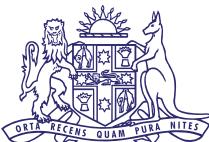


Discussion Paper on NSW Domestic and Family Violence Strategic Framework



New South Wales Government
Department of Premier and Cabinet
Office for Women's Policy

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December 2008

Level 13 Bligh House

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ISBN 978 0 646 50409 4

This document can be accessed from the Office for Women's Policy website.
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Message from the Premier and the Minister for Women

We are pleased to present the Discussion Paper on the NSW Domestic and Family Violence Strategic Framework for public consideration and comment. This Discussion Paper is the first step in the development of a state-wide Strategic Framework on Domestic and Family Violence.

Domestic and family violence is one of the most serious issues confronting us as a state and as a nation. Its consequences – short and long term - can be devastating. Physical, psychological and emotional injury and trauma and homelessness, financial insecurity and poverty are just some of the effects of domestic and family violence. These impacts affect children as well as women.

The NSW Government believes that every woman has the right to feel safe and be safe wherever she is – and in particular, in the family home. Domestic and family violence is unacceptable, inexcusable and against the law.

We are proud of our Government's achievements in tackling this crime, including by strengthening police powers, reforming legislation and providing more support for women. However, we recognise that more still needs to be done.

The Government's commitment to this issue is serious. It is strong and it is ongoing. We want to change the way government responds to domestic and family violence, to improve the way government agencies work together, and to make it easier for government and the non-government sector to work in partnership together to deliver integrated, effective and innovative services to women and children experiencing violence.

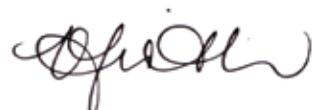
This Discussion Paper is designed to stimulate discussion and ideas. It is not an exhaustive or exclusive document and it is acknowledged that other issues may be raised during the course of consultations and in discussions.

We want bold, courageous and effective solutions to eliminate the scourge of domestic and family violence. We owe it to the women and families across the State.

We look forward to your contributions to this Discussion Paper.



Nathan Rees MP
Premier



Verity Firth MP
Minister for Women

Table of Contents

Executive Summary	iv
Introduction	vii
The purpose of this Discussion Paper and how to use it	viii
How to make a submission and consultation process	viii
1 Describing the Problem	1
1.1 Defining domestic and family violence	1
1.2 Focusing on violence perpetrated against women by intimate male partners	3
1.3 The incidence of domestic and family violence in NSW	5
1.4 Consequences of domestic and family violence	5
1.5 Women seeking help	6
1.6 Risks and causes of domestic and family violence	6
1.7 Population groups	7
2 Current Response to Domestic and Family Violence	14
2.1 Introduction	14
2.2 Non-government sector	16
2.3 Multi-agency state government services	20
2.4 Health services	25
2.5 Housing and Crisis Accommodation	27
2.6 Police services	30
2.7 The legal system	33
2.8 Domestic violence homicide review process	37
2.9 Children	38
2.10 Community awareness	39
3 Strengths in the Current Response to Domestic and Family Violence	41
3.1 Introduction	41
3.2 NSW Government Commitment to Improve Responses	41
3.3 NSW Police Force	42
3.4 Legislative reform	44
3.5 Reform of Commonwealth/NSW response to homelessness	45
3.6 Non-government sector	46
3.7 Multi-agency initiatives	46
3.8 Workforce training	50
4 Weaknesses in the Current Response to Domestic and Family Violence	52
4.1 Introduction	52
4.2 An Uncoordinated Response	52
4.3 Under-reporting of domestic and family violence	54
4.4 Police responses to domestic and family violence	57
4.5 Access to Services	59
4.6 Data Collection on Domestic and Family Violence	62
4.7 Allocation of the “domestic and family violence dollar”	63
4.8 Frequent clients of human services and justice agencies	64
4.9 Domestic and Family Violence and Family Law Proceedings	65
4.10 Domestic and Family Violence and Immigration Law	66
4.11 Responses to Domestic and Family Violence in Aboriginal Communities	67
Appendix 1 - Behaviours that can Constitute Domestic and Family Violence	72
Appendix 2 – Domestic and Family Violence Pathway	73

Executive Summary

The NSW Government's 2007 election commitments, the goals laid out in the NSW State Plan and the announcement of a new approach to domestic and family violence in February 2008 are indicative that preventing and responding properly to domestic and family violence is a key priority for NSW. The development of a state-wide Strategic Framework to guide action across agencies and to improve the coordination and delivery of services is a fundamental step in delivering on that priority.

