

ANROWS

AUSTRALIA'S NATIONAL RESEARCH
ORGANISATION FOR WOMEN'S SAFETY
to Reduce Violence against Women & their Children

Audit Office of New South Wales

Attn: Lachlan Tuite

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By email: lachlan.tuite@audit.nsw.gov.au

Re: Audit into police responses to domestic and family violence

Dear Lachlan

Further to our conversation in February 2021, we wish to provide a further contribution to the Audit Office of New South Wales' audit into the New South Wales Police Force's responses to domestic and family violence.

Below is a synthesis of recommendations from ANROWS research that may have implications for the New South Wales Police Force. We have also attached a reference list to this letter for your convenience.

Professional development and guidance for police on nuances of the patterns of coercive control to prevent the misidentification of victims and survivors as perpetrators

ANROWS research, [*Accurately identifying the "person most in need of protection" in domestic and family violence law*](#), identifies areas of improvement in police and court practice for identifying the person most in need of protection in cases where there are cross-applications or cross-orders. This includes the need to move from an incident-based, retrospective justice system toward a specialist family violence response that understands and responds to pattern-based domestic and family violence (Nancarrow et al., 2020).

The research suggested that specialist units or the use of co-responder models could support police and the justice system when making assessments about the pattern of behaviour to protect the person most at risk of future harm (Nancarrow et al., 2020). The findings of this research indicate there needs to be clear accountability for how decisions relating to protection orders are made, both in terms of police applications for orders, and in courts granting orders made by police (Nancarrow et al., 2020). This research found that police tend to err on the side of caution and place orders on both parties, allowing the court to make the final assessment. At the same time, magistrates have a tendency to rely upon the initial assessment made by police, resulting in a "pinball effect" of accountability (Nancarrow et al., 2020). Clarification of decision-making and accountability processes between police and the courts is required to remove any ambiguity relating to who is responsible to determine the person most in need of protection.

Recommendation 1:

Explicit guidance on identifying patterns of coercive control would assist police, particularly general duties officers, in identifying the person most in need of protection in ambiguous circumstances, and in determining whether a protection order is necessary or desirable.

Recommendation 2:

Investigate specialist units or co-responder models as strategies to improve policing responses to domestic and family violence.

Recommendation 3:

Provide professional development opportunities for police on the appropriate application of the law, including:

- trauma-informed and culturally and gender-sensitive understandings of DFV
- an understanding of Aboriginal and Torres Strait Islander peoples' resistance to police intervention and strategies to support victim and survivor cooperation
- an ability to detect image management and systems abuse, and therefore reduce collusion with perpetrators of DFV
- skills to investigate and present evidence of coercive control
- an ability to determine when action other than an application for a protection order is appropriate.

A trauma-informed approach that is coordinated to assist women with trauma to navigate complex and challenging systems

ANROWS research, [*"A deep wound under my heart": Constructions of complex trauma and implications for women's wellbeing and safety from violence*](#), identified that women exhibiting signs of trauma were viewed as lacking credibility by police and the criminal justice system (Salter et al., 2020). Salter and colleagues (2020) found that this could lead to police talking traumatised women out of making a formal police complaint – not out of malice, but as a way of protecting them from the trauma associated with the justice system. In addition, it was found that women who have experienced complex trauma have interlinked health and safety needs, and are often in frequent contact with crisis services and police due to domestic violence and sexual assault.

The research highlights the need for a trauma-informed approach that is coordinated to assist people with complex trauma to navigate challenging systems.

Recommendation 4:

Resource police properly to work in a trauma-informed way, including via the provision of appropriate training for dealing with people with experiences of complex trauma.

Recommendation 5:

Promote partnership models where police attend mental health incidents with allied health.

Recommendation 6:

Move to trauma-informed prosecution, involving continuity of contact and care in a case from a trusted individual, with careful handover from police to prosecution, and from lawyer to lawyer.

