

**Submission
No 53**

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

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Dear Mr Blair

Inquiry into domestic violence trends and issues in NSW

Thank you for your invitation to make a submission to the inquiry into domestic violence trends and issues in NSW.

General comments

As you may be aware my office has been working closely for a number of years with the NSW Police Force (NSWPF) and the domestic violence sector to improve the policing of domestic and family violence in NSW. In December 2006 my office presented a special report to Parliament, *Domestic violence: improving police practice* (copy attached) which detailed our comprehensive investigation into the effectiveness of the policing of domestic violence. The report focussed on three critical areas: enhanced support for victims of domestic violence; better cooperation between the NSWPF and other agencies with key responsibilities and more effective frontline policing responses.

There were 42 recommendations made in the report targeted at engaging the policing and prevention of domestic violence. I am very pleased that almost all of the recommendations contained within the report have now been implemented. Since the report there have been significant changes and improvements to the way police respond to domestic violence. These changes are reflected in the revised Domestic and Family Violence Standard Operating Procedures implemented by the NSWPF in 2008 and the *Code of Practice for the NSW Police Force Response to Domestic and Family Violence* released in 2009. In addition to our investigation, the changes have been informed by the introduction of the *Crimes (Domestic and Personal Violence) Act 2007* and the *Keep Them Safe* reforms arising from the 2008 Special Commission of Inquiry into Child Protection Services in NSW.

In May this year we tabled in Parliament a further report detailing the findings and recommendations from our *Audit of NSW Police Force handling of domestic and family violence complaints* (copy attached). The audit fulfilled a commitment we made in discussions with key stakeholders following the 2006 report to go back and systematically audit the way police handle complaints about domestic and family violence. Our 2006 report emphasised the unique role of police in providing victims of domestic violence with

protection and access to justice. For this reason, it is vital that victims and their advocates have confidence that police will respond appropriately to domestic violence when called on to do so, but also that the NSWPF will deal satisfactorily with complaints when this expectation is not met.

The audit enabled us to assess and provide feedback to the NSWPF, the domestic violence sector and the broader community about whether domestic violence related complaints are being appropriately and effectively handled. Our aim was to contribute to efficient, high quality police complaint handling through identifying good practice and making recommendations about areas for improvement.

Our audit found that domestic violence related complaints received in 2008 were generally well-handled by the NSWPF. In most cases, police correctly assessed the issues raised by complaints, notified them to my office when required, and when warranted, took appropriate action to address the issues raised. In addition, police generally initiated protective action on behalf of victims in response to complaints. Some form of management action was taken in relation to the majority of complaints referred for evidence-based investigation and we were satisfied with the nature of that action in most cases. There was a reasonable level of complainant satisfaction where our audit was able to determine this.

However, we did identify some instances where complaints were not well-handled by police. The audit also again highlighted the serious consequences that can occur when police respond poorly to incidents of domestic violence. While the report deals primarily with the handling of domestic violence related complaints, it also includes some related observations about operational policing issues.

The NSWPF has responded positively and constructively to our report and committed to implementing our recommendations, primarily through the development of a *Domestic and Family Violence Complaint Practice Note*. The Practice Note has since been finalised in consultation with my office.

In relation to the terms of reference for your Inquiry I draw your attention to the sections within these reports which are most relevant.

Re: TOR 1 – Strategies to reduce breaches and improve compliance with Apprehended Domestic Violence Orders (ADVOs)

Chapters 3 and 4 of our 2006 report *Domestic violence: improving police practice* discuss a range of issues relating to the ADVO process and responding to ADVO breaches, including suggestions to reduce breaches and improve compliance with ADVOs.

Re: TOR 3 – The increase in women being proceeded against by police for domestic violence related assault

Section 3.4.8 of our 2011 report *Audit of NSW Police Force handling of domestic and family violence complaints* considers the issue of the alleged failure of police to correctly identify the 'primary aggressor' when responding to reports of domestic violence. We considered this issue in response to concerns raised with us by the domestic violence sector who reported the alleged failure results in charges being laid and ADVO's being taken out against women in inappropriate circumstances. As part of our audit we therefore examined how regularly the 'primary aggressor' issue was a feature of domestic violence complaints.

In addition to the one complaint that specifically alleged a failure by police to correctly identify the primary aggressor, we looked closely at all complaints that arose from events in which a woman was alleged to be the offender – regardless of whether the woman was the complainant. While based only on a sample of complaints and the records available to us as part of our audit, we found no evidence to indicate that police may have failed to correctly identify the primary aggressor in any matter.

However, what the audit did reveal is that a relatively significant number of women were considered offenders in events giving rise to domestic violence complaints, and that the majority were in a current or former relationship where there was a history of domestic violence against one or more parties. Additionally, a significant proportion of women were charged with an offence or the subject of an ADVO.

Our draft report recommended that the NSWPF promptly provide the findings from our audit to the Domestic Violence Coalition to inform the joint research project being undertaken by the NSWPF and the Coalition into the identification of the ‘primary aggressor’ in domestic violence matters, prior to the publication of our final report. In March 2011, the Corporate Spokesperson for Domestic and Family Violence indicated that he had met with the Domestic Violence Coalition to discuss the relevant aspects of our audit findings.

Should you wish to discuss any aspect of this letter, please do not hesitate to contact
Director, Strategic Projects Division on telephone

Yours sincerely

Bruce Barbour
Ombudsman