



# *Time for Action:*

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The National Council's Plan for Australia  
to Reduce Violence against Women  
and their Children, 2009-2021

March 2009

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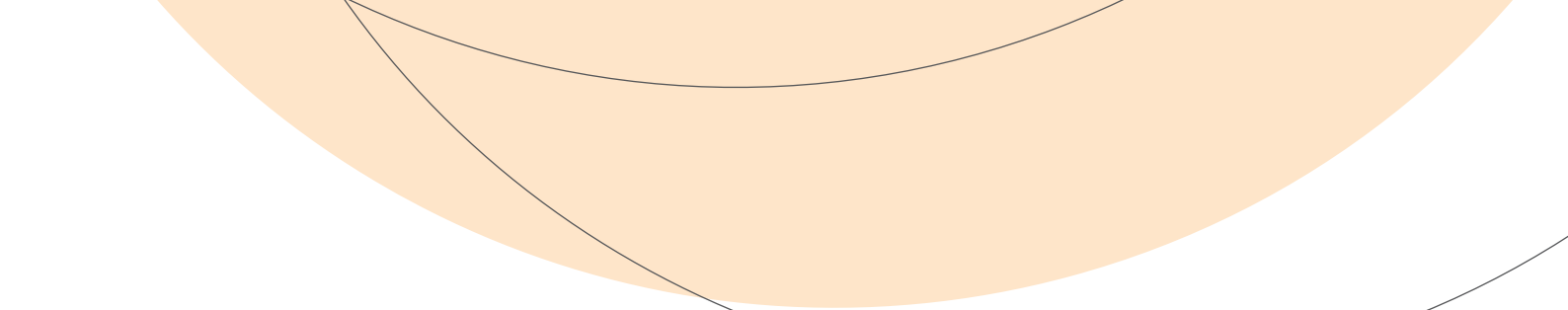
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# Acknowledgements

There are many people we must thank for their overwhelming generosity of spirit, for their willingness to share their life experiences and for their well-considered thoughts and ideas – all of whom have contributed to the development of *Time for Action: The National Council's Plan for Australia to Reduce Violence against Women and their Children, 2009 – 2021* (the Plan of Action).

It is important that we first acknowledge that the authority for this Plan of Action was derived from the Australian Government's 2007 election platform to establish a national council of experts – the National Council to Reduce Violence against Women and their Children (the Council) – to develop a plan that would reduce the incidence and the impact of violence against women and their children.

We recognise the courageous women in the history of the women's movement who started this journey to set free and protect women from abusive relationships. They led the way and awoke our nation to the plight of women who have experienced sexual assault and to these women and children for whom domestic and family violence is a daily reality. We owe much to their vision and fortitude.

We thank the victims and survivors of violence who have shared their stories and personal insights with the Council. We have learnt much from their knowledge and experience.

We particularly thank all those who made submissions; all those who attended consultations in every State and Territory; all those who participated in the six round-table discussions: the judiciary and legal experts; the academics and experts working with perpetrators; officials and members of the Commonwealth and State and Territory advisory groups; and the Aboriginal and Torres Strait Islander representatives who joined the Council members at a special consultation with the Hon. Jenny Macklin MP, Minister for Families, Housing, Community Services and Indigenous Affairs, and the Hon. Tanya Plibersek MP, Minister for Housing and Minister for the Status of Women, at Parliament House in Canberra.

We also thank the workers in the field, service providers, professional groups, researchers, academics and governments for their time, their openness and willingness to learn from, and challenge, past ways of working. We thank them for their readiness to explore new ideas and approaches with the Council that should improve the effectiveness of services to victims and perpetrators, and, ultimately, stop the violence.

The Council also appreciates the specialist advice provided by:

- the Australian Domestic and Family Violence Clearinghouse;
- the Australian Centre for the Study of Sexual Assault;
- the Women's Services Network;
- the National Association of Services Against Sexual Assault;
- former Tasmanian Attorney-General the Hon. Judith Jackson, who was appointed by Minister Plibersek as a Special Adviser to the Council's Legal Issues sub-group;
- all the experts consulted.

A group of individuals acted as "critical friends" to the Council, reviewing and providing valuable feedback in the final stages of drafting, and we thank them for their timeliness, responsiveness and the quality of their contributions.

Finally, we thank the many people and organisations the Council visited, particularly in remote and rural areas of Australia, for welcoming us into their workplaces and communities; for sharing the unique challenges they experience; and for suggesting ways to restore the safety and wellbeing of women, children, families and communities.

All of these contributors shared decades of experience and acquired knowledge. Without their thoughtful contributions this Plan of Action would not have been possible.

### **Statement of Reconciliation**

To all Aboriginal and Torres Strait Islander women, your families and communities.

We acknowledge your traditional relationship with the land. We recognise the long-standing consultation between mainstream Australia and Aboriginal and Torres Strait Islander women about family violence, dating back to the first meeting with Aboriginal women in Adelaide in 1979.

We understand that policies and programs aimed at preventing violence against Aboriginal and Torres Strait Islander women must be designed and implemented with the input of Aboriginal and Torres Strait Islander women and their children. We also understand that Aboriginal and Torres Strait Islander men have a central role to play in supporting the future of your communities, and that these men should be engaged in addressing both the causes of violence as well as the solutions.

We recognise the leadership of your people, we honour your visions, and we join with you in your hopes for your future and our future together.

# Foreword

The Hon. Tanya Plibersek MP  
Minister for Housing  
Minister for the Status of Women  
Parliament House  
Canberra ACT 2600

*Dear Minister,*

In May 2008 you charged the National Council to Reduce Violence against Women and their Children (the Council) with the role of drafting a national plan to reduce violence against women and their children.


The Council's members have worked tirelessly to achieve this objective. We travelled extensively and consulted many different stakeholders. We listened to, and heard from, more than 2,000 people across the country. We received hundreds of submissions from all parts of Australia, and we held six expert round-table forums.

During our investigations, we found a widespread belief that this issue was pressing and serious, and manifested itself in great suffering that directly affected individuals, communities, and impinged on the wellbeing of our society.

In response to your request, and on behalf of the Council, I am delighted to present you with *Time for Action: The National Council's Plan for Australia to Reduce Violence against Women and their Children, 2009-2021* (the Plan of Action). We believe it offers a new view, and a strong direction for reducing violence against women and their children across Australia.

The Plan of Action discusses the current situation in Australia and recommends sweeping changes between now and 2021. The Plan of Action identifies six core areas for improvement and identifies strategies and actions to achieve this. The breadth of these outcomes concentrates on preventative measures that challenge the values and attitudes that support violence in the community. The Plan of Action emphasises the need to help individuals, most particularly young people, to develop respectful relationships, relationships that are non-violent and based on equality and mutual respect.

The Council believes these areas must be addressed if the nation is to effect change in the areas of preventing violence against women and their children. Of these actions, 20 have been identified as critical and have been earmarked for immediate implementation. We believe it is essential that the others are introduced over the next 12 years.



Without appropriate action to address violence against women and their children, an estimated 750,000 Australian women will experience and report violence in 2021-22, costing the Australian economy an estimated \$15.6 billion. If the implementation of this Plan of Action resulted in an average reduction in violence against women and their children of just 10 per cent by 2021-22, some \$1.6 billion in economic costs to victims and survivors, their friends and families, perpetrators, children, employers, governments and the community, could be avoided.

We are fully aware that many fine reports have been written, and that many plans have been prepared on this issue. However, at this point in our country's history, the Council strongly recommends that, as our title suggests, it is now *Time for Action*.

I commend this Plan of Action to you for your support and urgent attention.

Yours sincerely



Libby Lloyd AM  
Chair  
National Council to Reduce Violence against Women and their Children  
8 March 2009

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# Executive Summary

*“Violence against women and girls makes its hideous imprint on every continent, country and culture. It is time to focus on the concrete actions that all of us can and must take to prevent and eliminate this scourge – Member States, the United Nations family, civil society and individuals – women and men. It is time to break through the walls of silence, and make legal norms a reality in women’s lives.”*

*United Nations Secretary General Ban Ki-moon  
25 February 2008*

Violence against women and their children remains a profound problem in societies around the world, and Australia is no exception. Addressing the causes and solutions to this violence is a great moral and societal challenge. Nearly one in three Australian women experience physical violence and almost one in five women experience sexual violence over their lifetime<sup>1</sup>. Violence cuts across all aspects of our community – it knows no geographical, socio-economic, age, ability, cultural or religious boundaries<sup>2</sup>.


There are many serious and complex issues surrounding the question of violence against women and their children. For example, Aboriginal and Torres Strait Islander women report higher levels of physical violence during their lifetime than do non-Aboriginal and non-Torres Strait Islander Australian women, and they are much more likely to experience sexual violence and to sustain injury. The same is true for women with disabilities. More than a third of women identifying as lesbian, bisexual, transgender or intersex have been in a relationship where their partner abused them. Some women from immigrant and refugee backgrounds also face particular barriers related to their circumstances, and are less likely to receive appropriate assistance from services when they attempt to leave a violent relationship<sup>3</sup>.

Domestic and family violence and sexual assault cannot be excused or justified under any circumstances. It is wrong, and all victims need compassionate and highly responsive support, and all perpetrators must be held accountable for their violence.

<sup>1</sup> Australian Bureau of Statistics, 2005.

<sup>2</sup> Heise, L. 1998; Rees, S and Pease, B. 2006.

<sup>3</sup> Dimopoulos, M. and Assafiri, H. 2004.



Domestic and family violence and sexual assault are not merely personal or unseen problems, they should be regarded as public concerns that affect families, friends, communities, workplaces, and, ultimately, the nation. The accumulation of case upon case of violence against women and their children is a burden which our society must not sustain. Victims and their families must be helped to ensure safer futures not just for individuals but for the conscience of the nation. The cycle of the abused becoming abuser, the splintering of families, and the subsequent splintering of support groups and communities, endangers the future of generations of Australians.

*Time for Action: The National Council's Plan for Australia to Reduce Violence against Women and their Children, 2009-2021* (the Plan of Action) states that no woman should be a victim of sexual assault or domestic and family violence, and that no woman should fear for her safety at home, at work or in her community. It focuses on strategies and actions for prevention, early intervention, improved service delivery, and justice.

*“As a nation, the time has well and truly come to have a national conversation – a public national conversation, not a private one – about how it could still be the case that in 2008 so many Australian women could have experienced violence from their partner...”*

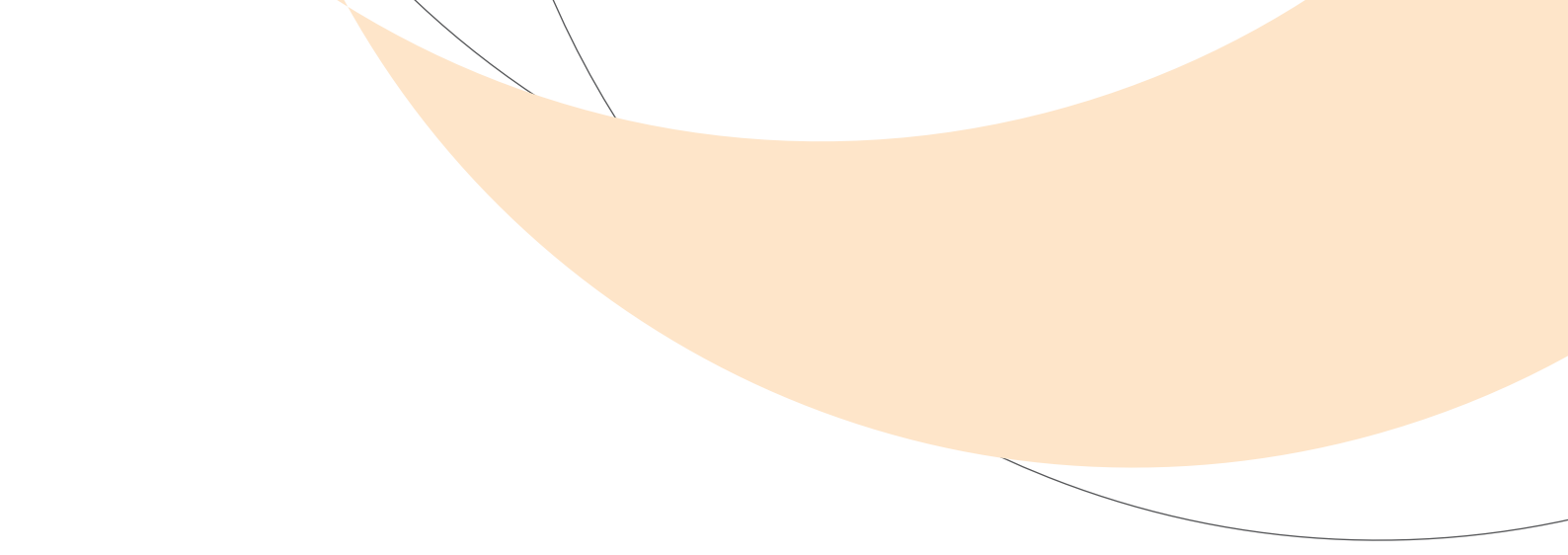
*It is my gender – it is our gender – Australian men – that are responsible.*

*And so the question is: what are we going to do about it?*

*...There are no circumstances in which the threat of violence against women is acceptable. There are no circumstances in which the thought of violence against women is acceptable.*

*That on violence against women, we have simple, clear policy in two words: zero tolerance.”*

*The Hon. Kevin Rudd MP  
Prime Minister of Australia, 2008*



The Australian Government established the National Council to Reduce Violence against Women and their Children (the Council) in May 2008, fulfilling one of its 2007 election commitments. Established for a term of one year, the Council consists of 11 members from across Australia selected for their extensive knowledge, expertise and networks in the fields of sexual assault and domestic and family violence. Council members are:

Libby Lloyd AM (Chair)  
Associate Professor Moira Carmody  
Maria Dimopoulos  
Rachel Kayrooz  
Vanessa Swan  
Pauline Woodbridge

Heather Nancarrow (Deputy Chair)  
Dorinda Cox  
Dr Melanie Heenan  
Andrew O'Keefe  
Lisa Wilkinson

The Council's main role was to develop a national plan to reduce the incidence and the impact of violence against women and their children. Specifically the Council was: to provide expert advice and direction to the Australian Government on measures to reduce the prevalence and effect of sexual assault and domestic and family violence on victims; to consult widely across government and the community in the development of the plan; and provide leadership for sustaining change in the identification of best practice policy, program and service development which will prevent violence against women and their children.

*“The Prime Minister is clear that he sees violence against women and children as a crime that must be stopped.*

*That’s the view that all members of parliament would share. That’s why I established a National Council made up of some of the most knowledgeable and experienced campaigners against violence, and why I’ve asked the National Council to develop a national plan.*

*We need a clear road map that will set time lines, allocate responsibilities and use the best evidence available to us to build a future in which violence becomes unthinkable. I want a national plan that gives us clear guidance and concrete strategies to reduce violence, to support victims and survivors and to change the behaviour of perpetrators.”*

*The Hon. Tanya Plibersek MP  
Minister for the Status of Women,  
February 2009*



## The development of the National Council's Plan of Action

The Council developed this Plan of Action by validating emerging trends, repeatedly testing ideas and solutions against the best available evidence, and building on the experience and wisdom grown from practice.

Given the scale and complexity of the problem, the Council recognised that its Plan needed to be developed in close discussion with stakeholders from around Australia, and that it needed to be inclusive and cross-sectoral. Council members travelled extensively to hear first-hand accounts of the experiences of women, men, policy makers, service providers and communities. Their stories of failure and success shaped the Plan of Action's design.

The Plan of Action is informed by the views of more than 2,000 Australians including:

- victims and perpetrators of sexual assault and domestic and family violence;
- Aboriginal and Torres Strait Islander representatives;
- women with disabilities;
- immigrant and refugee women;
- lesbian, gay, bisexual, transgender and intersex communities;
- service providers;
- peak bodies;
- men's groups;
- the judiciary;
- legal professionals;
- police officers;
- politicians;
- government representatives;
- community representatives;
- spiritual and faith leaders;
- academics and researchers;
- teachers.

In addition, the Council:

- commissioned a desktop analysis of key Australian and international research on sexual assault and domestic and family violence;
- conducted interviews, community meetings and on-line surveys with a range of stakeholders in all State and Territory capital cities, and some regional and remote centres;
- reviewed the 370 public submissions to the Council by a wide range of stakeholders across Australia;
- undertook preliminary research to identify current initiatives to address sexual assault and domestic and family violence across Australia – Part B: the ‘As Is’ jurisdictional analysis in the *Background Paper to Time for Action: The National Council’s Plan of Action for Australia to Reduce Violence against Women and their Children, 2009-2021*;
- convened six expert round-table forums;
- delivered presentations to key government and non-government fora;
- briefed a number of Commonwealth and State and Territory ministers and representatives of the Federal Opposition, on the progress and objectives of the Plan of Action.

The Council has produced a range of supporting documents that complement the Plan of Action. These provide background research and include:

- *Background Paper to Time for Action: The National Council’s Plan for Australia to Reduce Violence against Women and their Children, 2009-2021*
- Domestic Violence and Sexual Assault Laws in Australia – Volumes 1 and 2<sup>4</sup>.

In addition, the Department of Families, Housing, Community Services and Indigenous Affairs commissioned a report entitled *The Cost of Violence against Women and their Children*, March 2009.

4 Langman, C. 2008. This research was completed to support Council’s requirements but will be enhanced to produce a more complete document for publication by May 2009.

## The National Council's Plan of Action

The Plan of Action builds on an extensive history of government initiatives in this area and will be reinforced by other reforms being progressed by Australian Governments such as the Council of Australian Governments' (COAG) Early Years Agenda, the National Affordable Housing Agreement, the COAG Closing the Gap Agenda, the National Disability Strategy, the development phase of the Northern Territory Emergency Response, the National Framework to Protect Australia's Children, the Review of the Australia's Future Tax System, the Australian Government's Pension Review, and the work of the Social Inclusion Board.

It will also help Australia meet its human rights obligations under international laws and universal human rights instruments, including: the *Universal Declaration of Human Rights*; the *Convention on the Elimination of All Forms of Discrimination Against Women*; the *Convention on the Rights of the Child*; the *Declaration on the Elimination of Violence Against Women*; the *Vienna Declaration and Program of Action of the World Conference on Human Rights*; the *Millennium Development Goals*; the *UN Convention on the Rights of Persons with Disabilities*, the *Beijing Platform for Action*; and the *Campaign UNITE to End Violence Against Women, 2008 – 2015*.

### Recognising the complexity

There have been several attempts to address this troubling issue at the state, territory and national levels over many years. Most of these attempts struggled with the complexity and embedded nature of the problem. This Plan of Action emphasises that there is no "one-size fits all" approach. It acknowledges the rights and the diverse experiences of women and their children, and the need to tailor responses to meet varied and specific circumstances. For example, different responses are needed in rural, urban and remote areas, for Aboriginal and Torres Strait Islanders, women with disabilities, same-sex couples, and immigrant and refugee families.

The Plan of Action also supports contemporary learning that action on multiple levels – individual, relationship, community, and societal – is more likely to be successful in tackling the issue of violence against women and their children, than ad-hoc generalised solutions.

It creates a shared understanding, a common purpose, and the foundation for a collaborative approach between different levels of government and the wider community. It encourages cross-sectoral collaboration and forms a basis for dialogue between governments and communities which will encourage consistent and effective justice responses to violence.



## Underpinning values

The Plan of Action is founded on seven core values:

- safety;
- community responsibility;
- equality and diversity;
- responsiveness;
- justice;
- durability;
- knowledge and accountability.

With a horizon to 2021, the Plan of Action focuses on six outcome areas. It seeks to ensure that we build strong, safe communities that are free from violence; that from an early age children build respectful non-violent relationships; that services support women and their children; that responses to violence are just; that perpetrators stop their violence; and that both government and service systems work together effectively.

## Outcome areas

The safety of women and their children is the guiding principle for this Plan of Action. The six fields for improvement are described as “outcome areas” in the document and together they help ensure this principle becomes a reality. These outcome areas reflect the understanding that:

- the real preference, and need, of women is that their whole community is safe and free from violence so that they can live in safety with respectful and strong relationships;
- should a woman’s safety and respectful relationships not be realised, she is able to easily identify and access appropriate high quality services;
- should a woman require access to, and the intervention of, the legal system, it must treat her with dignity and hold the perpetrator accountable for his behaviour;
- the perpetrator must accept responsibility for changing his behaviour and that preventative measures or help must be available to ensure he does not repeat his violence;
- the success of the Plan of Action hinges on the success of the sixth outcome area – that the entire system join seamlessly and all its parts work together – only then can we assure women and their children that they should be safe and free from violence.

## Key features

Key features of the Plan of Action include:

- the combination of both sexual assault and domestic and family violence in a national plan;
- the recognition that everyone in the community is responsible for reducing these forms of violence;
- a commitment to supporting women and children affected by violence;
- a focus on the perpetrators of violence, and ways in which they can be part of a solution;
- addressing prevention in a way that goes beyond the message of “stop violence”, to teaching children how to develop respectful relationships throughout their lifetime;
- ensuring that responses to violence are just;
- using a strong evidence-base;
- setting a long-term vision and direction for responding to this complex social issue, and seeking bi-partisan support for reducing violence which ensures women, children and our communities are safe;
- the recognition of the need for long-term commitment and sustained investment from all levels of government.

## Outcome 1 - Communities are safe and free from violence

While Australia must implement and enforce laws, both criminal and civil, to protect women and their children from violence, it must also act to prevent violence in the first instance.

The first outcome area focuses on the critical role of the Australian people – from the individual and the family, to the community in its broadest sense – in preventing violence against women. It is important that everyone accepts a role in, and the responsibility for, ensuring that our society, particularly our women and children, are safe and free from violence.

It is essential that we all recognise that this is not just a women’s issue – it is an issue for everyone. Men too are required to play a key role in this process.

Federal, State, Territory and Local governments also need to provide leadership in building safe communities to ensure change is achieved and sustained.

To make communities safe and free from violence, the Plan of Action identifies five key strategies:

- 1.1 Focus on prevention.
- 1.2 Strengthen community leadership, awareness and understanding.
- 1.3 Promote positive male behaviours.
- 1.4 Enhance women's economic independence.
- 1.5 Build the evidence base.

## **Outcome 2 – Relationships are respectful**

Individual and personal relationships form the basis of a safe community. Understanding and practising respectful relationships is as important as the “three R’s” (reading, writing and arithmetic) for creating a successful and harmonious society.

It is never too early to learn and acquire these fundamental life skills. They influence every part of our lives and are essential for all relationships. While the bulk of these skills are usually learnt in the home, there are other places of interaction where they can be honed or acquired such as; in schools, in communities, and in faith-based and sporting organisations. They also need to be modelled and reinforced perpetually outside these settings.

To create respectful relationships, the Plan of Action focuses on four key strategies:

- 2.1 Build the capacity for prevention education.
- 2.2 Ensure all children participate in respectful relationships education.
- 2.3 Support effective parenting.
- 2.4 Build the evidence base.



### **Outcome 3 - Services meet the needs of women and their children**

The effects of violence on women and their children are dramatic, thus government services must be appropriate and accessible. A woman's first approaches for help must be met with responsiveness at the local level. These responses must reflect local conditions, deliver the right service, and take account of individual circumstances. Failure in this first instance exacts a greater moral and financial toll at a later date.

Sometimes it may be possible for the woman and her children to stay in the family dwelling but for many women this is not a safe or affordable outcome. Accommodation and health services, counselling, legal help and other services are needed in both the short term and the long term.

The sectors responsible for delivering these services must continue to show great flexibility, adaptability and responsiveness; however, it is clear the workforce needs strengthening. Adequate and sustained funding is crucial to increasing workforce and infrastructure capacity.

To ensure services meet the needs of victims and survivors, the Plan of Action identifies four key strategies:

- 3.1 Strengthen service and workforce capacity.
- 3.2 Increase access to safe accommodation.
- 3.3 Undertake specific responses to ensure equitable access to services.
- 3.4 Build the evidence base.

### **Outcome 4 – Responses are just**

As long as sexual assault and domestic and family violence persist, Australia is obligated under national and international conventions to legislate against it; to prosecute breaches of its laws; to provide appropriate legal responses that protect against further violence; and to promote recovery and wellbeing.

While there have been strong improvements in these areas across all states and territories, further improvement is needed. Australian women and their children have a right to protection from violence. Legal protection cannot be delivered if the laws are inadequate, if they are not applied in the way they were intended, if women experience re-victimisation in the justice process, or where the justice system is inaccessible or inequitable.

To deliver justice for women and children affected by violence, the Plan of Action identifies five key strategies:

- 4.1 Ensure accessible and equitable justice for women and their children.
- 4.2 Ensure just civil remedies operate in parallel with criminal law and prioritise safety.
- 4.3 Ensure excellence in legal responses to women and their children.
- 4.4 Ensure judicial officers, law enforcement personnel and other professionals within the legal system have appropriate knowledge and expertise.
- 4.5 Build the evidence base.

## **Outcome 5 - Perpetrators stop their violence**

Perpetrators must be held accountable for their behaviour and must accept the consequences of their violence. While accountability is seemingly achieved through the formal justice system, it is essential that every effort be made to employ the most effective means to ensure that perpetrators change their behaviour.

In the long-term, perpetrator and social attitudes that allow, and even encourage, the abuse of male power and control over women and children must change, along with the violent behaviour linked to these attitudes.

Perpetrators of violence need access to remedial programs and support at the earliest possible opportunity, whether self-referred, court-mandated or referred in other ways. Long-term programs are often required to assist perpetrators in rehabilitation, and it is very important that perpetrators attend programs after release from correctional or other institutions.

Up to the present, our knowledge of successful approaches to this problem has been weak, so it is essential that we persevere in building a strong body of knowledge about the most successful methods of intervention and remediation.

To ensure that perpetrators stop their violence, the Plan of Action identifies four key strategies:

- 5.1 Change behaviours through appropriate programs.
- 5.2 Increase access to early intervention initiatives.
- 5.3 Sustain behaviour change.
- 5.4 Build the evidence base.

## Outcome 6 - Systems work together effectively

The previous five outcomes will yield little improvement unless government policy, program, service and funding arms (which are chronically fragmented) better communicate with each other. The inefficient application of government systems often leads to disappointing outcomes and can waste scarce resources. Service delivery must be integrated and seamless to ensure that women and their children are safe and free from violence.

This demands the government design services from the point of view of the recipient. New approaches need to be developed and implemented swiftly. The following strategies are essential for improving government service delivery:

6.1 Ensure governments deliver what communities need.

6.2 Coordinate responses.

6.3 Build the evidence base.

### Implementing the Plan

The Plan of Action sets an agenda for actions to be implemented by 2021. This time-frame recognises the need for continuing investment and commitment in order to achieve long-term and sustainable change.

The Plan of Action is given effect over its lifetime by the development, implementation and review of four three-year implementation plans. These three-year plans provide a time-frame for delivering a set of actions. The Council envisages that these actions will be cumulative and will incorporate new information as evidence emerges.

The six outcome areas of the Plan of Action are based on 25 strategies and 117 actions.

The Council advocates the immediate implementation of 20 actions, and the early implementation of another 21 actions in the period 2009-2012.

These actions were identified because:

- some represent the first step of a long process;
- it was important they be implemented immediately;
- governments were already progressing in the appropriate direction;
- they could be undertaken readily;
- they harmonised with other COAG's existing or imminent agendas.

In the Plan of Action, the Council has ordered the actions according to priority in the implementation plan, rather than by theme.

The outcomes, strategies and actions of the Plan of Action will enable all Australian governments and communities to:

- increase their awareness of the scope, complexity, effects and cost of violence against women and their children;
- drive change in social attitudes and behaviours that condone or support such violence;
- define values and principles to guide legislative, policy and service responses across the Commonwealth, States and Territories;
- identify opportunities for improving collaboration and coordination between different levels of governments and within communities;
- encourage an expansion of governments' activities and the capacity of services and the workforce to better meet the needs of women and their children, perpetrators of violence, and their communities;
- establish a national framework for integrated data capture, monitoring and evaluation that tracks the Council's progress, and which supports continual improvement in strategies for violence prevention.

## Progressing the Plan of Action

The driving premise behind the Plan of Action is that of sustainability. Without a prolonged, clearly framed and dedicated focus on the causes of sexual assault and family and domestic violence, this intergenerational and pervasive problem will continue in a never-ending cycle.

It is the strong view of the Council that sustainability first involves attitudinal change at all levels of government and society. It also involves adequate funding and professional training of the workforce.

The key to bringing about sustained improvements in the safety of Australia's women and children lies in the adoption of united, cross-sectoral partnerships between community and government, and between the arms and agencies of government. Such an approach provides economies of scale, frees resources, improves the effectiveness of resource allocation, and provides a united front to a complex problem.

The Council recommends the Australian Government adopt the comprehensive architecture set out in the Plan of Action and the application of the three-year implementation plans out to 2021.

The Council seeks the support of the Australian Government in implementing the Plan of Action, and that of the Federal Opposition and State and Territory governments and their oppositions. Local government also has a key leadership role in ensuring their communities have the best possible resources and that these are delivered effectively.

Sexual assault and domestic and family violence require a cohesive and cooperative response from all levels of government. Given the complexity of the issue, and the need for multiple portfolios to collaborate for effective responses, the Council believes COAG is the most appropriate forum to take carriage of the Plan of Action.

The Plan of Action also provides guidance for the establishment of a governance framework towards the implementation of the Plan of Action; and the implementation, monitoring and evaluation of strategies.

It acknowledges and builds on work undertaken by Commonwealth, State, and Territory governments, the sexual assault, domestic and family violence sectors, and communities across Australia. It offers a new and united approach for a new millennium.

This Plan of Action:

- focuses primarily on the rights of the majority of victims of domestic and family violence and sexual assault, women and their children;
- adopts an intersectional analysis<sup>5</sup> to ensure that gender equality and factors such as race, ethnicity, sexuality, class, and disability are taken into account;
- is built on the voices of women, men, and their communities and organisations from around Australia;
- considers how violence against women affects their children, now and in the longer term;
- integrates responses to the diverse experiences of gender-based violence, including sexual assault and intimate partner and family violence;
- encourages increased collaboration between governments, business, and the community to provide more integrated and accessible service responses for women and children;
- focuses on strategies to stop the violence of perpetrators;
- drives an increase in the national evidence base that identifies and logs successful approaches to preventing and responding to violence.

5 Recent developments in thinking on human rights emphasise the need for an approach which focuses on intersectionality. This recognises the interconnections between various forms of discrimination, such as racism, sexism and homophobia, and that different aspects of a person's identity may compound their vulnerability to human rights violations or their ability to access redress when their rights have been violated. Special Rapporteur on violence against women, 2001.



The Council expresses its appreciation for the opportunity to contribute towards the concerted effort already under way in Australia to solving this problem.

The Council therefore commends this Plan of Action to Governments for consideration, action and implementation.



# The Plan of Action Recommendations to the Australian Government

## Vision and commitment

### Recommendation 1

That the Australian Government commit to a vision for Australia where “*women and their children live free from violence, within respectful relationships, and in safe communities*”.

### Recommendation 2

That the Australian Government support the realisation of this vision for Australia’s women and children through a long-term, strategic and sustained commitment.

This commitment would be effected through a series of three-year implementation plans to 2021 to be developed in partnership with government, business and the community, built on research and evaluation, and that will incorporate the outcomes of measures already implemented.

## Clear outcomes, strategies and actions

### Recommendation 3

That the Australian Government agree that realising this vision requires that:

- Communities are safe and free from violence
- Relationships are respectful
- Services meet the needs of women and their children
- Responses are just
- Perpetrators stop their violence
- Systems work together effectively.



#### **Recommendation 4**

That the Australian Government accept that the strategies developed by the Council under the six outcomes are based on research, best practice, and community feedback; and that these strategies must underpin any effective response. The Government should also acknowledge that these strategies alone may be insufficient, and that new strategies may be required over time.

#### **Recommendation 5**

That the Australian Government note that the Council has identified a set of actions for the next 12 years aimed at achieving the Plan of Action's outcomes and executing its strategies, and agree to:

- urgently implement the priority actions that the Council considers represent the minimum investment to effect change;
- start work on the other early actions identified in the first three-year implementation plan;
- review actions in developing the second and subsequent three-year implementation plans.

### **A national response through the Council of Australian Governments**

#### **Recommendation 6**

That the Australian Government recognise the critical role of State and Territory governments in reducing violence against women and their children; that it refer the Plan of Action to COAG; and request that COAG develop an integrated, comprehensive response endorsed by all levels of government by early 2010.

#### **Recommendation 7**

That the Australian Government acknowledge the social and economic costs of inaction; and that it encourages Commonwealth, State and Territory ministers and agencies to take action consistent with the Plan of Action's outcomes in advance of the integrated, comprehensive response being developed by COAG.

## Recommendation 8

That, following referral to COAG, the Australian Government pursue the development of a whole-of-governments approach that:

- builds on the vision, outcomes, strategies and actions identified by the Council;
- aligns all Commonwealth, State and Territory governments' plans, policies, procedures, and practices with those agreed to by COAG;
- includes a robust system of regular reporting, independent monitoring, and comprehensive independent evaluations that will develop a strong evidence base to measure the impacts and outcomes of actions.

## Recommendation 9

That the Australian Government work with State and Territory governments through COAG to ensure the *National Framework for Protecting Australia's Children* meets the needs of children who witness and experience domestic and family violence.

## Continued community engagement on action

### Recommendation 10

That the Australian Government recognise the critical need to provide a multi-layered, phased, and cohesive approach to public awareness and discussion about violence prevention and behavioural change over the Plan of Action's lifetime; and agree that the Commonwealth Minister for the Status of Women will lead the development of a social marketing strategy in partnership with State and Territory governments and the community.

### Recommendation 11

That the Australian Government accept the vital role of the community in helping reduce violence against women and their children, and agree to:

- work in partnership with other levels of government, business, and the community sector;
- provide opportunities for individuals, business, community, and other institutions;
- build bi-partisan support at the Federal, State, Territory, and Local government levels to support the broad directions advocated in the Plan of Action;
- extend the role of the National Council to Reduce Violence against Women and their Children, or similar body, to one of helping to implement the Plan of Action.



# Introduction


The Council understands that the extent and range of violent actions perpetrated against women are broad. They can include offences as extreme as female genital mutilation, institutional abuse, trafficking of women, and sexual violence as a strategy in armed conflict. These are crimes and human rights abuses, and must also be addressed through appropriate channels. However, for women in Australia, sexual assault and domestic and family violence are the most pervasive human rights violations. They harm and limit the lives of a third of Australian women, and require an immediate and focused response.

Sexual assault and domestic and family violence cannot be excused or justified under any circumstances. It is wrong, and all victims need compassionate and highly responsive support, and all perpetrators must be held accountable for their violence.

Overwhelmingly sexual assault and domestic and family violence is perpetrated by men against women. While the Council acknowledges that men can be victims of intimate partner violence and should also be supported with services tailored to their needs the most recent national survey found that 17 per cent of women experienced sexual assault compared to 4.8 per cent of men. It also found that while an estimated 35 per cent of men and women have experienced physical assault since the age of 15, of the male victims, 65 per cent were assaulted by a male stranger, while 46 per cent of female victims were assaulted by a partner or ex-partner. Women are mostly assaulted by men they know, often in their own home, and in circumstances where they may well be subject to repeated assaults over time. Sexual violence, while committed by perpetrators across a wide range of relationship categories that includes friends and acquaintances, work colleagues, fathers and other close family members, is also committed by men with whom women have, or have had, an intimate relationship<sup>6</sup>.

