience of a smaller number of decision makers. Specialists can identify and solve problems more quickly and effectively and can develop and promote best practice that can then be mainstreamed to drive change in the system more generally. In the long run, the efficiency gains through specialisation may produce better outcomes that result in substantial savings elsewhere in the system—for example, earlier and more effective legal intervention may result in fewer cases requiring child protection agencies to intervene, and fewer demands on medical and psychological services. For these reasons, specialists are more likely to be effective in addressing family violence, and in their ability to make the system more efficient as a whole. The Commissions received significant support for the proposal that specialised family violence courts should be more widely established in Australia.

The experiences of Australian and overseas jurisdictions provide evidence of the value of specialised family violence courts in terms of improving the interaction in practice of legal frameworks relevant to this Inquiry. These benefits include:

- greater sensitivity to the context of family violence and the needs of victims through the specialised training and skills of staff;
- greater integration, coordination and efficiency in the management of cases through identification and clustering of cases into a dedicated list, case tracking, inter-agency collaboration, and the referral of victims and offenders to services;
- greater consistency in the handling of family violence cases both within and across legal jurisdictions;
- greater efficiency in court processes;
- development of best practice, through the improvement of procedural measures in response to regular feedback from court users and other agencies; and
- Better outcomes in terms of victim satisfaction, improvement in the response of the legal system (for example, better rates of reporting,

prosecution, convictions and sentencing in the criminal context), better victim safety, and—potentially—changes in offender behavior.

In its Report, the Commissions set out a framework for reform of the jurisdictions of courts that deal with issues of family violence to address the gaps arising as a result of the interaction between different legal systems. The local or magistrates court is the first port of call for many victims of family violence and their families. The Commissions consider that state and territory magistrate's courts should be in a position to address, at least on an interim basis, the range of issues that commonly arise in family violence matters. A system in which one court is able to deal with most legal issues—and where it cannot, is able to facilitate the transfer of the matter to another court—will go some way towards reducing the impact of inconsistencies between the legal systems, and better ensure the protection and safety of victims of family violence.

The Commissions consider that these benefits are best leveraged in a specialised family violence court. In the Commissions' view, specialised family violence courts with certain minimum core features, including specialised prosecutors, would enhance the efficacy and effectiveness of the courts in dealing with family violence. The Commissions' recommendations envisage, where possible, the creation of specialised family violence courts—being divisions, programs, lists or a specialised court room—within existing state and territory local and magistrates courts with a number of essential support features. The Commissions are not recommending the establishment of a separate stand alone court.

First, all judicial officers in a family violence court should be especially selected for their roles. The attitude, knowledge and skills of judicial officers are critical to the success of such a court, and it is important that selection be based on such criteria. The adoption of specialised lists and specialised practices may attract judicial officers who have experience and are interested in working in family violence. This is an important step in building a leadership cohort, who can drive reform and promote attitudinal change within the system.

Secondly, there was strong support for the role of specialised prosecutors as an essential feature of specialised family violence courts. The Commissions agree with the majority of submissions that specialised prosecutors—working in cooperation with magistrates, police and victim support workers—can play an important role in achieving consistent and quality outcomes for victims of family violence. Thirdly, the Commissions are of the view that the provision of specialised, free and timely legal advice and representation would enhance the effectiveness of specialised family violence courts.

The Commissions recommend that federal, state and territory governments should prioritise the provision of access to legal services, for victims of family violence, including enhanced support for victims in high risk and vulnerable groups. Fourthly, specialised and ongoing training on family violence issues is critical to ensuring a shared understanding of family violence within the court. Ideally, this training should be provided to all

staff, as was done with the Victorian Family Violence Court Division. At a minimum, training should be provided to the following key participants: judicial officers, prosecutors, lawyers and registrars.

Fifthly, victim support workers play a key role in ensuring the success of such courts. Such workers may be employed directly by the court or a community organisation may be funded to provide the service. The Commissions recommend that the Australian, state and territory governments should prioritise the provision of, and access to, culturally appropriate victim support services for victims of family violence, including enhanced support for victims in high risk groups. Lastly, family violence courts should also have special arrangements for victim safety at court, such as separate waiting rooms for victims, separate entrances and exits, remote witness facilities and appropriately trained security staff. The provision of interpreters is also essential.

The Commissions acknowledge the establishment or further development of specialised family violence courts will be dependent on mechanisms such as funding, programs of action, policy and operational support from inter-agency committees, and political support across those departments affected. The Commissions refer to the relative success achieved by the cross-government approach in Victoria as an illustrative model. The cost of establishing or further developing specialised family violence courts needs to be considered in light of the cost of family violence to the Australian community.

DV courts that would be able to hear matters within days of the matter or night courts for that purpose. If viable would be the way to go as Domestic Violence needs to be dealt with in a timely manner. If this was in any way viable I am certain would show positive results all round. The victim's right to swift justice and likewise the accused matters are dealt with in a timely manner-this would be very effective if at all able to be done.

Specialised police

Police play an important role in responding to, intervening in, and preventing family violence, and are the first point of contact for many victims. Police are responsible for recording incidents, interviewing victims and collecting evidence to support criminal charges and—and applying for protection orders in the civil system. It is well recognised that initial positive police response is vital not only to victim safety, but also to whether victims report any further victimisation, or seek engagement with the legal system more generally.

Although there is little information or research available on the role and value of specialised police units in Australia, a significant number of stakeholders reported positive experiences with such units. The Commissions concluded that there is substantial merit in the use of specialised police in family violence, sexual assault and child protection matters. Liaison officers provide an important early point of contact for victims and assist them in navigating the legal system. Specialised police at all levels provide contact points for inter-agency collaboration, and may

form a key element of integrated responses. Further, monitoring and supervision by specialised police is likely to improve consistency in the application of laws in the context of family violence.

The Commissions recommends that state and territory police should ensure, at a minimum, that:

- specialised family violence and sexual assault police units are fostered and structured to ensure appropriate career progression for officers and the retention of experienced personnel;
- all police—including specialised police units—receive regular education and training consistent with the *Australasian Policing Strategy on the Prevention and Reduction of Family Violence*;
- specially trained police have responsibility for supervising, monitoring or assuring the quality of police responses to family violence incidents, and providing advice and guidance in this regard; and
- Victims have access to a primary contact person within the police, who specialises, and are trained, in family violence, including sexual assault issues.