This Discussion Paper is the first stage in the process of developing the NSW Domestic and Family Violence Strategic Framework.

The purpose of the Discussion Paper is to stimulate government, non-government sector and other stakeholder discussion by identifying the range of issues surrounding domestic and family violence in NSW. Written submissions on the paper and wide public consultation during 2009 will be used to inform the Strategic Framework.

The Discussion Paper is divided into five chapters that describe domestic and family violence, detail the current service response, identify its weaknesses and strengths and pose a number of questions for consideration.

Chapter One – Describing the Problem

Chapter One provides definitions of domestic and family violence, including the range of violent behaviours captured by these definitions and their dimensions. It details the types of relationships considered in the definitions, including intimate partner, intergenerational, share households and same-sex relationships, and notes the considerable data confirming that domestic and family violence is predominately a crime committed by males on females. The chapter also notes the vulnerability of particular population groups as victims of violence (including Aboriginal women, pregnant women, women from a culturally and linguistically diverse background, women with a disability, older women, and young women), the barriers to reporting that may exist for these groups and the low reporting rate for domestic and family violence across all groups.

The social and economic costs of domestic and family violence are also discussed in this chapter.

Chapter Two – Current Response to Domestic and Family Violence

Chapter Two provides a comprehensive overview of the existing service responses to domestic and family violence. It notes that, in common with all other Australian jurisdictions, NSW does not have a discrete response system that focuses exclusively on domestic and family violence. Whilst there are some specific programs for domestic and family violence, most services for victims are drawn from

mainstream services such as hospitals, general medical practitioners, police, courts, child protection services and housing. They compete for priority with the other significant demands on those services.

Chapter Two describes the roles of the non-government and government sectors and identifies the range of health, housing, and other support services provided by both sectors. The criminal justice response, including new and improved domestic violence legislation and the NSW Police Force's increased resources and responsibility for domestic and family violence are also discussed in this chapter.

The chapter explains that traditionally, responses have generally been at the crisis end of the spectrum. However, it notes that there has been some shift in focus to primary prevention and early intervention approaches and this trend is likely to continue in coming years.

Chapter Three – Strengths in the Current Response to Domestic and Family Violence

Chapter Three identifies the areas of strength in the current NSW response to domestic and family violence. It highlights the NSW State Plan and the Government's commitment to tackle domestic and family violence as positive steps in focusing domestic and family violence as key priorities for action. The improved focus of the NSW Police Force on domestic and family violence is discussed in detail, including improved education and training, the introduction of domestic violence evidence kits, increased numbers of domestic violence liaison officers and the positive attitudinal shift within the Force itself. The strengthening of Apprehended Violence Orders, and other key legislative reforms are also identified as key strengths in this chapter.

The chapter acknowledges the wide range and scope of the non-government sector and the experience, expertise and cost effectiveness of its services to victims as a key strength.

Chapter Three also includes details of positive evaluations of state-wide initiatives that have demonstrated success, including Staying Home Leaving Violence, Integrated Domestic and Family Violence Services Program and the Women's Domestic and Family Violence Court Support Program.

Chapter Four – Weaknesses in the Current Response to Domestic and Family Violence

Chapter Four examines the weaknesses in the current response, identified by research, government and non-government sector reports, data and anecdotal evidence.

Issues discussed include the lack of coordination between services and service sectors, and the barriers to accessing health, accommodation and other support services, particularly for disadvantaged women and women in rural, regional and remote NSW. It also discusses the current response's inability to identify and target resources to frequent clients of government services. Research has shown these clients are often from households where domestic and family violence is present. The quality of domestic and family violence data and the current limitations on data sharing are also weaknesses in the current system.

Further weaknesses identified include inconsistencies in the police and judicial responses to domestic and family violence incidents and cases, difficulties in obtaining AVOs, the complexities of the court process, the length of time that the court process takes and the lack of support for women struggling to understand the justice system. It also identifies the difficulties faced by women involved in family law or immigration matters, who are also experiencing domestic and family violence.

The appropriateness and availability of services and support for Aboriginal women and communities experiencing domestic and family violence is also identified as a significant weakness in the current service response.