While the dynamics of sexual assault and domestic and family violence differ, there is a high degree of connection between these phenomena. Thus responses can benefit from shared experience and solutions. The strategies in this Plan of Action target sexual assault and domestic and family violence perpetrated against women, and the consequent indirect abuse of their children.

<sup>6</sup> Australian Bureau of Statistics, 2005.



The Plan of Action recognises that the broader Australian community has a critical role to play in the prevention of violence. Indeed the wider community, by implicitly condoning values and attitudes that support abusive behaviours, inadvertently contribute to violence against women. The Plan of Action sets out actions that involve the promotion of awareness of these issues in the whole community, so that the whole community can work towards the day that women and their children are guaranteed their safety.

Until that day comes, we must stand by women with the provision of support services that meet all their complex and diverse needs.

Our system of justice must also be responsive and deliver on its promise of justice; justice that is tangible and understood by victims of violence, and that contributes to their recovery. This will give effect to Australia's obligations under various international human rights instruments, and will ensure that justice is equally accessible to women who need the protection of our laws to be free from violence. It will also ensure that our moral landscape matures regarding issues of violence against women and their children. The strategies and actions set out in the Plan of Action are directed toward these goals.

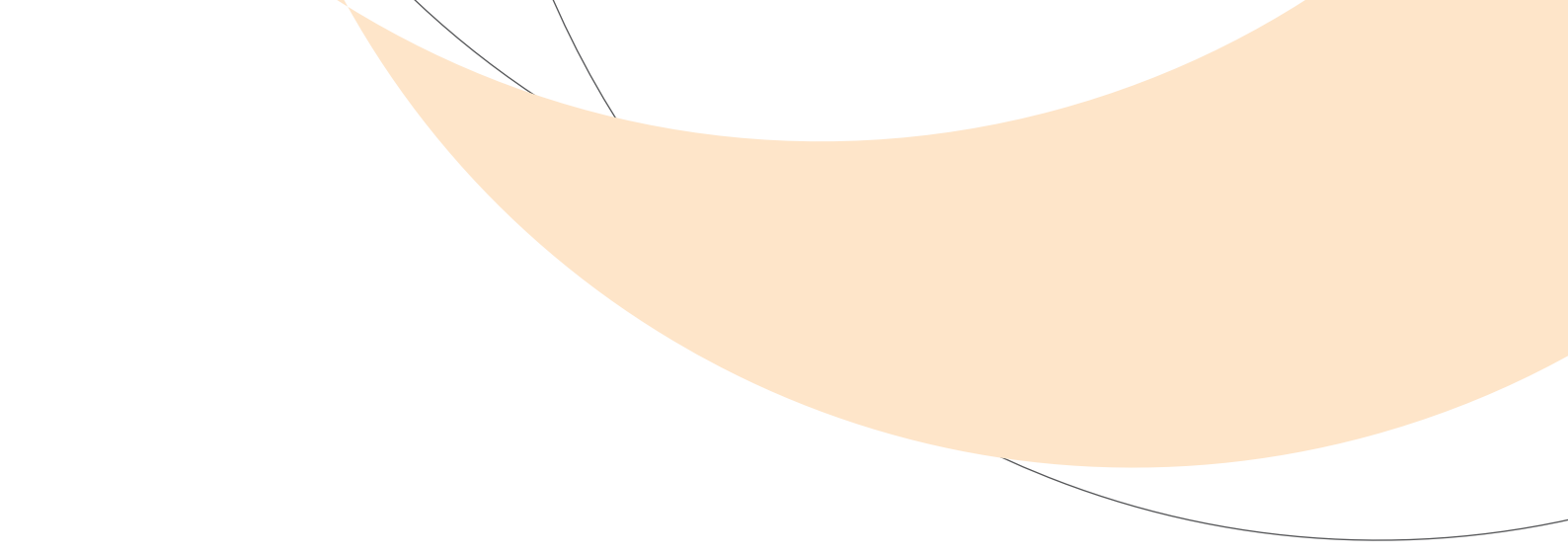
Though the criminal justice system has a critical role to play, violence against women will not stop until the perpetrators stop being violent. There must be a swift and certain response to perpetrators of violence from the criminal justice system, accompanied by effective strategies to change violent behaviour, and to sustain non-violent behaviour. The Plan of Action identifies and responds to the need for evidence building, diversity, innovation, and rigour in the design and delivery of perpetrator programs.

The Council is aware that community action, service responses, justice mechanisms, and programs to end violence will be stifled unless systems work together effectively. As reflected in the actions set out in the Plan of Action, working effectively in coordination involves the interconnection of governance, planning and resource allocation across all levels of government, and at the level of local agencies. Systems coordination is critical in the delivery of services for women and their children, and in the dispensing of justice, including programs to end violence.

The Council is adamant that local solutions, owned by local communities, are critical to ensuring the viability and sustainability of the system.

The Council endorses the need to work with, and support, community action to end violence. This reinforces the Northern Territory Emergency Response Review Board report's call for a return to supported community development approaches to end violence and for an end to government attempts to "deliver solutions off the back of a truck".





The Plan of Action notes the pressing need to further develop the evidence base to gain a better understanding of trends in sexual assault and domestic and family violence. This evidence base will help guide policy, legislation, and programs that will ensure more effective and promising practices. The Council therefore recommends a National Centre of Excellence for the Prevention of Violence against Women be established to guide research, monitoring and evaluation in the areas of sexual assault and domestic and family violence. It is proposed that this Centre have national and international reach, linking with international observatories that monitor and influence practices in this area.

## Vision

The Council's vision for Australia is that:

***Women and their children live free from violence, within respectful relationships and in safe communities.***

## Values and principles

The Plan of Action is founded on seven core values and supporting principles:

### We value safety

- All women and children have the right to safe and respectful relationships and to live free from violence.
- Violence against women and their children is wrong. It is a fundamental breach of human rights.
- The safety of women and their children who have experienced, or are experiencing, violence is paramount in any response.
- No law, policy or practice should jeopardise the safety or well-being of women and their children.

### We value community responsibility

- The whole community is responsible for condemning and eliminating violence against women and their children.
- Preventing violence by developing a culture of respect must be a high priority for the community.
- The community has a responsibility to hold perpetrators of violence accountable, and to help them stop their violence.

## **We value equality and diversity**

- Under Australian law, women and men have equal rights. Political, economic and social factors that create an imbalance between the genders must be addressed.
- Responses to violence against women and their children must recognise and address the unequal power relations and gender inequality that authorises violence; and recognise and address other factors such as race, class, age, sexuality, ethnicity and disability that intersect with gender to shape women's experience of violence.
- Actions, policies and practices must be examined for unintended consequences, such as gender discrimination, and deliver real equality for women and their children.
- Policies and programs that increase women's independence, including their financial independence, are integral to achieving gender equality.
- Any disadvantage arising as a consequence of the way in which diversity is understood and/or applied must be redressed.
- Initiatives to prevent or respond to violence must demonstrate that they adopt an intersectional framework which ensures all barriers to accessing services by women and their children, in all their diversity, have been eliminated. This should be a prerequisite for achieving recognition as a policy, program or practice of high standard.

## **We value responsiveness**

- Governments must be responsible for ensuring that the service system for responding to violence against women and their children is adequately resourced and is well-coordinated and supported, so that every level of response will work efficiently and effectively.
- Appropriate and effective services must be available to victims/survivors and perpetrators in a timely manner, wherever they live.
- Service system responses to violence against women and their children must take account of differences among women.
- Integrated and coordinated responses to violence must draw on a range of specialist and mainstream services.
- Early intervention is essential to minimise the level and effects of violence against women and their children.

## **We value justice**

- Victims/survivors and perpetrators must have access to processes and outcomes that are fair and just.
- Victims/survivors must have access to appropriate legal responses that enhance safety and uphold individuals' rights.
- Perpetrators of violence must be held accountable, and accept responsibility for their actions. They must acknowledge the consequences of their behaviour, and be challenged and supported to stop their violent behaviour.
- Civil and criminal justice systems must acknowledge the unequal circumstances and contexts within which violence takes place, and this must be reflected in delivering just outcomes for victims/survivors and perpetrators.

## **We value durability**

- Government commitments and investments must be made for the long-term.
- For durable change to take place, governments cannot do it all.
- Durable change must be built on community participation, ownership, and responsibility for, the problems, processes and outcomes.
- Durability requires community planning that fosters cooperation rather than local competition.
- Developing the capacity to engage genuinely and openly with communities, encouraging their active participation in determining the new future, is the challenge for all<sup>7</sup>.

## **We value knowledge and accountability**

- Research evidence and practice wisdom must inform the development of approaches and delivery of responses to violence against women and their children.
- Evaluation and appropriate outcome measures must be built into all program designs and funding plans from the outset.
- Policy, legislation and practices must be monitored and evaluated to ensure that they are effective in preventing violence against women and their children, and in contributing to the knowledge base.
- The evidence base must be continually reviewed and strengthened, knowledge disseminated and opportunities for innovation promoted.

<sup>7</sup> Northern Territory Emergency Response Review Board, 2008.

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# Outcome 1: Communities are safe and free from violence

## Focus on prevention

Violence against women must stop – their safety, and that of their children, is not negotiable.

The Plan of Action starts where we can have the greatest impact: with what communities can do to reduce and ultimately stop violence against women and their children. Communities from across Australia must be willing to tackle the problem as no amount of legislation, policy or policing in isolation will eradicate this violence.

For our communities, the first step must be to acknowledge the nature of the problem. Women and men in our society have unequal access to social and economic power<sup>8</sup>. The evidence demonstrates that while there is no single cause of sexual assault or domestic and family violence, many risk factors associated with these types of violence can be influenced by obvious and covert expressions of inequality in the community.

For example, community and societal ideas of what it means to be a man and to be a woman can contribute to the problem of violence by supporting the traditional gendered power-imbalance. Attitudes and beliefs about gender are learned, and society often teaches deeply held sexist views<sup>9</sup>. Evidence shows that communities increase the risk of violence against women when they allow norms that support men's controlling attitudes and behaviour over women, or attitudes that support the notion of male privilege<sup>10</sup>. These norms include:

- “macho” constructions of masculinity;
- ideas that “a woman’s place is in the home”;
- notions that men should “wear the pants” as heads of the household and wage-earners;
- standards that segregate male drinking and encourage excessive or binge drinking;
- standards that create peer pressure to conform to these ideas of masculinity and male behaviour.

<sup>8</sup> VicHealth, 2007.

<sup>9</sup> Flood, M. 1998.

<sup>10</sup> Flood, M. and Pease, B. 2006.



## Notions of masculinities and violence

The glamourising and normalising of violence and aggressive male stereotypes in the media and on the internet also perpetuate negative attitudes and behaviour towards women. Many studies have identified a relationship between tolerance for physical or sexual violence and an exposure to sexist imagery in television, film, advertising and electronic games. These studies conclude that excessive consumption of imagery which idealises an aggressive, insensitive notion of masculinity, is likely to enhance violence-supportive attitudes<sup>11</sup>. This is even more evident in the case of pornography (most of which overtly portrays women in an unequal role to men). This is concerning given evidence that a substantial proportion of Australian boys are regular consumers of X-rated video and Internet pornography<sup>12</sup>.

Specific attitudes about gender-based violence also play a strong role. Violence is enabled when local communities:

- view sexual assault and domestic and family violence as “invited” by the victim;
- fail to intervene when they see violence because it is considered a private matter or part of a “culture”;
- accept violence as a legitimate means of settling conflict.

In the case of sexual assault, community members may accept such assault as a rite of passage, or something that “just happens” (normalising behaviour). Communities also may tacitly support violence by failing to provide alternatives or failing to explicitly oppose it.

*“There are two very important messages to consider when thinking about the violence and abuse women and children experience in our society. The first is the profound and long lasting impact across all domains of development, throughout the life course and across generations. These experiences can deprive women of their potential, fragment families and shatter the dreams of our children.*

*The second message is that it is entirely preventable. In this modern era we have the means and political will to change the future. We can develop respectful relationships, restore hope for a just society and bring to fruition a Nation based on equality and equity for all its citizens.”*

*Aboriginal Medical and Dental Health academic  
Western Australia, 2008*

<sup>11</sup> Flood, M. and Hamilton, C. 2003; Flood, M. and Pease, B. 2006.

<sup>12</sup> *Ibid.*



## Communities can help stop the violence

The evidence suggests that if communities work in partnership with governments and the non-government and private sectors, they can reduce violence against women and their children through their collective actions to:

- understand, discuss and explicitly condemn violence against women and their children;
- promote women as equal and active participants in intimate relationships and public life;
- ensure women have equal access to secure employment, salaries and financial independence;
- reject definitions of “being a man” or notions of masculinity that are associated with violence;
- promote notions of masculinity that are non-violent<sup>13</sup>;
- intervene where violence against women and their children is witnessed or suspected;
- provide information about, and links to, available support services;
- render assistance to victims/survivors when formal services are limited;
- hold perpetrators accountable and challenge their use of violence;
- provide services to perpetrators to help them change their behaviour;
- address factors that contribute to violence in the wider community by encouraging the responsible service and consumption of alcohol; addressing the abuse of drugs; discussing the nature, causes, and impacts of violence against women; and demanding media and internet standards to prevent glamourised images of violence and negative sexualisation and denigration of women;
- promote education about respectful relationships.

If the longer term goal is eradication of violence, then society needs to dramatically increase its understanding of why violence occurs in the first place. International evidence suggests that primary prevention strategies that work across many levels (such as the attitudes and behaviours of individuals, the way people operate in relationships and families, the way they engage as communities, and how social structures and institutions are regulated) are the most effective.

The evidence also suggests that social marketing campaigns that promote gender norms against violence, combined with approaches that mobilise communities to stand against violence, and programs based in education and sports settings, are more likely to produce cultural change that reduces tolerance for violence against women and aids prevention in the first instance<sup>14</sup>.

<sup>13</sup> Messerschmidt, J. 1993; Connell, R.W. 1995; Gadd, D. 2002.

<sup>14</sup> VicHealth, 2007.

*“Some of the issues start in early childhood with boys being allowed to be “rough” [boys being boys] and told to be tough [not show emotion]. This is an issue for the way some women parent boys as much as their male role model.”*

*Child psychiatrist  
Western Australia, 2008*

Community programs that address violence-exacerbating behaviour must also be supported. These include: efforts to address violent male-on-male behaviour in situations such as sporting environments, or gangs that legitimise the use of violence as a means for addressing grievances<sup>15</sup>.

Some communities may face problems that exacerbate or enable violence against women and their children. For example, many remote and/or Indigenous communities experience housing conditions (like overcrowding or the presence of violent individuals in the dwelling) that tend to increase the incidence of violence. Several factors can increase the vulnerability of immigrant and refugee women to violence. These include cultural or religious practices that subordinate women and cultural expectations that loyalty to family and community take precedence over personal safety<sup>16</sup>. The circumstances of individual communities must always be assessed and addressed.

## A National Centre of Excellence

Achieving our vision for Australia that *“women and their children live free from violence, within respectful relationships, and in safe communities”*, requires a concerted effort on many levels. Australia’s commitment to reducing violence against women and their children has already been demonstrated by the Australian Government, all State and Territory governments, many non-government agencies, and all those who have contributed to the Plan’s development.

To capitalise on this commitment and growing momentum, Australia needs a centralised, independent body to lead the thinking, and to drive and coordinate the Plan of Action’s implementation. It also needs a collaborative consortium that links, and builds upon, the existing mechanisms in the separate fields of sexual assault and domestic and family violence prevention. Governments need to increase cooperation and reduce duplication across, and within, these fields, while still recognising the different needs of victims and survivors, and the various motivations of the perpetrators.

<sup>15</sup> Tomsen, S. 2002.

<sup>16</sup> Rees, S. and Pease, B. 2006.

A centralised, independent, and expert capability is needed to coordinate evidence building and sharing through research, data collection, data analysis, monitoring, evaluation and review. The Council proposes that a National Centre of Excellence for the Prevention of Violence against Women be established. This body would:

- provide a central point for monitoring and reporting on the effects of the Plan of Action;
- provide a national resource for the development of policy and benchmarks;
- develop and promote “gold-standard” practice to reduce violence against women and their children across Australia;
- create an international primary point of contact for Australia’s response to sexual assault, and domestic and family violence;
- establish alliances with international observatories to grow and expand the nation’s knowledge base.

The centre’s coordinating capability would draw from, and strengthen, existing efforts and structures including:

- research activities in different settings;
- the Australian Domestic and Family Violence Clearinghouse and the Australian Centre for the Study of Sexual Assault;
- state-based facilities such as the Domestic Violence Resource Centre in Victoria and the Queensland Centre for Domestic and Family Violence Research;
- peak bodies such as the National Association of Services Against Sexual Assault and the Women’s Services Network.

The centre should consist of a core physical entity and its governance arrangements should include a key role for the Council, and for sexual assault and domestic and family violence service peak bodies. Governance arrangements should also include links with relevant existing external entities.

## Strengthening community leadership, awareness, and understanding

At every level in our communities leadership is needed to speak out against violence against women and their children. Government, business, non-government, community organisations, and individual champions, all have a role.

The leadership role that governments (Commonwealth, State, Territory and Local governments) play is critical. Governments must place the issue of violence against women at the front of their agenda. Government has a clear responsibility to ensure that the community has a sound knowledge and understanding of acceptable behaviour and relevant laws. Government also should inform the community of the nature and impact of violence against women and their children in Australia, and encourage the community to refuse to tolerate it. Government is in a position to equip the community with concrete strategies for actively opposing violence. The strategies and actions in this Plan of Action recommend that governments direct resources and expertise to these ends.

It is critical that community leaders, both individual and organisational, adopt and expand upon government leadership initiatives. Social and community organisations such as sporting, political, spiritual, and specific-interest groups are as important as government in shaping the attitudes and behaviours of Australians. Just as negative social norms and peer pressure may contribute to the pervasive problem of violence against women; positive discussions, modelling, and action by peers can promote norms and conditions that reduce this violence.

*“The AFL came to this issue late. And we came to it because some very brave and determined women told us about their experiences. It made us look closely at our football culture. This was not an easy thing to do. It would have been easier to treat their comments as “one offs” or individual events that had nothing to do with the rest of the football community. We couldn’t ignore them and we didn’t. And it was due to their bravery in coming forward that our Respect and Responsibility Policy began to evolve... Respect and Responsibility is about changing attitudes and changing cultures... and about doing everything we can to promote a respectful, safe and inclusive environment for women and girls – both for those who are part of the industry [as players, coaches, umpires, Club presidents and volunteers], and those who come into contact with our game.”*

*Andrew Demetriou, CEO  
Australian Football League  
At the launch of the Specialist Sex Offences Unit  
at the Office of Public Prosecutions in Victoria Melbourne  
26 April 2007*

Business also has a prominent role in setting standards for individual workplaces and more broadly, for entire industries. It is clear that the private sector has a major influence on the attitudes and standards of the community. The Plan of Action encourages businesses to embrace this responsibility and proposes actions that enhance women's economic independence.


To unite the many and various strands of the Australian community on this issue, the Council recommends that the Australian Government invites the Federal Opposition to support the broad directions and timeframe outlined in this Plan of Action. The Council believes it is essential that Australia takes a long-term stand of determined, strong and consistent action to ensure we bring about real change in the Australian community.

The Council asks that governments at the State and Territory and local level also commit to support this Plan of Action over the long term. This would drive changes in community attitudes and behaviour and demonstrate commitment to the Plan within all levels of the community.

### **Promoting non-violent male behaviour**

There is a growing body of evidence on violence prevention practice among boys and young men that suggests it is important to involve men in building gender equality<sup>17</sup>. There are many examples of individual communities developing initiatives that create a culture of non-acceptance of violence against women. Some of these are entirely local and others join a wider, even national, movement.

<sup>17</sup> Flood, M. 2003; Flood, M. 2008.



In North Queensland, a joint initiative between the Normanton Building Safer Communities Action Team (BSCAT) and the Normanton Stingers Indigenous Rugby League team was implemented in March 2007 and demonstrated outstanding results.

The slogan “Domestic Violence – it’s not our game” was adopted by the team, and the team agreed to become role models in the community by not engaging in domestic or family violence. The penalty for breach of the agreement was exclusion from games and ultimately from the team.

When the media campaign started on *Imparja* TV in May 2007 featuring the players and the slogan, there was a 55 per cent decrease in reported cases of domestic violence in Normanton, compared to the previous year (May to July 2006). Police reported that breaches of existing Domestic Violence Orders decreased by 64 per cent compared to the same period the previous year (March to July 2006).

This remarkable venture was supported by a \$5,000 grant from the local Carpentaria shire, and the resources of the Rugby League’s *One Community* initiative, demonstrating the power not only of positive role-modelling but of cooperative community-based action.

*Wendy Cochrane  
Australian Institute of Criminology Young People, Crime  
and Community Safety Conference  
February 2008*

Men’s groups and networks that are oriented towards wider social change and working in collaboration with women and women’s groups are needed to change the social norms and power relations which underpin men’s violence against women.

Involving boys and men in efforts to end violence against women enhances the effectiveness of initiatives and young men’s sense of a personal stake in this project<sup>18</sup>. It counters the perceptions that violence against women is a “women’s issue” and that only women have something to gain from strong relationships, a reduction in violence, and greater gender equality.

The involvement of men and boys in ending violence against women sends a powerful message to other men and boys about the importance and status of non-violence, and acts as a counterbalance to the sexist peer cultures to which many men and boys may belong.

<sup>18</sup> Kaufman, M. 2001.

Men's attitudes and behaviour are shaped in powerful ways by their male associates, as their "insider's knowledge" of the workings of masculinity make them more credible in the eyes of other men<sup>19</sup>. This is particularly true of the role-modelling relationship between fathers and sons, and also applies to many other male-to-male peer relationships. It is therefore crucial that men are receiving positive messaging and modelling from other men.

*The White Ribbon Campaign is an international campaign led by men who take a stand to end violence against women and aim to be positive role models to other men in the community. In 1999, the United Nations General Assembly declared November 25 the International Day for the Elimination of Violence Against Women and the white ribbon has become the symbol for the day. Wearing a white ribbon signifies a personal pledge that the wearer "will not commit, condone or stay silent about violence against women, and will actively work to eliminate it."*

*In Australia, the campaign is managed by the White Ribbon Foundation and is led by a growing team of more than 600 male community leaders from all sectors of the community. As White Ribbon Ambassadors, they take an active role in promoting the campaign. Individuals are encouraged to self-nominate or are nominated by others to become White Ribbon Ambassadors and use their networks to promote the message of equality between men and women and the importance of non-violent and respectful relationships. The Ambassadors are supported by a national media campaign advertising the same messages<sup>20</sup>.*


Enhanced community awareness and education programs are needed to change violence-supportive attitudes. These initiatives must be always based on the notion of gender equality and the need to shift men's consciousness from one of privilege to one of mutuality<sup>21</sup>. They need to make men question their own economic, social, and political power over women (in their roles as fathers, husbands, brothers, sons, friends, colleagues and employers) in order to transform gender relations. They should also promote a sense of "bystander responsibility" for the violence of other men towards women<sup>22</sup>.

19 Pease, B. 2008.

20 For further information see the White Ribbon Day website, [www.whiteribbonday.org.au](http://www.whiteribbonday.org.au).

21 Connell, R.W. 2003.

22 Pease, B. 2008.



There is evidence that media-based programs can produce a change in men's attitudes towards violence against women<sup>23</sup>, though efforts should endeavour to reach men and boys in a range of settings such as sporting clubs, social clubs, scouts and cubs, on-line communities, unions and associations, spiritual groups, service organisations supporting women in non-nuclear households, and other communities. The Plan of Action recommends governments develop, in partnership, a considered, long-term, and detailed national social marketing strategy with clear and consistent messages targeted at effecting changes in community attitudes to violence.

## Enhancing women's economic independence

Lack of financial independence is a major factor influencing a woman's decision to remain with a violent partner<sup>24</sup>. In Australia, domestic violence is frequently associated with poverty<sup>25,26</sup> and homelessness<sup>27,28</sup>. Therefore, financial independence and security is essential for leaving an abusive relationship<sup>29,30</sup>.

While the incidence of violence is similar across all social, cultural, economic and geographical boundaries Australian research shows a correlation between domestic violence and poorer economic outcomes after the event. For example, domestic violence victims tend to have a history of unemployment and have higher levels of job turnover. They also report less job stability, more interrupted work patterns, and tend to be employed in lower skilled and lower paid jobs with little opportunity for promotion<sup>31,32</sup>. Longitudinal research suggests that the relationship between being a victim of violence and unemployment often continues for many years after the violence ends, highlighting the long-term impact of violence on women's capacity to be economically independent and secure<sup>33</sup>.

*"It was a struggle to hold down my job. He wouldn't stay away; he would come and cause a ruckus so I would be sacked. He phoned my boss and told lies about me. Luckily, my boss knew about the violence and he didn't like my husband so I didn't get sacked, but in the end I just had to give up work, it was all too much."*

*Insurance office receptionist, 2008*

23 Flood, M. and Pease, B. 2006.

24 Anderson, D. K. and Saunders, D. G. 2003.

25 Branigan, E. 2004.

26 Tolman, R.M. and Raphael, J. 2000.

27 AIHW, 2007.

28 Marcolin, S. 2005.

29 Lloyd, S. 1997.

30 Lloyd, S. and Taluc, N. 1999.

31 *Ibid.*

32 Costello, M., Chung, D., and Carson, E. 2005.

33 Lindhurst, T., Oxford, M., and Gillmore, M. R. 2007.



Sustainable employment is important in promoting economic security and independence among survivors of sexual assault and domestic and family violence<sup>34</sup>. It has been argued that training and employment transition services that focus on long-term, as well as short-term, outcomes are vital to ensuring sustained economic independence among sexual assault and domestic violence victims/survivors<sup>35,36</sup>. In addition to the obvious financial benefits of sustained employment for survivors of sexual assault, and domestic and family violence, employment also provides social support/connectedness, escape from isolation, improved self-esteem, confidence, and self-worth<sup>37</sup>.

Having said this, it must be recognised that there are many women experiencing violence who may never be able to participate in paid employment because of disability, age, or caring responsibilities. Therefore support structures must also focus on women who are reliant on welfare support.

As financial dependency increases isolation and vulnerability to violence, strategies that help to support women in developing their capacity to live economically independent lives will contribute to any prevention agenda that is seeking to stop violence from occurring in the first instance.

## **Building the evidence base**

Evidence of effective measures to reduce violence against women is critical to building our understanding of how to prevent it. It is also essential to ensuring that resources are directed where they will have the most impact, and in measuring the progress towards achieving the Plan of Action's outcomes.

Data relating to violence against women and their children in Australia is poor. Data on services sought by, and provided to, victims is not readily available, and the way in which information is reported is generally inconsistent and does not allow for a comprehensive understanding of violence against women. Variations in data estimates across Australia are affected by differences in what is captured, counted and reported across States and Territories.

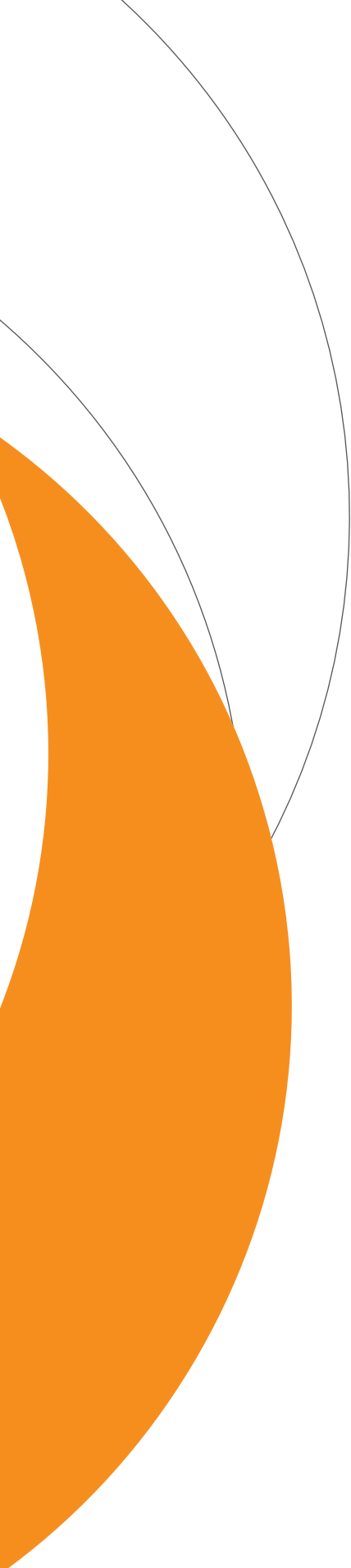
There are also personal and institutional barriers in decision making within and across systems that reduce the extent to which sexual assault and domestic and family violence is disclosed and reported. This affects the capacity of data to accurately reflect the real numbers of women and children who experience this violence. The difficulty in measuring the true extent of sexual assault and domestic and family violence in the community has been widely acknowledged.

34 Browne, A. Salomon, A. and Bassuk, S. S. 1999.

35 Lloyd, S. and Taluc, N. 1999.

36 Chronister, K.M. and McWhirter, E. H. 2003.

37 Costello, M. Chung, D. and Carson, E. 2005.



The *Background Paper to Time for Action: The National Council's Plan for Australia to Reduce Violence against Women and their Children, 2009-2021*, has highlighted the need for robust data collection systems to support prevention and early intervention services. A national minimum data set needs to be developed (including a data dictionary and standard protocols) to enable consistent and standardised data collection methods and analysis for sexual assault and domestic and family violence. The development of common on-line databases that have the ability to monitor individuals across the service sector and across jurisdictions (with, for example, the use of a unique identifier) will also support accurate and meaningful national data collection.

Data at all levels must be regularly updated to measure the progress of the Plan of Action's outcomes and to determine areas that need better resources or new methods.

## Strategies and actions

To create communities that are safe and free from violence, the Plan of Action focuses on five key strategies:

- 1.1 Focus on prevention.
- 1.2 Strengthen community leadership, awareness and understanding.
- 1.3 Promote positive male behaviours.
- 1.4 Enhance women's economic independence.
- 1.5 Build the evidence base.

### 1.1 Focus on prevention

1.1.1 Develop a national primary prevention framework that draws on international and national evidence of the most effective strategies for preventing violence against women, and prioritises key settings and population groups in which to coordinate primary prevention initiatives and actions.

1.1.2 Establish a National Centre of Excellence for the Prevention of Violence against Women to lead thinking, broker knowledge, co-ordinate a national research agenda and data collection effort, provide a national and international primary point of contact, and monitor and report on the impact of the Plan of Action.

1.1.3 For Aboriginal and Torres Strait Islander communities, in particular in isolated and remote communities, increase access to appropriate housing to reduce overcrowding and the incidence of sexual assault and family violence that may arise from such situations.

1.1.4 Support local communities that take a stand against the excessive use of alcohol and other substances that exacerbate violence against women and their children, by anticipating flow on effects and the need for additional services, and by creating a rapid response capability.

## **1.2 Strengthen community leadership, awareness and understanding**

1.2.1 Increase opportunities for Aboriginal and Torres Strait Islander men and women to share their understanding, experience and learning about sexual assault and domestic and family violence with immigrant and refugee groups. Create opportunities for them to learn from each other regarding ways in which to engage their communities to address attitudes and behaviours leading to violence.

1.2.2 Increase the development and availability of leadership and mentoring programs for women and men to harness the positive capacities within communities as well as build to improve community safety in disadvantaged localities.

1.2.3 Provide incentives that recognise effective affirmative action strategies within community councils and local governments to increase the participation of women in leadership and community decision-making roles.

1.2.4 Develop targeted programs to redress violence-supportive attitudes common to particular communities or to the Australian community as a whole.

1.2.5 Support the transition of newly arrived immigrants and refugees by ensuring orientation and opportunities provided through the English on Arrival language courses, and familiarise them with Australian laws and the Australian legal system, including principles of gender equality and the value placed on respectful relationships in Australian society.

1.2.6 Strengthen media and internet standards to address sexualised and denigrating representations of women, and minimise the impact of the persistent exposure to representations of violence in childhood and adolescence.

### 1.3 Promote positive male behaviours

1.3.1 Recognising that most men are not violent towards women, encourage men to take a role in countering such violence and promote understanding of, and support for, expressions of masculinities that are non-violent. For example:

- Increasingly target men and boys as agents promoting an end to men's violence against women (such as in the *White Ribbon Campaign* and programs in clubs and sporting and other organisations).
- Encourage men who play a leading role in the community, such as Members of Parliament, government officials, academics, business or community leaders, when making a public address, in addition to acknowledging the traditional owners of the land, to declare that they reject violence against women and their children in any form.

1.3.2 Fund culturally-appropriate mediation and conflict resolution training for non-violent men and women in Aboriginal and Torres Strait Islander communities to strengthen their role and influence in assisting to solve community and family disputes which occur as part of their everyday life.

1.3.3 As part of a broader social marketing plan, provide factual information to workplaces and communities to challenge myths and change attitudes about violence against women, and give guidance on protective behaviours and available supports and services designed to engage people of different ages and abilities and positioned to be meaningful within the context of different cultures.

### 1.4 Enhance women's economic independence

1.4.1 Women's Ministers, nationally, make representation to the Gender Pay Equity Inquiry and the Pensions Review, asking that the inter-relationship between violence against women, lack of economic independence and gender inequality be considered as part of their reviews, and addressed within their recommendations.

1.4.2 Develop specific formal and informal employment support initiatives with businesses (including affordable childcare) that enable women who have experienced violence to enter or return to the workforce.

1.4.3 Encourage employers to provide flexible working arrangements for women who have experienced violence.

1.4.4 Explore incentives for employers to recruit and retain women who have experienced violence.

1.4.5 Encourage, support and recognise business initiatives which prevent gender-related violence (for example, sexual harassment) in the workplace.

## 1.5 Build the evidence base

1.5.1 Include “Communities are safe and free from violence” as the fifth Priority Goal under the *Promoting and Maintaining Good Health* National Research Priority.

1.5.2 Establish a minimum data set including a data dictionary and standard protocols to enable consistency and standardised data collection methods and analysis for sexual assault, domestic and family violence. This data set must be disaggregated by sex and segmented by marginalised groups (for example, Aboriginal and Torres Strait Islander communities; culturally, linguistically and religiously diverse communities; and women with disabilities) wherever this is possible. Where disaggregation by marginalised groups is not possible, this should be complemented by targeted research.

1.5.3 Enhance the Australian Bureau of Statistics (ABS) Personal Safety Survey to encompass physical and non-physical abuse; and provide adequate sample sizes for generating reliable data for Aboriginal and Torres Strait Islander people and other specific sub-populations.

1.5.4 As part of a national survey, measure attitudes to gender inequality, respectful relationships and women’s safety every five years to redress violence-supportive attitudes and encourage the development and growth of respectful relationships and gender equality as social norms in our community.

1.5.5 Implement the results of the ABS Statistical Framework for Family and Domestic Violence.

1.5.6 Undertake the ABS Personal Safety Survey every five years to increase our understanding of the prevalence and incidence of personal violence in our community.

1.5.7 At regular intervals (every five years) undertake research and report on the impacts and costs of sexual assault and domestic violence to the Australian community.

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## Outcome 2: Relationships are respectful

Violence in relationships remains high in our communities, and most would agree that unless the unequal power relations between women and men are more meaningfully addressed, the incidence will not change. Around one in three Australian women experience physical violence, and almost one in five experiences sexual violence over their lifetime. The majority of violence against women in Australia is committed by men they know.