It is impossible to prevent domestic violence completely. There are external factors which police cannot control eg financial trouble, alcoholism etc. There should be some sort of support group for victims of domestic violence which they can attend and receive support from once police are involved in criminal or ADVO matters. Domestic Violence Liaison Officers (DVLO) could run seminars that educate the victims of domestic violence which could show them other avenues/support network and services instead of staying in an abusive relationship.

Domestic violence offences are time consuming to police not just when the initial offence is reported but the follow up required for the brief and victim follow ups. Some victims and offenders of ADVOs take advantage of the AVO/Court system to their advantage with Family Law matters. The more minor matters are only tying up the time of police who could be investigating other offences and the courts time. Too often victims/witnesses do not attend court even when subpoenas are issued and the magistrate will not create a warrant as they do not wish to make a victim out of a victim. The use of police to obtain an AVO to assist in family law matters is ever increasing and being a burden on frontline Police and this is proven when a complainant attends the police station and starts a conversation with "My lawyer said I should report" in regards to matters some of which are historical. When police take an initial complaint where ONLY an AVO is applied for it is a COMPLETE waste of police time for them to attend the hearing date. The police officer's statement normally gets tendered as it has no evidentiary value. The role of the victim support at these AVO hearings could be covered by the DVLO.

Other relevant matters to DV are resources, money, incentives, dedication and above all management support. If the NSWPF wants to get serious about DV management will have DV officers performing only DV roles. Give incentives to those officers who want to do the role

rather than those who want to escape other roles i.e. GD's. DV training should be mandatory.

Education and training

A central and critical theme in the ALRC Report is the need for effective education and training of individuals—including judicial officers, lawyers, prosecutors, police, family dispute resolution practitioners and victim support services—working in the family law, family violence, criminal justice and child protection systems. A proper appreciation and understanding of the nature and dynamics of family violence, including its impact on victims, in particular those from high risk and vulnerable groups and the overlapping legal frameworks is fundamental in practice to ensuring the safety of victims and their families.

National family violence bench book

Family violence may engage a range of overlapping frameworks and familiarity with, and competence in, these frameworks by judicial officers and legal professionals is vital to ensuring fair and just outcomes for victims. The Commissions recommend the development of a national bench book—again, complemented by quality education and training—to promote consistency in the interpretation and application of laws across jurisdictions, and offer guidance and promote best practice among judicial officers and legal professionals.

Relevant bench books have been published by judicial institutes and bodies in Australia and these could be built upon and, with adequate resourcing, such bodies could contribute towards the development of a national family violence bench book. The Victorian Department of Justice is currently in the process of securing access to the Canadian family violence bench book, and Victoria and South Australia are exploring a partnership agreement to progress work at a state level in relation to a bench book.

The Commissions consider that there is potential for collaboration between the Australian and state and territory governments to develop a similar bench book in Australia, using the Canadian bench book as a model.

Integrated responses

Integrated responses offer clear benefits for service delivery to victims, including improving the experience of victims involved in multiple proceedings across different legal frameworks. For example, co-location of services facilitates victims' access to a range of options and referrals. Another benefit is that such responses enable networks to be formed across services and government departments at a local level, fostering collaboration and communication between key players in different legal frameworks, and providing ongoing improvements to practice and understanding.

A number of Australian jurisdictions have either implemented, or are in the process of implementing, various forms of integrated responses. Some of these are quite comprehensive, while others are smaller in scale, including for example, liaison arrangements between police and victim support services. Features of an integrated response may include:

- common policies and objectives;

- inter-agency collaboration and information sharing, including possibly: coordinated leadership across services and resources; sharing of resources and protocols; and inter-agency tracking and management of family violence incidents;
- involvement of, and recognition of the need for, victim support;
- commitment to ongoing training and education;
- ongoing data collection and evaluation, with a view to system review and process improvements; and
- specialised family violence courts, lists, and offender programs for those who engage in family violence.

The Commissions note that there are a number of ways in which the Australian, state and territory governments may foster the development and dissemination of common principles and objectives to underpin integrated responses to family violence. These include developing strategic plans and creating regional, state and territory or national steering committees. Any such process should, however, involve close consultation with relevant stakeholders to ensure that the principles and objectives of any particular integrated response mechanism accurately reflect and respond to the diversity of local conditions and needs.

Improving police and prosecutorial practice

Police practice

The Commissions make a number of recommendations aimed at improving police practice, ensuring that victims of family violence obtain an effective criminal justice response. They recommend that police should have a duty to investigate family violence where they believe family violence has been, is being, or is likely to be committed; and record when they decide not to take further action and their reasons for not taking further action. Police should also be able to better identify persons who have used family violence and persons who need to be protected from family violence, and to distinguish one from the other. The Commissions make recommendations towards improving police decision making about charging an offender with breach of a protection order and any underlying criminal offence constituting the breach; in relation to breach of protection order proceedings, to require police, when preparing witness statements, to ask victims about the impact of the breach, and advise them that they may wish to make a victim impact statement; and as to the appropriate content of 'statements of no complaint' in which victims attest to the fact that they do not wish to pursue criminal action.

Red Tape Reduction- We need compliance and support of courts. Police will document what the accused person has received on the night of his charge which in Domestic Violence Matters most often includes a mini brief. That is Victim's statement, any witness statements, photographs of the victim's injuries and evidence of any notebook or audio/video interview in which the accused person participates. Unfortunately, what often occurs is that the accused and/or their solicitor enters a plea of not guilty and a brief of evidence is automatically called for with usually short time frames for police to collate the brief. Police then need to work on their statements, compile other mandatory brief covering

sheets, summary of relevant evidence, witness lists, all documents, compiled during the investigation, and serve them upon the defense in a professional manner- all a very time consuming process. Domestic Violence offenders should be made to justify on what grounds they are pleading not guilty to and assessed as to whether it is a matter that can be determined in a more timely fashion-as I am sure it is a well known tactic of solicitors to draw the matter right out and when they see that the victim finally turns up to court to give evidence-they then offer a plea in the matter. There would be a huge reduction in red tape if we could ensure police were compiling briefs for matters where there is substance in the grounds for which they are pleading not guilty. I have used an example of domestic violence which caters for a great deal of GD police work on the coast-but this could expand to other crime categories very easily to show similar traits and time wasting.

