

# **Australian Domestic and Family Violence** **Clearinghouse submission to NPoA to Prevent Violence** **Against Women and Children**

The Australian Domestic and Family Violence Clearinghouse (the Clearinghouse) applauds the Commonwealth Government's commitment to formulate a National Plan of Action to Prevent Violence Against Women and Children (NPoA), and welcomes the opportunity to contribute to its development. International experience and evidence from the ACT Family Violence Intervention Program<sup>1</sup> has suggested that reducing violence against women will require coordinated action at a national level, which needs to be underpinned by a clear national plan.

The Clearinghouse has elected not to structure its response according to the questions suggested for submissions, as the considerable body of research conducted internationally and nationally over the past four decades already addresses these questions. Instead, the Clearinghouse has focussed its attention on issues to do with structure and process for the NPoA, and on some key priority areas requiring the Commonwealth's attention. In the context of Australia's federal structure, the submission concentrates on areas within the Commonwealth's jurisdiction, while acknowledging the opportunities to introduce an integrated approach with the States and Territories to address violence against women and children.

## **Framework and principles**

The Commonwealth should recognise in the NPoA that violence against women and children includes a range of behaviours, encompassing physical and sexual violence, emotional, financial and social abuse, surveillance and coercive control. The NPoA needs to be underpinned by a feminist understanding of gender-based violence, one that recognises men's violence and abuse as a means of maintaining power and control over women, supported by traditionally-based social structures, systems and attitudes. The NPoA also should be underpinned by a human rights framework that recognises that the right to safety and to live free from violence are fundamental human rights.

NPoA Principles should include but not necessarily be limited to the following:

- that every woman and child has a right to live safely, free from violence and abuse
- that redressing structural gender inequalities is the foundation of eliminating violence against women and children
- that a robust prevention and response system is one that ensures the safety and protection from violence of the most disadvantaged and disenfranchised groups of women and children (such as those with disabilities, from Indigenous communities and those without visas and the full legal protection as citizens)

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<sup>1</sup> Holder, R 2007, *Police and domestic violence: an analysis of domestic violence incidents attended by police in the ACT and subsequent actions*, Research Paper 4, Australian Domestic & Family Violence Clearinghouse, Sydney

- that work to prevent and respond to violence against women and children is not the work of one sole agency or service but requires the integrated efforts of government and non-government services, agencies and organisations.

## Goals and targets

The NPoA should include measurable national goals and quantifiable targets.

The Clearinghouse suggests the NPoA include the following goals:

- to reduce domestic homicide from 21%<sup>2</sup> of all homicides to 5%
- to significantly reduce the rates of homelessness for women and children due to domestic violence, and increase the number of women and children supported to remain safely in the family home while the violent perpetrator leaves
- to increase the rate of reporting of domestic violence and sexual assault<sup>3</sup>
- to substantially increase the rate of accessing health care services by women and children who have been sexually assaulted,
- to substantially increase the rate of successful prosecution of sexual assault offenders (e.g. from 1-5% to 50%)[source for 1-5% rates]
- to significantly reduce the recidivism of violent offenders.[current rate]

The NPoA should identify those ministers, departments and organisations responsible for achieving specific goals and targets.

## Timeframes

The Commonwealth needs to recognise in its NPoA that violence against women and children is a complex problem, deeply rooted in social structures, systems and attitudes, that will take significant time and resources to address.

The NPoA needs to:

- establish long term goals (e.g. 10 to 20 years) for broad aims, with shorter term objectives (e.g. 3 to 5 years).

## Resources

The Commonwealth needs to adequately resource the work of the NPoA, to promote real integration of service and agency responses; i.e. to address system failures, gaps in service delivery, ensure sustainability of effective measures and the evaluation and improvement of strategies.

The Commonwealth needs to abandon one year funding for violence prevention initiatives. Given that planning, community engagement and community development take time, one year funding leaves little time for implementation of

<sup>2</sup> Mouzos, J & Davies, M (2007), *Homicide in Australia : 2005-2006 National Homicide Monitoring Program (NHMP) annual report*, Australian Institute of Criminology, Canberra, p23.

<sup>3</sup> According to the Australian Bureau of Statistics *Personal Safety Survey (2005)*, women reported only 18% of physical assaults by a current partner and 36% of physical assaults by a previous partner. Only 21% of sexual assaults by a previous partner were reported (Table 7, p21).

projects before the funding runs out. This also has the effect of raising community and victim expectations, with no long term delivery of service or programs.

