

Section 1

Background and approach

In the mid 1980s justice responses to domestic violence were introduced in all Australian State and Territory jurisdictions. They were the outcome of the political influence of second wave feminism of the preceding decades that challenged patriarchal social structures and the legitimacy they accorded inequality, discrimination, exploitation and abuse of women. During this time the extent, diversity and severity of violence perpetrated by men against women, both in public places and in the private domestic sphere received increased public exposure. Governments responded with the introduction of women's services, public education campaigns and legal reform.

1.1 New South Wales justice responses to violence against women

During the 1970s measures were introduced in New South Wales to provide support to women who experienced sexual violence by men. Measures included public education campaigns, increased services and support to women victims and survivors and an improved criminal justice response. Reforms targeted the crisis response of health and accommodation services and also involved greater collaboration and improved criminal investigation and prosecution of criminal violence against women by the police.

Increasingly there was evidence that much violence against women occurred within the privacy of the domestic sphere and intimate relations. Thus, additional legal reforms were introduced that aimed to address violence against women in the private sphere.

Legislative reforms concerned with domestic violence have been described as having two key aims:

The first was to make the criminal law more effective in dealing with criminal assaults occurring within the privacy of the home. ... The second aim was to provide protection from future violence and harassment for victims through the creation of 'quasi-criminal' protection or restraining orders (Laing 2001:4)

In New South Wales reforms introduced in 1983 addressed the second aim of providing protection to women from future violence. New legislative provisions enabled applications for legal protection orders to be made under the court's civil jurisdiction. The introduction of Apprehended Violence Orders (AVOs) enabled women to seek protection from violence through both criminal prosecution and civil protection measures. Subsequent reforms to the AVO scheme extended legal protection to a wider range of violent behaviours and to relationships beyond the domestic sphere. The AVO scheme now provides for people experiencing or threatened with violence in relationships outside the domestic sphere to apply for a personal Apprehended Violence Order (APVO), and for those experiencing violence within domestic relations to seek a domestic violence order (ADVO). The focus of this research is ADVOs, the aims and intentions of which are described in Part 15A of the *Crimes Act 1900* as follows:

Section 562AC

- (2) This Division aims to achieve its objects by:
 - (a) empowering courts to make apprehended violence orders to protect people from domestic violence, and
 - (b) ensuring that access to courts is as speedy, inexpensive, safe and simple as is consistent with justice.
- (3) In enacting this Division the Parliament:
 - (a) recognises that domestic violence, in all its forms, is unacceptable behaviour, and
 - (b) recognises that domestic violence is predominantly perpetrated by men against women and children, and
 - (c) recognises that domestic violence occurs in all sectors of the community.

1.2 Local Courts' services review - emergent issues

This research emerged from a previous study conducted by the author as a component of a review of the services of the New South Wales Attorney-General Department's Office of the Director of Local Courts (Local Courts), the report of which is entitled *User's Views: Review of the Chamber Magistrate and Local Court Services* (Moore 1999). At six selected locations, professional and individual users of Local Courts' services were invited to participate in focus group discussions where they expressed their views about their experience of the Chamber Magistrate and other services. Courts selected included both metropolitan and rural locations, and areas where populations were marked by high proportions of people from different cultural groups, both Non-English speaking background and Aboriginal. Consultations at Bourke and Dubbo, where the town populations have a high representation of Aboriginal people, were assisted by the Local Courts regional Aboriginal Court Liaison Officer (ACLO). At all locations a major focus of participant concern was the processing of AVOs. At Bourke and Dubbo participants raised issues that were beyond the scope of the project and were specific to Aboriginal women's experience of family violence and perceived limitations in the AVO response for rural and Aboriginal women. During the same period a social work student on placement at the Court Assistance Scheme (CAS) at Wagga Wagga assisted an Aboriginal practitioner to facilitate discussions with Aboriginal women about their experiences of seeking legal protection from violence through the AVO scheme, and documented concerns similar to those raised by women at Bourke and Dubbo. In response to the concerns raised by rural Aboriginal women at Bourke, Dubbo and Wagga Wagga, seed grant funding was sought through Charles Sturt University to enable a return visit during which the issues raised in the Local Courts review could be more fully explored and documented.