Solicitors - where there is clearly a strong case against the accused spinning the matter out for as long as they can which adds to the pressure on the victim. It is quite apparent that this is a tactic by the accused (and his/her legal representative) where they know that a victim's strength to pursue the case diminishes over time (most likely out of frustration, pressure and lack of confidence in the system). Ultimately, victims withdraw from proceedings and our concern that this is less to do with the offence having occurred, but out of the tactic employed by lawyers to 'wear down' the victim. This has the added concern of re-inforcing the perpetrator's confidence that he can do as he wishes and does not assist in changing his behavior and the victim most likely moves on to continue life as a victim in that, or other, relationships. Solicitors always appear to call for briefs of evidence even though they are served with the core of the brief on the night. What often is the strength of the brief, being the victim's statement and photos, but a multitude of police time is wasted by having to revisit this very issue to compile briefs and further taking these valuable resources away from core police work.

Prosecutorial practice

The Commissions make a number of recommendations aimed at improving the exercise of prosecutorial discretion and decision making. These include education and training about: potential federal offences committed in a family violence context; the use of representative charges in family violence related criminal matters, where the charged conduct forms part of a course of conduct; and how the dynamics of family violence might affect the decisions of victims to negate the existence of family violence or to withdraw previous allegations. Importantly, the Commissions have also recommended that any decisions to prosecute victims of family violence with any public justice offences—such as conspiracy or attempts to pervert the course of justice—where the conduct alleged to constitute such offences is essentially conduct engaged in by a victim to reduce or mitigate the culpability of an offender—should only be approved by directors of public prosecution.

Information sharing

Throughout the course of the ALRC Inquiry, the Commissions heard about the problems that arise because of the gaps in information flow between the family law system, the family violence system and the child protection system. In many circumstances, important information is not being shared among courts and agencies and this is having a negative impact on victims, impeding the 'seamlessness' of the legal and service responses to family violence. There are many recommendations throughout the ALRC Report directed towards improving the flow of information, including: clarifying initiating application forms; amending legislation that regulates the disclosure of information in relation to parenting orders, family violence orders and child protection orders; providing state and territory courts with access to the Commonwealth Courts Portal and establishing information sharing protocols and MOUs between courts, agencies and organisations working in these areas.

Permitted disclosures

The 2009 report of the National Council to Reduce Violence against Women and their Children, *Time for Action*, identified privacy laws as one of the obstacles to an integrated and effective response to family violence. Many stakeholders consulted in the ALRC Inquiry agreed that they encountered difficulties sharing information because of actual or perceived limits imposed by privacy and secrecy laws. Implementation of the model use and disclosure principle set out in *For Your Information: Australian Privacy Law and Practice* (ALRC Report 108) would address some of the issues identified.

In particular, the Commissions recommend, that Australian, state and territory governments should ensure that the privacy principles applicable in each jurisdiction permit the use or disclosure of personal information where agencies and organisations reasonably believe it is necessary to lessen or prevent a serious threat to an individual's life, health or safety. Given the high level of involvement of private sector service providers in the areas of family violence and child protection, this exception should apply to both government agencies and private sector organisations. The threat should not have to be imminent. Agencies and organisations should be able to share information in order to intervene early in family violence and child protection situations to prevent a serious threat from manifesting.

In *Secrecy Laws and Open Government in Australia* (ALRC Report 112) the ALRC recommended that secrecy laws should generally include an exception for disclosures in the course of an officer's functions or duties. The recommendations in ALRC Report 112 were limited to Commonwealth secrecy laws, because that was the extent of the Terms of Reference for that Inquiry. The Commissions consider that the principles underlying the ALRC's recommendation that Commonwealth secrecy laws should include an express exception for disclosure in the course of an officer's functions and duties is a principle of wider application.

If this approach were adopted by Australian, state and territory governments, it would ensure that, where an officer disclosed information, for example, in accordance with the provisions of state and territory family

violence or child protection legislation, or in accordance with an information-sharing protocol or MOU, the officer would not breach the relevant secrecy law. The Commissions therefore endorse the relevant recommendations in ALRC Report 112 in relation to Commonwealth secrecy laws, and recommend that state and territory governments consider amending secrecy laws that regulate the disclosure of government information to include an express exception to allow the disclosure of information in the course of an officer's functions and duties.

These recommendations complement the provisions in relation to permitted disclosures by child protection agencies in relation to family counselors and family dispute resolution practitioners to permit disclosures where reasonably necessary to prevent or lessen a serious threat to a person's life, health or safety.

The Commissions note that databases in some jurisdictions facilitate the sharing of information between agencies working together, particularly in the area of child protection. Such databases provide a useful mechanism to help ensure that agencies are aware of the fact that other agencies are working with a particular child or family, and to prevent the duplication of services. It would be logical, for example, to establish a shared database where family violence or child protection legislation expressly provides for the disclosure of certain information from one agency to another. The Commissions note, however, that such databases raise significant privacy concerns. The Commissions recommend, therefore, that in developing any such databases, the Australian, state and territory governments should ensure that appropriate privacy safeguards are put in place.

Protocols and MOUs

Information-sharing protocols and MOUs between the courts and relevant agencies and organisations have a valuable role to play in facilitating communication and information exchange between parties in the family law, family violence and child protection systems. At present, there are few information-sharing protocols in the context of family violence. The Commissions recommend that federal family courts, state and territory magistrate's courts, police, and relevant government agencies should develop protocols for the exchange of information in relation to family violence matters. The development of information-sharing protocols in the context of family violence is consistent with the views expressed in *Time for Action*.

National register

The capacity for family violence protection orders to be enforced across jurisdictions is essential to the safety of victims, especially given that it is common for victims of family violence to seek to move to escape violent relationships. Currently, in most jurisdictions, a protection order that has been obtained in one state or territory is not automatically enforceable in another state or territory. Rather, the victim of family violence or some other person must register the 'external protection order' in the second jurisdiction.

The Australian Government has committed to the development of a national scheme for the registration and recognition of family violence protection orders. The Commissions consider that this is an excellent development that should be supported as a constructive step towards improving the protection available for victims of family violence. It will allow victims of family violence to move seamlessly from one jurisdiction to another without the need to take action to register a family violence order in the second jurisdiction. It will also help to ensure that police in the second jurisdiction are aware of the existence of the order.

