

Policing Domestic Violence in NSW

A special report to Parliament under
s.31 of the *Ombudsman Act*

December 1999

The Hon. Meredith Burgmann MLC
President
Legislative Council
Parliament House
SYDNEY NSW 2000

The Hon. John Murray MP
Speaker
Legislative Assembly
Parliament House
SYDNEY NSW 2000

Dear Madam President and Mr Speaker,

I submit a report pursuant to section 31 of the *Ombudsman Act*. In accordance with the Act I have provided the Minister for Police with a copy of the report.

I draw your attention to the provisions of section 31AA of the *Ombudsman Act* in relation to the tabling of the report and request that you make it public forthwith.

Yours faithfully,



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16 December 1999

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Introduction

The prevalence of domestic violence in the community

In 1998-99, more resources were utilised by police in responding to domestic violence incidents than any other single reported crime. Police responded to nearly 77,000 reported incidents of domestic violence during that period.¹

A national survey² provided an insight into the extent to which acts of personal violence are committed in domestic situations. That report estimated, that of the approximately 6 million women who were or had been married or in a *de facto* relationship in Australia, 22.5% had experienced physical violence by a partner (either current or previous) at some time during the relationship.³ In New South Wales, an average of 40 women are killed every year due to domestic violence.⁴

It is clear that the issue of domestic violence is one of widespread public concern.

Purpose of the report

The reporting of domestic violence to police is increasing rather than abating. As with every other aspect of their operations, police have limited resources to deal with the problem of domestic violence. This Office recognises that the Police Service will never have unlimited resources to deal with the problem of domestic violence. It is also important to acknowledge the recent Police Service initiatives in the area. Against this background, this report seeks to highlight continuing community concerns raised with this Office about the policing of domestic violence. The purpose of this report is to canvass possible ways in which the Police Service may be able to better utilise its limited resources and continue to improve its service delivery in the domestic violence area.

This Office receives a substantial number of complaints in relation to the policing of domestic violence.⁵ It should also be recognised that many members of the public who come in contact with police, particularly in relation to domestic violence, are unaware of their right to complain about the service they receive or may be otherwise reluctant to lodge a complaint.

Based on complaints and other information received by this Office (see 'Methodology' section below), several main themes have been identified in the report. Problems have been identified with training, the role of domestic violence liaison officers and failure by police officers to adhere to the Service's own policies and procedures for responding to domestic violence incidents.

1 *Police Service Weekly*, Vol.11, No.16, 26 April 1999, p. 5.

2 *Women's Safety Australia*, Australian Bureau of Statistics, 1996, Canberra. As referred to in *An Evaluation of the NSW Apprehended Violence Order Scheme*, L. Trimboli & R. Bonney, NSW Bureau of Crime Statistics and Research, 1997, p.2.

3 *Ibid.*

4 *Police Service Weekly*, Vol. 11, No. 16, April 1999, p.5.

5 In the year 1997-98 the NSW Ombudsman received approximately 300 complaints related to the issue of domestic violence.

A recurrent theme throughout the report is the need for the Police Service to adequately monitor service delivery. It will be through this method that the Service will be in a better position to assess and improve its performance in this area.

The importance of the police role in responding to domestic violence

While it is clear that the issue of domestic violence is a concern for the community as a whole, it is the police who in the majority of cases intervene at an early stage. The response of the police to an initial call for assistance in a domestic violence matter is crucial for the immediate protection of the victim. Police have specific powers which enable them to respond to domestic violence incidents. The way in which police perform these tasks has an impact on the outcome of the matter including whether victims feel confident in contacting the police in the future⁶.

Methodology

The following resources have been considered in the preparation of this report.

Discussion paper and submissions

In May 1998 this Office circulated a discussion paper, *Policing Domestic Violence in NSW: A Discussion Paper* [Appendix A]. That paper was disseminated to government departments, community groups and service providers in New South Wales. The discussion paper outlined Police Service procedures and focussed on the following complaint themes:

- initial responses to domestic violence incidents;
- the service of Apprehended Violence Orders (AVOs);
- the enforcement of Apprehended Violence Orders;
- victim support;
- training at patrol level; and
- the monitoring of service provision.

We invited comments on the above topics or sought any additional comments or feedback on other related issues of concern.

This Office was pleased to receive more than 60 submissions in response to the discussion paper. Themes and comments from those submissions have been incorporated into this report in order to highlight community concerns. The comments are useful to illustrate perceptions about inadequacies in police responses to domestic violence and reflect the difficulties involved in this area for all concerned.

A consultation was also held with the Apprehended Violence Order Legal Issues Co-ordinating Committee convened by the Attorney General's Department.⁷ At this consultation meeting a broad overview of the discussion paper was presented to the Committee and members were asked to provide feedback on the "Suggestions for Improvement" outlined in the paper. This Office was appreciative of the opportunity to consult with the Committee and receive its input.

⁶ 9.5% of those surveyed stated that they did not report alleged breaches of their AVOs to police due to past negative experiences with police in *An Evaluation of the NSW Apprehended Violence Order Scheme*, L. Trimboli & R. Bonney, NSW Bureau of Crime Statistics and Research, 1997, p. 60.

Other sources of information

In addition to responses to the discussion paper, this Office has used other sources of information in preparing this report including:

- A survey conducted by this Office on the domestic violence training at each local area command in New South Wales, *Domestic Violence Training in your Local Area Command* [Appendix C].
- Information from the Domestic Violence Central Data Bank (DVCDB).
- Material from the Information Technology Branch of the Police Service
- Recent research relevant to the area.
- Information from complaints received within this Office related to domestic violence.

This report also refers to:

- the findings of the New South Wales Bureau of Crime Statistics and Research report, *An Evaluation of the NSW Apprehended Violence Order Scheme, 1997*;
- internal procedures of the Police Service as contained in the *Police Service Handbook, 1999* and the *Domestic Violence Standard Operating Procedures, 1997*; and
- unpublished draft report, the *Domestic Violence Liaison Officer Survey Report, July 1998*, which was produced by the NSW Police Service.

Statement of Provisional Findings and Recommendations and the Police Service's Response

On 4 August 1999 this Office sent the Police Service a Statement of Provisional Findings and Recommendations about the matter ("the Provisional Statement"). This Provisional Statement contained the text which appears in this Report. It also included a "Summary of Recommendations" which comprehensively listed the various recommendations that had been made at various points throughout the Provisional Statement.

On 20 September 1999 this Office received the Police Service's response to the Provisional Statement in the form of a letter from Commander Evans, the Service's Corporate Sponsor on Domestic Violence issues. This letter provided detailed commentary in relation to each of the recommendations listed in the "Summary of Recommendations".

It appears that some of the initiatives in the area of domestic violence described in Commander Evans' letter have been developed in response to the recommendations in this Office's Provisional Statement.

For convenience, this Office has set out at the end each chapter the relevant provisional recommendations, together with a summary of the Police Service's response to each of the recommendations, and this Office's observations on each response.

7 An inter-departmental committee established by the Director General of the Attorney General's Department in 1994 to identify and examine legal, policy and procedural issues associated with Apprehended Violence Orders and monitor the co-ordination of services to persons seeking protection.

Police powers and procedures relating to domestic violence

Police powers and procedures are set out in the *Crimes Act 1900* and the Police Service's own guidelines, entitled *Domestic Violence Standard Operating Procedures*.⁸

Applying for an Apprehended Violence Order (AVO)

The *Crimes Act* provides that police must apply for an AVO if the police officer suspects or believes that a domestic violence offence has recently been committed, or is imminent, or is likely to be committed, against the person in need of protection.⁹ This means that, once a police officer has a suspicion or belief about the commission of a domestic violence offence, the officer is required to apply for an AVO.

The Act only provides for two exceptions to this mandatory requirement where the person in need of protection is at least 16 years of age:

- the police officer believes that that person intends to seek an AVO through their own application; or
- the police officer believes there is "good reason" not to seek an AVO.¹⁰

In these cases, the officer must make a written record of the reason¹¹ for not seeking an AVO. According to the Police Service guidelines, this record should be in a notebook and on the Police Service's Computerised Operational Police System (COPS).¹²

The first exception is easy to understand – the police officer is not required to make an application because it is believed that the person in need of protection will do so.

However, the second exception – that the officer believes there is "good reason" not to seek an AVO – is very broadly expressed. The statutory provisions and current Police Service guidelines in themselves give little practical guidance on the sort of circumstances which would amount to a "good reason". Nevertheless, it should be appreciated that the intention of the legislation is directed towards favouring police intervention to protect victims of domestic violence.

Exercise of the power of arrest

In most areas of policing, it is emphasised that the discretion to arrest a person for the commission of a criminal offence should only be exercised as a last resort.

However, the exercise of the power of arrest in the area of domestic violence offences has a different emphasis. Relevant police guidelines state: "when officers are satisfied a domestic violence offence has been committed, as your first option, the strongest consideration is to be given to exercising your powers in favour of arresting alleged offenders."¹³

8 A more detailed discussion of the procedures is contained throughout later sections of this report and in the discussion paper originally issued by this Office, a copy of which forms Appendix A to the report.

9 *Crimes Act*, 1900, s.562C(3).

10 *Crimes Act*, 1900, s.562H(2)(c).

11 *Crimes Act*, 1900, s.562C(3A).

12 *Domestic Violence Standard Operating Procedures*, p.9.

The reason for this emphasis is also explained in the guidelines: “stopping the conflict and the protection and immediate safety for victims is paramount.”¹⁴

Investigating a breach of an AVO

The Police Service guidelines state: “the role of an officer is to thoroughly investigate breaches of AVOs. Where there is sufficient evidence, charge the offender with breaching the order, as well as [any] substantive offence.”¹⁵

As currently drafted, the guidelines seem to suggest that, if there is sufficient evidence of a breach of an AVO, a police officer has no discretion as to whether to prefer a charge in relation to the breach. However, it is not clear whether the guidelines were actually intended to remove all discretion from police in this area. It appears that, in practice, police officers do exercise discretion as to whether a charge should be preferred. This report will examine issues surrounding the scope of discretion in this area.

The guidelines also note that “breaching an AVO constitutes a criminal offence which is to be proved beyond reasonable doubt.”¹⁶ This standard of proof points to some of the difficulties in successfully prosecuting a breach of an AVO. This issue is also canvassed in the report.

Police Service initiatives

The Police Service has reported that 80% of members of the public they surveyed were aware that domestic violence is a crime and should be reported to the police.¹⁷ It is important to acknowledge that the Police Service has instituted a number of significant initiatives to further enhance awareness and service delivery in the area including:

- advertising campaigns designed to inform members of the public of their rights in regard to reporting domestic violence incidents to police;
- the placement of a domestic violence liaison officer (DVLO) in each of the 80 local area commands and, in many cases, a back-up DVLO as well;
- the development of specialised training for officers, including training on procedures involved in responding to domestic violence and other issues surrounding domestic violence;
- the appointment of eleven region domestic violence liaison officers, who in addition to their other duties, meet with the Corporate Sponsor for Domestic Violence (Region Commander Chris Evans) on a regular basis;
- the launching in May 1997 of Standard Operating Procedures for domestic violence which are to be reviewed every 12 months;
- working with the Attorney-General’s Department in support of Violence Prevention Specialist positions throughout New South Wales;
- developing the capability of the Computerised Operational Policing System (COPS) to produce statistics on relevant domestic violence measures;

13 *Domestic Violence Standard Operating Procedures*, p.6.

14 *Ibid.*

15 *Domestic Violence Standard Operating Procedures*, p.11.

16 *Ibid.*

17 *Annual Report, NSW Police Service, 1997*, p.2.

- introducing extra photographic equipment to allow officers to take photographs of any victim injuries at the scene of a domestic violence incident;
- developing a new training manual to enable police to improve their responses to domestic violence incidents;¹⁸
- publishing the document *Victims Support Policy and Procedures* which comprehensively outlines the way in which police are expected to respond to victims of crime (including domestic violence) and contains the Charter of Victims Rights.

¹⁸ *Sydney Morning Herald* 2 February 1999.

A. Attitudes

Issues of concern

Policing domestic violence is a difficult task and police attitudes, like community attitudes, are influenced by historical, political and social factors. It is well documented that, despite broad legislative and procedural change over the past twenty years, misinformed and stereotyped attitudes to domestic violence, such as the perception that “it is a private matter that should be handled within the family”, still persist in the community. Therefore it is not surprising that these stereotypes and misunderstandings also continue to influence the attitudes of some police.

An overwhelming number of those responding to our discussion paper identified the attitude of some officers as a principal area of concern¹⁹.

Community attitudes towards domestic violence, which some members of the NSW Police Service share, often devalue the seriousness of the crime and minimise the experiences of victims. While there is ... recognition that the NSW Police Service has greatly improved its response to domestic violence over the past ten years, it is equally recognised that such change must be ongoing...
(submission 63)

The *Report on Police Attitudes to Domestic Violence, 1997* found that:

there is a definite lack of comprehension by the police interviewed of what constitutes domestic violence. This lack of understanding was found to diminish the seriousness of this abuse, thus rejecting the victim’s right to live in safety and also reducing the perpetrator’s accountability for their actions.²⁰

That report found that the majority of officers surveyed did not understand what constituted domestic violence and did not provide a definition of domestic violence as it was defined in public policy. Those officers expressed a “strong dislike” for attending domestic violence incidents. The reasons offered for this often included a fear for their own safety and a resentment at the time they had to spend in following up on the paperwork after attending an incident.²¹

Examples of the comments made by police officers to women who attended police stations to report domestic violence incidents were provided by a respondent to the discussion paper:

‘I don’t have time to take a full statement now.’
‘It would take at least two hours, can you come back on Monday?’
‘I would prefer it if couples were able to sort out their differences without bothering us.’
‘You’re half the problem.’ (submission 34)

19 78% of submissions specifically referred to problems with the attitude of some officers to domestic violence.

20 *Report on Police Attitudes to Domestic Violence*, School of Social Science and Policy, University of New South Wales, 1997, p.26.

21 *Report on Police Attitudes to Domestic Violence*, School of Social Science and Policy, University of New South Wales, 1997, p.26.

It is inevitable that there will always be some officers in the Police Service who harbour inappropriate attitudes to their duties in relation to domestic violence. However, it is the concern of this Office that these attitudes may have a significant impact on the way in which service is delivered to the public. For example, inappropriate attitudes can impact on the readiness of some officers to comply with procedures and the provision of adequate protection and support for victims. They may also impact on victims' willingness to seek assistance from police. Fear of inadequate police responses to domestic violence has been identified as one of the most important factors which dissuades victims from reporting crimes in the area.²²

Respondents to the discussion paper strongly suggested that the attitudes of some officers led to inadequate policing responses in a number of domestic violence incidents. Furthermore, 87% of submissions stated that some aspect of the domestic violence standard operating procedures or legislation was not followed in some specific incident or raised non-compliance as a general problem.

