

Executive summary

The inquiry into domestic violence trends and issues in NSW was referred to the Standing Committee on Social Issues by the Hon Pru Goward MP, Minister for Family and Community Services and Minister for Women, on 18 June 2011.

During the inquiry the Committee received 80 submissions and held six public and one *in camera* hearing. We conducted site visits to two local courts and to Forbes in Central West NSW, where we held briefings with a range of police, legal, health and community sector stakeholders. We also visited Victoria to meet with various representatives of its highly regarded system for responding to domestic violence. The Committee's evidence gathering culminated in an innovative and highly successful roundtable discussion with 19 key inquiry stakeholders, in order to gather considered feedback on possible recommendations for the inquiry.

We warmly express our appreciation to all those who contributed to the inquiry, whose views have been vitally important to our findings and recommendations.

Throughout this report, the Committee, like many stakeholders, uses the term 'domestic violence' to refer to both violence between intimate partners and between other family members. We use the term 'victim' to refer to the person subject to violence, 'perpetrator' for the person committing the act of violence, and 'offender' for a person found guilty of a domestic violence offence.

Important recent developments

The establishment of the inquiry was shortly followed by significant developments in domestic violence policy in New South Wales. The first was the announcement of an independent review of the whole of government domestic violence policy, the *NSW Domestic and Family Violence Action Plan*, to examine whether it remains current and effective.

Then, in November 2011, the NSW Auditor-General's released a report, *Responding to domestic and family violence*, based on a performance audit of the key government agencies responsible for prevention, early intervention and tertiary responses to domestic violence: the Department of Family and Community Services (FACS), the Department of Attorney General and Justice (DAGJ), the NSW Police Force and the NSW Ministry of Health. The Auditor-General's report was highly critical of the present system. Its findings included that organisations do not have a strategy for working together across the State in response to domestic violence, that they lack a shared understanding of each others' roles, and that there has been a lack of leadership to drive change for some time. Accordingly, the Auditor-General made a series of detailed recommendations, including that the key agencies agree, in consultation with non government organisations, on a framework for how to respond to domestic violence.

Subsequently, the NSW Government advised that it is preparing the NSW Domestic and Family Violence Framework (hereafter DFV Framework) for release in early 2013. The DFV Framework is intended to deliver an integrated, whole of government response to domestic violence, focused on primary prevention, offender accountability and long term reduction of domestic and family violence. Key components of the Framework will be:

- a robust governance structure

- effective sector consultation
- a prevention plan
- a system performance accountability framework
- clearly articulated service system roles and responsibilities
- referral pathways
- information exchange protocols
- minimum practice standards (including justice agencies)
- early identification of domestic and family violence
- risk assessment and management tools
- a strategy for implementing the operational change required to deliver the framework within agencies.

Specific government commitments in respect of domestic violence that were noted during the course of the inquiry include that:

- the DFV Framework will be developed in consultation with the non government sector, including co-design of some elements
- it will be built on an evidence based approach
- it will set a common definition of domestic violence across all agencies and programs, and of prevention and early intervention
- the present mechanism for regional coordination is being reviewed and will inform new governance arrangements
- DAGJ is developing a Domestic Violence Justice Framework to establish performance measurement for the NSW Police Force, Local Courts, Corrective Services and Legal Aid NSW
- Women NSW (formerly the Office for Women's Policy) is reviewing the Domestic and Family Violence Grants Program in order to enhance the quality and longevity of non government programs
- the NSW Police Force is evaluating the Domestic Violence Pro-Active Referral Support Service (DVPASS), with a view to implementing a best practice program in all local area commands.

As a rule, the Committee has not recommended specific actions to which the Government has already committed itself. However, we explicitly support these commitments and underscore the importance of each of them being carried through to completion.

Key findings of our inquiry

Domestic violence is at once a profoundly personal problem, a destructive social issue and a serious crime. As a violation of trust within people's closest relationships with intimate partners and family members, domestic violence has a deeply harmful effect on victims and children. Domestic violence is also a breach of the human right to freedom from gender based violence. It is linked to death, physical

and mental ill health, disability, child abuse and homelessness, and has been estimated to cost the New South Wales economy at least \$4.5 billion each year.

The Committee agrees with the near-consensus among inquiry participants that domestic violence is an inherently gendered crime, with the majority of violence perpetrated on women by men. This is backed up by State, national and international data, and is rightly recognised in policy and legislation. At the same time, there are male victims and female perpetrators, and the Committee considers that while it must recognise the gendered nature of domestic violence, the system for preventing and responding to such violence needs to take account of, and be effective for, all victims and perpetrators.

The Committee very much welcomes the NSW Government's commitment to develop the DFV Framework. Together, the findings of the Auditor-General and the views of a wide range of inquiry participants highlight the very substantial need to pursue comprehensive, systemic reform in relation to domestic violence. We encourage the NSW Government to embrace this opportunity for wholesale improvements under the umbrella of the Framework. An ambitious, well resourced strategy will provide a vision for the comprehensive reforms that are so necessary and drive them forward over time.

The Committee considers that it the imperative for reform is so significant as to justify a further inquiry on our part, to review progress made in respect of our recommendations in two years' time.

In our view, the DFV Framework should be built on three core principles. First and foremost, it should embody the principle that domestic violence in all its forms is completely unacceptable and as a society, we must make an ongoing effort must to eradicate it.

We consider that there needs to be a new focus on victims within the domestic violence system. Evidence before the inquiry has shown us that at present the system works in silos, is patchy and lacks leadership, with outcomes for victims constrained by system requirements. It has also been overly focused on criminal justice interventions at the expense of victim supports. Thus Framework must reflect a second principle that people's needs are paramount, that the system exists to address those needs, and that all agencies and workers have a responsibility to respond to needs in a timely, flexible, holistic and individualised way.

The third principle is a focus on outcomes. All of our recommendations are geared towards enhancing a practical focus on the needs of and outcomes for the individuals affected by domestic violence: most significantly, the outcome of safety and freedom from violence for victims and children, but also accountability and change to non violent behaviour for perpetrators. Every service that plays a role in the domestic violence system, whether a police station, a local court, a refuge, an emergency department or a women's health centre, should be focused on these goals, and on their own part, integrated with that of other services, in achieving those outcomes.

The right leadership and governance arrangements will be critical to the success of the reforms. We recommend that governance of the NSW DFV Framework be led by a Premier's Ministerial Council comprised of each of the ministers responsible for the following portfolios: Women, Family and Community Services, Attorney General, Justice, Police, Health, Housing and Education. The Premier's Ministerial Council would be an oversight committee that ensures that all of the agencies with a role in the Framework act in a coordinated way to fulfil their respective responsibilities. In addition, we call on the Premier to report to Parliament once a year on the progress being made to address domestic violence in New South Wales.

Government must also formalise the role of non government organisations in decision making by allowing them to take their rightful place in a new statewide steering committee for the Framework.

We strongly believe that just as there needs to be a comprehensive new approach to domestic violence in New South Wales, within that approach government must invest in a long term and strategic commitment to prevention and early intervention that includes primary prevention measures. Moreover, there must be a lead agency to drive and coordinate primary prevention strategies across the State. The Committee understands the enormity of this task, but believes that investing in primary prevention is the only way to make a real, long lasting impact on the incidence of domestic violence.

Given the strong evidence that that domestic violence is inherently gendered, we consider that addressing the causes of violence against women must form the basis for any prevention strategy. This should be complemented by targeted prevention strategies focusing on specific population groups.

We call for specific evidence based strategies to address the link between alcohol and domestic violence, predicated on an acknowledgement of a link between the two, and a commitment to fund further research on the role that alcohol plays in the frequency, severity and effects of domestic violence.

The Committee recognises that many of our recommendations will give rise to an increase in demand for tertiary services for victims and children. If victims are more aware of the supports available to them, and if they and their children are more effectively engaged in the system and referred by service providers for additional support, it is critical that there be adequate services to meet their needs. Yet, the Committee heard that many services for victims, and especially for children, are already in very short supply. It is also vital that there be a menu of options available to respond to those various needs.

The Police Force will be key to the success of the new approach to domestic violence that the Committee is envisaging for New South Wales. While the Police Force has achieved significant improvements in practices in recent years, further improvements are required in relation to the consistency of responses, responses to breaches, and responses in rural and remote areas. These issues should be addressed via enhancements to leadership, training and quality assurance. In addition, Domestic Violence Liaison Officer (DVLO) positions should be funded on the basis of a policy for allocating DVLO positions across the State.

Greater research, data collection and monitoring will be essential to a better understanding of the trend of increased arrests of women, and appropriate responses to it.

Our inquiry presents an opportunity for the NSW Government to rethink what relationships should and should not be classified as ‘domestic’ in the *Crimes (Domestic and Personal Violence) Act 2007*. The Committee considers that the Act should reflect that domestic violence occurs between people in family or family-like relationships. At the same time, owing to the unique vulnerability of people with disability to abuse, neglect and exploitation, there should be no dilution of existing protections for that group.

The Committee strongly believes that the apprehended domestic violence order (ADVO) system as a whole requires improvement. Ensuring ADVO conditions are workable and realistic and that respondents understand those conditions will fundamentally decrease the likelihood of breaches.

The Committee is not convinced that global positioning system (GPS) technology for people subject to an ADVO, which is not a criminal charge or offence, demonstrates tangible benefit to victims of

domestic violence. Accordingly, we recommend that the NSW Government not pursue at this time the use of GPS bracelets as a method to reduce breaches and improve compliance with ADVOs.

The Committee believes that greater availability of advice for respondents, whether through a lawyer or court support worker, will reduce breaches and improve compliance with ADVOs. We recommend that DAGJ work towards implementing a best practice respondent legal advice and support program across NSW Local Courts.

We consider that court support services should be enhanced in order that every court in New South Wales has the same minimum standard of supports available to victims of domestic violence, including that at least one court support worker and one DVLO should be dedicated to every local court on domestic violence list days.

While the establishment of standalone domestic violence courts is neither feasible nor practical at this time, we see great value in implementing elements of the Domestic Violence Intervention Court Model across the state, and the use of domestic violence lists in all local courts. In addition, we recommend that DAGJ work with local courts to establish safe rooms in all local courts.

New technological and legal capacity is required to permit information sharing between NSW courts and the Family Court, so that magistrates and judges in NSW courts are better able to ensure that family law orders and ADVOs are consistent.

While there is already a range of penalties available for domestic violence offences, we recommend a review of alternative sentencing options for domestic violence offences, for example referral to mediation, support services, treatment programs, counselling, and educational or rehabilitative programs.

We call on the NSW Government to develop effective intervention programs for perpetrators of domestic violence, based on thorough research and systemic trial and evaluation. Funding for perpetrator programs should not be at the expense of victims' services and programs.

Finally, we recommend that as part of the DFV Framework, the NSW Government expand the availability of support services for child perpetrators and their families across the State.

A summary of findings and recommendations in each chapter is set out below.

Chapter 2 – What is domestic violence?

In Chapter 2 we set the scene for this report by defining domestic violence and documenting a number of trends and patterns in such violence in New South Wales. We explore the debate on whether domestic violence is gendered, then document the manifestations that it takes among different vulnerable groups.

Trends

Figures provided by the NSW Bureau of Crime Statistics and Research (BOCSAR) show a stable trend or slight increase in the 10 year average trends in offences associated with domestic violence. The latest published crime statistics show that between January and December 2011 there were 26,808 reported incidents of domestic violence assaults in New South Wales. The number of recorded incidents of

domestic violence related assault remained stable between 2007 and 2011, continuing the trend seen over the previous 10 years.

