

ANROWS

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

The Commission of Inquiry into Queensland Police Service
PO Box 12264
George Street Qld 4003
By email: documents@qpsdfvinquiry.qld.gov.au

Re: Independent Commission of Inquiry into Queensland Police Service responses to domestic and family violence

Dear Judge Richards

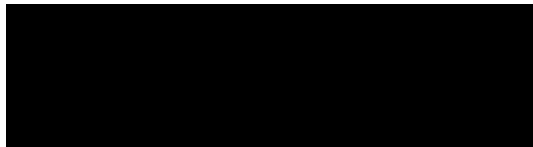
ANROWS thanks the Independent Commission of Inquiry into Queensland Police Service responses to domestic and family violence for the opportunity to respond to the Inquiry. This submission builds on ANROWS's previous submission for the [Options for legislation against coercive control and the creation of a standalone domestic violence offence](#) dated 16 July 2021.

ANROWS is an independent, not-for-profit company established as an initiative under Australia's *National Plan to Reduce Violence against Women and their Children 2010–2022* (the National Plan). Our primary function is to provide an accessible evidence base for developments in policy and practice design for prevention and response to violence against women, nationally. 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 children, and we are committed to reconciliation with Aboriginal and Torres Strait Islander Australians.

Primary funding for ANROWS is jointly provided by the Commonwealth and all state and territory governments of Australia. ANROWS is also, from time to time, directly commissioned to undertake work for an individual jurisdiction, and successfully tenders for research and evaluation work. ANROWS is registered as a harm prevention charity and deductible gift recipient, governed by the Australian Charities and Not-for-profit Commission (ACNC).

The information provided below is focused on items b) and c) of the Inquiry's terms of reference. It draws on evidence from rigorous peer-reviewed research, including relevant ANROWS research. We would be very pleased to assist the Commission further, as required.

Yours sincerely



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Chief Executive Officer

27 June 2022

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Recommendations

Recommendation 1

The QPS should create or commission a tool to help police assess patterns of coercive control that would detect which party is the perpetrator, and which party is using violent resistance to ongoing abuse.

Recommendation 2

The QPS should continue to use a co-responder model as widely as possible to ensure frontline police have the technical expertise to identify who is the primary aggressor, particularly in situations where women have used resistive or retaliatory violence.

Recommendation 3

The QPS should train officers in the historic and systemic issues around the impact of intergenerational trauma and the criminalisation of First Nations peoples and equip them with trauma-specific intervention skills.

Recommendation 4

Officers should be resourced with sufficient time when engaging with Aboriginal and Torres Strait Islander communities to build trust through non-traumatic interactions leading to improved efficacy of policing systems within these communities.

Recommendation 5

The QPS should consider developing recruitment and retention strategies to increase the number of First Nations officers, particularly women officers, including in specialist domestic and family violence (DFV) coordinator roles.

Recommendation 6

The QPS needs to take a whole-of-family approach to reducing DFV for First Nations peoples, which includes having strategies in place that ensure the service is accessible, relevant and available to First Nations women experiencing violence.

Recommendation 7

The QPS should support the creation and ongoing success of First Nations-designed and -led alternatives to justice, including the Koori Court, to equip police with alternative solutions when DFV occurs.

Recommendation 8

The QPS should consider utilising a social entrapment framework in their development of a tool to help police investigate DFV and recognise coercive control.

Recommendation 9

The QPS should continue to strengthen its comprehensive cultural awareness training and have a clear understanding of when community-led organisations should be engaged with when investigating DFV in First Nations communities.

Recommendation 10

The QPS should utilise education strategies and trauma-informed practice guidance such as the accredited training recently developed by Monash University that is under evaluation at ANROWS.

Recommendation 11

QPS police should be resourced and provided with regular professional development opportunities on the impact of trauma and complex trauma.