The Police Service response

The Police Service has acknowledged that the attitude of some officers is an issue of concern. The Police Service has stated that it needs *"to continue to improve police officer understanding of the complex nature of domestic violence and its impact on victims and their families ..."*.²³

The Police Service has identified improved training as a method to overcome this problem and has stated *"... the Service is currently examining different training models ... [t]his could also assist in moving entrenched sexist attitudes about domestic violence over a period of time."*²⁴

This training would need to directly address the adverse implications for victims of domestic violence and their children when officers attending the incident do not understand their role or do not take that role seriously. Police training is discussed in detail in Chapter D of this Report.

Achieving change

The difficulty of achieving comprehensive attitudinal change in a large organisation such as the Police Service is acknowledged. Certainly training is the primary means of educating police and improving attitudes over time. However, training will not necessarily lead to immediate changes in practice. Thus it is essential that practical measures be implemented to monitor compliance with procedures and identify opportunities for improved service delivery and consistency in police responses.

The role police attitudes play is relevant to a number of the key areas discussed in this report. As a consequence, the impact of inappropriate police attitudes is a common issue discussed throughout the remainder of the report. This Office considers this focus is essential as inappropriate attitudes can lead to poor policing responses which put the safety of domestic violence victims at risk.

22 Ibid., p.2.

23. NSW Bureau of Crime Statistics and Research, *Crime and Justice Facts 1997*.

24. Police Service response to *Policing of Domestic Violence in NSW: A Discussion Paper*, NSW Ombudsman, received 21 July 1998.

B. Victim Support

The provision of appropriate and timely victim support by police in the domestic violence process has been shown to be crucial in determining the experience of victims.²⁵

Issues of concern

Guidelines and the provision of support

The Charter of Victims Rights is part of the *Victims Rights Act (NSW) 1996*. That Charter attempts to ensure that victims are treated with “courtesy, compassion and respect”; are provided with information about services, the investigation, the prosecution, their role as a witness and the outcome of bail determinations; and are provided with protection from the accused. Many government organisations, including the Police Service, are required to comply with these principles.

The Police Service’s *Victims Support Policy and Procedures* document published in November 1997 incorporates the Charter and details Police Service responsibility in this area.

Current Police Service guidelines include the requirement that on attending the scene of a crime, including a domestic violence incident, the attending officer should provide the victim with a ‘victim card’.²⁶ That card has on it the attending officer’s details and other relevant information.

The development of a victims card is an important initiative as it empowers victims to take control of the information and services they wish to access from the police and appropriate support agencies. (submission 54)

Despite these policies and guidelines, there are problems and complaints that arise in relation to the policing of domestic violence that are related to victim support issues. These include:

- providing inadequate support;
- not providing the involved parties with adequate information; or
- expressing an inappropriate attitude toward the victim of a domestic violence incident.

Unfortunately, an overwhelming number of the submissions to this Office²⁷ in response to the discussion paper stated that there were inadequacies in relation to the level of victim support

25 *An Evaluation of the NSW Apprehended Violence Order Scheme*, L. Trimboli & R. Bonney, NSW Bureau of Crime Statistics and Research, 1997, p.vii.

26 Police Service Standard Operating Procedures

27 92% of respondents to the discussion paper stated that they had experiences in which the level of victim support offered by police was inadequate.

28 See ‘Responding to a breach of an AVO’ at p.28 of this report.

provided by some officers. Many of the submissions described inappropriate comments, rudeness and a failure to act on the part of those officers.²⁸

It is clear victims of domestic violence have particular expectations of police officers who attend the scene, or to whom they report the incident. Victims expect officers to be polite and patient, and to display some understanding of their situation.²⁹

Research has shown that a common complaint amongst victims of domestic violence was that “the officer (or chamber magistrate) was unsympathetic, rude or indifferent; provided insufficient information or explanation; or did not take the complaint seriously.”³⁰

A client in a semi rural area was told nothing could be done because she didn't have bruises. Eventually when she did apply for an AVO she was not informed about services available to support her. The police and her partner had sporting and drinking affiliations. (submission 58)

Unfortunately, it seems to be the case that some officers do not see it as part of their role to provide victim support. The Report on Police Attitudes to Domestic Violence found that police focussed on the strictly legal aspects of the domestic violence situation such as obtaining a conviction but did often not consider the need to deal with victims in an appropriate manner.³¹

The reported failure on the part of some officers to provide victim support may be due to various factors which include bringing prejudices to the job. The report found that a vast majority of police exhibited an attitude that assigned some level of fault to the victim.³²

Another factor may be a lack of understanding of what is required on the part of a police officer attending a domestic violence incident. Some officers have stated that the role of victim support is not solely their responsibility and that other agencies also have an obligation in this regard.³³ Despite this, analysis of the submissions suggests that it is rare for victims of domestic violence to be referred to other agencies by police.

While it is not the sole responsibility of police to provide victim support, the Police Service has appropriately acknowledged its direct and vital role in this area. The Service needs to ensure that officers attending domestic violence incidents understand their obligations in relation to victim support. It is clear from the Service's guidelines that, at a minimum level, it is about treating people in a courteous manner and relaying basic information to them about the matter in which they are involved.

A woman complained to police following an assault by her ex-boyfriend. She sustained serious physical injuries and complained about her treatment by a particular officer who handled the investigation.

“I went to [the] police station where I was made to wait a long time and then told nothing [except] to contact [a constable] who is investigating the incident ... I am disgusted by the way I have been treated by the police. [The constable] had not contacted me at all until ... 5 days after the incident. He stipulated that he had received statements from the gentleman concerned. I asked why I had to yet be contacted, how can you hold an investigation if the victim is not asked any details ... I am appalled by [his] investigation. He has made no attempt to help me in any way. I am not the offender, I am the victim and I feel it is time I was treated in the correct manner.”

29 *Expectations of Policing Services Regarding Domestic Violence*, Report of Findings, NSW Police Service, 1994, p.4 & 10-11.

30 *An Evaluation of the NSW Apprehended Violence Order Scheme*, L. Trimboli & R. Bonney, NSW Bureau of Crime Statistics and Research, 1997, p.vii.

31 *Report on Police Attitudes to Domestic Violence*, School of Social Science and Policy, University of New South Wales, 1997, p.26.

32 *Ibid.*, p. 25.

33 *Expectations of Policing Services Regarding Domestic Violence*, Report of Findings, NSW Police Service, 1994, p.5.

The Police Service investigated her complaint and found the officer failed in his duties on a number of levels.

Issues relating to the provision of inadequate victim support are compounded by factors such as whether the victim is able to speak English, has a disability or is Aboriginal. The importance of officers providing victims with an appropriate level of support cannot be overemphasised as is clear from the concerns raised in some of the submissions received by this Office.

On one occasion recently where a woman who is a tenant of ours was assaulted by her ex-partner in the main street, the adjacent shop keeper called the police and was asked whether she was Aboriginal. They took an hour to arrive and then told her to 'waddle on down to the police station' to make a statement when she was ready. (submission 1)

There is a clear need for each local area command to systematically refer victims of domestic violence to other agencies in the local area to assist with victim support and other services. Developing strategic relationships with other agencies will improve the overall level and quality of victim support.

Information regarding innovative victim support techniques and programs developed by individual local area commands should be actively identified and circulated within the Service. In addition to this, the Police Service should monitor the complaints system in order to identify systemic problems in relation to victim support.

Victim support at court

A number of complaints and inquiries received by this Office have related to taking matters to court. Parties must attend court when an AVO application is heard and when charges for a breach of an AVO or other charges relating to domestic violence incidents are being dealt with.

A woman had to attend court as a witness for the Crown after being assaulted by her husband. In her complaint to this Office she stated,

"I had not heard from the Police Prosecutor within days of the court hearing and when I contacted him [to] inquire as to whether they had subpoenaed supporting medical evidence, I was advised that this was the responsibility of [another officer]. However, as a Crown witness, I ended up doing the job obtaining the relevant information ... the day before the hearing."

Most parties (victims and offenders) know very little about the court process. For victims, a busy courtroom can be an alienating and confusing place. Often their only contact with a service provider before going to court is with police. Victims rely heavily on officers they are in contact with to provide them with information about the court process and what is required of them at court.

Police Service guidelines require the officer in charge of the case or the DVLO to explain court procedures to victims and check with victims whether the conditions being sought in the AVO are appropriate. Those officers must also instruct the prosecutor accordingly.³⁴

Victims can often find the number of officers involved in their case confusing. The officer in charge of the case will be present as the informant and may give evidence. The DVLO may be present on

³⁴ Domestic Violence Standard Operating Procedures, p.12.

³⁵ See 'Introduction' at p.1 of this report. ??? Where does this reference go??

AVO list days to provide assistance and support to victims. The police prosecutor has control of the case in the court room. It is often the situation that all of these officers are involved in a number of such cases on the day and may be short of time to spend with victims.

It is of concern that, notwithstanding Service guidelines, victims may be unable to speak to an officer in detail about their case and left feeling unsupported at a crucial time. The fact that the guidelines provide that the officer in charge or DVLO must perform the victim support role at court means that in some cases neither officer discharges this function.

Similarly, a concern raised in the submissions was that victims were often unable to speak to police prosecutors prior to their case being heard and that information was not being adequately communicated to prosecutors about their case. While Police Service guidelines do not make provision for victims to speak to prosecutors in relation to AVO matters, the guidelines require the officer in charge or DVLO to liaise with victims and appropriately instruct the prosecutor. It is of concern that, notwithstanding the guidelines, information from victims may not be effectively communicated to prosecutors in some cases.

In view of the concerns raised in complaints and submissions, this Office suggests that the Service consider reviewing its guidelines to strengthen police responsibilities in providing victim support at court. In particular, the guidelines need to ensure that a clear decision is made in each case as to which officer - the officer in charge or DVLO - will accept responsibility for providing the necessary victim support. The Service should also consider developing a mechanism to adequately assess the extent to which the guidelines are being complied with. While the Service's guidelines may be adequate, the Service needs to be in a position to know how those guidelines operate in practice.

Victim support and witness protection

Under the *Witness Protection Act 1995*, the Police Commissioner is required to establish and maintain a witness protection program.³⁶ This program is administered by a unit known as the Witness Security Unit (Witsec). A person is entitled to apply for protection and assistance under the witness protection program. This Office has a specific role in reviewing decisions by the Police Service to refuse applications for witness protection or to remove a person from the witness protection program.

This Office had occasion to examine a particular matter involving a refusal by the Police Service to provide Witsec protection to a woman who had been the victim of domestic violence and who had applied for such protection. The basis of the refusal was that there were alternative means of protection available to the victim through her local police area command. We conducted a review of the decision and found that, in view of the very serious nature of the threat, the local area command was not adequately equipped to provide sufficient protection to the victim. This finding was based on a lack of adequate capacity and resources within the local area command to provide the range and level of protection required in this particular case.

This case raises the question of whether there is appropriate recognition within the Police Service of the need to seek the views of Witsec in extreme cases requiring Witsec's expertise.

It is important to recognise that the Police Service has issued a *Victims Support Manual*. This provides advice on a variety of protective strategies available to victims of domestic violence. It is true that, in many cases, this would be a source of helpful advice to many women in domestic violence situations where there is an ongoing threat of violence. However, there does seem to be a need in some cases to

³⁶ *Witness Protection Act*, s.5(1).

ensure that more specialist support is available, based on a rigorous and accurate threat assessment by those who have special expertise in providing protection. In rare cases, this may require a change of identity and location for the victim. In this respect, it should be noted that the need for such radical protective measures can be reviewed in light of ongoing developments.

In order to ensure that the most serious range of cases come to the attention of Witsec, there needs to be a greater appreciation by local police and DVLOs of the difficult issues posed by these cases and of the operation of the witness protection scheme. At present, Police Service policies and training in the area of domestic violence seem to provide no clear guidance on the circumstances in which police need to refer victims of domestic violence to Witsec for consideration and possible protection by Witsec. It should be emphasised that, as a matter of practice, the only way in which most people can secure admission to the witness protection program is by the referral of a police officer. If local police officers are not aware of this need for police referral, there is a real risk that referrals will not be made despite the possible need for advice and expertise available in the witness protection area. The failure to make an appropriate referral has the potential for fatal consequences.

This Office considers that the Police Service should develop adequate guidelines and training on the issue of witness protection in the context of providing support to victims of domestic violence. In particular, the guidelines and training should emphasise the need for careful assessment of the level of threat to victims of domestic violence. The Police Service should also ensure that, in appropriate cases, domestic violence victims are referred to the Witness Security Unit for advice and assistance.

The Police Service response to discussion paper

The Police Service has acknowledged the importance of victim support and introduced appropriate policies and procedures. Commissioner Ryan, in introducing the Service's policy, commented:

“When attending an incident, we need to continue to understand and acknowledge what the victims are going through and how their experiences are affecting their comments and actions. We all owe victims the best service we can possibly provide.”³⁷

Recommendations

On 4 August 1999, this Office issued a Statement of Preliminary Findings and Recommendations to the NSW Police Service. The Statement contained the findings as presented in this report, as well as 24 recommendations regarding the policing of domestic violence. In reply, Commander Chris Evans, Region Commander for Greater Hume Region and Corporate Sponsor for the Police Service in regard to domestic violence, provided detailed comments in relation to the provisional recommendations.

Accordingly, this section of the report, as well as the later sections dealing with recommendations, set out the provisional recommendation made by this Office, the Police Service response provided by Commander Evans, the observations of this Office regarding those comments, and finally, either confirms or modifies the original recommendation in light of the Police Service response.

³⁷ *Victims Support Policy and Procedures*, NSW Police Service, 1997, p.2.

Provisional Recommendation 1:

That each local area command systematically refer victims of domestic violence to other agencies in the local area to assist with victim support and other services. The Police Service also needs to develop mechanisms to measure the extent to which each local area is developing strategic relationships with other agencies working in the domestic violence area.

Police Service Response to Provisional Recommendation:

Commander Evans has acknowledged that while the Police Service has developed the Victim Support Policy and Guidelines, *“it has become apparent that many Service staff have not seen nor had access to the policy document and the victims card”*.³⁸

Commander Evans advised us of the following strategies to highlight the responsibility of police officers in this area:

- *“working collaboratively with the Victims of Crime Bureau to conduct lectures for CEP³⁹ students regarding the impact of crime on victims and strategies for staff to meet their responsibilities to the Charter of Victims Rights”;*
- *“this is further supplemented with a panel of crime victim support agencies presented just prior to students going out into the field”;*
- *“establishment of an Interagency Forum on the Charter of Victims Rights which brings together all the government agencies with responsibility under the Act to work collaboratively at addressing victims needs. Local Area Commanders and the DVLO are invited to attend these forums.” Fourteen of these forums are planned for the year 2000;*
- *“the Policy Document and sample cards are being provided to DVLOs and CSOs⁴⁰ during their training programs. ... The Victims of Crime Bureau provide a segment to DVLOs regarding crime victim rights and needs during the training program”;*
- a review of the policy and use of victim card in November 1999;
- consideration of an audit on the policy and use of victim cards;
- distribution of the *Domestic Violence Support Manual* to each LAC;⁴¹ and
- ongoing contact and consultation with regional Violence Prevention Specialists from the Attorney-General’s Department.