Gender and domestic violence

The Committee recognises that some women perpetrate domestic violence and that some men are victims, and also that male victims have been much less visible and able to access supports than should be the case. We consider that the system for preventing and responding to domestic violence needs to take account of, and be effective for, all victims and perpetrators. Nevertheless, like a number of inquiry participants, we note that the data on domestic violence, in New South Wales, as well as nationally and internationally, clearly shows that men comprise the significant majority of perpetrators and women the significant majority of victims. Thus, like almost all inquiry participants, we are comfortable with the orthodoxy that domestic violence is, generally speaking, a gendered crime.

Like the Australian and NSW Law Reform Commissions, the Committee considers that legislation and policy should be written in gender neutral terms, but that, at the same time, it is appropriate to make explicit reference to the fact that domestic violence is predominantly perpetrated by men against women.

Chapter 3 – A comprehensive new approach to domestic violence in NSW

In Chapter 3 we examine the need for a comprehensive new approach to domestic violence across all relevant programs and services in this State.

The Committee very much welcomes the NSW Government's commitment to develop the DFV Framework, recognising it as an opportunity to deliver fundamental improvements to the way that domestic violence is dealt with in New South Wales. We strongly encourage the Government to embrace an active, comprehensive approach to preventing and responding to domestic violence under the umbrella of the Framework.

Similarly, we strongly encourage our parliamentary colleagues to adopt a cross-party commitment to comprehensive reform of the domestic violence system, noting how vital such a commitment has been to the longevity and success of reforms in Victoria.

We are heartened by the list of components identified in the consultancy tender document for the Framework, which are wide-ranging and ambitious. They reflect the many systemic issues identified by the Auditor-General and by inquiry participants. They also point to the very substantial work to be done to rebuild the system - both its individual components and the system as a whole - so that it operates in an integrated, coordinated way that delivers positive outcomes for victims, children and perpetrators.

Given the wholesale changes that are required within the system, as well as the inherently incremental nature of prevention, the Committee considers that a long-term approach will be essential as will be cross-party commitment on the part of the Parliament, as well as adequate resources to achieve the Framework's objectives. In the interim, it is critical that the timeframes for the development of the DFV Framework and the implementation of the Audit Office's recommendations be met. We endorse those recommendations and strongly encourage the NSW Government in the task of meeting its commitments in line with current timeframes.

The Committee considers that it the imperative for reform is so significant as to justify a further inquiry on our part, to review progress made in respect of our recommendations in two years' time.

In the Committee's view, the substantial reforms that are required will require additional resources. While many improvements can be delivered within agencies' existing budgets, others will necessarily require additional funds, most especially primary prevention, discussed in Chapter 5, certain elements identified in Chapter 4 such as case management, and services for victims, discussed in Chapter 6. Again, we strongly encourage the NSW Government to prioritise allocations to these strategies in the knowledge that they will address the recommendations of the Auditor-General and this Committee, and in the longer term, will reduce the costs to government and the community.

Chapter 4 – Elements of the forthcoming NSW Domestic and Family Violence Framework

Chapter 4 explores the various elements that we believe should comprise the forthcoming Framework.

A common definition

The Committee considers that the present plethora of definitions of domestic violence operating in New South Wales is very problematic. We strongly encourage the NSW Government in its commitment to develop a common definition of domestic violence under the Framework. We recommend that it target violence between intimate partners and family members, and be inclusive of victims and perpetrators of both genders. At the same time, we believe that because of their particular vulnerability, the present protections for people with disability should not be diluted. We make recommendations on this in Chapter 9.

Core policy principles

The Committee considers that the present system for responding to domestic violence impedes a focus on victims and their needs. It is crucial that this fundamental problem be addressed if the new DFV Framework is to bring about systemic change. The core principles underpinning the new Framework must be that peoples' needs are paramount, that the system exists to address those needs, and that all agencies and workers have a responsibility to respond to needs in a timely, flexible, holistic and individualised way.

Similarly, there needs to be a focus on outcomes for victims, children and perpetrators across all government and non government organisations responding to domestic violence. The primary outcome for victims and children should be safety and freedom from violence, with the ultimately goal being their long term wellbeing. For perpetrators, the outcome should be accountability for violence, and ultimately, change to non-violent behaviour. While DAGJ will implement an explicit outcomes focus for criminal justice agencies through its Domestic Violence Justice Framework, the Committee considers that the same approach is imperative for the NSW DFV Framework as a whole.

First and foremost, however, the Committee considers that the DFV Framework should be built on the principle that domestic violence in all its forms is completely unacceptable and as a society, an ongoing effort must be made to eradicate its occurrence.

An evidence based approach

Like many participants, we see significant value in an explicit evidence based approach being built into the Framework and we are pleased that FACS has indicated this will occur. We readily accept that this will necessarily require additional investment by government, and suggest that such investment is prudent in that it will help to ensure that services, both government and non government, are effective into the future.

We feel strongly that much better data collection and reporting is required, to facilitate a more rigorous and evidence based approach to domestic violence. Accordingly we recommend that BOCSAR be provided with the necessary additional resources to coordinate across government agencies the collection and analysis of data and information associated with domestic violence, and that BOCSAR publish an annual report on domestic violence trends in New South Wales.

In addition, we consider that the DFV Framework must grapple with the issue of short term, grant based funds for projects and pilots versus longer term funding for programs that are demonstrated to be effective. There needs to be a mechanism whereby successful innovations are retained and where appropriate, expanded. We welcome the review of the Domestic Violence Grants Program to this end, and further recommend that Women NSW host a yearly forum to enable government and non government organisations to present and share their program evaluation findings.

Coordination and integration

We make a number of recommendations in order to improve coordination and integration across the entire domestic violence system. Like others, the Committee recognises that the right governance arrangements will be critical to the success of the Framework by providing the mechanisms through which leadership, integration and mutual accountability for bringing about change will be achieved. We see real value in the Victorian governance model that formalises the collective leadership of each of the relevant ministers and of senior bureaucrats, as well as the active participation of non government organisations in decision-making.

The Committee is very concerned that if leadership and responsibility for domestic violence policy remains with the Women's portfolio, it will not be given the prominence it requires within the broader context of the NSW Government. We believe that one of the reasons why we have fallen behind other states in this policy area is that the portfolio of Women has not historically been a senior Cabinet role. Consequently it has lacked the leadership and imprimatur to coordinate and improve the actions of other government agencies, such that domestic violence has remained marginalised. While Women NSW in its various iterations has been very committed to this issue, it has lacked the resources, status and operational accountability to lead other government agencies effectively.

Domestic violence is a very widespread and profoundly destructive problem, for individuals, families and the broader community of New South Wales. It is a crime that consumes many government resources across numerous government agencies. Substantial reform is required within each of those agencies, and within the system as a whole, in order to better prevent and address it. For these reasons, we strongly believe that leadership in this policy area must rest with an agency and minister with the authority to bring about the change that is so necessary. This policy area deserves no less than the leadership of the Premier.

We thus recommend that governance of the NSW DFV Framework be led by a Premier's Ministerial Council comprised of each of the ministers responsible for the following portfolios: Women, Family

and Community Services, Attorney General, Justice, Police, Health, Housing and Education. In addition, we call on the Premier to report to Parliament once a year on the progress being made to address domestic violence in New South Wales.

The Premier's Ministerial Council would be an oversight committee that ensures that all of the agencies with a role in the Framework act in a coordinated way to fulfil their respective responsibilities.

It is clear that government needs to actively build its partnership with non government organisations, in recognition of their critical role in addressing domestic violence, and to achieve the goals of integration and coordination. This must occur through consultation as part of the development of the DFV Framework and through the non government sector's representation on a new statewide steering group to drive the Framework's implementation.

We welcome that the current mechanism for regional coordination is being reviewed and that this will feed into decisions about governance under the DFV Framework. Nine Coordinators across the State does not seem sufficient, and participants' reports about ineffectiveness are concerning. In addition, we are not certain as to whether this role best sits within the Police Force. We recommend that the NSW Government, as part of the DFV Framework, determine a new structure for regional coordination that is strategically located and adequately resourced to address service integration.

The Committee recognises that case coordination meetings are a valuable mechanism for local coordination in respect of individual clients and families. Like the Auditor-General and various inquiry participants, we consider that local case coordination meetings should be used more widely, noting that this will be assisted by measures to address information sharing between agencies.

In relation to the sharing of client information between agencies, we acknowledge concern among certain stakeholders about privacy and consent, but at the same time, we are very concerned by the evidence from many others that present provisions significantly impair services' ability to work together, and ultimately, hinder positive outcomes for clients. We understand that that recent recommendations prepared for the approval of the Attorney General, informed by consultation with victims and others, are cautious regarding consent and confidentiality. Like the Auditor-General, we consider that work in this area should proceed as a priority. Accordingly, we recommend that the NSW Government introduce legislative amendments to enable the sharing of information between agencies about individuals in respect of domestic violence, with appropriate privacy protections, and that the amendments be supported by appropriate memoranda of understanding between agencies. At the same time, we consider that it prudent that DAGJ monitor the new provisions for the sharing of information between agencies in terms of any adverse impact on privacy.

The Committee is very pleased that interagency work to develop a shared risk assessment framework is progressing, informed by the evaluation of the Cross Agency Risk Assessment and Management (CARAM) pilot, and that the various government agencies involved are moving forward in agreement. We acknowledge the complexity of this task and note that it will be critical to involve non government agencies in this process. Like a number of participants, we consider that the end product will necessarily be risk assessment and referral tool(s) that are evidence based, flexible to the agency and professional using them, and culturally sensitive.

In light of the strong evidence flowing from the Domestic Violence Intervention Court Model (DVICM) for the significance of case management for integrated service delivery and positive outcomes for victims, the Committee sees real value in an expansion of case management services so

that victims with complex needs across the State can benefit from them. We acknowledge that this will require additional investment by government.

Service standards

The Committee also sees great merit in DAGJ's current work to develop a performance measurement framework to improve service standards across the NSW Police Force, Local Courts, Corrective Services, and Legal Aid NSW as part of its Domestic Violence Justice Framework. We encourage each of these agencies in this task. The Committee considers it highly desirable that this approach serve as a model for the development of a broader performance standards regime for all government and non government services under the DFV Framework. Again, this must be developed in partnership with the non government sector. The Committee also considers it desirable that there be a single reporting mechanism across agencies and programs within the forthcoming DFV Framework, in the interests of transparency and accountability.

Barriers to accessing services

We believe that every agency with a role in responding to domestic violence has a responsibility to ensure that their services are accessible to those who would benefit from using them. Thus we strongly endorse the Auditor-General's recommendation that the forthcoming DFV Framework establish mechanisms to continually address both barriers to reporting, and to accessing support. Information enabling people to recognise their experience as domestic violence and to seek out support services is fundamentally important, and must respond to the various groups in our community that are especially vulnerable or experience practical barriers to access. The Government should examine how it can improve victims' and children's understanding of the range of services available to assist them in respect of domestic violence.

Chapter 5 – Prevention and early intervention

In Chapter 5 we build on the previous two chapters by considering the systems for prevention and early intervention that we believe should be established in New South Wales, with a particular focus on primary prevention programs aimed at preventing violence against women.

Terminology

The Committee notes and endorses FACS' commitment to develop common definitions for prevention and early intervention as part of the DFV Framework. This will enable all services to take a more integrated approach, and to plan, fund and administer their strategies more effectively.

Causes of domestic violence

The causes of domestic violence are very complex and, to a large extent systemic, reflecting deeply held views in our society. There are also a number of factors that greatly exacerbate the likelihood, frequency or severity of domestic violence. Given our firm belief that domestic violence is inherently gendered, we consider that addressing the causes of violence against women must form the basis for any prevention strategy. A multilevel approach is needed. A challenge for the forthcoming DFV Framework will be to identify and harness existing primary prevention programs and strategies in relation to other social problems that potentially have an effect on domestic violence.