The Government should:

- provide dedicated, significant, protected, funding that is ongoing, in the order of \$50,000 per 10,000 people
- only provide organisations with sufficient long-term and guaranteed funding (i.e. 3-5 years) for violence prevention and response initiatives, which includes capacity for refinement and a requirement for data collection and evaluation.

## Accountability

Government agencies and services included in the NPoA need to be accountable for its implementation. The means to achieve this is through the establishment of targets, identification of those responsible for achieving them, establishment performance measures, monitoring and public reporting on progress.

The Government should:

- establish in the NPoA quantifiable targets for individual government departments and non-government organisations and services
- set the benchmarks to achieve the best outcomes for the most disadvantaged groups of women and children
- establish performance measures for the targets and linkage of funding agreements to meeting those
- assign ministers, departments and services responsible for reaching targets
- assign monitoring of performance on the NPoA to an independent body, such as the Commonwealth Auditor General
- publicly release progress reports on the implementation of the NPoA
- require regular reporting to Parliament.

## Structure – integration

No one government agency or department is responsible for addressing violence against women and children. Evidence exists which shows that integrated domestic and family violence systems are necessary to reduce the rates of violence.<sup>4</sup> The Australian Capital Territory, Tasmania and Victoria have adopted integrated systems for reducing violence against women.<sup>5</sup> The opportunity now exists for the Commonwealth to work with the States and Territories to develop agreed standards and benchmarks for a national integrated prevention system, introduced over a timeframe with funding incentives linked to performance outcomes.

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<sup>4</sup> See Holder, R & Caruana, J 2006 *Criminal Justice Intervention in Family Violence in the ACT: The Family Violence Intervention Program 1998 – 2006* Office of the Victims of Crime Coordinator, Canberra.

<sup>5</sup> Known respectively as the *Family Violence Intervention Program*, *Safe at Home* and the *Women's Safety Strategy*.

The Commonwealth should:

- implement a truly integrated model that establishes formal linkages with the states and territories, as well as high level, cross portfolio linkages (e.g. between justice, housing, child protection, welfare, health, and education sectors.)

Community-based organisations with a gender analysis are critical to the work of addressing violence against women and children. Integrated systems require the establishment of regionally based, multi-purpose family violence services capable of providing a package of support to women and children, and ensuring that men are made accountable for their violence. A funded violence against women peak and resource centre (based on the Domestic Violence Victoria model) in every state and territory, would support those organisations to remain in and provide leadership to the sector. The role of state/territory resource centres/peaks would be not only to represent the sector in state and national forums and improve national representation, but also to resource and assist the sector to achieve better performance standards (as DV Vic does).

The Commonwealth should:

- create a funded violence against women peak and resource centre in every state and territory, to represent community based organisations with a gender analysis and to resource and support organisations (through training, accreditation, information sharing, development of protocols, etc).

## Priority issues

The Clearinghouse recommends that the NPoA address the following issues as a priority.

### ***Homicide***

Domestic homicide levels in Australia remain constant, although they are usually preventable deaths. In the United Kingdom (UK), domestic homicides have been significantly reduced through better police practice from 25% of all homicides to 5%.<sup>6</sup> Establishing a target and initiating a range of improved policing practices were responsible for lowering the homicide rate.

Investigation of the circumstances around each and all domestic violence related deaths is likely to reveal systemic failures and enable these failures to be remedied. At present, no Australian jurisdiction conducts domestic violence fatality reviews.

With regards to homicide the Commonwealth should:

- establish a domestic homicide reduction target
- work with state and territory policing and justice agencies to improve police practice around domestic violence and sexual assault; e.g. around identification of offenders, risk assessment, information sharing between

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<sup>6</sup> Domestic related homicides in the UK dropped from 43 in 2003 to 19 in 2006, cited in 2008, 'Dangerous Liaisons', *The Job (Bringing MET People Together)*, January, p. 18

- organisations and agencies, evidence collection, monitoring of high risk offenders, preparation of evidence for prosecution and prosecution
- establish and fund a national domestic violence fatality review process, negotiated with the states and territories, to investigate deaths associated with domestic violence and address system failures.

## **Homelessness**

Domestic and family violence are the most significant contributors to women and children's homelessness in Australia. The ACT, Tasmania and Victoria have all adopted strategies to increase the number of offenders removed from the homes and the numbers of women and children who are able to stay safely in their homes. NSW has conducted the pilot "Staying Home Leaving Violence" projects. In the UK, 'Sanctuary Schemes' provide safe rooms in the family home, allowing women and children to remain in the home and have the violent partner leave.<sup>7</sup> These Schemes, (where support workers are available), are credited with significantly reducing rates of homelessness resulting from domestic violence. The success of these projects indicates that all States and Territories should ensure that policies and services are in place to support women and children's choices to stay in the family home and have the violent offender leave.