Response to terms of reference

Re: b) how any cultural issues identified within the QPS relating to the investigation of domestic and family violence have contributed to the overrepresentation of First Nations people in the criminal justice system

Introduction

Hear Her Voice: Report One identified cultural issues within the Queensland Police Service (QPS), with many police lacking cultural capability to respond to domestic and family violence (DFV) appropriately when it involves First Nations peoples (Women’s Safety and Justice Taskforce, 2021). Racial bias in policing can also lead to disproportionate contact with the legal system (Langton et al., 2020a). For First Nations peoples, engagement with legal systems can be negatively affected by historical injustices and high levels of systemic distrust towards police and the justice system (Langton et al., 2020b), which are exacerbated upon contact with the law. A lack of understanding of the historical and cultural barriers to reporting to police was reiterated in the *Hear Her Voice* report (Women’s Safety and Justice Taskforce, 2021). When police fail to comprehend the barriers to accessing justice for First Nations peoples, it can lead to increased incarceration and is unlikely to make any impact on the high levels of DFV experienced by First Nations women (Langton et al., 2020a).

ANROWS research examining the life experiences of First Nations women that were incarcerated for alleged violent offences found almost all of those participating in the research had endured violence by a partner before being incarcerated (Bevis et al., 2020). There is a critical need to understand the impacts of DFV for First Nations women, their trauma and their reactions to violence to avoid further criminalisation (Bevis et al., 2020). ANROWS research led by Langton and colleagues (2020b) found that to increase safety for women and children, it is necessary to understand the complexity and specificity of Aboriginal and Torres Strait Islander men’s engagement with the legal system.

Misidentification of First Nations women as the primary aggressor

In the three decades prior to the COVID-19 pandemic, the number of First Nations women in prison had more than doubled (Human Rights Law Centre & Change the Record Coalition, 2017). In addition, First Nations women are over-represented, as aggrieved and as respondents, on domestic violence protection orders (DVPOs; Douglas and Fitzgerald, 2018; Nancarrow et al., 2020). DVPOs can either be applied for by the victim and survivor, or on by police on their behalf. Police were given these extraordinary powers to act in the interests of the woman’s safety (even against her wishes) to overcome the “gendered dynamics of power and control in couple relationships” (i.e. coercive control; Nancarrow et al., 2020, p. 47; see also ANROWS, 2021). However, the law is not being applied according to its original intention when women are charged with breaches of DVPOs. Further, with DVPOs being a hybrid civil/criminal response, by contravening the order, offenders are drawn from the civil law system into the criminal justice system (Douglas & Fitzgerald, 2018). In this way, misidentification of the woman as the primary aggressor can see police-issued DVPOs increase women’s judicial enmeshment and criminalisation, when they were designed to protect them (Nancarrow, 2016 as cited in Douglas & Fitzgerald, 2018).

ANROWS research has found that women being misidentified as the primary aggressor contributes to an increase in incarceration (Bevis et al., 2020; Day et al., 2018). When a woman fights back and thus does not behave as an “ideal victim” (submissive, chaste), police can issue a DVPO against her (Nancarrow, 2019). First Nations women are particularly vulnerable to decisions based upon stereotypes about the use of violence, and what an “ideal victim” should look like (Nancarrow et al., 2020). With cross-orders, the

predominant aggressor can call the police when the victim breaches the DVPO as a form of systems abuse (Douglas & Fitzgerald, 2018). Even in cases where the woman has called the police herself and has only used violent resistance, she can be arrested. In Nancarrow's (2019) research, nearly all the women had been charged on one or more occasions with breaching a DVPO due to fights (i.e. physical and verbal abuse in the absence of an ongoing pattern of coercive control). Nancarrow (2019) coined the term "chaos violence" to describe the combination of an impoverished lifestyle, an inability to fully comprehend the consequences of violating a DVPO due to lack of communication, and the notion of general chaos that Indigenous people would often use to describe the impact of loss of culture on their lives. First Nations women in the grip of chaos violence are positioned where gendered attitudes, mistrusting women and systemic racism all intersect (Nancarrow et al., 2020).