Within this multilevel approach, the Committee calls for specific evidence based strategies to address the link between alcohol and domestic violence. These must be predicated on an acknowledgement by government of the link between the two, and matched with a commitment to fund further research on the role that alcohol plays in the frequency, severity and effects of domestic violence

A prevention strategy

Until now, the focus on domestic violence policy and service delivery in New South Wales has been on criminal justice responses and tertiary services. By contrast, in Victoria, the approach has focused on prevention as well as on enhanced delivery of early intervention, criminal justice and tertiary services. We strongly believe that within the comprehensive new approach to domestic violence in New South Wales, government must invest in a long term and strategic approach to prevention and early intervention that includes primary prevention measures. Moreover, there must be a leader to drive and coordinate primary prevention strategies across the State. The Committee understands the enormity of this task, but believes that investing in primary prevention is the only way to make a real, long lasting impact on the incidence of domestic violence.

Based on our position that domestic violence is inherently gendered, and that a range of population groups are victims, we also recommend that the NSW Government make violence against women the focus of universal, primary prevention activities under the NSW Domestic and Family Violence Framework. These are to be complemented by targeted prevention strategies focusing on specific population groups.

Early intervention

Just as there has been insufficient investment to date on prevention, there has also been inadequate focus on early intervention. We acknowledge that the government is increasingly recognising the connection between early intervention and integrated service delivery, so that services identify the range of client needs and refer them to other services in a timely way. We welcome FACS' advice that Women NSW is seeking to enhance the quality and longevity of early intervention programs under the Domestic and Family Violence Grants Program, that it is looking to support integration in early intervention via minimum standards, and that it will examine ways to increase the capacity of non government organisations to deliver high quality early intervention. While we consider that there will be better ways of using existing resources to each of these ends, there may also be a need for greater investment in early intervention. We urge the government to develop a specific plan for early intervention services.

Evidence and evaluation

The Committee recognises that there is a small evidence base about violence against women prevention strategies. However, evaluations are available on the effectiveness of these activities which encourage the development of further prevention-based initiatives. We consider that there is sufficient evidence to justify a comprehensive approach to prevention in respect of domestic violence. The challenge for present policy, as acknowledged by FACS, is to identify the specific evidence supporting effective strategies and have that inform future work. At the same time, there needs to be commitment to, and investment in, the continued development of robust evidence to inform future policy and program design.

Aboriginal communities

The Committee recognises the imperative to develop specific prevention and intervention strategies to tackle the unique and complex factors contributing to domestic violence in Aboriginal communities, and is persuaded by the discussion at the roundtable that a specific NSW Aboriginal Family Violence Strategy, to be developed in consultation with the Aboriginal community, is warranted as part of the DFV Framework.

Screening

The Committee agrees with stakeholders that the NSW Health routine screening program is an excellent example of an effective early intervention program. Its evaluation showed promising results, both for victims and service providers. We note that there are a number of recommendations arising from the evaluation that have not been implemented, and urge NSW Health to implement them. We appreciate that inquiry participants would like the program to be expanded to variously include general practitioners, emergency departments and men. However, we note NSW Health's comments about workforce capability and agree with it and clinicians that it may not be feasible to introduce routine screening across all emergency departments in NSW. Nevertheless, we encourage medical staff in emergency departments to continue to endeavour to identify domestic violence victims and offer assistance where possible, and suggest that NSW Health to further consider this in their review of the *Policy and Procedures for Identifying and Responding to Domestic Violence*.

We welcome the moves by NSW Health to ensure services act by referring identified victims to relevant support services, in keeping with moves towards integrated service delivery. The biggest challenge for NSW Health and the Government as a whole is to integrate services such that where a victim is identified they will be referred in a timely way to the appropriate service. The Committee reiterates the point it has made in previous chapters of this report – that without programs and resources to refer victims to, the effectiveness of the screening tool is diminished.

Chapter 6 – Services for victims and children

In Chapter 6 we consider a range of issues raised by participants in relation to services for victims, focusing on accommodation and therapeutic interventions such as counselling.

Planning for increased demand

The Committee believes it absolutely essential that the government assume and actively plan for an increase in demand for services arising from the reforms that will occur under the NSW DFV Framework. Continued improvements in police practices will increase victims' faith in the system's ability to support them, and build their rates of reporting. More integrated service delivery will inevitably increase the number of referrals made to accommodation, counselling and other services. While we very much welcome a focus on primary prevention to stop violence from occurring in the first place, we consider that this will inevitably be a long term, incremental process. We believe that the issue of increased demand as a result of the Framework would be well considered, at the earliest opportunity, by the Domestic and Family Violence Senior Executive Steering Committee and the new statewide steering group for the DFV Framework that we recommend be established as a priority. We further consider that the collection of data on demand for services will be of critical importance here and we urge the Government to make such data collection a priority.

Accommodation

The Committee also recommends that the NSW Government develop a plan for new investment in emergency accommodation for victims of domestic violence and their children, informed by the current mapping of domestic violence services across the State. We note how critical safe, secure accommodation is at the point of crisis, when a victim is fleeing violence. We are very troubled by the statistic that more than one in two women and children are turned away from refuges, and while we welcome Housing NSW's initiatives to improve the fragmentation of the homelessness system, we are sceptical that this alone will significantly improve access to services. The Committee considers that while it is important that some groups' access to women's refuges improve, for others, most especially male victims, it is more appropriate that alternative emergency accommodation be provided via brokerage services administered by a relevant support service.

The Committee specifically supports greater investment in brokerage funds, which naturally accompany case management – and which we recommend in Chapter 4 be substantially expanded – that facilitates individualised and timely responses to victims' and children's needs.

The rate of domestic violence affecting Aboriginal women is more than six times higher than for non-Aboriginal women. The Committee considers that safe houses provide a very important avenue of safety in isolated communities, where the police are often a considerable distance – and length of time – away. We welcome the progress that has been made under the Orana Far West Safe Houses Project, but note that this will not assist the Aboriginal communities highlighted to us that lie outside its catchment area. We suggest that it would be valuable for the NSW Government to consider, in partnership with the Australian Government, Aboriginal organisations and other stakeholders, where other safe houses are needed.

The Committee is very pleased that Housing NSW has responded to feedback that the Start Safely subsidy period of 12 months is insufficient, and is deterring people from applying. We have no further details of the period to which it will be extended, or when this change will take effect. At the present time it is not reflected on the Department's website, however, we recommend it be extended to two years, consistent with feedback from inquiry stakeholders.

In relation to social housing, the Committee considers that Housing NSW has a responsibility to ensure that staff in all Housing Officers are applying policies appropriately and consistently. We urge it to examine the need for staff training in relation to domestic violence.

Noting the successful evaluation of the Staying Home Leaving Violence program, the Committee sees that its recent expansion to a total of 23 sites is a very valuable step, and considers that further effort should be given to expanding the program in a strategic way over the coming years, including by revisiting the funding model for each site. While the Committee, like inquiry participants, recognises that this program will only be appropriate for some victims, we see it as an excellent example of a non-traditional, victim-focused response that exemplifies the broader shift that must occur across the entire domestic violence system. We also note its explicit focus on integrated service delivery.

Therapeutic interventions

Participants highlighted the profound impact that domestic violence has on the mental health of victims and children. The apparent need for more counselling services for victims and especially for children was well substantiated during the inquiry. We accept that victims will access counselling via a number of avenues: the public health system; women's health centres; and private practitioners. But we

are troubled by the findings of the NSW Health review of counselling services that such services in the public system are very scant and crisis focused, and that there are inequities of access to any counselling in areas of high need, in rural areas, and for Aboriginal and CALD populations. We also note that while NSW Health has highlighted the complementary role of women's health centres in providing counselling, participants from those centres have themselves argued for more counselling services. While we believe more counselling should be funded and made available throughout the health system generally, as a priority we consider that the documented inequities should be addressed, as should the need for services assisting children.

More generally, we consider that there should be a greater focus within each local health district on responses to domestic violence, and suggest that this be achieved through the mechanism of performance measurement. This will not only help to improve the provision of counselling services, but also, as discussed in Chapter 5, will assist in achieving the more integrated responses to victims identified through routine screening.

We further recommend that the DAGJ publicise the Approved Counselling Scheme among the full range of government and non government domestic violence services so that more victims are made aware of the Scheme.

Male victims

The Committee acknowledges again that there are male victims of domestic violence. While men are less likely to be victims, the experience of those that are is equally as bad as that of other victims. We recognise the gap in services for male victims and encourage the government to examine how services can most appropriately be provided to male victims of domestic violence, including via brokerage funds. We make recommendations in Chapters 2, 4, 5 and 6 that we expect will achieve better recognition and responses to male victims. We also note our strong endorsement in Chapter 4 of the Auditor-General's recommendation that the forthcoming DFV Framework establish mechanisms to continually address both barriers to reporting and barriers to accessing supports. Once again, we see male victims as an important group here, and actively encourage the government in this task.

Tension between domestic violence and child protection interventions

The Committee was concerned by reports of a significant mismatch between Community Services and domestic violence services' approach to victims and children. While we understand the historical evolution of this tension, and the statutory responsibilities of Community Services, we are concerned that Community Services' approach may not be helpful to either group in the short and longer term. We recommend that Women NSW and Community Services develop a joint plan to address this tension at the local, regional and State levels, and to promote practices that harness victims' and children's strengths in order to move on from violence and build the relationship between them.

Chapter 7 – Policing

In Chapter 7 we explore participants' views on potential improvements to the policing of domestic violence.

Quality of police responses

It is clear to the Committee from the views of the NSW Ombudsman, as well as those of a range of inquiry participants, that policing practices have improved significantly in recent years, assisted by active commitment on the part of the NSW Police Force, as well as by legislative reform and policy changes. Notwithstanding these improvements, inquiry participants voiced concerns about some police responses in three key areas: the consistency of responses; responses to breaches; and responses in rural and remote areas. The Police Force has acknowledged that there are instances where poor police practices occur, but emphasised the efforts being made to address them.

The Committee agrees that wherever victims reside, they have a right to expect a high standard of service in accordance with the Police Force's Code of Practice for domestic and family violence. Similarly, we consider that where they exist, poor practices detract from the high standards of many police, to which the Police Force itself is very committed. Poor practices also undermine victims' trust in the system, detract from perpetrators' accountability, and contribute to the underreporting of domestic violence. While we acknowledge the many challenges that accompany domestic violence work, and the often understandable frustration that individual officers bear, we believe that it is vitally important that the quality of police responses continues to improve. In relation to rural areas, we are hopeful that the reforms to flow from the recent Parsons Review will address many of the structural resourcing issues we have observed. At the same time, we consider that to address the issues of quality that inquiry participants raised with us, the NSW Police Force needs to act in three areas: leadership, accountability and quality assurance, and training.

Leadership

While there is evidence of very effective leadership within the Police Force with regard to domestic violence, the Committee considers that further effort to strengthen leadership throughout police ranks is highly desirable. The Committee sees merit in the views of senior police from Victoria about the crucial role that leadership from the highest ranks has played in establishing, communicating and maintaining the mandate of responding effectively to domestic violence throughout every level of the organisation, from the Commissioner down. We also see merit in the views of numerous witnesses that leadership at the local area command level has a critical impact on the professionalism and work of officers at the coalface.

Accountability and quality assurance

In the Committee's view, the advent of DAGJ's Domestic Violence Justice Framework provides an ideal opportunity to evaluate and enhance the leadership structure of the NSW Police Force with regard to domestic violence, as a means of improving consistency of standards across New South Wales, through the mechanism of accountability. To this end, the Committee considers that the NSW Police Force should, as a priority, develop and implement a strategy to enhance leadership in respect of domestic violence, to ensure that police responses to domestic violence are of consistently high standard across the State.

The Committee has no detail at this stage on how the performance management approach within the Domestic Violence Justice Framework will be operationalised within the NSW Police Force. However, we believe it has significant potential to improve the quality and consistency of policing practices. We recommend that the NSW Police Force improve quality assurance of police investigations of domestic violence matters, to ensure broader consistency with the Domestic and Family Violence Code of

Practice and Standard Operating Procedures. This work should focus on improving the understanding and accountability of those who supervise others, in particular general duties first responders.