*“Violence against women is illegal, unacceptable and a blight on our community. It’s wrong and it’s got to stop. On the whole it’s us as blokes that do this stuff to our women and our kids but we are committed to change this and we want to be part of the answer and part of the solution. Things will never change unless men work side-by-side with women.”*

*Graham (Bonny) Gibson, Spirit of Men  
Murray Bridge, South Australia, 2008*

Young men warrant particular attention, given that one in seven young men (aged 12-20) think it is acceptable for a boy to make a girl have sex with him if she has flirted with him or led him on. More than a quarter believe that most physical violence occurs in dating because a partner provoked it<sup>38</sup>. Another study has found that while many males under age 45 consider the use of physical strength to abuse female partners unfair and cowardly, and verbal and emotional abuse damaging, sexual abuse within a marriage proved a grey area for some<sup>39</sup>.


While violence against women knows no cultural or age boundaries, the levels, risk and impacts of violence can affect women differently. For example, despite the increased vulnerability of women with disabilities to all forms of intimate violence, many violence prevention programs have failed to address this issue or their needs<sup>40</sup>. A recent US study found that women with disabilities were 37.3 per cent more likely than women without a disability (20.6 per cent) to report experiencing some form of intimate partner violence. 19.7 per cent of women with disabilities reported a history of unwanted sex compared to 8.2 per cent of women without a disability<sup>41</sup>.

38 National Crime Prevention, 2001.

39 Flinders Institute for Housing, Urban and Regional Research, 2008.

40 Women with Disabilities Australia, 2008.

41 Armour, B. 2008.



Due to numerous State and Territory based inquiry reports and national media coverage, the high level of violence experienced by Aboriginal and Torres Strait Islander women and their children is now better, and more widely, understood.

Same sex attracted young people experience high levels of violence perpetrated against them; this creates additional stresses in their intimate relationships, which may result in domestic or sexual violence<sup>42</sup>.

Despite all of this, there is limited uptake of specific violence prevention education programs nationally. Particular challenges are faced in delivering education in remote and rural areas where overall, service providers are scarce.

### **New cultural norms are required**

As a nation, if we are serious about trying to prevent violence against women before it occurs, we need to embed new cultural norms based on respectful relationships. This theme featured strongly in the written submissions to the Council, arguing that community and school-based education, as well as multi-dimensional social marketing campaigns, were needed to raise awareness and inform and change attitudes. Therefore the Plan of Action sees the promotion of respectful relationships as a key strategy that builds knowledge and skills progressively from young children to adult partners, in which men, women and children are equally valued and violence plays no part in any relationship. Respectful relationships are relationships based on mutual respect, equality, trust and support. Building new cultural norms of respect requires a re-examination of how power operates in all relationships between parents and children, between intimate partners of either gender, and in relationships between people who care for and support children, young people, and women with disabilities. Self-respect and positive self-esteem are the foundations for young women and men to build healthy and respectful relationships with others. Respectful relationships must therefore acknowledge and embrace diversity.

<sup>42</sup> ACON NSW, 2008.

## Preventing violence through education

The prevention of violence against women and their children requires an integrated, multisectoral and sustained approach if it is to be effective<sup>43</sup>. The Plan of Action provides such an integrated approach.

Currently there is no coherent national policy to address violence prevention education nor is there a national funding body to support the development, implementation, and evaluation of prevention education<sup>44</sup>. The primary delivery of violence prevention education is by sexual assault or domestic and family violence prevention services that frequently only receive short-term project funding for their programs<sup>45</sup>. This approach limits the potential for research and practice evidence on program effectiveness to inform future policy, program development and investment decisions<sup>46</sup>.

The prevention education field in Australia is in its infancy and currently is a patchwork of approaches across the States and Territories. There are significant differences in terms of: the type and length of programs; theoretical underpinnings; whether diversity is addressed; the focus on knowledge, attitudes and skills; the evaluation of effectiveness; the resources allocated; and the training and support of staff delivering programs<sup>47</sup>. Similarly, the present workforce capacity, in terms of the number of people able to deliver prevention education, is also limited and the numbers are variable between the States and Territories<sup>48</sup>.

The current sustainability of programs to build community cultures of respectful relationships, and to impact on the prevention of violence, is therefore severely hampered. As a result, a national policy direction is needed to build a coherent approach to violence prevention education that rejects violence against women and their children and sees education programs as key to achieving this goal. This new direction must take into account the specialised intensive teaching needed to ensure appropriate responses to diversity are delivered.

43 VicHealth, 2007.


44 VicHealth, 2008.

45 *Ibid.*

46 Carmody, M, Evans, S, Krogh, C, Flood, M, Heenan, M, Ovenden, G. 2009.

47 *Ibid.*

48 VicHealth, 2008.



A 2008 study argues that services need to ensure that prevention initiatives that are designed to reduce intimate partner violence explicitly include the needs of adults with disabilities, and that prevention strategies for people with disabilities are widely adopted<sup>49</sup>.

### **Implementing respectful relationships education**

Individuals, groups and communities across the country are at different stages of understanding, and commitment to, building respectful relationships, thereby impacting on the effectiveness of current programs and levels of community support<sup>50</sup>. Recognition of this and the current state of knowledge and workforce capacity suggests a phased introduction of programs is required. This would provide opportunities to work with communities and build a solid evidence base for future respectful relationships education programs.

Violence-prevention education programs need to reach children and young people in school settings and in other locations where they gather. The expansion of violence prevention and respectful relationships education beyond school settings, and beyond the targeting of high school aged students, was often raised during community consultations with the Council. Repeatedly the Council was told that respectful relationships education was needed for children in preschools, child care and playgroups, but it was apparent that further research was needed to inform the design and delivery of such programs to very young children.

School-based programs need to be integrated with school curricula or as part of other comprehensive skill-based initiatives<sup>51</sup>. Delivering these programs in schools reaches a broad base of young people without stigmatising those at increased risk of violence<sup>52</sup>. Schools are places where young people learn about relationships, but are also places where they can be subjected to, and perpetrate, sexual violence. Schools therefore provide opportunities to challenge behaviour as an important preventative strategy<sup>53</sup>. Schools help embed societal norms and values, and are central in the processes of forming gendered identities<sup>54</sup>, but schools are also regarded as agents of social change. Consequently they can be both the producers of violence as well as the starting point for ending violence<sup>55</sup>.

School-based programs also increase the possibility of reaching parents with the message of violence prevention<sup>56</sup>. The Plan of Action includes strategies and actions to expand and improve the effectiveness of school-based education programs that promote respectful relationships.

49 Armour, B. 2008.

50 Edwards, R. Jumper-Thurman, P. Plested, B. Oetting, E. & Swanson, L. 2000.

51 Vic Health, 2008.

52 Ellis, J. 2008; Carmody, M. and Willis, K. 2006; GfK Blue Moon, 2008; VicHealth, 2008.

53 Flood, M. 2008.

54 Butler, J. 1993.

55 Harber, C. 2002.

56 Wolfe, D. A. and Jaffe, P.G. 2003.

Introducing programs into schools is complex and time intensive. It requires a whole-of-school approach, working closely with school personnel and assessing the overall school climate, determining its readiness to work towards cultural change, and putting in place strategies to support student disclosures of violence that do not result in further harm and marginalisation. It is not as simple as introducing a one-off program and expecting it to result in respectful relationships between students and between students and staff.

*“Violence prevention is not the kind of project that can be imposed on schools or on any other community. When schools – and particularly their leadership teams – are ready to name and discuss violence against women, they will be more open to partnerships and more ready to engage in the challenging work of school-wide violence prevention. The readiness and momentum for this kind of cultural change can grow from the bottom-up but must be spearheaded by school leadership.*

*If the program is about promoting respect and valuing free agreement, agencies and government must demonstrate this in the way they work with schools. It begins with sitting at the table together and starting the process of partnership, and it leads to long-lasting violence prevention with mutual benefits for all partners.”*

*Renee Imbesi  
National Sexual Assault Prevention Education Roundtable  
December 2008*

## Working with young children

Violence prevention education programs in Australia have, to date, primarily focused on high school populations, but there is a need to develop programs with infants and primary school age children when they begin to develop their first understandings of relationships.

A pivotal period of learning for children is before the age of six. For this to happen, children need to live in a stable environment with warm attachment between parents/family and children. If this does not occur, neurological brain development is interrupted with the consequent loss of a significant learning opportunity for the child, and the most opportune time of investment for governments<sup>57 58 59</sup>.

Children living in violent environments are hindered from achieving appropriate developmental milestones. Investment in preventing and reducing the impact of violence will also increase the likelihood of children achieving development milestones in the short-term and living productive, meaningful lives in the long term<sup>60</sup>.

57 McCain, M. and Mustard, F. 1999.

58 McCain, M. and Mustard, F. 2002.

59 McCain, M. and Mustard, F. 2007.

60 Heckman, J.J. and Masterov, D.V. 2007.

Apart from school settings, many children are cared for through informal care arrangements with family, neighbours and babysitters<sup>61</sup>. Young children need to receive age-appropriate education about protective behaviours and safety, and be armed with the tools which will enable them to seek help should they, or someone they know, be experiencing domestic and family violence or sexual abuse. Introducing the foundations of respectful relationships education in the preschool years will also assist teachers and other carers in identifying children at risk, and enable a smoother transition for young children into future sessions in their primary school years. It will provide the foundations for the more extensive educational aspects that are to follow as they progress through both their primary and secondary education.

These programs will also allow earlier detection of child abuse due to information-sharing, practical activities and confidence building that not only educates these young students, but empowers the parents, carers and teachers to be alert for cues from the children in their care<sup>62</sup>.

The most recent research on children and domestic violence has demonstrated not only that it is possible to talk to children and young people about interpersonal violence, but also that there is a great need to do so<sup>63</sup>. This is both because general populations of young people are confused about the issue and want to learn more, and also because those children who have lived with violence want to talk about it and make sense of their experiences<sup>64</sup>. The majority of young people want lessons in school on domestic violence. They would like to be able to discuss what it is, what causes it and what can be done about it<sup>65</sup>. Young women and men have also indicated they are keen to receive skill-based education about sexual assault and relationships, education that explores the complexity of the issues they face, and provides them with the skills to manage these issues.

*“I really do believe that the current sexual assault information is really great about information. What it isn’t great about, the messages that don’t get across, is that stuff... that really grey complicated stuff that happened between [my partner] and I – how do you tell someone that when you give permission, but you don’t want to give permission, you know that’s such a grey area.”*

*Christine, age 23<sup>66</sup>*

61 Informal care, either alone or in combination with formal care, was used by 33 per cent (1,104,100) of children aged 0-12 years. Australian Bureau of Statistics, 2005.

62 Kayrooz, R. 2009.

63 McGee, C. 2000.

64 Mullender, A. Hague, G. Imam, U. Kelly, L. Malos, E. and Regan, L. 2002.

65 Ellis, J. 2008.

66 Quoted in Carmody, M. 2009.



*“I know that just the pressures, the external pressures I guess, you know expectations to be cool. You’ve got to be doing that, you’ve got to be treating girls badly and you know kissing them or whatever and just forgetting them, scoring I guess. If you’re a young guy, that’s what you think other people are going to expect from you.”*

*Dan, age 20<sup>67</sup>*

## Prevention in other settings

Apart from school-based programs, young people can also be responsive to prevention education in other settings. Overseas programs, and a limited number of programs in Australia, have been successfully run in primary schools, youth services, women’s health centres, disability organisations, with elite athletes and for general university students. Research shows that attitudes supporting violence against women are more pronounced among young men, warranting targeted violence prevention programs<sup>68</sup>. Early intervention strategies can be targeted at young men in environments where there are strong signs that violence may occur (for example peer groups, sporting clubs or university residential colleges, in which there is often a strong culture of disrespect for women)<sup>69</sup>. Therefore a range of settings beyond schools need to be considered in building respectful relationships among young people.

Prevention programs should also address those young people who do not attend school, and through other means and contexts associated with increased risks of victimisation<sup>70 71</sup>. These include: homeless young people; children living in poverty; families receiving welfare or with incarcerated parents; children leaving juvenile detention or foster care; children and young people with disabilities; young parents; and girls and young women under protective services care<sup>72</sup>.

Faith and cultural institutions have been identified as important avenues for transmitting beliefs and norms that either support violence or protect against it, and therefore there is a need to ensure prevention work also occurs within these settings<sup>73</sup>. Addressing diverse needs within prevention education requires more than changing case studies to reflect the needs of specific population groups. Rather, it involves extensive consultation and refinement of program objectives, education methods and processes, and recognition that groups and communities will be at different stages of readiness to receive prevention messages<sup>74 75</sup>.

67 Quoted in Powell, A. 2007.

68 Flood, M. 2008.

69 VicHealth, 2007.

70 Carmody, M. 2009; Powell, A. 2007; Ellis, J. 2004.


71 Rosewater, A. 2003; Wolfe, D.A. and Jaffe, P.J. 2003.

72 Rosewater, A. 2003.

73 Flood, M. and Pease, B. 2006.

74 Camody, M. Evans, S. Krogh, C. Flood, M. Heenan, M. and Ovenden, G. 2009.

75 Edwards, R., Jumper-Thurman, P. Plested, B. Oetting, E. and Swanson, L. 2000.



Helping parents to develop the knowledge and skills of their children around respectful relationships is crucial in laying a solid foundation for future generations. While many parents currently do this, others often lack the confidence, or feel ill-equipped, to raise the issues appropriately. Given the high rates of physical and sexual abuse in our communities it is not surprising that many mothers in particular are dealing with unresolved traumas from abuse, or are living in an abusive partnership. For parents of teenagers there is often uncertainty about how to raise issues with their son or daughter about intimate relationships. These factors suggest respectful relationships education needs to consider how to support parents and caregivers with positive parenting skills at key transition points in their children's lives.

No single program will address the complexity and diversity of young people's needs in the community<sup>76 77</sup>. This means adequate funding is needed to support a diverse range of programs that meet the different needs of young people and the specific issues facing local communities. Violence prevention programs need to be inclusive, relevant and culturally sensitive to the heightened risks of violence experienced by different groups of women, including women with disabilities, women from immigrant and refugee backgrounds, Aboriginal and Torres Strait Islander women, same-sex attracted women, and women in geographically isolated communities.

### **Public campaigns to promote respectful relationships**

Public awareness campaigns that promote respectful relationships can be critical in any social change process, especially those that employ social marketing approaches that seek to invite people to think about their own attitudes and behaviours. To be successful, such campaigns need careful planning and targeted development using a range of approaches and media forms to reach across diverse communities nationally.

There are few evaluations of the effectiveness of these approaches, but where these exist there is evidence that they work<sup>78</sup>. They have been found to be most effective when implemented in concert with other strategies (for example community strengthening, direct participation programs and education programs), so that the messages of cultural and behavioural change are being mutually reinforced across a range of settings<sup>79</sup>.

It is important that any social marketing campaign is based on theoretical understandings of violence and attitudinal and behavioural change. Related to this is the need for training and technical resources for media personnel to reduce the portrayal of violence and violence against women, and improve the depiction of gender roles and relations in the media<sup>80</sup>.

76 VicHealth, 2008; Carmody, M. Evans, S. Krogh, C. Flood, M. Heenan, M. and Ovenden, G. 2009.

77 GfK Blue Moon, 2008.

78 Donovan, R. and Vlasis, R. 2005.

79 VicHealth, 2007.

80 *Ibid.*

Consistent with promoting respectful relationships, social marketing campaigns must focus on positive messages of cultural and behavioural change rather than solely on raising awareness about the incidence and impacts of violence against women; campaigns of the latter type are often directed at victims as a means of encouraging them to access support.

### Measuring effectiveness of respectful relationships education

Research shows that knowledge of violence, of itself, will not result in a change in behaviour towards respectful relationships<sup>81</sup>. Skills-based programs that offer practical solutions and provide opportunities to practice skills needed for respectful and ethical relationships increase the likelihood of a change in behaviour that potentially prevents violence occurring<sup>82 83 84</sup>.

The targeting of men and boys as participants in violence prevention programs is also proving to be an effective approach that challenges both cultural and peer norms that condone violence, and has success where males are approached as allies or potential bystanders, able to challenge violence-supportive attitudes and behaviour, rather than as potential perpetrators<sup>85 86 87</sup>.

Comprehensive evaluation of programs is seen internationally as essential to high quality and effective prevention education programs<sup>88</sup>. Despite this, program evaluations have been limited in their conception and implementation<sup>89</sup>. Locally it is argued that evaluations are often directed towards the process of programs and not towards program outcomes, and are often poorly designed<sup>90</sup>. There is a need to build evaluation mechanisms that assess the lasting impact of respectful relationships education programs on the lives of young people beyond the life of the program<sup>91</sup>. The current research project being conducted on behalf of the National Association of Services Against Sexual Violence (NASASV)<sup>92</sup> to improve prevention education standards will assist the field in developing higher quality programs.

81 Schewe, P. 2002; Schewe, P. 2004; Breinbauer, C. and Maddaleno, M. 2005.

82 Ellis, J. 2008, Harvey, A. Garcia-Moreno, C. and Butchart, A. 2007.

83 Nation, M. Crusto, C. Wandersman, A. Kumpfer, K.L. Seybolt, D. Morrissey-Kane, E. 2003.

84 Carmody, M. 2009; Powell, A. 2007; Schewe, P. 2004.

85 *Ibid.*

86 Katz, J. 1995; Berkowitz, A.D. 2004; Dyson and Flood, M. 2008; Carmody, M. 2009; Schewe, P. 2004; Flood, M. and Fergus L. 2008.

87 Banyard, V.L., Plant, E. and Moynihan, M. 2007.

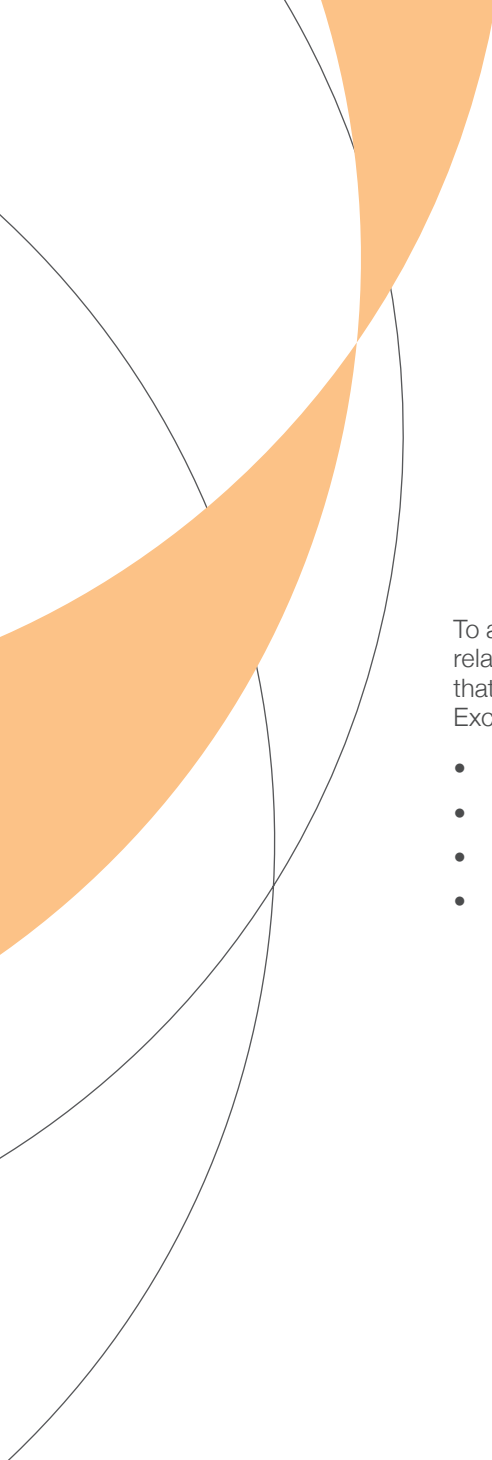
88 Harvey, A. Garcia-Moreno, C. and Butchart, A. 2007; Nation, M. Crusto, C. Wandersman, A. Kumpfer, K.L. Seybolt, D. Morrissey-Kane, E. 2003; Butchart, A. Phinney, A. Check, P. and Villaveces, A. 2004.

89 Ellis, J. 2004; Morrison, S. Hardison, J. Mathew, A. and O'Neil, J. 2004; Harvey, A. Garcia-Moreno, C. and Butchart, A. 2007; Whitaker, D. J. Morrison, S. Lindquist, C. Hawkins, S. R. O'Neil, J. A. Nesius, A. M. et al, 2006.

90 Flood, M. 2005/2006.

91 Carmody, M. 2009.

92 Carmody, M. Evans, S. Krogh, C. Flood, M. Heenan, M. Ovenden, G. 2009.



To achieve a world-class prevention education policy focused on building respectful relationships and informed by research and practice evidence, it is recommended that a specific funding stream be established with the proposed National Centre of Excellence to Prevent Violence against Women to address:

- the development of prevention education programs;
- training and accreditation of staff and programs;
- design and monitoring the effectiveness of prevention education nationally;
- evaluation of the impact of targeted public awareness campaigns.

## Strategies and actions

To create respectful relationships, the Plan of Action focuses on four key strategies:

- 2.1 Build the capacity for prevention education.
- 2.2 Ensure all children participate in respectful relationships education.
- 2.3 Support effective parenting.
- 2.4 Build the evidence base.

### 2.1 Build the capacity for prevention education

2.1.1 As part of developing a National Primary Prevention Framework (preventing violence against women) build the capacity of the prevention education sector by researching and evaluating primary prevention outcomes, develop standards and indicators for best practice programs, and develop tools and information products to support programs in different settings.

2.1.2 Expand the capacity of teachers and other educators and leaders to provide violence prevention education programs.

2.1.3 Incorporate a focus on respectful relationships in broader social marketing campaigns designed to raise community awareness and effect cultural and behavioural change, which are particularly targeted at people from diverse backgrounds and young people who have an increased risk of victimisation and perpetration.

### 2.2 Ensure all children participate in respectful relationships education

2.2.1 Develop, trial, implement and evaluate educational programs in a range of settings, based on best practice principles, for pre-schoolers, children, adolescents and adults that encourage respectful relationships and protective behaviours.

2.2.2 Incorporate respectful relationship education into the national curriculum so that all children have access to, and participate in, a comprehensive respectful relationship education program before leaving school.

2.2.3 Develop and implement an accreditation and evaluation system for respectful relationships programs to ensure that program development and delivery meets best practice.

### **2.3 Support effective parenting**

2.3.1 Recognise the additional challenges for parents and carers of children with disabilities and build on and target early childhood resources, programs and services, including respite, to assist with developing and maintaining respectful relationships.

2.3.2 As part of associated government initiatives, provide resources to families at key transition points (for example birth of children, starting school, puberty, leaving school) to help them maintain a positive approach to parenting.

2.3.3 Build on and target existing resources, programs and services to assist parents and primary caregivers to provide positive parenting by supporting their children to develop respectful relationships.

### **2.4 Build the evidence base**

2.4.1 Provide annual reporting on the number of respectful relationship programs provided per State and Territory, and assess the application of best practice standards.

2.4.2 Undertake benchmarking of young people's attitudes towards women and violence; and review every five years.

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## Outcome 3: Services meet the needs of women and their children

The current capacity of services to meet the needs of women and their children is compromised across Australia because of insufficient funding. Insufficient funding prevents the widespread implementation and accessibility of services. The difficulties in recruiting and retaining appropriately skilled workers in this area compounds the effects of insufficient funding.

Immediate crisis services and on-going services for victims of sexual assault and domestic and family violence received a great deal of attention in the written submissions to the Council. The Council heard repeated stories about funding shortfalls for services, the lack of services, the inability of services to meet the holistic needs of the victim and her family, over-stretched and stressed services with long waiting lists, and a lack of skill and agency protocols that ensured compassionate, appropriate and timely responses to the requirements of women with more complex needs.

As disclosures and reporting of violence against women increases, the gap between demand and needs being met will only grow. Many in the sector, and the community, hold concerns that under-resourcing is already leading to limited service delivery, so that a consistently professional, high quality, and coherent response to sexual assault and domestic and family violence is, at best, uneven across the nation. Budgetary allocations must match the real size of the problem. Apart from these gaps we need to ensure that a social inclusion approach is taken seriously. Not only is more money needed to address gaps, but we need to find new ways of governing which include rethinking how policy and programs can be delivered across portfolios and between levels of government to wrap services around women and their children.

The ways in which women and their children experience violence, the options open to them in dealing with violence, and the extent to which they have access to services that meet their needs, are shaped by the intersection of gender with factors such as disability, English language proficiency, ethnicity, physical location, sexuality, Aboriginal and Torres Strait Islander status, and migration experience<sup>93</sup>. These factors increase the vulnerability of women and their children to the risk and effects of violence.

93 Stubbs, J. 1997.



## Impact of under-resourcing

It is difficult to quantify precisely how under-resourced services are, but the key indicators that are apparent across the service system include:

- long waiting lists for women to access counselling support, particularly for adult survivors of childhood sexual assault because, by necessity, priority is given to women who are in crisis;
- difficulty for women, particularly in rural and remote areas, in accessing legal advice and representation for domestic and family violence applications and associated family law and child protection matters;
- inability of women seeking emergency accommodation or telephone counselling to access specialist support, particularly in rural and remote areas;
- inability of many services to demonstrate shared or cultural competencies for delivering high-quality services to specific population groups of women;
- inability of emergency accommodation facilities to meet basic physical standards for disability access, or accommodate women with complex needs such as those with an intellectual disability, mental health issues and problems with substance abuse;
- inability to provide timely forensic medical sexual assault examinations to recent victims of sexual assault (resulting from a shortage of doctors able and willing to provide this service given the costs involved; and the limited adoption of alternative providers such as Forensic Nurse Examiners);
- inability of women and their children to access safe emergency accommodation, being referred all too often to motels and caravans;
- insufficient services, forcing women and their children into unsafe or inadequate situations such as sleeping in cars or staying in overcrowded housing, and leaving them with no choice but to return home to the perpetrator;
- orientation of responses to the crisis end of the problem, with insufficient services available for medium to long-term support such as counselling and trauma recovery;
- limited resourcing to appropriately skill workers and services to deliver ongoing counselling and psychological support for children who have witnessed and/or experienced domestic and family violence.

## The cost of violence

Current funding levels for services to meet the needs of victims/survivors also fail to reflect the economic costs of sexual assault, domestic, and family violence. In 2004, Access Economics reported that the cost of violence against women to the economy was \$8.1 billion<sup>94</sup>. If no new actions are taken to reduce the incidence and the impact of violence against women by 2021-22, the cost to the economy of violence against women and their children will have almost doubled to \$15.6 billion<sup>95</sup>. Domestic and family violence is one of the many causes of homelessness among women in Australia<sup>96</sup> and has severe effects on women's physical and mental health<sup>97 98 99</sup>. In 2004, VicHealth found that intimate partner violence was the leading contributor to death, disability and illness in Victorian women aged 15 to 44 years, being responsible for more of the disease burden than many well-known risk factors such as high blood pressure, smoking and obesity<sup>100</sup>.

Despite this, funding levels for programs and services targeting the needs of women and children who have experienced violence do not reflect the investment needed to reduce the potentially long-term burden on the Australian community. Budgetary allocations must also match the level of investment needed to reduce the economic costs.

## The first door must be the right door

It is critical that a sustainable and responsive service system is in place to support women who experience sexual assault or domestic and family violence, and that service providers at the first point of contact are able to support disclosures of abuse and respond appropriately in a timely manner. "The first door is the right door" means that for women who have experienced violence, their first point of contact should provide professional and compassionate assistance, and that the complexity and entirety of their needs are met. Recovery begins with the first point of contact. Access to quality legal, medical, and support services (both immediate and ongoing) is essential.

94 Access Economics, 2004.

95 KPMG, 2009.


96 AIHW, 2008.

97 Partner violence and the health of Australian women. The Australian Longitudinal Study on Women's Health research highlights – the first decade, 2005.

98 Loxton, D. Schofield, M. Hussain, R. and Mishra, G. (2006).

99 VicHealth 2004.

100 *ibid.*



The first point of contact may be a specialist sexual assault or domestic and family violence service; legal aid or an individual solicitor; a health, mental health or telephone counselling service; Centrelink; a housing service; a child protection agency; the police; a Migrant Resource Centre; or one of the numerous government and non-government human service agencies<sup>101 102</sup>. The most effective responses to violence against women and their children are provided when the range of services required for meeting women's needs operate from a client-centred model and co-ordinate their activities, as discussed in Outcome 6: Systems work together effectively.

*“One of the benefits of the [Hospital’s] Leadership Program is the focus on defining violence, which develops staff confidence to recognise and name violent behaviour and then give women clear information about their choices. The Leadership Program gives staff the opportunity to debrief about their consultations with women and reflect on their practice. One of the key challenges for staff is to recognise that even when women do not want a referral to specialist violence services, the fact that she received a sensitive and appropriate response from a health professional increases the likelihood that she will seek support at a later date.”*

*Royal Women’s Hospital, Melbourne, 2008*

In addition to the range of general services that women and their children may need as a result of violence, there is a wide range of specialist services responding to particular needs. Such services include counselling (including meeting children’s needs around witnessing/experiencing violence), crisis intervention, court assistance, and safe accommodation. Although such service responses are specific to sexual assault or domestic and family violence, only a very small number<sup>103</sup> have been established exclusively for particular groups of women. It is therefore critical that the general sexual assault and domestic and family violence services also have the resources and skills required to address the intersection of gender and other factors that shape women’s experiences of violence and help-seeking.

101 Tasmanian Government, 2003.

102 Young, K. 1998.

103 For example, some jurisdictions such as Queensland and Victoria each have a dedicated service for immigrant women whose first language is not English.



## Diverse responses are needed

Currently, the needs of many women are not met because services are not properly resourced to adequately recognise and respond to these other factors. Service agreements may also restrict the level and nature of service delivery that can be offered. Older women's experiences of abuse, and their ability to end abusive relationships, are shaped by social and structural norms prevalent during their formative years, including greater tolerance for personal violence, attitudes towards marriage, and the socialisation of both men and women into specific gender roles<sup>104</sup>. Women, including older women and women with disabilities, face particular barriers to ending abusive relationships. These include: fears about the loss and the difficulty of rebuilding economic security; loss of social supports and alienation from family; and, particularly for Aboriginal and Torres Strait Islander women and women from diverse cultural backgrounds, being ostracised from their communities.

Multicultural and settlement services have increasingly highlighted the fact that many immigrant and refugee women, particularly those who are newly arrived, are more likely to disclose issues related to sexual assault, domestic and family violence as part of their settlement needs. There are also particular issues for refugee women and children related to trauma, resulting from experiences of armed conflict or prior exposure to violence, that mainstream services are increasingly challenged to meet.

Women who have experienced sexual assault and/or domestic and family violence as a child have particular service and support needs, especially if they are disclosing their experiences for the first time. They should also be able to access appropriate crisis counselling and legal advice, and expect to receive court support regardless of when the assault occurred.

Aboriginal and Torres Strait Islander women, and many immigrant and refugee women, are also living with the trauma of race-based oppression, alienation and intergenerational trauma, which must also be addressed. For women with disabilities, experiences and research indicate that, in addition to these factors, there is a wide range of possible perpetrators including caregivers, support workers and service providers<sup>105</sup>. Women with disabilities must be in a position to have control over the provision of services to them, rather than arrangements being made directly between funding bodies, disability service providers and care workers.

<sup>104</sup> Morgan Disney and Associates with Leigh Cupitt and Associates and Council of the Ageing, 2000.

<sup>105</sup> Sobsey, D. and Doe, T. 1991.

Women in correctional facilities are also particularly vulnerable to abuse and lack of appropriate service provision to meet their specific needs. A majority of women in prison have been physically and/or sexually abused prior to their incarceration; frequently the women have experienced child abuse; and many have been raised in families which featured drug and alcohol dependence, abuse, unemployment, and low levels of education<sup>106</sup>. Violence-related trauma (particularly from sexual assault) is exacerbated by the practice of strip-searching women when taken into custody and after receiving visitors.

Incarcerated women and their children have little or no access to counselling and support which addresses the trauma associated with the impacts of violence and re-victimisation, or associated drug and alcohol dependence. Women in prison also have very limited or no educational opportunities to help them gain employment after release. The result is commonly a persistent, generational cycle of *violence-crime-prison-violence-crime-prison*<sup>107</sup>.

Many other women and their children are also denied an effective crisis response because they live in isolated, remote and rural parts of the country. Some governments, including the Australian Government, have funded or established 1800 telephone crisis lines in an attempt to overcome the issues for women in isolated, remote and rural areas. Generally, however, most of these services:

- do not have the capacity to directly deliver therapeutic counselling in support of women in areas where there are no counselling services;
- have not capitalised on technology to immediately connect women to local services where they are available;
- have an infrastructure which is frequently duplicated in terms of separate services for sexual assault and domestic and family violence.

Trauma associated with sexual assault, domestic and family violence is the main mental health impact, and recovery from this trauma is essential to regaining health and wellbeing. Once safety is achieved, the impacts of trauma may limit a woman's capacity to recover and move forward.

<sup>106</sup> Easteal, P. 2001; Johnson, C. 2005; Quixley, S. Searle, P. and Kilroy, D. 2007.

<sup>107</sup> *Ibid.*

*“Recovery from trauma resulting from violence must be offered by specialist trauma counsellors and be based on the following principles:*

- Sexual, domestic and family violence are gendered crimes, a product of patriarchy and a human rights abuse. This violence impacts on all communities within our society.*
- The responsibility for the offence is always with the perpetrator.*
- The psychological injury resulting from sexual, domestic and family violence is based in trauma. The therapeutic process toward recovery begins at the first point of contact with support and recovery services. Such responses must be evidence-based and best practice.*
- Client self-determination and empowerment are critical to recovery from sexual, domestic and family violence.*
- All people who have experienced sexual, domestic and family violence have a right to receive compassionate professional assistance in their recovery, access to quality medical services and full redress for the crime, including where appropriate, timely access to forensic services through the criminal justice system.”*

*Karen Willis  
NSW Rape Crisis Centre, 2008*

## **Workforce capacity**

Increasing the responsiveness and availability of services to respond to the needs of women and their children affected by sexual assault and domestic and family violence, will only be effective if there is an appropriately skilled workforce to deliver them.

The majority of community-based service providers responding to sexual assault and domestic and family violence are employed under the Social and Community Services Award. This provides for a service co-ordinator’s salary at a rate \$20,000 per annum less than an Administration Officer in the state public service with similar responsibility and autonomy. Consequently, it is difficult to attract and retain professional and appropriately skilled workers to these specialist services. This difficulty increases in rural, remote, and isolated areas, and the costs of accessing such services makes them more unattainable the further one moves from the cities.

Within the purview of its social inclusion agenda, the Australian Government has commenced a process for developing a National Compact with the not-for-profit sector to improve and strengthen working relationships. The Australian Council of Social Services has been commissioned to undertake sector consultations as part of this process and the Community and Disability Services Ministers’ Advisory Council is also driving a Workforce Profile Project<sup>108</sup>.

<sup>108</sup> Department of Families, Housing, Community Services and Indigenous Affairs, 2008.

## The critical role of informal support

In the course of developing the Plan of Action, the Council repeatedly heard about the heavy reliance on the ‘informal helping system’ of extended family and community members who support women and their children experiencing or escaping violence, particularly in Aboriginal and Torres Strait Islander communities. Informal ‘workers’ at the front line are rarely recognised or targeted for support, training, reimbursement or respite, despite heavy reliance on their practical and emotional skills by women and their children seeking safety. A focus on using the structures and resources already existing in communities, and on building the skills of natural helpers within communities, should also be funded to strengthen existing community capacity to service and support local needs. Building the local workforce, rather than ‘flying in’ external ‘experts’ will improve the employment opportunities for local people. It will also improve the continuity of relationships, the continuity of care and the skills within the local community.