The above highlights the importance of police correctly identifying the person most in need of protection, particularly when it comes to issuing DVPOs and avoiding cross-orders involving First Nations women (Nancarrow et al., 2020). There is a tendency for courts to defer to the police when they apply for DVPOs, and vice versa, which makes it essential that all actors in and around the legal system are trained in DFV and coercive control – and able to recognise coercive control as a strategic course of conduct to deny autonomy/personhood – and that this training forms the basis of any decision to apply for or grant a DVPO on a woman's behalf (ANROWS, 2021). Reducing cross-orders would be aided by the creation of a tool to help police assess patterns of coercive control (Nancarrow et al., 2020).

Other models for reforming police responses to correctly identify the person most in need of protection that may assist in reducing the number of First Nations women in the criminal justice system include specialist co-responder models (Nancarrow et al., 2020). These models will help ensure police have the technical expertise to determine if a situation involves coercive control and violent resistance or is a couple fight (Nancarrow et al., 2020). The QPS has, in part, already taken up this evidence with the creation of "a six-member team of DFV Coordinators" (myPolice Queensland Police News, 2021). However, considering the high number of police-initiated DVPOs being generated in the 2021–22 year to date – 21,291 to May 2021, making up 80.9 per cent of all DVPOs applied for statewide – for an improvement to be seen on the ground in how police identify the person most in need of protection, and distinguish between DFV and other sorts of violence, this program must be expanded (Queensland Courts, 2022).

Recommendation 1

The QPS should create or commission a tool to help police assess patterns of coercive control that would detect which party is the perpetrator, and which party is using violent resistance to ongoing abuse.

Recommendation 2

The QPS should continue to use a co-responder model as widely as possible to ensure frontline police have the technical expertise to identify who is the primary aggressor, particularly in situations where women have used resistive or retaliatory violence.

Rebuilding relationships with First Nations peoples

Multiple layers of discrimination and judgement across the entire justice system, including police, have been reported by First Nations women. Impacts of discrimination include a sense of feeling judged for

defending themselves, and not being believed, and these factors contribute to re-offending and incarceration (ANROWS, 2020). Strategies that may minimise these impacts include employing more First Nations women police officers and equipping officers with knowledge about the impact of trauma and trauma-specific intervention skills (ANROWS, 2020). QPS frontline officers should be resourced with sufficient time when engaging with First Nations communities in order to build trust by having non-traumatic interactions and improve the efficacy of policing systems with these communities (ANROWS, 2020).

Recommendation 3

The QPS should train officers in the historic and systemic issues around the impact of intergenerational trauma and the criminalisation of First Nations peoples and equip them with trauma-specific intervention skills.

Recommendation 4

Officers should be resourced with sufficient time when engaging with Aboriginal and Torres Strait Islander communities to build trust through non-traumatic interactions leading to improved efficacy of policing systems within these communities.

Recommendation 5

The QPS should consider developing recruitment and retention strategies to increase the number of First Nations officers, particularly women officers, including in specialist DFV coordinator roles.

Overcoming barriers to reporting domestic and family violence

ANROWS research indicates that First Nations women are reluctant to report DFV to police as current police solutions do not work (Langton et al., 2020b). First Nations women are also cognisant that there is the potential for negative impacts to result from the incarceration of First Nations men, and the possibility that police attention to violence perpetrated against them leads to child removal (Langton et al., 2020b). For First Nations women this creates an untenable choice between risking losing their children by raising violence perpetrated against them or keeping those children with them and remaining in a home where DFV is occurring.

Evidence demonstrating the intergenerational consequences of experiencing DFV in childhood is strengthened in forthcoming ANROWS research, *Adverse childhood experiences among youth who offend: Examining exposure to domestic and family violence for male youth who perpetrate sexual harm and violence* (Ogilvie et al., in press). The researchers examined differences in youth offending for males who had experienced DFV as children and those who had not, finding that those who had experienced DFV were, on average, younger at their first contact with youth justice and had more extensive offending histories. Young men who had committed sexual offences had the highest rates of a range of adverse childhood experiences, of which DFV was particularly prevalent. This was the case for both First Nations and non-First Nations young men (Ogilvie et al., in press).