The Commonwealth should:

- evaluate strategies to make the home safe and sustainable for women and children including Sanctuary Schemes in England, satellite tracking of family violence offenders to monitor their compliance with exclusion orders, risk assessment and safety planning strategies
- develop a timetable with the States and Territories to introduce integrated family violence systems which include 'safe at home' strategies
- fund an interim Australian Home Security Fund able to provide home security upgrades to women to assist them to stay safely in their homes. This Fund would need to be tied to a guarantee by States without integrated systems to fund outreach workers to support women and children and establish immediate minimum standards such as MOU's with police to work with local agencies to support this aim.
- develop and promote best practice benchmarks among the States and Territories
- increase funding for refuge accommodation so that these services can meet demand<sup>8</sup>
- promote polices to assist refuge residents to return safely to their homes
- establish zero tolerance of discharge from mainstream services into homelessness services.

<sup>7</sup> See Ruth Kelly, Communities Secretary, Press Release, 19.12.2006:

<http://www.communities.gov.uk/news/corporate/newsupportdomestic>

<sup>8</sup> In two one week periods in 2004 and 2005, 46% of women seeking emergency accommodation because of domestic violence were turned away: Australian Institute of Health and Welfare *Demand for SAAP Assistance by Homeless People 2004 – 2005* AIHW, ACT, 2006 Table 9.3.

## **Health**

Many women and children who experience domestic or family violence do not report the violence to police or services. Routine screening for domestic and family violence, particularly in health settings, has been shown to be effective in identifying victims of violence and providing the opportunity to provide confidential support, information and referral to specialised services.<sup>9</sup>

The Commonwealth should:

- through health funding incentives and agreements, promote screening (and support and referral) for domestic and family violence at emergency wards and during antenatal support
- work with the Australian Medical Association to encourage its members to conduct routine screening for domestic and family violence, including provision of information, support and referral to victims
- promote the training of health professionals and workers around domestic violence and sexual assault.

Most women and children who experience sexual assault do not report it to police or other services. Most do not receive any health checks following the assault.

The Commonwealth should:

- increase funding for more sexual assault services and counsellors to be available in rural and remote areas, including Indigenous and culturally and linguistically diverse (CALD) workers and services
- increase funding for more sexual assault prevention kits to be made available across hospitals and health centres around the country.

## **Law reform**

### **Family law**

The 2006 changes to the Family Law Act 1975 placed an emphasis on equal shared parenting, and substantial and significant time both parents spend with children. Many participants in the family law system now perceive a presumption in favour of contact. Even convictions for violence do not prevent violent parents from having unsupervised contact with their children. However, research has shown that children do not benefit from contact with a violent parent and that hand over times can be dangerous times for women and children.<sup>10</sup>

The Commonwealth should:

- amend the Act to ensure that the safety needs of children are paramount

<sup>9</sup> See, for example NSW Health Department 2001, *Unless They're Asked: routine screening for domestic violence in NSW, an evaluation report of the pilot project*, NSW Health Department, Sydney; Laing, L 2003, *Routine Screening for Domestic Violence and Women's Health Services*, Australian Domestic and Family Violence Clearinghouse, Sydney.

<sup>10</sup> See, for example, Kaye, M, Stubbs, J & Tolmie, J 2003, *Negotiating Child Residence and Contact Arrangements Against a Background of Domestic Violence*, Families, Law and Social Policy Research Unit, Griffith University, Griffith; Sheehan, G, Carson, R, Fehlberg, B, Hunter, R, Tomison, Ip, R & Dewar J 2005, *Children's Contact Services: expectation and experience: final report*, Griffith Law School, Griffith University, Nathan.

- introduce a rebuttable presumption that a parent who has used violence against a child or the other parent does not have custody of or unsupervised access to the child (as is the case in New Zealand family law).<sup>11</sup>

A vast majority (around 80%) of family law matters are heard in the Federal Magistrates Court, rather than the Family Court. The Federal Magistrates Court is not bound by the Family Court's family violence strategy. The Commonwealth should:

- work with both Courts to ensure that the same family violence policy and protocols are observed with respect to family law matters.

