

**Submission  
No 7**

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

**Organisation:** FamilyVoice Australia

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# **Submission**

on

## **Domestic violence trends and issues in NSW**

to the

### **Standing Committee on Social Issues**

**Legislative Council**

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## 1. Introduction

The Standing Committee on Social Issues of the New South Wales Legislative Council is, following a reference on 25 July 2001 from the Hon Pru Goward MP, Minister for Family and Community Services and Minister for Women inquiring into domestic violence trends and issues in New South Wales.

The terms of reference for the inquiry are:

That the Standing Committee on Social Issues inquire into and report on domestic violence trends and issues in New South Wales, and in particular:

*1. Strategies to reduce breaches and improve compliance with Apprehended Domestic Violence Orders (ADVOs), including:*

*a. the use of GPS bracelets*

*b. whether existing penalties for domestic violence are adequate*

*2. Early intervention strategies to prevent domestic violence*

*3. The increase in women being proceeded against by police for domestic violence related assault, and*

*4. Any other relevant matter.*

The committee has invited submissions which are due by 16 September 2011. The committee expects to report in mid-2012.

## 2. GPS Bracelets (tor 1a)

The proposal to use GPS bracelets as part of a strategy to reduce breaches and improve compliance with Apprehended Domestic Violence Orders (ADVOs) has some merit provided any such use is subject to certain principles.

An Apprehended Domestic Violence Order may be issued by a court "*if it is satisfied on the balance of probabilities that a person who has or has had a domestic relationship with another person has reasonable grounds to fear and in fact fears*" the commission of a personal violence offence or conduct that amounts to intimidation or stalking.<sup>1</sup>

The balance of probabilities is just that. It falls well short of the standard required for criminal offences, that of proof beyond a reasonable doubt.

Imposing on a person who is subject to an ADVO the obligation of wearing a GPS bracelet is a serious infringement on their personal integrity, their freedom of movement and their right to a good reputation. An ankle bracelet is a physical item which may be uncomfortable to wear and which would no doubt make the wearer conscious of it more or less continuously. The bracelet may be visible to other persons including employers and business associates who otherwise would have no reason to know about the existence of an ADVO against the person. The GPS bracelet would allow state authorities to obtain data on a person's movements even in areas from which he or she has not been excluded from being in under an ADVO.

These impositions are not warranted simply on the basis of an ADVO issued on the balance of probabilities. In some cases ADVOs will be issued on the basis of false or otherwise unfounded allegations that have nonetheless been accepted by the court on this test. To impose GPS bracelets on persons subject to an ADVO with no further test runs the risk of imposing the burdens associated with a GPS bracelet on persons who are entirely or substantially innocent of the allegations made against them.

GPS bracelets should only be considered and permitted where an offence has been committed and proved in court beyond a reasonable doubt.

They could be used where a person has been convicted of breaching an ADVO under Section 14 of the *Crimes (Domestic and Personal Violence) Act 2007*. In this case the court could order the offender to wear a GPS bracelet for a period not exceeding the maximum 2 years imprisonment for this offence.

GPS bracelets could also be used where an ADVO has been taken out against a person who is on parole for an domestic violence or other violent offence. In this case the court could order the parolee to wear a GPS bracelet for a period no longer than the remaining parole period.

***Recommendation 1:***

***If GPS bracelets are to be used in relation to ADVOs, they should only be used where the person subject to the ADVO has been convicted of breaching an ADVO or is on parole for a domestic violence or other violent offence. The duration of the order to wear a GPS bracelet should be no more than 2 years (in the case of a person who has been convicted of breaching the ADVO) or the remaining period of parole (in the case of a person on parole for a domestic violence or other violent offence).***

### **3. Family violence doesn't discriminate (tor 3)**

Police should proceed against both men and women who perpetrate acts of domestic violence based on the evidence and regardless of the sex of the alleged perpetrator or of the victim.

The New South Wales *Crimes (Domestic and Personal Violence) Act 2007* currently incorporates discriminatory language in its objects including a reference to the Declaration on the Elimination of Violence against Women in Section 9(1)(c) and the statement that "*Parliament recognises that domestic violence is predominantly perpetrated by men against women and children*" in Section 9(3)(b).