Training

There was a consensus among inquiry participants, including representatives of the NSW Police Force, on the desirability of greater access to training among general duties officers, including among those in rural and remote areas. We recommend that this be addressed. We see great value in making the two-day training course more widely available to general duties officers and others. It may well be that there are many officers whose practices are not seen as poor, who would nevertheless benefit from the course, including those with a special interest in the area. In light of the significant logistical difficulties around releasing general duties staff from rural and remote stations, as well as apparent need for country police to access training, the Committee considers that specific thought needs to be given to how rural and remote police will be supported to attend. If this is not addressed it is very unlikely that rural officers will be released by their commanders to undertake the training.

The Committee believes that additional training for supervising officers will be very important to improving general duties officers' responses to domestic violence. We consider it unacceptable that some supervisors have had no training in domestic violence, which surely impairs their ability to informally train, supervise and provide quality assurance for general duties staff in this demanding aspect of policing. Also, training for supervisors will be especially warranted in light of the proposed role for Sergeants in approving police issued ADVOs, as discussed Chapter 9. We consider that it would be valuable for the Education and Training Command to build on the Investigation of Domestic and Family Violence Workshop to develop a course specifically for supervisors that addresses aspects of supervision and compliance monitoring, as well as of domestic violence itself. Completion of this course should be compulsory to progress through promotional ranks.

Domestic Violence Liaison Officers (DVLOs)

There was much discussion about DVLOs during the inquiry. DVLOs play a very important quality assurance role, and they are critical to the effective functioning of the ADVO system through their role in court. The Committee accepts that Commanders necessarily make the decisions about how they staff DVLO positions and utilise those staff on a daily basis, as they do with other roles. We also accept that increasing the rank and pay of DVLOs is unfeasible for practical reasons, and so we are not recommending this. At the same time, like many inquiry participants, we believe that there are simply not enough DVLOs to effectively fulfil the role, especially in commands with high rates of domestic violence. In addition, many are stretched thinly in part time positions. There appears to be no formal relationship between the needs of a command in light of its rates of domestic violence and the number and full time/part time status of DVLOs, especially in rural commands.

The Committee believes that in order to boost compliance with operational procedures and thus the quality of policing of domestic violence matters, to adequately support victims and to ensure appropriate integration with other services, DVLO positions should be funded on the basis of a policy developed and published by the Minister for Police for allocating DVLO positions across each local area command. The needs of local area commands/districts and patrols with higher rates of domestic violence, greater Aboriginal or other disadvantaged populations and greater geographical coverage, should have these features acknowledged a new allocation model.

The Committee also considers that Local Area Commanders should make it a priority to fill DVLO positions when their incumbent moves on or takes leave, so that their important responsibilities

continue to be fulfilled, and ensure that a back-up officer is available to step in as required. In addition, as far as possible the use of DVLOs for other duties should be avoided.

Domestic Violence Pro-Active Support Services (DVPASS) and the ‘Yellow Card’

The Committee is very pleased to hear that an evaluation of the DVPASS (which includes the ‘Yellow Card’ used as a consent mechanism for referral of victims to other services) will take place, with a view to implementing a best practice program in all local area command. We consider it vitally important that victims be referred in a timely way to the support services that will assist them to obtain an appropriately tailored ADVO, provide them with crisis and ongoing support, and help to address their other needs. To this end, we also recommend that the NSW Police Force draws on the strengths of Victoria’s L17 form to develop and implement a simple electronic risk assessment and referral tool in relation to domestic violence incidents.

Chapter 8 – The increase in police proceedings against women

In keeping with a specific item in our terms of reference, in Chapter 8 we examine participants’ views on the documented increase in police proceedings against women for domestic violence related offences.

The increase in police proceedings against women was one of the more controversial aspects of the Committee’s inquiry, on which views tended to be polarised. While some inquiry participants saw the increase as a welcome reflection of true patterns of male and female offending, the majority who addressed the issue voiced concern about it and many of that group attributed the trend to policing policy and practices. There was, however, a consensus that there is no reliable evidence to elucidate the real cause for the trend, pointing to the need for quality research to this end.

We consider that skilled, thorough investigations of allegations of domestic violence will benefit all victims, whether they are male or female, as they are the gateway to both justice and protection. Like many inquiry participants we believe it imperative that a greater understanding of this issue is gained through research. We encourage the Police Force and its research partners to publish the research they are undertaking on police investigations of the primary aggressor, and urge that the Police Force use the research to inform future decisions regarding legislation, policy, operating procedures, practice, supervision and training. We recommend better data collection and availability on this issue, and that the Police Force monitor this trend.

Chapter 9 – Apprehended violence orders

In Chapter 9 we examine the function and effectiveness of ADVOs, the primary legal mechanism through which individuals are protected from domestic violence. With tens of thousands of ADVOs issued by local courts every year, it is critical that this system is working effectively to protect victims.

The apprehended violence order system

Some concern was expressed during the inquiry that the apprehended violence order (AVO) system, including both ADVOs and apprehended personal violence orders for non-domestic relationships, is abused by frivolous and vexatious litigants. The Committee is of the view that AVOs remain an

important tool in the struggle against domestic violence in New South Wales, although there is room for improvement.

Definition of ‘domestic relationship’ in the *Crimes (Domestic and Personal Violence) Act 2007*

Our inquiry presents an opportunity for the NSW Government to rethink its approach to domestic violence, particularly with regard to what relationships should and should not be classified as ‘domestic’ in the *Crimes (Domestic and Personal Violence) Act 2007*. The Committee understands the Police’s Force’s view that the breadth of the current definition creates challenges and sometimes forces police to make applications for ADVOs in inappropriate circumstances. In addition, it excludes some alleged perpetrators from services and options from which they and their families may benefit. At the same time, like other jurisdictions, the Committee recognises the unique vulnerability of people with disability to abuse, neglect and exploitation, and considers it important that there be no dilution of existing protections for them. We do not consider, however, that the definition should capture relationships such as those between flatmates, people living in university dormitories and people who are not in domestic or family like relationships.

The Committee notes the recommendations of the Australian and NSW Law Reform Commissions’ report, *Family Violence*, and reflected in Victorian legislation, which take individual contexts into account in a way that is not presently possible under the NSW law. In the Committee’s view, a similar strategy should be adopted here. That strategy should acknowledge that, at its core, domestic violence occurs between people in family or family-like relationships. A new definition should make the presumption that relatives and people in intimate relationships are in domestic relationships.

Some relationships between people living in the same residential facility and people reliant on care will be domestic or family-like relationships and others will not. In light of the various forms of modern families and living arrangements, the legislation should permit some discretion for decision-makers in determining this.

Third party applications for apprehended domestic violence orders

Our concerns for vulnerable people also play out in relation to third party applications for AVOs. Although concerned individuals or institutions such as the Public Guardian can request that the police make an application for an AVO, this is a cumbersome process and is not working well. The Committee sees value in the approach recommended by the NSW Law Reform Commission that third party applications for AVOs should be available on behalf of people with cognitive impairment, under guardianship orders, and people with certain physical disabilities. This would work as a mechanism to ensure outcomes of safety and freedom from violence for victims.

Issuing apprehended violence orders

The Committee agrees with Judge Graeme Henson, the Chief Magistrate of New South Wales, that higher courts should not only have the jurisdiction but also the obligation to amend, revoke and finalise AVOs at the same time as determining related criminal matters. This should improve efficiencies and avoid a situation where the victim will need to attend the Local Court again, after the District Court has dealt with the matter, to give substantially the same evidence.

We recognise that the current system of court issued AVOs can result in delay for victims in need of protection where ADVO applications are made outside business hours and consider that this should be addressed. Other states permit a police officer of or above the rank of sergeant to issue an interim

protection order, with a limited power to detain an individual for the service of the order. The Committee heard that Victoria has an especially good model, and we see merit in pursuing a similar system in New South Wales. This will ensure the expedited protection of the victim and reduce or eliminate police time spent locating the respondent to serve the order. Again, this accords with our recommendation that the system responding to domestic violence should be focused on the outcomes of safety and freedom from violence for victims and children.

In the Committee's view a limited power for police to issue protection orders must have appropriate checks built into the system. Any such order must be for only the length of time necessary to provide protection before the first possible appearance in court. In addition, these orders should be issued only in limited circumstances: where the respondent is over 18, is not cognitively impaired, and not already the subject of an existing ADVO in relation to the person in need of protection. It is also important to ensure that the issue of an interim order will not conflict with existing family law orders. Police should be provided with a limited power, both in time and circumstance, to detain an individual for the service of an interim order.

The implementation of police issued interim ADVOs will need to be carefully designed to ensure that it works in New South Wales and that any consequential effects can be coped with. It will be necessary to consider practical mechanisms for issuing orders in regional and rural areas.

Mindful of the concern about how a system of police issued ADVOs would work when the respondent is a police officer, we recommend that the NSW Government develop and implement police procedures sufficient to minimise any conflict of interest and maintain transparency and accountability in decision-making. The Committee also recommends that any breach of an ADVO by a police officer be referred immediately to the Office of the Director of Public Prosecutions.

The Committee also heard that it can be difficult to get an ADVO revoked or amended. Our recommendation to permit authorised third parties to apply to the court for the issuance, variance or revocation of ADVOs, in conjunction with our other recommendations pertaining to greater victim support, will alleviate some of the concerns here. In addition, we recommend that DAGJ develop an effective mechanism for permitting emergency applications for the revocation of ADVOs in appropriate circumstances in its review of the *Crimes (Domestic and Personal Violence) Act 2007*.

Apprehended domestic violence order conditions

Numerous participants advised that ADVO conditions are not always workable for the victim or the perpetrator in practice, and that exclusion orders can be especially problematic. In our opinion, ADVO conditions require tailored consideration. Notwithstanding that tens of thousands of these orders go through the court each year, proper attention should be paid to ensuring appropriate conditions are applied to each set of circumstances. Many ADVO conditions that were impracticable in the circumstances could have been avoided had there been greater consultation with the respondent and the person in need of protection.

However, to a great extent it appears that police and magistrates are already doing the best they can to determine the appropriateness of conditions in difficult circumstances. The Committee considers that improved support services for victims, combined with strengthened advocacy for respondents, will go some way to ensuring that more tailored ADVO conditions are implemented, and consequently that fewer breaches will occur.

In relation to having separate ADVOs for children and other persons in a domestic relationship with the respondent, the Committee accepts the evidence it has received that there will be situations where some parties, particularly a child, will require slightly different protection to their parent. This is especially so where family law orders are in place to allow the defendant or respondent to spend time with their child. It is important that the system caters for these distinctions and avoids a situation where family disputes are exacerbated by orders that inadequately cater for the different needs of family members. Accordingly, the Committee recommends that the NSW Attorney General reverse the presumption that children will be on the same order as their protected parent and instead create a presumption that children will be protected by a separate ADVO, unless circumstances clearly show that they have no distinct or separate protection needs.

Chapter 10 – Breaches of apprehended domestic violence orders

Reflecting another specific term of reference, in **Chapter 10** we examine strategies to reduce breaches or contraventions of ADVO conditions, and to improve compliance with ADVOs. Breach of an ADVO is a criminal offence.

Breaches: an overview

Several stakeholders were concerned about a failure of police to prosecute for ‘technical breaches’, where the person has breached their ADVO because of a poorly planned condition. The Committee accepts that technical breaches create real challenges for the enforcement of ADVOs. In our view, they are best prevented by ensuring that ADVOs have appropriately tailored conditions applied to the orders in the first instance.

On the issue of whether consent should be a defence to breach of an ADVO, in our opinion, it is appropriate that the issue of consent should go to mitigation rather than to guilt. The defence of consent could diminish the effect of an ADVO and it is foreseeable that it would be very difficult for police to enforce in any case.