1.3 Research overview – objectives and approach

This report summarises exploratory research¹ into the experience of Aboriginal women in the three inland New South Wales rural towns of Wagga Wagga, Dubbo and Bourke of seeking legal protection from family violence through the AVO scheme, and of their ideas about additional protective measures. These experiences and ideas are placed within the broader town contexts of violence and the use of

¹ The research received assistance in kind from the New South Wales Attorney-General's Department's Violence Against Women Specialist Unit (VAW) and Local Courts Directorate, and was conducted in consultation with the Aboriginal Justice Advisory Council (AJAC).

ADVOs, and within the broader literature and research into domestic and family violence and Indigenous responses.

The research objectives included documenting perceptions of Aboriginal people in rural and remote New South Wales about: family violence and protection available through the AVO scheme administered through police and Local Courts; the cultural appropriateness of existing measures, and; ideas about additional measures that might be effective in reducing levels of family violence.

Prior to commencing the research the proposal was discussed with representatives of the New South Wales Attorney-General's Department, including the Chairperson of the Aboriginal Justice Advisory Council (AJAC), the Manager of the Violence Against Women Specialist Unit (VAW) and the Director of the Office of Local Courts. These bodies supported the research through in kind assistance for the conduct of focus group discussions. VAW also met the financial costs of transcribing audio recordings of focus group discussions.

A review of data obtained from previous consultations conducted for the Local Courts' study (Moore 1999), ensured that the discussion framework of the current study revisited issues and suggestions raised in the previous study. A limited review of statistical indicators of violence and the use of ADVOs within the selected towns provided a broader context. A literature search aimed to identify family violence issues and strategies specific to Indigenous communities elsewhere in Australia, for use as exemplars that might prompt focus group discussion about alternative measures. A prepared discussion framework was used to guide focus group discussions with Aboriginal women who have personal and/or professional experience of the AVO Scheme in Bourke, Dubbo and Wagga Wagga about their experience of family violence, existing processes and outcomes, and their ideas about other options that might be effective. Audio transcriptions of the focus group discussions were summarised in order to document the views and suggestions of participants for consideration by relevant policy makers.

1.4 Data collection – statistics and focus groups

The reported findings include quantitative statistical data, used to construct town profiles, and qualitative data that summarises the issues raised by key informants who participated in focus group discussions.

Official statistics – town profiles

Town profiles have been incorporated to provide a more meaningful context for the summary of issues raised in focus group discussions. Population data is based on the 1996 and 2001 census and other relevant Australian Bureau of Statistics (ABS) data and reports. Crime and court statistics, collected by the Police Service and Local Courts respectively, were obtained from the website maintained by the New South Wales Bureau of Crime Statistics and Research (BOCSAR). Local Courts provided access to statistical collections used for management purposes, and which provides an indication of the percentage of ADVOs granted and dismissed at courts throughout New South Wales.

This limited review of official statistics of crime and court outcomes situates the discussions of family violence within the contexts of local information about officially reported violent crime, and use of the AVO scheme in preventing domestic and family violence. Equivalent data is reported for New South Wales and each of the three towns in order to provide a reference point for comparison.

The data used here should not be taken as evidence of actual levels of violence or the use of the AVO scheme. Officially recorded crime data includes only criminal incidents in police records, their numbers being affected by the level of reporting as well as the level and nature of policing activity. Victims' fear of reprisals or legal intervention may contribute to under reporting of criminal violence. High ratios of police to population can raise levels of officially reported crime, as can high surveillance practices by police. Similarly, rates of AVO applications and outcomes are affected by a combination of influences. Outcomes are the product of decisions by members of the public and police about whether to apply, actions of personnel involved in the court process and judicial decisions about adjournments and outcomes.

Focus group discussions

Information that describes experiences of using AVOs and ideas about additional protective measures was gathered through focus group consultations held on return visits to the three towns where concerns had previously been raised by Aboriginal women (Moore 1999:30). Focus group participants included individual Aboriginal women who have experienced family violence and social service practitioners with experience of supporting women in seeking legal protection from domestic and family violence. The decision to gather information by way of group discussion was based on positive feedback from participants in the previous Local Courts' study, which used this method

Each focus group was organised jointly by the Regional Violence Prevention Specialist of VAW and Co-ordinators of the CAS, funded by the Legal Aid Commission. Flyers were distributed to individual women and practitioners with relevant experience who might be willing to participate (Appendix 1).

