



WESTERN AUSTRALIA POLICE FORCE

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SUBJECT: SELECT COMMITTEE INTO ELDER ABUSE – WA POLICE FORCE SUBMISSION

KEY POINTS:

- On 13 September 2017, the Legislative Council ordered a Select Committee be established to inquire into elder abuse. The Committee is chaired by Hon Nicolas Goiran MLC.
- Included in the Terms of Reference (ToR) is the determination for an appropriate definition of elder abuse and the capacity of the Western Australia Police Force (WA Police Force) to identify and respond to allegations of elder abuse.
- On 18 September 2017, the Committee Chair invited the Commissioner of Police to provide a written submission on matters referred to in the ToR.
- WA Police Force provides comment on ToR (a), (g) and (i).

INTRODUCTION:

The WA Police Force respond to incidents and allegations of elder abuse along with other government agencies and support services across Western Australia. This submission will detail WA Police Force's effort to influence outcomes in relation to preventing and responding to elder abuse.

This submission will reference a number of reviews¹ that make recommendations to improve service delivery and response to elder abuse, as well as identify prevention measures to mitigate the prevalence of elder abuse.

In particular, WA Police Force will provide comment in relation to the following Terms of Reference identified by the Select Committee:

- a) determine an appropriate definition of elder abuse;
- g) the capacity of Western Australia Police to identify and respond to allegations of elder abuse; and
- i) consider new proposals or initiatives which may enhance existing strategies for safeguarding older persons who may be vulnerable to abuse.

BACKGROUND:

On Wednesday, 13 September 2017, the Legislative Council ordered a Select Committee be established to inquire into elder abuse. The Committee is to report no later than 13 September 2018, with submissions due by 17 November 2017. The Terms of Reference include:

- a) determine an appropriate definition of elder abuse;
- b) identify its prevalence;
- c) identify the forms of elder abuse, including but not limited to neglect;
- d) identify the risk factors;

¹ Including the *Age-friendly WA? A challenge for government* Community Development and Justice Standing Committee Paper, November 2014; and *Elder Abuse - A National Legal Response* Australian Law Reform Commission Final Report, May 2017

- e) assess and review the legislative and policy frameworks;
- f) assess and review service delivery and agency responses;
- g) the capacity of the Western Australia Police to identify and respond to allegations of elder abuse;
- h) identify initiatives to empower older persons to better protect themselves from risks of elder abuse as they age;
- i) consider new proposals or initiatives which may enhance existing strategies for safeguarding older persons who may be vulnerable to abuse; and
- j) consider any other relevant matter.

WA POLICE FORCE COMMENT ON TOR

(a) determine an appropriate definition of elder abuse

Until recently, the WA Police Force defined elder abuse as the *'wilful or unintentional harm caused to an older person (60 years or older), by another person or persons with whom they have a relationship implying trust'*. There are however, numerous definitions of elder abuse used by service providers to this demographic², which can be problematic in applying a uniform inter-agency response to elder abuse. The June 2017 *Australian Law Reform Commission (ALRC) Final Report*³ and the October 2017 *Final Report of the Joint Committee on Matters Relating to Elder Abuse*⁴ from the South Australian House of Assembly refers to a definition taken from the World Health Organisation, *'a single, or repeated act, or lack of appropriate action, occurring within any relationship where there is an expectation of trust which causes harm or distress to an older person.'* Recent amendments to the WA Police Force procedural guidelines, removed the age provisions and followed the definition endorsed by the Alliance for Prevention of Elder Abuse (APEA) WA.

The WA Police Force is a member of APEA WA whose definition provides: *'any act which causes harm to an older person and occurs within an informal relationship of trust, such as family and friends.'* Some difficulties for WA Police Force following the definition prescribed by APEA WA is, it excludes instances where there is a service being provided (paid or otherwise) that include formal care arrangements, such as aged care facility staff. Definitions consistently include the following types of abuse; financial, physical, sexual, emotional, psychological, neglect and social.

Western Australia legislation does not specify a criminal offence for elder abuse, so collecting consistent data on elder abuse within the criminal justice system is problematic. Age of the victim is a circumstance of aggravation for some offences against the person⁵ including Grievous Bodily Harm, Unlawful Wounding, Sex Offences, Stalking Offences, Robbery, Assault Occasioning Bodily Harm and Common Assault. All of these offences result in a greater punishment available to the Court where the victim is aged 60 years or over. For the purposes of increased punishment, the legislative circumstances of aggravation do not differentiate the nature of the relationship between the offender and victim (including whether the offender is in a position of trust with the victim).