Improving compliance and avoiding breaches

The most common mechanisms suggested by stakeholders to improve compliance with ADVOs were to ensure workable conditions and improve respondents’ and protected persons’ understanding of what it means to breach an ADVO.

The Committee strongly believes that the ADVO system as a whole requires improvement. Ensuring ADVO conditions are workable and realistic and that respondents understand those conditions will fundamentally decrease the likelihood of breaches. The Committee supports the work that has been done to develop a simple set of instructions for respondents and protected persons to include on the back of an ADVO. Acknowledging that work has already begun in this regard, we recommend that the form of words suggested by Women’s Legal Services NSW and developed in conjunction with other stakeholders be included on each ADVO.

We are not convinced that global positioning system (GPS) technology for people subject to an ADVO, which is not a criminal charge or offence, can yet demonstrate tangible and direct benefit to victims of domestic violence. Such devices have technological limitations and risk giving victims a false sense of security. Thus we recommend that the government not pursue the use of GPS bracelets as a method to reduce breaches and improve compliance with ADVOs at the present time.

Understanding apprehended domestic violence order conditions and consequences of breaches

A central criticism of the current ADVO system is that respondents frequently leave court without an adequate understanding of the conditions applicable to them, even when the orders are granted by consent. Where the conditions of an ADVO and the consequences of breaching them are not properly understood, respondents are greater risk of breaching those conditions.

The Committee believes that greater availability of advice for respondents, whether through a lawyer or court support worker, could reduce breaches and improve compliance. Legal Aid's pilot program allocating a duty solicitor for respondents in ADVO proceedings, shows promise in improving respondent understanding of orders, as do other initiatives brought to our attention during the inquiry. We recommend that DAGJ review Legal Aid's ADVO Defendant Pilot Program and consider the approach taken in Victoria with a view to implementing a best practice respondent legal advice and support program across NSW Local Courts.

Chapter 11 – The legal system

In Chapter 11 we consider the principle of access to justice as it relates to domestic violence, then explore stakeholder views on the value of a bench book and improved judicial education, as well as court support services and legal advice for victims.

Access to justice and the court system

During our site visits to two NSW local courts, the Committee observed first-hand the pressures under which local courts operate on domestic violence list days. We commend court staff and magistrates for the work they do in managing a heavy workload. Given the nature and volume of matters that they deal with it is perhaps not surprising that there can be delay in having matters heard. In addition, workload does not always give magistrates a lengthy period to consider each matter, and we recognise the impact that this pace can have on individuals that come before the courts.

Delays caused by adjournments can be just as problematic. Efficiencies are necessary to avoid further delays but they must be balanced against the principles of access to justice. Accordingly we recommend that as part of its Domestic Violence Justice Framework, DAGJ carefully consider and plan for the impact that the Committee's recommendations may have on the workload of local courts.

Judicial education

The Committee does not believe that judicial officers need better training in respect to the law, but rather, that they could benefit from training in how to implement their knowledge of the dynamics of domestic violence to practical effect in the courtroom. Indeed, results of the Judicial Officers' Survey indicated support for this from the judiciary itself. We are encouraged by judicial officers' suggestions about training and tools that might prove useful in this regard. We see value in a rejuvenated approach to judicial education in respect of domestic violence that continues to include as its basis information on the complex dynamics of such violence, including in mainstream and diverse communities. Given the volume of evidence we received about ADVO conditions (discussed in detail in Chapters 9 and 10), we believe the training could also include components to assist magistrates to ensure that ADVO conditions are appropriate for the individuals involved and are properly understood by the respondent.

The Committee endorses the recommendations made by judicial officers themselves and proposes that the Attorney General request that the Judicial Commission look into developing a risk assessment tool and a checklist for magistrates in accordance with those suggested in the 2010 Judicial Officers' Survey. In the meantime, we recommend that the Attorney General request that the Judicial Commission develop an education guideline covering key domestic violence matters so that presenters and facilitators can keep core concepts in mind when developing their program and ensure that education remains relevant and practical.

We note the recommendation of the Law Reform Commissions for a national domestic violence bench book and that this is currently being considered at the national level. In the Committee's view, there is still room for a complementary domestic violence bench book for NSW local courts, containing New South Wales specific considerations.

Court support services for victims

During our visits to local courts we were impressed by the support for victims of domestic violence provided by WDVCAS support workers, who work collaboratively with registry staff, police and the magistrate to the benefit of victims. Both of the courts we visited had safe rooms.

The Strategic Review of the DVICM highlighted that many of these features are also strengths of that model. At present, not all NSW local courts enjoy court support services and facilities such as safe rooms (which we consider in Chapter 13). The Committee would like to see services enhanced in order that every court in New South Wales has the same minimum standard of support services available to victims of domestic violence, including that every local court is serviced by a DVLO and at least one support worker based on the model currently provided by the WDVCAS. We accept that it may take some lateral thinking to achieve this.

We also recommend that DAGJ ensure that the provision of culturally appropriate legal support services, including enhanced support for victims in high risk and vulnerable groups, forms part of the forthcoming NSW Domestic Violence Justice Framework.

Legal services for victims

With respect to legal services for victims, Legal Aid's Domestic Violence Practitioner Scheme for victims making private applications for ADVOs appears to be making a difference. In our view, such a scheme empowers victims to take steps to protect themselves in circumstances where they may be fearful but police have not become involved, and can make court less frightening and more accessible. We are keen to see the results of an evaluation of the Scheme to determine if it is working effectively. Upon a positive evaluation we would recommend the expansion of the program across the State.

Chapter 12 – Specialisation in courts

In Chapter 12 we explore the arguments for and against specialisation in courts in various forms, as well as the feasibility of this approach.

Specialist courts

It is clear to the Committee that the establishment of standalone domestic violence courts is neither feasible nor practical at this time. We also heed stakeholder concerns that the establishment of

standalone courts could have the converse effect to that intended, by limiting access to justice and diluting the seriousness of domestic violence as a crime. Accordingly, we recommend that the NSW Government not establish standalone domestic violence courts at this time. But we do support other forms of specialisation.

The Committee also recommends that DAGJ monitor the outcomes of domestic violence matters in NSW local courts to ensure that the objectives of the DFV Framework are being met.

Domestic Violence Intervention Court Model

The DVICM is the first step towards a comprehensive integrated approach to domestic violence in New South Wales. In the Committee's view it has key strengths that should be built upon and implemented in local courts across the State. We acknowledge that some steps have already been taken in this regard including the issuing of Practice Note 1 of 2012. The Committee notes the benefits of courts that adopt a degree of specialisation, and believes that government can draw upon those benefits by introducing elements of specialisation into the existing New South Wales court system.

While implementing a carbon copy of the DVICM across the entire State may not be feasible, we are optimistic that many of its aspects, including better case management, improved coordination and availability of support services, specialist lists and improved victim participation are all achievable. We recommend that the NSW Government incorporate the successful elements of the DVICM into the NSW DFV Framework.

Specialist lists

The Committee heard that specialist court lists, in which domestic violence matters are heard alongside each other on a particular day, are a simple tool to help court staff and parties determine what matters are to be heard next and what time people need to come to court. Already a number of local courts successfully operate such lists on a specified day each week, fortnight or month as appropriate. Where specialist lists are not in place, it is difficult to coordinate the attendance of WDVCAS workers and DVLOs at court, such that victims may be left without support. On the other hand, there may not always be enough domestic violence matters to warrant a block of time being dedicated just to them.

The Committee respects the prerogative of magistrates to administer their own courts and that the number of domestic violence matters will impact on this. We accept that there are competing priorities in every court, and that as urgent matters arise, they must be dealt with promptly. Rather than negating the value of a dedicated list in every court, instead this highlights the importance of maintaining some flexibility as to how that list might be managed. In order to facilitate better coordination of support services, we recommend that the Attorney General request that the Chief Magistrate ensure that every local court implements a dedicated domestic violence list which runs on a regular basis, the frequency of which should be determined based on the volume of domestic violence matters each court hears.

Again in the interests of coordination, we recommend that DAGJ instruct court services to take steps to coordinate the availability of domestic violence support services in consultation with relevant non government organisations and in accordance with domestic violence lists.

Specialist magistrates

The Committee understands the call for specialisation within the magistracy, however, we accept that it is not feasible to have specialist domestic violence magistrates exclusively dedicated to domestic

violence matters in all local courts. Instead, in our view, it is critical to make certain that magistrates dealing with the gamut of local courts matters, a great bulk of which is domestic violence related, are well-supported to fulfil their role, including through training.

Chapter 13 – Court procedures and family law

Chapter 13 examines court procedures and family law, focusing on specific procedural aspects of domestic violence matters in NSW local courts, and on the challenges that arise from the interplay between family law and State law governing domestic violence and ADVOs.

Requirement for victims to attend court

The Committee is concerned that the court system can be so traumatic for some victims that they are deterred from ever returning. This is compounded for particular groups including Aboriginal people, people from culturally and linguistically diverse communities and people with disability.

While Judge Henson has written to magistrates advising that victims do not have to appear to give evidence at the first mention unless it is a defended hearing, problems persist and magistrates are taking widely differing approaches. While we accept that magistrates have a broad discretion to run their courts as they see fit, the insistence of some magistrates that the victim must be present at the first mention when it is not a defended hearing is both problematic and unreasonable. Accordingly, the Committee recommends that the Attorney General request that the Chief Magistrate consider issuing a practice note directing that magistrates not require this. We also recommend that DAGJ consider whether the legislation should contain a presumption in favour of making an interim order in the absence of the victim where it is a police application for an ADVO.

Victims withdrawing support for apprehended domestic violence orders or for criminal prosecutions

The Committee understands that when a victim retracts their evidence and support for a prosecution or ADVO application this can be frustrating for police, who may have put considerable effort into the case. It is important that police differentiate between annoyances that a case cannot proceed, and frustration with the victims who may be subject to potential coercion from the perpetrator and other pressures including maintaining and supporting their family. In Chapter 7 we recommend that police receive training on the dynamics of family violence, which may assist in this regard.

Vulnerable witnesses: closed circuit television and audio-visual link

It seems to the Committee that the use of CCTV in domestic violence matters is rare, not because it is not needed, but because it is rarely asked for. Indeed, this option is sometimes not pursued even in appropriate circumstances. In the Committee's view there is benefit to be gained from improved training for prosecutors on the availability and use of CCTV. We recommend that DAGJ assess the operation of the current system for permitting victims of domestic violence to give evidence via audio-visual link and closed-circuit television, to determine whether it is working effectively and to increase the availability and use of these provisions by victims.

Police prosecutors

During its site visits to NSW local courts, the Committee was impressed that police prosecutors were across such a volume of individual matters, but we also observed that they were under a great deal of pressure. There appears to be a lack of support to enable prosecutors to prepare effectively. This can leave victims feeling ‘voiceless’ in the very system that purports to protect them. Moreover, in practical terms, where victims are not adequately consulted, supported and engaged in the court process, the chances of their ADVO containing inappropriate or unworkable conditions is greatly increased.

One of the key observations that the Committee made when visiting Sutherland Local Court was that the court’s effectiveness was due in large part to the team environment in which all the relevant people worked. Thus, the prosecutor did her job to a high standard in part because she was so well supported. DVLOs and WDVCS support workers were negotiating appropriate ADVO conditions in the background and informing the prosecutor of the outcomes as court was in session.

To this end, the Committee perceives that our recommendation that at least one support worker and one DVLO should be dedicated to every local court on domestic violence list day will assist prosecutors to do their job well, as will our recommendation that to the extent possible, domestic violence matters are listed together. More fundamentally, our key recommendations for improvements to the coordination and integration of the domestic violence system will be especially important in courts and to supporting prosecutors.

