

Submission from the Domestic Violence Prevention Centre to the Crime and Corruption Commission for Operation Impala

This is a public submission.

Risk and Impact:

1. Type of information at highest risk of being improperly accessed (and shared)

- (i) Information relating to the mental health of Domestic Violence (DV) victims (whether medically diagnosed or reported by the perpetrator).
- (ii) Reporting by health services to police regarding women's experience of DV without their consent.
- (iii) Information provided by victims of DV to police regarding criminal behaviour of the perpetrator that only she would know and police acting on this information.
- (iv) Denigrating private information about refuge residents shared amongst officers where other residents and staff could overhear.
- (v) Judge demanding the refuge address in front of the perpetrator in Court and threatening to hold Refuge staff or solicitor in contempt of Court for not sharing this information. Family Law Court Writer via a Judge forcing a victim of DV to share her new address with the perpetrator stating that the father needs to know the address where the children reside for emergencies.
- (vi) Solicitor sharing information about one client in front of another, compromising privacy.
- (vii) Victim of DV changing address and having documentation sent by a government department to her previous address which included "Refuge" at the top of the address line.
- (viii) Information being shared without the consent of the victim of DV from one government department to another that impacts her pathways to accommodation and continued custody of her children.

(b) What are the risks in access and disclosure of each type of information?

For (i) above this information or misinformation initially can impact the response she receives from system agencies who attribute her disclosures to mental health issues rather than her experience of DV. Additionally this information remains associated with her on various government databases and impacts how she is viewed by officers/workers in these agencies for many years to come. Not only does her risk associated with DV remain unaddressed, it impacts how she is treated by individuals and agencies. This is particularly impactful if there is no medical diagnosis but rather an opinion or intentional misinformation reported by the perpetrator that is shared as fact amongst organisations.

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For (ii) above, at times during medical appointments (emergency room, antenatal, community health) women feel safe to report their experience of DV to a medical professional. They are not seeking a response or providing consent for this information to be shared with police however in many cases this is what occurs. The response that is initiated results in greater risk to the woman than the current DV she is experiencing.

For (iii) above, sometimes when a woman is discussing her experience of DV these discussions include elements of the perpetrators involvement in other criminal activity. Often the woman is the only person who would know some of the information being shared. When officers act upon this information (without her consent or opportunity for safety planning with a specialist advocate) they place her (and children) at risk of retaliation from the perpetrator.

For (iv) above, when a women's private (and at times denigrating) information is shared in front of Refuge staff and residents, she no longer feels comfortable to remain in that safe accommodation. She may choose to return home to the perpetrator and remain at risk of assault and may not trust police sufficiently again to call them when she is being assaulted.

For (v) above, sharing the street address of a Refuge, or the new address of a victim of DV, in Court with the perpetrator present is manifestly unsafe for that particular woman and for other women residing at that Refuge.

For (vi) above, sharing of confidential information by a solicitor in front of other clients not only breaches a woman's privacy and is embarrassing, it also causes a loss of faith in that practitioner and the legal system and can result in a woman withdrawing from the Court process and remaining without a Protection Order.

For (vii) above, mail sent to a previous address by a government department indicating the woman is residing in Refuge could inform the residents (possibly the Perpetrator) that she is taking action against the DV she has experienced which could increase the risk to her and the children, and is also a breach of her privacy.

For (viii) above, when information is shared for unclear reasons between government departments and is then used to prevent a woman from moving to a particular area, this reduces her pathways to accommodation and support and potentially increases her isolation and risk.

2. What impact does improper access to confidential information have on:

(a) The ability for agencies to perform their functions?

For (i) and (viii) this results in agencies failing to perform their functions in an unbiased way and in poor outcomes and responses to victims of DV.

(b) People whose data is improperly accessed (or shared)?

For (ii), (iii), and (v) this increases the risk of DV victims and causes them to lose faith in the systems available to them for support.

For (iv), (vi) and (vii) this not only increases the risk of DV victims disengaging from protective influences and thereby increasing their risk, it also make it more difficult for them to trust services and ask for help or provide information to them in the future.

Enablers and Facilitators

6. What factors may be contributing to the increase of misuse of confidential information over the previous four years?

Amendments to the Domestic and Family Violence Act 2012 were made in October 2016 and commenced in May 2017 relating to Information Sharing Guidelines.

- 5A states that organisations MAY share information when it relates to safety concerns.
- 5B states that organisations MUST consider the unintended consequences of sharing this information.

(a) Do these factors create a corruption risk or facilitate other corruption risks?

When the Information Sharing Guidelines first commenced there was a general loosening in the reluctance to disclose information. However, 5B of the Guidelines does not appear to have been widely taken up.

Legislative Framework and Reforms

12. What reforms can help prevent, detect, and deal with corrupt conduct relating to misuse of information?

A strong emphasis being placed on 5B of the Information Sharing Guidelines to ensure organisations map out the unintended consequences of sharing information (and are able to demonstrate how they do this), to ensure that in sharing information they are not increasing the risk to victims of DV and their children.

Additionally, including their INTENTION in sharing information may provide the opportunity for officers and frontline workers to pause and consider why, how, when, and to whom they are disclosing the information they wish to share. Followed by the mapping out of the unintended consequences.

13. Are there adequate legislative protections and remedies for people who have had their privacy breached by employees in public sector agencies?

Unfortunately for DV victims when information is shared inadvertently or without their consent the ramifications are significant. They made need to relocate immediately, change their employment, and uproot children from their schools and social groups. Increased security may be needed for Refuges who have their addresses provided to perpetrators. Victims of DV may never again trust the system designed to support

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them and are much less likely to seek support when they experience DV again or they may return to unsafe relationships. It is therefore difficult to imagine what could be considered adequate remedies for breaches of privacy in these situations?