A study conducted in 2011 on the extent of elder abuse in Western Australia⁶ considered the issue of defining elder abuse in terms of the way in which the term 'elder' is conceptualised. The study analysed whether the term should be considered as an age range (relevant in aboriginal families or communities where mortality rates and cultural practices influence use of the term 'elder'), a

² For example, World Health Organisation at http://www.who.int/ageing/projects/elder_abuse/en/, NSW Elder Abuse Helpline at <http://www.elderabusehelpline.com.au/for-professionals/definition-of-elder-abuse>, and WA Department of Communities at <https://www.dlgs.wa.gov.au/CommunityInitiatives/Pages/Preventing-elder-abuse.aspx>

³ Refer <https://www.alrc.gov.au/publications/elder-abuse-report>

⁴ Refer

[https://www.google.com.au/search?q=south+australia+report+on+elder+abuse+assembly&aqs=chrome..69i57.8439j0j4&sourceid=chrome&ie=UTF-8](https://www.google.com.au/search?q=south+australia+report+on+elder+abuse+assembly&aq=south+australia+report+on+elder+abuse+assembly&aqs=chrome..69i57.8439j0j4&sourceid=chrome&ie=UTF-8)

⁵ For circumstance of aggravation definitions see sections 221,319 and 391 of the *Criminal Code*.

⁶ Refer University of WA *"Examination of the extent of elder abuse in Western Australia"* at http://www.advocare.org.au/uploaded/files/client_added/Examination%20of%20the%20Extent%20of%20Elder%20Abuse%20in%20Western%20Australia.pdf

relationship status, or a measure of frailty or vulnerability. Further in terms of intervention, the study posited abuse as a range from: predatory crime such as fraud, burglary and exploitation; hate crimes such as abuse in public places by strangers; parasitic crime, such as moving in without invitation and taking food and money; breaches of professional roles and responsibilities, such as powers of doctors, accountants, lawyers; family conflict including domestic violence, financial abuse, carer abuse and neglect; and institutional abuse including rigid care regimes staff cultures and cruel individuals. This study explored the conceptualisation of the term elder abuse in depth and identified the potential for a broad range of interpretations, resulting in difficulty in recording with clarity acts and omissions that constitute elder abuse.

Whilst there is disparate data collection in the recording and reporting mechanisms across government and the support sectors for elder abuse, prevalence of elder abuse within our community will continue to be difficult to identify and provide an effective response.

WA Police Force supports a clear definition that is consistently applied across government organisations and influences non-government support services definitions where possible.

(g) the capacity of Western Australia Police to identify and respond to allegations of elder abuse

The WA Police Force utilises the Frontline Incident Management System (IMS) as the primary source of information storage relating to incidents across Western Australia. Incidents within this system are recorded using a unique identifier. IMS has been used by the WA Police Force since 2004 and contains incident reports that specify a criminal offence (crime incident) and incident reports that contain information that do not constitute an offence (general incident). General incidents are used to manage incidents of abuse (such as family violence and elder abuse) where the abuse may not constitute an offence.

In 2013, the WA Police Force introduced an elder abuse flag to IMS. The WA Police Force data taken from this system identifies the following:

- Since the creation of the 'elder abuse' flag on IMS, the flag has been checked on 1436 incidents;
- A review undertaken to identify the circumstances that constituted elder abuse determined the elder abuse flag had been correctly checked on 640 incidents (44.5%);
- Common incorrect identification of elder abuse included:
 - Identifying an elderly victim of crime, however the suspect/offender was not a person in a position of trust; and
 - Misidentifying the term 'elder abuse' as being an older offender (e.g. Child abuse matters where the abuser was an older person against a young victim).
- A significant proportion of elder abuse incidents were recorded as incidents where no criminal offence occurred (i.e. abuse where an offence has not been established). These are recorded as general incidents (see below table);

Financial Year	Total Incidents	Crime Incident	General Incident
2013/2014	131	84	47
2014/2015	152	104	48
2015/2016	172	117	55
2016/2017	185	115	70

Analysis of the **2016/2017** year identifies the following:

- There was a total of 130,512 reported person victims (recorded as person only; excludes business, officer, or unknown) for the financial year;
- Approximately 89.5% of reported person victims were aged 59 years or younger;
- Approximately 10.5% of reported person victims were aged 60 years or older; and
- 185 of the reported person victims (0.14%) were associated with elder abuse;

- Of the 185 identified as elder abuse, 122 (66%) were also identified as family violence incidents; and
- Of the 115 crime incidents reported relating to elder abuse, charges were preferred against offenders in 46 of the incidents (40% sanction rate).