Commander Evans provided examples of some local strategies for referral of information to victims of domestic violence.

Penrith LAC meets quarterly with local agencies to examine practice and response issues. ...The strategy has led to letters being sent to victims and repeat offenders, which include discreet agency information.

Brisbane Waters [and] Tuggerah Lakes LACs have been involved in the production of a local information kit for women escaping domestic violence. This project has been so successful that a further 3000 kits are being considered for reprinting. A supply of kits is located in each police vehicle so that officers can provide a woman with appropriate information on first contact.

38 Police Service response to the Provisional Statement, 16 September 1999, p.2.

39 Continuing Education Program

40 Community Support Officers

41 Local Area Command

42 Ibid. p.3.

Wollongong LAC works closely with local agencies to support women following service of an AVO. This provides interventions over a three month period initiated by the police and service providers involved in the *[local Women's Safety Project]*.

Commander Evans also stated that the Service "acknowledges the need for continuous quality improvement in these areas. Further strategies for improvement may include a review through support agencies to determine police involvement with these organisations."⁴²

This Office's Observations

This Office supports the Police Service initiatives undertaken as outlined above. It is clear from these initiatives that the Police Service acknowledges its central role in ensuring that victims of domestic violence are offered appropriate information and support. The partnerships that the Service has entered into, in particular with regional Violence Prevention Specialists, are acknowledged and welcomed.

Developing strategic relationships with local agencies is largely a matter for local commands to manage, but there is value in measuring their success in developing these relationships, and evaluating their performance on a statewide basis. There is also a risk that innovative and creative strategies for developing relationships with key agencies will not be communicated to other commands. To encourage the development and communication of these strategies, it is important that the Service consider establishing systems for assessing the performance of local commands, and for communicating and implementing, where appropriate, creative strategies across the whole of the Police Service.

The examples given in Commander Evans' response are positive and illustrate how examples of good practice in particular commands might be used to improve the standards statewide through effective assessment and communication strategies. For example, consistent with our recommendation, the Police Service could identify which of its local initiatives were successful, such as that at Tuggerah Lakes LAC, to evaluate whether such a strategy could be applied Service wide. This would ensure, as far as possible, that victims of domestic violence were obtaining equivalent information for their local area, ensuring consistency across the state in the provision of advice relating to victims support services.

This Office requests that it be kept informed of the development of strategies to give effect to this recommendation.

Final Recommendation 1:

- a) ***That each local area command systematically refer victims of domestic violence to other agencies in the local area to assist with victim support and other services.***
 - b) ***That the Police Service develop mechanisms to measure the extent to which each local area is developing strategic relationships with other agencies working in the domestic violence area.***
-

Provisional Recommendation 2:

That the Police Service actively identify and circulate within the Service information regarding innovative victim support techniques and programs developed by individual local area commands.

Police Service Response:

The Police Service has established a 'Best Practice Register' containing information on local projects including those relating to domestic violence. Commander Evans has stated that the purpose of the Register is to record this information and to review each project to ensure that it is within the terms of relevant legislation and Police Service policy. Information on the Register is accessible to all officers via the internal memo system and intranet.

Commander Evans also advised that:

The State Domestic Violence Council 'Terms of Reference' highlights the need to develop best practice. Council representatives are responsible for holding regional DVLO forums to identify problems and initiatives in relation to domestic violence. This process has only recently been formalised by Council but has the potential to provide a systems view of service responses to domestic violence and opportunities to analyse best practice at the local level.

The Service acknowledges the need for continuous quality improvement in these areas.

This Office's Observations:

The development of a 'Best Practice Register' is an important initiative. The Register is a way in which to record and disseminate information throughout the state about local initiatives regarding victim support techniques. However, the Police Service needs to have a mechanism to ensure that all appropriate instances of best practice are recorded on the Register.

The Register may also be a useful measure of the way in which local area commands are addressing particular issues, including those arising from Recommendation 1 relating to the development of strategic relationships with external agencies. There is still a need, however, for a system to assess the performance of local area commands on this issue.

This Office supports the role of the Council in identifying and promoting best practice throughout the Service. It will be important for the Council to be adequately informed of all local initiatives in order that it is able to identify and analyse best practice areas in addition to deficient areas in the provision of victim support. The Council will then be in a valuable position to provide strategic advice about victim support to the Service as a whole.

Final Recommendation 2:

That the Police Service actively identify and circulate within the Service information regarding innovative victim support techniques and programs developed by individual local area commands.

Provisional Recommendation 3:

That the Police Service monitor the complaints system in order to identify systemic problems in relation to victim support.

Police Service Response:

Commander Evans has said that the current Complaints Information System (CIS):

does not allow for searching of specific data relating to complaints of victims of domestic violence. ... A number of deficiencies have been identified with the CIS, which is expected to be replaced in the near future by a system that allows data to be retrieved and analysed in wider formats. As an interim measure though, CIS category codes have been added to allow for complaints referring specifically to domestic violence to be captured.

The categories added are:

Customer Service:	Victim support
	Victim support - domestic violence
Criminal Allegations:	Assault - domestic violence

LACs, Internal Affairs, Region Professional Standards Managers and others with the appropriate access to CIS will then be able to monitor the information by running batch reports.

The Police Service has advised that it has recently amalgamated all its call centres into the Police Assistance Line (PAL) command:

PAL is in the process of developing protocols and guidelines in relation to customer complaints and concerns. Once these projects are formalised, mechanisms for promoting the complaints handling process within the community will be undertaken. Mechanisms to achieve this may include:

- developing a 'fact sheet' regarding the complaints process which could be located on the Police Service web site;
- the 'fact sheet' being located at every LAC for easy access by individuals and agencies;
- copies of the 'fact sheet' being provided at interagency meetings;
- an advertising campaign to promote access to information about the process.

This Office's Observations

Again, this Office supports the proposed initiatives of the Police Service in this area. The complaints process is one tool which can be easily utilised by the Service to monitor both the impact of innovative initiatives in local areas as well as commands that respond inadequately to complaints about victims support in domestic violence incidents.

The Service has an opportunity to not only address problems in the handling of domestic violence incidents, but also to promote innovative strategies to deal with problems that arise. Without a system for monitoring these issues on a statewide basis, the opportunity for the sharing of knowledge and ideas is diminished.

We will be following up the extent to which the Police Service effectively utilises its information systems to monitor systemic problems in relation to victim support.

Final Recommendation 3:

That the Police Service monitor the complaints system in order to identify systemic problems in relation to victim support.

Provisional Recommendation 4

That the Police Service clarify the current guidelines for liaising with and providing victims support to victims at court. The current guidelines are not clear in delineating the responsibilities of DVLOs, informant officers and police prosecutors.

Police Service Response:

Commander Evans has stated that the Police Service:

is aware of the deficits in the current Domestic Violence Standard Operating Procedures (May 1997) and has undertaken a major review. The [Service] has consulted widely to ensure the document more appropriately reflects the Service responsibilities in relation to victims of domestic violence. The draft document contains considerably more information with respect to the areas identified in the Ombudsman's report than was previously addressed. ... Developing and maintaining linkages with the statewide Court Assistance Schemes has been identified as an integral part of the Service response in this area.

The Service acknowledges the need for further improvement in this area. Further strategies for improvement will include the distribution of the final policy and standing operating procedures document to key support agencies.⁴³

This Office's Observations:

While we recognise the Service's commitment to improving the quality of its Standard Operating Procedures for responding to domestic violence, it is not possible to comment yet on the strategies that the Service will employ to deal with these issues. We note with approval the Service's recognition of the need to address, in some detail, the distinction between the roles and functions of the various officers involved in bringing a domestic violence matter to court.

This Office supports the steps taken by the Police Service to improve its service delivery in this area. Again, this Office encourages the need for ongoing monitoring of its role in this crucial area of victims support at court. The monitoring of its service delivery and ongoing encouragement and development of best practice models is central in ensuring that procedures are consistently of the highest quality throughout the state.

This Office requests that it be kept informed of the development of strategies in this area.

Final Recommendation 4:

- a) *That the Police Service ensures that the revised policies and Domestic Violence Standard Operating Procedures provide guidelines for liaising with and providing victims support to victims at court.*
 - b) *That the Police Service identifies and promotes best practice models in this area.*
-

⁴³ Ibid. p.5.

Provisional Recommendation 5:

That the Police Service has adequate guidelines and training on the issue of witness protection in the context of providing support to victims of domestic violence. In particular, the guidelines and training should emphasise the need for careful assessment of the level of threat to victims of domestic violence.

Police Service Response:

Commander Evans advised that:

The Service is currently discussing with the Witness Security Unit guidelines for the risk assessment of victims of domestic violence. It is envisaged that these discussions will lead to guidelines being developed together with a check list for officers which will be included in the new Domestic Violence Policy and Standing Operating Procedures.

Commander Evans refers to the *Domestic Violence Victims Support Manual*, April 1999, which was distributed to each police station:

The document outlines a full range of strategies for addressing victims' needs when risk is ongoing.

The Police Service is to review current training for DVLOs in 1999. It is proposed that these courses will include information regarding risk assessment. In addition, to ensure that all officers are aware of the need to assess risk, information on this topic will be included:

- in the Police Service Weekly;
- on the internal bulletin board; and
- in a training package to be developed by the State Domestic Violence Council in consultation with the Witness Security Unit.

This Office's Observations:

This Office supports the development of risk assessment guidelines and specialist training and asks to be kept informed of the status of these proposals.

Final Recommendation 5:

- a) That the Police Service has adequate guidelines and provides adequate training on the issue of witness protection in the context of providing support to victims of domestic violence.***
 - b) That, in particular, the guidelines and training should emphasise the need for careful risk assessment of the level of threat to victims of domestic violence.***
-

44 Ibid. p.6.

Provisional Recommendation 6:

The Police Service should ensure that, in appropriate cases, domestic violence victims are referred to the Witness Security Unit for advice and assistance.

Police Service Response:

The Witness Security Unit (WSU) is a very small unit ... *[and]* would therefore find it difficult to respond to inquiries from victims of domestic violence. The Service would support developing officers' awareness and understanding of the need to undertake a risk assessment with victims of domestic violence through the implementation of the new policy and standing operating procedures and training. The DVLO would provide consultation and guidance to other officers in relation to risk assessment.

However, Commander Evans has stated that:

victims should be referred to [the Unit] as a last resort where there is complete dissatisfaction with the outcomes of a risk assessment, or the risk assessment identifies the need for the victim to be referred to [the Unit].⁴⁴

This Office's Observations:

This Office believes that the Police Service response is generally positive. However, when it comes to the issue of witness protection, this Office is not asking for victims of domestic violence to be given favourable treatment in terms of referral to the Witness Security Unit. Rather, we expect that where and when witness protection is warranted, domestic violence victims will not be treated any less favourably than other witnesses deemed in need of protection.

In relation to the new policy and standing operating procedures and training, it will be necessary to see how it operates before this Office is in a position to make a definitive judgement on the value of these initiatives.

Final Recommendation 6:

The Police Service should ensure that, in appropriate cases, domestic violence victims are referred to the Witness Security Unit for advice and assistance.

C. Operational Issues

Initial response to domestic violence

As outlined earlier in this report, the Police Service guidelines explain what police are required to do when a domestic violence incident is reported to them. Those guidelines emphasise that ending the conflict and providing support to victims should be of primary concern for police. For example, police are advised that “when satisfied that an offence has occurred, as the first option, the strongest consideration is to be given to exercising your power of arrest which will immediately provide safety for victims”.⁴⁵ Police are also urged to consider ongoing protection for the victim through appropriate charges, bail conditions and/or telephone interim orders, interim orders and AVOs.

In particular, police must apply for an AVO on behalf of a victim when they suspect or believe that a domestic violence offence has recently been or is being committed or is imminent or likely to be committed unless they believe that the victim intends to make a complaint or there is a “good reason” not to.⁴⁶

The guidelines also cover procedures when children are involved, powers in relation to the search and seizure of firearms and other matters.

Issues of concern: Complying with guidelines

A woman complained to this Office that she and her eight year old son were assaulted by her estranged husband and that she was also threatened with a firearm. The woman had sustained injuries and was very distraught when police arrived. The woman stated in her complaint that:

“before the [police] left the property, without any further interview of myself nor assessment of the danger ...I was told by [the officer] that if I could not make up my mind to (sic) what to do, I should sign his note book. I did not know at the time what was contained in his note book and I only subsequently have been told it was my instructions that no action be taken.”

The majority of those who made submissions to the discussion paper stated that the Police Service’s guidelines for responding to domestic violence incidents were adequate. However, the majority⁴⁷ also stated that some aspects of the guidelines were not followed by some officers.

The concerns raised in the submissions included that:

- police often do not arrest the alleged offender even if an assault has been committed, notwithstanding Police Service policy;
- some officers fail to take out an AVO in circumstances where the legislation requires them to do so;

⁴⁵ Domestic Violence Standard Operating Procedures, p.6.

⁴⁶ Crimes Act, s.562C.

⁴⁷ 87% of respondents to the discussion paper stated that they had experiences in which officers did not follow the standard operating procedures in relation to domestic violence.

- similarly, some officers are overly reliant on victims to make decisions in circumstances where police are obliged to take action;
- officers fail to record or properly record information either in their notebooks or on the COPS.

It is important to note that the intention underlying legislation and policy in this area favours police intervention. This is intended to protect and support victims of domestic violence and send a clear message to perpetrators that their actions are unacceptable. Of concern is that some police fail to take action in circumstances where it would be appropriate to intervene by either arresting and charging an alleged offender with an offence or making an AVO application. While this Office is mindful of the difficulties and complexities in this area especially in bringing matters before the court, victims are often left feeling discouraged and unsupported by police responses.

The legislation, while prescribing police obligations, still affords police discretion in deciding what action to take in responding to domestic violence incidents. For example, police need not make an AVO application on behalf of a victim if there is a “good reason” not to.⁴⁸ There is little guidance available to police on the circumstances which would be considered a good reason. However, where police take no action, they are required to record the reason in their notebook and on the COPS.⁴⁹

This Office is of the view that the Police Service should review the reasons which are recorded on COPS by officers when they take no action in relation to domestic violence incidents. This would enable the Service to be able to assess the adequacy of the reasons being recorded and identify trends across local area commands. This information could be used to enhance the current guidelines and in the identification of training needs.

Delays

Of serious concern is that 47% of the total number of submissions received alleged a delay or inaction on the part of police in responding to an initial report of domestic violence.

Adverse consequences of police inaction are compounded in cases where victims are of a non English speaking background, Aboriginal or have a disability, as people in these situations traditionally already have difficulty in accessing suitable services.