The Commissions consider that a national register of this kind also provides an opportunity for a formalised exchange of information relevant to proceedings involving family violence more broadly. While the initial proposal is to include information about family violence protection orders, there is scope to extend the ambit of the register to include, for example, child protection orders made under state and territory child protection legislation, and information about parenting orders and family violence related injunctions made under the *Family Law Act*.

Improving Responses to Family Violence in the Family Law System Report

Another report to come out during May 2008 on the advice of the Attorney General was the Family Law Council's report regarding practical strategies available in improving the coordination between the family law and the State and Territory family violence systems, with particular emphasis on court related services. The report came up with some interesting findings worth noting especially so because of the indirect links it makes to police and the role they play in domestic violence. The report's findings state that the division of powers in the Constitution in relation to family law has resulted in a complex system of courts that provide various remedies for families experiencing family violence or abuse. As a result many families are involved in proceedings in more than one jurisdiction. This increases the possibility of inconsistent orders being made and of putting family members at risk of further violence and abuse and exacerbating an already strained situation. The jurisdictional divide has also perpetuated a culture of separation between States and Territories as administrators of public aspects of family law and the federal family courts as adjudicators of public disputes. There is inadequate communication, coordination or information sharing between courts and authorities despite significant overlap. In a recent review of the Tasmanian "Safe At Home" initiative a number of stakeholders highlighted these concerns. They noted that jurisdictional cross-overs can potentially compromise the safety of those affected by violence. This is particularly evident in cases where a protection order is in place and where federal family court proceedings are pending or there are orders in place.

To address these concerns consideration should be given to a referral of powers so that federal family courts in determining a parenting application have concurrent jurisdiction with that of State courts to deal with all matters in relation to the children including where relevant family violence, child protection and parenting orders. Achieving this goal would be the

best outcome for people experiencing family violence and may circumvent the disparity between children's, state and family courts. Consultation undertaken by Family Pathways supports this view with stakeholders indicating they are in favor of an integrated court. They expressed preference for one court that would deal with criminal proceedings, protection orders, child protection and family law issues. This type of "unified court" goes further than the present recommendation and is consistent with the recommendations of the Council in its report "Family Law and Child Protection". It is indicative of the growing support for federal family courts to exercise some aspects of State jurisdiction and has the potential to deliver to families the same access to justice that can be delivered by the Family Court of Western Australia. To implement this recommendation, Constitutional amendment or a referral of powers by the states and territories in relation to child welfare and family violence orders would be required. The process for amending the Constitution is complex and difficult and historically, it is difficult to achieve the required majority of voters nationally and across all States. Referral of powers from the States and Territories is far more achievable as has been evident in respect of the recent referral of powers in respect of superannuation, and de facto relationships.

Another finding worth noting because of the relevance to police is the communication between states, territories and federal authorities because these issues extend beyond the state and federal courts and child welfare agencies. This is because dysfunctional families experiencing violence and/or issues of child abuse often have issues of alcohol and substance abuse, and/or mental health issues which cause them to come into contact with State and Territory police and mental health agencies. The police and child protection agencies are mandated to investigate allegations of abuse or violence and often participate in or instigate court proceedings in the State jurisdiction. The tension lies in those cases where some investigation has been undertaken but the decision as to the instigation of proceedings has been deferred pending the instigation of proceedings in the federal family courts – often by a relative (such as a grandparent) with the encouragement of an agency. Accessing information held by child protection agencies has proved a significant challenge for federal family courts and has been the impetus for some law reform.

Mandatory counseling for repeat DV offenders and mandatory information sessions for new migrants regarding NSW Laws and including the community's expectations when it comes to domestic violence.

*Through my duties working with young offenders and their families I have found the current DV system lacking particularly in responding to family violence in Aboriginal communities. A recent case of mine highlighted the following:
A repeat DV offender was released from a sentence of imprisonment for DV with no conditions (parole or otherwise) which allowed him to go straight back to the victim's house to live despite the victim not wanting him there.*

Aboriginal victims face considerable pressures from their own community not to call police/cause an arrest and are blamed by their families/ communities if an offender is arrested or jailed.

Aboriginal victims (for the above reasons) are reluctant to make formal statements.

Interagency (e.g. police/housing/DOCS) cooperation comes too little too late for identified high risk cases. My case unfortunately resulted in a domestic homicide.

Some strategies;

Mandatory pre-release assessments of DV offenders in custody with input from victims/communities regarding residence/contact with victim etc.

Special DV parole conditions making AVOs/parole conditions so stringent that the need for victim's statements is reduced i.e. police statements achieve prima facie. Mandatory sentences for DV assault and breaching AVO with violence.

Greater education/involvement of Aboriginal communities in sentencing DV offenders i.e. if the community sentences the offender less blame likely on the victim?

Introduction of DV "residential rehab" as an alternative/addition to sentencing options addressing offender's mental health, AOD, aggression issues

Review of the Police DVRT response to high-risk families including new case management guidelines on information sharing with Housing, DOCS, Health, Schools etc eg 3 or more recorded incidents of DV in a family in 6 months (with or without charges) should result in a mandatory joint meeting of those agencies with the entire family.

There needs to be more support for issues relating to Mental Health and Youths who are involved in domestic violence. The avenues of assistance for youths suffering from mental health are very limited. Usually the hospitals will only admit under mental health if the youth admits to suicidal tendencies. This is not necessarily the issue most of the times. Youths suffer from conduct disorders, schizophrenia, bipolar etc which develop into violent acts and aggressiveness leading to domestics. The youth usually falls into the Young Offenders Act and this again limits any avenues of assistance for the family. Again certain bail conditions could be utilized for the youth to seek guidance and counseling.

The federal family courts have over a period of years worked with various state child protection agencies to develop protocols for the sharing of information. The level of cooperation is inconsistent and many children are disadvantaged by the restrictions on the sharing of relevant information between these agencies and the courts either through the perceived legislative impediment or internal departmental policy practices. At a recent meeting of the Standing Committee of Attorneys-General, Ministers noted that there may be opportunities for improved cooperation between the family courts and State and Territory child welfare authorities and agreed to explore options for improvement with their Ministerial colleagues. The Commonwealth Attorney-General has written to State and Territory child protection ministers seeking assistance to improve collaboration. The

family violence and child protection systems consist of the various State and Territory courts, as well as the police and child welfare departments that provide investigative, support and advocacy services. State and Territory police generally provide the first response to family violence incidents and are often the first point of contact for individuals making allegations or reports of violence. They are responsible for investigating allegations and the subsequent prosecution of individuals where appropriate. They may also participate in civil proceedings before a court.