In July 2017, legislation was introduced amending the *Restraining Orders Act 1997*, resulting in the WA Police Force provisioning new training and updating policy and guidelines for Police personnel in relation to family violence and elder abuse. Information cards generated for family violence attendances, also include references to the elder abuse hotline and *Advocare*. A recent *Broadcast* to police officers across the State reinforced the requirements for identifying matters as elder abuse to improve the recording of incidents within IMS.

A continuing response issue for the WA Police Force is the collection of information where a criminal offence is not identified (general incidents), and the ability to refer incidents and provision information to other support services to assist the victim. An information sharing database proposed by government may overcome information sharing issues and address the needs of vulnerable members of our community (*see comments below in (i)*).

The 2014 Community Development and Justice Standing Committee Report '*Age Friendly WA*' highlighted WA Police Force do not publish statistics relating to elder abuse⁷. The Report recommends increased support for community and government bodies to establish the collection of reliable statistics on the prevalence of elder abuse in Western Australia, to improve targeted service delivery and response to the issues⁸.

The *Commonwealth Aged Care Act 1997*⁹ provides for the mandatory reporting by an approved provider, of a reportable assault in a residential care facility. The legislation provides State police may investigate these reported offences. In 2016-2017, 34 incidents were reported as elder abuse in nursing homes or residential care facilities with 18 crime incidents and 16 general incidents.

The WA Police Force is a member of a range of government and non-government agencies-led working groups, recently developed to implement strategies to improve responses to elder abuse (as a result of election commitments and recommendations from publications) including:

- *Directors General Implementation Group (DGIG)*, which has CEO representation from government agencies to assist the DPC-led Community Safety and Family Support Sub Committee deliver on election commitments (including the elder abuse commitments identified in the '*Stopping Family and Domestic Violence*' Policy Paper¹⁰);
- *Policy Initiatives Implementation Working Group (PIIWG)*, which is a sub-working group reporting to the DGIG and developed and managed by the Family and Domestic Violence Unit within Department of Communities.
- *WA Elder Abuse Reference Group (WAEARG)*, convened by the Department of Justice to respond to recommendations from the ALRC Final Report on Elder Abuse;
- *Alliance for Prevention of Elder Abuse (APEA) WA*, a policy group to raise awareness of elder abuse and influence attitudes, policies and practices. Membership includes: *Advocare*, Department for Communities, Department of Health, Disability Services Commission, Legal Aid (WA), Office of the Chief Psychiatrist, Office of the Public Advocate, Public Trustee,

⁷ Refer page 159 of

[http://www.parliament.wa.gov.au/Parliament/commit.nsf/\(Report+Lookup+by+Com+ID\)/E379C548519FC1CA48257D96000FCE47/\\$file/20141119%20Ageing%20Inquiry%20report%20FINAL.pdf](http://www.parliament.wa.gov.au/Parliament/commit.nsf/(Report+Lookup+by+Com+ID)/E379C548519FC1CA48257D96000FCE47/$file/20141119%20Ageing%20Inquiry%20report%20FINAL.pdf)

⁸ Refer to Recommendation 33 on page 160 of

[http://www.parliament.wa.gov.au/Parliament/commit.nsf/\(Report+Lookup+by+Com+ID\)/E379C548519FC1CA48257D96000FCE47/\\$file/20141119%20Ageing%20Inquiry%20report%20FINAL.pdf](http://www.parliament.wa.gov.au/Parliament/commit.nsf/(Report+Lookup+by+Com+ID)/E379C548519FC1CA48257D96000FCE47/$file/20141119%20Ageing%20Inquiry%20report%20FINAL.pdf)

⁹ Refer section 63-1AA

¹⁰ Refer

[http://www.parliament.wa.gov.au/publications/tabledpapers.nsf/displaypaper/4010321c0c99d4e1b5c8ac984825814e0004a2f6/\\$file/t-p-321.pdf](http://www.parliament.wa.gov.au/publications/tabledpapers.nsf/displaypaper/4010321c0c99d4e1b5c8ac984825814e0004a2f6/$file/t-p-321.pdf)

Western Australia Local Government Association, and the WA Police Force. The chair of this group is Advocate.