Court infrastructure

The Committee recognises that the availability of appropriate interpreter services is an ongoing challenge. We commend those courts block booking interpreters and making efforts to organise hearing days in a way that will cater for people who speak languages other than English, and encourage other courts to consider this approach. However, we are concerned by reports that police are failing to notify the court that an interpreter is required. This leads to an inevitable adjournment of the matter and undue delay for the victim in having the case finalised.

We heard that safe rooms operate to strengthen the position of victims at court. There, they can feel confident that they will not inadvertently meet the defendant and can talk openly with WDVCS support workers and DVLOs. The Committee considers that the criminal justice response to domestic violence would be greatly enhanced by safe rooms in all local courts. Although we acknowledge the potential infrastructural obstacles to this proposal, we are of the view that a determined effort and creative thinking could lead to a substantial improvement here.

Interplay of NSW local courts with the Family Court of Australia

The interconnection between Commonwealth family law proceedings and domestic violence matters adds further complexity to the State’s response to domestic violence. Although there are some mechanisms in place to promote cooperation between the Commonwealth and state jurisdictions, there is room for substantial improvement.

The Committee heard that one of the most pervasive problems in the current ADVO system is that conditions are being applied to ADVOS that substantively conflict with family law orders made in the Family Court. Where this occurs, the family law order prevails to the extent of the conflict. While police and courts rely on the parties to inform them of any existing family law orders in order to avoid any conflicting conditions, the Committee heard that this system is not working effectively and needs

to be improved. A new approach is needed that permits information sharing between jurisdictions. This would not only reduce the frequency of ‘technical’ breaches of ADVOs but would also ensure that less court time is taken up with applications to amend ADVO conditions after the conflict is realised.

Magistrates and judges in NSW courts should be given the technological and legal capacity to quickly determine in each case whether a party is subject to a current family law order and what the conditions of that order are. This will enable magistrates and judges in NSW courts to amend, vary, discharge or suspend family law orders as appropriate and in this way ensure that family law orders and ADVOs are consistent. In addition, the Committee recommends that training for magistrates include information on determining family law orders pursuant to the jurisdiction conferred on State courts by the *Family Law Act 1975* (Cth). Moreover, the exercise of this jurisdiction in appropriate circumstances should be encouraged.

Chapter 14 – Sentencing

In Chapter 14 the Committee examines, again in accordance with the terms of reference, whether existing penalties for domestic violence are adequate, with a particular focus on breaches of ADVOs.

Sentencing for domestic violence offences

The available penalties for domestic violence offences, including breach of an ADVO, appear to be adequate. The Committee received very little evidence that maximum penalties needed to be increased although there is some concern about the application of those penalties. Judicial discretion in sentencing is one of the hallmarks of our system of justice, enabling judges and magistrates tailor penalties to the individual and the specific instance of offending, taking into account any mitigating or aggravating factors. Nevertheless, concerns regarding sentencing inconsistency were widespread among stakeholders and should not be ignored.

The Committee notes that technical breaches of ADVOs appear to be contributing to an apparent inconsistency in sentencing. In Chapters 9 and 10 we highlight the importance of ensuring that ADVO conditions are appropriate to individual circumstances to avoid technical breaches and improve compliance. In the Committee’s view, better tailoring of ADVOs to individual circumstances will have a consequential effect on the consistency of sentencing. In Chapter 11 we recommend the adoption of a NSW specific domestic violence bench book to provide judges and magistrates with guidance on the unique dynamics of domestic violence including as they might impact upon sentencing decisions.

A wider range of penalties

While there are already a range of penalties available to magistrates and judges in domestic violence matters, on the basis of the evidence before us, we see merit in a review of the range and use of current sentencing options. This should consider the availability of and potential demand for relevant services to administer alternative penalties such as mediation, treatment programs, or rehabilitation.

The Committee agrees that any consideration of mediation in domestic violence matters would need to be approached with extreme caution and requires thoughtful and detailed consideration, with appropriate checks, balances and protections in place, mediation may be valuable for some families. We recommend that the NSW Law Reform Commission consider in its review of the *Crimes (Sentencing Procedure) Act 1999* the feasibility and desirability of alternative and additional sentencing options for

domestic violence offences including referrals to mediation, support services, treatment programs, counselling, educational or rehabilitative programs.

Many of the social challenges faced by defendants are a contributing factor to their offending and the Committee is heartened by the success of Court Referral of Eligible Defendants into Treatment (CREDIT) to date in addressing these challenges and reducing recidivism. The Committee is not sure that it is realistic for the CREDIT program to be rolled out across the entire State, but we see obvious value in versions of such programs to be tailored and made more widely available. The NSW Government should draw lessons from the CREDIT program as well as interstate approaches that can be applied to local courts across New South Wales.

Chapter 15 – Perpetrator programs

In Chapter 15 we investigate perpetrator programs, considered by many as a key method to reduce recidivism and break the cycle of domestic violence.

The Committee agrees with inquiry participants that effective perpetrator programs are vital in order to break the cycle of violence. Accordingly, we are pleased to note that the Corrective Service's Domestic Abuse Program has shown some positive results in terms of reducing the incidence of reoffending. We share the view of many stakeholders that more research needs to be done to both evaluate the extent to which existing perpetrator programs are working and determine more effective approaches, to ensure investment in effective programs.

In line with our position in Chapter 4 that the DFV Framework must take an explicit evidence-based approach to responses to domestic violence, we recommend that the NSW Government make a determined effort to develop effective intervention programs for perpetrators of domestic violence, based on thorough research and systemic trial and evaluation. Particular attention should be paid to gaps in existing programs including for Aboriginal people, high risk offenders, for women and for perpetrators who may not yet have been convicted of an offence. Funding of perpetrator programs should not come at the expense of victims' services or programs.

Chapter 16 – Young offenders

Our final chapter examines a range of issues associated with domestic violence committed by young people. In Chapter 2 we noted participants' reports of a discernable increase in the number of young people being charged with domestic violence offences.

The Children's Court of NSW

The Committee agrees with the Law Reform Commissions' finding that the best interests of children and those who care for them are served by having all their matters dealt with in one court. We thus support the recommendation that the Children's Court be able to determine parenting orders in the same way as local courts already do, that is, where a related matter is already being heard by the court.

Facilitating interventions for child perpetrators: the availability of support services

The Committee heard that there is a shortage of support services for child perpetrators of domestic violence, for example counselling or restorative services. We consider it very important to address

domestic violence as soon as it is first exhibited. A supportive family unit provides a fundamental basis for fostering healthy relationships and the Committee commends the approach that the Children's Court takes to adjourn appropriate cases to allow time for help to be sought. However, it is concerning that the services are limited to a few geographical locations, such that many children miss out. We recommend that as part of the DFV Framework, the NSW Government expand the availability of support services for child perpetrators and their families across the State.

Apprehended domestic violence orders

The Committee sees some merit in the Children's Court proposal that it should be vested with the power to vary or revoke ADVOs on its own motion or upon application by the person in need of protection to avoid 'technical' breaches of ADVOs against young people, but we are concerned that this could leave some families who need protection without it. The Committee has not received enough evidence on this issue to make a determinative recommendation but considers there would be value in its further consideration under DAGJ's review of the *Crimes (Domestic and Personal Violence) Act 2007*.

The Committee accepts that there are real concerns about the extent to which ADVO conditions and the implications of breaching an order are understood by young people, especially where they have a cognitive impairment or mental illness. Indeed it is questionable whether an application for an ADVO is an appropriate course of action in such circumstances. Features of the Children's Court such as the prevalence of legal representation and the training that magistrates undergo ameliorate this concern but do not extinguish it. We have not received enough evidence to reach a conclusion here, but our preliminary view is that the suggestion that legislation should require decision-makers to consider the age and cognitive capacity of the young offender to determine whether the AVO is justified in the circumstances, is a good starting point for appropriate reform.

The Committee notes that a final ADVO can have disastrous consequences for future employment prospects for young people, who are recognised under many aspects of the law as having diminished criminal responsibility in any case. These consequences may not be realised by the young person at the time the order is consented to. We note that the recent passage of the *Child Protection (Working with Children) Act 2012* through Parliament appears to address participants' concerns such that an AVO alone will no longer be enough to trigger an assessment. This subject is receiving general attention as part of the DAGJ review of the *Crimes (Domestic and Personal Violence) Act 2007*.

Sentencing and young people

The Committee commends the Children's Court's philosophy that it is desirable to limit the involvement of young people with the criminal justice system and to divert them from further offending as early as possible. We agree that a holistic approach, involving the whole family, is laudable. To this end, it is vital that alternatives to court are available.

We agree with the Children's Court that the legislative provision prohibiting diversionary options for young domestic violence offenders is illustrative of policy based on good intentions that has not worked in practice. The determination of whether a matter is suitable for youth justice conferencing or other diversionary options is best made at the discretion of the courts. Accordingly we recommend that the NSW Government seek to amend the *Young Offenders Act 1997* to permit the Children's Court to exercise its discretion as to whether to refer young domestic violence offenders to youth justice conferencing or other alternatives to court available under that Act.

Summary of recommendations

- Recommendation 1** **52**
 That the NSW Government embrace an active, comprehensive and long-term commitment to preventing and addressing domestic violence, and that this be reflected in the forthcoming NSW Domestic and Family Violence Framework.
- Recommendation 2** **52**
 That the NSW Parliament be strongly encouraged to adopt a cross-party commitment to comprehensive reform to the domestic violence system and to the forthcoming NSW Domestic and Family Violence Framework.
- Recommendation 3** **52**
 That the NSW Government ensure that adequate resources are allocated for the forthcoming NSW Domestic and Family Violence Framework, and that the timeframes are met for both the Framework's completion [early 2013] and the implementation of the recommendations of the Auditor-General's Report, *Responding to Domestic and Family Violence* [December 2012].
- Recommendation 4** **53**
 That in two years' time the NSW Government refer terms of reference to the Standing Committee on Social Issues to review progress made in respect of the recommendations set out in this report.
- Recommendation 5** **57**
 That the NSW Government develop a common definition of domestic and family violence setting the scope of the forthcoming NSW Domestic and Family Violence Framework that targets violence between intimate partners and family members, and is inclusive of victims and perpetrators of both genders.
- Recommendation 6** **62**
 That the NSW Government ensure that the forthcoming NSW Domestic and Family Violence Framework is underpinned by three core policy principles, which in turn, should explicitly guide the work of all government and non government agencies with a role to play in responding to domestic and family violence:
- domestic violence in all its forms is completely unacceptable and as a society, an ongoing effort must be made to eradicate its occurrence
 - peoples' needs are paramount and agencies and workers across the system have a responsibility to respond to needs in a timely, holistic and individualised way
 - the system should be focused on the outcomes of safety and freedom from violence for victims and children, and accountability and non-violent behaviour for perpetrators.
- Recommendation 7** **66**
 That the NSW Government build an evidence based approach into the NSW Domestic and Family Violence Framework, with an explicit commitment to research and evaluation and to building the evidence base about prevention, early intervention and tertiary strategies. In doing so, it should develop an approach to funding that provides for long term investment in pilot programs that demonstrate effectiveness in delivering positive outcomes.