## Access to safe accommodation

Between 1985 and January 2009, the Supported Accommodation Assistance Program (SAAP), a joint Commonwealth-State and Territory initiative, was the major response to homelessness in Australia and the source of funding for women’s shelters and safe houses for women and children escaping domestic and family violence<sup>109</sup>. A recent evaluation of SAAP found there are both increasing numbers of people seeking support from SAAP services, and an increasing complexity of client needs<sup>110</sup>. These issues are dealt with more fully in the Australian Government White Paper on homelessness, *The Road Home: A National Approach to Reducing Homelessness*<sup>111</sup>.

Some supported accommodation models exclude women for substance abuse, disability, transgender identity, having male children over a particular age (in some cases over the age of 9 years), their migration status, lack of income and eligibility for Centrelink payments, and mental health issues<sup>112 113</sup>. While these issues must be addressed through increasing service capacity in terms of resources and expertise, increased access to safe, long-term housing is also essential. This is also addressed in *The Road Home*.

109 The SAAP Agreement has been absorbed into new Commonwealth/State arrangements including the National Affordable Housing Agreement.

110 SuccessWorks Pty Limited, 2004.

111 Department of Families, Housing, Community Services and Indigenous Affairs, 2008.

112 Australian Institute of Health and Welfare, 2007.

113 SuccessWorks Pty Limited, 2004.

In particular, *The Road Home* and the Plan of Action focus on the need to increase the application of ‘ouster’ or ‘exclusion’ orders provided for in all State and Territory domestic and family violence laws. These legislative provisions enable perpetrators of domestic and family violence to be removed, and women and children to remain in the family home where it is considered safe and desirable for them to do so. As identified in *The Road Home*, the effective implementation of these legislative provisions requires specialist services to assess the safety risks for, and support needs of, women and their children; brokerage funds to stabilise housing or increase home security; and seamless criminal justice, health and community services policies and protocols to support women and their children to secure safety at home.

### **The needs of children**

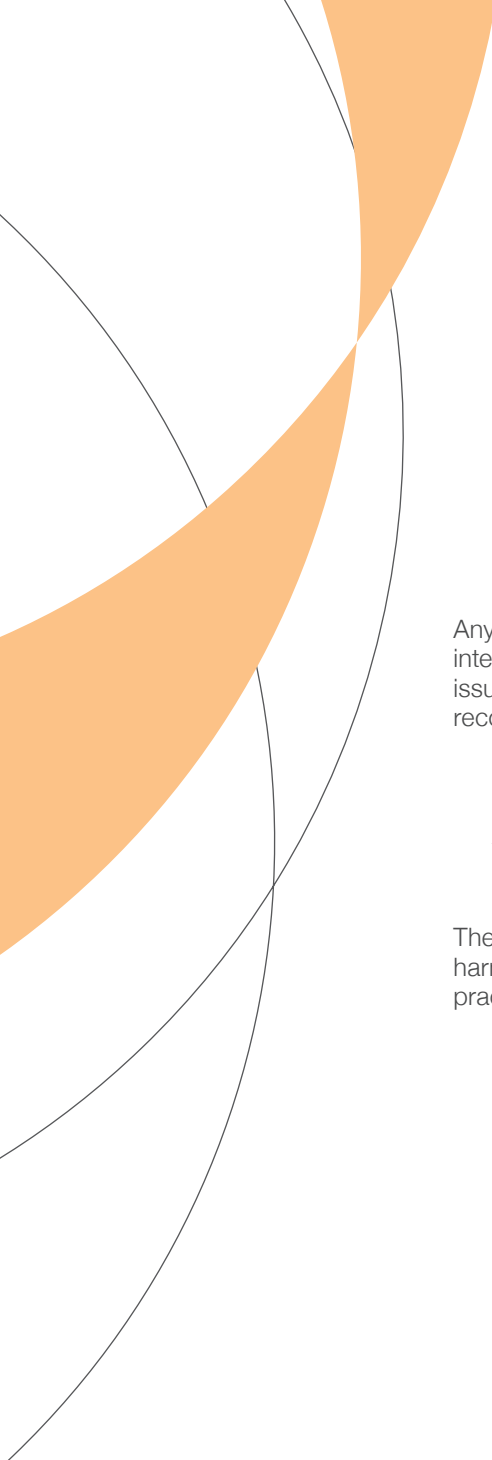
Children also experience domestic and family violence through witnessing it, and living in a household where their mothers are being abused. Some children also directly experience violence themselves. Whether witnessing or experiencing violence, children are profoundly affected<sup>114</sup>.

Although some women’s refuges and other domestic and family violence services provide responses specifically for children, the majority of services for women are not able to provide for the counselling and support needs of children. This gap in service provision must be properly addressed to minimise the impact and trauma of exposure to violence on children’s long-term health and well-being. Indeed, there is little research that improves our understanding of the long-term impacts of continued exposure to trauma on the psychological, physical and brain development of children, or how this exposure impacts their personality, impulse control and, ultimately, their propensity to perpetrate violence in the future<sup>115</sup>.

The intersection of child protection and family law in terms of the safety and protection of women and their children was raised constantly to the Council. There was an elevated level of concern and urgency throughout the written submissions, community meetings, one-on-one interviews with survivors and the expert roundtables around this issue. It is specifically raised under Outcome 4 of this Plan. It is vital that the needs of children in relation to their mothers’ experience of violence do not fall into a chasm between legal and service systems.

114 Humphreys, C. 2006.

115 Langton, M. 2009.



Any services responding to children affected by domestic and family violence must interface appropriately with the services for their mothers. The importance of this issue to the long-term safety of all women and their children warrants a particular recommendation by the Council to government (Recommendation 9 of the Plan):

*Recommendation 9: That the Australian Government work with State and Territory governments to ensure the National Framework for Protecting Australia's Children meets the needs of children who witness and/or experience domestic and family violence.*

The National Framework for Protecting Australia's Children and this Plan must be harmonised to mobilise investment and services to ensure that no law, policy or practice jeopardises the safety and well-being of women and their children.

## Strategies and actions

To make sure that services meet the needs of women and their children, the Plan of Action identifies four key strategies:

- 3.1 Strengthen service and workforce capacity.
- 3.2 Increase access to safe accommodation.
- 3.3 Undertake specific responses to ensure equitable access to services.
- 3.4 Build the evidence.

### 3.1 Strengthen service and workforce capacity

3.1.1 Develop and implement a well supported and funded workforce strategy to support the attraction, recruitment, retention, development and succession planning for staff working in sexual assault, domestic and family violence services. The strategy should address: recognition of the complexity and the true market value of the work undertaken in the fields of sexual assault, domestic and family violence; whole of workforce issues, including skills and qualifications, career pathways, training and development, networking and professional support; resourcing requirements, which are to be met as part of funding programs and services; and strategies to build the competency of people within communities (particularly rural and remote communities) to be engaged as the service providers.

3.1.2 Develop and implement a comprehensive strategy to acknowledge, support, train and reimburse community members who form the informal helping system for women and their children experiencing domestic and family violence, with the early focus for support and investment on the helpers at the front-line in rural, remote and isolated communities.

3.1.3 Ensure that all undergraduate students enrolled in law, medicine, social work and relevant allied academic courses, undertake compulsory course work covering the nature and dynamics of sexual assault and domestic and family violence, and relevant law.

3.1.4 Expand training and support to rural practice nurses and Aboriginal health workers in sexual assault and domestic and family violence assessment and referral.

### **3.1 Strengthen service and workforce capacity cont.**

3.1.5 Develop and implement multiple training and accreditation strategies for medical and allied health professionals, legal practitioners and community service workers to develop their understanding of the structural nature and impacts of sexual assault, and domestic and family violence on women and their children, taking account of factors such as age, ethnicity and disability.

3.1.6 Develop and implement model codes of practice to ensure that there is consistency, transparency and accountability between sectors (health, community, legal) in delivering services that respond to sexual assault, and domestic and family violence. The codes of practice should apply to a range of front-line workers, and include core principles and values to guide service delivery that reflect the diversity of women experiencing violence, and ensure approaches that focus on intersectionality to address the compounding factors that increase a woman's vulnerability to violence.

### **3.2 Increase access to safe accommodation**

3.2.1 Governments at all levels support the full implementation of strategies concerning domestic and family violence articulated in *The Road Home: A National Approach to Reducing Homelessness* and in Outcome 4: 'Responses are just' of this Plan of Action.

3.2.2 Audit crisis accommodation services to determine their accessibility and safety for all women experiencing violence with a particular focus on rural women, girls and young women, older women, women with adolescent boys, Aboriginal and Torres Strait Islander women, women with disabilities, women with no income, immigrant and refugee women and women with mental health, alcohol and/or drug dependence issues.

3.2.3 Following the audit of crisis accommodation services, increase service capacity and revise eligibility criteria, where required, to ensure equitable access to crisis support and accommodation for women and their children regardless of circumstances such as geographic location, cultural background and English language proficiency, disability, sexuality, presence of male children or addiction.

3.2.4 Develop and distribute information on a range of models for safe accommodation that can be applied or adopted based on local circumstances, including safe places, outreach support, removal of perpetrators, or assistance with relocating women from communities where there is no safe haven.



### **3.3 Undertake specific responses to ensure equitable access to services**

3.3.1 Following consultation with the sector, establish a professional national telephone and online crisis support service for anyone in Australia who has experienced, or is at risk of, sexual assault and/or domestic and family violence. The service should integrate and coordinate with existing services in all States and Territories, offer professional counselling, provide information and referrals, use best practice technology, link with other 1800 numbers, have direct links with relevant local and state services, and provide professional supervision and advice to staff in services in isolated and remote areas.

3.3.2 Provide funding to support a national network of locally developed healing centres and other emerging initiatives and support services for Aboriginal and Torres Strait Islander communities in urban, regional, rural, remote and isolated areas, to address their experiences of trauma and violence.

3.3.3 Explore best practice, develop responsive models and increase funding to women's domestic and family violence services to enhance responses to children affected by domestic and family violence, especially in relation to strengthening the mother-child relationship in the aftermath of violence.

3.3.4 Ensure children who are living with, or have lived with, sexual assault and/or domestic and family violence do not have their safety, wellbeing, support and counselling needs compromised, and that all interventions are in accord with the safety and wellbeing of their mothers.

3.3.5 Ensure adult survivors of child sexual assault, domestic and family violence have access to counselling, court support and practical assistance whenever they choose to disclose their past experiences of violence.

3.3.6 Provide access to funding schemes for women with disabilities to enable them to control and manage who is employed to provide care and support for them in their home.

3.3.7 At every point in the service and justice system ensure services are adequately funded to provide professional interpreting to victims/survivors who are not confident in their English language competency.

3.3.8 Ensure interpreter services for women experiencing violence (including interpreters competent in Auslan) receive training to ensure interpreters understand issues related to sexual assault, and domestic and family violence, and are able to interpret in a sensitive yet impartial manner.

### **3.3 Undertake specific responses to ensure equitable access to services cont.**

3.3.9 Support the effective delivery of mental health services to women and their children who have been victims of sexual assault and/or domestic and family violence. This should include enhancing the capacity of existing mental health services to support women in times of crisis, as well as increasing access to subsidised ongoing counselling services.

3.3.10 Create a brokerage funding program for local service providers in order to ensure early access to emergency services to ensure the safety of women and their children, regardless of where they reside.

3.3.11 Ensure community awareness and education programs are provided in language, and through media, which are accessible to older women, women with disabilities and women not competent in English.

3.3.12 Ensure services (legal, medical and community) recognise and understand the extra complexity experienced by immigrant and refugee women and their children in order to improve their capacity to respond appropriately and effectively.

3.3.13 Explore the feasibility of providing a Medicare payment to rural general practitioners for the provision of forensic medical sexual assault examinations in order to encourage more rural doctors to undertake training and provide these services.

3.3.14 Provide access to specialist trauma and recovery counselling services for women in prison and their children; provide access to educational opportunities for women in prison; and strengthen post-release services for women to ensure they have access to safe and supported housing, education and training, employment assistance and counselling.

### **3.4 Build the evidence base**

3.4.1 Develop a national evaluation approach to assess the effectiveness of service responses to women and their children who have experienced violence, including women with disabilities, living in a range of settings (at home, in the community and in supported residential accommodation).

3.4.2 Include in funding agreements a requirement, and sufficient resources, to undertake rigorous, independent evaluations of all government-funded initiatives and programs and make the results publicly available, as a condition of continuing funding.

3.4.3 Fund research and develop excellent practice models which enable women to transition from emergency accommodation to more stable medium – longer term housing.

3.4.4 Undertake research on the specific needs of older women affected by violence, especially sexual violence, to ensure services are responsive to their particular needs.

3.4.5 In partnership with peak bodies and the sector, review, update and promulgate standards and good practice guidelines to support programs for women and their children who have experienced violence to assure quality service.



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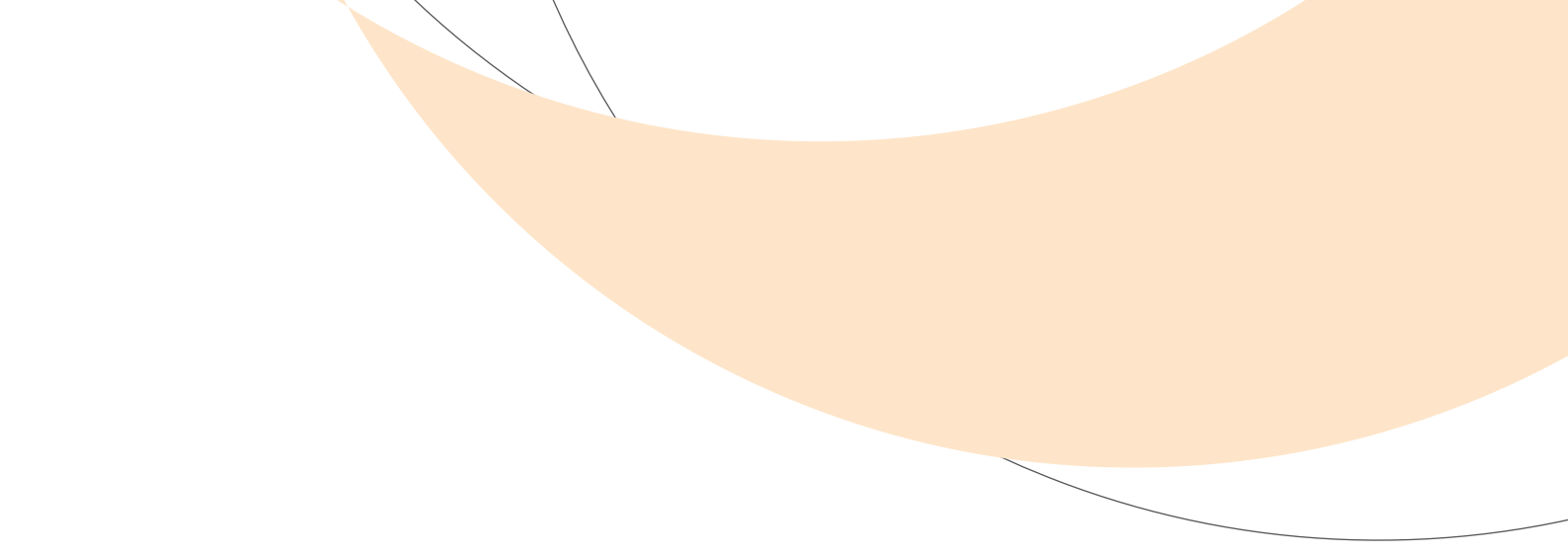
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## Outcome 4: Responses are just

*“... States should pursue by all appropriate means and without delay a policy of eliminating violence against women and, to this end, should: ... exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons.”*

*Article 4 of the United Nations Declaration on the Elimination of Violence against Women*

Article 4 of the *Declaration on the Elimination of Violence against Women*, adopted by the United Nations General Assembly in 1994, unambiguously states the premise on which our legal response to violence against women should be based.

Violence against women and children is a fundamental violation of their basic human rights. States are therefore obliged to prevent violations of human rights in the private sphere; to regulate and control private actors; and to investigate violations, punish perpetrators and provide effective remedies to victims<sup>116</sup>. States may be held responsible for private acts, such as domestic and family violence, if they fail to act with due diligence to prevent, investigate, or punish acts of violence, and for providing compensation<sup>117</sup>.

In 2009, Australia became a party to the Optional Protocol to the *Convention on the Elimination of all forms of Discrimination Against Women (CEDAW)*. The Optional Protocol enables women in Australia to make a complaint, after other legal options have been exhausted, to the United Nations' Committee on the Elimination of Discrimination against Women about alleged violations of Australia's obligations under CEDAW.

*“Acceding to the Optional Protocol will send a strong message that Australia is serious about promoting gender equality and that we are prepared to be judged by international human rights standards.”*

*The Hon. Tanya Plibersek MP  
Minister for the Status of Women*

*Joint Media Release with the Hon. Robert McClelland MP, Attorney-General  
24 October 2008*

<sup>116</sup> Draft Articles on Responsibility of States for Internationally Wrongful Acts, as contained in Report of the International Law Commission on the Work of its 53rd Session, 2000.

<sup>117</sup> CEDAW General Comment 19: Violence against Women, as contained in UN Doc A/47/38 (1992). The Beijing Declaration and Platform for Action adopted by the Beijing Fourth World Conference on Women reaffirmed this principle: Report of the Fourth World Conference on Women, Beijing, 4–15 September 1995, UN GAOR, Annex I, 1995.



## A human rights approach

Human rights frameworks have also recently articulated principles that should underpin our legal response to violence against women<sup>118</sup>. The Council sees these principles as being closely aligned to the concerns raised during its consultations and to Australia's recent adoption of the Optional Protocol to CEDAW.

These core principles provide the basis against which Australia's performance in upholding, respecting, and protecting the right of women and children to live free from violence must be measured. They are:

- Make criminal and civil laws gender sensitive.
- Ensure access to justice for women.
- Ensure best practice during investigation and prosecution.
- Administer appropriate punishments.
- Provide civil remedies in conjunction with criminal penalties.
- Mandate professional development for judicial and law enforcement personnel, and other professionals within the legal sector.
- Provide for adequate reparation and compensation.
- Enact national plans of action and gender mainstreaming.
- Undertake research and compilation of sex disaggregated data.
- Allocate adequate budgets.

The Council's work is informed by these principles to the extent that they reflect the priority areas identified through the consultations, and other evidence-based research it has undertaken. These priorities do not encompass the full breadth and complexity of the legal issues that affect women and children who experience sexual assault and domestic and family violence. The Council trusts that the principles underpinning the Plan of Action will help serve those who continue to advocate for reforms across the full range of issues encountered by women in seeking a "just" legal response.

<sup>118</sup> Amnesty International, 2004.



## The changing Australian context

Against the background of these international developments, decades of reform to sexual assault and domestic and family violence laws and procedures in Australia (driven largely by advocates committed to equality and justice for women), have resulted in substantial change to the laws, procedures and practices that govern our legal response to violence against women.

The Council acknowledges the extensive and progressive legislative and procedural reforms recently undertaken by the States and Territories in this area. These developments have included:

- widening the definition of offences so that women's and children's experiences of violence are more appropriately recognised and encompassed within the law;
- introducing pro-arrest policies and risk assessment tools to improve police practices when responding to reports of violence;
- introducing specialist approaches such as priority listing of sexual offence cases and of domestic and family violence hearings;
- establishing specialist court support services and introducing more flexible arrangements within courts to reduce the extent to which victims feel intimidated and alienated;
- improving access to information and support for victims (such as witness assistance schemes and specialist court support services, and the provision of applicant support workers);
- attending to procedural reforms aimed at improving the experience of giving evidence (such as introducing alternative arrangements for giving evidence and prohibiting or limiting the extent to which the accused, or the defendant, can directly cross-examine the victim).

Despite these changes, the legal response remains inadequate for many women and children. The extent to which the legal system fails to adequately protect and ensure the safety of women and children affected by violence was frequently addressed by service providers and experts with whom the Council consulted; and was courageously expressed through a substantial number of submissions from those directly affected by violence<sup>119</sup>.

<sup>119</sup> The Council uses the authority it was given by the 2,000 or more people across Australia who contributed to the Plan of Action through consultations, to identify the priority issues of national relevance and concern at this time. These are addressed under the following themes:

- Ensuring accessible and equitable justice for women and their children
- Ensuring the availability of just civil remedies in parallel with criminal penalties
- Ensuring excellence in legal responses to women and their children
- Ensuring judicial officers, law enforcement personnel and other professionals within the legal system have appropriate knowledge and expertise.

There are points at which these principles might apply equally to sexual assault and domestic and family violence and, therefore, their exploration is more meaningful if considered together. At the same time, some issues require separate consideration. This is largely the result of the different historical and political paths that have characterised the contexts in which reform agendas have been set across each sector, and how responsive governments and the legal system have been to their demands for reform.

## Accessible and equitable justice for women and their children

Access to justice and equality before the law are fundamental concepts within the Australian legal system. That means that the legal system must ensure that it is accessible to all, regardless of gender, ethnicity, sexuality, disability, age, socio-economic background, or any other such characteristic<sup>120</sup>. Equality and freedom from discrimination should be the hallmark of a just response to violence against women and their children.

Notwithstanding the significant past reforms to improve access to justice for women subjected to violence and their children, the Council's consultations highlighted the following examples where persistent barriers effectively undermine women's equal access to justice:

- when access is differentiated by ethnic diversity, disability, class, or age;
- where services and access to justice are not available because of geographic remoteness and isolation;
- where appropriately trained interpreters are not made available to overcome language barriers and complex communication needs;
- where only one interpreter is provided to assist both the complainant and the defendant during the reporting process and subsequent court hearings;
- when women with disabilities face misconceptions about their credibility and their memory, as a result of which their complaints about assault may not be taken seriously by police or the courts;
- where legal aid is not provided to ensure appropriate legal representation.

Aboriginal and Torres Strait Islander women experiencing domestic and family violence face particular barriers to justice for themselves and their children. These obstacles include the historic distrust of police associated with their role in the colonisation of Aboriginal and Torres Strait Islander people and the removal of children; and the over-representation of Aboriginal and Torres Strait Islander people, including women, in the criminal justice system<sup>121</sup>. Other factors which discourage Aboriginal and Torres Strait Islander victims/survivors from reporting violence, particularly in remote areas, include a lack of police, entrenched community attitudes that violence is normal, or even a fear of retribution from the perpetrator's family.

<sup>120</sup> Australian Law Reform Commission, 1994.

<sup>121</sup> See, for example, Aboriginal and Torres Strait Islander Commission, 1996; Memmott et al 2001; Aboriginal and Torres Strait Islander Women's Taskforce, 2000.

Barriers to access to justice for immigrant and refugee women and children experiencing violence were also identified throughout the consultations. These included lack of knowledge of the legal system, limited translated information about legal rights, and fear of interaction with the legal system based on pre-migration experiences. A particular issue that is consistently raised by various immigrant and refugee groups and communities is that of ensuring access to the family violence provisions of the *Migration Regulations 1994*<sup>122</sup>.

The Family Violence Provisions<sup>123</sup> of the *Migration Regulations* are designed to ensure that visa applicants do not remain in abusive relationships in order to obtain permanent residence in Australia. In addition to the trauma of being in violent relationships, women in these situations have the added vulnerability of being recent immigrants to Australia, often without family or social support networks independent of their abusive partner. They are in an unfamiliar environment and often are unaware of domestic violence provisions in the *Migration Regulations* and the existence of support services.

Recent amendments to the *Migration Regulations*<sup>124</sup> have attempted to address some of the more pressing issues, but barriers to a just outcome remain. For instance, the evidence requirements to prove domestic and family violence for the purposes of the *Migration Regulations* can be difficult for some women experiencing such abuse. Evidence can be judicial or non-judicial. Judicial evidence usually requires a final civil law protection order. Research points to a high level of under-reporting of domestic and family violence, especially among immigrant and refugee women, and few proceed right through the court process<sup>125</sup>. This would suggest that many immigrant and refugee women would have difficulty meeting the judicial evidence requirement of the regulations.

Non-judicial evidence, involving the provision of statutory declarations from professionals identified in the regulations as “competent persons”, can also be challenging, particularly as the legislation is prescriptive about the type of professional that can be considered to be a competent person. For women in rural and remote regions of Australia, accessing these professionals may be very challenging<sup>126</sup>.

122 New South Wales Migrant Resource Centres and Immigrant Women’s Speakout Forum, 2008.

123 Division 1.5 - Special provisions relating to family violence.

124 The most recent amendments to the *Migration Regulations 1994* (Cth) took effect on 15th October 2007.

125 NSW Women’s Legal Service, 2007.

126 Immigrant Women’s Domestic Violence Service, 2006.

## **Just civil remedies must operate in parallel with criminal law and prioritise safety**

The civil law has a pivotal role in responses to women and children experiencing violence, including through the provision of crimes compensation and civil protection orders.

### **Compensation**

Both customary international law and various international treaties to which Australia is a signatory provide the legal foundation for victims' right to compensation. This has been expressed through a range of different pieces of legislation that provide restitution, compensation, and in some cases rehabilitation or counselling.

Crime compensation for victims of sexual assault and family violence serves a variety of important functions. Firstly, it may provide financial assistance and support for victim/survivors to manage the material aspect of their loss. Research<sup>127</sup> undertaken with victim/survivors highlights that compensation is not primarily about financial recompense, it may also assist in restoring the victim/survivor's sense of dignity and raise public awareness about the harms victims have suffered<sup>128</sup>. Compensation schemes can further form a crucial part of restorative justice and serve as focal points in the healing process. As such, criminal compensation schemes must be a core component of a just legal response.

### **Protection orders under civil domestic and family violence law**

Each Australian jurisdiction has domestic/family violence laws which provide for a civil protection order and an accompanying criminal offence for a breach of such an order, to give the order force. Apart from breach provisions, civil domestic and family violence protection orders are intended to be used in conjunction with the criminal law, where there is evidence that a crime has been committed. This includes, for example, criminal assault and criminal damage to property. The combined use of civil and criminal law in this way aims to restrain offenders from perpetrating future violence, while appropriately holding them accountable for past violence.

The circumstances in which civil protection orders can be made and breached vary depending on the jurisdiction, but they are generally aimed at protecting victims from future domestic and family violence; however that is defined in the respective jurisdiction. The civil nature of the order allows for a lower standard of proof, making orders easier to obtain than a conviction and can be tailored to each situation, prohibiting behaviour not always covered by the criminal law.

<sup>127</sup> CASA House, 1997.

<sup>128</sup> *Ibid.*

## Ouster/exclusion orders in domestic and family violence cases

While not all victims of domestic and family violence want to end their relationship (preferring to stay in the relationship, but wishing the violence to stop), many have no other option. In those cases, a just response is to ensure that perpetrators of domestic and family violence are removed from the family home where it is safe, appropriate and desirable for the woman and her children to remain. Legally, this can be achieved under all State and Territory domestic and family violence laws, which provide for “exclusion” or “ouster” orders as a condition on a civil protection order<sup>129</sup>.

There is broad commonality on the central features of different State and Territory legislation, though with some significant differences<sup>130</sup>. Some jurisdictions give greater emphasis to the needs of the protected person than others, some provide a statutory presumption in favour of the protected person, while others require that a range of factors be considered by the court in relation to such orders. These factors include the accommodation needs of the perpetrator of the violence and the welfare of any children.

Several jurisdictions<sup>131</sup> have recently sought to increase the use of ouster/exclusion orders through various means<sup>132</sup>. However, these provisions remain under-utilised due to:

- factors such as legitimate concerns about safety and security, some of which can and will be addressed through increased brokerage funding<sup>133</sup>;
- attitudes of justice officials about the rights of the perpetrator, compared to those of the victim;
- the interface with tenancy law<sup>134</sup>.

For example, where the victim of violence requires the perpetrator to be removed from the home, some jurisdictions link domestic and family violence laws with relevant tenancy law to enable amendments to tenancy agreements to accommodate ouster/exclusion orders.

The Council endorses and extends the strategies contained in *The Road Home*<sup>135</sup> to increase access to ouster/exclusion orders to remove perpetrators of domestic and family violence and enable women and their children to remain safely in their home, with strengthened support and protection.

<sup>129</sup> Each State and Territory has slightly different terminology (protection orders; restraining orders; apprehended violence orders; intervention orders; injunctions).

<sup>130</sup> Langman, C. 2008.

<sup>131</sup> ACT, Tasmania, Northern Territory, New South Wales and Victoria.

<sup>132</sup> For example, Tasmania and Victoria enable ouster/exclusion orders to be part of police issued protective orders; Victoria requires that a court making a Family Violence Intervention Order (including an interim FVIO) must also consider excluding the respondent from the home; and the Northern Territory legislation contains an express presumption that the protection of the aggrieved is best achieved by them remaining in the home, excluding the respondent.

<sup>133</sup> Department of Families, Housing, Community Services and Indigenous Affairs, 2008.

<sup>134</sup> In the case of Queensland and Victoria, for example, the ‘ouster /exclusion order’ provisions are linked with the relevant tenancy law to enable relevant changes to tenancy agreements at the time an ouster order is made.

<sup>135</sup> Department of Families, Housing, Community Services and Indigenous Affairs, 2008.

## Removing geographic boundaries for domestic and family violence protection orders

For some women, ending a violent relationship will mean fleeing to another State or Territory in the pursuit of safety<sup>136</sup>. Reciprocal legislative arrangements enable the registering of external orders. That is, an order made in any Australian State or Territory or New Zealand may be registered in any other Australian State or Territory or New Zealand. These arrangements involve a registration application to the relevant court in the receiving state, an administrative task carried out by an official of the court. Once registered, the external order is enforceable in the receiving jurisdiction as if it were made there. This falsely assumes a high degree of consistency in the domestic and family violence legislation across jurisdictions.

While these reciprocal arrangements appropriately intend to protect victims of domestic and family violence, the system is cumbersome, and leaves some women legally unprotected from further abuse, although a court order has been made for their protection. Many women who have fled violence remain unaware of the need to register an interstate order, or they forgo legal protection because they are afraid that registering the order will alert the respondent to their whereabouts. In some cases there may be two or more orders, with various conditions, operating in different jurisdictions because of adaptations made in receiving States or Territories.

Another difficulty with the portability system is that it does not address situations in which the respondent has moved to another state but continues to intimidate and harass the aggrieved through various means including telephones. Such a scenario might involve a victim in Queensland, with a Queensland protection order, and a perpetrator who has moved across the border into New South Wales but who continues to breach a no-contact order. Without the woman registering the order in New South Wales (which would require her to move there), the New South Wales police cannot enforce the Queensland order, and the Queensland police have no jurisdiction in New South Wales.

Further, the system requires the registering court to notify the Commissioner of Police and, in some jurisdictions, the court where the original order was made.

The issues of natural justice, safe transition and continued protection across jurisdictions, as well as supporting efficiency for courts, could be addressed through a national protection order registration scheme. Under this scheme, a domestic and family violence order would be automatically included on the national register upon being made by the relevant court, and subsequent registrations and adaptations in other jurisdictions would also be automatically registered and coordinated in the national registration system. Consideration would need to be given to the registration of police-issued protection orders, operating in some jurisdictions in this proposed system.

136 Intimate partner violence frequently escalates after separation, and separation is a high risk factor for domestic homicide. Wallace, A. 1986; Wilson, M. and Daly, M. 1993; Hotton, T. 2001; Johnson, H. and Hotton, T. 2003.

On the basis of these issues highlighted in the process of developing its Plan of Action, the Council recommends that urgent attention be given to the need for automatic registration of civil protection orders to safeguard women and their children fleeing domestic and family violence.

### The nexus between family law, child protection and domestic and family violence

Domestic and family violence is a common cause of relationship breakdown<sup>137</sup>, with the process of separation creating specific vulnerability to chronic and dangerous post-separation violence for some women and their children<sup>138 139 140 141 142 143</sup>. The violence they experience can escalate and take different forms after separating (such as stalking; actual or threatened child abduction; and litigation abuse, including legal action to prevent abused women and children from re-locating)<sup>144 143</sup>.

Paradoxically, and in spite of the dangers, separation is a key safety strategy that women and their children use to escape violence and the escalation of trauma-induced mental health problems. Many child-protection workers regard women continuing to live with domestic violence as evidence of a “failure to protect”. Separation from the perpetrator of violence and abuse is a primary safety strategy advocated by child-protection workers who sometimes threaten removal of children from the home if action to separate is not taken<sup>146</sup>. Issues of family violence and child abuse are therefore central, not peripheral, issues in the family law arena<sup>147 148</sup>.

137 See the Standing Committee on Law and Justice, 2006; where 60 per cent of couples cited family violence as a contributing factor and 30 per cent describing it as a major reason why their relationship ended.

138 Humphreys, C. and Thiara, R.K. 2003.

139 Mouzos, J. and Makkai, T. 2004.

140 Johnson, H. 1998.

141 Wilson, M. and Daly, M. 1992.

142 Dearden, J. and Jones, W. 2008.

143 Mouzos, J. 2005.


144 Johnson, C. 2005.

145 Richards, L. 2004.

146 Humphreys, C. 2008; Magen, R. 1999; Zannettino, L. 2006; Irwin, J., Waugh, F. and Wilkinson, M. 2002.

147 A review of 240 case files drawn from the Family Court of Australia and Federal Magistrates Court in 2003 found that in the general litigant sample 22 per cent contained allegations of child abuse, though in the judicially determined sample this rose to 46.4 per cent. Most allegations of family violence occurred alongside allegations of child abuse. Moloney, L. Smyth, B. Weston, B., Richardson, N. Qu, L. and Gray, M. 2007.

148 Moloney, L. Smyth, B. Weston, B. Richardson, N. Qu, L. and Gray, M. 2007.  
See also Standing Committee on Law and Justice, 2006.



The *Family Law Amendment (Shared Parental Responsibility) Act 2006*, however, represents a potential obstruction to a just and integrated response to family violence in Australia<sup>149</sup>. The Act states that “in determining what is in the child’s best interests, the court must consider the matters set out in subsections (2) and (3).” Subsection (2) states: “the primary considerations are: a) the benefit of the child of having a meaningful relationship with both of the child’s parents; and b) the need to protect the child from physical or psychological harm, from being subjected to, or exposed to, abuse, neglect or family violence<sup>150</sup>.”

Under the *Family Law Amendment (Shared Parental Responsibility) Act 2006*, it is left to the court to decide how to reconcile the objectives of a child’s right to a meaningful relationship with both parents and the protection of the child from exposure to violence when there is conflict. Section 61DA also states that: “[w]hen making a parenting order in relation to a child, the court must apply a presumption that it is in the best interests of the child for the child’s parents to have equal shared parental responsibility for the child.”

While the legislation does not necessarily privilege either of the primary considerations, it seems that there have been considerable problems in reconciling the two in practice. Under previous (almost identical) legislation<sup>151</sup>, evidence emerged that a very strong pro-contact culture had arisen and that the “the opportunity for a significant relationship with both parents” took precedence over a history or even recent experiences of violence and abuse<sup>152</sup>. Evidence from the Council’s consultations, and from the judiciary itself, tends to show that such a presumption is inappropriate for a great number of families using the Act<sup>153</sup>.

Firstly, the legislation places the burden of rebutting this presumption on the most vulnerable people who are using the Act (namely women and children escaping violence and abuse). This is because evidence is required to show that there are reasonable grounds that the parent of the child has engaged in abuse, or family violence, or that it is not in the child’s best interests to have shared parental responsibility<sup>154</sup>.

<sup>149</sup> While it is early in the implementation of the *Family Law Amendment (Shared Parental Responsibility) Act 2006* (Cth) to make this statement, the major consultation across the sector (see p.11) showed unanimous concern about the impact the Act was already having on women and children living with domestic and family violence.

<sup>150</sup> *Family Law Amendment (Shared Parental Responsibility) Act 2006* (Cth), section 60CC. Additional considerations are noted in section 60CC (3).