In 2016, the total population of Western Australia was 2, 474, 410 with 478 330 (19.3%) being 60 years and over¹¹. The WA Police Force are mindful of the predicted demographic of Western Australia as being 'one fifth (21%) of the population on the 60-plus age group by 2021'¹². This demographic will potentially be more susceptible to offences that do not necessarily fall within the elder abuse definition, including online fraudulent behaviour. The Australian Bureau of Statistics refer to Australians aged 65 years and over as 'older' and suggests by 2054-55, 22.6% of the population of Australia will be aged 65 or over (as compared to 15% in 2014-15)¹³.

The WA Police Force Major Fraud Squad commenced a project in 2013, which was a joint operation to prevent and disrupt online fraud, in partnership with the Department of Commerce. Project Sunbird was a Major Fraud Squad-initiative to identify victims who have been defrauded into sending large amounts of money to overseas offenders. Although Commonwealth offences, the WA Police Force took an active role to reduce the impact these offences were having on vulnerable members of the Western Australian community. An outcome of the project was the alleviation of financial abuse towards older people.

At the commencement of Project Sunbird, the Australian Cybercrime Online Reporting Network (ACORN) was not operational. ACORN is a national policing initiative of the Commonwealth, State and Territory governments to report incidents of online crime. ACORN is the appropriate mechanism for victims to report incidents of online cybercrime. Reports generated from ACORN are distributed to the appropriate investigative body, as the suspects involved in these crime types are based internationally, the Australian Federal Police are best positioned to investigate international and transnational crimes. The WA Police Force ceased Project Sunbird in March 2017.

Ongoing education and awareness prevention strategy will ensure older Western Australians and the rest of the community are vigilant to online fraud and other offences that target vulnerable groups. Websites such as *Scamnet* (Western Australia) and *Scamwatch* (Commonwealth)¹⁴ provide advice to the community to minimise risk of online fraud and scams.

(i) consider new proposals or initiatives which may enhance existing strategies for safeguarding older persons who may be vulnerable to abuse;

Improved information exchange between agencies is often cited in policy and legislative reviews including the many already referenced within this submission. The government's '*Stopping Family and Domestic Violence*' *Policy Paper*¹⁵ includes a commitment to establishing a secure integrated database for information sharing for family violence that will improve safety of victims and children, increase visibility of perpetrators, and improve efficiencies for relevant agencies. The WA Police Force consider there is scope for elder abuse information to be considered as part of this information exchange, given the strong links between family violence and elder abuse.

¹¹ Australian Bureau of Statistics at

http://www.censusdata.abs.gov.au/census_services/getproduct/census/2016/quickstat/5?opendocument

¹² Refer page 1 of

[http://www.parliament.wa.gov.au/Parliament/commit.nsf/\(Report+Lookup+by+Com+ID\)/E379C548519FC1CA48257D9600FCE47/\\$file/20141119%20Ageing%20Inquiry%20report%20FINAL.pdf](http://www.parliament.wa.gov.au/Parliament/commit.nsf/(Report+Lookup+by+Com+ID)/E379C548519FC1CA48257D9600FCE47/$file/20141119%20Ageing%20Inquiry%20report%20FINAL.pdf)

¹³ Refer page 32 of <https://www.alrc.gov.au/publications/elder-abuse-report>

¹⁴ Refer <http://www.scamnet.wa.gov.au/scamnet/Home.htm> and <https://www.scamwatch.gov.au>

¹⁵ Refer page 11 of See

[http://www.parliament.wa.gov.au/publications/tabledpapers.nsf/displaypaper/4010321c0c99d4e1b5c8ac984825814e0004a2f6/\\$file/t-p-321.pdf](http://www.parliament.wa.gov.au/publications/tabledpapers.nsf/displaypaper/4010321c0c99d4e1b5c8ac984825814e0004a2f6/$file/t-p-321.pdf)

CONCLUSION:

Increase in the aging population of Western Australia has been evidenced and is inevitable, as is the potential for increased offending against this demographic. The occurrence of elder abuse offending as a distinct cohort of offences reported to the WA Police Force appears to be a small amount of the offending against older Western Australians. The prevalence of elder abuse versus reporting to police (in this State the WA Police Force) has been subject to theoretical debate. However the WA Police Force has provided advice on what can be evidenced from our systems.

The WA Police Force consider recording, identifying and responding to elder abuse will be augmented by clarity and consistency of a definition. The application of a consistent definition across Commonwealth and State governments, as well as support services, will allow better understanding of the impact to this demographic and a coordinated prevention and response strategy to deliver improved services.

CURRENT AS: 16/11/2017

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