This discriminatory language does not reflect the reality that both men and women are victims of domestic violence.

In June 2010 the Keneally government promulgated a "new strategy" called the *NSW Domestic and Family Violence Action Plan: Stop the Violence, End the Silence*. This action plan also reflects a discriminatory approach which makes male victims of domestic violence virtually invisible and wrongly depicts men as if they were the sole perpetrators of domestic violence.

In the forward to the plan, the then Premier and then Minister for Women state: "*The NSW Government is determined to make women's and children's lives safer by stopping the violence and getting us all to end the silence about domestic and family violence. Our new strategy - NSW Domestic and Family Violence Action Plan: Stop the Violence, End the Silence sets out to achieve this for the most vulnerable in our community.*" There is no suggestion here that men are also victims of domestic violence and that the silence about male victims should also be ended.<sup>2</sup>

There is a brief paragraph in the plan mentioning “men who experience domestic violence” which oddly claims that, “although data is limited, it is clear that some men also experience domestic violence.” As the statistics below make clear, the data is not limited.<sup>3</sup>

The Australian Bureau of Statistics 2005 Personal Safety Survey reports the following data:<sup>4</sup>

- 73,800 women (77.7%) and 21,200 men (22.3%) were physically assaulted in the previous 12 months by a current or previous partner;<sup>5</sup>
- 125,100 women (67.3%) experienced physical assault by a male perpetrator in a home in the previous 12 months, while 60,900 men (32.7%) experienced physical assault by a female perpetrator in a home in the previous 12 months;<sup>6</sup>
- Since the age of 15 years, 105,600 women (69.6%) had experienced physical assault by a current male partner and 46,200 men (30.4%) had experienced physical assault by a current female partner;<sup>7</sup>
- Since the age of 15 years, 674,700 women (72.2%) had experienced physical assault by a previous male partner and 259,300 men (27.7%) had experienced physical assault by a previous female partner;<sup>8</sup> and
- Children of 463,300 women (84.3%) witnessed their mother being subjected to violence by a partner, and children of 86,500 men (15.7%) witnessed their father being subjected to violence by a partner.<sup>9</sup>

Overall nearly one in three victims of domestic violence is a male victim of a female perpetrator. In over one in six cases it is “men and their children” who need protection from a female perpetrator.

David Fergusson and his colleagues have reported on an in-depth analysis of women’s and men’s experience of domestic violence at age 25 as part of the Christchurch longitudinal study.<sup>10</sup>

Their findings include:

- 37.4% of women reported that they perpetrated acts of domestic violence compared to 30.9% of men;
- 3.9% of women were injured as a result of domestic violence compared to 3.3% of men;
- 2.5% of women reported being fearful as a result of partner violence compared to 0.3% of men;
- Women were more likely than men to initiate physical assault;
- Overall adverse mental health outcomes (depression, anxiety and suicidal ideation) are as frequent for men as for women, although women are more likely than men to suffer depression and anxiety;

In many cases there was mutual violence leading Fergusson and his colleagues to observe that “commonly occurring domestic violence may be better conceptualized as an issue relating to violent partnerships rather than violent individuals”.

In considering the policy implications of this study the authors note:

*The present study has a number of implications for policies relating to domestic violence. First and foremost, the results provide a further challenge to the dominant view that domestic*

violence is a "women's issue" and arises predominantly from assaults by male perpetrators on female victims.

What the findings suggest is that among young adult populations, men and women are equally violent to intimate partners on the basis of reports of both victimization and perpetration for the range of domestic violence examined within this study. Furthermore, the spectrum of violence committed by men and women seems to be similar and there is evidence suggesting that both men and women engage in serious acts of physical violence against their partners. Finally, the consequences of domestic violence in terms of injury and psychological effects were similar for both men and women.

In 2007-08 of a national total of 78 intimate-partner homicides 18 victims were male (23%).<sup>11</sup> In 2006-08 one in three (32.3%) victims of intimate partner homicide was male.<sup>12</sup>

In 2010 in New South Wales 7395 (28.21%) adult victims of domestic violence assaults were men<sup>13</sup> and 2457 adult perpetrators (16.4%) of domestic violence assaults were men.<sup>14</sup>

In the light of this data it is quite inappropriate to continue to incorporate in legislation the statement that "domestic violence is predominantly perpetrated by men against women and children" or for the government to reflect discriminatory attitudes to male victims of violence in its domestic violence action plan and other official documents.