<sup>151</sup> Section 60(B) of the *Family Law Act 1975* (Cth).

<sup>152</sup> Kaye, M. Stubbs, J. and Tolmie, J. 2003; McInnes, E. 2007; Kaspiew, R. 2005; Laing, L. 2008; Rhoades, H. Graycar, R. and Harrison, M. 2000; Dewar, J. and Parker, S. 1999.

<sup>153</sup> Former Chief Justice Nicholson states: –‘an assumption that a relationship with both natural parents is invariably in the best interests of the child... is not an assumption based upon established research, but rather an emotional assumption that has been assiduously fed by lobby groups to the point where the Federal Parliament has amended the *Family Law Act* in such a way as to give legislative force to it and, I believe, has therefore placed many of our children in much greater danger than was the case previously.’ Nicholson, A. 2007.

<sup>154</sup> This is not to suggest that time with a child’s parent even where there is a history of violence is impossible. In some (but not all) cases time which is safe can be negotiated. However, where there is a history of violence the day by day negotiations required for shared parental responsibility provide too many opportunities for continuing conflict, abuse and violence which are highly damaging to children as well as their mothers - see for discussion of children’s on-going distress. Bream, V. and Buchanan, A. 2003.



Secondly, where there is violence, women are commonly unable to meet both the “protective parent” criteria and the criteria for a “friendly parent”, defined as “the willingness of each parent to facilitate the child’s relationship with the other parent”<sup>155</sup>, and they risk state child protection intervention without a protective stance towards the safety and well-being of their children<sup>156</sup>. And, finally, the tension between the children’s long-term need to “know their father” in a “pro-contact” culture, over their safety and wellbeing and damage to their neurological development requires early evaluation and review. The Council therefore proposes that any future reform be informed by both empirical research and the views of those involved in the family law system.

It is also the case that State and Territory civil protection orders and orders under the *Family Law Act 1975* can overlap or conflict. While state legislation is progressively widening definitions of domestic and family violence, the *Family Law Amendment (Shared Parental Responsibility) Act 2006* has moved to a more restrictive definition, whereby the person must be in reasonable fear or apprehension for their well-being or safety due to actual or threatened conduct of a violent family member<sup>157</sup>. There is anecdotal evidence from Women’s Legal Services Australia that this tension can result in orders that are unenforceable in practice. The 2008 *Report on Domestic Violence and Sexual Assault Laws in Australia*<sup>158</sup> also notes the difference between legislation as written and legislation in practice. Many State and Territory magistrates are concerned about cutting across *Family Law Act 1975* matters, and they do not use legitimate powers to revive, vary, discharge or suspend existing *Family Law Act 1975* orders that relate to contact with children when these may be jeopardising the safety of women and children. Further, the inherent tension in the *Family Law Amendment (Shared Parental Responsibility) Act 2006* between facilitating children’s contact with both parents and protecting children and their parents from family violence is exacerbated when child contact is written as an exception on protection orders and state police may then be reluctant to enforce orders.

It should be noted that the family courts have the power to clarify inconsistencies, and some States and Territories have now strengthened the civil protection legislation to provide clarity and direction to magistrates to enhance the safety and protection of children. Some also provide extensive training in relation to children, family violence and the impact of contact orders<sup>159</sup> which could form a comparative point of difference to identify the most effective legislative and policy utilisation of ouster/exclusion orders.

155 *Family Law Amendment (Shared Parental Responsibility) Act 2006* (Cth), section 60CC(4)(c).

156 Bromfield, L. M. and Holzer, P. J. 2008.

157 This definition may also not pick up on one of the most heavily weighted risk factors: obsessive jealousy and highly controlling behaviour. The evaluation of serious domestic violence offenders in Cardiff suggests that ‘perpetrator is jealous or controlling’ is a particularly important risk factor, as its presence makes 11 of the 14 other risk factors significantly more likely to occur (Robinson, 2004, p. 3). One analysis of homicide and intimate partner violence showed 26 per cent of men were over-possessive and jealous (Dobash *et al*, 2005), while another found that 67 per cent of homicide cases (14 of 21 cases) involved jealousy and controlling behaviour (Richards, 2003). Cited in Humphreys C. 2007.

158 Langman, C. 2008.

159 *Family Violence Protection Act 2008* (Vic), sections 89-93 (particularly section 93, Conditions – Children’s Arrangements).

## Presentation of evidence

Certain sections in the *Family Law Amendment (Shared Parental Responsibility) Act 2006* can tend to mitigate against the presentation of evidence of violence in the first place. These include: the provision that some or all of the costs of litigation can be awarded against a party knowingly making a false allegation or statements in the proceedings<sup>160</sup>; the more restricted definition of family violence<sup>161</sup>; and the “friendly parent” provision which assesses “the willingness of each parent to facilitate the child’s relationship with the other parent”<sup>162</sup>. This is of significant concern because past violence, although not always recognised by the future-focus of family law, is the key indicator of future violence<sup>163</sup>.

The evidence of past violence is therefore needed to inform decision making in family law proceedings and to rebut the presumption of shared parental responsibility, but the obstacles to information-sharing by stakeholders in the family law system remain a significant impediment to ensuring that women and their children are safe. Evidence of violence is collected on a case-by-case basis via subpoenae to different organisations, but confidentiality guidelines and legislative limitations on disclosure restrict access to child-protection records, civil and criminal law records and education and medical records. With the exception of the Family Court of Australia’s Magellan Case Management project<sup>164</sup>, there is a “factual vacuum”<sup>165</sup> as there are few formal agreements and communication channels between organisations able to provide this evidence, and neither the Family Court of Australia nor associated socio-legal services have the power to investigate allegations of abuse<sup>166</sup>.

Service practices also vary across jurisdictions and a recurrent problem occurs when child protection workers close cases as soon as a “viable carer” is identified and they do not provide active support through the court and follow-up monitoring to ensure the safety of the contact arrangement<sup>167</sup>. Practices regarding communication and coordination between state child protection departments, and between those departments and courts dealing with Commonwealth family law matters, require development<sup>168</sup>. Protocols between child protection and family law also need to be expanded upon and/or uniformly applied, to resolve problems of evidence, coordination and case management. Joint education forums between family law and child protection practitioners to address the procedural and legislative conflicts would also result in practical benefits for women seeking legal redress for violence.

<sup>160</sup> *Family Law Amendment (Shared Parental Responsibility) Act 2006* (Cth), section 117AB. This is a particular problem when women may have limited corroborative evidence of the violence or child abuse.

<sup>161</sup> *Family Law Amendment (Shared Parental Responsibility) Act 2006* (Cth), section 61DA(2).

<sup>162</sup> *Family Law Amendment (Shared Parental Responsibility) Act 2006* (Cth), section 60CC(4)(c).

<sup>163</sup> Women most vulnerable to post-separation violence are those who suffer more serious abuse prior to separation. This included both physical violence and serious psychological abuse. Risk assessments based on reviews of homicide data also indicate that past abuse is the most useful indicator of future abusive behaviour.

<sup>164</sup> See Brown, T. and Alexander, R. 2007; Higgins, D. 2007.

<sup>165</sup> Moloney, L. Smyth, B. Weston, B. Richardson, N. Qu, L. and Gray, M. 2007; Shea Hart, A. and Bagshaw, D. 2008.

<sup>166</sup> Higgins, D. 2007.

<sup>167</sup> *Ibid.*

<sup>168</sup> Kelly, F. and Fehlberg, B. 2002.

## Family dispute resolution

Many women who experience violence prefer, for a range of reasons, to attempt to resolve their case through engagement with family dispute resolution rather than through the courts<sup>169</sup>. Participation in family dispute resolution is required under the *Family Law Amendment (Shared Parental Responsibility) Act 2006* before filing an application for a court order unless an exception applies. One of the exceptions covers the situation of family violence. Family dispute resolution practitioners can also issue a certificate where they consider that resolution would be inappropriate due, for example, to the existence of significant power imbalances between the parties<sup>170</sup>. However, the “future focus” of family dispute resolution can divert attention from the quality of previous parenting, the risks of continuing post-separation violence, and the potential for on-going re-traumatisation of children who have been either directly abused, or exposed to violence<sup>171</sup>.

While family dispute resolution practitioners are required to develop competence in the area of family violence<sup>172</sup>, the development of this specialised area is in its early stages<sup>173</sup>. Without attention to family violence, women may feel pressured into shared parenting arrangements that provide endless opportunities for perpetrators to continue to exert power and control over both women and children. Every woman should enjoy access to a variety of victim/witness services, but it is crucial that staff are knowledgeable and qualified to support them in their interaction with the justice system.

It is imperative that the judiciary, legal officers, government agencies and service support workers understand the multifaceted nature of domestic and family violence. The motivation for ongoing domination and control, the impact and consequences of the action on the other person, and the inter-relationship between the criminal and civil law in protecting against such violence all need to be taken into account in family-law decision-making to ensure that women and their children who have experienced abuse receive consistent support from the justice and family law system.

## Alternative or parallel justice models

Since the 1990s there has been increasing debate about the utility of alternative justice models for cases of domestic and family violence and sexual assault. While alternative justice models may be broadly categorised as “therapeutic jurisprudence”, “restorative justice” and “Indigenous justice”<sup>174</sup>, it is restorative justice that has received most attention in these debates.

169 Braaf, R. and Sneddon, C. 2007.

170 *Family Law Amendment (Shared Parental Responsibility) Act 2006* (Cth), section 60I.

171 Bailey, A. and Bickerdyke, A. 2005.

172 The Council notes the advice of the Attorney-General's Department that the Attorney-General announced in 2008 that all Family Dispute Resolution practitioners will be required to demonstrate competency in identifying and managing complex family violence issues in order to retain accreditation, from 1 July 2009.

173 Braaf, R. and Sneddon, C. 2007; Bailey, A. and Bickerdyke, A. 2005.

174 In a presentation to the National Council's Judicial Roundtable Professor Kathy Daly explained the difference in terms of the key relationships in the justice process, with the offender being central in each case. In therapeutic jurisprudence the key relationship is between the judge/magistrate and the offender; in the restorative justice the key relationship is between the offender and the victim; and in Indigenous justice, the key relationship is between the offender and the elders and, in some cases, a magistrate/judge.

Restorative justice encompasses a range of practices. These include community conferencing and mediation (the most commonly used restorative justice practices in Australia). Perceived benefits of restorative justice for cases of gendered violence, when compared to the conventional criminal justice system, include that:

- the more flexible process is less threatening for victims;
- it enables victims to talk about the offence from their perspective, highlighting what they see as relevant, rather than focussing more narrowly on what is considered legally relevant;
- it can result in marshalling family and community resources to support victims;
- it enables the victim to have some say in what should happen to the offender<sup>175</sup>.

The major concerns with restorative justice relate to:

- the unequal power relationships between victims and perpetrators of gendered violence, and the capacity of the perpetrator, through subtle forms of intimidation, to exert power over their victim and therefore the restorative justice process;
- the assumption of a uniform set of community values that condemns violence against women;
- the appeal to apology and forgiveness, which are characteristics of the cycle of abuse<sup>176</sup> in intimate partner violence<sup>177</sup>;
- a concern that restorative justice will be favoured by governments because it may be seen as a cheaper option.

Largely due to concerns about the over-representation of Aboriginal and Torres Strait Islander people in the criminal justice system, Aboriginal and Torres Strait Islander women have advocated for the application of restorative justice for cases of domestic and family violence (noting that sexual assault is generally incorporated into Indigenous women's concepts of family violence)<sup>178</sup>. While it may be that restorative justice offers some potential for a more effective justice response than the criminal justice system, this conclusion is conditional upon "restorative justice being part of a holistic response, based on an assumption of Indigenous self-determination, built from the grassroots up and with control of the program and process in the hands of respected Indigenous elders, rather than criminal justice system officials"<sup>179</sup>. It must also be ensured that the rights of victims of violence are given priority, and their voices heard, in any community process to consider restorative justice measures.

<sup>175</sup> See, for example, Braithwaite, J. and Daly, K. 1994; Coker, D. 1999, 2001, 2002; Daly, K. 2002, 2006; Daly, K. and Curtis-Fawley, S. 2006; Hudson, B. 1998, 2002; Koss, M. 2000; Koss, M. Bachar, K. Hopkins, C. Quince Hopkins, C. and Carlson, C. 2004; Morris, A. 2002; Pennell, J. and Burford, G. 2002; Pennell, J. and Anderson, G. 2005.

<sup>176</sup> Walker, L. 1979.

<sup>177</sup> Stubbs, J. 1995, 1997, 2002, 2003; Coker, D. 1999, 2001, 2002; Busch, R. 2002 and Cossins, A. 2008.

<sup>178</sup> Aboriginal and Torres Strait Islander Women's Taskforce on Violence (2000); Nancarrow, H. 2006. As discussed in Nancarrow 2006, Indigenous women also report that criminal justice system intervention results in more, not less violence for Indigenous women and that restorative justice is seen as better able to meet their justice objectives. At the special consultation between the Hon. Tanya Plibersek MP, Minister for the Status of Women, and Aboriginal and Torres Strait Islander representatives in February 2009, participants also raised concerns about the consistency and fairness of sentences given to perpetrators of violence against Indigenous women and their children.

<sup>179</sup> Nancarrow, H. 2006; Behrendt, L. 2002 and Kelly, L. 2002.

These perceived benefits of and concerns about restorative justice have not been adequately tested because gender-based violence has been almost entirely excluded from restorative justice processes in Australia and internationally.

In efforts to guard against the risks of revictimisation, women subjected to sexual assault and domestic and family violence may be deprived of potential enhancements in access to justice. With this in mind, the National Council supports the cautious exploration of how elements of restorative justice may be incorporated into, or run in parallel with, the conventional criminal justice system to achieve just outcomes for women.

## **Excellence in legal responses to women and their children**


Australian laws and practices governing violence against women traverse Commonwealth and State and Territory jurisdictions and encompass criminal laws associated with rape, sexual assault, other person-related assaults, criminal damage and stalking; civil domestic and family violence laws; child protection laws; the *Family Law Act 1975*; and migration law.

The administration of these diverse areas of law has been the subject of reform, in terms of substance and operation, for decades. As such, it is beyond the scope of this Plan of Action to comprehensively map and consider all of the areas of law that affect women and children seeking legal redress.

However, examples of excellent practice in legal responses to violence against women emerged during the course of the Council's consultations, and we take this opportunity to consider the extent to which they appear able to fulfil the principle of ensuring that women and children are provided with a "gold-standard" legal response.

Broadly, these examples include a range of model strategies and practical measures to better ensure a just legal response. Core components of these strategies and measures include primacy being given to the safety of women and children, and initiatives aimed at risk minimisation. In the context of responses to sexual assault, there was:

- concern about the variation in consent provisions across State and Territory jurisdictions;
- strong criticism of the law's continued reticence to interpret and apply reforms to allow for multiple victims, particularly children or adult survivors of childhood sexual assault, to seek a balanced and fair criminal justice response;
- variation in domestic and family violence law reform;
- mention made of the recent introduction of specialist approaches to prosecutions (including the introduction of specialist courts).



The following section provides a broad overview of the reforms that have been implemented in the States and Territories and which were often referred to in consultations as approaches that could be considered national benchmarks of a fair and just response to violence against women (particularly in terms of sexual offences), or as initiatives that warrant particular attention for their capacity to better secure women's and children's right to live free from violence in their own homes and communities.

### Key reform initiatives in sexual offence cases and consent laws

The historical treatment of consent in sexual offence cases is often said to epitomise the law's inherent bias against women. In the absence of clear and unequivocal principles about what constitutes genuine consent in sexual offence cases, juries have typically drawn on rape myths and preconceived assumptions and ideas as to how consent should be legally assessed<sup>180</sup>. This can be further compounded by the extent to which judges' directions have, in the past, reinforced traditional views about sexual assault victims and offences, and the collective influence this has had on generating consistently low conviction rates<sup>181 182</sup>.

Most States and Territories have moved towards a definition of consent that applies a "communicative" model through defining consent as "free agreement" or "free and voluntary agreement"<sup>183</sup>. These new definitions require juries to consider what a complainant has said or done to indicate their free agreement, rather than assume that silence or submission equals consent<sup>184</sup>. Some also stipulate that inactivity and/or silence should be equated with non-consent<sup>185</sup>.

For example, Victoria's provisions state that: "the fact that a person did not say or do anything to indicate free agreement to a sexual act is normally enough to show that the act took place without that person's free agreement"<sup>186</sup>.

A number of jurisdictions have also created lists of vitiating circumstances under which free agreement cannot be said to have been given (such as under force of threat or of physical or economic harm, under the influence of heavy drug or alcohol consumption, or if the complainant is asleep) and has introduced judicial directions to juries to help them apply these modern definitions. Mandatory jury directions are designed to ensure consistency and "formalise good practice". However, the extent to which States and Territories have been prepared to incorporate these more progressive changes into their laws and procedures remains uneven.

180 Taylor, N. 2007.

181 Gray, J.M. 2006.

182 Stubbs, J. 2003.

183 These definitions move toward implementing the United Nation's recommended definition of consent as 'unequivocal and voluntary agreement'. United Nations Division for the Advancement of Women, Good practices in legislation on violence against women (2008), 28. Three different approaches are considered at Criminal Justice Sexual Offences Taskforce, Responding to sexual assault: the way forward (2005), 35

184 Model Criminal Code Officers Committee of the Standing Committee of Attorneys-General, Model Criminal Code Chapter 5: Sexual Offences Against the Person (1999), 43.

185 Victorian Law Reform Commission, 2004.

186 *Ibid.*

## The accused's “honest belief” in consent

Another contentious aspect of rape law has been the extent to which an accused can claim to have held an honest, though unreasonable, belief in consent.

In the past, an honest, though unreasonable, belief in consent could amount to a complete defence, even if the accused had done nothing to find out whether the complainant was consenting. This provided poor protection for the law's claim to protect sexual autonomy, placing “the onus on a person approached for sex to indicate lack of consent, instead of requiring the initiator to ascertain whether the other person is consenting”<sup>187</sup>. Trials tended to focus on the complainant's conduct and mental state rather than on that of the accused, often resulting in re-victimisation of the complainant<sup>188</sup>.

The states of Western Australia, Tasmania and Queensland<sup>189</sup> have now restricted the availability of defence based on a mistaken belief in consent by requiring an honest and reasonable belief in consent<sup>190</sup>. This approach does not mandate consideration of steps taken by the accused to ascertain consent, but these steps should be relevant to assessing the reasonableness of their belief about consent. Several jurisdictions have explicitly recognised that an accused who has not considered the question of consent at all does not have a defence.

Victoria has adopted a different model that retains the defence of honest belief in consent but restricts its use. A defence of mistaken belief is not available unless the accused took reasonable steps to find out whether the complainant was consenting<sup>191</sup>. The defence is not available in a number of other situations: for example, where one of the statutory factors inconsistent with “free agreement” was present and the accused knew it was present<sup>192</sup>. In relevant situations, a direction requiring the jury to consider the reasonableness of any belief in consent must be given to the jury<sup>193</sup>.

These models represent different approaches to restricting the availability of mistaken-belief defences that are worthy of consideration by other jurisdictions.

187 *Ibid.*

188 United Nations Division for the Advancement of Women, 2008.

189 Together with New Zealand and the United Kingdom, among others.

190 This approach was also favoured in Criminal Justice Sexual Offences Taskforce, 2005.

191 The UN Expert Meeting has recommended requiring ‘proof by the accused of steps taken to ascertain whether the complainant/survivor was consenting’. United Nations Division for the Advancement of Women, 2008.

192 Victorian Law Reform Commission, 2004. This provision prevents the defence presenting an argument that the accused knew that the complainant was, for example, asleep, and yet the accused honestly believed the complainant was consenting.

193 *Ibid.*

## The law's treatment of multiple cases/offences/victims of sexual assault

Allegations of sexual offending are often made by several complainants about a single accused<sup>194</sup>. These cases represent one of the key places where sexual offending and family violence of other kinds can overlap. In many Australian jurisdictions, the law effectively precludes a joint trial of offences committed against more than one person where complainants know one another<sup>195</sup>. Instead, each allegation is heard in a separate trial. This approach is intended to protect the accused's right to a fair trial. It stops the jury deciding that the accused is guilty because of a believed tendency to commit sexual crimes rather than by thoroughly considering the evidence available to support the allegations relevant to individual victims. It is also designed to prevent unfairness to the accused should witnesses concoct evidence.

However, separating trials leads to delay and may mean a complainant is required to testify in many trials<sup>196</sup>. When individual trials are ordered, witnesses (often children) must give their evidence without referring to their knowledge of offences committed against anyone else, even where this information would help the jury to understand matters essential to the narrative of events or explain, for example, the complainant's fear of the accused<sup>197</sup>. "Witnesses swear an oath to tell... the whole truth, yet must stick to a legally constrained script of evidence"<sup>198</sup>. The jury does not hear the instructions given to the complainant and may draw inferences about their truthfulness from any resulting awkwardness. They may also draw inappropriate inferences from gaps in the evidence presented<sup>199</sup>.

The fact that only a small proportion of childhood sexual assault cases will result in prosecution has been blamed, at least partially, on these kinds of structures within the law that continue to prejudice the outcomes of sexual offence cases. The artificial separation of court hearings involving multiple victims of the same offender, often a family member, coupled with the continued and disproportionate use of corroboration warnings in cases involving adult survivors of childhood sexual assault, continue to preclude a just response to victims, and, for some writers and researchers, are akin to "court licensed abuse"<sup>200</sup>.

194 Chapman, L. 2006.

195 Office of the Director of Public Prosecutions (ACT) and Australian Federal Police, 2005. See *De Jesus v R* (1986) 71 ALJR 1 and *Hoch v R* (1988) 165 CLR 292.

196 Victorian Law Reform Commission 2001; Office of the Director of Public Prosecutions (ACT) and Australian Federal Police, 2005; Chapman, L. 2006.

197 Taylor, C. 2004.

198 *Ibid.*

199 Taylor, N. 2007.

200 Taylor, C. 2004.



Victoria has enacted legislation<sup>201</sup> creating a presumption that allegations presented to the court together should be tried together. Further amendments<sup>202</sup> altered the rule that evidence would be inadmissible if there was a possibility of witnesses concocting evidence<sup>203</sup>.

As a consequence of these amendments, where there is a possibility of concoction, evidence still will be admissible provided its admission is in the interests of justice. The jury then decides on the credibility of the evidence. Evaluation found joint trials had become more common since the introduction of the provision, “although there will still be some circumstances where the counts will be separated in order to avoid the possibility of prejudice”<sup>204</sup>. It appears that since the amendment, “the Court starts from the presumption that the matters will be heard together”<sup>205</sup>. The Council proposes these amendments as worthy of consideration across other jurisdictions in Australia.

## Guiding principles

Research shows that traditional stereotypes about the nature of sexual offences have historically been reflected within every stage of the criminal justice process<sup>206</sup>. “The fundamental causes of the high attrition rates and low conviction rates which distinguish this area of the law lie primarily in the assumptions, images and values that shape the enforcement processes in general and the reception of evidence in particular”<sup>207</sup>. In responding to this context, a United Nations’ Expert Meeting has emphasised the need for clear legislative goals and the adoption of guiding principles by which legislation can be implemented<sup>208</sup>.

Guiding principles will not be sufficient for the successful implementation of reforms: “[t]he last 20 years of research [tell] us... that new statute law, policies and protocols must be accompanied by implementation processes which expand and deepen understandings of the realities of rape”<sup>209</sup>. Without these changes, cases which do not fit a narrow template dictated by myths and stereotypes will continue to be filtered out of the criminal justice system, resulting in further trauma and injustice to women<sup>210</sup>.

201 *Crimes Act 1958* (Vic), section 372(3AA)-372(AC).

202 *Crimes Act 1958* (Vic), section 398A.

203 Victorian Law Reform Commission, 2004. The evidence became admissible ‘even if there is a reasonable explanation of the facts which is consistent with the innocence of the accused person.’

204 Victorian Law Reform Commission, 2001. On propensity evidence, see Victorian Law Reform Commission, 2004.

205 Victorian Law Reform Commission, 2004. Despite this, submissions to the Commission described severance that was believed to be inappropriate, and the Commission’s research revealed some cases in which the logic behind decisions to order separate trials was difficult to grasp.

206 Stubbs, J. 2003; Heenan, M. and Murray, S. 2006; Temkin, J. and Krahe, B. 2008.

207 Lacey, N. 2001. Recent research in the UK and in Australia suggests that attitudinal change is still needed. Amnesty International, 2005; Taylor, N. 2007; VicHealth, 2006.

208 United Nations Division for the Advancement of Women, 2008.

209 Kelly, L. 2005.

210 Campbell, R. Wasco, S.M. Ahrens, C.F. Seff, T. and Barnes, H.E. 2001.

Guiding principles nonetheless have a role to play in achieving improved outcomes. It is highly desirable that they recognise the overrepresentation of especially vulnerable members of the community among victims (for example, Aboriginal and Torres Strait Islander women<sup>211</sup> and women with intellectual disabilities)<sup>212</sup>.

It is also important that legislation explicitly acknowledges sexual offences as constituting domestic and family violence. Recent Australian research drawing on the best evidence available estimates that one in 10 Australian women will experience partner rape in their lifetimes<sup>213</sup>. However, the criminal justice system responds least effectively to sexual offences committed against women by male partners<sup>214</sup>.

Guiding principles for the interpretation of the law relating to sexual offences<sup>215</sup> should also be considered for legislation which sets out the rules of evidence in each jurisdiction<sup>216</sup>.

## Key reform initiatives in domestic and family violence

A suite of policy and legislative reforms across State and Territory jurisdictions have been introduced in recent years to enhance domestic and family violence victims' access to justice and improve the accountability of offenders.

### ***Co-ordinated inter-agency system responses***

In 1998, the Australian Capital Territory adopted the Family Violence Intervention Program, a coordinated criminal justice and community response to criminal family violence matters<sup>217</sup>. The program provides:

- immediate access to victim support that continues throughout the criminal justice process;
- pro-prosecution of criminal family violence cases where there is sufficient evidence, and where the prosecution is in the public interest;
- coordination and case management of criminal family violence cases;
- rehabilitation programs for perpetrators.

211 Mouzos, J. and Makkai, T. 2004.

212 Lievore, D. 2005a.

213 Parkinson, D. and Cowan, S. 2008.

214 Heenan, M. 2004. Victorian research shows that where the accused was a current or former partner, fewer charges were laid, and more were withdrawn, while police continued to express disbelief that sexual assault by an intimate partner was possible. See Heenan, M. and Murray, S. 2006 and Victorian Law Reform Commission, 2004.

215 The current Victorian 'Guiding Principles' for the interpretation of the law relating to sexual offences represent one current good practice model which could be further refined.

216 Victorian Law Reform Commission, 2004 recommended: 'A similar interpretative clause should be included in the *Evidence Act 1958* to apply to provisions relevant to sexual offence trials including Part 2 Division IIA, sections 37A to 37C and sections 39 to 41.'

217 Holder, R. and Mayo, N. 2003.

The Tasmanian Government's response to family violence, *Safe at Home*, builds on the Family Violence Intervention Program and provides a highly coordinated and integrated service response to victims. *Safe at Home* is facilitated by the *Tasmanian Family Violence Act 2004*. The Act represents a two-pronged criminal justice response that provides for criminal justice sanctions and civil protection orders, and removes decision-making from the victim, placing it entirely in the hands of the state.

*Safe at Home* legislation provides police with a considerable extension of their powers to detain a person without charge. Another key feature of the *Safe at Home* model is that it allows families to stay within the home while the perpetrators are removed. This capacity also exists in other State and Territory civil legislation, as discussed below.

Other improvements in jurisdictions have included:

- preambles within legislation that acknowledge the social realities and dynamics of violence, including the gendered nature of domestic and family violence;
- more inclusive definitions of experiences of violence and types of relationships, such as carers who can be regarded as being like a family member. Inclusions such as these are important because women with disabilities experience violence at higher rates and more frequently than other women<sup>218</sup>.

The Council's consultations, and the available evidence base, suggest that in some jurisdictions, concerns remain that the criminal law is under-utilised in cases of domestic and family violence<sup>219 220</sup>.

The limited use of the criminal law may serve to undermine the effectiveness of the formalised procedures, policies and laws. It is important to recognise that criminal law should be a practical option in the community's response to domestic and family violence and should work in conjunction with the civil law reform in different statutory regimes. The factors that operate to "filter out" the use of the criminal law should be recognised and addressed<sup>221</sup>.

218 Healey, L. 2008.

219 Douglas, H. and Godden, L. 2002.

220 Douglas, H. 2008.

221 *Ibid.*

### ***Increasing the application of the criminal law***

Efforts to increase the application of the criminal law have centred on “pro-arrest” and “no-drop” prosecution policies that remove or limit police and judicial discretion in decision-making. However, these policies have resulted in a number of unintended consequences, including the arrest of both parties after police intervention<sup>222</sup>, commonly referred to as “dual arrests”. In these cases, the law is ostensibly applied without:

- due consideration and investigation of the motivation for the violent actions (domination and control versus self-defence);
- the impact of the actions;
- the consequences of the action for the other person’s physical, emotional and social wellbeing.

In effect, dual arrests are frequently re-victimising women who are the victims of domestic and family violence.

Research from North America<sup>223</sup> and anecdotal evidence within Australia<sup>224</sup> indicate significant variance in the rates of dual arrests within jurisdictions that often have similar policies. In some cases, women constitute about one quarter of the people arrested, which is much greater than the percentage that research suggests might be reasonably expected<sup>225</sup>. More information is required about the way in which pro-arrest policies and associated legislation are applied, with a view to ensuring that victims of violence are not being re-victimised as a result of these policies.

### ***Domestic and family violence fatality review processes***

Victoria has established, and New South Wales is in the process of establishing, domestic and family violence fatality review processes. The purpose of these processes is to systematically review the circumstances of the fatality and the system’s response to victims prior to their deaths; to use the review results to improve the system’s response and consequently, reduce such fatalities.

222 Braaf, R. and Sneddon, C. 2007.

223 *Ibid.*

224 National Council consultations in Tasmania, Victoria, the Australian Capital Territory and the Northern Territory.

225 Access Economics, 2004. Part 1, p. 16 and Part 2, p. 7 for discussion on the prevalence of male victims of domestic and family violence.

Each year in Australia, 70 to 80 intimate partner homicides occur<sup>226 227</sup>. The majority (75 per cent) of these cases involved men killing women, and 84 per cent involved women as victims<sup>228</sup>. Australian parents also kill 25 children, on average, each year, with 63 per cent of the child killers being the child's fathers. Where known, the most prevalent motives were "domestic altercation" (21 per cent) and family separation (9 per cent)<sup>229</sup>.

Experience in jurisdictions within the United States of America and Canada indicate that domestic and family violence homicides are preventable through system coordination (communication, collaboration and cooperation across justice and social service agencies) and systematic monitoring and review of policy and procedures<sup>230</sup>. The Santa Clara Domestic Violence Death Review Board, for example, reported a 94 per cent decrease in domestic and family violence homicides (from 51 such homicides to three) over the 10 years from 1997 to 2007<sup>231</sup>. Establishing and building upon the homicide/fatality review processes across Australia to review deaths that result from domestic and family violence would enhance our understanding of the primary risk factors leading to these deaths, improve system and service responses and inform policy designed to reduce rates of domestic-related homicide.

### ***Specialist approaches to sexual assault and domestic and family violence***

The quality of the experience of sexual assault victims in the criminal justice system is closely associated with the degree to which services, the police, legal professionals and courts understand the social context in which sexual offences occur. The establishment of specialist lists and courts should be considered as important mechanisms for improving the treatment of sexual assault victims before the courts<sup>232</sup>. In a specialised environment, judges, court staff and legal counsel are said to be:

- more responsive to the need for victims to be treated in a dignified and sensitive manner;
- more willing to apply laws that have increasingly sought to protect victims from being unfairly cross-examined about their sexual histories and character<sup>233</sup>;
- more likely to allow the use of alternative methods for victims to give their evidence;
- more likely to be presided over by judges who consistently direct juries in accordance with legislative reforms that have redefined consent and its application.

226 Mouzos, J. and Rushforth, C. 2003.

227 Australian Institute of Criminology, 1989-90 to 2006-07.

228 Mouzos, J and Rushforth, C 2003.

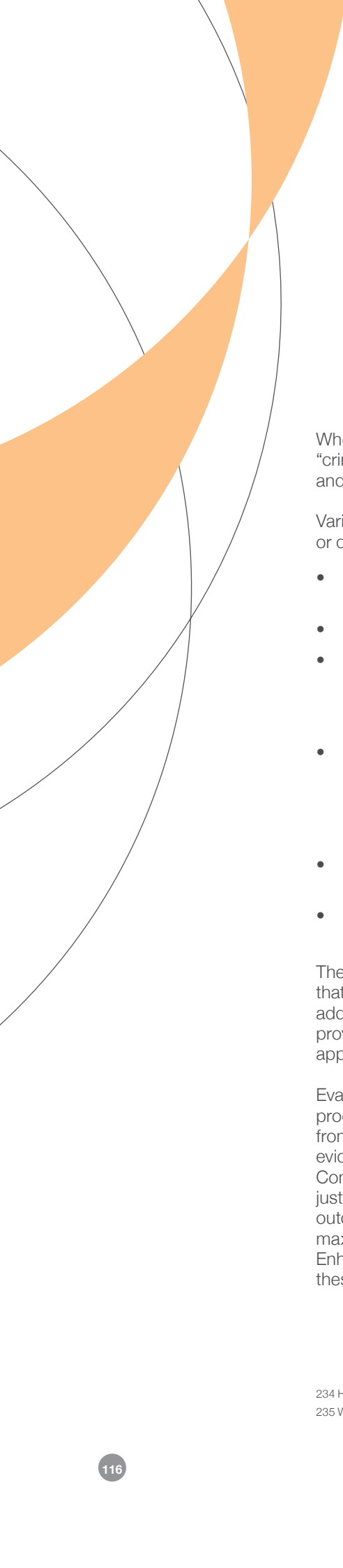
229 *Ibid.*

230 Taylor, B. 2008.

231 *Ibid.*

232 Stewart, J. 2005.

233 Victorian Law Reform Commission, 2004.



Where it is used, specialisation has led to “significant changes in practice” and “criminal justice culture”; higher levels of complainant participation and satisfaction and increased public confidence in the criminal justice system<sup>234</sup>.

Various jurisdictions have introduced specialist domestic and family violence courts or divisions to:

- improve integration, coordination and safety for victims of domestic and family violence in contact with the criminal justice system;
- engage in active case-tracking of criminal family violence matters;
- ensure that the magistrates assigned and the police prosecutors undertaking domestic and family violence matters receive specialist training and are chosen for their expertise or experience in working with victims/survivors of domestic and family violence;
- allow magistrates to hear related matters at the same time as they hear the application for the protection orders (for example, *Family Law Act* contact issues that require review after an episode of violence or after the protection order has been granted). They might also hear an application for victim’s assistance or financial assistance;
- recognise the different needs of those subjected to domestic and family violence and perpetrators;
- ensure that perpetrators who are charged with domestic and family violence are held accountable for their actions.

The establishment of specialist domestic and family violence courts recognises that problems caused by domestic violence are multiple and complex; and that addressing the issue involves services and intervention by multiple agencies to provide a vast range of culturally appropriate services to victims, not merely an appropriate criminal justice response.

Evaluations have found that successful domestic and family violence courts produce high levels of satisfaction in complainants and perceptions of success from professional stakeholders. However, they sometimes generate limited evidence of improved conviction, penalty, reporting and withdrawal rates<sup>235</sup>. Complainant participation is essential to effective prosecution, and procedural justice is more important to complainants’ assessment of their experience than the outcome. It is critical to identify and implement specialist court processes that also maximise the chances of successful reporting, withdrawal and conviction outcomes. Enhanced complainant confidence and satisfaction is essential to achieving these long-term goals.