Police need in-depth knowledge of the complexity of domestic and family violence in Aboriginal and Torres Strait Islander communities

DFV within Aboriginal and Torres Strait Islander communities is increasingly understood to be shaped within the context of colonisation, systemic disadvantage, cultural disruption, forced removal of children and the impacts of intergenerational trauma (Blagg et al., 2020). Further ANROWS research, [*Improving family violence legal and support services for Aboriginal and Torres Strait Islander women*](#), highlighted the complexities of DFV and barriers for help-seeking within Aboriginal and Torres Strait Islander communities. These complexities include struggling to choose between reporting violence to police – which could risk the removal of their children from their care – or not reporting violence, and keeping their children but potentially remaining in a violent relationship (Langton et al., 2020a). The research also highlighted the dilemma of reporting violence to the police only to be ostracised and persecuted by other members of the Aboriginal community, including their family and the family of the perpetrator (Langton et al., 2020a). Aboriginal and Torres Strait Islander victims and survivors may be unwilling to report violence from Aboriginal and Torres Strait Islander men, due to an awareness that these men encounter disproportionate criminalisation in the legal system (Langton et. al 2020a).

Complementary ANROWS research, [*Family violence policies, legislation and services: Improving access and suitability for Aboriginal and Torres Strait Islander men*](#), also highlighted the complexities of addressing DFV in Aboriginal and Torres Strait Islander communities. The research found that systemic injustices against Aboriginal and Torres Strait Islander communities have caused high levels of system distrust and distrust of police. This research pointed to the detrimental impact on both perpetrator and victim and survivor engagement in the criminal legal and support systems (Langton et al., 2020b). Without tackling things like racial bias within policing, and the barriers faced by Aboriginal and Torres Strait Islander victims and survivors when accessing justice, the criminal justice system is unlikely to make much of an impact on the high levels of domestic and family violence faced by these communities.

A further ANROWS study, [*Understanding the role of Law and Culture in Aboriginal and Torres Strait Islander communities in responding to and preventing family violence*](#), found that the mainstream legal system and forms of governance undermine the practice of Aboriginal and Torres Strait Islander Law and Culture (Blagg et al., 2020). This study found that devaluing of Aboriginal and Torres Strait Islander Law and Culture is creating social dysfunction. Participants of this study were adamant that violence against women and children is not accepted in Aboriginal and Torres Strait Islander Law and Culture. Participants communicated that it is the discouragement of Aboriginal and Torres Strait Islander Culture, the inability to carry out cultural obligations and the interruptions in passing down values to younger generations that are causing social dysfunction and violence (Blagg et al., 2020). Instead it is proposed that those who use family violence should be moved away from the mainstream legal system and toward responses led by Aboriginal and Torres Strait Islander peoples.

DFV in Aboriginal and Torres Strait Islander communities is complex and has unique causes and challenges. For this reason, the New South Wales Police Force's response must be uniquely tailored to meet the needs of New South Wales's Aboriginal and Torres Strait Islander communities.

Recommendation 7:

Consider the co-location of police services with other services carefully, striking a balance between the convenience of access and factors that exacerbate women's pre-existing barriers to reporting violence to police.

Recommendation 8:

Ensure police are well informed about cultural safety principles and apply them in their service provision, through professional development in the complexity of Aboriginal and Torres Strait Islander family violence and using visual signifiers, from Aboriginal and Torres Strait Islander art to signage in local Aboriginal or Torres Strait Islander language, as part of the creation of culturally safe and respectful services.

Recommendation 9:

In other systems, including the human services system, ANROWS research has supported the recruitment and retention of Aboriginal and Torres Strait Islander staff, including specific Aboriginal liaison officers, which may also work for the New South Wales Police Force to reduce barriers to accessing justice.

Strengthen police responses to understand the dynamics of LGBTQ relationships

The research report, [*Developing LGBTQ programs for perpetrators and victims/survivors of domestic and family violence*](#), addressed how we can interrogate the notion of the “heterosexual face” of DFV and intimate partner violence (IPV) and develop our understanding of DFV and intimate partner violence (IPV) in lesbian, gay, bisexual, transgender and/or queer (LGBTQ) relationships.

The report found that there are significant barriers for LGBTQ people accessing mainstream services such as police. These barriers need to be addressed by a two-step approach of trust-building with community members and developing inclusivity in mainstream services.

Recommendation 10:

Strengthen police responses to LGBTQ DFV/IPV via training on the dynamics of DFV/IPV in LGBTQ relationships.