At each town the opportunity was provided to hold a separate focus group for individual women and practitioners. While two discussions were held at each location, participants included a mix of individual women and practitioners. Individual women could thus be accompanied by practitioners who provided support, and practitioners with personal experience of family violence could contribute both their personal and professional perspective. At Dubbo the agenda of one practitioner focus group was changed to accommodate discussion of a then unresolved request to government representatives made at a 1999 conference, for the establishment of round table discussions about strategies to reduce levels of violence against women in rural Aboriginal communities.

Group discussion can be beneficial to participants in offering a choice of silence, support and encouragement from other participants, flexibility to explore or expand material not anticipated or understood by the researcher and the possibility to learn something new and valuable from the discussion. These benefits may not flow if the

group process is not managed ethically and effectively. Risks that must be managed include group pressure to participate, inappropriate disclosure of information that may cause harm to a participant or someone outside the group, personal distress caused by subject matter under discussion and exchange of incorrect information. Focus groups were commenced with welcome, introductions and a discussion of the proposed agenda and ground rules (Appendix 2). They proceeded in a semi-structured format. Facilitators, both the organisers and researcher, had a prepared guide with six discussion themes; each with suggested prompt questions and some information resources to address issues that might require clarification or information sharing. The six themes were: Family violence facts, myths, fears and safety; Do AVOs stop family violence? Cops and court – what works and what doesn't? Not just court – additional processes; and What other things could help families to stop violence?

The complexity of the issues under discussion and the subtlety of the cultural issues made audio recording the most effective way to capture participants' views. Transcripts were edited to protect the privacy of participants and sent to focus group organisers who vetted them to protect privacy and confirm participants' consent for the material to be used. The following sentiment perhaps explains the absence of objections to the publication of transcription excerpts:

It's going to be a long process but, yeah, I mean, women have got to take a stand because it's happening far too many times to women. (Bourke participant P1752-1754)

A total of 37 focus group participants participated in a total nine hours discussion. The exploratory nature of the research was to identify issues and not to make comparisons between locations or types of experience, either personal or professional. Thus, in summarising the transcripts, the aim was to capture all the issues raised under the six themes without losing ideas. Many of the issues were raised by several people in one group or in several group discussions, and editing aimed to consolidate the contributions from the six groups under the discussion themes. A limitation of this approach is that the summary is a compilation of all the ideas and views raised by participants in all groups and locations. Just as its findings cannot be generalised beyond these locations, they cannot be regarded as a consensus of opinions in these towns. However, the analysis of the transcripts revealed a high level of agreement on the issues within the groups, with participant contributions typically identifying a new issue or clarifying, expanding or emphasising a point. The transcripts evidenced high levels of agreement between participants in different groups and at different locations, with some local variation.

1.5 Overview of report

This report integrates descriptive information about New South Wales legal responses to domestic and family violence and relevant literature and research under the focus group discussion themes.

Rural town profiles provided in Section Two include some information about the history, economy and demographic make up of the selected towns. Local data on violent crime and use of the ADVOs provides a wider context in which to understand the issues raised by focus group participants in their discussions about family violence. Sections Three and Four address the discussion theme *Family violence facts, myths, fears and safety*. In Section Three definitions of family violence are

discussed, as a foundation for effective responses to unacceptable behaviour, including its identification, reporting and sanctioning. This Section also summarises issues raised by focus group participants about the kinds of harmful behaviour they know to be occurring in their communities, its impacts and the factors that contribute to it. Section Four describes findings from research into help seeking by Australian and rural women experiencing domestic violence. Within the context of these findings it summarises two issues that participants addressed in their discussions of women's approaches to seeking safety from family violence. One issue concerns the factors perceived to inhibit women from seeking help, and the other concerns the sources of help that are available and their perceived helpfulness and limitations. Section Four concludes with an overview of participants' ideas about strengthening services and supports, both informal and formal. The two themes, *Do AVOs stop family violence?* and *Cops and court – what works and what doesn't?* are addressed in Section Five. This Section describes legal responses to family violence under the New South Wales civil and criminal jurisdictions and some barriers and disincentives that participants perceived to confront Aboriginal women who might want to use these legal protections. It discusses identified limitations in the administration of AVOs under the civil jurisdiction by police and courts, and ideas for strengthening and extending formal justice responses. Section Six concludes the report by summarising participants' ideas about additional primary, secondary and tertiary level approaches to preventing and responding to family violence at the local level. These ideas focused on violence prevention and court connected facilitation and perpetrator rehabilitation.