- Recommendation 8** **66**
That the NSW Government provide the NSW Bureau of Crime Statistics and Research with the necessary additional resources to coordinate across government agencies the collection and analysis of data and information associated with domestic violence, and that BOCSAR publish on an annual basis a detailed report on domestic violence trends in New South Wales.
- Recommendation 9** **66**
That Women NSW host a yearly forum to enable government and non government organisations to present and share their program evaluation findings.
- Recommendation 10** **73**
That the NSW Government make explicit in the forthcoming NSW Domestic and Family Violence Framework the objective of improved integration and coordination of services, and that to this end, the Framework adopt a cross government approach in respect of governance, including:
- a Premier’s Ministerial Council comprising the Premier and the ministers responsible for the portfolio areas of: Women, Family and Community Services, Attorney General, Justice, Police, Health, Housing and Education
 - a State-wide steering group of senior representatives of government and key non government organisations
 - an interdepartmental committee comprised of senior officers of key agencies
 - specific inter-agency working parties and
 - departmental steering committees.
- Recommendation 11** **73**
That the Premier, once a year, report to Parliament on the progress being made to address domestic violence in New South Wales.
- Recommendation 12** **73**
That in keeping with the objective of integration and coordination of services, the NSW Government actively build partnerships with the non government sector, including through consultation as part of the development of the NSW Domestic and Family Violence Framework and through their representation on a new statewide steering group to drive the implementation of the Framework.
- Recommendation 13** **75**
That the NSW Government, as part of the NSW Domestic and Family Violence Framework, determine a new structure for regional coordination that is strategically located and adequately resourced to address service integration. Consideration should be given to the successful aspects of the former Violence Against Women Coordinator positions and Violence Prevention Coordination Unit.
- Recommendation 14** **78**
That the NSW Government systematically implement case coordination meetings at the local level as a mechanism for case tracking, integrated service delivery and accountability of services.
- Recommendation 15** **81**
That the NSW Government introduce legislative amendments to Parliament to enable the sharing of information between agencies about individuals in respect of domestic violence, with

appropriate privacy protections, and that the amendments be supported by appropriate memoranda of understanding between agencies about how and in what circumstances information is to be shared.

Recommendation 16**82**

That the Department of Attorney General and Justice monitor the impact of new provisions to enable the sharing of information between agencies in respect of domestic violence in terms of any adverse impact on individuals' privacy.

Recommendation 17**84**

That the NSW Government develop, in partnership with non government organisations, a shared risk assessment framework for domestic violence that is evidence based, flexible to the agency and professional using it, and culturally sensitive.

Recommendation 18**86**

That the NSW Government, as part of the NSW Domestic and Family Violence Framework, significantly expand the availability of case management services, to improve service coordination and outcomes for victims.

Recommendation 19**88**

That the NSW Government, as part of the forthcoming NSW Domestic and Family Violence Framework:

- establish in partnership with non government organisations clear standards for the timeliness and quality of services delivered by all government and non government agencies
- implement a comprehensive performance monitoring system that monitors performance at the local, regional and executive level, and also via the governance mechanisms set out in Recommendation 9.
- establish and publish a single reporting mechanism across agencies and programs within the forthcoming NSW Domestic and Family Violence Framework, in the interests of greater transparency in reporting and greater accountability.

Recommendation 20**93**

That the NSW Government examine ways to improve victims' and children's awareness of services that respond to domestic violence, in order to improve their access to services. Particular attention should be given to the information needs of specific population groups.

Recommendation 21**103**

That the NSW Government acknowledge the link between alcohol and domestic violence and fund research to examine the role alcohol plays in the frequency, severity and effects of domestic violence.

Recommendation 22**103**

That as part of the forthcoming NSW Domestic and Family Violence Framework the NSW Government implement evidence-based initiatives to prevent alcohol related domestic violence.

Recommendation 23**107**

That, as part of the forthcoming NSW Domestic and Family Violence Framework, the NSW Government invest in a long-term and strategic approach to prevention and early intervention that includes primary prevention measures.

Recommendation 24**108**

That the NSW Government make violence against women the focus of universal, primary prevention activities under the NSW Domestic and Family Violence Framework. These are to be complemented by targeted prevention strategies focusing on specific population groups.

Recommendation 25**120**

That the NSW Government, as part of the forthcoming NSW Domestic and Family Violence Framework, develop a specific plan for early intervention services that is:

- based on a clear concise definition of early intervention
- informed by the recent mapping of domestic violence services
- intended to build service capacity, including for integrated service delivery, and
- sufficiently resourced to achieve the outcomes of strengthening victims and eliminating violence or preventing its escalation.

Recommendation 26**122**

That the NSW Government ensure that the NSW Domestic and Family Violence Framework makes strategic use of available evidence on the causes and on the underlying risk factors for domestic violence, and on prevention and early intervention.

Recommendation 27**122**

That the NSW Government embed evaluation requirements into the funding arrangements for prevention and early intervention strategies in respect of domestic violence, and adequately resource non government organisations to do this.

Recommendation 28**124**

That the NSW Government develop, in consultation with Aboriginal stakeholders, a NSW Aboriginal Family Violence Strategy as a specific element of the NSW Domestic and Family Violence Framework that is specifically and adequately resourced, and focuses on prevention and early intervention. This work should include consideration of:

- the establishment of a dedicated crime prevention unit staffed by Aboriginal workers to address violence against women in Aboriginal communities, to provide policy and advice to government, and serve as a resource for Aboriginal communities and services developing community managed strategies
- the development of specific training and support programs to build skills and capacity of Aboriginal community members, especially in rural and remote areas
- the provision of culturally specific education programs to teach Aboriginal children protective behaviours, and parents and communities how to identify when a child is exhibiting signs of abuse
- the development of programs to address intergenerational trauma and entrenched disadvantage
- systemic improvements in respect of policing and other parts of the criminal justice system
- ways to improve access to legal support and advocacy

- ways to improve access to other victims' services including refuges.

Recommendation 29**135**

That the NSW Government actively plan for an increase in demand for services that will arise from the reforms under the NSW Domestic and Family Violence Framework. In particular, this should proceed via discussions:

- in the present Domestic and Family Violence Senior Executive Steering Committee comprised of senior representatives of the Department of Family and Community Services, the NSW Police Force, the Department of Attorney General and Justice, the Ministry of Health, the Department of Education and Communities, and the Department of Premier and Cabinet, and
- in the new statewide steering group of senior representatives of government and key non government organisations that we have recommended be established as a priority (see Recommendation 10).

The planning should include the establishment of mechanisms to effectively track demand for and usage of services.

Recommendation 30**141**

That the NSW Government develop a plan for new investment in emergency accommodation for victims of domestic and family violence and their children, informed by the recent mapping of domestic violence services across the State. This plan should:

- seek to improve access to homelessness services across the State as a whole, and particularly in rural and remote areas
- enhance brokerage funds for both temporary accommodation and other services and supports
- address access among specific population groups
- consider the particular needs of children
- transfer, at an appropriate time, administration of the Temporary Accommodation Program from Housing NSW to specialised homelessness services
- make an explicit commitment to, and set targets for, reducing the number of victims and children turned away from refuges
- be developed in consultation with the NSW Women's Refuge Movement and other relevant stakeholders.

Recommendation 31**142**

That the Department of Family and Community Services, in partnership with the Commonwealth Government, Aboriginal organisations, the NSW Women's Refuge Movement and other relevant stakeholders, examine the need for additional safe houses in remote communities, informed by the recent mapping of domestic violence services across the State.

Recommendation 32**143**

That Housing NSW change the eligibility criteria for the Start Safely subsidy to improve access and increase the subsidy period to a maximum of two years.

Recommendation 33**144**

That Housing NSW ensure that staff in Housing Offices are applying social housing policies accurately and consistently in relation to victims and children seeking housing as a result of

domestic and family violence. Consideration should be given to the need for staff training in relation to domestic violence.

Recommendation 34 **146**

That the NSW Government fund an expansion of the Staying Home Leaving Violence Program across the State, including an expansion of the current funding available to each site.

Recommendation 35 **153**

That the NSW Ministry of Health expand the availability of counselling services to victims of domestic violence and their children, to address the documented inequities of access in areas of high need, in rural areas, for Aboriginal and culturally and linguistically diverse populations, and the significant absence of services for children, and utilise performance measurement mechanisms to improve local health districts' responses to domestic violence.

Recommendation 36 **154**

That the Department of Attorney General and Justice publicise the Approved Counselling Scheme among the full range of government and non government domestic violence services responding to domestic violence so that more victims are made aware of the Scheme.

Recommendation 37 **158**

That Women NSW and Community Services develop a joint plan for addressing the tension between child protection interventions and those for domestic violence. The plan should include strategies to:

- enhance understanding and coordination between child protection and domestic violence services
- promote practices that harness the strengths of victims and children in order to move on from violence, and seek to build the relationship between them
- build integration at the local, regional and State levels.

Recommendation 38 **178**

That the NSW Police Force develop and implement a strategy to enhance leadership in respect of domestic violence, to ensure that police responses to domestic violence are of consistently high standard across the State. The leadership strategy should:

- address how the NSW Police Force will harness the skills and commitment of police in leadership roles at all levels, from the Commissioner down
- strengthen leadership at all levels, especially within all local area commands
- determine the accountability structures that will support the performance measurement approach within the Domestic Violence Justice Framework
- provide mechanisms to ensure that performance monitoring feeds into operational planning, policy development and systemic improvements.

Recommendation 39 **183**

That the NSW Police Force improve quality assurance of police investigations of domestic violence matters, to ensure broader consistency with the Domestic and Family Violence Code of Practice and Standard Operating Procedures. This work should focus on improving the understanding and accountability of those who supervise others, in particular general duties first responders, by:

- ensuring supervisors' participation in specialist domestic violence training

- allocating Sergeants specifically for domestic violence more widely in local area commands with high rates of domestic violence
- developing and trialling innovative models of supervision and review of police responses to domestic violence.

Recommendation 40**189**

That the NSW Police Force increase the availability of the two day Investigation of Domestic and Family Violence Workshop for general duties officers and others, particularly officers working in rural and remote areas, and adopt a strategy to facilitate the participation of rural and remote officers in the Workshop, such as via e-learning course components, use of relief staff from other stations or local area commands, and/or more local training.

Recommendation 41**189**

That the NSW Police Force Education and Training Command develop a specific course for domestic violence supervisors building on the Investigation of Domestic and Family Violence Workshop and incorporating aspects of supervision and compliance monitoring in domestic violence matters. Completion of this course should be compulsory to progress through promotional ranks.

Recommendation 42**196**

That the NSW Government fund Domestic Violence Liaison Officer positions across the State, based on a policy developed and published by the Minister for Police detailing the formula for allocating Domestic Violence Liaison Officer positions across each local area command. The needs of local area commands/districts and patrols with higher rates of domestic violence, greater Aboriginal or other disadvantaged populations and greater geographical coverage, should have these features acknowledged in a new allocation model.

Recommendation 43**196**

The NSW Police Force ensure that all authorised Domestic Violence Liaison Officer and Domestic Violence Operative positions remain filled and that Local Area Commanders ensure there is a suitable experienced backup Domestic Violence Liaison Officer within their respective commands, including those where the Domestic Violence Liaison Officer position is part time.

Recommendation 44**196**

That the NSW Police Force communicate to Local Area Commanders that the practice of deploying Domestic Violence Liaison Officers to other duties be avoided as far as possible.

Recommendation 45**200**

That the NSW Police Force draws on the strengths of Victoria's L17 form to develop and implement a simple electronic risk assessment and referral tool in relation to domestic violence incidents. In doing so consideration is to be given to the outcomes of the evaluation of the Domestic Violence Pro-Active Support Service and the development of common risk indicators being developed by the Cross Agency Risk Assessment Model project.

Recommendation 46**218**

That the NSW Police Force, in partnership with the University of New South Wales, complete and publish its research on police investigations of the 'primary aggressor', and use the findings to identify appropriate actions in respect of legislation, policy, practice and training.

Recommendation 47

218

That the NSW Police Force and the NSW Local Court collaborate to improve data capture, collection and availability with regard to:

- the gender of applicants and respondents in apprehended domestic violence orders proceedings
- the gender of defendants and victims in domestic violence related criminal proceedings
- the nature of the relationship between the parties, that is, whether they are intimate partners, or share other types of familial or domestic relationships
- the nature of the charges that are laid against women vis-à-vis men
- the resolution of domestic violence criminal charges against women and men, in terms of outcomes, sentence and other relevant matters.

Recommendation 48

219

That the NSW Police Force monitor the trend in arrests of women for domestic violence offences.

