

# DOMESTIC VIOLENCE

## Discussion Paper July 2016

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Submission to the South Australian Government

September 2016

# ANROWS

AUSTRALIA'S NATIONAL RESEARCH  
ORGANISATION FOR WOMEN'S SAFETY

*to Reduce Violence against Women & their Children*

## Introduction

ANROWS is a not-for-profit independent national research organisation established in 2013. It is an initiative of Australia's National Plan to Reduce Violence against Women and their Children 2010-2022, endorsed by the Council of Australian Governments in February 2011. ANROWS was established by the Commonwealth and all state and territory governments of Australia to produce, disseminate and assist in applying evidence for policy and practice addressing violence against women and their children.

ANROWS is the only such research organisation in Australia.

### Our stakeholders

Every aspect of our work is motivated by the right of women and their children to live free from violence and in safe communities. We recognise, respect and respond to diversity among women and their children and we are committed to reconciliation with Aboriginal and Torres Strait Islander Australians.

We work with a wide range of stakeholders, including funders; policy-makers; domestic, family and sexual violence service providers and practitioners; primary prevention organisations; peak bodies; and researchers to achieve our goals.

### Our strategic goals

Goal 1: Deliver high quality, innovative and relevant research.

Goal 2: Ensure the effective dissemination and application of research findings.

Goal 3: Build, maintain and promote collaborative relationships with and between stakeholders.

Goal 4: Be an efficient, effective and accountable organisation.

### Our operating model

Our operating model, designed to efficiently achieve our strategic goals, is structured around three core intersecting functions, shown opposite.

On behalf of the Commonwealth, states and territories, ANROWS led the creation of the National Research Agenda to Reduce Violence against Women and their Children in 2014, and continue to promote and track research across Australia under the National Research Agenda.

ANROWS conducts in-house research and we engage Australia's most eminent researchers through an external grants program under the National Research Agenda. All research proposals are peer assessed and all publications peer-reviewed.

To support the take-up of evidence, we produce policy and practice papers, videos and other resources; we convene seminars and conferences, joint initiatives with state and territory governments; and meet regularly with policy-developers at national Senior Government Officials meetings, and with practice managers, through our national Practitioner Engagement Group.



## Scope of submission

This submission does not address all topics of the Domestic Violence Discussion Paper. Rather, it focuses on key points or key findings from recent ANROWS research relevant to some topic areas. ANROWS is a national research organisation, therefore, research findings are relevant but not specific to South Australia.

## Topic 1: Domestic Violence Disclosure Scheme

Domestic violence does not necessarily end when a relationship does. Therefore, a DVDS should apply to those in current or former intimate relationships. Care should also be taken in regard to defining a “current relationship”, to avoid excluding people in newly forming relationships who have concerns about the behaviour of a new partner.

Access to information under a DVDS should enable informed decision-making at the earlier possible stage, before the lives of the couple are enmeshed (social networks, joint bank accounts, property, children etc), making it more difficult to end the relationship.

Care also needs to be taken in regard to the manipulation of the justice system by coercive controlling men, resulting in cross-applications and cross-orders (Flood, 2003; Wangmann, 2009, 2010). In such cases victims of intimate partner violence are wrongly brought into the criminal justice system and labelled perpetrators. This appears to be a problem in some jurisdictions more than others, but has the potential to exacerbate the injustice to victims of violence who have been labelled perpetrators and consequently subject to a DVDS.

Third parties (e.g. a person authorised by the victim – usually in writing - and the Adult Guardian, or equivalent) should be able to act on behalf of victims to seek relevant information. Generally, those authorised to apply for a court order on behalf of the victim, should be able to apply for information on behalf of the victim under the DVDS, while preserving privacy as much as possible.

## Topic 2: Expiry dates on Intervention Orders

The civil intervention order scheme appropriately imposes constraints on civil liberties (e.g. freedom of movement) when a perpetrator of intimate partner violence poses a threat. However, it is difficult to justify a perpetual constraint on civil liberties, in the absence of a perpetual threat. Such constraints may impede access, for example, to employment as well as other opportunities and social choices.