Child welfare departments are mandated to promote the safety and wellbeing of children. This includes assessing and investigating allegations of child abuse, providing intervention services and out-of-home care. They may also make applications for care or protection orders in a Children's Court if necessary. The police and welfare departments retain important information on the contact they have had with families experiencing violence and abuse. Such information is relevant to many aspects of proceedings before the federal family courts. Unfortunately, research over the past 10 years has revealed there is little coordination, communication or information sharing between these authorities and the courts. Research undertaken by Kelly and Fehlberg in relation to child protection found that "communication was almost invariably absent" in Victoria between the Department of Human Services and the Family Law Court. This added an extra level of complexity and confusion to disputes and wasted the time and resources of all involved. Consultation undertaken by Family Pathways has supported these findings. A common theme emerging throughout consultation was that there is an unsatisfactory disconnect between the family law system and the state and territory family violence and child protection systems. Lack of coordination precipitates the possibility of multiple proceedings, contradictory orders and the potential for orders to be made that inadvertently put parents and children at risk.²⁰

Domestic Violence Perpetrator Programs

In recent years, the focus of most service provision in regards to domestic violence has been on providing appropriate and timely support to victims. While services and support for victims is paramount, there is now a greater acknowledgement that they must also be underpinned by appropriate prevention and intervention strategies which directly target domestic violence perpetrators and assist and enable them to stop offending.²¹

There is an absence of a substantial volume of Australian literature on perpetrator programs in Australia having been documented and evaluated. In addition little documented research has been conducted in reviewing the considerable service delivery implications of genuine programs such as the Duluth or Hamilton programs to suit the Australian welfare and legal system

²⁰ Family Law Council – Family Violence Committee, Improving responses to family violence in the family law system: An advice on the intersection of family violence and family law issues, December 2009

²¹ Domestic Violence Perpetrators: Identifying needs to Inform Early Intervention, University of Bristol & Home Office, April 2006

and to actually implement community based integrated and mandated programs.²² The issue of the importance of support for domestic violence perpetrators in the form of appropriate programs aimed at stopping the cycle of violence has been raised by some of our members during the consultation phase.

In the case of DV where all support tends to be for the victims, it means that when a victim is taken out of a relationship, the offender moves on to another one and the problem starts all over again.

There needs to be more programs for offenders because without treating their behavior they will continue to make only more victims and the cycle cannot be broken.

It appears to me that domestic violence crimes are one of the few major crime areas left where we don't treat and support the offender to stop the offences reoccurring. Drug and traffic related offences are reduced by offenders being referred to programs as part of their sentences. In the case of DV where support all tend to be for victim, means that a victim is taken out of a relationship the offender moves on to another one and the problem starts over again.

Domestic Violence incidents is one of those areas of policing that can be extremely rewarding if you can have an impact but it is also quite soul destroying because we show up at the same addresses for the same problem time and time again and feel like we are wasting our time.

In regards to early intervention – could we look at some offender programs?

“Programs such as Love Bites, Billy Blue are excellent programs that get the message across – unknown outcomes. Some measuring or feedback would be good, but excellent initiatives and positive responses”.

A Domestic Violence Perpetrator Program that was run by the Department of Probation and Parole in NSW revealed encouraging results. In July 2001, a 12 month pilot program was established in the Penrith area of Sydney for male perpetrators of domestic violence. The pilot project was over sighted by an Interagency Committee comprising key government departments and non-government agencies. Urbis Key Young was commissioned by the Violence against Women Specialist Unit of the Attorney General Department's Crime Prevention Division to conduct the evaluation of the pilot program over a two year period from July 2001 to July 2003.²³

²² Ending Domestic Violence? Programs for Perpetrators, Full Report, Report to National Crime Prevention, Commonwealth Attorney General's Department, Canberra, 1999.

²³ Evaluation of the NSW Pilot Program for Perpetrators of Domestic Violence – Final Report, Urbis Keys Young prepared for Violence Against Women Specialist Unit Crime Prevention Division, NSW Attorney General's Department, 2004, p.i

All men convicted or pleading guilty to a domestic violence offence in Penrith Magistrates Court and given a supervision order as part of their sentence between 1 July 2001 and 30 June 2002 were referred to the Penrith Probation and Parole Office to assess their suitability for a group education program. The men were mandated to the program, either by Court order or under the direction of Probation and Parole. The 16 week program was designed specifically for the NSW Dept of Corrective Services, but was based substantially on the content of the renowned 24 week Duluth program operating in the U.S. Attendance at the group program was mandatory, with non-attendance regarded as a breach of supervision. ²⁴

Over the 12 month pilot period, a total of 115 domestic violence offenders were referred to Penrith Probation and Parole for assessment as to their suitability for entry to the pilot program. 93% of the men referred were assessed as suitable for entry to the program. 75% of the men accepted onto the pilot program completed it within the 12 month pilot timeframe. ²⁵

Impact of the pilot program on recidivism

Analysis of the criminal histories of the male program participants revealed some key findings:

- The majority (63%) of male program participants did not come to the attention of the police in relation to a domestic violence matter in the 12 month period following commencement of the program. Some 80% of the men had no further activity in relation to Apprehended Violence Orders; 85% had no fresh domestic violence charges and 93% had no further convictions in the study period. ²⁶
- 37% of the men did come to the attention of the police after commencing the program; around 1 in 5 in relation to an AVO and 15% on a domestic violence charge. One in ten was convicted of a domestic violence offence in the post program period. Moreover, the incidence of post program domestic violence activity increased further in the 21 months post program period. This may have coincided with the cessation of court orders and/or supervision of men. ²⁷

Determining the effectiveness of the program in preventing or reducing domestic violence is a complex task. In the absence of any benchmarks or standards against which to assess the level of 'success' of these programs, it ultimately comes down to the judgment of program funders and policy makers to determine whether the cost of running such programs is justified given the mixed results achieved. ²⁸ The weight of research indicates program effectiveness is achieved through mandated programs that are linked to victims' services and integrated with the criminal justice system. ²⁹ Research also reveals there is a clear need to maintain a focus on the

²⁴ Ibid

²⁵ Ibid, p.ii

²⁶ Ibid, p.88

²⁷ Ibid

²⁸ Ibid, p.93

²⁹ Ibid, p.94

needs of victims of domestic violence when designing interventions with perpetrators.³⁰

