

The province responds

Our Advocacy Director, Pamela Cross, has created an overview of the responses to the inquest recommendations from the Office of the Chief Coroner, the Information and Privacy Commissioner and the Province of Ontario, along with a commentary about what those responses say (and don't say).

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On February 10th, the government of Ontario, the Office of the Chief Coroner and the Information and Privacy Commissioner provided their responses to many of the 86 recommendations that formed part of the verdict in the June 2022 inquest into the September 22, 2015, murders of Carol Culleton, Anastasia Kuzyk and Nathalie Warmerdam in Renfrew County (the CKW inquest). The federal government and the Chief Firearms Officer have yet to provide their responses.

The inquest process in Ontario does not require parties to whom recommendations are directed to respond, but they are encouraged to do so within six months of being informed about the recommendations that apply to them, and February 10th was exactly six months from that date.

Below is an overview of the responses from the Chief Coroner, the Information and Privacy Commissioner and the province, along with some comments about them.

Chief Coroner

Four recommendations were directed to the Office of the Chief Coroner (OCC), three of which were fully accepted and the intent of one of which was accepted.

Recommendation 74: Ensure that the DVDRC reviews its mandate with a view to enhancing its impact on IPV and provide DVDRC with improved supports.

The OCC has recently completed a review of the DVDRC, and a newly constituted committee will be in place by March 2023, to "enhance the representation of Ontario's diverse people." The committee will also be modernizing its processes in dealing with issues arising from deaths associated with and/or caused by IPV. Additional resources and improved supports have already been dedicated to the work of the DVDRC.

Comment: We'll let you know in March what the newly constituted DVDRC looks like.

Recommendation 75: Ensure DVDRC reports are published online in a timely manner.

According to the OCC, annual reports are published on the OCC's webpage on the Ontario.ca site and are available upon request. "The OCC will endeavour to improve timeliness to ensure reports are published regularly."

Comment: In my experience, it is not easy to find the DVDRC reports. When I searched the OCC webpage, the hunt to find the DVDRC report was not intuitive, and I was able to find only the 2018 report.

My greatest success came from the website of the Canadian Domestic Homicide Prevention Initiative: <https://www.cdhpi.ca/dvdrc-committees> While some of the links were dead, I was able to find most of the DVDRC reports at this site, but it shouldn't take this much work and insider knowledge to find these public reports.

Recommendation 76: Ensure that DVDRC reports and responses to recommendations are publicly available and will continue to be available without charge.

The OCC says that DVDRC reports and responses to recommendations are publicly available upon request, a process that will continue.

Comment: The OCC webpage should provide this information along with the contact information for those who wish to request a report.

Recommendation 77: Consider adopting Femicide as one of the categories for manner of death.

The OCC has accepted the intent of this recommendation and "is considering possible methods to implement it. . . to ensure recognition of these tragic deaths and defined focus on relevant safety initiatives."

Comment: The current categories for manner of death in inquest verdicts are: natural causes, accident, suicide, homicide, and undetermined. Adding femicide would draw attention to the frequency of IPV homicides, would make the distinct features of such deaths obvious and would make tracking and researching the rate of femicide easier.

Information and Privacy Commissioner

One recommendation was directed to the Information and Privacy Commissioner, which has been accepted.

Recommendation 78: The Information and Privacy Commissioner of Ontario should: working together with the Domestic Violence Death Review Committee (DVDRC), justice partners and intimate partner violence service providers, develop a plain language tool to empower intimate partner violence professionals to make informed decisions about privacy, confidentiality, and public safety.

The Commissioner noted in her response: "my office plans to implement the recommendation in the coming year, and has already made significant progress." Her response goes on to

acknowledge that preventing IPV is a critical societal issue that includes multi-sectoral community-based collaboration and information sharing, and that organizations should not face uncertainty about how privacy rules apply when someone is at risk of serious harm.

“While protecting personal information and personal health information from unauthorized collection, use and disclosure is essential, privacy must not be used as an excuse to prevent the lawful sharing of information, particularly where it is necessary for the prevention of serious harm.”

One of the IPC goals in developing the plain language tool is to identify and address myths and misconceptions about information sharing that may interfere with collaborations between the justice sector and community-based frontline service providers.

The IPC is already engaging with relevant stakeholders and conducting research to support development of the tool.

Comment: The IPC has embraced this recommendation. I have been part of a number of consultations and conversations with the lawyer leading the development of the tool and feel very positive that a useful tool will be in our hands in the foreseeable future.