The current system in place for responding to all incidents contributes to delays in responding to domestic violence incidents. In a Special Report to Parliament in 1997,⁵⁰ our Office commented on the question of priority assigned to police responses to calls for assistance and made recommendations in relation to inadequacies of the Computer Incident Dispatch System (CIDS)⁵¹ in this respect. We recommended that police officers should be required to carefully grade calls for assistance as to priority and respond accordingly. We further recommended that the Police Service ensure that there are general guidelines and training for police in prioritising work and that the state-wide implementation of CIDS should be expedited. At the time we also noted that the Audit Office was conducting a review of Police Service practices concerning police responses to emergency calls.⁵²

48 *Crimes Act*, s.562H(2)(c).

49 *Domestic Violence Standard Operating Procedures*, p.9.

50 Alison Lewis & Lithgow Police, *NSW Ombudsman Special Report to Parliament*, August 1997.

51 *Annual Report*, NSW Ombudsman 1997-98, p. 48 and Alison Lewis & Lithgow Police, *NSW Ombudsman Special Report to Parliament*, August 1997.

52 Alison Lewis & Lithgow Police, *NSW Ombudsman Special Report to Parliament*, August 1997 pp.24-25.

The Audit Office released its Report on *Police Response to Calls for Assistance* in March 1998. On the question of the grading of priorities, the report commented that “*part of the problem is some confusion over the grading of calls and the use of non-urgent responses.*” The Auditor General noted that although a five level priority system was prescribed in the Police Commissioners Instructions,⁵³ such a system was “*significantly different from the grading scheme adopted in communications rooms. There the four levels of priority for responding to calls from the public have been replaced with only two*” – urgent and non-urgent.⁵⁴

The Audit Office commented that “*differential response systems require a more articulated grading of calls received from the public than is the current practice in NSW. Even the Commissioner’s Instructions provide, arguably, too few gradings.*”⁵⁵ The Audit Office also noted that response grading alone would not be sufficient without a realignment of response resources locally. Accordingly it recommended that:

- A differential response system, managed to achieve efficiency and effectiveness, can and should be considered now by all local area commanders, and its implications for response and resourcing assessed on a consistent basis as part of resource allocation across the Service.
- The response grading should be changed to support differential response more explicitly with additional response options included – such as telephone, walk-in by client, report mail-in and referral to another agency – and clear guidance by client on their use. The grading system should be applied consistently throughout the state, including in country areas.⁵⁶

The Police Service response to discussion paper

Following the Audit Office report, a “Police Response User Group” was formed which examined the issue of creating a broader range of priority categories to assist police in responding to calls for assistance. However, after surveying regional and local area commands, the group concluded that “any more than five priorities would disadvantage/confuse local area command users when generating a message for broadcast”. Nevertheless, it was considered that a greater use of the incident’s “status” (eg “armed”, “dangerous”, “shots fired”, “just occurred”) would provide police attending the incident with a better indication of the seriousness of the incident in question.

This Office still has concerns about whether this is an adequate system for prioritising calls for assistance in relation to incidents requiring police attention. We understand that the Audit Office is conducting a further audit of the Police Service’s performance in this area. We recommend that the adequacy of the Police Service’s response times to domestic violence incidents be considered in that context.

Recommendations

Provisional Recommendation 7:

That the adequacy of the Police Service’s response times to domestic violence incidents be considered in the context of the Audit Office’s audit of police responses to calls for assistance.

53 It should be noted that the Commissioner’s Instructions have now been superseded by the *NSW Police Service Handbook*. The Handbook refers to the 5 level priority system at C-16.

54 *Police Response to Calls for Assistance - Performance Audit Report - NSW Police Service, The Audit Office, March 1998.*

55 *Ibid* p.52.

56 *Ibid* p.57.

Police Service Response:

The Police Service has incorporated domestic violence into its Operations and Crime Review (OCR) process. In the course of this process, local area commanders may be asked questions by the Commissioner's Executive Team about their response to domestic violence.

Commander Evans has informed this Office that the Police Service has undertaken its own audit of the response times to calls subsequent to the audit conducted by the Audit Office. He states that the Service was:

benchmarked against the world best practice standards which ranked the Service response highly.⁵⁷

This Office's Observations:

This Office notes the assurances of the Service regarding its response times to domestic violence incidents. To determine whether the system is capable of providing a timely response to domestic violence incidents, additional information is required from the Service. This Office asks to be advised of details of:

- what are the world's best practice standards?
- how well the Police Service performs against those standards?
- how local area commanders are made aware of their own performance in relation to that standard?
- how has the Service measured its performance regarding response time for domestic violence incidents?
- how the Police Service proposes to monitor performance in the future, particularly following the introduction of the Police Assistance Line?
- how local area commanders will be held to account for ongoing improvement in performance?

Final Recommendation 7:

- a) *That the adequacy of the Police Service's response times to domestic violence incidents continue to be monitored.*
 - b) *That this Office be advised of the results of that monitoring.*
-

Provisional Recommendation 8:

That the Police Service review the reasons as recorded on COPS for taking no action in relation to domestic violence incidents. This would enable a review of the adequacy of reasons given and also form a basis for enhancing current guidance for officers in making decisions not to act.

⁵⁷ Police Service response to the Provisional Statement p.7.

Police Service Response:

Commander Evans has stated that each Local Area Commander:

has responsibility for monitoring the level of domestic violence and the response to it. Commanders also have responsibility for monitoring why no formal action is taken for alleged domestic violence incidents or against reported breaches of Orders.

All 80 Local Area Commanders have been supplied with data indicating how their Commands have responded to reported incidents of domestic violence, either by arrest or by the issue of an Order. Arrangements have been made for the Commissioner and his Executive to be supplied with this data so that it can be used in future OCRs.

The Audit & Evaluation Section provides additional support to the Commissioner.

This Office's Observations:

This Office agrees that it is important for information regarding LAC responses to domestic violence to be provided to local area commanders and the Commissioner. However, the recommendation proposed by this Office refers to improving the quality of responses to domestic violence by monitoring the reasons given by police officers for not responding. In doing so, the Police Service would be in a better position to ensure that consistent standards are applied across the state.

This Office has noted the considerable discretion afforded to police to not make an application for an AVO, if in their opinion, there is a good reason for not doing so. The essential safeguard for this discretion is the requirement that the reasons for its exercise be recorded. While these records may be required to address any issues arising from a particular incident, it is important that they also be examined and evaluated more broadly.

This Office has not been made aware of any initiatives that would indicate that the Service is evaluating on a statewide basis the recorded reasons for not responding to domestic violence reports or for not acting on an alleged breach of an AVO. This Office maintains that the Service needs to better inform itself on its performance in this area. If it is the case that individual LACs are already monitoring this information, then this should be conveyed to the Corporate Sponsor for the purpose of providing feedback to operational police on examples of good and poor practice.

This issue needs to be examined across the Service, and while local area commanders should be addressing the issue in the course of their management duties, it is important that their performance be measured against consistent performance indicators.

As the OCR develops its capacity to deal more broadly with performance and management issues, it is important that the State Domestic Violence Council plays a part in developing benchmarks and standards for addressing these issues in relation to domestic violence.

Final Recommendation 8:

- a) *That the Police Service review the reasons, as recorded on COPS, for taking no action in relation to domestic violence incidents, including a review of the adequacy of reasons given.*
 - b) *That, arising out of this review, the Police Service enhance current guidance for officers in making decisions whether or not to act.*
-

Responding to a breach of an apprehended violence order

Research has shown that victims of domestic violence do not report breaches to police in the majority of cases.⁵⁸ The reasons commonly given by victims for not reporting breaches were that:

- the police could not do anything about it;
- it was a 'waste of time' to report the incident; or
- the victim had had a previous negative experience of police.⁵⁹

Issues of concern: Acting on a reported breach

A breach of an AVO occurs when the defendant fails to abide by one or more of the conditions set by the magistrate when granting the order against the defendant. It is a criminal offence to knowingly breach or contravene the conditions specified. An alleged breach of an AVO must be investigated as any other allegation of criminal conduct would be. Statements from all witnesses should be obtained and, if appropriate, specialist units should be contacted to collect evidence.

The Police Service guidelines advise police that if they have obtained sufficient evidence that a breach of an AVO has occurred, the offender should be prosecuted for the breach.

A majority of respondents⁶⁰ to the discussion paper claimed that, in their experience, police had at some time failed to act on a reported breach of an AVO.

A woman reported 8 breaches of an AVO by her ex-partner. The [police] issued a warrant for his arrest (he had also breached bail conditions). The police knew where he was living but he wasn't picked up. The woman reported another 3 breaches. When he had to appear in court for the matter of the previous breaches the police kept him in custody and told the woman he wouldn't make bail. Two days later he was released on bail [by the court]. She had to report another 3 breaches before he was picked up again. (*submission 8*).

Many women complain that what they see as a breach of an AVO is not supported by the Police. Slow response time in regard to breaches. A major factor is stalking not being taken seriously and women living in perpetual fear. Problem with police not understanding what stalking is.
(*submission 12*)

In cases where alleged breaches of AVOs were reported to police,⁶¹ the 1997 Bureau of Crime Statistics and Research Report found that victims reported police took no action in 73% of cases.⁶²

It is of serious concern that there are cases where police fail to respond to alleged breaches at all or the action they take is inappropriate. For example, in some cases, the Bureau of Crime Statistics and

58 Of those surveyed, it was found that 64.3% did not report a breach of an AVO to police for different reasons. *An Evaluation of the NSW Apprehended Violence Order Scheme*, L. Trimboli & R. Bonney, NSW Bureau of Crime Statistics and Research, 1997, p.60.

59 *Ibid.*, p.60.

60 84% of respondents to the discussion paper stated that police had at some time failed to respond to an alleged breach of an AVO.

61 Of those surveyed, 35.6% did report a breach of an AVO to police. *An Evaluation of the NSW Apprehended Violence Order Scheme*, L. Trimboli & R. Bonney, NSW Bureau of Crime Statistics and Research, 1997, p.58.

62 *Ibid.*, p.59.

Research reported that victims were told by police that they would *warn* the alleged offender about the serious consequences of future breaches of the AVO.⁶³

... perpetrators have been removed from a situation, given a warning by the police officer involved and even been driven to the local railway station, only to return later in the evening to breach the order yet again. (submission 23)

However, there are numerous factors which contribute to police not arresting an offender for an alleged breach of an AVO.

Proving a breach and providing feedback to the victim

In order to obtain an AVO, the standard of proof required is the civil one of the balance of probabilities - it is more likely than not that the victim has reasonable grounds to fear the offender. However, if police are to charge an offender with breaching an AVO, this needs to be proven on the criminal standard of beyond reasonable doubt. This higher standard of proof requires the court to weigh the evidence before it in relation to an alleged breach.

Police have been known to say to women, 'your word against his' when no other witnesses are present and do not proceed to further investigate the breach. In these situations the officers may make no attempt to interview the alleged offender ... If the woman or witnesses to the breach are of non English speaking background officers may make very little effort to pursue [the] incident if the relevant others do not speak English. (submission 16)

Police have an obligation to investigate an allegation of a breach. It may be the case that for some reported breaches, police do adequately investigate and find that there is not enough evidence, other than the allegation, to support a prosecution. In many of the cases where police took no action in the BOCSAR study, victims stated that police believed there was not enough proof to support the allegation or that the reported incident did not actually constitute a breach.⁶⁴

Breaches are notoriously badly dealt with. Women are given confidence when they receive an AVO and then, when a breach occurs, they have to justify the validity of this to police officers. They are often told they don't have enough evidence ... This seriously undermines a woman's confidence in the system and may inhibit her from further reporting of breaches. (submission 21)

Victims may view this result as police failing to take action. In many cases, it may be that police cannot take action because they would be unable to prove the offence beyond a reasonable doubt. In such cases, it is critically important for police to advise victims of the practical difficulties and continue to provide appropriate support. Victims should not be left feeling unprotected and unsupported or feel that reporting breaches is a waste of time.

63 Summons were issued in 22.0% of cases and verbal warnings were given in 9.8% of reported breaches. *An Evaluation of the NSW Apprehended Violence Order Scheme*, L. Trimboli & R. Bonney, NSW Bureau of Crime Statistics and Research, 1997, p.59.

64 This reason for police inaction was given in 40.0% of cases in which a breach of an AVO was reported. *An Evaluation of the NSW Apprehended Violence Order Scheme*, L. Trimboli & R. Bonney, NSW Bureau of Crime Statistics and Research, 1997, p.60.

‘ Minor’ and ‘ technical’ breaches

Police are able to use their discretion in deciding whether or not to prosecute for an alleged breach of an AVO in the same way they are able to decide whether to bring any criminal charge. However, in exercising that discretion, it is important that officers appreciate the issues involved in domestic violence.

For example, it is not uncommon for a person against whom an AVO has been made to breach the order by driving past the house of the person in need of protection or by making a telephone call or sending a letter or card to the person. These actions on the face of it may seem minor and fairly innocuous. On some occasions, the person against whom the order is made has made an innocent mistake. However, these actions can often be motivated by less innocent intentions and form a pattern of harassing, intimidating and/or violent behaviour. A seemingly minor action can trigger extreme fear in victims who, for example, see the action in the wider context of a violent relationship and/or as a precursor to a future violent act.

It is of concern that some officers focus on a single incident without appreciating the context in which it has occurred. The terms ‘minor’ and ‘technical’ breach are often used by police to describe these seemingly minor acts. Even where an offence could be proven, some police are still exercising their discretion not to take action in such cases notwithstanding Service guidelines advising police to prosecute.

Many respondents to the discussion paper stated that police failed to prosecute a reported breach on the basis that the breach was a ‘minor breach’ or a ‘technical breach’.

... [victims] often complain that the police are not responding to their reporting of breaches eg. the police state that it is a ‘technical breach’ ... [I]n situations where there is no corroborating evidence of a breach complainants are told by the police not to bother contacting them ... [P]olice are not recording all complaints of breaches onto the COPS ... [w]e believe that police attitudes to [domestic violence] contribute to their failure to adequately respond to breach AVO complaints. (*submission 4*)

Given the potentially serious impact of breaches on the victim, it is considered that it is inappropriate that breaches be readily dismissed on the basis that they are ‘minor’ or ‘technical’. If the behaviour identified contravenes the conditions of the AVO, then positive and decisive action on that breach should be taken by officers. Decisive police action may effectively deter repeat behaviour and gives protected persons and defendants a clear indication of the attitude of police to violations of AVOs and their commitment to effective implementation of the AVO legislation.

On this point, this Office welcomes the firm public statement made by the Service’s Domestic Violence Corporate Sponsor:

“In my mind, there is no such thing as a ‘technical breach’ of an AVO. You either breach it or you don’t. If you breach an AVO, you will be arrested and put before the court . . .”⁶⁵

The Police Service response

The survey conducted by this Office⁶⁶ found that only 67% of local area commands stated that responding to alleged breaches of AVOs was included in the training provided to general duty officers.

⁶⁵ Commander Chris Evans, *Stateline*, Australian Broadcasting Corporation, 18 June 1999.

⁶⁶ NSW Ombudsman survey on training at Local Area Commands [Appendix C].