Whole-of-family approaches can help to address the real fear and risk of child removal (Blagg et al., 2020). Well-resourced criminal and service systems would include the expansion of early intervention

programs to prevent families entering crisis. This includes having strategies in place to action accessible, relevant and available services to encourage First Nations women experiencing violence to seek help (Langton et al., 2020b).

Recommendation 6

The QPS needs to take a whole-of-family approach to reducing DFV for First Nations peoples, which includes having strategies in place that ensure the service is accessible, relevant and available to First Nations women experiencing violence.

Supporting First Nations-led initiatives

To improve outcomes for First Nations peoples QPS needs to consider the safety of all First Nations peoples when investigating DFV. This will involve engaging with community leaders to help First Nations children, women and men with the collective aim of decreasing family violence and decreasing the impacts to the community from the overincarceration of First Nations peoples. ANROWS research suggests that work on barriers to reporting DFV experienced by First Nations women should be supplemented by community-led solutions. Community-led solutions to DFV that recognise Aboriginal and Torres Strait Islander Law have been consistently advocated for by Aboriginal and Torres Strait Islander peoples (Blagg et al., 2020). This system provides organisation of social and legal practices that bring meaning and understanding to daily life, however, it is consistently undermined by colonial law. When responding to DFV, Aboriginal women’s law brings strength and unity to community (Blagg et al., 2020) and contributes to women’s wellbeing and recovery which could reduce recidivism and the over-representation of First Nations peoples in the criminal justice system. Elders should be engaged in the development of justice mechanisms, and these mechanisms may include strengthening Aboriginal and Torres Strait Islander-led initiatives such as on-country healing run by Elders, as well as “Cultural Bosses”, Ranger programs and Elder-regulated bush camps (Blagg et al., 2020). In other ANROWS research, led by Professor Marcia Langton, the Koori Court was found to be a promising alternative to the mainstream legal system (Langton et al., 2020a).

Recommendation 7

The QPS should support the creation and ongoing success of First Nations-designed and led alternatives to justice, including the Koori Court, to equip police with alternative solutions when DFV occurs.

Re: c) the capability, capacity and structure of the QPS to respond to domestic and family violence, having regard to initiatives undertaken by the QPS in responses to previous reports and events

Introduction

While recognising the significant changes the QPS has made since the *Not Now, Not Ever* report (Special Taskforce on Domestic and Family Violence in Queensland, 2015), and the continued effort to improve police training by adopting a victim-centric approach (Cassidy, 2021), further changes are required to align the QPS capability with the needs of victims and survivors of DFV. With the *Hear Her Voice* report noting that DFV callouts make up 40 per cent of the QPS workload (Women’s Safety and Justice Taskforce, 2021), every level of policing should be trained in the nuances of DFV in order to improve police responses and victim and survivor outcomes.

Developing a tool to help police recognise coercive control

The *Hear Her Voice* report recommends critical system-wide reform before any new offence of coercive control comes into effect (Women’s Safety and Justice Taskforce, 2021). This is a unique opportunity to design evidence-based police training with a DFV lens that will assist police in recognising coercive control, including non-physical forms of violence, and more effectively responding to DFV callouts. Currently in Australia, no jurisdiction has developed tools to assist police in identifying patterns of coercive control (Nancarrow et al., 2020).

ANROWS research found that a woman’s use of defensive force can be classed as “unreasonable” (Tarrant et al., 2019). In the development of a tool to help police recognise coercive control, a social entrapment framework may assist in the move toward pattern-based policing (Tarrant et al., 2019). This framework when applied to DFV involves scrutiny at three levels:

1. documenting the full suite of coercive and controlling behaviours
2. examining the responses of family, community and agencies
3. examining structural inequities (Tarrant et al., 2019).

This framework can integrate and identify different forms of disadvantage and barriers to seeking help and would enable police to better understand the actions of someone experiencing coercive control.