The connections between the Commonwealth family law system and the State and Territory child protection and civil protection orders systems need to be strengthened. At present it is not uncommon for state child protection investigations to be put on hold while family law matters are finalised. At the same time, the Family Court may dismiss violence allegations if there are no child protection matters evident. In particular, the sharing of information across jurisdictions could improve safety and save lives. A good practice model of this approach is provided by the Heidelberg Court in Victoria. This Court has specially trained and gazetted magistrates, lead by the Family Violence Division Lead Magistrate. Magistrates hear a range of matters related to domestic violence, including criminal matters, family law matters and victims compensation. The Court aims to streamline and reduce court appearances for victims and address inconsistencies in regard to protection from violence. The Commonwealth should:

- work to smooth the transition points where federal and state laws overlap, which can in some instances leave vulnerable women and children without protection orders.

Domestic violence and sexual assault crimes are rarely single events, but rather occur as part of ongoing abuse. The gendered nature of these crimes, the use of violence to exert power and control over victims, and the dynamics of victim and perpetrator behaviour require specialised knowledge of these crimes in the criminal justice system. Specialist courts in the UK, Canada, the US, South Africa and some Australian jurisdictions (e.g. ACT, Victoria) have demonstrated good results in improved victim safety, victim satisfaction with the process, more guilty pleas and more convictions. In particular, the use of Independent Domestic Violence Advocates to support victims (as used in specialist courts in the UK), the hearing of all matters relating to a domestic violence case (including family law matters, child protection issues, drug and alcohol matters, etc.) and judicial training (as used in Canada), and the hearing of all matters relating to the particular people involved in a case by the same judge and lawyers (as used in New York), have shown positive results.<sup>12</sup>

The Commonwealth should:

<sup>11</sup> (NZ) Care of Children Act 2004 section 60.

<sup>12</sup> See papers given at the *Family Violence and Specialist Courts National Conference*, 22-23 May 2008, ACT Victims Services, Canberra, ACT, Australia.

- encourage and support the States and Territories to introduce specialist courts for dealing with gender-based crimes, drawing on those models which have produced positive evaluation results.

## **Legal Aid**

There has been a sizeable investment by the previous government in establishing Family Relationship Centres (FRCs) and promoting the use of dispute resolution practitioners prior to and instead of attending the Family Court. However, dispute resolution is unsuitable for victims of violence who are separating from their violent partners. Legal representation is critical for these people and additional funding for Legal Aid is necessary to ensure that victims of violence receive justice in disputes regarding children and property.

The Commonwealth should:

- require dispute resolution practitioners to screen for family and domestic violence (involving common screening tools, training and supervision)
- provide funding for the support and legal assistance given to those for whom dispute resolution is unsuitable.

## ***Women's financial security***

Some women and children are living in poverty and some children are left unsupervised or in unsuitable child care arrangements while their parents are forced to return to work. Many women will return to or endure a violent relationship rather than allow their children to live in poverty, to be unsupervised outside of school hours or to be made homeless. Women who care for disabled children are particularly affected by the abolition of the Parenting Payment for those with children under 8.<sup>13</sup>

Employment and financial security are critical to women avoiding violent relationships (i.e. poverty and disadvantage are strongly linked with violent relationships), leaving violent relationships and healing following a violent relationship. They can also prevent women and children's homelessness resulting from violence.

Good practice in the UK, the United States (US) (particularly in industrial legislation) and in Australia demonstrates that domestic violence policies, protocols and practices in the workplace can keep women safer and keep women in employment.<sup>14</sup>

The Commonwealth should:

- reverse the policy abolishing the Parenting Payment for single parents with children over eight years old
- take a leadership role in developing internal and external workplace domestic violence safety and prevention, policies and strategies, particularly in engaging the ACTU and businesses

<sup>13</sup> Welfare Rights Centre media release 11.8.2005, [www.welfarerights.org.au/Media%20Releases/Gt12105.doc](http://www.welfarerights.org.au/Media%20Releases/Gt12105.doc)

<sup>14</sup> Murray, S & Powell, A 2008, *Working it out: domestic violence issues and the workplace*, Issues paper 16, Australian Domestic & Family Violence Clearinghouse, Sydney.

- establish the Commonwealth Public Service as a national good practice model in this area
- examine industrial relations legislation for opportunities to strengthen support for women experiencing violence to remain in employment.

### ***Prevention, education***

The Clearinghouse endorses the Government's commitment to education and prevention activities, including respectful relationship resources for all Australian high schools.

The Commonwealth should:

- include specific objectives for all education prevention activities
- evaluate education activities with regard to these objectives
- ensure that any program also allow for the training of teachers, the use of referral agencies and the repeated delivery of healthy relationships material at various stages of the curriculum.