In its response to the discussion paper, the Police Service acknowledged the need to improve service delivery in the area of domestic violence. The issue of responding to alleged breaches of AVOs was particularly highlighted in that submission. The Police Service response stated that improved accessibility to training on this particular issue would go some way toward improving the response of officers to allegations of a breach of an AVO.

Monitoring service delivery

Data collection

When a domestic violence incident is reported to police, they are obliged to record details of that incident on the COPS⁶⁷. The COPS is capable of generating statistics based on the recorded information from incidents. These include the number of AVOs applied for and the number of arrests made in relation to the number of breaches reported. However, currently the Police Service does not collect or analyse that data on a statewide basis. There is no mechanism for distributing that information to other agencies.

This Office is of the view that the collection and analysis of data relating to domestic violence incidents would enable the Police Service to focus its scarce resources in a more targeted and informed manner. Such an evaluation would be consistent with 'smart policing' initiatives recently implemented in other areas of the Service. Local area commands that have innovative responses or an excellent response rate to domestic violence could be used as case studies for other areas to learn from.

Many respondents to the discussion paper expressed an interest in sharing information with the Police Service in the form of statistics and data on the number of incidents responded to in the area so that community groups could work with police on solving problems.⁶⁸ There is value in the police sharing information with other service providers who would then have a fuller understanding of the problem in their area and could work with police to target their response.

There would appear to be significant benefits in the Police Service initiating the systematic collection and analysis of statistical data relating to domestic violence incidents. That system would enable local, regional and statewide comparisons to be made. In addition to this, there would appear to be benefits in the Police Service making available to other service providers relevant statistics on domestic violence incidents to promote a more fully informed community response to domestic violence.

Initiatives at the local level

The Police Service's has recently proposed the introduction of an integrated crime management model into local area commands. The Service's model envisages a Crime Management Unit (CMU) being set up within each command. The functions of the CMU include evaluation, resource allocation, progress monitoring and finalisation with respect to reported crime. The CMU is intended to integrate the collection, analysis and dissemination of information and intelligence on crime. It draws a range of officers together in the one unit, including intelligence and liaison

67 Under a new section in the Crimes Amendment (Apprehended Violence) Bill, it is proposed that "police will be required to record in writing reasons for not initiating criminal proceedings against a person alleged to have breached an AVO.", NSW Hansard, Thursday 2 December 1999 at 11.

68 *Expectations of Policing Services Regarding Domestic Violence*, Report of Findings, NSW Police Service, 1994, p.17.

officers, and is headed by a Crime Manager. This is a significant initiative which could positively impact on the issue of domestic violence. It acknowledges the importance of local area commands as a focus for service delivery.

The CMU would appear ideally situated to analyse statistical trends and monitor service delivery in the area of domestic violence at a local level. Once statistical benchmarks are established, the CMU should be well placed to audit the performance of the command in the context of specific service-wide objectives and domestic violence policy and procedures. This kind of sophisticated analysis will also enable each command to make strategic decisions about the most effective use of personnel in combating domestic violence. Without this detailed analysis, commanders will not be well placed to make informed judgements about how best to balance DVLOs direct line responsibilities with their key 'audit' and community liaison roles.

Responses to domestic violence as a performance indicator

Another mode of monitoring service provision that is not effectively utilised by the Police Service is through accountability mechanisms in the line of command. Local area commanders have a high level of responsibility for allocating resources within their areas. However, there is currently no mandatory reporting of their response to domestic violence at a central or regional level. This void in the levels of accountability allows for an inconsistent response to domestic violence between local areas.

Despite the resources required to police domestic violence, it is not included as a performance indicator by the Police Service. Current performance indicators which require accountability on the part of local area commanders to a central body are assaults in public space and property crime.⁶⁹ This Office considers that it would be effective and appropriate for the response to domestic violence to be incorporated as a performance indicator in the Police Service's Corporate Plan. There should also be clear accountability mechanisms for local area commanders in relation to responding to domestic violence including through Operation and Crime Review panels (OCRs).⁷⁰

This Office is aware that, since the inception of OCRs in 1998, statistics provided on the assault category have been able to be broken down to enable the identification of the number of domestic violence related assaults contained within that category in each command. It is understood that statistics on domestic violence related assaults have recently been introduced for discussion with local commanders at OCRs. Given the significant amount of police resources employed in responding to domestic violence incidents, such an analysis and reporting on the statistics in the OCR forum is actively supported. It is suggested that to attain a more comprehensive assessment of the resource implications and reporting of domestic violence within each command, consideration should also be given to the provision of more comprehensive statistics on domestic violence. A comprehensive statistical profile may include the number of:

- domestic violence incidents reported to and attended by police;
- AVOs applied for (by police and by victims) and granted;
- domestic violence related charges (by offence) laid and proceeded with;
- domestic violence related charges laid and proceeded with before and after the granting of an AVO;

⁶⁹ *Annual Report, NSW Police Service, 1997, p.14-17.*

⁷⁰ In January 1998 Commissioner Ryan established Operations and Crime Review panels which are intelligence-driven forums to focus local area commanders on the main business of policing - reducing crime.

- reported breaches and prosecuted breaches;
- arrests for domestic violence offences (by offence); and
- police assaulted while attending domestic violence incidents.

Recommendations

Provisional Recommendation 9:

That there be a systematic collection and analysis of statistical data relating to domestic violence incidents. That system should enable local, regional and state wide comparisons to be made. It will also enable commanders to be in a better position to measure their command's performance against Service-wide benchmarks.

Police Service Response:

Following the issuing of the Provisional Statement, the State Domestic Violence Council supported the proposal to undertake research of statewide Service responses to breaches.

Commander Evans noted that the:

Council recognises there is a need to target LACs or Regions where problems are identified to ensure continuous quality improvement is built into the Service response to domestic violence.

The State Domestic Violence Council have requested statewide data be provided to them from the Domestic Violence Data Bank for their meetings. In addition, this Office has been informed that LACs review relevant data on COPS as they relate to domestic violence "*on a regular basis*".⁷¹

The Police Service's Audit and Evaluation Section (AES) has recommended that such data should be placed on the "memo system" statewide and ranked according to LAC.

Commander Evans has stated that this data will be monitored at a local level through the Crime Management Unit model (see this report p.37).

This Office's Observations:

This Office supports these initiatives and requests to be kept informed of the Council's monitoring role in regard to this issue.

Final Recommendation 9:

- a) ***That there be a systematic collection and analysis of statistical data relating to domestic violence incidents.***
 - b) ***That the system enable local, regional and state wide comparisons to be made, and enable commanders to be in a better position to measure their command's performance against Service-wide benchmarks.***
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⁷¹ Police Service response to the Provisional Statement p.7.

Provisional Recommendation 10:

That the Police Service make available to other service providers relevant statistics on domestic violence incidents to promote a more fully informed community response to domestic violence.

Police Service Response:

Commander Evans has acknowledged that:

the Service would improve its accountability and credibility if it provided regular statistical breakdowns of domestic violence related incidents and offences to Regional Reference Groups, Court Assistance Schemes and local Domestic Violence Committees for the purpose of working collaboratively on projects designed to reduce and prevent domestic violence within local communities. This approach will continue to be encouraged.⁷²

This Office's Observations:

The willingness of the Police Service to consider making relevant data available to appropriate community representatives is encouraging. Given our interest and involvement in this issue, we would appreciate receiving further advice from the Service regarding specific initiatives it takes in relation to making data available to the community as this process evolves.

Final Recommendation 10:

That the Police Service make available to other service providers relevant statistics on domestic violence incidents to promote a more fully informed community response to domestic violence.

Provisional Recommendation 11:

The response to domestic violence should be a performance indicator in the Police Service's Corporate Plan based on the resources required to adequately respond to domestic violence incidents.

Police Service Response:

The Police Service has stated that the purpose of its Corporate Plan is to identify "a number of broad key priorities". The Service states that its current performance indicators encompass domestic violence "as one of many issues covered by these areas."

The Police Service is committed to supporting all victims of crime. As indicated, the Commissioner and his Executive will have access to [data] to clarify with Local Area Commanders, their response, or lack of response, to domestic violence. Commanders have access to data from COPS through the Executive Information System (EIS) to determine the percentage of assaults which are related to domestic violence.

This Office's Observations:

The Service has argued that the performance indicators contained in the Corporate Plan already encompass domestic violence as an issue, and that commanders can be held to account through the OCR process. This Office would argue that, given the prevalence of domestic violence, and the resources devoted by the

⁷² Ibid. p.9.

Service to policing domestic violence, there would be merit in the Service specifically recognising domestic violence as a distinct issue in the Corporate Plan.

In any event, the Service needs to recognise and promote the fact that domestic violence is a significant element in the indicators relating to both crime reduction and community satisfaction. In this regard, it is important that the Service develop measures as part of these indicators that reflect the magnitude of the problem, as well as the investment of time and resources by the Service to policing domestic violence.

Final Recommendation 11:

- a) *That the Police Service give due regard to the importance of the police handling of domestic violence incidents in meeting the performance indicators in its planning documents, including those at local area command level.*
 - b) *That measures be developed that reflect the seriousness of, and resources devoted to, the issue of domestic violence.*
-

Provisional Recommendation 12:

There should be clear accountability mechanisms for local area commanders in relation to responding to domestic violence including Operations and Crime Review panels. Indicators may include:

- domestic violence incidents reported to and attended by police;
- AVOs applied for (by police and by victims) and granted;
- domestic violence related charges (by offence) laid and proceeded with;
- domestic violence related charges laid and proceeded with before and after the granting of an AVO;
- reported breaches and prosecuted breaches;
- arrests for domestic violence offences (by offence); and
- police assaulted while attending domestic violence incidents.

Police Service Response:

Currently, the Operations and Crime Review (OCR) process requires local area commanders to report to the Commissioner and the Executive Team on the following categories: assault; break, enter and steal; motor vehicle theft; robbery and stealing.

Commander Evans has informed this Office that domestic violence is reported under the 'assault' category. He has stated that:

where a LAC cannot meet performance indicators opportunities are given for improvement to occur before reassessment.⁷³

Strategies for responding to, reducing and preventing crime can be audited through the use of the Operational Readiness Assessment Service Matrix ... The purpose of these types

⁷³ Ibid. p.11.

of audits is to ensure ethical cost-effective crime reduction while ensuring reform is a part of LAC practices and processes. Domestic violence is one of many areas under scrutiny.

See response to Recommendation 9 and in particular comments regarding State Domestic Violence Council commitment and support, and the development of Crime Management Units.

This Office's Observations:

The introduction of scrutiny of the performance of Local Area Commands at OCRs in respect of domestic violence related assaults is supported by this Office. Given the importance of domestic violence in respect of the time and resources devoted by the Police Service, there would appear to be merit in the Service developing a number of more specific domestic violence performance measures which can then be examined at OCRs and other performance review forums.

The need for increasingly sophisticated performance measures can be seen in some of the issues arising from the police response to domestic violence. While there is some scope for police to 'prevent' or reduce the incidence of domestic violence, particularly through education and awareness as well as the targeting of repeat offenders, most issues arising out of domestic violence for the Police Service relate to the adequacy of its response to incidents of domestic violence. This has certainly been the case in this investigation. While commanders need to be held to account in preventing and reducing assaults, including domestic violence, there is a need for them to be held similarly accountable for the adequacy and quality of their response to crime and the victims of crime.

As we have pointed out, the Police Service is growing more sophisticated in the use of its accountability strategies regarding management and performance. The issue of evaluating performance in responding to domestic violence offers the Service an opportunity to develop systems for monitoring the adequacy and quality of that response.

Final Recommendation 12:

There should be clear accountability mechanisms for local area commanders in relation to responding to domestic violence including Operations and Crime Review panels. Indicators may include:

- ***domestic violence incidents reported to and attended by police;***
 - ***AVOs applied for (by police and by victims) and granted;***
 - ***domestic violence related charges (by offence) laid and proceeded with;***
 - ***domestic violence related charges laid and proceeded with before and after the granting of an AVO;***
 - ***reported breaches and prosecuted breaches;***
 - ***arrests for domestic violence offences (by offence); and***
 - ***police assaulted while attending domestic violence incidents.***
-

Service of Apprehended Violence Orders and Summonses

Police are required to serve documents where:

- an AVO is issued by a court but the defendant is not present;
- an interim AVO is issued and the defendant has left the scene or is not at court; and
- a summons is issued for the defendant to attend court either for an AVO application to be heard or for a charge of breaching an AVO.

In the above circumstances the AVO, interim AVO or the summons must be served on the defendant by police.

The failure or inability to serve an AVO or interim AVO on the defendant has serious consequences. If the order is not served, it is unenforceable. Victims of domestic violence are not afforded the protection of the conditions of the order and police are unable to act on alleged breaches of the AVO.

Failure or inability to serve a summons on a defendant also has serious ramifications. If the summons has not been served, this is a basis for having the matter adjourned at court. This can be onerous for many of the parties involved as it requires the victim of domestic violence, any witnesses and the informant officer to attend court again at a later date.

Issues of concern

The majority of submissions received by this Office⁷⁴ referred to problems experienced with the service of documents. The majority referred to the failure of police to serve documents or a failure to inform victims that a document had not been served.

Many submissions contained comments in relation to the serious consequences for victims of domestic violence when police fail to serve a summons on a defendant.

This results in women coming back to court 4-5 times. This is a waste of the woman's time and also the courts time. It is also very costly. ... [Failure to provide information] ... resulted in one woman being without any protection following an assault for 7 weeks. (submission 7)

[A] woman assaulted in her home just two weeks ago expected him to be arrested and charged - after all this is what she had been told would happen when she took out an order. She then discovered that the order had never been served on him, and nobody was able to tell her why. (submission 1)

74 82% of respondents to the discussion paper stated that there were problems with the service of documents in their experience.

75 Police Service response to a direct investigation conducted by the NSW Ombudsman pursuant to s.16 of the *Ombudsman Act, 1974*, 18 November 1997.

76 In a few cases, the document may be served on the offender prior to being processed by the DVCDB. In these cases the order is enforceable but until recorded on COPS by the DVCDB, other officers are not aware of the enforceability of the order.

Steps in serving an apprehended violence order

1. Issue of the AVO

When an application for an AVO is heard *ex parte* at court or an interim order is applied for through the court, then the court issues an AVO to be served on the defendant. The local court issues a copy of the AVO to the DVCDB and to the police station closest to the known address of the defendant. It is the responsibility of the police to serve the document on the defendant.

2. Domestic Violence Central Data Bank

On receiving the AVO from the court, the DVCDB enters details of the AVO on the COPS. This Office has been informed that the DVCDB currently is able to enter data on the COPS within twenty four hours of receipt with the exception of weekends.⁷⁵ However, the AVO is not enforceable at this stage as the document has not yet been served on the defendant.⁷⁶

3. The local police station

The local station receives the AVO and serves it on the defendant. Once this is done, the responsible officer should fax a copy of the AVO and an affidavit of service (a sworn statement that the AVO has been served) to the DVCDB. Legally, the AVO is enforceable at this stage as it has been served. However, in practical terms, until the AVO is updated by the DVCDB on the COPS as 'enforceable', other police who check the AVO on the system will not know it is enforceable.