**Recommendation 2:**

*The Crimes (Domestic and Personal Violence) Act 2007 should be amended by removing from its objects the reference to the Declaration on the Elimination of Violence against Women (Section 9 (1) (c)) and the statement that "Parliament recognises that domestic violence is predominantly perpetrated by men against women and children" (Section 9 (3) (b)).*

**Recommendation 3:**

*All action plans, campaigns and other government responses to domestic violence should be non-discriminatory and acknowledge that men as well as women can be victims of domestic violence and that perpetrators of domestic violence include women as well as men.*

## 4. Endnotes

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1. *Crimes (Domestic and Personal Violence) Act 2007*, Section 16.
  2. NSW Department of Premier and Cabinet, *Stop the Violence, End the Silence: NSW Domestic and Family Violence Action Plan*, June 2010, p 4:  
[http://www.dpc.nsw.gov.au/data/assets/pdf\\_file/0005/93920/Stop the Violence. End the Silence. Domestic and Family Violence Action Plan - Web2.pdf](http://www.dpc.nsw.gov.au/data/assets/pdf_file/0005/93920/Stop_the_Violence_End_the_Silence_Domestic_and_Family_Violence_Action_Plan_-_Web2.pdf)
  3. *Ibid.*, p 26.
  4. *Personal Safety Survey Australia 2005*, Australian Bureau of Statistics, Cat. No. 4906.0, reissued 21 August 2006:  
[http://www.ausstats.abs.gov.au/Ausstats/subscriber.nsf/0/056A404DAA576AE6CA2571D00080E985/\\$File/49060\\_2005%20\(reissue\).pdf](http://www.ausstats.abs.gov.au/Ausstats/subscriber.nsf/0/056A404DAA576AE6CA2571D00080E985/$File/49060_2005%20(reissue).pdf)

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5. *Ibid.*, p 9.
  6. *Ibid.*, p 10.
  7. *Ibid.*, p 30.
  8. *Ibid.*
  9. *Ibid.*, p 40.
  10. Fergusson D M, Horwood L J, Ridder EM, "Partner violence and mental health outcomes in a New Zealand birth cohort", *Journal of Marriage and the Family*, 2005, 67, pp 1103-1119:  
<http://www.ingentaconnect.com/content/bpl/jomf/2005/00000067/00000005/art00001>
  11. Virueda, M and Payne, J, *Homicide in Australia: 2007-08 national homicide monitoring program annual report*, Australian Institute of Criminology, 2010, Table 10, p 20:  
[http://www.aic.gov.au/documents/8/9/D/%7B89DEDC2D-3349-457C-9B3A-9AD9DAFA7256%7Dmr13\\_003.pdf](http://www.aic.gov.au/documents/8/9/D/%7B89DEDC2D-3349-457C-9B3A-9AD9DAFA7256%7Dmr13_003.pdf)
  12. Dearden, J and Jones, W, *Homicide in Australia: 2006-07 national homicide monitoring program annual report*, Australian Institute of Criminology, 2008, p 57:  
<http://www.aic.gov.au/documents/F/F/B/%7BF9E49F-160F-43FC-B98D-6BC510DC2AFD%7Dmr01.pdf>
  13. *New South Wales Recorded Crime Statistics 2010: Age and Gender of Victims of Selected Offences, recorded by the New South Wales Police*:  
[http://www.bocsar.nsw.gov.au/lawlink/bocsar/ll\\_bocsar.nsf/pages/bocsar\\_crime\\_stats](http://www.bocsar.nsw.gov.au/lawlink/bocsar/ll_bocsar.nsf/pages/bocsar_crime_stats)
  14. *New South Wales Recorded Crime Statistics 2010: A Age and gender of alleged offenders proceeded against by NSW Police for incidents of selected offences*:  
[http://www.bocsar.nsw.gov.au/lawlink/bocsar/ll\\_bocsar.nsf/pages/bocsar\\_crime\\_stats](http://www.bocsar.nsw.gov.au/lawlink/bocsar/ll_bocsar.nsf/pages/bocsar_crime_stats)