The Increase in Women Being Proceeded Against by Police for Domestic Violence Related Assault

Research on men as victims of domestic violence is still limited. A useful Clearinghouse paper on this issue, 'Men as victims of Domestic Violence' looks at available data about men's experiences as victims of domestic violence and the implications for service providers. The paper acknowledges the tension often expressed around the issue, that "some argue that there has been a reluctance to address and acknowledge men's victimization for fear that it may take away from the acknowledgement of the seriousness of violence and abuse experienced by women." This often goes hand-in-hand with concerns that acknowledging men as victims will direct funds away from the stretched resources currently available to women and children who experience domestic violence.³¹

The paper examines the available data about male victims of domestic violence. It also discusses what is known about men's experiences of domestic violence and the implications for service providers. The paper asserts that men's experiences as victims of domestic violence, either in heterosexual or gay relationships, are quite different from the experiences of women. Analysis needs to focus on the experiences of men in their own right and to not fall into the trap of asserting that men are just as likely to experience violence and abuse as women. The paper lists the following issues for consideration;

Data collection

Improvements are required regarding the collection of data about men's and women's experiences of domestic violence. Often police data and crime survey statistics are unable to distinguish the exact nature of the relationship between the 'victim' and 'assailant'. There is also a marked variation in prevalence rates depending on how domestic violence is defined. What other forms of violence beyond just physical abuse should be included in definitions to describe men's and women's experiences? Gathering data that adequately represents the context and dynamics from which violence is initiated will provide transparency in discussions concerning women who use violence against a partner.

Research methods

Research methods that employ tools recognising the context in which violence occurs are necessary if there is to be a more constructive debate and comparison between men and women's violence. Atmore (2001, p. 49) suggests that Hegarty's (1998) multi-dimensional partner abuse measure, the Composite Abuse Scale, could be a useful starting point. The scale so

³⁰Ending Domestic Violence? Programs for Perpetrators – Full Report. Report to National Crime Prevention, Commonwealth Attorney General's Department: Canberra, 1999, p.182

³¹ Legal Aid NSW, Report on Legal Aid NSW services to people in domestic violence situations, 25 November 2008

far has only been applied to women's experiences of violence. Further qualitative studies that build upon the work undertaken by Bagshaw *et al.* (2000a) would also be useful in providing a richer picture of men's understandings and experiences of violence against them.

Theoretical basis for analysing partner violence

Criticism has been levelled at feminist and other critiques of violence as being unable to adequately explain men's victimisation, at the hands of a female partner. Sarantakos (2002, p. 14) has gone further and questions whether feminist impressions of gender relations and patriarchy are realistic. Retaining a feminist analysis of violence against women is entirely appropriate, as violence occurs in the context of perceived entitlement and institutionalised power that is the domain of men. Dobash *et al.* (1992) argue that those who claim wives and husbands are equally violent have offered no conceptual framework for understanding why women and men should think and act alike. They state:

We cannot hope to understand violence in marital, cohabitating and dating relationships without explicit attention to the qualities that make them different from other relationships (Dobash et al. 1992, p. 84). They suggest that 'family violence research might usefully begin by examining the consonant and discordant desires, expectations, grievances, perceived entitlements, and preoccupations of husbands and wives, and by investigating theoretically derived hypotheses about circumstantial, ecological, contextual, and demographic correlates of such conflict' (1992, p. 84).

Further conceptual frameworks are required that broaden knowledge about men and women's violence. Otherwise, how is it possible to evaluate men and women's violence when we are comparing very different dynamics and tactics to describe their respective experiences?

Implications for service providers

Support agencies rarely publicise possible services for men as victims of domestic violence. It raises issues about how men access support services in general, particularly their awareness of what is available to address their immediate needs. Authors such as Connell (1987) remind us that men are not a homogenous group and that understanding notions of masculinity will inform the field about men's help seeking behaviours. Men have pressure placed on them by societal values and norms to maintain a high level of invulnerability. Historically, men have been indoctrinated that being a man means being strong, that they do not discuss feelings, or seek help for individual problems, especially those with an intimate partner. Accordingly, men do not access support services and delay in doing so, unless there is absolute necessity.

There are many questions about access and service provision requiring discussion. For example:

- Is there a need for the provision of information that directly targets men as victims?
- Are men's help lines that service both men as victims and men as perpetrators appropriate?

- What resources (e.g. counselling guidelines) are necessary to ensure that men receive responses that meet their immediate needs?
- Are these services or resources able to meet the needs of gay men or would these be better provided by specific services or programmes that target gay men who are victims of partner violence?

One service that has developed a service delivery response to address men's needs has been the ACT Domestic Violence Crisis Service (DVCS). They have found that prior to the commencement of MensLine in December 1998, contact from men measured between 2 and 5 per cent of all contacts. Contact from men has increased to 10 to 15 per cent as a result of MensLine. However, men who identify as having been subjected to violence or abuse in their relationships still remain at between 2 and 5 per cent of all calls. This particular percentage has remained consistent since the inception of DVCS in 1988 and has not changed in any significant way since the commencement of MensLine. The DVCS has thought carefully about how to attract and advertise services exclusively for men experiencing or using violence. Consequently, they used the language 'men who are troubled by the use of violence and/or abuse in their relationships and its effects on themselves and those that they love'. Clearly, the language avoids imposing blame and encourages men either as victims or abusers to contact the service.

A further issue requiring consideration is that concerning the options available to women who are abusive. Is it appropriate to send women to perpetrator programmes when such programmes are usually based around men's privilege, deconstructing notions of masculinity and its relationship to causes of violence? Research suggests that there are lower rates of service utilisation recorded for women batterers, particularly those from minority backgrounds (Abel 2001, p. 414). Further work is required to ascertain the pathways to services that this group of women may access.³²

This just means there are also women who are offenders of domestic violence. This is also outside of police control. There may be external factors that push the female to the point where she commits a criminal offence against her partner that police cannot for see until the offence has been reported.

The non-reporting of abuse and offences against males is huge. I made an extra effort to resubmit any event where the police stated that the MALE victim did not want action and 9 out of 10 times he actually did want action upon speaking to him but he just didn't want to look silly. Police automatically take the side of the female at a domestic by nature as do the court even when the male presents at court with credible information to the contrary.