4. Updating the COPS

On receiving the copy of the AVO and the affidavit of service from the station, the DVCDB records the AVO as being enforceable on the COPS. That information is now accessible throughout New South Wales and, if a breach is reported at any station, officers are able to act to enforce the AVO.

Summonses to attend court are issued by the court and sent for service to the closest station to the defendant's known address. Once the summons is served, the returning documents are sent to the court.

Research has found that in 10% of cases where it is alleged that police failed to act on breaches, the reason for inaction given by police was that the order had not yet been served or that the order was 'not on the computer'.⁷⁷

Lack of information about service

Many of the submissions which referred to the problems with service of orders also acknowledged that this particular task is not a simple one for the officers concerned. It was understood that many defendants were aware that police were to serve documents on them and would attempt to avoid service. This may be as simple as not answering their door or claiming to be someone else.

⁷⁷ *An Evaluation of the NSW Apprehended Violence Order Scheme*, L. Trimboli & R. Bonney, NSW Bureau of Crime Statistics and Research, 1997, p. 59.

This Office received a complaint from a woman who had an AVO issued against her ex-husband by the local court after he made abusive telephone calls threatening violence to herself and her children. The AVO was issued. Three days later, the woman related to this Office that:

"[my ex-husband] approached me. I asked [him] what he thought he was doing there as he and I were both fully aware that he was not to come anywhere near me or the house. He informed me that the police had not served the AVO yet and that he just wanted to see me ... I asked [him] to leave, [he] was quite abusive and flustered. ... The incident caused me great anxiety ... If my [relative and friend] were not present that day I feel that [my ex-husband] would have tried to hurt me, my house or my car as he was filled with so much rage that he was frightening ...

I contacted the [police] to find out why [my ex-husband] had not been served with the AVO and why I was not informed that the AVO was not yet in force as I assumed that the moment I left the Court House the order was effective. The [police] told me that they have not been able to locate [him] to serve the AVO ... I told them that I would have appreciated some kind of communication to inform me of what was going on ... so then I informed the police of all the addresses of [my ex-husband]'s family where they could locate [him] ... I was informed that there was nothing I could do about [him] approaching me ... as he was not in breach of the AVO at the time. The AVO was eventually served [on him] ... one week from the time I actually went to court."

Respondents stated that in these cases, it would be beneficial for police to contact the victim in order to inform them that police were unable to serve the document. The main issue of concern was that the victim's first notification that the AVO had not been served on the defendant was when they reported a breach and were told by police that the AVO had not been served and was therefore not enforceable.

Many service providers suggested that it would be useful to contact the victim to obtain further information about the defendant such as their likely location or a description. This level of cooperation would make it more difficult for the defendant to avoid service. In addition, the victim would understand that the police had done everything they could to serve the document.

The Police Service response

The strategy of informing the victim after an unsuccessful attempt of service of an AVO in order to obtain more information is now included in police procedures. Those procedures also state that if possible, officers should obtain a photograph of the defendant or other relevant information that may assist prompt service.⁷⁸

Another strategy seeking to improve information flow about domestic violence matters is the JADE project. This is an inter-departmental initiative⁷⁹ which aims to electronically link the courts and the Police Service. The purpose of this project is to allow for the electronic exchange of data relating to AVOs (and other information) between the courts and police. This would remove the necessity for the current method of the manual exchange of information. It could also reduce the risk of 'human error' in that the information would potentially be more accurate when directly transferred. It may also minimise the delays that may occur under the present system when exchanging information.⁸⁰

78 *Police Service Handbook*, January 1999, D-22.

79 The JADE Project is an initiative between the NSW Police Service and the Attorney-General's Department (NSW).

80 *JADE Project, Apprehended Violence Orders Data Exchange Project*, Inter-Departmental Information Technology Committee, Feasibility Study (unpublished), December 1996, p.2.

Agreeing on the type of information to be exchanged between the courts and the Police Service may overcome some of the problems raised above. However, the new system does not overcome problems with serving documents relating to domestic violence proceedings at the local patrol level.

Monitoring service delivery

As seen above, there are several stages to the process of service involving recording and transferring information. At each step opportunities exist for a breakdown in the system which results in an unenforceable AVO or a matter being adjourned at court. Problems seem to arise most commonly at the local station itself.

Current Police Service guidelines stipulate that service must be prompt or must be effected “as soon as possible”. Those procedures also refer to the necessity of recording information about service in the ‘Summons Book’ at the local station. Supervisors at the station must regularly inspect the Summons Book in order to ensure that information has been entered properly and that documents are being served without delay.⁸¹

It is a concern that the current guidelines do not overcome problems such as the difficulty officers have in prioritising the service of documents in relation to their other duties. There is also a lack of accountability in that if a document has not been served, only the officer who is to serve the document is able to relay any information about the matter to the victim.

It is often impossible to get the information as the police that attended the incident are not at work, and there is no record on the computer. In fact just last week I was told that the paperwork ‘must be locked away in his drawer’ on inquiring as to the return date for an order. (submission 1)

There is no requirement in the guidelines that information be provided to victims as to why there has been a problem or delay in serving documents. This Office suggests that the guidelines stipulate the high level of priority which needs to be given to service and clear lines of accountability in the process. It is considered that more resource efficient, streamlined process for police service of documents that involves close liaison with the persons seeking protection, would be beneficial for both victims and police.

It is also of concern that the Police Service does not monitor its performance in terms of the service of documents across local areas. This Office considers that monitoring performance in this area will assist the Police Service to identify resource needs and priorities.

Recommendations

Provisional Recommendation 13:

That the Police Service clarify its guidelines in relation to the service of orders and summonses at the local level, including guidance on prioritising and accountability mechanisms.

⁸¹ *Police Service Handbook*, January 1999, S-32 and S-37.

Police Service Response:

Commander Evans states:

the NSW Police Service Handbook outlines responsibilities with regard to summonses. The new Domestic Violence Policy & Standing Operating Procedures indicates that service of an AVO is to be treated as urgent.

This Office's Observations:

This Office acknowledges the Service's undertaking that the new Standing Operating Procedures (SOPS) will indicate that the service of an AVO is to be regarded as urgent. This needs to be subject to scrutiny to ensure that the SOPS are being followed diligently.

This Office has noted that a problem arises in many cases when only the officer who is to serve the document is able to relay any information about the matter to the victim. The Police Service needs to carefully consider whether the redrafted SOPS should allow for other officers to provide information to domestic violence victims in appropriate circumstances.

Final Recommendation 13:

That the Police Service clarify its guidelines in relation to the service of orders and summonses at the local level, including guidance on prioritising and accountability mechanisms.

Provisional Recommendation 14:

That the guidelines include the requirement that information be provided to victims as to why there has been a problem or delay in serving documents.

Police Service Response:

Commander Evans states that:

the new Domestic Violence Policy & Standing Operating Procedures will outline the responsibilities of officers in communicating information regarding problems with, or delays to, effecting service of Orders to victims of domestic violence.

This Office's Observations:

This Office is pleased that the Service intends to address this issue, and requests that we be kept informed of the implementation and status of the new Standard Operating Procedures.

Final Recommendation 14:

That the guidelines include the requirement that information be provided to victims as to why there has been a problem or delay in serving documents.

Provisional Recommendation 15:

That the Police Service monitor its service delivery in this area in order to identify resource needs and priorities.

Police Service Response:

In his response, Commander Evans has stated that “Local Area Commands are able to monitor service delivery”.⁸²

This Office’s Observations:

At this stage the Police Service has not informed this Office of what systems are in place to ensure that this monitoring occurs. While local area commands are “able” to monitor service delivery, this Office is of the opinion that this responsibility should not fall on these commands alone.

While the monitoring of day to day administration is, and should be, a key responsibility for local area commands, it is important that their service delivery be measured against clearly defined statewide standards, and that they be held to account against those standards.

Final Recommendation 15:

That the Police Service develop statewide standards to assist local area commands in monitoring their service delivery in this area so as to be able to identify resource needs and priorities.

⁸² Police Service response to the Provisional Statement p.12.

D. Organisational issues

Domestic Violence Liaison Officers

The role of the domestic violence liaison officer

The position of the DVLO was created to ensure an effective response to the needs of victims of domestic violence. The role of the DVLO has been better defined over time. Currently the duties of a DVLO are diverse in nature and involve a broad range of skills in addition to those required of a general duty officer. Those duties include:

- providing specialist advice to other officers on specific domestic violence cases and on updated policies and legislation as they apply to domestic violence incidents;
- supervising other officers who attend domestic violence incidents by monitoring or checking the COPS entries they make in regard to those incidents;
- attending court on AVO list days;
- providing information and support to victims of domestic violence; and
- conducting liaison with community groups and domestic violence workers in the local area.

Many of the submissions received in response to the discussion paper made positive comments about Domestic Violence Liaison Officers.⁸³

Some DVLOs have accomplished a great deal. The following comments by DVLOs demonstrate what can be achieved:⁸⁴

It has taken a considerable amount of time to build up credibility with individuals and organisations in the community. I now have an excellent rapport and working relationship with all involved services and agencies.

Relationships between a community group and police has considerably improved since the implementation of the DVLO position.

Issues of concern: The selection process

It is interesting to note that many DVLOs come to their position because they have been nominated to do that job by a senior officer.⁸⁵ A smaller proportion are appointed because they expressed an interest in the area of domestic violence.

83 48% of respondents to the discussion paper made positive comments about Domestic Violence Liaison Officers.

84 *Domestic Violence Liaison Officer Survey Report*, NSW Police Service, Draft Report, Unpublished, July 1998, p.8.

85 *Ibid.*, p.2-3.

The Police Service needs to consider what 'selection process' is the most appropriate method of recruitment for the DVLO positions. Staff from the Ombudsman's Office have attended various forums and conferences where DVLOs have advocated the establishment of a merit based and competitive selection process for the positions based on competency standards. This Office would support such a process and sees no reason why this method of selection should not apply to DVLO positions.

The level of support given to DVLOs

Many respondents to the discussion paper stated that they perceived a lack of support from general duty officers within their local area for the DVLO position. Submissions contained comments that this was especially reflected in the limited time DVLOs had to carry out their specialised work. This theme is also reflected in the survey of DVLOs carried out by the Police Service. One officer commented:⁸⁶

"[There is] no status to [the] DVLO position compared to other policing areas. This is astounding when one considers the high incidence of homicide and operational police time spent on [domestic violence]."

Research has shown that agencies other than the Police Service believe that for domestic violence to be seen as a serious issue, support and commitment to the issue need to come from senior officers.⁸⁷

The importance of the DVLO position and the need for it to be supported are reflected in comments made in the submissions to this Office.

There is a failure by senior police to give domestic violence the criminal status. This failure is reflected in the DVLO position, that is, DVLOs are often part time and the position is not desired in terms of work status or career development. The officers often lose shift penalties and there is little incentive for the position other than a personal interest or commitment. DVLOs have most of the responsibility for domestic violence. (submission 6)

The importance of the role of the DVLO cannot be adequately stressed ... [W]herever and whenever I have had contact with these officers I have received every support and I cannot congratulate them enough on doing a very difficult job with very little support and encouragement. (submission 22)

The appointment of Region DVLOs was one means by which the Service sought to facilitate the flow of information and improve support levels for DVLOs in commands. Through its Corporate Sponsor, the Police Service ensures that Region DVLOs are kept up to date with developments in the area. This is an important initiative. However, it has come to the attention of this Office through attendance at DVLO Regional training sessions and DVLO forums that many DVLOs are unaware of the existence of the Region DVLO position and its purpose. There should be a mandatory notification by the Police Service to all DVLOs of who their Region DVLO is and a clarification of the region DVLO role for the purposes of allowing an effective liaison between local areas and regions in relation to domestic violence.

Region DVLO meetings with the Police Service Corporate Sponsor should be used for the purposes of information exchange and analysis of statistics. It should be mandatory for relevant information obtained from those meetings to be fed back to each DVLO.

⁸⁶ Ibid., p.4.

⁸⁷ *Expectations of Policing Services Regarding Domestic Violence*, Report of Findings, NSW Police Service, 1994, p.17.

Consideration should also be given to utilising this forum for the purpose of drawing on the expertise of DVLOs to develop strategies for responding to systemic problems and complex domestic violence issues. Such a focus would enable all DVLOs to learn from errors, complaints and complex issues experienced by DVLOs in other commands.

The attitude of other officers toward the position

Another common concern for DVLOs is the level of support they receive from general duty officers for the role. This point relates back to the issue of the attitude of some officers to domestic violence. The responses to the Police Service survey indicate that many DVLOs have observed their colleagues displaying prejudicial behaviour to victims of domestic violence.⁸⁸ Of further concern to this Office is that a number of DVLOs have approached staff of this Office and advised them that they have been subjected to disparaging remarks about the role they perform.

DVLOs continue to have a very low status within the police force, and becoming [a] DVLO is seen as a 'backward' career move ... Often DVLOs are appointed and don't actually want to do the job ... Local Area Commanders often do not give the DVLOs the support and daytime hours they need to perform their DVLO duties ... Local Area Commanders seem to have the final say on how all officers are used ... so if they are not giving DVLOs proper support, there is no recourse. (submission 36)

One means of overcoming this problem may be the development of clear guidelines which detail and clarify the action DVLOs should take when they identify problems with general duty officers' handling of domestic violence matters, especially in cases where the subject officer may be of senior rank to that of the DVLO.

Time allocated to the position

The Police Service survey appears to indicate that there is a lack of consistency in the time senior officers allocate to DVLOs to complete their domestic violence related duties.⁸⁹ If an inadequate amount of time is spent on domestic violence matters, this will inevitably have a detrimental effect on the quality of the service provided. With limited time allowed, DVLOs will inevitably be forced to sacrifice certain elements of their role such as community liaison, training of other officers, or following up with victims of domestic violence incidents and providing victim support.

The survey of local area commands revealed that having a very limited amount of time to fulfil their role affects the time DVLOs are able to dedicate to training other officers in their command. The survey found that of those commands that conducted training in domestic violence at a local level, 22% did not use their DVLO to contribute to that training. This Office acknowledges the Police Service's strong commitment to domestic violence in the development of the DVLO position. However, this Office is concerned that the time dedicated to that position varies between local areas. This variation in the time allocated to the position is not necessarily linked to the rate of domestic violence incidents in the area. DVLOs themselves often feel that they do not have enough time to fulfil their role. This problem is compounded by a perception on the part of DVLOs and other service providers of a lack of support from senior officers and colleagues for the position.

⁸⁸ Ibid., p.6.

⁸⁹ *Domestic Violence Liaison Officer Survey Report*, NSW Police Service, Draft Report, Unpublished, July 1998, p.10.