Recommendation 8

The QPS should consider utilising a social entrapment framework in their development of a tool to help police investigate DFV and recognise coercive control.

Cultural awareness

Police professional development needs to include ongoing and frequently updated cultural awareness training. As was highlighted in the *Hear Her Voice* report, there is a failure to understand the cultural and historical issues First Nations peoples face in reporting to and cooperating with police (Women’s Safety and Justice Taskforce, 2021). ANROWS research has highlighted the detrimental impact the distrust of police has had on both victims and survivors and perpetrators in First Nations communities (Langton et al., 2020a). As explained above, police need to be cognisant of the dilemma women in Aboriginal communities face when reporting violence: they risk having their children being removed from care (Langton et al., 2020b). The evidence has also shown that being poor and a primary carer of children increases the risk of being “over-surveilled” (Douglas and Fitzgerald, 2018). Over-surveillance increases

the risk of criminalisation, especially where there are high levels of “judicial discretion” (Douglas & Fitzgerald, 2018, p. 52).

First Nations women can also face ostracisation or persecution from their community for reporting violence to police (Langton et al., 2020b). First Nations women are acutely aware of the disproportionate number of First Nations men that are incarcerated, and community pressure about the risk of further criminalising First Nations men can result in a reluctance to report DFV (Langton et al., 2020b). A better understanding of these risks, and the use of a partnership model with Aboriginal-led organisations, would lead to police increasing trust and working more effectively with First Nations peoples. This would better enable victims and survivors to come forward without the associated risks of losing more First Nations men to the legal system (Langton et al., 2020b).

Recommendation 9

The QPS should continue to strengthen its comprehensive cultural awareness training and have a clear understanding of when community-led organisations should be engaged with when investigating DFV in First Nations communities.

Violence supportive attitudes within police culture

The *Hear Her Voice* report notes there is a negative culture within the QPS relating to believing victims and subscribing to the myth of the “ideal victim” stereotype (Women’s Safety and Justice Taskforce, 2021). These attitudes undermine the work of those within the QPS attempting to improve police responses for victims and survivors of DFV. While it is recognised that QPS has established specialist police units (e.g. the Vulnerable Persons Unit), this education should extend beyond specialised units to the entire QPS. Education on gender attitudes and believing women’s reports of violence should be embedded in the training reform.

Examinations of data from ANROWS’s *National Community Attitudes towards Violence against Women Survey* (NCAS) reveals women’s accounts of violence are often met with doubt and suspicion (Minter et al., 2021). Further to this, the 2017 NCAS found that one in three Australians assign responsibility of further violence to the woman if she does not leave an abusive partner (Webster et al., 2018). As police are part of the Australian community, it is foolhardy to assume they are immune to widely prevalent violence-supportive attitudes. Monash University has developed Australia’s first training course to help health professionals and frontline workers better recognise and respond to victims of sexual violence (Minister for the Department of Social Services, 2021). This course is currently being reviewed by ANROWS.

Recommendation 10

The QPS should utilise education strategies and trauma-informed practice guidance such as the accredited training recently developed by Monash University that is under evaluation at ANROWS.

Victim-centred and trauma-informed policing

A victim-centred and trauma-informed approach to policing can lead to:

- victim and survivor empowerment
- a willingness to assist with investigation

- building of trust in police and the justice system
- an increase in willingness to report DFV (United Nations Women, 2021).

ANROWS research led by Associate Professor Michael Salter (2020) found that women who exhibit signs of trauma are seen to be lacking in credibility and make “unreliable witnesses” (Salter et al., 2020). The research also found that police could talk a traumatised woman out of making a formal complaint (even if they believed the violence had occurred), often in an attempt to protect her from the trauma associated with the justice system (Salter et al., 2020). Training police in the impact of trauma and understanding complex trauma will also assist police in better conducting interviews with victims and survivors, and with perpetrators. This would lead to positive victim and survivor experiences when making a complaint to police.

Recommendation 11

The QPS police should be resourced and provided with regular professional development opportunities on the impact of trauma and complex trauma.

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