The province

Sixty-eight of the 86 recommendations made by the inquest jury were directed to the Government of Ontario. The province made no comments on the recommendations at the time they were released, at the vigil held to commemorate the seventh anniversary of the triple femicide on September 22, 2022 -- which was attended by two Cabinet Ministers -- in the legislature or at any other time, until it provided its response to the Office of the Chief Coroner on February 10th.

The province’s response is in two parts: section one, in which it provides “initial responses” to 39 recommendations, noting that “the information contained herein may change in the coming months and additional details related to the responses to these recommendations may be provided as part of “Part II” of Ontario’s response,” and section two, in which the remaining 29 recommendations are identified as “requiring further analysis. These recommendations will be addressed in “Part II of Ontario’s response.”

General comments:

- The government is taking the position that these are such important issues that it requires more time to consider them carefully so the response can be as good as possible. We need to call them out on this. Many of these recommendations have been made before in earlier inquests and in the annual reports of the Domestic Violence Death Review Committee. The issues that need to be addressed have been more than amply studied and written about, and it is time for action.
- All of the responses are vague, with no timelines and little concrete substance as to what the government is planning to do.
- Many of the responses refer to work that has already been done (at least in the government’s mind), without identifying new work called for in specific recommendations.

- Similarly, the responses often cite principles or values, without identifying a clear action plan.

The jury's recommendations were grouped by theme, so that is how I will comment on them here.

Oversight and accountability

Six recommendations appear here, all but one of which have been relegated to Section 2 of the government's response.

Recommendation 6: Amend the Coroner's Act to require the recipient of an inquest recommendation to advise the Office of the Chief Coroner if a recommendation is complied with or to provide an explanation if it is not implemented

This was accepted in part, with the comment that the government will explore opportunities to improve information sharing with the OCC.

Comment: Given that the government did not comment on the other five recommendations in this theme, it's hard to feel hopeful that it understands the need for increased oversight and accountability on issues related to intimate partner violence and femicide.

The five recommendations set aside "for further analysis and collaboration" are:

- Declare IPV an epidemic
- Establish an independent IPV Commission
- Engage in meaningful consultation with IPV stakeholders to establish the mandate of this commission
- Create a Survivor Advocate role
- Immediately institute a provincial implementation committee to oversee comprehensive consideration of these inquest recommendations

Comments:

- Declaring IPV to be an epidemic would have cost the government nothing. A number of rural and small municipal governments have made this declaration, even without leadership from the province
- Many of us had hoped the government would move quickly to establish an implementation committee. In the absence of that or of the establishment of an IPV Commission, we should call on the province to re-establish the VAW Roundtable.

System approaches, collaboration and communication

Of the 11 recommendations in this theme, three were set aside as requiring further consideration before a response could be made.

The eight remaining recommendations are accepted, accepted in part or, in the case of the recommendation that the government encourage municipalities to include IPV in their safety and well-being plans, rejected.

Comments:

- Those recommendations set aside speak to exploring restorative justice approaches to responding to IPV, creating a universal records management system to increase easy access to safety-related information and reviewing policies to ensure effective dissemination of information when there is a situation that could put the public in danger.
- The responses to those that the government accepts, whether in part or entirely, are, as noted above, vague and uninspiring. There is little commitment to new actions to be taken, other than consideration of possible further study and review of what is being done in other jurisdictions. In at least one case, the response indicates that work has been completed. Presumably, it has not, or this issue would not have arisen at the inquest and led to a recommendation for change. Unfortunately, this is a theme running through the province's response; a complacent "we agree, and we've already taken care of it," when those of us doing the work on the ground know that is not the case.

Funding

Five recommendations appear in this section, three of which were set aside for future consideration: recognizing the need for a significant financial investment in funding for organizations providing IPV support, development of a plan for enhanced second stage housing for IPV survivors, and funding for safe rooms in the homes of high-risk survivors.

The two to which the government responded spoke to the creation of an emergency fund for survivors and a realignment of IPV service provider funding structures. Both were accepted in part, with a commitment to further exploration.

Comments:

- In 2023, a commitment to further exploration is not a meaningful commitment
- The government does not need more time to support recommendations calling for increasing funding for IPC organizations and enhancing second-stage housing

Education and training

The jury made nine recommendations for improvements/changes to education and training for the public, in schools, and for specific professional groups. Three of these were identified as requiring further analysis before a response could be provided: development of a new approach to public education campaigns, a review of existing training for justice system personnel within the provincial and policing sphere and provision of IPV training for justice personnel.

Four of the remaining recommendations were accepted in part: a yearly review of public attitudes about IPV, revisions to school-based education, training to support teachers deliver this curriculum and development of resources.

The final two recommendations in this section were accepted, with the government saying it has completed work to provide specialized training to police officers and that work to track professional education and training is underway.