### ***Indigenous communities***

Violence against women and children in Indigenous families and communities is among the worst in the country. It is both widespread and severe, significantly contributing to Indigenous homicide, suicide, trauma, injury and disability, homelessness and other negative outcomes for victims. Most Australian States and Territories have conducted investigations into violence against Indigenous women and or children; i.e.:

- 2000, *Aboriginal and Torres Strait Islander Women's Taskforce on Violence Report*, Queensland Department of Aboriginal and Torres Strait Islander Policy and Development, Brisbane  
[http://www.qldwoman.qld.gov.au/Docs/ATSI/ATSI\\_Violence.pdf](http://www.qldwoman.qld.gov.au/Docs/ATSI/ATSI_Violence.pdf)
- 2003, *Victorian Indigenous Family Violence Taskforce Report*, Department for Victorian Communities, Melbourne [http://www.office-for-children.vic.gov.au/\\_data/assets/pdf\\_file/0006/16782/indigenous\\_family\\_violence\\_task\\_force\\_report\\_2003.pdf](http://www.office-for-children.vic.gov.au/_data/assets/pdf_file/0006/16782/indigenous_family_violence_task_force_report_2003.pdf)
- Aboriginal Child Sexual Assault Taskforce 2006, *Breaking the silence, creating the future: addressing child sexual assault in Aboriginal communities in NSW*, NSW Attorney General's Department, Sydney  
[http://www.lawlink.nsw.gov.au/lawlink/acsat/acsat.nsf/vwFiles/80001%20CP%20Rep-all\\_sml.pdf/\\$file/80001%20CP%20Rep-all\\_sml.pdf](http://www.lawlink.nsw.gov.au/lawlink/acsat/acsat.nsf/vwFiles/80001%20CP%20Rep-all_sml.pdf/$file/80001%20CP%20Rep-all_sml.pdf)
- Gordon, S, Hallahan, K, Henry D 2002, *Putting the picture together: inquiry into response by government agencies to complaints of family violence and child abuse in Aboriginal communities*, Department of Premier and Cabinet, Perth  
[http://www.premier.wa.gov.au/feature\\_stories/gordoninquiryreport.pdf](http://www.premier.wa.gov.au/feature_stories/gordoninquiryreport.pdf)  
<http://www.dpac.tas.gov.au/divisions/oaa/information/yapullinginakani.pdf>
- Pugh, R 2002, *ya pulingina kani - Good to See You Talk*, Government of Tasmania, Hobart  
<http://www.stors.tas.gov.au/item/stors/603ce3d0-a389-5206-694a-1536179e0c5c/1/web1/yapullinginakani.pdf>
- Wild, R & Anderson P 2007, *Ampe Akelyernemane Meke Mekarle, Little children are sacred*, Northern Territory Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse, Darwin  
[http://www.nt.gov.au/dcm/inquirysaac/pdf/bipacsa\\_final\\_report.pdf](http://www.nt.gov.au/dcm/inquirysaac/pdf/bipacsa_final_report.pdf)

These reports have been based on research and extensive consultations in Indigenous communities. The communities and individuals who contributed to these reports trusted the researchers to make their stories known and to ensure

that their pleas for assistance would be heard. These reports, rather than further consultations with Indigenous communities, should form the starting point for any work in Indigenous communities to address family violence. The Commonwealth should:

- use tied funding grants and other measures to ensure that States and Territories act on these report recommendations as a matter of urgency, where strategies and programs have not been implemented
- establish ministerial oversight of the implementation of the report recommendations; for example, through a joint ministerial national, integrated action response.

### ***Research and data collection***

All of the States and Territories have different definitions of domestic and family violence and sexual assault and different methods of data collection around these. Comparative research is very difficult and there is no clear data regarding national levels of violence against women and children. In addition, a baseline of data is essential to effectively monitor any change resulting from implementation of the NPoA. In many cases this information is not available, particularly for specific groups, such as Indigenous or CALD groups, or women with disabilities or with children with disabilities. Establishing a national data collection system would provide a clearer picture of the prevalence of domestic violence, as well as enable the evaluation and comparison of interventions conducted in different parts of Australia.

The Commonwealth should:

- negotiate with the states and territories around the processes and protocols required for the collection and co-ordination of national baseline data concerning violence against women and children (including longitudinal and qualitative research)
- negotiate with data collection agencies and fund the collection of baseline data around specific groups of women and children (e.g. Indigenous, CALD, women with disabilities, lesbian women)
- fund and support the evaluation and improvement of initiatives and services through funding agreements
- continue to support the work of the Clearinghouse, Australian Centre for the Study of Sexual Assault and National Child Protection Clearinghouse.

24 July 2008