Male victims room at a court. At present only females have a safe haven at the court house whilst male victims are forced to sit out in the

³² Mulroney, Jane and Chan, Carrie, Men as Victims of Domestic Violence, Australian Domestic & Family Violence Clearinghouse, 2008.

general public area. This would definitely hinder the reporting of DV offences by males.

Part of the reason for the increase in police prosecutions against females for assault comes from EEO – females feeling more on a even playing field and giving what they get and probably an increase in the number of domestics that are not husband-wife based (i.e. between siblings and mother-daughter etc).

Have experienced an increase in offences against women for child assaults as well as sibling assaults and same sex partners. Little experience with women assaulting male partners. Most are frivolous or vexatious.

The increase is a fact of life. Can't judge success in dealing with domestic violence by statistics. If a male victim exists then so be it. All domestic violence related incidents should continue to be investigated as any other offence taking into account the vulnerability of the alleged victim and the public interest in prosecution. There should be no more complicated policy, procedure or SOPS or whatever else created in relation to domestic violence matter. Police should just be expected to investigate thoroughly and professionally and that's what they are paid to do.

The increase in women being proceeded against is only a reflection on the fact that male victims of domestic violence are becoming more educated about their rights and the stigma attached to being a male victim of domestic violence is decreasing.

State wide the increasing number of women being identified as offenders confirms that the legislation and DV policy as we now have it is being applied equitably. Men are more willing to come forward despite the stigma attached to be a victim of female's actions. We are seeing increasing number of genuine male victims and when procedural fairness is applied properly women are being identified as offenders. There is no gender bias evident and the conviction rate for women is not noticeably different to that of men. There are some that might claim women become offenders only because of their history as victims and there may be some truth to that but we are satisfied that there are genuine explanations for the increase in female participation in offending. We note that in some information women are demonstrating a presence in other serious offences and in behaviors that can lead to criminal offences eg abuse of alcohol and drugs.

Other Relevant Matters

Police Health and Welfare

Vicarious Trauma

Due to the gravity and intensity of hearing victims' stories of abuse, police are at risk themselves for secondary or vicarious trauma (VT) which causes the responder to experience vicarious trauma symptoms similar to the original victims after hearing about the victim's experiences with abuse. Research has demonstrated that professionals who experience vicarious

trauma show signs of exaggerated startle response, hyper vigilance, nightmares, and intrusive thoughts although they have not experienced a trauma personally and do not qualify for a clinical diagnosis of PTSD.

Researchers concluded that although clinicians have professional training and are equipped with the necessary clinical skills to assist victims in domestic violence, they may still be personally affected by the emotional impact of hearing about a victim's traumatic experiences. Iliffe et al. found that there are several common ways to help the client, taking personal responsibility for ensuring the client's safety, and remaining supportive of the client's autonomy if they make their decision to return to their perpetrator. It has also been shown that clinicians who work with a large number of victims may alter their former perceptions of the world, and begin to doubt the basic goodness of others. Iliffe et al. found that clinicians who work with victims tend to feel less secure in the world, become "acutely aware" of power and control issues both in society and in their own personal relationships, have difficulty trusting others and experiencing an increased awareness of gender-based power differences in society.

In a paper authored by Zoe Morrison, police officers have been found to have significantly higher symptoms of psychological distress (including anxiety, depression, disassociation and sleep problems) and PTSD symptoms than mental health professionals. No research has been found that explores how experiencing vicarious traumatization affects the ways police deal with victim/survivors and perpetrators of sexual assault in the course of their work. Given that the level of exposure trauma is a predictor of vicarious traumatization levels, the number of cases a worker sees within a given time period needs to be appropriate. Effective supervision is also said to be an essential component of the prevention and healing of vicarious traumatization. Debriefing and peer support were identified in the study as most important strategy for dealing with the after-effects of a difficult session. Police dealing with trauma need to have access to regular debriefing. The paper also mentions social support within the organization.

I put some thought into the problem and also into what could be done in order to achieve the goals of general duties police which is pretty simple. We want to go to fewer Domestic. Domestic Violence incidents is one of those areas of policing that can be extremely rewarding if you can have an impact but it is also quite soul destroying because we show up at the same addresses for the same problem time and time again and feel like we are wasting our time.

Over many years the increased intervention by police into the domestic environment has changed the face of policing and the impact on police - policing DV (its outcomes) and the impact on police need to be examined. Low staffing in high DV areas is a significant issue and is impacting on police. I'd suggest policing DV over a lengthy period causes anxiety due to the heightened levels of tension and aggression - anecdotally I'd suggest this is more of a problem than PTSD and is impacting on D&D. Pro-active welfare management and respite from DV will have beneficial outcomes for all involved.

Recommendations

Recommendation 1

That the Standing Committee on Social Issues Inquiry into domestic violence adopts the position as stated in the Police Association of NSW's 2011 Pre-Election Submission on Domestic Violence particularly the Association's concerns regarding the procedures involved in issuing Apprehended Violence Orders.

Recommendation 2

There is no single common definition of Domestic Violence. The term "Domestic Violence" is too broad in its definition. The Police Association recommends that the definition of "Domestic Violence" be revised for a better understanding of the term.

Recommendation 3

That comprehensive and regular training regarding the complex nature and dynamics of domestic violence be offered to members of the NSW Police Force.

Recommendation 4

That the Standing Committee adopts the core themes identified by the ALRC (specialization; appropriate and regular education and training; the development of a national family violence bench book; integrated practice; improved police and prosecutorial practice; and improved information flow) as appropriate to NSW.

Recommendation 5

That the Standing Committee recognizes that the existing NSW penalties for domestic violence offences are ineffective and recommends that they be reviewed in the light of current research.

Recommendation 6

That the Standing Committee adopts in principle the state of Victoria's *Guiding Principles for the Sentencing of Contraventions of Family Intervention Orders*.

Recommendation 7

That a trial of GPS bracelets for domestic violence offenders be conducted in order to assess their viability for use in New South Wales.

Recommendation 8

That the Standing Committee on Social Issues supports the various models and programs developed by Local Area Commands (such as the ADVICE model) regarding early intervention strategies to prevent domestic violence.

Recommendation 9

That the Standing Committee supports integrated responses to domestic violence (such as the liaison arrangements between police and victim support services) that include a set of common policies and objectives.