Expecting the defendant to know about, and be able to exercise their right to apply for the intervention order to be removed is likely to have similar problems to the current situation of victims of violence needing to know about, and be able to exercise their right to have an interstate court order registered in another state. The problems associated with that have resulted in the current work under the Council of Australian Governments (COAG) to establish a national Domestic Violence Orders Scheme.

Those most disadvantaged by the current indefinite term for intervention orders are likely to be people who are unemployed, with low level education or with low level proficiency in English language, for example. Further, and as noted above, victims of violence are sometimes wrongly labelled perpetrators and perpetual intervention orders against them would be perpetual injustice.

Courts (in collaboration with victims) should have the capacity to set a time limit, over and above a minimum (some jurisdiction set a minimum of 2 years).

### Topic 3: Comprehensive collection of data

ANROWS supports the “flagging” or coding of charges and convictions for domestic violence. The definition of “domestic violence” should reflect the definition in the specific domestic violence legislation. Police, courts and corrections should have a coordinated system of flagging domestic violence offences.

### Topic 4: Allowing Video Evidence

ANROWS does not wish to make any recommendation on this topic in the absence of evaluation results from New South Wales where video evidence is allowed. However, it should be noted that while victims who withdraw charges may do so because of coercion by an abusive partner or ex-partner, this is not the only reason women may decline state intervention. Consideration should be given to supporting genuine informed choice for victims (Nancarrow, forthcoming).

### Topic 5: Confidentiality

An evidence base is required to inform policy on this topic.

### Topic 6: Drug and Alcohol Treatment

The evidence shows that alcohol and other drugs are significant contributors to intimate partner violence (Our Watch, ANROWS, & VicHealth, 2015). The presence of alcohol in cases of violence involving Indigenous Australians, including domestic homicide, is significantly elevated compared to non-Indigenous Australians (Nancarrow, forthcoming; Cussen & Bryant, 2015). It is unlikely that the circumstances of alcohol fueled violence can be changed by increasing insights and challenging gendered attitudes without addressing associated factors. If an intervention order is mandatory, mandatory assessment for alcohol and other drugs is logical.

### Topic 7: Domestic violence & Housing and Homelessness Service Priorities

Domestic violence is the biggest single driver of homelessness among women and children (Australian Government, 2008).

The Australian Institute of Health and Welfare (2016) reports that around 520,000 Australians accessed homelessness services over the 3 years to 2013-14. Of those, 187,000 (36%) were adults and children seeking assistance due to domestic and family violence. The clear majority of adult clients who sought assistance because of domestic and family violence were women: over the 3 years, 110,000 women over 18 sought assistance compared to 12,000 men. Almost half (48%) of domestic and family violence clients were homeless on presentation; and only 9% of initial requests for long-term accommodation were able to be met for domestic and family violence clients.

ANROWS cannot comment specifically on the delivery of housing and homelessness services in South Australia, however, it is clear that minimising the longer term harm to women and their children that may arise from domestic violence requires long-term, secure housing at the earliest opportunity.

Further, research commissioned by ANROWS (Breckenridge et al., 2016) highlights the value of “safe at home” initiatives, which operate in various ways in all jurisdictions. The research finds that more flexible use of funds should be allowed to enable tailored and targeted practical support for victims who wish to remain in their own home after violence. However, Breckenridge et al also find that jurisdictions need to establish a culture of evaluation at sector and organisational levels to ensure evaluation is a priority for all safe at home interventions.

## Topic 8: Fostering Supportive Environments

In the absence of a stronger evidence base, ANROWS does not wish to comment specifically on the potential for domestic violence to be grounds for discrimination similar to gender, race, age and sexuality. However, ANROWS supports strengthening strategies to address potential discrimination. For example, ANROWS supports strengthening workplace policies and procedures that enable women to access and retain employment during and after a violent relationship. Many strategies (such as changing an email address or phone number) are almost cost neutral but may make a significant difference. Changes to residential tenancy laws to hold perpetrators of violence accountable for damage to property etc, may also assist with an immediate reduction in discrimination by landlords.

Thank you for the opportunity to provide this brief response to the Domestic Violence Discussion Paper. ANROWS congratulates the South Australian Government on the innovations and strategies it has already put in place, and those which are now under consideration to address domestic violence in that state. We wish you every success in achieving a state where women and their children live in safe communities, free from violence.



Heather Nancarrow, Chief Executive Officer.

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