Comments

- Over the past 20 years, many recommendations for IPV education and training have been made by inquests, the DVDRC and other committees and individuals. What is currently available remains inadequate, much of it requires updating and all of it should be made mandatory and ongoing. But, even if training and education were perfect, they are not enough. Until those who receive the training are evaluated on what they have learned and required to implement it in their work, the training is of very limited value
- The responses to the recommendations related to school-based IPV education have very little substance and, given this government's track record on sex education curriculum, there's little reason for hope that we will see substantive action in this area.

Measures addressing perpetrators

The system failures in responding to the perpetrator in the triple femicide under review at the CKW Inquest were significant and came under close scrutiny; in particular, probation services and programming for perpetrators. Witnesses in senior management positions were questioned vigorously by the parties, lawyers and jurors and, too often, were not able to provide satisfactory responses to the questions.

The jury wrote eight recommendations related to this topic: proposing a hotline for men; services for perpetrators that were not one-size-fits-all; development of increased workforce capacity; addressing barriers and creating pathways to services for perpetrators; improving coordination among services addressing IPV perpetration, substance use, mental health issues and child protection and so on.

The province did not respond to a single one of these eight recommendations. All were set aside for further analysis before any response will be provided.

Comments

- This is ridiculous. We have known the problems with services and programs for perpetrators for decades. The government knows all it needs to know to take action to improve programming and to make sure both perpetrators and those responsible for supervising them are held accountable for their actions.

Intervention

All six recommendations in this theme were responded to by the government but, as noted above several times, there is a lack of depth to the responses.

For example, the response to the recommendation that the Family Law Act be amended to give courts the authority to order counselling for the perpetrator where a finding of IPV has been made is that there is "a commitment to undertake further analysis to consider whether amendments are necessary."

The risk assessment response seems to focus entirely on one tool, when there are others that have been well established to be equally or more effective.

The response to the recommendation about high-risk committees indicates that the province is in the process of drafting new standards for these committees.

Comments

- If the government's new standards for IPV high-risk committees are good, this is a potentially very positive step forward for the work being done by those committees

Safety

This theme contains a whopping 23 recommendations, of which seven were set aside for a later response.

These included recommendations for consideration of a Clare's law in Ontario, creation of an IPV registry similar to the sex offender registry, development of community-based safe spaces for women, creation of a criminal court version of the family court support worker program, a review of mandatory charging policies, tracking court decisions for recidivism and improved communication with the chief firearms officer.

The recommendations to which the government did respond cover such topics as increased uses of electronic monitoring of perpetrators, improved information sharing between police and victim services, improved tactical response times in rural settings, improved cell service and use of satellite police offices in rural communities.

Other recommendations touch on firearms management, long-term and dangerous offender designations for high-risk IPV perpetrators and changes to bail, probation and surety conditions in IPV cases.

Recommendations dealing with probation services were all accepted by the government, which also indicated they were completed.

Comments

- As with other recommendations set aside for further analysis, those in this section do not require further study; the government is in a position to make decisions about how to proceed with all of them.
- While the government accepted the recommendation for improved cell service, it simply reiterated what has become a standard election platform line – that all of Ontario will have access to high-speed internet soon. Now, the promise is for 2025. We'll see.
- Most disturbing is the government's position that it has completed work on the recommendations related to probation services. In this triple femicide, the failings of probation services were many and obvious. Whatever the decisionmakers may think about their policies and procedures, probation is not working on the ground to keep survivors safe and to ensure accountability of perpetrators. The way probation is managed, particularly in small and rural communities, needs serious and immediate attention.

Conclusion

As noted above, the federal government and the Chief Firearms Officer have yet to provide their responses to the recommendations that apply to them. The CFO has five recommendations, four of which deal with different aspects of PALs and one of which addresses the spousal support line.

There are seven recommendations for the federal government to consider:

- Creating a new offence of femicide in the Criminal Code
- Amending the dangerous offender and criminal harassment (stalking) provisions in the Criminal Code
- Creating a better system for witnesses in IPV criminal trials
- Implementing the National Action Plan on VAW
- Establishing a Royal Commission to make the criminal system more victim-centric
- Criminalizing coercive control

As well, the final recommendation, directed to the parties to the inquest, is for them to gather on the first anniversary of the verdict to discuss progress on implementation of the recommendations.

While response by the provincial government has been largely underwhelming so far, the NDP have asked a number of very pointed questions during question period over the past couple of weeks, which has led the province to say that it will complete part 2 of its response by the anniversary. We also now know which ministry/ministries are expected to lead on each recommendation, which positions us well to engage in ongoing advocacy.

We'll update this overview as more information becomes available.