Recommendation 10

That the Standing Committee on Social Issues supports the improvement of the flow of information between the family law system, the family violence system, the child protection systems and police. Further we recommend the development of a national register of relevant court orders as per the ALRC's findings.

Recommendation 11

That the Standing Committee on Social Issues supports the provision of appropriate and timely support to victims of domestic violence, underpinned by appropriate prevention and intervention strategies that directly target domestic violence perpetrators.

Recommendation 12

That the Standing Committee recommend improvements in the collection of data about men's and women's experiences of domestic violence and encourages further qualitative studies in order to provide a better picture of victim's understandings and experiences of violence against them.

Recommendation 13

That the Standing Committee calls on the NSW Police Force to provide programs for police to prevent vicarious trauma as a result of attending domestic violence events and to promote self care practices among officers.

References

Australian Institute of Criminology, AICrime Reduction Matters, Policing Domestic Violence: Barriers and Good Practice, No. 53, 9 January 2007

WESNET's Strategic Plan 2010-15, Web: www.wesnet.org.au Email: wesnet@wesnet.org.au, September 2010.

Grech, Katrina and Burgess, Melissa, Trends and patterns in domestic violence assaults: 2001 to 2010, Crime and Justice Statistics, NSW Bureau of Crime Statistics and Research, Issue paper no. 61, May 2011.

Rollings, Kiah and Taylor, Natalie, Measuring police performance in domestic and family violence, Trends & Issues in Crime and Criminal Justice, No. 367, December 2008.

Edwards, Robyn, Staying Home Leaving Violence, Promoting choices for women leaving abusive partners, Australian Domestic & Family Violence Clearinghouse, 2004.

Australian Government, The National Plan to Reduce Violence against Women, Immediate Government Actions, April 2009.

Australian Government, Time for Action: The National Council's Plan for Australia to Reduce Violence Against women and their children, 2009-2021, A Snapshot, March 2009, <http://www.ofw.fahcsia.gov.au>

Rodwell, Laura and Smith, Nadine, an Evaluation of the NSW Domestic Violence Intervention Court Model, NSW Bureau of Crime Statistics and Research, 2008.

Family Court of Australia, Family Violence-Strategy, 2004-2005.

Legal Aid Commission of NSW, Report on Legal Aid NSW services to people in domestic violence situations, 25 November 2008.

Mulroney, Jane, Australian Statistics on Domestic Violence, Australian domestic & Family Violence Clearinghouse, 2003.

Gilles, Marisa, Hegarty, Kelsey, Hindmarsh, Elizabeth, Domestic violence in Australia: Definition, prevalence and nature of presentation in clinical practice, MJA 2000; 173: 363-367.

Laing, Leslie, Domestic Violence and Family Law, Australian Domestic & Family Violence Clearinghouse, 2003.

NSW Police Force, Domestic and Family violence Policy, Policy and Programs Command, November 2009.

Douglas, Heather, The Criminal Law's response to domestic violence: What's going on? Sydney Law Review, Vol 30: 439. 2008.

Holder, Robyn, Risk Assessment in domestic & Family violence and the police role, Paper to the 2008 NSW Police Force Domestic Violence, Liaison Officers' Conference, Wollongong, 12 February 2008.

NSW Government, Stop the Violence End the Silence, NSW Domestic and Family Violence Action Plan, June 2010.

Wathen, Nadine, MacMillan, Harriet, Interventions for Violence Against Women, Scientific Review and Clinical Applications, JAMA, February 5, 2003-Vol 289, no.5

Access Continuing education, inc. Domestic Violence/Intimate Partner Violence: Applying Best Practice Guidelines, www.accesscontinuingeducation.com

Powell, Anastasia and Murray, Suellen, Children and Domestic Violence: constructing a Policy problem in Australia and New Zealand, Social & Legal Studies, 2008 17:453.

NSW Government Human Services, Housing NSW, domestic and Family violence, Housing NSW Police Statement, November 2010.

KiahRollings and Natalie Taylor, Measuring police performance in domestic and family violence, Trends & Issues in crime and criminal justice, No. 367, December 2008

TalinaDrabsch, Domestic Violence in NSW, NSW Parliamentary Library Research Service, Briefing Paper No 7/07

Domestic violence: improving police practice, a special report to Parliament under s31 of the Ombudsman Act 1974, December 2006

Guilliatt, Richard, What's really happening behind these doors? The Weekend Australian Magazine, June 30-July 1 2007

Hannon, Luke, Del Vecchio, Raff, Burgun, Prue, Apprehended Domestic Violence Orders, Review of the role of police in the application and enforcement of ADVO's. Cutting Red Tape – Looking After Victims, Police Association of New South Wales, December 2008

Family Violence – A National Legal Response, Police and Family Violence, ALRC Report 114, 11 November 2010

Mulroney, Jane and Chan, Carrie, Men as Victims of Domestic Violence, Australian Domestic & Family Violence Clearinghouse, 2008

Ending Domestic Violence? Programs for Perpetrators – Full Report. Report to National Crime Prevention, Commonwealth Attorney General's Department: Canberra, 1999

Legal Aid NSW, Report on Legal Aid NSW services to people in domestic violence situations, 25 November 2008

Against Women Specialist Unit Crime Prevention Division, NSW Attorney General's Department, 2004

Evaluation of the NSW Pilot Program for Perpetrators of Domestic Violence – Final Report, Urbis Keys Young prepared for Violence against Women Specialist Unit Crime Prevention Division, NSW Attorney General's Department, 2004

Domestic Violence Perpetrators: Identifying needs to Inform Early Intervention, University of Bristol & Home Office, April 2006

Family Law Council – Family Violence Committee, Improving responses to family violence in the family law system: An advice on the intersection of family violence and family law issues, December 2009

Wolfe, David and Jaffe, Peter, Emerging Strategies in the Prevention of Domestic Violence, *The Future of Children, Domestic Violence and Children*, Vol. 9 No. 3 – Winter 1999

Australasian Policing Strategy on the Prevention and Reduction of Family Violence, November 2008

Ariana Green, More States Use GPS to Track Abusers, from *The New York Times*, <http://www.nytimes.com> May 9, 2009

AAP NewsWire, QLD: Qld sex offenders to be tracked, from NewsPlus@aap.com.au, 18 August 2011

Douglas, Heather, The Criminal Law's Response to Domestic Violence: What's Going On? *Sydney Law Review*, Volume 30 2008, pages 439-469