<sup>234</sup> Holder, R. and Mayo, K. 2001.

<sup>235</sup> Western Australian Police Service, 2002.

Both specialisation and fast tracking must be augmented with appropriate support, training, adherence to practice goals, integration of service provision and adequate funding. Successful implementation also requires funding and support for essential services such as quality, reliable closed circuit television facilities and timely forensic evidence processing.

Specialised domestic and family violence courts in Australia and elsewhere often include an element of therapeutic justice, such as diversion to treatment rather than imprisonment. Since sexual violence commonly occurs with other forms of domestic and family violence, the relationship between these specialist jurisdictions must be clearly established.

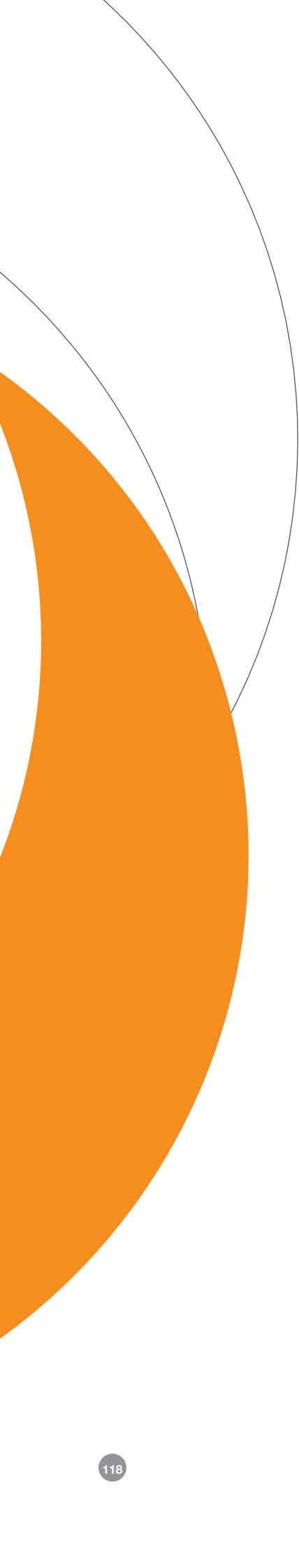
Successful and just outcomes for women who experience violence require more than specialisation. Specialist prosecution is a key factor in the success of specialist jurisdictions, with high-quality investigation, case-building and brief-preparation increasing the likelihood of conviction, and often facilitating guilty pleas. An integrated multi-agency approach, in which the court becomes a central point for service coordination, is also important.

### **Judicial officers, law enforcement personnel and other professionals within the legal system have appropriate knowledge and expertise**

The need for ensuring education and professional development for judicial officers, police and other professionals working within the legal system is increasingly being recognised by the professions themselves.

For example, family violence was the subject of a national two-day conference in 2006 organised by the Australian Institute of Judicial Administration<sup>236</sup>. More recently, the National Judicial College of Australia has undertaken a gender audit of its training and education programs. The *Australasian Policing Strategy for the Prevention and Reduction of Family Violence* is another example of sector initiated reform, and includes as one of its ten priorities for action, education and training aimed at improving investigation and management of domestic and family violence by policing organisations.

<sup>236</sup> Now named the Australasian Institute of Judicial Administration.



The attitudes and responsiveness of police and the judiciary are central to ensuring that responses to violence against women are just. Through education and training, police are more likely to pursue matters. Similarly, judges, court staff and legal counsel can be more responsive to the needs of victims/survivors so that they can be treated in a dignified and sensitive manner. They are more willing to apply laws that have progressively sought to protect victims from being unfairly cross-examined about their sexual histories and character, and are more likely to allow the use of alternative methods for victims to give evidence. Cases are more likely to be presided over by judges who consistently direct juries in accordance with legislative reforms that have re-defined what consent means and how it should be applied, and which have abolished the requirement for corroboration.

Ongoing, thorough and consistent training in the areas of domestic and family violence and sexual assault for judicial officers, police and other professionals working within the legal system, is critical to ensuring legal outcomes that are just, and that are perceived to be just.



## Strategies for action

To improve the law's capacity to provide just responses to women and children, the Plan of Action prioritises five key strategy areas:

- 4.1 Ensure accessible and equitable justice for women and their children.
- 4.2 Ensure just civil remedies operate in parallel with criminal law and prioritise safety.
- 4.3 Ensure excellence in legal responses to women and their children.
- 4.4 Ensure judicial officers, law enforcement personnel and other professionals within the legal system have appropriate knowledge and expertise.
- 4.5 Build the evidence base.

### 4.1 Ensure accessible and equitable justice for women and their children

4.1.1 Ensure that the Australian Government takes leadership to ensure the impending United Nations Convention on Victims Rights (expected in 2011) fully reflects the *United Nations Declaration on the Elimination of Violence Against Women* and principles of other human rights conventions, such as the *United Nations Convention on the Rights of Persons with Disabilities*, which Australia has ratified.

4.1.2 Establish a reference for the Australian Law Reform Commission to develop national guiding principles to inform a consistent interpretation of the law and applicable rules of evidence for sexual assault matters and domestic and family violence matters.

4.1.3 Enhance support services to assist female visa applicants experiencing domestic or family violence to access the protection of migration legislation.

4.1.4 Ensure all victims of violence (including children exposed to violence) have access to victim/witness services with staff who are knowledgeable and responsive to the diversity of women so they can support them in their interactions with the justice system.

4.1.5 Ensure adequate funding for legal aid and advocacy services is provided by the Australian Government, over and above State/Territory funding, to recognise the significant focus given to domestic and family violence in the 2006 amendments to the *Family Law Act 1975*.

4.1.6 Undertake gender/intersectional analysis of proposed Commonwealth, State and Territory policies and legislation to ensure they do not jeopardise the safety of women and their children.

## **4.2 Ensure just civil remedies operate in parallel with criminal law and prioritise safety**

4.2.1 Establish a reference for the Australian Law Reform Commission to examine present State/Territory domestic and family violence, child protection legislation and federal family law, and propose solutions to ensure that the inter-relationship in the application of these laws works to protect women and children from violence.

4.2.2 Ensure State and Territory domestic and family violence legislation contains a clearly articulated objective definition of domestic and family violence that recognises the gendered nature of domestic and family violence and its impacts and consequences; that domestic and family violence is motivated by a desire for domination and control; and that it must be used in conjunction with criminal law where a crime has been committed.

4.2.3 Give primacy to the safety and wellbeing of children, including protection from unsupervised exposure to perpetrators of domestic and family violence, when considering 'the best interests of the child'.

4.2.4 Focus police practices and accountability on gathering evidence to support criminal charges where relevant, and eliminate the occurrence of dual arrests and cross-orders, in the investigation of domestic and family violence allegations.

4.2.5 Capitalise on guilty pleas to apply elements of restorative justice in the conventional justice system which improve responses for victims; including, for example, the use of incentives for perpetrators of violence to plead guilty and ritualising the guilty plea to incorporate explicit acknowledgement of, and responsibility for, the crime and the harm caused.

## **4.3 Ensure excellence in legal responses to women and their children**

4.3.1 Establish a mechanism that enables automatic national registration of domestic and family violence protection orders and subsequent variations, adaptations and modifications occurring anywhere in Australia or New Zealand; and consider the need to include police issued domestic and family violence orders on the national register.

4.3.2 Establish or build on emerging homicide/fatality review processes in all States and Territories to review deaths that result from domestic and family violence so as to identify factors leading to these deaths, improve system responses and respond to service gaps. As part of this process ensure all information is, or recommendations are, centrally recorded and available for information exchange.

4.3.3 Strengthen the application of the legislation governing ouster/exclusion orders by: highlighting in the legislation, and/or on protection order application forms, the availability of the ouster/exclusion order provisions; ensuring the provisions are cross-referenced with relevant tenancy law; including this aspect of the legislation in professional development for police, lawyers, court staff and judicial officers; and undertake research to identify the most effective legislative and policy responses for increasing the appropriate utilisation of ouster/exclusion orders.

#### **4.3 Ensure excellence in legal responses to women and their children cont.**

4.3.4 Review all State and Territory sexual assault legislation to ensure it:

- includes a definition of consent that applies a “communicative” model through defining consent as “free agreement” or “free and voluntary agreement”;
- includes a list of vitiating circumstances under which free agreement cannot be said to have been given;
- limits the extent to which an accused can claim to have held an honest, though unreasonable, belief in consent, thus restricting the availability of mistaken belief defences;
- ceases the artificial separation of court hearings involving multiple victims of the same offender.

4.3.5 Increase the establishment of specialised courts or special court proceedings guaranteeing sensitive, timely and efficient handling of cases of violence against women.

4.3.6 Expand the use of specialist approaches to prosecutions (including increasing the availability and use of specialist courts) to minimise withdrawal and maximise the chances of successful and timely reporting and convictions in sexual assault and domestic and family violence cases.

4.3.7 Ensure guiding principles for the interpretation of the law relating to sexual offences feature within sexual offence legislation for every State and Territory jurisdiction, including within the rules of evidence, as they relate to sexual offences.

#### **4.4 Ensure judicial officers, law enforcement personnel and other professionals within the legal system have appropriate knowledge and expertise**

4.4.1 Develop and implement a national education and professional development framework that recognises the specific roles and functions of police; prosecutors; defence counsel; family and migration lawyers; legal advisers; court staff and the judiciary. This professional development must be designed with these specific audiences in mind; be informed by research on the social context within which violence against women and children takes place; emphasise the diversity of experiences and needs of victim/survivors of violence in the community; and enhance understanding of the intent and operation of relevant legislation.

4.4.2 Commission the production of a model Bench Book, in consultation with jurisdictions and as part of a national professional development program for judicial officers on sexual assault and domestic and family violence, to provide a social context analysis and case law to complement existing resources and enhance the application of the law.



## **4.5 Build the evidence base**

4.5.1 Undertake national benchmarking of substantive law, evidence and procedure, interpretation and application for sexual assault offences, that includes recommendations about which provisions are best able to provide a just legal response for victims.

4.5.2 Undertake and evaluate, with necessary caution, trials to explore the utility and suitability of restorative justice for cases of domestic and family violence and sexual assault.

4.5.3 Continue to trial and evaluate supplementary legal processes in the area of Aboriginal and Torres Strait Islander family violence and sexual assault, such as restorative justice, which are driven by Aboriginal and Torres Strait Islander communities.

4.5.4 Undertake research on police practices in pro-arrest jurisdictions within Australia to understand variance in dual arrest rates and the impact on women's safety, including women being re-victimised in the justice system, with the goal of minimising dual arrests.

4.5.5 Evaluate the effectiveness of homicide/fatality review processes in all States and Territories to determine the most effective models.

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## Outcome 5: Perpetrators stop their violence

Violence against women and their children will not stop until perpetrators cease being violent.

The Council is resolute that perpetrators of violence against women must be held accountable for their use of violence and challenged to change their behaviour. Accountability means ensuring that consequences follow if violence against women is perpetrated, and that this occurs at the individual, community and system levels.


We know little about the ways that the many different sectors and professions involved with perpetrators can complement and enhance each other's work, and what sort of social policy will facilitate this endeavour. The Plan of Action offers strategies and actions to progress this work. Although the best means to undertake specific interventions requires future research, the Council believes approaches to perpetrators must:

- ensure that women and their children are protected and safe;
- hold perpetrators to account and ensure they take responsibility for their violent behaviour;
- stop perpetrators' violent behaviour and change their violence-supportive attitudes;
- sustain positive change in perpetrators' behaviour and allow them to redefine themselves as non-violent; and
- subject to considerations for the safety of the victim/survivor, allow perpetrators to re-enter the community and engage in positive ways.

There are many ways the justice system can respond to perpetrators of violence. The likelihood of recidivism can be reduced through deterrents such as sentencing, through community restraints such as parole, through incapacity such as prolonged incarceration, or through effective rehabilitation<sup>237</sup>. There is limited evidence that the prospect of imprisonment alone deters violence against women and their children; that convicted perpetrators change their violent behaviour without, or even through, court-mandated programs<sup>238</sup>; or that the adversarial nature of Australia's legal system does not inadvertently encourage perpetrators to deny and avoid responsibility for their violence.

<sup>237</sup> Drabsch, T. 2006.

<sup>238</sup> Lievore, D. 2004.



Further research is needed to look specifically at the effectiveness of incarceration, deterrence and community restraint in reducing recidivism in cases of violence perpetrated against women and their children.

*“Locking up the perpetrator at least gives the family a break from the violence and a chance for them all to get a good night’s sleep for a change. But something needs to be done to change his behaviour or it just becomes a repeating pattern - and that’s really a pretty hopeless outlook.”*

*Police officer in regional Australia, 2008*

Australian and international research shows that rehabilitative programs can be effective in reducing recidivism<sup>239</sup>. In Australia, the majority of responses to perpetrators of sexual assault and domestic and family violence attempt to place them into some form of rehabilitation program. The Council’s Plan of Action explores strategies to improve the effectiveness of rehabilitation programs to change men’s violent behaviour.

## **Current perpetrator program approaches**

Perpetrator programs aim to prevent violence by changing the attitudes and behaviour of participants through individual counselling, case management, and group programs. Programs may be court-mandated or voluntary. Some are run in parallel with programs that work closely with, and support, the abused partners. This ensures that women’s and children’s safety needs remain paramount when challenging violent male behaviour.

There is no nationally consistent approach to perpetrator programs, with variations in content, duration, practices, philosophical and therapeutic frameworks, and evaluation methods used by providers<sup>240</sup>. In fact, the service deliverers and academics who contribute to knowledge and program development in this area are diverse and disconnected. Those working in the area of sexual offending generally have very little to do with those whose expertise is in the area of domestic and family violence. There are few mechanisms in place for them to contribute to each other’s academic knowledge, practice wisdom, and program design for service delivery.

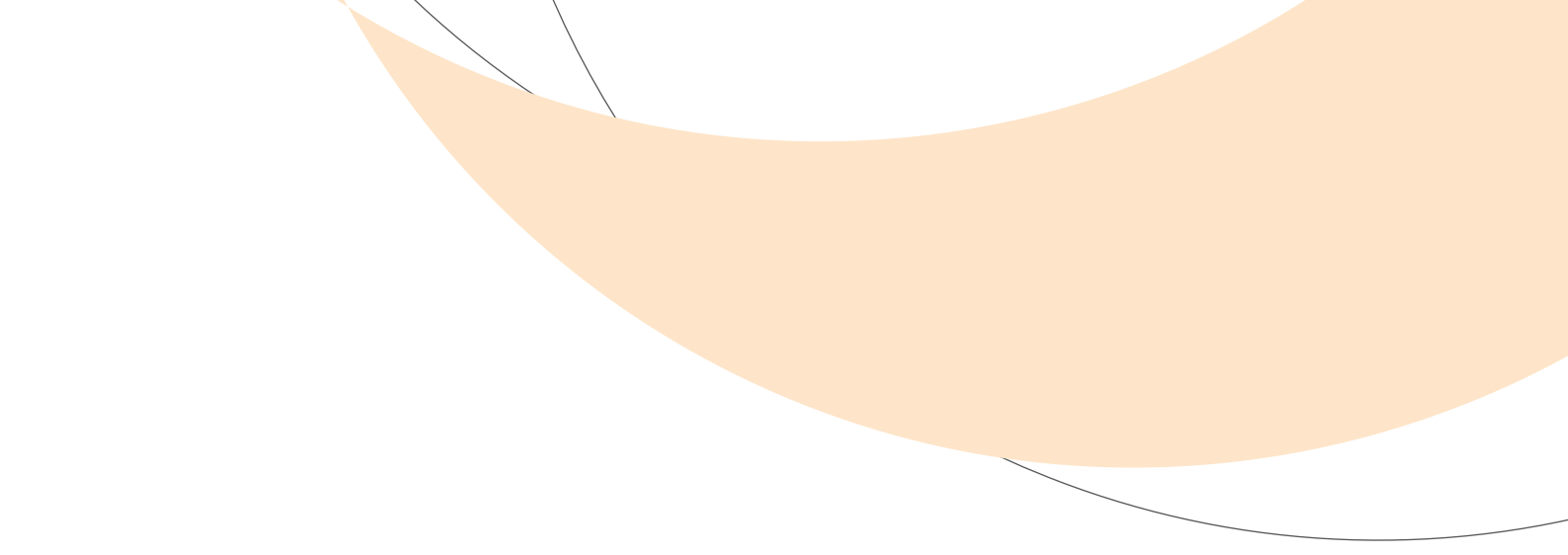
*“Treatment of sexual and violent offending focuses on behaviour change, and is based on evidence regarding cognitive-behavioural change, providing the dose and intensity matched to the offence seriousness, forming a therapeutic alliance, supporting pro-social alternative behaviours etc while current domestic violence programs focus on structural and social change. Treatment is coerced to varying degrees and it is time for the individual and structural approaches to be combined to maximise the reduction of violence in men.”*

*Senior Corrections Practitioner, 2008*

239 Howells, K. Heseltine, K. Sarre, R. Davey, L. and Day, A. 2004.

240 Chung, D. and O’Leary, P. (no date).





Perpetrators' access to programs also varies greatly across Australia. Only in Victoria, Western Australia, Tasmania, the ACT and the Northern Territory does the relevant domestic violence legislation make specific provision for referral to perpetrator programs, either as part of the civil protection order process or, in the criminal context, as a condition of sentencing or bail. Access is also dictated by what is available in a locality, rather than what intervention is needed, or is most likely to be effective.

Through the written submissions, personal interviews with perpetrators and the specialist roundtables, the Council repeatedly heard the call for an increase in the availability of programs for perpetrators, tailored to respond to the nature of their offending. Accompanying the call for tailored programs was the call for research into the characteristics of programs that are proven to be effective in changing men's behaviour. There were also repeated calls for men's behaviour change programs, including those delivered through the Corrections portfolio, to include a focus on the needs (particularly the safety needs) of the victim.

## Types of perpetrator programs

Designing and delivering perpetrator treatment programs for sex offenders proves a particularly complex matter because of the different causal factors and types of offending. Studies indicate that treatment programs are most effective when designed to match the different types of offending. For example, interventions that work for some sex offenders may not work for serial rapists. Factors indicating the ability to treat sex offenders include:


- the nature of the offence;
- the type of offender;
- whether the offender accepts responsibility;
- their motivation to change<sup>241</sup>.

In Australia, most behaviour change programs for men who use violence in their intimate relationships use group work processes that grew from the foundational Domestic Abuse Intervention Project (DAIP)<sup>242</sup>, commonly known as the 'Duluth model'. Key best practice principles evident in these programs include:

- holding the perpetrator responsible for his use of violence;
- building connections and/or accountability to victim services;
- establishing programs with an equivalent victim service operating in parallel;
- reinforcing that violence is learned and therefore can be unlearned.

<sup>241</sup> Lievore, D. 2004.

<sup>242</sup> Pence, E. and Paymar, M. 1993.



The principle of connecting family and domestic violence victims to perpetrator programs is genuinely difficult for some correctional institutions where there is no mandate to work with the partners of the offenders. The Plan of Action addresses this difficulty by suggesting the development of best practice prison-based programs, incorporating rigorous evaluation, for perpetrators of domestic and family violence.

Regardless of the approach, it is significant that few programs have been comprehensively evaluated over the long term for their effectiveness in stopping men's violence. Also, evidence on whether these programs reduce violence against women and their children is contentious. For example, evidence tends to be limited by a reliance on criminal justice data on re-offending rates and does not count the views or experiences of victims/survivors (who may not report incidents to police). One study found that 15 months after participation in a perpetrator program, 40 per cent of participants had re-offended, and 30 months after, another 20 per cent had re-offended (including two men who murdered their partners)<sup>243</sup>.

In addition to the lack of research, a number of issues were raised in consultations and submissions about the practices that support perpetrator rehabilitation programs, including:

- the lack of consequences for men who do not comply with program requirements;
- that programs are often not structured on a gendered analysis of violence against women, so do not require men to take responsibility for their actions;
- failure to assess the safety of the victim and her children as integral to the intake and assessment process for the perpetrator's suitability to participate in the program; and failure to continually reassess this risk throughout the perpetrator's period of treatment;
- the absence of national standards and benchmarks for perpetrator behaviour change programs and services, although there are state-by-state guidelines;
- the reality that perpetrators of domestic and family violence are frequently misdirected into anger management programs.

<sup>243</sup> Gondolf, E.W. 2002.

## Effectiveness of programs

Early work in this area suggests that the most effective perpetrator programs operate as a recognised part of a broader, integrated response to violence against women and their children. Similar to the Duluth model, they link women's domestic violence services, sexual assault victims' services, courts, police, corrections and child protection services, and they coordinate risk assessment and interventions<sup>244</sup>. Gondolf's multi-site, seven year evaluation of domestic violence perpetrator intervention programs supports this approach, concluding that "the system matters. Program outcome is, for instance, likely to be improved with swift and certain court referral, periodic court review of specialised probation surveillance and ongoing risk management"<sup>245</sup>.

However, there is also evidence from a recent comprehensive Campbell Collaboration Systematic Review that court-ordered domestic violence perpetrator programs for men do not effectively reduce recidivism. The authors concluded that the criminal justice system would benefit from considering other forms of intervention in addition to the Duluth model, although they did not recommend any alternative models. They recommended additional research to:

- be applied to larger representative samples instead of selected small samples;
- retain victims longer to determine the positive and negative outcomes;
- determine whether official reports and victim report measures are valid and reliable<sup>246</sup>.

Perpetrator programs must also be more broadly evaluated to understand what works effectively. Such research should include:

- an examination of the principles and theory underpinning the program content; and of the approach it takes to working with women partners and managing issues of safety<sup>247</sup>;
- a focus on the capacity of the program to respond appropriately to perpetrators from a range of backgrounds and from different geographical locations (for example urban, rural and remote areas);
- an assessment of the impact the program is having on reducing violence against women and their children.

244 Chung, D. and O'Leary, P. (no date).

245 Gondolf, E.W. 2002

246 Feder, L. Wilson, D. B. and Austin, S. 2008

247 Chung, D. and Zannettino, L. 2006.

## Sustaining behaviour change

When perpetrators take responsibility and have been held accountable for their use of violence, with primary consideration given to the safety of the victim/survivor, responses should enable perpetrators to positively re-enter the community. The potential for re-integration is a powerful incentive for perpetrators to change their violent behaviour, and enables them to draw on social networks to support this change. In Aboriginal and Torres Strait Islander communities, there is a great deal of evidence that sustaining any perpetrator behaviour change following interventions requires both participation in community-based behaviour change maintenance programs<sup>248</sup>, and the re-integration of the perpetrator into the community<sup>249</sup>.

## Recognising diversity

The prevalence data on violence against women indicates that the highest proportion of violence is committed against women by men known to them<sup>250</sup>. The Personal Safety Survey indicated women also use violence in some relationships. However, when it comes to violence by partners or ex-partners, women are far more likely than men to be subjected to frequent, prolonged and extreme violence, to sustain injuries, to be subjected to a range of controlling strategies, to fear for their lives, to be sexually assaulted, to experience post-separation violence, and to use violence only in self-defence<sup>251 252 253 254 255</sup>.

Violence against women does cut across gender lines. This is evident when a range of types of abuse are used by a lesbian partner, or when women are violent to children and men in their extended families. It is also evident in carer relationships where women carers abuse women with disabilities or elderly women.

Regardless of the gender of the perpetrator of the violence, they must be held accountable for their actions. At the present time most attention has focused on perpetrator programs for men who commit sexual assault, domestic or family violence. The complexity of the issue requires significant changes to perpetrator program design and evaluation. At the same time, there is a specific gap in our current research and practice knowledge regarding the most effective treatment options, and criminal justice responses, that focus specifically on women who commit violence in lesbian relationships, or in their roles as carers.

248 Chung, D. and O'Leary, P. (no date).

249 Drabsch, T. 2006.

250 Australia Bureau of Statistics, 1996; Australian Bureau of Statistics, 2005.

251 Belknap, J. and Melton, H. 2005.

252 Dobash, R.P. and Dobash R.E. 2004.

253 Flood, M. 2003.

254 Flood, M. 2006.

255 Gordon, M. 2000.

The availability of perpetrator programs in rural, remote, and isolated areas is very limited. Research suggests that more innovative ways of delivering programs to end violence need to be developed for such communities, taking account of confidentiality and potential stigmatisation of individuals by the community<sup>256</sup>.

*“It is time to leave the old ‘one size fits all’ mainstreaming approach behind. It has not helped Aboriginal communities in the past and will not work in the future. Aboriginal communities need to be empowered and given opportunities to develop their own practical solutions to the issues affecting Aboriginal men and their families and their communities. Culturally appropriate men’s groups, men’s spaces, timeout spaces and healing centres are all important parts of the solution. These places allow Aboriginal men to support each other and provide a safe environment where men can discuss issues affecting themselves, their families and their communities. Aboriginal men can stop the cycle of abuse in their communities but need support and resources to enable them to make this happen.”*

*Babana Aboriginal Men’s Group Incorporated, 2008*

It is wrong to attribute causal explanation for the violence to the specific culture of individuals. Violence against women and their children occurs in all cultures<sup>257</sup>. However, it is vital to appreciate cultural difference when seeking solutions.

In our diverse country, interpreters are an essential part of effective responses to violence against women. However, there are unique requirements for any interpreter who works with perpetrators (and victims/survivors) of sexual assault, and domestic and family violence – and appropriate screening and selection of interpreters for these specific circumstances is critical<sup>258</sup>. Further, counsellors need to develop competencies in cross-cultural communication and the process of interpreting.

## Aboriginal and Torres Strait Islander perpetrators


The nature and history of oppression and violence experienced by Aboriginal and Torres Strait Islander women is very different to the context in which violence against non-Indigenous women has typically occurred<sup>259</sup>. Alternative approaches to accountability are particularly important for Aboriginal and Torres Strait Islander perpetrators of violence. Risk factors for committing violence against women and children are compounded by the disadvantage and social exclusion experienced in many Aboriginal and Torres Strait Islander communities.

<sup>256</sup> Jamieson, S. and Wendt, S. 2008

<sup>257</sup> Dimopoulos, M. 2007.

<sup>258</sup> Oda, M. and Joyette, D. 2003.

<sup>259</sup> Huggins, J. 1994; Lucashenko, M. 1997; Lucashenko, M. 1994.



These compounding factors have been described as a broader kind of violence experienced by the whole community as a result of historical dispossession and contemporary marginalisation caused by the breaking of parental and cultural authority, and the policies of child removal (the Stolen Generations); and/or barriers of language and discrimination. Such lateral violence<sup>260</sup> or transgenerational trauma<sup>261</sup> contributes to violence forming part of socialisation, and a sense of hopelessness and powerlessness for both the perpetrator and the victim. This is not to excuse, or attempt to justify, Aboriginal and Torres Strait Islander men's violence against women, but to contextualise that violence and seek strategies to stop it that are relevant and supported by Aboriginal and Torres Strait Islander women.

*“We know that there is a strong potential to rebuild self-esteem through learning about our culture. We see it in the prisons where we see positive results in rehabilitation of serious and violent offenders by providing programs where they can learn about their culture through artistic programs, literacy programs and programs on Aboriginal Studies.”*

*Larissa Behrendt  
Professor of Law and Director of Research  
Jumbunna Indigenous House of Learning  
University of Technology Sydney, 2008*

Evidence shows that any program response to Aboriginal and Torres Strait Islander offending must be embedded within a design and delivery method that considers the broader historical and cultural context of Indigenous people's lives. Some have gone so far as to say that programs that focus on the strength and resilience of Aboriginal and Torres Strait Islander people have the potential to support their recovery from colonisation; such approaches are often referred to as 'healing approaches'<sup>262</sup>.

## Healing approaches

Indigenous concepts of 'healing' are relevant to responding to community-wide and intergenerational violence. Healing is based on addressing the relationship between the physical, emotional, cultural and spiritual in a holistic manner. An essential element of Indigenous healing involves recognising the interconnections between violence, social and economic disadvantage, racism, and the effects of the dispossession from their land and culture on Aboriginal and Torres Strait Islander people, communities and families. Healing is not a program, it is a process. Often it involves a family-based approach. Healing in the context of criminal justice attempts to help the individual deal with the reasons why they have offended in the first place. This element of healing is strongly linked to the notion of restorative justice<sup>263 264</sup>.

260 Langton, M. 2008.

261 Atkinson, J. 2002.

262 Jones, R. Masters, M. Griffiths, A. and Moulday, N. 2002.

263 Human Rights and Equal Opportunity Commission, 2006.

264 Cox, D. 2008.

*“Restorative justice is a viable alternative that must be considered in circumstances where Indigenous people are disproportionately represented in correctional centres. Restorative justice incorporates a process that empowers Indigenous peoples...one method... is the use of sentencing (healing) circles...the foundations of a lore system for Indigenous people are embedded in principles of social justice and the restoration of peace and good order.”<sup>265</sup>*

*The Aboriginal and Torres Strait Islander Women’s Taskforce on Violence report, 2000*

This includes consideration of the capacity of communities to establish and implement local responses, and strategies to build and support them. Aboriginal and Torres Strait Islander customary law must be applied consistently within human rights standards; at no stage does customary law override the rights of women and children to be safe and to live free from violence<sup>266</sup>.

Another approach that has been trialled in some Aboriginal communities is the provision of alternative places or spaces for men to go voluntarily to talk to each other about their issues, or be taken if they are affected by alcohol and are possibly aggressive. Such places, along with the appropriate services, allow the issue of family violence within communities to be identified and tackled rather than hidden. They also enable women and children to remain in their home, with the perpetrator of violence removed for a period.

A combination of strategies, or holistic approaches, is frequently advocated by Indigenous communities.

*“Composite programs comprise several sub-programs which may (a) target different forms of violence in a community; (b) target different categories of offenders or victims; or (c) employ different methods of combating or preventing violence. When a composite program is devised to systematically deal with all types of violence in a community, it is often termed a holistic approach or a holistic program.”*

*Memcott, P. Stacy, R. Chambers, C. and Keys, C. 2001*

<sup>265</sup> *The Aboriginal and Torres Strait Islander Women’s Taskforce on Violence report, 2000, pp.255-256.*

<sup>266</sup> Memcott, P. Stacy, R. Chambers, C. and Keys, C. 2001.



## Strategies and actions

To ensure that perpetrators stop their violence, the Plan of Action identifies four key strategies:

- 5.1 Change behaviours through appropriate programs.
- 5.2 Increase access to early intervention initiatives.
- 5.3 Sustain behaviour change.
- 5.4 Build the evidence base.

### 5.1 Change behaviours through appropriate programs

- 5.1.1 Fund and develop correctional facility-specific domestic violence programs to be tested in Australian prisons.
- 5.1.2 Fund a national conference every two years to share information on what works with regard to perpetrator services and programs, and develop communities of practice.
- 5.1.3 Develop standards, benchmarks and models for behaviour change programs and services for perpetrators that take account of individual differences and the typology of their violence; and create incentives for their participation.
- 5.1.4 Ensure that men serving custodial sentences for crimes of violence against women have access to behaviour change programs as early as possible, and certainly before their release.
- 5.1.5 Increase the availability, range and evaluation of perpetrator programs that meet standard principles, particularly in rural and remote areas.
- 5.1.6 Develop best practice programs to address violence in lesbian relationships and to prevent violence in carer relationships.

### 5.2 Increase access to early intervention initiatives

- 5.2.1 Support remote communities to agree to develop alternative places to which men are able to go, or be taken to, at the earliest point that violent behaviour or its precursors are exhibited.
- 5.2.2 Develop initiatives that change attitudes and behaviours of young people at the earliest point that sexually deviant, violent, bullying, abusive or humbugging behaviours are exhibited.
- 5.2.3 Increase funding to men's counselling and support services that meet the standards of practice, including telephone support services, to help men reach out for support when they recognise the antecedents to violence and provide support for non-violent behaviour.



### **5.3 Sustain behaviour change**

5.3.1 Increase community-based maintenance and follow up services for individuals, families and communities that enable perpetrators to maintain changes to their attitudes and behaviour.

5.3.2 Strengthen post-release transition services to ensure perpetrators have access to education and training, employment assistance and family counselling, where required.

### **5.4 Build the evidence base**

5.4.1 Fund and deliver a perpetrator research agenda, including longitudinal research that has a particular focus on: what changes problem behaviour; what maintains behaviour change; the utility of risk assessment tools; the effectiveness of various recidivism reduction strategies; and takes account of different offender characteristics and cultures.

5.4.2 To further understandings of the cycle of violence and the intergenerational transmission of violence, undertake research to identify the impacts of daily trauma on the neurological development of children who are victims of sexual assault and domestic and family violence, and the intersection of these impacts on their life-long ability to self-regulate and control their behaviour as adults.

5.4.3 Develop methods to evaluate perpetrator programs that are consistent with Aboriginal and Torres Strait Islander cultures.

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## Outcome 6: Systems work together effectively

A central objective of the Plan of Action is to establish and foster a coherent response to the problem of violence against women and their children.

Responding to violence against women requires high-level input from practitioners across a range of disciplines to ensure a holistic and adequate response, including from the police; state, territory and federal courts, and other elements of the justice system; health, community and government services working with women and their children; and those working with the perpetrators of violence. While services and programs are in place across all Australian jurisdictions to respond to violence against women and their children, commonly the responses are fragmented, with varying degrees of coordination across service sectors and between different levels of government. This is frequently the result of services having been designed to respond to single problems and the establishment of organisations which were targeted at particular client groups<sup>267</sup>. Gaps in service provision, on the one hand, and duplication of services on the other, is the inevitable result.

This absence of systems that can mesh effectively has a real and profound impact on women who experience violence.

*“I found it so hard when I had to go from the police station, to the court house, to organise a lawyer, to find a JP to witness my signature, all that running around at a time I felt so anxious and tired. When I asked questions about what to expect, it seemed I could only get information about their bit and I had to keep asking. It would have been less stressful if I could have been told about the big picture, told what to expect and what to do, where to go, instead of me having to find it all out myself.”*

*Woman accessing services in North Queensland, 2008*

Policy makers and researchers from Australia and around the world are grappling with common challenges that are associated with complex and fragmented human service systems. A range of solutions is being developed and implemented by service providers that seeks to rely on more serial ways of working, differing in the level of time, resources and commitment required. These include low-intensity forms of cooperation such as networking and coordination, moving to higher-intensity forms of cooperation such as collaboration and partnership<sup>268 269</sup>.

<sup>267</sup> Domestic Violence Council of Western Australia, 2000.

<sup>268</sup> Winer, M. and Ray, R. 1997.

<sup>269</sup> Daka-Mulwanda, V. 1995.



The development of these solutions is occurring at several levels:

- a whole-of-government level – involving senior government representation in the identification and ownership of shared objectives and goals, and the identification of a strategic approach;
- a service system or program level – requiring collaborative efforts by government agencies and service providers to better coordinate the delivery of services relating to one issue or client group; establish operational and information protocols; or to co-locate or fully integrate relevant programs or services through structural change<sup>270 271</sup>;
- a community, place or local level – requiring multiple agencies to work together to share responsibility for actions, plan activities and pool efforts or resources for action<sup>272</sup>;
- at an individual level – requiring multiple service providers to collaborate around and with a client, to plan and respond to their individual needs and aspirations (often referred to as ‘wrap-around’<sup>273</sup> or ‘victim-centred’ models of care).