To overcome this, the Police Service should consider the adequacy of its systems for accurately determining the appropriate amount of time that should be dedicated to policing domestic violence in each local area.

The Police Service response

The Police Service has recognised that the way in which DVLOs are selected for the position is of concern. The Police Service has informed this Office that there are discussions about the need to establish a selection or screening process when appointing DVLOs.⁹⁰

While discussions of this kind are useful, this strategy alone may not go far enough to resolve all of the issues. Research conducted in 1994⁹¹ recommended that the DVLO position should be full time and of higher status. Strategies suggested for raising the status of the position included the introduction of an accreditation process.

Monitoring service delivery

Based on the complaints received by this Office and the research undertaken by other agencies, it is clear that satisfaction with service provision by the Police Service varies depending on the location of the incident. This is associated with the lack of systematic monitoring of the amount of time DVLOs spend in relation to their specialised duties at each local area command.⁹² DVLOs in different areas have varying amounts of time and resources to spend at court, on victim support, in providing information to the parties involved and in training the general duty officers in their area.

Recommendations

Provisional Recommendation 16:

There is a strong acknowledgment by the Police Service that domestic violence is a specialist area. This is reflected in specialist training and the appointment of domestic violence liaison officers. In support of this, the Police Service should consider:

- (a) the selection process that is the most appropriate method of recruitment for the DVLO position; and
- (b) the adequacy of its systems for accurately determining the time that should be dedicated to policing domestic violence in each local area.

⁹⁰ Police Service response to *Policing Domestic Violence in NSW: A Discussion Paper*, NSW Ombudsman, received 21 July 1998.

⁹¹ *Expectations of Policing Services Regarding Domestic Violence*, Report of Findings, NSW Police Service, 1994, p.21.

⁹² See section on Crime Management Units at pp.26 of this report.

Police Service Response:

This Office was advised by Commander Evans that:

The DVLO Forum held in March 1999 identified a range of strategies to improve the Service response to domestic violence. Recommendations have been identified under six strategy areas. These include:

State Domestic Violence Council

- Selection of Regional Representatives
- The role of Regional Representatives on [the] Council
- Terms of Reference for [the] Council

Domestic Violence Liaison Officer Positions

- Establish & promote a job profile
- Selection processes for DVLOs
- Establishing dedicated positions (and methods for determining full-time vs part time)

Professional Development

- Developing competency based training programs
- Establish induction and core training for DVLOs
- Establishing training for general duty officers

Career Development

- Developing a mentoring program
- Developing a performance appraisal system to assist in career path planning
- Opportunities for secondments

Policy & Program Development

- Development of policy & programs in consultation with stake holders
- Promotion through communication strategies
- Promotion of the best practice register
- Audit & monitoring of LACs performance in relation to [domestic violence].

Stakeholders and Management

- Articulation of the role and responsibilities of Corporate Spokesperson
- Strategies to combat DV included in LAC Business Plans
- Response to DV canvassed at OCRs
- Development of Interagency Guidelines for DV
- Roles of support staff in relation to DV (eg ACLO,⁹³ ECLLO⁹⁴)

This Office's Observations:

This Office agrees with the above proposals and requests that we be kept informed of their implementation and status.

93 Aboriginal Community Liaison Officer

94 Ethnic Community Liaison Officer

Final Recommendation 16:

- a) *That there continue to be a strong acknowledgment by the Police Service that domestic violence is a specialist area.*
 - b) *That this be reflected in specialist training and the appointment of domestic violence liaison officers.*
 - c) *That, to enhance the effectiveness of these measures, the Police Service consider:*
 - (i) *the most appropriate selection process for recruiting officers for the DVLO position; and*
 - (ii) *the adequacy of its systems for accurately determining the time that should be dedicated to policing domestic violence in each local area.*
-

Provisional Recommendation 17:

That there should be a mandatory notification by the Police Service to all DVLOs of who their Region DVLO is. That notification should include a clarification of the Region DVLO role for the purposes of allowing an effective liaison between local areas and regions in relation to domestic violence.

Police Service Response:

The State Domestic Violence Council has ratified the report and recommendations from the DVLO Forum held in March 1999. The State Domestic Violence Council agreed that the Council and the Region DVLO representatives should be promoted in the Police Service Weekly and through the Memo System.

Regional Representatives will be nominated and selected by peers within a region. The position will require that the DVLO is full-time, has a minimum one year experience in the DVLO role, and has attended core DVLO training. The region representative positions will be elected for a two-year term.

Regional Representatives will be required to attend 75% of State Domestic Violence Council meetings. Officers will be required to conduct a minimum of four regional DVLO forums to identify operational, policy and legislative issues and represent these issues at Council meetings.

The Representative will be required to attend the majority of Council meetings and conduct at least four regional DVLO forums in order to identify operational, policy and legislative issues which will be communicated to the Council.

This Office's Observations:

The Police Service's commitment to promoting awareness regarding the Region DVLOs is welcomed. The Region DVLOs will require considerable support in their role from management to ensure that they are able to fully and effectively discharge their responsibilities.

Final Recommendation 17:

- a) *That there should be a mandatory notification by the Police Service to all DVLOs of who their Region DVLO is.*
 - b) *That notification should include a information regarding the role of the Region DVLO to enable effective liaison between local areas and regions in relation to domestic violence.*
-

Provisional Recommendation 18:

That the region domestic violence liaison officer meetings with the Police Service Corporate Sponsor be used for the purposes of information exchange and analysis of statistics. That it be mandatory for relevant information obtained from those meetings to be fed back to each DVLO.

Police Service Response:

Commander Evans has informed this Office of the terms of reference of the State Domestic Violence Council. These include:

- to promote best practice;
- analysis of data to improve Service response to domestic violence;
- provide advice on operational and policy issues to the Service;
- evaluate projects developed at a local level;
- meet 4-6 times per year;
- conduct an annual DVLO forum; and
- work towards the elimination of negative attitudes to DVLOs.

Commander Evans also states that *“the Service is confident that the integration of the DVLO into the Crime Management Unit will enhance the status of the position.”*

This Office’s Observations:

This Office supports the Police Service proposals and requests that it be kept informed of the Council’s activities.

Final Recommendation 18:

- a) That the region domestic violence liaison officer meetings with the Police Service Corporate Sponsor be used for the purposes of promoting best practice, providing advice to the Service, exchanging information and analysis of data.*
 - b) That it be mandatory for relevant information obtained from those meetings to be fed back to each DVLO.*
-

Provisional Recommendation 19:

That consideration be given to utilising the region domestic violence officer meetings for the purpose of drawing on the expertise of DVLOs to develop strategies for responding to systemic problems and complex domestic violence issues. Such a focus would enable all DVLOs to learn from errors, complaints and complex issues.

Police Service Response:

The new terms of reference of the Council are sufficiently broad to allow for this recommendation to be implemented. Commander Evans states that:

this process was adopted at the August 1999 meeting and although not yet fully functional, will require ongoing monitoring to ensure full implementation.⁹⁵

95 Police Service response to Provisional Statement p.15.

Commander Evans also refers to his responses to Recommendations 16, 17 and 18.

This Office's Observations:

We note that this recommendation is being implemented as a result of the new terms of reference given to the State Domestic Violence Council, and would ask to be kept informed of the progress and outcomes from these new functions.

Final Recommendation 19:

That consideration be given to utilising the region domestic violence officer meetings for the purpose of drawing on the expertise of DVLOs to develop strategies for responding to systemic problems and complex domestic violence issues. Such a focus would enable all DVLOs to learn from errors, complaints and complex issues experienced by DVLOs in other commands.

Provisional Recommendation 20:

That there be clear guidelines for the action DVLOs should take when they identify problems of general duty officers' handling of domestic violence matters, especially in cases where the subject officer may be of senior rank to that of the DVLO.

Police Service Response:

Commander Evans states:

the Service supports this recommendation. Clear guidelines will be developed and included in the new Domestic Violence Policy & Standard Operating Procedures.⁹⁶

In addition, the Service has provided training in relation to officers responding to these situations. This has occurred during DVLO training in the form of case studies and role plays. The review of training will take into account the need to continue to enhance officer skills in responding to these situations, particularly for induction and core training for DVLOs.

The Service recognises the need to address these concerns and will investigate mechanisms to ensure they are.

This Office's Observations:

We welcome the commitment to provide guidelines and training for DVLOs on identifying and dealing with problems arising from the handling of domestic violence matters by general duties officers. We acknowledge that training has already occurred to deal with these situations. The training needs to be reinforced by support from managers in appropriate instances.

Final Recommendation 20:

That there be clear guidelines for the action DVLOs should take when they identify problems with general duty officers' handling of domestic violence matters, especially in cases where the subject officer may be of senior rank to that of the DVLO.

⁹⁶ Ibid.

Training

Many of the complaints received by our Office regarding domestic violence are linked to training issues. These include complaints that officers have inappropriate attitudes or prejudices in relation to domestic violence or fail to provide adequate victim support to victims who are Aboriginal, of a non English speaking background or who have a disability.

It needs to be acknowledged that the Police Service has displayed a high level of commitment to the training of its officers in relation to domestic violence. The Police Service response to our discussion paper identified the need for improved training as a remedy to problems such as acting on breaches of AVOs, inappropriate attitudes to domestic violence and identifying the special needs of some victims of domestic violence.

Issues of concern: Domestic violence liaison officers

In the survey conducted by this Office of local area commands, it was found that the vast majority⁹⁷ of DVLOs had attended the domestic violence training conducted by the Police Academy. However, only half⁹⁸ of the respondents stated that their DVLO had attended that training in the last twelve months.

When a DVLO is on leave or not on duty, his or her position is usually filled by a back-up DVLO. It is of concern to this Office that substantially less than half⁹⁹ of the respondents to our survey stated that their back-up DVLO had undertaken domestic violence training at the Academy in the last twelve months.

Regular training of officers in these areas is important and necessary given the turnover of staff and developments in policy and legislation. The Police Service needs to evaluate what frequency of specialist training is required for the position in order to keep DVLOs updated. The Police Service should also ensure that any officer acting as a back-up DVLO has undertaken specialist training and again evaluate how frequently that training should occur in order to ensure optimal service delivery. The Police Service should also consider what standard or level of training is required for accreditation as a DVLO or back-up officer.

Local training for general duty officers

Responses to our survey showed that the frequency of training ranged from no training being carried out on domestic violence at some local area commands to training being conducted every month at others. At a local level, there is a great deal of training being conducted for general duty officers in relation to domestic violence. However, the training offered appears to vary in frequency, content and personnel conducting the sessions throughout regions and local area commands.

While nearly all¹⁰⁰ of the respondents to our survey stated that they had conducted training at the local area command on the topic of domestic violence, substantially less stated that this training had taken place in the last twelve months.

97 92% of local area commands who responded to our training survey stated that their DVLO had attended the specialised training offered by the Police Academy.

98 51% of local area commands had DVLOs who attended specialised training in the last twelve months.

99 38% of local area commands who responded to the survey stated that their back up DVLO had attended the specialised training.

100 95% of local area commands who responded to the survey stated that they had conducted training on domestic violence. 78% of these had conducted that training in the last 12 months.

It is the view of this Office that benchmarks need to be developed which indicate the appropriate level of training and its effectiveness for general duty officers so that the Service can be confident that there has been adequate training conducted across the commands. Frequency of training should not be the only indicator.

General survey results

The content of the training conducted at local area commands ranged from merely updating officers on new procedures to very specific and specialised training on those procedures. Many respondents stated that they conducted training on the Standard Operating Procedures (87%) and legislation (89%) applicable to domestic violence. However, fewer included the issues of victim support (65%) and how to respond to breaches of AVOs (67%) as part of their training at the local level.

Likewise, different local area commands used different resources to conduct training sessions. About three quarters of the respondents¹⁰¹ used their DVLO to conduct the training while fewer¹⁰² used the Education and Training Officer instead of, or as well as, the DVLO. Only 17% of respondents stated they used other people to present training sessions, such as people from the Department of Community Services, the local Court Assistance Scheme or police prosecutors.

Focussed training on specific issues

The results from the training survey conducted by this Office reveal that there is a significant amount of training being conducted at the local area level. That training is generally run by the DVLO or the Education and Training Officer. However, most of the training has little detail and does not address many of the issues of serious concern to victims or domestic violence workers or consider the diverse groups and issues police may come in contact with in carrying out their role.

For instance, 78% of respondents to the discussion paper stated that they believed that the attitude some officers had to domestic violence was a problem and/or affected their service delivery. Yet only 3% of respondents to our survey specifically stated that they included attitudes towards domestic violence as an issue in training at the local level. Certainly the unsuitable attitude of some officers may be identified and addressed in the current system through the complaints process. A focus in training on the issue of attitudes and their impact on service delivery would be a further way to address the problem.

Also of serious concern is that only 22% of respondents to the survey stated that their training included domestic violence issues relating to Aboriginal people or people of a non English speaking background.¹⁰³ In contrast to this, 71% of respondents to our discussion paper raised poor policing on this specific issue as a point of concern.

Furthermore, only one third of the DVLOs responding to the Police Service survey stated that they believed they had a “good working relationship” with communities of non English speaking background.¹⁰⁴ Less than half of the respondents stated that they had a ‘good’ relationship with Aboriginal communities around the issue of domestic violence.¹⁰⁵

¹⁰¹ 78% of local area commands who responded to the survey stated that they had used the DVLO in training at the local area.

¹⁰² 64% of local area commands who responded to the survey stated that they had used the Education and Training Officer in training at the local area.

¹⁰³ This Office notes the value of more specific statistics which distinguish training for Aboriginal issues and domestic violence from that relevant to NESB issues.

¹⁰⁴ *Domestic Violence Liaison Officer Survey Report*, NSW Police Service, Draft Report, Unpublished, July 1998, p.5.

¹⁰⁵ *Ibid.*, p.6.

Domestic violence in Aboriginal communities is an area of particular concern. Our Aboriginal officers have been frequently approached by women regarding the levels of domestic violence in their communities and their concerns about police responses to the problem. This Office believes this is an area which clearly warrants further attention by the Service.

The report *Expectations of Policing Services Regarding Domestic Violence* found that external agencies expected police to participate in domestic violence committees held by those agencies, and to:

“accept more input from outside sources in designing and conducting training [and to] participate constructively in training sessions held by agencies for police”.¹⁰⁶

This expectation was also found throughout the submissions made to the discussion paper. Domestic violence agencies and workers were willing to attend police training sessions in order to contribute their expertise to the training of general duty officers. Despite this, very few local area commands (17%) made use of external agencies or workers to contribute to their training of general duty officers.

In light of these comments, it is suggested that routine use of relevant agencies in the training of general duty officers in the policing of domestic violence at a local level should be considered by the Police Service.

The Police Service response

The Police Service has stated that it is *“looking at providing more training at regional levels. This would encourage greater contact and participation with local agencies, encourage a partnership approach to domestic violence and stimulate a real sense of community policing.”*¹⁰⁷

The Police Service is aware that service providers other than the police in the area of domestic violence do expect police to have ongoing liaison with them in order to enable them to work on the issue together.