Recommendation 49

231

That the NSW Government seek to amend the *Crimes (Domestic and Personal Violence) Act 2007* to remove the presumption that people living in the same house, living in the same residential care facility and people reliant on care are considered to be in a 'domestic relationship' for the purposes of the Act. All other relationships currently contained within the definition should remain.

Recommendation 50

231

That the NSW Government seek to amend the *Crimes (Domestic and Personal Violence) Act 2007* to create an obligation on police to make an application for an apprehended violence order where the situation involves people living in the same residential facility and people reliant on care in the same way as currently required under sections 27 and 49 of the Act.

Recommendation 51

231

That the Attorney General seek to amend the *Crimes (Domestic and Personal Violence) Act 2007* to permit a sufficiently flexible application of the law to allow decision-makers to determine other relationships to also be deemed a 'domestic relationship' in appropriate circumstances. The amendment should permit the decision-maker to have regard to the circumstances of the relationship including:

- whether the people live together
- whether the people have a relationship of care or dependence
- the reputation of the relationship and cultural recognition of the relationship as like family
- the duration of the relationship.

Recommendation 52

234

That the NSW Government seek to amend the *Crimes (Domestic and Personal Violence) Act 2007* to permit authorised third parties to make applications for the issuance, variance or revocation of apprehended domestic violence orders on behalf of people with cognitive impairment, under guardianship orders, and people with certain physical disability.

Recommendation 53

236

That the NSW Government seek to amend the *Crimes (Domestic and Personal Violence) Act 2007* to give the District Court of New South Wales and the Supreme Court of New South Wales the authority and responsibility to amend, revoke and finalise apprehended violence orders when the court is already determining related criminal matters.

Recommendation 54

248

That the NSW Government seek to amend the *Crimes (Domestic Violence and Personal Violence) Act 2007* to permit NSW police officers of or above the rank of sergeant to issue interim domestic violence orders. Such orders may be issued only in circumstances where the police officer reasonably believes the following:

- that the respondent is over the age of 18 years
- that the respondent is not cognitively impaired
- that the respondent is not already the subject of an apprehended domestic violence order in relation to the person in need of protection and
- that issuing an interim domestic violence order will not conflict with existing family law orders.

A police issued interim apprehended domestic violence order should itself constitute both an application by the relevant police officer for a domestic violence order and a summons for the respondent to attend court at the first mention date.

Recommendation 55

248

That in drafting the amendment in Recommendation 54, the NSW Government carefully considers the most appropriate timeframe for police issued apprehended domestic violence notices and take into consideration the experience in other jurisdictions in this regard.

Recommendation 56

248

That the NSW Government seek to amend the *Crimes (Domestic Violence and Personal Violence) Act 2007* to provide police with a limited power both in time and circumstance to detain an individual for the service of an interim apprehended domestic violence order.

Recommendation 57

248

That the NSW Government develop and implement police procedures sufficient to minimise the conflict of interest that can arise where police officers are called to domestic violence incidents involving other sworn police officers. Consideration should be given to:

- whether a senior police officer should be required to attend the scene as a matter of course
- whether interim apprehended domestic violence orders should continue to be overseen by an authorised justice where the order is to be made against a sworn police officer.

Recommendation 58

248

That in every instance where a police officer is alleged to have breached an apprehended domestic violence order, the matter is automatically referred to the Office of the Director for Public Prosecutions. In these cases the NSW Police Force should have no discretion as to whether charges are brought.

- Recommendation 59** **250**
That, as part of its review of the *Crimes (Domestic and Personal Violence) Act 2007*, the Department of Attorney General and Justice develop an effective mechanism for permitting emergency applications for the revocation of apprehended domestic violence orders in appropriate circumstances.
- Recommendation 60** **259**
That the NSW Attorney General seek to amend the *Crimes (Domestic and Personal Violence) Act 2007* to reverse the presumption that children should be on the same orders as their protected parent and instead create a rebuttable presumption that children should have separate orders to their protected parent.
- Recommendation 61** **269**
That the Department of Attorney General and Justice ensure that information about the consequences of breaches and what victims should do if they occur as proposed by the NSW Legal Assistance Forum Domestic Violence Working Group, is included on every apprehended domestic violence order issued in New South Wales.
- Recommendation 62** **274**
That the NSW Government not pursue at this time the use of GPS bracelets as a method to reduce breaches and improve compliance with apprehended domestic violence orders.
- Recommendation 63** **283**
That the Department of Attorney General and Justice review the Legal Aid NSW Apprehended Domestic Violence Order Defendant Pilot Program and take into account other approaches taken in New South Wales and Victoria with a view to implementing a best practice respondent legal advice and support program across NSW local courts.
- Recommendation 64** **290**
That as part of its forthcoming Domestic Violence Justice Framework and in the implementation of the recommendations contained in this report, the Department of Attorney General and Justice carefully plan for the impact that the Committee's recommendations may have on the workload of courts and ensure that local courts have adequate resources to meet the demand for their services.
- Recommendation 65** **298**
That the Attorney General request that the Judicial Commission develop an education guideline covering key domestic violence matters so that presenters and facilitators can keep core concepts in mind when developing their program and ensure that education remains relevant and practical. This guideline should be regularly updated to ensure that its content remains current and include training on:
- the complex dynamics of domestic violence including in mainstream and diverse communities and how to implement that knowledge in practical ways in the courtroom using real case studies
 - ensuring that ADVO conditions are appropriate for the individuals involved and properly understood by the respondent
 - real case studies and practical challenges that arise in the courtroom.

- Recommendation 66** 298
That the NSW Attorney General request that the Judicial Commission of New South Wales develop a comprehensive training program to further and complement the accrued expertise of magistrates in domestic violence matters, which should include training on the elements contained in Recommendation 65.
- Recommendation 67** 298
That the Attorney General request that the Judicial Commission of New South Wales develop a domestic violence bench book for use in NSW local courts.
- Recommendation 68** 306
That the NSW Government include in the forthcoming Domestic Violence Justice Framework mechanisms to provide access to legal and other support services to victims of domestic violence to the same minimum standard in every local court, including that every local court is serviced by:
- a NSW Police Force Domestic Violence Liaison Officer on domestic violence list days
 - at least one support worker based upon the model currently provided by the Women’s Domestic Violence Court Advocacy Service.
- The implementation of this recommendation should be complementary to that for Recommendation 18.
- Recommendation 69** 306
That the Department of Attorney General and Justice ensure that the provision of culturally appropriate legal support services, including enhanced support for victims in high risk and vulnerable groups, forms part of the forthcoming NSW Domestic Violence Justice Framework.
- Recommendation 70** 313
That the Department of Attorney General and Justice facilitate an evaluation of the Legal Aid NSW Domestic Violence Practitioner Scheme pilot with a view to expanding the availability of the Scheme across the State if it is proven to be successful.
- Recommendation 71** 317
That the NSW Government not establish standalone domestic violence courts at this time.
- Recommendation 72** 318
That the Department of Attorney General and Justice monitor the outcomes of domestic violence matters in NSW local courts to ensure that the objectives of the NSW Domestic and Family Violence Framework are being met.
- Recommendation 73** 326
That the NSW Government integrate as a key element of the NSW Domestic and Family Violence Framework the most successful aspects of the Domestic Violence Intervention Court Model into all NSW local courts. These include:
- ensuring the presence of victims’ services
 - minimising adjournments
 - reducing court delay
 - a consistent police response to domestic violence
 - consistent evidence collection

- availability of domestic abuse programs to change behaviour and reduce reoffending
- weekly meetings about families to manage and respond to risks to victims and their children
- regular meetings to ensure agencies work together and solve problems as they arise.

This recommendation should be implemented in accordance with Recommendations 14 and 18 of this report.

- Recommendation 74** **334**
That the Attorney General request that the Chief Magistrate of New South Wales ensure that every local court in New South Wales implements a dedicated domestic violence list which runs on a regular basis, the frequency of which should be determined based on the volume of domestic violence matters each court hears. These lists should be sufficiently adaptable to permit urgent matters to be heard as they arise and to allow courts to move immediately onto other proceedings when domestic violence matters have concluded.
- Recommendation 75** **334**
That the Department of Attorney General and Justice instruct court services to take steps to coordinate the availability of domestic violence support services in consultation with relevant non government organisations and in accordance with domestic violence lists.
- Recommendation 76** **341**
That the Attorney General request that the Chief Magistrate consider issuing a practice note directing that magistrates do not require victims of domestic violence to appear at the first mention where it is not a defended hearing.
- Recommendation 77** **341**
That the Department of Attorney General and Justice consider whether the *Crimes (Domestic and Personal Violence) Act 2007* should contain a presumption in favour of making an interim order in circumstances where the person in need of protection is not present in court and the application for the apprehended domestic violence order is made by police.
- Recommendation 78** **345**
That the Department of Attorney General and Justice assess the operation of the current system for permitting victims of domestic violence to give evidence via audio-visual link and closed-circuit television to determine whether it is working effectively, with a view to increasing the availability and use of closed-circuit television, audio-visual link and other technology by victims of domestic violence.
- Recommendation 79** **346**
That the NSW Government request that the Judicial Commission of New South Wales incorporate into its training for magistrates, and its Local Court Bench Book, information on determining applications for evidence to be given by closed-circuit television and audio-visual link.
- Recommendation 80** **356**
That the Department of Attorney General and Justice work with local courts to establish victim safe rooms in all NSW local courts.

- Recommendation 81** 366
That the NSW Attorney General consult with the Commonwealth Attorney General to develop an effective method for information sharing between the Family Court of Australia and New South Wales Courts with a view to ensuring that magistrates and judges in New South Wales courts have the technological and legal capacity to quickly determine in each case whether a party is subject to a current family law order and what the conditions of that order are.
- Recommendation 82** 366
That the NSW Attorney General request that the Commonwealth Attorney General amend the *Family Law Act 1975* (Cth) to permit New South Wales courts to make interim parenting orders, as recommended in the report of the Australian and NSW Law Reform Commissions.
- Recommendation 83** 366
That the NSW Government request that the Judicial Commission of New South Wales incorporate into its training for magistrates, and its Local Court Bench Book, information on determining applications for family law orders pursuant to the *Family Law Act 1975* (Cth), and encourage the exercise of this jurisdiction in circumstances where family law orders are known to conflict with conditions to be applied to apprehended domestic violence orders.
- Recommendation 84** 396
That the Attorney General request that the NSW Law Reform Commission consider in its review of the *Crimes (Sentencing Procedure) Act 1999* the feasibility and desirability of alternative and additional sentencing options for domestic violence offences including referrals to mediation, support services, treatment programs, counselling and educational or rehabilitative programs.
- Recommendation 85** 409
That the NSW Government develop an effective intervention program for perpetrators of domestic violence in New South Wales based on thorough research and systematic trial and evaluation. Particular attention should be paid to gaps in existing programs including for Aboriginal people, high risk offenders, women and perpetrators who may not yet have been convicted of an offence. Funding of perpetrator programs should not come at the expense of victims' services or programs.
- Recommendation 86** 414
That the NSW Attorney General consult with the Commonwealth Attorney General to seek an amendment to the *Family Law Act 1975* (Cth) that would give children's courts the same powers as magistrates courts under that Act in respect of parenting orders.
- Recommendation 87** 416
That as part of the NSW Domestic and Family Violence Framework the NSW Government expand the availability of support services for child perpetrators and their families across the State.
- Recommendation 88** 422
That as part of its review of the *Crimes (Domestic and Personal Violence) Act 2007* the NSW Department of Attorney General and Justice consider whether the Children's Court should be vested with jurisdiction to vary or revoke an apprehended violence order made against a child or young person on its own motion or upon application by the protected person.

Recommendation 89

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That the NSW Government seek to amend the *Young Offenders Act 1997* to permit the Children's Court of New South Wales to exercise its discretion as to whether to refer young people convicted of domestic violence offences to youth justice conferencing or other alternatives to court available under that Act.