*The Victorian Government’s family violence reforms are based on a sustained partnership between the Government, police, courts and community services to deliver a more integrated response to family violence - joining up police, justice and family violence services to:*

- *improve the safety of women and children who experience violence (including supporting women and children to remain in the family home where appropriate); and*
- *improve the accountability of men who use violence.*

*Government leadership and coordination is provided through five Ministers working together with a shared focus on addressing family violence, supported by a whole of government Family Violence Interdepartmental Committee. A key aspect to date has been the development of coordinated regional systems that demonstrate how the justice and community support responses can work together to assist women and children who are victims of family violence.*

*Victorian Office of Women’s Policy*

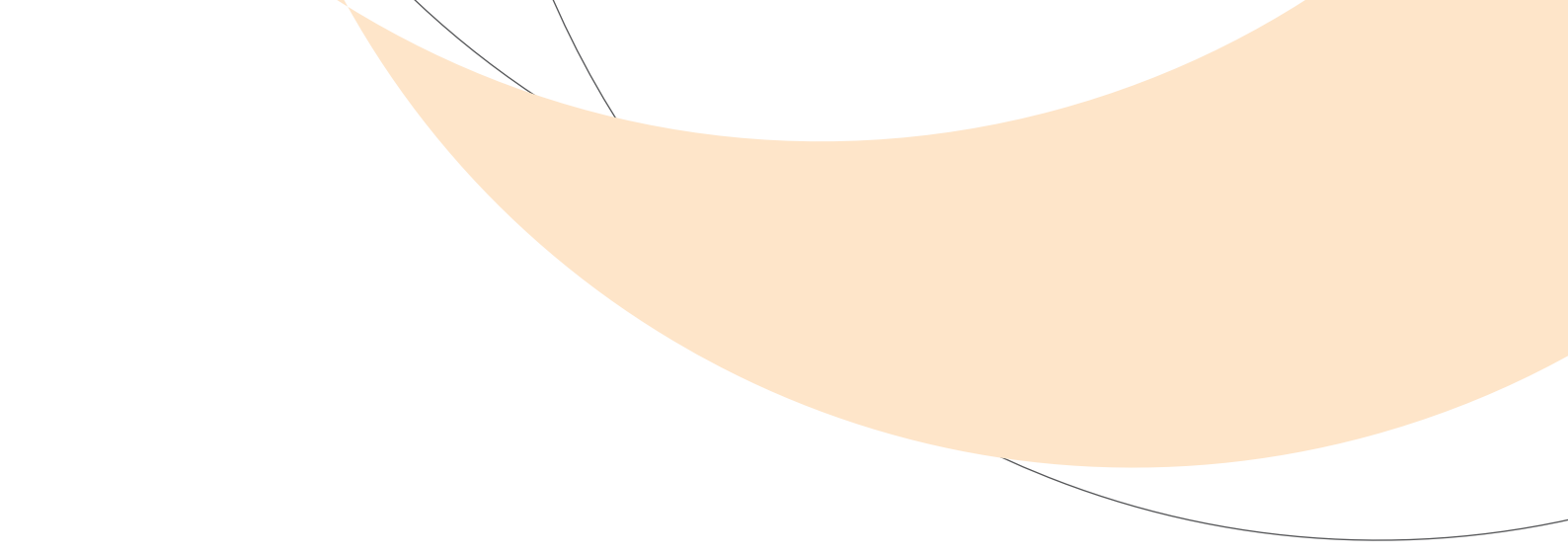
270 Attorney General’s Department of NSW, 2005.

271 Woodruff, J. and O’Brien, J. 2005.

272 Sullivan, H. and Sketcher, C. 2002.

273 Wyles, P. 2007.





The need for improved collaboration of policies, programs and services was a constant feature raised in the written submissions to the Council, reinforcing the message that collaboration is often most effective when it brings about a holistic response for individual women who have experienced violence. Several examples of good practice in Australia and internationally demonstrate a range of agencies collaborating around the victim to ensure effective, integrated responses to achieve better case coordination and case management. The Minneapolis model in the USA has been identified in the literature as a particularly good example - where police, trained advocates, and judicial officers work together to ensure that the woman receives high quality health services and an effective justice response, and the woman's needs (including housing, income support, and child custody) are met. The perpetrator is referred to a treatment program<sup>274</sup>.

Some key features of effective victim-centred sexual assault crisis care include:

- providing information to the woman about all aspects of the response;
- ensuring the woman has an opportunity to provide informed consent<sup>275</sup> to procedures and actions undertaken;
- allowing the woman to have control over the pace and nature of any physical examination and control over all decision-making;
- attention to the woman's broader needs<sup>276 277</sup>.

The Integrated Coordinating Committee (ICC) has been in place since the roll-out of Safe At Home in Tasmania in 2004. It meets on a weekly basis and involves direct service providers representing each of the key stakeholders: the Police Victims Safety Response Team; Police Prosecutor; Child Protection; Family Violence Counselling and Support Service – adult and children's services; Court Support and Liaison officers, representatives from the Family Violence Offender Intervention Program; and Special Needs Liaison Officer if there is a mutual client. Visitors from Legal Aid, Community Corrections and other justice programs, e.g. Court Corrections may attend if appropriate.

The ICC meets weekly to discuss all new and active Safe at Home cases. It's assessed as effective because all partners together are able to manage the risk and safety of their clients. Collectively they develop the case management strategy and together they nominate the most appropriate case manager – whoever has most contact with the client – this could be any one of this group as most clients have multiple needs. ICC members have scope to call out-of-session emergency case conferences, which has happened on a few occasions.

<sup>274</sup> Domestic Violence Council of Western Australia, 2000.

<sup>275</sup> Workers need techniques and protocols for asking questions to ensure that women have fully understood the components of the wrap-around service and can thus give informed consent to its activation. Informed consent can be compromised by complex communication requirements, such as where women have intellectual disability, limited proficiency in English, and/or are stressed by trauma.

<sup>276</sup> Tschudin, B. 1995.

<sup>277</sup> World Health Organisation, 2003.

A formal education/training strategy was employed for all agencies during the implementation phase of Safe at Home. This involved combined agency training delivered on a regional basis to all practitioners and managers involved in Safe at Home. This fostered integration and developed the relationships and networks necessary to cope with rapid change. This was supplemented by further facilitated interagency workshops on significant issues such as case coordination and integration.

*Safe at Home  
The Tasmanian Government's response to family violence*

## Achieving collaboration

Although many Australian jurisdictions have been implementing initiatives based on greater collaboration, there are several barriers to effective collaboration and partnership that need to be addressed. While collaborative working is seen by some to be a cost-effective way of delivering social services, a lack of resources for the existing service system places considerable strain on collaboration, owing to a lack of time and staff to participate in necessary planning, and a lack of services for clients to access<sup>278</sup>.

In addition, for collaboration at the whole-of-government level to be successful, efforts must be championed at the highest levels of government and within the community<sup>279</sup>, and there need to be designated resources that enable participants to dedicate the necessary energy, commitment and enthusiasm to make collaborative efforts and investments work<sup>280</sup>. Performance monitoring of government agencies and service providers, and program evaluation, must also measure, evaluate and reward collaborative effort<sup>281</sup>.

Community planning models are being explored and used overseas, with positive examples in Virginia, USA<sup>282</sup> and Glasgow, Scotland<sup>283</sup>. In the USA, the job of community planning councils is "to stitch together the whole range of separate public, voluntary and increasingly, private activities into a rational, effective response to human needs which is appropriate to each of their particular communities"<sup>284</sup>. Glasgow provides a practical example of how the community planning partnership approach can operate in a complex city environment with pockets of severe deprivation. Across different geographic areas ranging from linkages to national and regional agendas through to creating and integrating the planning of five strategic areas and 10 local areas, Glasgow supports its approach through the establishment of Glasgow Community Partnership Limited<sup>285</sup>.

278 Domestic Violence Council of Western Australia, 2000.

279 Pope, J. and Lewis, J. 2008.

280 Vincent, I. 1999.

281 Pope, J. and Lewis, J. 2008.

282 Virginia General Assembly, 2008.

283 Glasgow Community Planning Partnership, 2005.

284 National Association of Planning Councils, 2009.

285 Glasgow Community Planning Partnership, 2009.

Community involvement in identifying local priorities and having a say in how funds were spent locally was a strong theme throughout the consultations.

The Duluth Domestic Abuse Intervention Project (DAIP) from Duluth, Minnesota in the USA, has been adopted around the world as excellent practice. DAIP incorporates perpetrator programs within an integrated approach which monitors the systems response to domestic and family violence. The principles include:

- the onus of intervention is shifted from the victim to the system;
- the abuser is held accountable for his use of violence;
- all agencies involved (police, courts, victim support, probation and abuser education) are integrated and their approach is through coordinated protocol development;
- all systems are monitored to ensure accountability and compliance with policies<sup>286</sup>.

The Council's consultations during the development of Plan of Action also indicated that competitive tendering between organisations for funding to provide services is seen to be a barrier to effective collaboration.

The literature acknowledges that competition for resources between service providers can create a culture of self-preservation and suspicion that undermines characteristics of relationships that are important for effective collaboration: such as mutual interest and a high degree of trust<sup>287 288</sup>. A lack of certainty for service providers in relation to their ongoing funding can also undermine collaboration and the achievement of outcomes over time, by reducing stability and continuity<sup>289 290</sup>.

286 Cited in North Queensland Domestic Violence Service, 1995.

287 Morrison, T. 1996.

288 Domestic Violence Council of Western Australia, 2000.

289 Mattessich, P. and Monsey, B. 1992.

290 Vincent, I. 1999.

*“Governments need to develop more nimble, flexible and responsive ways of engaging with and supporting local communities, especially remote Indigenous communities. Too often the standard methodology is to develop a generic set of outcomes which are predetermined in Canberra or Perth and community organisations then desperately try to shoe-horn themselves into the program guidelines. Too often also the program they are trying to shoe-horn into is a program from one government agency which is only really interested in its particular delineated portfolio. Too often there is no such thing as a ‘youth’ but instead what exists in the minds of government are ‘student’, ‘student with special needs’, ‘Indigenous student’, ‘juvenile offender’, ‘juvenile drug-user’ etc. In the Kimberley there are some 22 language groups and there are a myriad of socio-economic factors at play just in this one region of Western Australia. Given these realities, we call on government to be more nimble, flexible and responsive to the needs of communities.”*

*Centre Coordinator, Kimberly WA, 2008*

A lack of communication and collaboration between government and non-government organisations is a further barrier to systems working together effectively that must be addressed. National and international research suggests that to protect women and their children from harm, government and non-government organisations and members of the public must share information<sup>291</sup>. Sharing of information is also a contributor to good practice where more than one service is involved in supporting a client.

There is also a need to balance this sharing of information with the privacy rights of women and their children. While privacy laws generally allow the sharing of information between government agencies and other specified organisations where there is a serious and imminent threat to a person's safety<sup>292</sup>, there is a need for protocols that facilitate information sharing where a woman's safety is at risk. Indeed, many service providers report inconsistencies in the way privacy laws and principles are applied, suggesting the need for clarification of, and/or education for, relevant agencies about privacy laws and principles.

Common risk assessment tools are also an important aspect of improving the consistency and effectiveness of service responses across systems and organisations. Adopting a common approach for assessing and managing domestic and family violence throughout the service system ensures the focus of intervention and support remains on the safety of victims/survivors, and that they receive a consistent response regardless of the approach of the organisation that is providing the service<sup>293</sup>.

291 NSW Government, 2006.

292 *Ibid.*

293 Victorian Government, 2007.

The ACT's Family Violence Intervention Program (FVIP) operates at a macro level, co-ordinating policy, administrative and technological infrastructure and legislation to streamline the criminal justice system's response to domestic and family violence; and at the micro level to co-ordinate case management, individual practitioner decision-making and the monitoring of those decisions to ensure best possible outcomes for victims/survivors and that men are held accountable.

The core agencies participating in the FVIP are: the Australian Federal Police (servicing the ACT), Office of the Director of Public Prosecutions, the Magistrates Court, ACT Corrective Services, the Department of Justice and Community Safety; the independent offices of the Victims of Crime Coordinator and of Legal Aid (ACT); the non-government Domestic Violence Crisis Service; Relationships Australia and, more recently, the Office of Children, Youth and Family Support (incorporating Care and Protection Services).

The collaborative arrangements and the common purpose between these government and non-government organisations were established through negotiated protocols, signed in 1998. These protocols formally committed agencies to the following four overarching aims:

- To work together cooperatively and effectively;
- To maximise safety and protection for victims of family violence;
- To provide opportunities for offender accountability and rehabilitation;
- To seek continual improvement.

*Holder and Mayo, 2001*

## Strategies and actions

To ensure that systems work together effectively, the National Council's Plan of Action identifies three key strategies:

- 6.1 Ensure governments deliver what communities need.
- 6.2 Coordinate responses.
- 6.3 Build the evidence base.

### 6.1 Ensure governments deliver what communities need

6.1.1 Commonwealth, State, Territory and Local government agencies work collaboratively to: develop policy, planning and service delivery responses for sexual assault, domestic and family violence; and establish performance reporting measures that recognise and encourage collaborative achievements and identify fragmented delivery of programs and/or services.

6.1.2 Support and/or establish community partnership planning mechanisms that enable communities and services to prioritise need, address gaps and unnecessary duplication in service provision, and contribute to the development of policy, planning and delivery at the local level.

6.1.3 Ensure funding models and reporting requirements do not overburden community based organisations and/or detract from achieving outcomes.

6.1.4 Support and further develop community volunteering and exchange systems between staff in the government and the sexual assault and domestic and family violence sectors.

6.1.5 Ensure Government funding processes support collaboration and cooperation in local communities, not competition.

### 6.2 Coordinate responses

6.2.1 Support and/or develop information sharing systems and protocols between all organisations in response to sexual assault and domestic and family violence, that give primacy to the safety of women and their children.

6.2.2 Ensure resource allocation models promote continuity of funding for local programs where they are shown to be effective through evaluation.

6.2.3 Ensure that community planning partnerships work together at the local level to build client-centred service systems that are simple and practical to access and use.

6.2.4 Ensure mechanisms are in place to facilitate appropriate information sharing between relevant government, and other, agencies to enable services and supports to 'wrap-around' women who have been violated, and their children.

### **6.3 Build the evidence base**

6.3.1 Further develop risk assessment tools that assess the danger that women and their children may be in, in order to guide service responses and perpetrator management.

6.3.2 Investigate simplified outcomes and indicators for domestic violence and sexual assault to reduce the reporting burden and gather consistent evidence.

6.3.3 Investigate a better balance between individual privacy and the safety needs of individual clients and recommend ways to better ensure the safety of women and children.

6.3.4 Investigate and establish what minimum level of services and infrastructure is required in different geographic settings to achieve minimum domestic violence and sexual assault prevention and response outcomes.



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# Implementation of the Plan of Action

This section provides an overview of the proposed oversight arrangements for implementation of the Council's Plan of Action and joint activity across the Australian Government, States, Territories and local governments.

Whilst the proposed oversight arrangements relate primarily to governments and their associated systems, the Council also proposes roles for the sector and the whole community in encouraging and assisting governments to make the necessary changes.

## Council of Australian Governments

The Council of Australian Governments (COAG) is the peak intergovernmental forum in Australia. COAG comprises the Prime Minister, State Premiers, Territory Chief Ministers and the President of the Australian Local Government Association (ALGA).

The role of COAG is to initiate, develop and monitor the implementation of policy reforms that are of national significance, and which require cooperative action by Australian governments<sup>294</sup>. The National Council is clear that sexual assault, and domestic and family violence, require a cohesive and cooperative response from all levels of government; and that given the complex nature of the issues and the requirement for multiple portfolios to collaborate for effective responses, COAG is the most appropriate forum to take carriage of a national plan to reduce sexual assault and domestic and family violence.

In doing so, the National Council proposes that COAG support the Plan of Action to address violence against women and their children, by driving implementation across the range of Commonwealth, State and Territory agencies. As part of this process, funding support will be required for a number of the initiatives that are recommended. Further effective linkages will need to be established and maintained between the Plan of Action and other key COAG reform agendas, including for example:

- the COAG *Early Years Agenda* incorporating the National Framework for Protecting Australia's children;
- the COAG *National Disability Agreement* and related *National Disability Strategy*;
- the COAG *Closing the Gap* agenda and *National Indigenous Reform Agreement*;
- the COAG *National Action Plan on Mental Health*;

<sup>294</sup> Council of Australia Governments, 2009.

- the *National Affordable Housing Agreement* and the *National Partnership Agreement on Homelessness*;
- the first national White Paper on homelessness: *The Road Home: A National Approach to Reducing Homelessness*.

The National Council recommends that COAG develop and agree to a national governance framework to drive the Plan of Action and effectively allocate the associated funding that will be required.

The National Council also recommends that a national council continue to play a role in providing advice to the Australian Government on ways to reduce violence against women and their children and on the implementation of the Plan of Action. The National Council acknowledges that during its program of consultation, many voices called for representation from women with disabilities on the National Council, for representation from all States and Territories, and for more men to be appointed to the National Council. The composition of any future national council is a matter for Government, but the National Council supports these calls for increased representation in the composition of any future council.

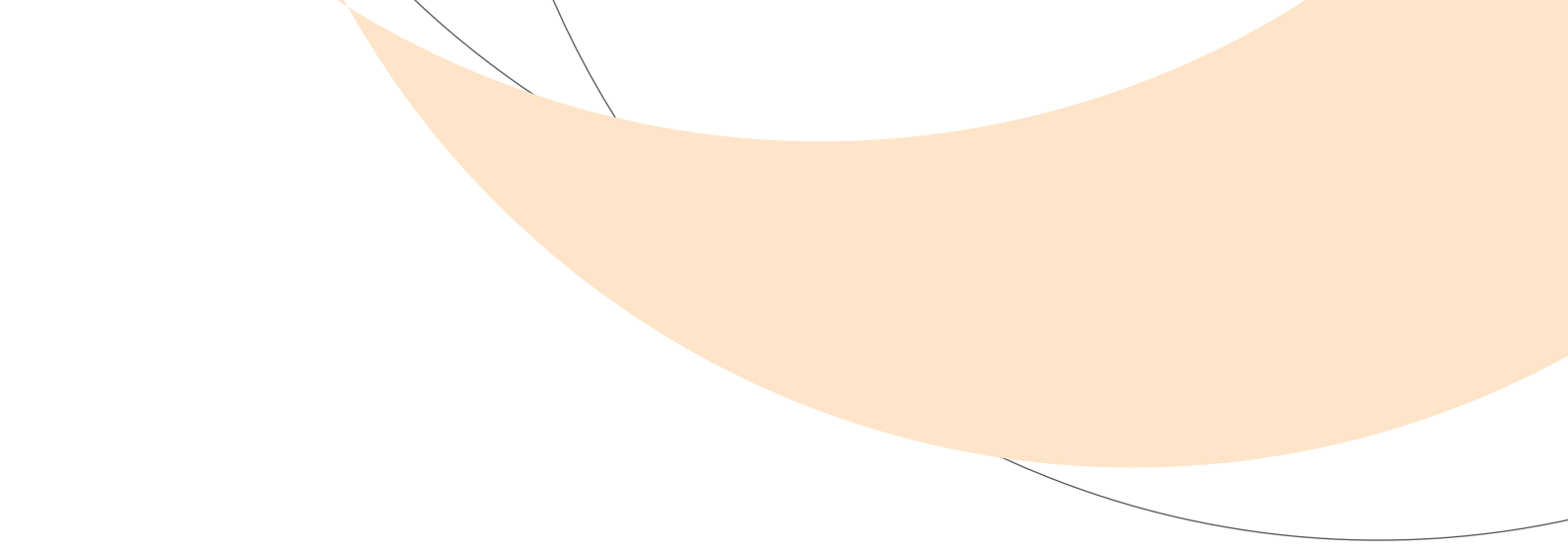
## Ministerial councils

Commonwealth-State/Territory Ministerial Councils facilitate consultation and cooperation between the Australian Government and State and Territory governments in specific policy areas. The councils initiate, develop and monitor policy reform jointly in these areas, and take joint action in the resolution of issues that arise between governments. In particular, Ministerial Councils develop policy reforms for consideration by COAG, and oversee the implementation of policy reforms agreed by COAG<sup>295</sup>.

The work of a number of Ministerial Councils aligns with the issues of sexual assault, domestic and family violence, including:

- Ministerial Council for Aboriginal and Torres Strait Islander Affairs (MCATSIA);
- Corrective Services Ministerial Conference (CSMC);
- Standing Committee of Attorneys-General (SCAG);
- Commonwealth-State Ministers' Conference on the Status of Women (MINCO);
- Ministerial Council on Employment, Education, Training and Youth Affairs (MCEETYA);
- Australian Health Ministers' Conference (AHMC);
- Community and Disability Services Ministerial Council (CDSMC);
- Housing Ministers' Conference (HMC).

<sup>295</sup> *Ibid.*



The National Council proposes that COAG give Ministerial Councils responsibility for implementing relevant strategies and actions of the Plan of Action. The proposed national governance framework would determine the particular roles and responsibilities of each Ministerial Council.

### **Immediate and early implementation actions**

The Council's Plan of Action is given effect over its lifetime by the development, implementation and review of a series of three-year implementation plans. These three-year implementation plans provide the focused timeframe for the delivery of specific actions, which the Council envisages building on one another, and incorporating new information and activities as evidence emerges.

In developing its Plan of Action, the Council has identified 20 actions for *immediate* or urgent implementation. The Council believes that the implementation of these actions will directly benefit women and their children who experience sexual assault and domestic and family violence.

The Council has also identified an initial indicative set of 21 actions which could be implemented in the first three years of the Plan of Action. These actions were selected by determining whether they were:

- the initial step of a longer-term process;
- important actions to begin;
- actions governments were already progressing in part;
- actions which could be done readily;
- actions which fit with other key COAG or government agendas.

As an indicative set of early implementation actions, they do not preclude any government from bringing forward other actions which could be dealt with initially. Not all of these actions would necessarily be completed within the first three years; some may have timeframes that would continue in the second and/or third implementation plan. The proposed plan for the implementation of all actions follows.

## Outcome 1: Communities are safe and free from violence

### Strategies and actions required for urgent implementation to achieve this outcome are:

1.1.1 Develop a national primary prevention framework that draws on international and national evidence of the most effective strategies for preventing violence against women, and prioritises key settings and population groups in which to coordinate primary prevention initiatives and actions.

1.1.2 Establish a National Centre of Excellence for the Prevention of Violence against Women to lead thinking, broker knowledge, co-ordinate a national research agenda and data collection effort, provide a national and international primary point of contact, and monitor and report on the impact of the Plan of Action.

1.1.3 For Aboriginal and Torres Strait Islander communities, in particular in isolated and remote communities, increase access to appropriate housing to reduce overcrowding and the incidence of sexual assault and family violence that may arise from such situations.

1.3.1 Recognising that most men are not violent towards women, encourage them to take a role in countering such violence and promote understandings of, and support for, expressions of masculinities that are non-violent. For example:

- Increasingly target men and boys as agents promoting an end to men's violence against women (such as in the *White Ribbon Campaign* and programs in clubs and sporting and other organisations).
- Encourage men who play a leading role in the community, such as Members of Parliament, government officials, academics, business or community leaders, when making a public address, in addition to acknowledging the traditional owners of the land, to declare that they reject violence against women and their children in any form.

1.5.1 Include "Communities are safe and free from violence" as the fifth Priority Goal under the Promoting and Maintaining Good Health National Research Priority.

### Strategies and actions for early implementation (2009-2012) to achieve this outcome include:

1.1.4 Support local communities that take a stand against the excessive use of alcohol and other substances that exacerbate violence against women and their children, by anticipating flow-on effects and the need for additional services, and by creating a rapid response capability.

1.2.1 Increase opportunities for Aboriginal and Torres Strait Islander men and women to share their understanding, experience and learnings about sexual assault and domestic and family violence with immigrant and refugee groups and create opportunities for them to learn from each other about ways to engage their communities in addressing attitudes and behaviours leading to such violence.

1.3.2 Fund culturally-appropriate mediation and conflict resolution training for non-violent men and women in Aboriginal and Torres Strait Islander communities to strengthen their role and influence in assisting to solve community and family disputes which occur as part of their everyday life.

1.4.1 Women's Ministers, nationally, make representation to the Gender Pay Equity Inquiry and the Pensions Review, asking that the interrelationship between violence against women, lack of economic independence and gender inequality be considered as part of their reviews, and addressed within their recommendations.

1.5.2 Establish a minimum data set including a data dictionary and standard protocols to enable consistency and standardised data collection methods and analysis for sexual assault, domestic and family violence. This data set must be disaggregated by sex and segmented by marginalised groups (for example, Aboriginal and Torres Strait Islander communities; culturally, linguistically and religiously diverse communities; and women with disabilities) wherever this is possible. Where disaggregation by marginalised groups is not possible, this should be complemented by targeted research.

## **Outcome 2: Relationships are respectful**

### **Strategies and actions required for urgent implementation to achieve this outcome are:**

2.1.1 As part of developing a National Primary Prevention Framework (preventing violence against women), build the capacity of the prevention education sector by researching and evaluating primary prevention outcomes, develop standards and indicators for best practice programs, and develop tools and information products to support programs in different settings.

2.2.1 Develop, trial, implement and evaluate educational programs, in a range of settings, based on best practice principles, for pre-schoolers, children, adolescents and adults that encourage respectful relationships and protective behaviours.

### **Strategies and actions for early implementation (2009-2012) to achieve this outcome include:**

2.3.1 Recognise the additional challenges for parents and carers of children with disabilities and build on and target early childhood resources, programs and services, including respite, to assist with developing and maintaining respectful relationships.

### **Outcome 3: Services meet the needs of women and their children**

#### **Strategies and actions required for urgent implementation to achieve this outcome are:**

3.2.1 Governments at all levels support the full implementation of strategies concerning domestic and family violence in *The Road Home: A National Approach to Reducing Homelessness* and in Outcome 4: 'Responses are just' of this Plan of Action.

3.2.2 Audit crisis accommodation services to determine their accessibility and safety for all women experiencing violence with a particular focus on rural women, girls and young women, older women, women with adolescent boys, Aboriginal and Torres Strait Islander women, women with disabilities, women with no income, immigrant and refugee women and women with mental health, alcohol and/or drug dependence issues.

3.3.1 Following consultation with the sector, establish a professional national telephone and online crisis support service for anyone in Australia who has experienced, or is at risk of, sexual assault and/or domestic and family violence. The service should integrate and coordinate with existing services in all States and Territories, offer professional counselling, provide information and referrals, use best practice technology, link with other 1800 numbers, have direct links with relevant local and state services, and provide professional supervision and advice to staff in services in isolated and remote areas.

3.3.2 Provide funding to support a national network of locally developed healing centres and other emerging initiatives and support services for Aboriginal and Torres Strait Islander communities in urban, regional, rural, remote and isolated areas, to address their experiences of trauma and violence.

3.3.4 Ensure children who are living with, or have lived with, sexual assault and/or domestic and family violence do not have their safety, wellbeing, support and counselling needs compromised, and that all interventions are in accord with the safety and wellbeing of their mothers.



## **Strategies and actions for early implementation (2009-2012) to achieve this outcome include:**

3.1.1 Develop and implement a well supported and funded workforce strategy to support the attraction, recruitment, retention, development of and succession planning for staff working in sexual assault, domestic and family violence services. The strategy should address: recognition of the complexity and the true market value of the work undertaken in the fields of sexual assault, domestic and family violence; whole of workforce issues, including skills and qualifications, career pathways, training and development, networking and professional support; resourcing requirements, which are to be met as part of funding programs and services; and strategies to build the competency of people within communities (particularly rural and remote communities) to be engaged as the service providers.

3.1.2 Develop and implement a comprehensive strategy to acknowledge, support, train and reimburse community members who form the informal helping system for women and their children experiencing domestic and family violence, with the early focus for support and investment towards the helpers at the front-line in rural, remote and isolated communities.

3.1.3 Ensure that all undergraduate students enrolled in law, medicine, social work and relevant allied academic courses, undertake compulsory course work covering the nature and dynamics of sexual assault and domestic and family violence, and relevant law.

3.3.3 Explore best practice, develop responsive models and increase funding to women's domestic and family violence services to enhance responses to children affected by domestic and family violence, especially in relation to strengthening the mother-child relationship in the aftermath of violence.

3.3.5 Ensure adult survivors of child sexual assault, domestic and family violence have access to counselling, court support and practical assistance whenever they choose to disclose their past experiences of violence.

3.3.6 Provide access to funding schemes for women with disabilities to enable them to control and manage who is employed to provide care and support for them in their home.

3.3.7 At every point in the service and justice system, ensure services are adequately funded to provide professional interpreting to victims/survivors who are not confident in their English language competency.

3.4.1 Develop a national evaluation approach to assess the effectiveness of service responses to women and their children who have experienced violence, including women with disabilities living in a range of settings (at home, in the community and in supported residential accommodation).

## Outcome 4: Responses are just

### Strategies and actions required for urgent implementation to achieve this outcome are:

4.1.1 The Australian Government takes leadership to ensure the impending United Nations Convention on Victims Rights (expected in 2011) fully reflects the *United Nations Declaration on the Elimination of Violence Against Women* and principles of other human rights conventions, such as the *United Nations Convention on the Rights of Persons with Disabilities*, which Australia has ratified.

4.2.1 Establish a reference for the Australian Law Reform Commission to examine present State/Territory domestic and family violence, child protection legislation and federal family law, and propose solutions to ensure that the inter-relationship in the application of these laws works to protect women and children from violence.

4.3.1 Establish a mechanism that enables automatic national registration of domestic and family violence protection orders and subsequent variations, adaptations and modifications occurring anywhere in Australia or New Zealand; and consider the need to include police-issued domestic and family violence orders on the national register.

4.3.2 Establish or build on emerging homicide/fatality review processes in all States and Territories to review deaths that result from domestic and family violence so as to identify factors leading to these deaths, improve system responses and respond to service gaps. As part of this process ensure all information is, or recommendations are, centrally recorded and available for information exchange.

### Strategies and actions for early implementation (2009-2012) to achieve this outcome include:

4.3.3 Strengthen the application of the legislation governing ouster/exclusion orders by: highlighting in the legislation, and/or on protection order application forms, the availability of the ouster/exclusion order provisions; ensuring the provisions are cross-referenced with relevant tenancy law; including this aspect of the legislation in professional development for police, lawyers, court staff and judicial officers; and undertake research to identify the most effective legislative and policy responses for increasing the appropriate utilisation of ouster/exclusion orders.

4.3.4 Review all State and Territory sexual assault legislation to ensure it:

- includes a definition of consent that applies a “communicative” model through defining consent as “free agreement” or “free and voluntary agreement”;
- includes a list of vitiating circumstances under which free agreement cannot be said to have been given;

- limits the extent to which an accused can claim to have held an honest, though unreasonable, belief in consent, thus restricting the availability of mistaken belief defences;
- ceases the artificial separation of court hearings involving multiple victims of the same offender.

4.4.1 Develop and implement a national education and professional development framework that recognises the specific roles and functions of: police; prosecutors; defence counsel; family and migration lawyers; legal advisers; court staff and the judiciary. This professional development must be designed with these specific audiences in mind; be informed by research on the social context within which violence against women and children takes place; emphasise the diversity of experiences and needs of victim/survivors of violence in the community; and enhance understanding of the intent and operation of relevant legislation.

## **Outcome 5: Perpetrators stop their violence**

### **Strategies and actions required for urgent implementation to achieve this outcome are:**

5.1.1 Fund and develop a correctional facility-specific domestic violence behaviour change program to be tested in Australian prisons.

5.2.1 Support remote communities to agree to develop alternative places to which men are able to go, or be taken to, at the earliest point that violent behaviour or its precursors are exhibited.

5.4.1 Fund and deliver a perpetrator research agenda, including longitudinal research that has a particular focus on: what changes problem behaviour; what maintains behaviour change; the utility of risk assessment tools; the effectiveness of various recidivism reduction strategies; and takes account of different offender characteristics and cultures.

### **Strategies and actions for early implementation (2009-2012) to achieve this outcome include:**

5.1.2 Fund a national conference every two years to share information on what works with regard to perpetrator services and programs and develop communities of practice.



## **Outcome 6: Systems work together effectively**

### **Strategies and actions required for urgent implementation to achieve this outcome are:**

6.1.1 Commonwealth, State, Territory and Local government agencies work collaboratively to develop policy, planning and service delivery responses for sexual assault, domestic and family violence; and establish performance reporting measures that recognise and encourage collaborative achievements and identify fragmented delivery of programs and/or services.

### **Strategies and actions for early implementation (2009-2012) to achieve this outcome include:**

6.1.2 Support and/or establish community partnership planning mechanisms that enable communities and services to prioritise need, address gaps and unnecessary duplication in service provision, and contribute to the development of policy, planning and delivery at the local level.

6.2.1 Support and/or develop information sharing systems and protocols between all organisations in response to sexual assault and domestic and family violence, that give primacy to the safety of women and their children.

6.3.1 Further develop risk assessment tools that assess the danger that women and their children may be in, in order to guide service responses and perpetrator management.

## Implementation of other actions

In addition to the actions for early implementation, the Council has sought to give an indication of when each of the other proposed actions could be implemented across the lifetime of the Plan of Action. This is not to suggest a fixed or inflexible approach to implementation, but rather to act as a guide for COAG and individual jurisdictions, and to assure the sector that consideration has been given to each action and its role within the Plan of Action. Within this framework, the following sequencing of actions is proposed:

### 2012 – 2015

1.2.2 Increase the development and availability of leadership and mentoring programs for women and men to harness the positive capacities within communities as well as build to improve community safety in disadvantaged localities.

1.2.3 Provide incentives that recognise effective affirmative action strategies within community councils and local governments to increase the participation of women in leadership and community decision-making roles.

1.2.4 Develop targeted programs to redress violence-supportive attitudes common to particular communities or to the Australian community as a whole.

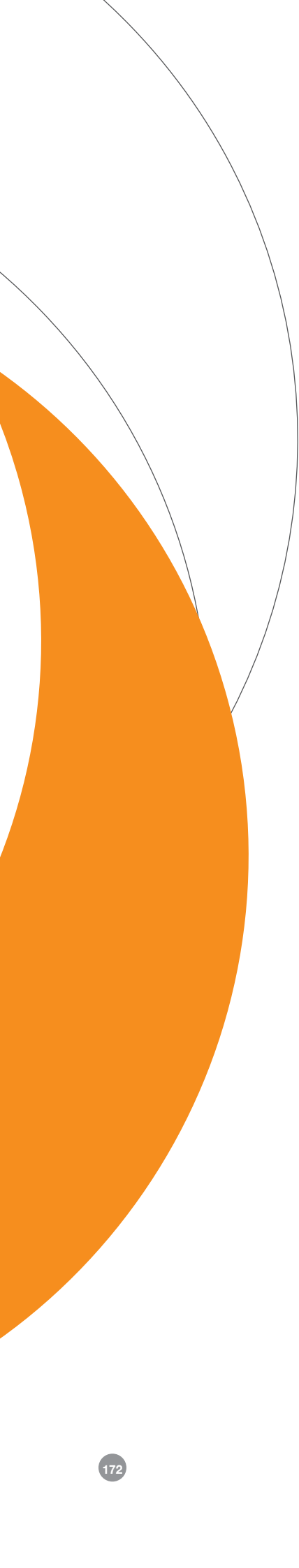
1.2.5 Support the transition of newly arrived immigrants and refugees by ensuring orientation and opportunities provided through the English on Arrival language courses, and familiarise them with Australian laws and the Australian legal system, including principles of gender equality and the value placed on respectful relationships in Australian society.

1.2.6 Strengthen media and internet standards to address sexualised and denigrating representations of women, and minimise the impact of the persistent exposure to representations of violence in childhood and adolescence.