Police responses need to consider the impact of COVID-19 on intimate partner violence (IPV)

Recently published ANROWS research, [*Intimate partner violence during the COVID-19 pandemic: A survey of women in Australia*](#), indicated that matters being referred to IPV services are increasingly complex, and victims and survivors are experiencing increased barriers to reporting IPV and seeking support. The study provides the most comprehensive survey of women’s experiences of IPV during the first 12 months of the COVID-19 pandemic in Australia.

The research highlighted that rather than experiencing isolated and discrete forms of IPV, many women were experiencing patterns of ongoing violence and abuse in the context of coercive control, which have been shown to have a range of negative impacts that will extend beyond the pandemic period (Boxall & Morgan, 2021). The research also demonstrated the prevalence of technology-facilitated abuse (TFA) which supports the need to assist women to protect themselves in online environments (Boxall & Morgan, 2021). This was also reflected in other recently published ANROWS research, [*Technology-facilitated abuse: A survey of support services stakeholders*](#), in which support service workers identified significant obstacles to helping clients who are experiencing TFA, including TFA not being taken seriously by police and courts. This may be improved by resourcing police training around the implementation of the *Online Safety Act 2021* (Cth).

Recommendation 11:

Police responses need to take into account that the support needs of many women who experience IPV during the pandemic (and more generally) are likely to be complex, with barriers to help-seeking.

Recommendation 12:

Funding and practice design for police can focus on online responses including “debugging” of devices to remove monitoring software.

Recommendation 13:

Resource police training on responding to technology-facilitated abuse to facilitate the smooth implementation of the *Online Safety Act 2021* (Cth).

Upcoming research on compliance with parenting orders

ANROWS will be publishing research on [compliance with and enforcement of family law parenting orders](#) in 2022. The project, led by researchers at the Australian Institute of Family Studies, will examine the prevalence of compliance with parenting orders and the operation of the enforcement regime which may have implications for police responding to DFV where it intersects with family court proceedings.

ANROWS again thanks the Audit Office of New South Wales for the opportunity to contribute to the audit into the police response to domestic and family violence.

We would be very pleased to assist the Audit Office further, as required.

Yours sincerely



Padma Raman PSM
Chief Executive Officer

29 October 2021

References

- Bevis, M., Atkinson, J., McCarthy, L., & Sweet, M. (2020). [*Kungas' trauma experiences and effects on behaviour in Central Australia*](#) (Research report, 03/2020). ANROWS.
- Blagg, H., Tulich, T., Hovane, V., Raye, D., Worrigal, T., & May, S. (2020). [*Understanding the role of Law and Culture in Aboriginal and Torres Strait Islander communities in responding to and preventing family violence*](#) (Research report, 19/2020). ANROWS.
- Boxall, H., & Morgan, A. (2021). [*Intimate partner violence during the COVID-19 pandemic: A survey of women in Australia*](#) (Research report, 03/2021). ANROWS.
- Flynn, A., Powell, A., & Hindes, S. (2021). [*Technology-facilitated abuse: A survey of support services stakeholders*](#) (Research report, 02/2021). ANROWS.
- Gray, R., Walker, T., Hamer, J., Broady, T., Kean, J., Ling, J., & Bear, B. (2020). [*Developing LGBTQ programs for perpetrators and victims/survivors of domestic and family violence*](#) (Research report, 10/2020). ANROWS.
- Langton, M., Smith, K., Eastman, T., O'Neill, L., Cheesman, E., & Rose, M. (2020). [*Improving family violence legal and support services for Aboriginal and Torres Strait Islander women*](#) (Research report, 25/2020). ANROWS.
- Langton, M., Smith, K., Eastman, T., O'Neill, L., Cheesman, E., & Rose, M. (2020b). [*Family violence policies, legislation and services: Improving access and suitability for Aboriginal and Torres Strait Islander men*](#) (Research report, 26/2020). ANROWS.
- Nancarrow, H., Thomas, K., Ringland, V., & Modini, T. (2020). [*Accurately identifying the "person most in need of protection" in domestic and family violence law*](#) (Research report, 23/2020). ANROWS.