The Police Service has informed this Office that it has held a number of focus group discussions with other agencies and relevant persons to identify the needs of women from non-English speaking backgrounds and to improve service delivery. We have also been informed that a report is to be compiled as a result of this strategy and that the information will inform training needs within the Police Service.¹⁰⁸

Monitoring service delivery

Inconsistencies in training

The Police Service has raised training as the method by which many problems with the policing of domestic violence can be overcome. However, the Police Service itself does not currently have a method for measuring the adequacy or quality of training at a local level. It has been shown that again, depending on the local area, there are different kinds of training for general duty officers being conducted with differing content and frequency.

¹⁰⁶ *Expectations of Policing Services Regarding Domestic Violence*, Report of Findings, NSW Police Service, 1994, p.17.

¹⁰⁷ Police Service response to the *Policing of Domestic Violence in NSW: A Discussion Paper*, NSW Ombudsman, received 21 July 1998.

¹⁰⁸ Police Service response to *Policing Domestic Violence in NSW: A Discussion Paper*, NSW Ombudsman, received 21 July 1998.

While training may be one way to combat perceived problems with the attitude of officers and the inconsistencies found in service provision, other methods are also required. There is currently no central monitoring of complaints about officers in their handling of domestic violence incidents. The result is that the Police Service is not able to ascertain which local areas are dealing with those complaints in an innovative way. A centralised approach to this information may allow other local area commands to learn from those who are doing the job well.

Recommendations

Provisional Recommendation 21:

That the Police Service evaluate the quantity and quality of current training conducted at a local level and develop benchmarks which indicate the appropriate level of training and its effectiveness for general duty officers.

Police Service Response:

Agreed. This kind of evaluative activity should apply to all significant forms of training and education services. The Academy, through its networking with the Human Resource managers and EDOs,¹⁰⁹ will be taking action to quality control local training on domestic violence.

This Office's Observations:

We note the Police Service's commitment to the evaluation of training initiatives, and ask to be kept advised of outcomes in this area.

Final Recommendation 21:

That the Police Service evaluate the quantity and quality of current training conducted at a local level and develop benchmarks which indicate the appropriate level of training and its effectiveness for general duty officers.

Provisional Recommendation 22:

That the Police Service clarify and prescribe what level of training is required for accreditation as a DVLO or back-up DVLO.

Police Service Response:

The Police Service has established a working party to develop a "clear job profile" for DVLOs. That working party is to determine the training needs and selection process for those in the position. A formula will be developed for assisting LACs to determine whether DVLOs should be full or part-time in their area.

Training requirements will be determined by another Council working party that will focus on core training requirements and theme areas (as identified in Recommendation 5). The training working party will also consider the outcomes of the Federal Government project that is examining and developing competency based training standards for workers in the field of domestic violence.

¹⁰⁹Education and Development Officers

This Office's Observations:

We note the proposed initiatives of the Police Service regarding position profiling and the identification of training needs. The theme areas identified in Recommendation 5 relate to the specific training needs of identified LACs. This Office recognises the commitment inherent in the promise of tailoring specific training for local area commands according to identified needs, and welcomes the commitment. We ask that we be provided with ongoing advice regarding the development and delivery of these initiatives.

Final Recommendation 22:

That the Police Service clarify and prescribe what essential level of training is required for accreditation as a DVLO or back-up DVLO.

Provisional Recommendation 23:

That other agencies be routinely used in the training of general duty officers in the policing of domestic violence at a local level.

Police Service Response:

Commander Evans has stated that once the training program is reviewed, requests will be made of contact people from external agencies who are able to assist with training at local areas.

This Office's Observations:

We note the commitment of the Police Service to involve appropriate external agencies in the training of general duties officers in the policing of domestic violence. It is important that the Service ensure that the quality of this training is consistent across all local areas.

Final Recommendation 23:

That other agencies be routinely used in the training of general duty officers in the policing of domestic violence at a local level.

Provisional Recommendation 24:

That complaints about officers in their handling of domestic violence incidents be centrally monitored to identify systemic problems and innovative responses to complaints.

Police Service Response:

This Office was advised to "see response to recommendation 3", relating to the monitoring of the complaints system in order to identify systemic problems in relation to victim support.

This Office's Observations:

While similar in nature to Recommendation 3, this recommendation was intended to capture those complaints made about the handling of domestic violence matters generally, not just in relation to victim support. As with this Office's observations in respect of Recommendation 3, it is believed that the Service has an opportunity to not only address problems in the handling of domestic violence incidents, but also to promote innovative strategies developed in response to those problems. To achieve this, it is important that systems for monitoring performance on a statewide basis be established.

Final Recommendation 24:

That complaints about officers in their handling of domestic violence incidents be centrally monitored to identify systemic problems and innovative responses to complaints.

Summary of Final Recommendations

The main finding to come from this Office's involvement in this issue was the need for the Police Service to better monitor its response to domestic violence. While this Office acknowledges that the Service has come a long way in developing mechanisms and strategies for responding to domestic violence, it is equally important that it also monitors its performance in respect of those mechanisms and strategies. Monitoring its own performance will ensure consistency of quality across the state. This will only happen if there are clear benchmarks against which commanders are held responsible.

It is important to realise that the policing of domestic violence is not only a core function of police, but one that is very intensive in terms of time and resources. In the response to the Provisional Findings and Recommendations, the Corporate Sponsor, Commander Evans, said that *"anecdotally many DVLOs report that responding to domestic violence matters demands 40% to 60% of general duty officer time. This volume of work warrants a more strategic response at all levels."*

In arriving at the following recommendations, we were mindful that because policing domestic violence is a core function, much of the responsibility and accountability for addressing the issues arising from this report falls on to local area commands. While this is appropriate as far as the day to day management of these issues is concerned, we are concerned about the limited number of suitable benchmarks, standards or performance indicators for local commands to measure and evaluate themselves against.

The following recommendations do not attempt to define and prescribe police practice in the area of domestic violence, nor do we seek to prescribe the performance benchmarks; that is the responsibility of the Police Service. Instead, the recommendations are aimed at addressing the concerns and issues identified in the course of this report, and at ensuring that the Police Service continues to develop its systems for the monitoring of its performance in this important area.

Final Recommendation 1:

- a) That each local area command systematically refer victims of domestic violence to other agencies in the local area to assist with victim support and other services.
- b) That the Police Service develop mechanisms to measure the extent to which each local area is developing strategic relationships with other agencies working in the domestic violence area.

Final Recommendation 2:

That the Police Service actively identify and circulate within the Service information regarding innovative victim support techniques and programs developed by individual local area commands.

Final Recommendation 3:

That the Police Service monitor the complaints system in order to identify systemic problems in relation to victim support.

Final Recommendation 4:

- a) That the Police Service ensures that the revised policies and Domestic Violence Standard Operating Procedures provide guidelines for liaising with and providing victims support to victims at court.
- b) That the Police Service identifies and promotes best practice models in this area.

Final Recommendation 5:

- a) That the Police Service has adequate guidelines and provides adequate training on the issue of witness protection in the context of providing support to victims of domestic violence.
- b) That, in particular, the guidelines and training should emphasise the need for careful risk assessment of the level of threat to victims of domestic violence.

Final Recommendation 6:

The Police Service should ensure that, in appropriate cases, domestic violence victims are referred to the Witness Security Unit for advice and assistance.

Final Recommendation 7:

- a) That the adequacy of the Police Service's response times to domestic violence incidents continue to be monitored.
- b) That this Office be advised of the results of that monitoring.

Final Recommendation 8:

- a) That the Police Service review the reasons, as recorded on COPS, for taking no action in relation to domestic violence incidents, including a review of the adequacy of reasons given.
- b) That, arising out of this review, the Police Service enhance current guidance for officers in making decisions not to act.

Final Recommendation 9:

- a) That there be a systematic collection and analysis of statistical data relating to domestic violence incidents.
- b) That the system enable local, regional and state wide comparisons to be made, and enable commanders to be in a better position to measure their command's performance against Service-wide benchmarks.

Final Recommendation 10:

That the Police Service make available to other service providers relevant statistics on domestic violence incidents to promote a more fully informed community response to domestic violence.

Final Recommendation 11:

- a) That the Police Service give due regard to the importance of the police handling of domestic violence incidents in meeting the performance indicators in its planning documents, including those at local area command level.
- b) That measures be developed that reflect the seriousness of, and resources devoted to, the issue of domestic violence.

Final Recommendation 12:

There should be clear accountability mechanisms for local area commanders in relation to responding to domestic violence including Operations and Crime Review panels. Indicators may include:

- domestic violence incidents reported to and attended by police;
- AVOs applied for (by police and by victims) and granted;
- domestic violence related charges (by offence) laid and proceeded with;
- domestic violence related charges laid and proceeded with before and after the granting of an AVO;
- reported breaches and prosecuted breaches;
- arrests for domestic violence offences (by offence); and
- police assaulted while attending domestic violence incidents.

Final Recommendation 13:

That the Police Service clarify its guidelines in relation to the service of orders and summonses at the local level, including guidance on prioritising and accountability mechanisms.

Final Recommendation 14:

That the guidelines include the requirement that information be provided to victims as to why there has been a problem or delay in serving documents.

Final Recommendation 15:

That the Police Service develop statewide standards to assist local area commands in monitoring their service delivery in this area so as to be able to identify resource needs and priorities.

Final Recommendation 16:

- a) That there continue to be a strong acknowledgment by the Police Service that domestic violence is a specialist area.
- b) That this be reflected in specialist training and the appointment of domestic violence liaison officers.

- c) That, to enhance the effectiveness of these measures, the Police Service consider:
 - (i) the most appropriate selection process for recruiting officers for the DVLO position; and
 - (ii) the adequacy of its systems for accurately determining the time that should be dedicated to policing domestic violence in each local area.

Final Recommendation 17:

- a) That there should be a mandatory notification by the Police Service to all DVLOs of who their Region DVLO is.
- b) That notification should include a information regarding the role of the Region DVLO to enable effective liaison between local areas and regions in relation to domestic violence.

Final Recommendation 18:

- a) That the region domestic violence liaison officer meetings with the Police Service Corporate Sponsor be used for the purposes of promoting best practice, providing advice to the Service, exchanging information and analysis of data.
- b) That it be mandatory for relevant information obtained from those meetings to be fed back to each DVLO.

Final Recommendation 19:

That consideration be given to utilising the region domestic violence officer meetings for the purpose of drawing on the expertise of DVLOs to develop strategies for responding to systemic problems and complex domestic violence issues. Such a focus would enable all DVLOs to learn from errors, complaints and complex issues experienced by DVLOs in other commands.

Final Recommendation 20:

That there be clear guidelines for the action DVLOs should take when they identify problems with general duty officers' handling of domestic violence matters, especially in cases where the subject officer may be of senior rank to that of the DVLO.

Final Recommendation 21:

That the Police Service evaluate the quantity and quality of current training conducted at a local level and develop benchmarks which indicate the appropriate level of training and its effectiveness for general duty officers.

Final Recommendation 22:

That the Police Service clarify and prescribe what essential level of training is required for accreditation as a DVLO or back-up DVLO.

Final Recommendation 23:

That other agencies be routinely used in the training of general duty officers in the policing of domestic violence at a local level.

Final Recommendation 24:

That complaints about officers in their handling of domestic violence incidents be centrally monitored to identify systemic problems and innovative responses to complaints.

Final Recommendation 25:

That this Office be kept advised of the ongoing progress and implementation of each of the final recommendations contained in this Report.

Conclusion

While it is clear that the Police Service has made many improvements in its response to domestic violence, there are still a number of issues that the Service will need to address. Improved service provision, the revised Police Service guidelines and Standard Operating Procedures, as well as training and the revamped role of domestic violence liaison officers will all result or benefit from systemic monitoring and evaluation.

Commander Evans has stated:

The New South Wales Police Service recognises that the [recommendations made in the Provisional Statement] are an opportunity to continue to move forward. The Service is aware of the challenges ahead and acknowledges the need to ensure that there is an interagency approach in responding to and reducing the incidence of domestic violence.

The Police Service has an indisputably significant role to play in an interagency response to domestic violence. That role, and the Service's unique policing responsibilities, require systemic monitoring and evaluation if its performance in relation to domestic violence is to be consistently of the highest standard across the state. This Office notes the Service's proposals for improved service delivery and increased accountability on this issue. The challenge is now for the Service to deliver on those proposals.

This report has put forward a range of practical recommendations. It is hoped that by emphasising the need for monitoring service delivery at all levels of police response to domestic violence, service delivery will continue to improve. Improved policing responses in this area is vital if we are to improve the safety of domestic violence victims, ensure access to the level of police protection and support to which victims are entitled, and affirm their right to safety and freedom from fear.

Glossary

AVO	Refers to an Apprehended Violence Order in relation to a domestic violence incident and in this document does not refer to a personal order such as that issued in neighbourhood disputes.
CIDS	Computerised Incident Dispatch System. The system used by the Police Service system “to electronically communicate information about an incident or event” ¹¹⁰ and to communicate its level of priority in relation to other matters.
COPS	Computerised Operational Policing System computer data base used by the Police Service to record all incidents reported to them. COPS is also used to record any AVOs and domestic violence incidents.
Domestic Violence	“A personal violence offence” between parties as defined by s.4 <i>Crimes Act (NSW) 1900</i> . ¹¹¹
DVCDB	Domestic Violence Central Data Bank which is responsible for the centralised recording of all AVOs on COPS.
DVLO	Domestic Violence Liaison Officer. A sworn member of the NSW Police Service who has particular duties in relation to the policing of domestic violence.
Local Area Command (LAC)	The NSW Police Service is divided into 11 Regions each with a commander. Regions are again divided into smaller commands. There are 80 local area commands.
Offender/Defendant	The person who is the perpetrator or alleged perpetrator of domestic violence or someone who has an AVO issued against him or her as a result of a domestic violence incident.
Person in Need of Protection/Victim	Someone who is in need of protection as a result of a domestic violence incident or an experience of ongoing domestic violence.
Submissions	To this Office made in response to our paper <i>Policing Domestic Violence in NSW: A Discussion Paper</i> [Appendix A]. Authors of individual submissions are not identified here but are numbered in the text when referred to or quoted.

110 *Police Service Handbook*, Using the Computer Incident Dispatch System (CIDS) at C-16, Updated January 1999.

111 “‘Domestic Violence offence’ means a personal violence offence committed against:

- (a) a person who is or has been married to the person who commits the offence; or
- (b) a person who is living with or has lived with the person who commits the offence as his wife or her husband, as the case may be, on a bona fide domestic basis although not married to him or her, as the case may be; or
- (c) a person who is living with or has lived ordinarily in the same household as the person who commits the offence (otherwise than merely as a tenant or boarder); or
- (d) a person who is or has been a relative (within the meaning of subsection (6)) of the person who commits the offence; or
- (e) a person who has or has had an intimate personal relationship with the person who commits the offence.”

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