1.3.3 As part of a broader social marketing plan, provide factual information to workplaces and communities to challenge myths and change attitudes about violence against women and give guidance on protective behaviours and available supports and services designed to engage people of different ages and abilities and positioned to be meaningful within the context of different cultures.

1.4.2 Develop specific formal and informal employment support initiatives with businesses (including affordable childcare) that enable women who have experienced violence to enter or return to the workforce.

1.4.3 Encourage employers to provide flexible working arrangements for women who have experienced violence.



1.4.4 Explore incentives for employers to recruit and retain women who have experienced violence.

1.5.3 Enhance the Australian Bureau of Statistics (ABS) Personal Safety Survey to encompass physical and non-physical abuse; and provide adequate sample sizes for generating reliable data for Aboriginal and Torres Strait Islander people and other specific sub-populations.

1.5.4 As part of a national survey, measure attitudes to gender inequality, respectful relationships and women's safety every five years to redress violence-supportive attitudes and encourage the development and growth of respectful relationships and gender equality as social norms in our community.

1.5.5 Implement the results of the ABS Statistical Framework for Family and Domestic Violence.

1.5.6 Undertake the ABS Personal Safety Survey every five years to increase our understanding of the prevalence and incidence of personal violence in our community.

1.5.7 At regular intervals (every five years) undertake research and report on the impacts and costs of sexual assault and domestic violence to the Australian community.

2.1.2 Expand the capacity of teachers and other educators and leaders to provide violence prevention education programs.

2.1.3 Incorporate a focus on respectful relationships in broader social marketing campaigns designed to raise community awareness and effect cultural and behavioural change, which are particularly targeted at people from diverse backgrounds and young people who have an increased risk of victimisation and perpetration.

2.2.2 Incorporate respectful relationship education into the national curriculum so that all children have access to, and participate in, a comprehensive respectful relationship education program before leaving school.

2.3.2 As part of associated government initiatives, provide resources to families at key transition points (for example birth of children, starting school, puberty, leaving school) to help them maintain a positive approach to parenting.

2.3.3 Build on and target existing resources, programs and services to assist parents and primary caregivers to provide positive parenting by supporting their children to develop respectful relationships.

2.4.1 Provide annual reporting on the number of respectful relationship programs provided per State/Territory, and assess the application of best practice standards.

3.1.4 Expand training and support to rural practice nurses and Aboriginal health workers in sexual assault and domestic and family violence assessment and referral.

3.2.3 Following the audit of crisis accommodation services, increase service capacity and revise eligibility criteria, where required, to ensure equitable access to crisis support and accommodation for women and their children regardless of circumstances such as geographic location, cultural background and English language proficiency, disability, sexuality, presence of male children and addiction.”

3.2.4 Develop and distribute information on a range of models for safe accommodation that can be applied or adopted based on local circumstances, including safe places, outreach support, removal of perpetrators, or assistance with relocating women from communities where there is no safe haven.

3.3.8 Ensure interpreter services for women experiencing violence (including interpreters competent in Auslan) receive training to ensure interpreters understand issues related to sexual assault, and domestic and family violence, and are able to interpret in a sensitive yet impartial manner.

3.3.9 Support the effective delivery of mental health services to women and their children who have been victims of sexual assault and/or domestic and family violence. This should include enhancing the capacity of existing mental health services to support women in times of crisis, as well as increasing access to subsidised ongoing counselling services.

3.3.10 Create a brokerage funding program for local service providers in order to ensure early access to emergency services to ensure the safety of women and their children, regardless of where they reside.

3.3.11 Ensure community awareness and education programs are provided in language, and through media, which are accessible to older women, women with disabilities and women not competent in English.

3.3.12 Ensure services (legal, medical and community) recognise and understand the extra complexity experienced by immigrant and refugee women and their children experiencing violence in order to improve the capacity of services to respond appropriately and effectively.

3.4.2 Include in funding agreements a requirement, and sufficient resources, to undertake rigorous, independent evaluations of all government-funded initiatives and programs, and make the results publicly available, as a condition of continuing funding.

3.4.3 Fund research and develop excellent practice models which enable women to transition from emergency accommodation to more stable medium – longer-term housing.

4.1.2 Establish a reference for the Australian Law Reform Commission to develop national guiding principles to inform a consistent interpretation of the law and applicable rules of evidence for sexual assault matters and domestic and family violence matters.

4.1.3 Enhance support services to assist female visa applicants experiencing domestic or family violence to access the protection of migration legislation.

4.1.4 Ensure all victims of violence (including children exposed to violence) have access to victim/witness services with staff who are knowledgeable and responsive to the diversity of women so they can support them in their interactions with the justice system.

4.1.5 Ensure adequate funding for legal aid and advocacy services is provided by the Australian Government, over and above State/Territory funding, to recognise the significant focus given to domestic and family violence in the 2006 amendments to the *Family Law Act 1975*.

4.1.6 Undertake gender/intersectional analysis of proposed policies and legislation to ensure they do not jeopardise the safety of women and their children.

4.2.2 Ensure State and Territory domestic and family violence legislation contains a clearly articulated objective definition of domestic and family violence that recognises the gendered nature of domestic and family violence and its impacts and consequences; that domestic and family violence is motivated by a desire for domination and control; and that it must be used in conjunction with criminal law where a crime has been committed.

4.2.3 Give primacy to the safety and wellbeing of children, including protection from unsupervised exposure to perpetrators of domestic and family violence, when considering 'the best interests of the child'.

4.2.4 Focus police practices and accountability on gathering evidence to support criminal charges where relevant, and eliminate the occurrence of dual arrests and cross-orders, in the investigation of domestic and family violence allegations.

4.3.5 Increase the establishment of specialised courts or special court proceedings guaranteeing sensitive, timely and efficient handling of cases of violence against women.

4.3.6 Expand the use of specialist approaches to prosecutions (including increasing the availability and use of specialist courts) to minimise withdrawal and maximise the chances of successful and timely reporting and convictions in sexual assault and domestic and family violence cases.

4.3.7 Ensure guiding principles for the interpretation of the law relating to sexual offences feature within sexual offence legislation for every State and Territory jurisdiction, including within the rules of evidence, as they relate to sexual offences.



4.4.2 Commission the production of a model Bench Book, in consultation with jurisdictions and as part of a national quality professional development program for judicial officers on sexual assault and domestic and family violence, to provide a social context analysis and case law to complement existing resources and enhance the application of the law.

4.5.1 Undertake national benchmarking of substantive law, evidence and procedure, interpretation and application for sexual assault offences that includes recommendations about which provisions are best able to provide a just legal response for victims.

4.5.2 Undertake and evaluate, with necessary caution, trials to explore the utility and suitability of restorative justice for cases of domestic and family violence and sexual assault.

4.5.3 Continue to trial and evaluate supplementary legal processes in the area of Aboriginal and Torres Strait Islander family violence and sexual assault, such as restorative justice, which are driven by Aboriginal and Torres Strait Islander communities.

5.1.3 Develop standards, benchmarks and models for behaviour change programs and services for perpetrators that take account of individual differences and the typology of their violence; and create incentives for their participation.


5.1.4 Ensure that men serving custodial sentences for crimes against women have access to behaviour change programs as early as possible, and certainly before their release.

5.2.2 Develop initiatives that change attitudes and behaviours of young people at the earliest point that sexually deviant, violent, bullying, abusive or humbugging behaviours are exhibited.

5.2.3 Increase funding to men's counselling and support services that meet the standards of practice, including telephone support services, to help men reach out for support when they recognise the antecedents to violence and provide support for non-violent behaviour.

5.3.1 Increase community-based maintenance and follow up services for individuals, families and communities that enable perpetrators to maintain changes to their attitudes and behaviour.

5.3.2 Strengthen post-release transition services to ensure perpetrators have access to education and training, employment assistance and family counselling, where required.



5.4.2 To further understandings of the cycle of violence and the intergenerational transmission of violence, undertake research to identify the impacts of daily trauma on the neurological development of children who are victims of sexual assault and domestic and family violence, and the intersection of these impacts on their life-long ability to self-regulate and control their behaviour as adults.

6.1.3 Ensure funding models and reporting requirements do not overburden community based organisations and/or detract from achieving outcomes.

6.1.4 Support and further develop community volunteering and exchange systems between staff in the government and the sexual assault and domestic and family violence sectors.

6.2.2 Ensure resource allocation models promote continuity of funding for local programs where they are shown to be effective through evaluation.

6.2.3 Ensure that community planning partnerships work together at the local level to build client-centred service systems that are simple and practical to access and use.

6.3.2 Investigate simplified outcomes and indicators for domestic violence and sexual assault to reduce the reporting burden and gather consistent evidence.

6.3.3 Investigate a better balance between individual privacy and the safety needs of individual clients and recommend ways to better ensure the safety of women and children.

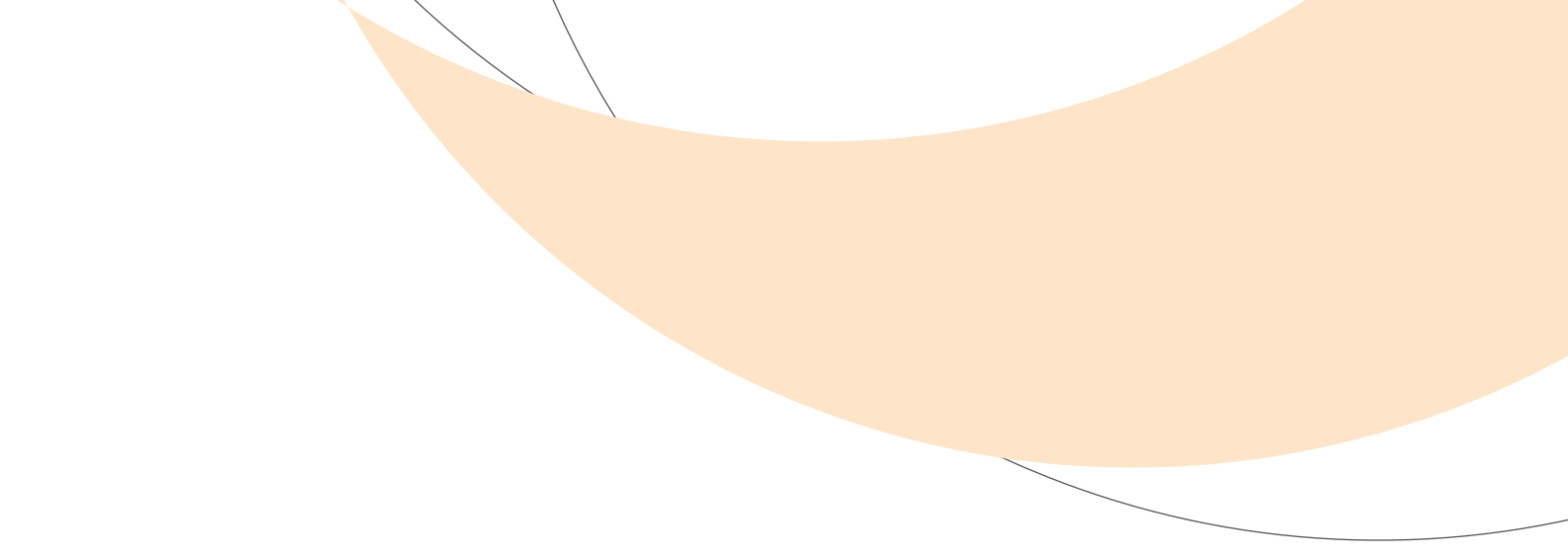
## **2015 -2018**

1.4.5 Encourage, support and recognise business initiatives which prevent gender-related violence (for example, sexual harassment) in the workplace.

2.2.3 Develop and implement an accreditation and evaluation system for respectful relationships programs to ensure that program development and delivery meets best practice.

2.4.2 Undertake benchmarking of young people's attitudes towards women and violence; and review every five years.

3.1.5 Develop and implement multiple training and accreditation strategies for medical and allied health professionals, legal practitioners and community service workers to develop their understanding of the structural nature and impacts of sexual assault, and domestic and family violence on women and their children, taking account of factors such as age, ethnicity and disability.



3.1.6 Develop and implement model codes of practice to ensure that there is consistency, transparency and accountability between sectors (health, community, legal) in delivering services that respond to sexual assault, and domestic and family violence. The codes of practice should apply to a range of front-line workers, and include core principles and values to guide service delivery that reflect the diversity of women experiencing violence, and ensure approaches that focus on intersectionality to address the compounding factors that increase a woman's vulnerability to violence.

3.3.13 Explore the feasibility of providing a Medicare payment to rural general practitioners for the provision of forensic medical sexual assault examinations in order to encourage more rural doctors to undertake training and provide these services.

3.3.14 Provide access to specialist trauma and recovery counselling services for women in prison and their children; provide access to educational opportunities for women in prison; and strengthen post-release services for women to ensure they have access to safe and supported housing, education and training, employment assistance and counselling.

3.4.4 Undertake research on the specific needs of older women affected by violence, especially sexual violence, to ensure services are responsive to their particular needs.

3.4.5 In partnership with peak bodies and the sector, review, update and promulgate standards and good practice guidelines to support programs for women and their children who have experienced violence to assure quality service.

4.2.5 Capitalise on guilty pleas to apply elements of restorative justice in the conventional justice system which improve responses for victims; including, for example, the use of incentives for perpetrators of violence to plead guilty and ritualising the guilty plea to incorporate explicit acknowledgement of, and responsibility for, the crime and the harm caused.

4.5.4 Undertake research on police practices in pro-arrest jurisdictions within Australia to understand variance in dual arrest rates and the impact on women's safety, including women being re-victimised in the justice system, with the goal of minimising dual arrests.

4.5.5 Evaluate the effectiveness of homicide/fatality review processes in all States and Territories to determine the most effective models.

5.1.5 Increase the availability, range and evaluation of perpetrator programs that meet standard principles, particularly in rural and remote areas.

5.1.6 Develop best practice programs to address violence in lesbian relationships and to prevent violence in carer relationships.



5.4.3 Develop methods to evaluate perpetrator programs that are consistent with Aboriginal and Torres Strait Islander cultures.

6.1.5 Ensure Government funding processes support collaboration and cooperation in local communities, not competition

6.2.4 Ensure mechanisms are in place to facilitate appropriate information sharing between relevant government, and other, agencies to enable services and supports to 'wrap-around' women who have been violated, and their children.

6.3.4 Investigate and establish what minimum level of services and infrastructure is required in different geographic settings to achieve minimum domestic and family violence and sexual assault prevention and response outcomes.

## **2018 – 2021**

Ongoing implementation of continuing actions from previous Implementation Plans; and overall evaluation and review process that sets the foundation for action beyond 2021.





# Monitoring and Evaluation of the National Council's Plan of Action

To ensure that the National Council's Plan of Action delivers on the outcomes that have been identified, the National Council proposes that a detailed Monitoring and Evaluation Strategy be developed in consultation with the National Council, the sector, evaluation experts, academia, and governments. Given it is proposed that COAG agree and resource the implementation of the Plan, it is envisaged that COAG would commission the development of the Monitoring and Evaluation Strategy.

The Monitoring and Evaluation Strategy would include the development of agreed indicators for measuring the outcomes of the Plan of Action. The Strategy would set the baseline for monitoring change over the lifetime of the Plan and establish a methodology and timeframe for reporting on outcomes. The Monitoring and Evaluation Strategy would also provide for annual reporting to COAG on implementation progress, and in the longer term, on impacts and performance.

The National Council recognises that some data and evidence would not be available initially; and through its proposed actions has set a very clear course for the development of data sets, information, standards, benchmarks and evidence as part of the approach to building the evidence base within each Outcome Area.

Monitoring efforts would seek to:

- determine whether the Plan of Action is unfolding as planned;
- identify obstacles and opportunities;
- suggest mid-course corrections that would increase the likelihood of the Plan of Action's success by modifying the three-year implementation plans.

Such a Monitoring and Evaluation Strategy would require considerable work and coordination between all governments; but is essential to understanding what works, what works best and why, and ensuring that government and community investments are effective in preventing and reducing violence against women and their children.

The National Council envisages a primary role for the proposed National Centre of Excellence for the Prevention of Violence against Women in data collection and analysis as well as policy and program advice and workforce support. The Centre would therefore be well positioned as a key player in the monitoring and evaluation of the Plan of Action.

The National Council itself would also support the monitoring and evaluation of the Plan of Action.





# Terminology and key concepts

Women and men can be perpetrators and/or victims of sexual assault and domestic and family violence, but statistics and research overwhelmingly show that most incidents are perpetrated by men against women and children. For this reason, the Council uses the terminology of ‘victim/survivor’ or ‘women’/‘women and children’; and ‘perpetrator’ or ‘man/male’ throughout the Plan of Action. The Plan reflects a sociological interpretation of the phenomenon of violence against women, rather than a legal interpretation. For this reason, the term ‘perpetrator’ or ‘alleged perpetrator’ has been used more than ‘defendant’ or ‘accused’. However, it is important that the reader substitutes these terms with terms they are personally or organisationally comfortable with. The remainder of this section explains the understanding of key concepts that provide the foundation for the Plan of Action.

## Accountability

‘Accountability’ refers to consequences of actions at the individual, community and system level. For example, at the individual level, this means perpetrators acknowledging their use of violence and responsibility in stopping violence; at the community level, this means speaking out against violence and challenging perpetrators and violence supportive attitudes; and at the systemic level, this means adopting consistent and coordinated standards of policy and practice that prioritise women’s and children’s safety in the long term.

## ‘As Is’ jurisdictional analysis

The ‘As Is’ is a high-level jurisdictional analysis of initiatives under way across Australia to respond to sexual assault and domestic and family violence conducted by the Council in 2008. It provides an overview of trends in each jurisdiction including key strategic priorities, policy directions, governance mechanisms, legal responses, service infrastructure, areas for improvement and gaps in delivery. The ‘As Is’ jurisdictional analysis is found in Part B of the *Background Paper to Time for Action: The National Council’s Plan for Australia to Reduce Violence against Women and their Children, 2009-2021*.

## Bisexual

A person sexually attracted to both men and women, for whom this attraction is part of their self-identity.



## CALRD

'CALRD' stands for culturally, linguistically and religiously diverse. CALRD women and children face considerable barriers in seeking assistance, including language barriers, cultural and family pressures to keep the family together, lack of understanding of the legal system, lack of residency status, the fear of being deported, and religious beliefs<sup>296</sup>.

## Case management

'Case management' is a service delivery approach that involves a collaborative process of assessment, planning, facilitation and advocacy for options and services to meet an individual's health needs through communication and available resources to promote quality cost-effective outcomes. Within the Australian context, case management can be placed within a social model of health. This framework allows for the client and case manager to work on the various aspects of the client's life that influence the client's health and other needs<sup>297</sup>.

## Children/child

Any individual aged less than 18 years. This definition is consistent with the definitions used in all states except Queensland, where the age of a child is considered to be less than 17 years. The definition of a child as a person less than 18 years is also consistent with the definition included in the *United Nations Convention on the Rights of the Child*.

## COAG

'COAG' stands for the Council of Australian Governments and refers to the peak intergovernmental forum in Australia comprising the Prime Minister, State Premiers, Territory Chief Ministers and the President of the Australian Local Government Association. The role of COAG is to initiate, develop and monitor the implementation of policy reforms that are of national significance and which require cooperative action by Australian governments<sup>298</sup>.

296 Case Management Society of Australia, 2009.

297 Sneddon, C. 2008.

298 Council of Australian Governments, 2009.

## Community

‘Community’ refers to the Australian collective and includes governments, businesses, non-government organisations, voluntary or civil society groups, and individuals. Australia is the fourth most diverse nation in the world. Its community comprises many faiths, many languages and many cultures. As at 2008, its residents came from 230 countries, spoke more than 190 languages and followed more than 100 religious faiths. Apart from Aboriginal and Torres Strait Islanders – the First Australians – all Australians can trace their roots to another country. These diverse groups have worked together to build a multicultural community based on the principles of democracy, tolerance and equality. All Australians, whether they were born here or migrated here, have equal rights and responsibilities – the right to freedom of speech, religious practice, freedom of cultural expression, and the responsibility to respect the rights of others and follow Australia’s laws and democratic principles<sup>299</sup>.

## Community partnerships

Formal connections or linkages between individuals, communities, business and/ or government formed in order to contribute to a common objective. An example is primary or secondary schools in regional areas collaborating with the local community to act as a social and adult learning hub, as well as a place of learning for children.

## Court staff

Includes registrars, administrative support staff, legal clerks and judges’ associates. Does not include judges or magistrates.

## Cross-sectoral

‘Cross-sectoral’ refers to linkages across sectors such as justice, health and community services.

## Customary law

‘Customary law’ refers to the systems of traditional customs, rules and laws governing Aboriginal and Torres Strait Islander communities. It structures Aboriginal and Torres Strait Islander societies, cultures and religions; and connects individuals with each other and with their ancestral spirits<sup>300</sup>.

<sup>299</sup> *Ibid.*

<sup>300</sup> Law Reform Commission of Western Australia, 2006.

## Disability

'Disability' is an evolving concept. It results from the interaction between persons with impairments and attitudinal and environmental barriers that hinder their full and effective participation in society on an equal basis with others. 'Persons with disabilities' include those who have long-term physical, mental, intellectual or sensory impairments which (in interaction with various barriers) may hinder their full and effective participation in society on an equal basis with others<sup>301</sup>.

## Domestic violence

The term 'domestic violence' refers predominantly to abuse of a person, usually a woman, by their intimate partner. While there is no single definition, the central element of 'domestic violence'<sup>302</sup> is an ongoing pattern of behaviour aimed at controlling one's partner through fear, for example by using behaviour which is violent and threatening. It occurs between people who have, or have had, an intimate relationship. In most cases, the violent behaviour is part of a range of tactics to exercise power and control over women and children, and can be both criminal and non-criminal<sup>303</sup>. The laws in each State and Territory differ in this respect – some now define emotional abuse as a crime, while others do not. The Council's Plan of Action states clearly that although only some aspects of domestic violence are criminal offences, any behaviour that causes the victim to live in fear is intolerable.

The behaviours that are associated with domestic violence include<sup>304</sup>:

*Emotional abuse* – blaming the victim for all problems in the relationship, constantly comparing the victim with others to undermine self-esteem and self-worth, sporadic sulking, withdrawing all interest and engagement (for example weeks of silence), emotional blackmail.

*Verbal abuse* – swearing and continual humiliation, either in private or in public, with attacks following clear themes that focus on intelligence, sexuality, body image and capacity as a parent and spouse.

*Social abuse* – systematic isolation from family and friends through techniques such as ongoing rudeness to family and friends to alienate them; instigating and controlling the move to a location where the victim has no established social circle or employment opportunities; and forbidding or physically preventing the victim from going out and meeting people.

301 United Nations *Convention on the Rights of Persons with Disabilities* and Optional Protocol, 8 May 2008.

302 In Aboriginal and Torres Strait Islander communities, family violence includes sexual assault.

303 Department for Planning and Community Development, 2007.

304 Flinders Institute for Housing, Urban and Regional Research, 2008.

*Economic abuse* – complete control of all money, including: forbidding access to bank accounts; providing only an inadequate ‘allowance’; not allowing the victim to seek or hold employment; and using all wages earned by the victim for household expenses.

*Psychological abuse* – includes: driving dangerously; destruction of property; abuse of pets in front of family members; making threats regarding custody of any children; asserting that the police and justice system will not assist, support or believe the victim; and denying an individual’s reality.

*Spiritual abuse* – denial and/or misuse of religious beliefs or practices to force victims into subordinate roles; or misuse of religious or spiritual traditions to justify physical violence or other forms of abuse.

*Physical abuse* – includes: direct assault on the body (strangulation or choking, shaking, eye injuries, slapping, pushing, spitting, punching, or kicking); use of weapons including objects; assault of children; locking the victim out of the house; and sleep and food deprivation.

*Sexual abuse* – any form of pressured/unwanted sex or sexual degradation by an intimate partner or ex-partner, such as sexual activity without consent; causing pain during sex; assaulting genitals; coercive sex without protection against pregnancy or sexually transmitted disease; making the victim perform sexual acts unwillingly (including taking explicit photos without their consent); criticising, or using sexually degrading insults.

## **Durability**

‘Durability’ refers to the ability of a policy, program or service to endure and be sustainable over a long period despite external pressures.

## **Early intervention**

‘Early intervention’ (sometimes referred to as ‘secondary prevention’) is targeted at individuals and groups who exhibit early signs of perpetrating violent behaviour or of being subject to violence. Early intervention strategies can be aimed at changing behaviour or increasing the skills of individuals and groups. They also can be targeted at environments that exhibit strong signs of potential violence<sup>305</sup>.

## **Family**

The definition of ‘family’ relates to the specific cultural norms of the community to which the victim belongs. For example, ‘family’ may mean nuclear or extended family in Aboriginal and Torres Strait Islander communities.

## **Family violence**

‘Family violence’ refers to violence against women perpetrated by a family member which may include, but is not limited to, their intimate partner. The range of behaviours that constitute family violence are the same as those defined under ‘domestic violence’ above.

The term ‘family violence’ is preferred over the term ‘domestic violence’ in some Australian jurisdictions such as Victoria and the ACT. The term ‘family violence’ also tends to be preferred by Aboriginal and Torres Strait Islander communities to capture how violence may be perpetrated by a range of people in intimate, family and other relationships of mutual obligation; and how the effects reverberate throughout the entire family<sup>306</sup>.

## **Gender diversity**

‘Gender diversity’ is a celebration and recognition of variations in gender (or the cultural expression of sex identity) within Australian society including men, women, transgender, transsexual and intersex<sup>307</sup>.

## **Gender equality**

The goal of equality between women and men, particularly in the fulfilment of human rights. The equal valuing of men and women<sup>308</sup>.

## **Gender analysis**

‘Gender analysis’ is an examination of the relationships and role differences between women and men. Gender analysis identifies, analyses and informs action to address inequalities that arise from the different roles of women and men, or the unequal power relationships between them, and the consequences of these inequalities on their lives<sup>309</sup>.

## **Government**

Unless otherwise specified, ‘government’ includes the Commonwealth, States and Territories and local governments.

305 VicHealth, 2007.

306 Keel, M. 2004.

307 Human Rights and Equal Opportunities Commission, 2008.

308 United Nations, 1979.

309 World Health Organisation, 2002.

## Gold standard

'Gold standard' is an aspirational standard of excellence that sets the benchmark for service delivery.

## Healing

Indigenous concepts of 'healing' are based on addressing the relationship between the physical, emotional and spiritual in a holistic manner. An essential element of Indigenous healing involves recognising the interconnections between violence, social and economic disadvantage, racism and the effects of the dispossession from their land and culture on Aboriginal and Torres Strait Islander peoples, communities and families. Healing in the context of criminal justice attempts to help the individual deal with the reasons why they have offended in the first place. This element of healing is strongly linked to the notion of 'restorative justice'<sup>310</sup>.

## Humbugging

'Humbugging' is a term that is often used in rural and remote Aboriginal communities. It can involve trickery and deceit (often targeted at the elderly and infirm) to acquire money or other material resources, intimidating behaviour or asking for sexual favours.

## Indigenous

'Indigenous' refers to Australia's Aboriginal and Torres Strait Islander peoples.

## Intersectional

'Intersectional' refers to the relationship between gender, race and other aspects of identity that are sources of systematic discrimination<sup>311</sup>.

## Intersex

'Intersex' conditions are genetic conditions that result in a child being born with sex chromosomes and/or sexual reproductive anatomy that are not exclusively male or female<sup>312</sup>.

310 Human Rights and Equal Opportunity Commission, 2006.

311 Riley, J. 2004.

312 Human Rights and Equal Opportunities Commission, 2008.

## **Joined-up services**

‘Joined-up services’ refer to services that aim to deliver more efficient and customer-centred outcomes by working collaboratively with other agencies, jurisdictions and with the non-government sector.

## **Jurisdictional responses**

‘Jurisdictional responses’ refer to services, programs and initiatives of the Commonwealth, States and Territories provided to victims/survivors and perpetrators after the violence has occurred – for example, police services, counselling and health care.

## **Lesbian relationships**

‘Lesbian relationships’ are intimate partner relationships between women.

## **New and emerging communities**

‘New and emerging communities’ are culturally, linguistically and religiously diverse (CALRD) immigrant communities that are relatively small and newly arrived in Australia, for which ethno-specific organisations, information networks, advocacy or services may not have been developed.

Women in new and emerging communities can face additional challenges to those from CALRD communities outlined above. Typically they have left their extended family and social networks to move to Australia where they have few (if any) social supports. They may also be unaware of community attitudes and law towards domestic and family violence and sexual assault in Australia, and may be restricted from exploring their new country and finding information. In addition, women experiencing violence may be concerned about contacting police as a result of poor experiences with police in their country of origin, or they may be concerned about deportation or losing their children if they report violence to authorities<sup>313</sup>. Without ethno-specific organisations, information networks, advocacy or services, women in new and emerging communities can be more isolated than women in CALRD communities.

## **Perpetrator**

A ‘perpetrator’ is the individual who inflicts violence against a woman or child.

313 Sneddon, C. 2008.



## Prevention strategies

‘Prevention strategies’ seek to prevent violence before it happens. Interventions can be targeted at the population as a whole or at particular groups that are at higher risk of using or experiencing violence. Prevention strategies often focus on behavioural change or skill and knowledge development. It describes a process of creating conditions and or personal attributes that promote the wellbeing of people. This may involve reducing or eliminating factors that increase the likelihood of violence, or strengthening those that reduce the likelihood of violence<sup>314</sup>.

## Protective behaviours

‘Protective behaviours’ refers to a proactive and empowering set of preventative and adaptable living skills that enable people to develop workable strategies to better help them preserve their physical and emotional safety in unsafe, or potentially unsafe situations.

## Respectful relationships

‘Respectful relationships’ are relationships between all people in which men, women and children are equally valued, and in which violence plays no part. They are based on mutual respect, equality, trust and support. Respectful relationships acknowledge and embrace diversity. The Plan of Action adopts this broad understanding but is particularly focused on respectful relationships between men and women.

## Restorative justice

‘Restorative justice’ refers to a range of informal justice practices which require offenders to take responsibility for their actions and to meet the needs of affected victims and communities. These include community conferencing and mediation (the most commonly used restorative justice practices in Australia). It emphasises dialogue between the offender and victim and the repair of harm resulting from the crime, including harm to relationships<sup>315</sup>. The person who has been harmed is the focus of the resolution, sometimes receiving an apology or reparation directly from the offender. The primary relationship is between the victim and the offender, rather than the judge and offender as in traditional forms of justice.

314 Harvey, A. Garcia-Moreno, C. and Butchart, A. 2007; VicHealth, 2007.

315 Strang, H. 2001.



## Risk assessment tools

'Risk assessment tools' are designed to help assess the level of risk. 'Risk assessment' involves risk identification, risk analysis and risk evaluation; 'risk identification' determines what, where, when, why and how something could happen; 'risk analysis' attempts to understand the nature of a risk, and determine the resultant level of that risk; and 'risk evaluation' compares the level of risk against criteria that determine the significance of the risk<sup>316</sup>.

## Safe at home

'Safe at home' refers to a 'jurisdictional response' to domestic and family violence which seeks to have the perpetrator removed from the home in circumstances where it is safe, appropriate and desirable for the woman and her children. This preserves the autonomy and social support networks of victims; reduces the financial, social and health impacts; and ensures that perpetrators experience consequences for their violent actions<sup>317</sup>.

*Safe at Home* is also the name of the current Tasmanian Government's Domestic Violence Strategy.

## Services

'Services' refer to social and health-related government services which provide a range of support to the community, including justice, community, health, family, and education services.

## Sexual assault

While 'sexual assault' is explicit in the definition of violence against women and their children in the Plan of Action, there is no single nationally or internationally agreed definition of what constitutes 'sexual assault' and definitions used in Australia vary between jurisdictions, agencies and surveys. Sexual assault should be considered in both 'experience' and 'offence' based terms. The experience-based term defines sexual assault as unwanted behaviour of a sexual nature directed towards a person:

- which makes that person feel uncomfortable, distressed, frightened or threatened, or which results in harm or injury to that person;
- to which that person has not freely agreed or given consent, or to which that person is not capable of giving consent;
- in which another person uses physical, emotional, psychological or verbal force or (other) coercive behaviour against that person.

<sup>316</sup> Department for Victorian Communities, 2007.

<sup>317</sup> Flinders Institute for Housing, Urban and Regional Research, 2008.

Sexual assault may be located on a continuum of behaviours from sexual harassment to life-threatening rape.

The offence-based term defines sexual assault as physical assault of a sexual nature directed towards another person without their consent. The assault may range from unwanted touching to sexual penetration without consent, including attempts. Sexual penetration involves the introduction, to any extent, of a person's penis into the vagina, anus or mouth of another person; or the introduction, to any extent, of another part of a person's body or an object into the vagina or anus of another person.

Consent requires 'free agreement' and a person cannot be said to freely agree where the person is fearful for themselves or for someone else; has been threatened; is mistaken about the identity of the person or the nature of the sexual act; wrongly believes that the act is for medical purposes; is incapable of consenting because of the influence of alcohol or other drug(s); or is legally deemed incapable of giving consent because of youth, or temporary or permanent incapacity; or where there is a familial relationship or other relationship of trust<sup>318</sup>.

## **Social marketing**

'Social marketing' is the application of commercial marketing techniques and strategies to a campaign to seek to influence social behaviours to bring about social change.

## **Sustainability**

'Sustainability' refers to the ability of a policy, program or outcome to be maintained over time.

## **Transgender person**

A 'transgender person' is a person who identifies as a member of the opposite sex by living, or seeking to live, as a member of the opposite sex; or being of indeterminate sex, identifies as a member of a particular sex by living as a member of that sex; or has undergone sexual reassignment surgery and the record of whose sex has been altered under relevant legislation<sup>319</sup>.

## **Transexual/transsexual person**

A 'transexual/transsexual person' is a person of one sex who assumes the bodily and other characteristics of the other sex by medical or other means; identifies himself or herself as a member of the other sex; lives or seeks to live as a member of the other sex; and whose record of registration of birth has been altered under relevant legislation<sup>320</sup>.

<sup>318</sup> Australian Bureau of Statistics, 2003.

<sup>319</sup> Human Rights and Equal Opportunities Commission, 2008.

<sup>320</sup> *Ibid.*



## **Victim support**

‘Victim support’ refers to a wide variety of assistance provided to victims/survivors of domestic and family violence or sexual assault. This can include the provision of information, counselling, medical, legal and financial assistance.

## **Victim/survivor**

‘Victim/survivor’ is the person upon whom the violence is inflicted. Survivor is often used as a synonym for victim.

## **Violence against women**

There is no one universally accepted definition of ‘violence against women’. However, the United Nations *Declaration on the Elimination of Violence against Women 1993* defines it as ‘any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life’.

Violence against women includes, but is not limited to:

- physical, sexual and psychological violence occurring in the family, including battery, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation (and other traditional practices harmful to women), non-spousal violence and violence related to exploitation;
- physical, sexual and psychological violence within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution;
- physical, sexual and psychological violence perpetrated or condoned by the state, wherever it occurs.

While women experience all of the forms of violence described above, sexual assault and domestic and family violence are the main focus of the Plan of Action.

## **Witness**

A 'witness' is an individual who can give a firsthand account of an event that has been seen, heard, or experienced. An individual does not need to see an event to be classed as a witness.

## **Wrap-around services**

'Wrap-around services' are services that constitute an area of speciality that does not warrant a separate service in a particular context, but instead 'wraps around' and sensitises mainstream services to the issues relating to the area of speciality. An example is victim-support services in the courts that help victims/survivors but also strive to sensitise the legal system to the nature of violence against women and the needs of victims/survivors. 'Wrap-around services' also involve multiple service providers collaborating around and with a client, to plan and respond to their individual needs and aspirations.

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