Chapter Five – Discussion Questions

This chapter suggests a number of questions to guide discussion and input on the issues raised in this Discussion Paper. The questions are neither exclusive nor exhaustive. They are:

1. What are the key principles that should guide the Strategic Framework on Domestic and Family Violence in NSW?
2. What are the key areas that need improvement or change in the current service response to domestic and family violence? How can these areas be improved?
3. What elements of the current service response are effective? What elements could be built upon or expanded?
4. What areas in the current service response can be improved to meet the needs of certain groups, including (but not limited to):
 - Aboriginal women
 - CALD women
 - Women with a disability
 - Older women
 - Young women
 - Women from rural and remote communities
 - People in same-sex relationships?
5. What are the key elements of an effective primary prevention response to domestic and family violence and what is required to implement these elements?
6. How can NSW improve its data collection on the incidence and prevalence of domestic and family violence and on the usage of services by women?
7. What are the priorities for a domestic and family violence research agenda?
8. What are the most effective ways to raise community awareness on domestic and family violence?

Introduction

In March 2007, the NSW Government announced a suite of domestic and family violence initiatives to be delivered by the NSW Police Force, other criminal justice departments and human service agencies, including a commitment to establish a central coordination function in the Department of Premier and Cabinet to strengthen policies aimed at reducing violence against women and tackling domestic and family violence. The Government also committed to developing a NSW Domestic and Family Violence Strategic Framework.

While a lot of work has been done by NSW Government agencies and non-government sector service providers to improve the response to domestic and family violence, it is clear that there is much more to do if we are to provide an effective and comprehensive response to this problem.

This Discussion Paper is a key step in developing the NSW Strategic Framework. It describes domestic and family violence based on the Australian and international research literature, describes the domestic and family violence response as it currently exists in NSW, describes some of the strengths in that response and many of the known weaknesses, and asks for input on ways that the response might be improved.

The Strategic Framework will provide the template for changes in service delivery arrangements, any shifts in emphasis (e.g. from traditional response mechanisms to prevention and early intervention) and any changes to coordination arrangements. The Strategic Framework is expected to be released by November 2009 following an extensive period of consultation.

It is important to note that this Discussion Paper is focused solely on domestic and family violence. It is not intended to cover the other types of violence against women. Nevertheless, it is acknowledged that other forms of violence against women, including sexual assault, can be inextricably linked to domestic and family violence. Consideration will be given to the need for preparing an additional paper on other forms of violence following the consultation process.

This paper is organised into the following parts:

Introduction

Chapter One	Describing the Problem
Chapter Two	Current Response to Domestic and Family Violence
Chapter Three	Strengths in the Current Response to Domestic and Family Violence
Chapter Four	Weaknesses in the Current Response to Domestic and Family Violence
Chapter Five	Questions for Discussion

The purpose of this Discussion Paper and how to use it

This paper is an important part of the process involved in developing the Domestic and Family Violence Strategic Framework. Its aim is to stimulate discussion and input from the community. It therefore provides information about the many and complex issues surrounding domestic and family violence in NSW rather than a series of options for change.

A number of key areas have been identified, including coordination, accommodation, policing, the legal system and data collection. However, the list is not exhaustive or exclusive and not all issues associated with domestic and family violence will be captured in this document. It is expected that as the Framework is developed more issues will be identified for consideration.

The Discussion Paper and the ensuing consultations aim to:

- inform the community of the complexities of the issues to be addressed;
- raise awareness of policy and program issues in respect to domestic and family violence;
- obtain information on evidence informed and promising practices from all sectors, including policy makers, service providers, researchers and the judiciary; and
- assist in developing the Strategic Framework from an informed position ensuring that recommendations are responsive to local needs and conditions.

How to make a submission and consultation process

Written submissions to the Discussion Paper should be emailed to the Violence Prevention Coordination Unit at vpcu@dpc.nsw.gov.au or posted to the Manager, Violence Prevention Coordination Unit, Office for Women's Policy, Department of Premier and Cabinet, GPO BOX 5341, Sydney NSW 2001 by **27 March 2009**. Enquiries can be made at (02) 9228-3141.

Consultations will be held across NSW during 2009. Further details on the consultations will be provided in the local media and on the Office for Women's Policy website www.women.nsw.gov.au in early 2009.

1 Describing the Problem

1.1 Defining domestic and family violence

There are many definitions of domestic violence and family violence. Most definitions of domestic violence and family violence overlap to a large extent and the terms are often used interchangeably. Where distinctions are drawn, domestic violence is often used for violence between adults who are or who have been in an intimate relationship and family violence is used to describe violence in Aboriginal communities where kinship relationships may add a layer of complexity to the concept of domestic violence.

While the various definitions of domestic and family violence contain many similarities, they also differ in several respects. These differences are commonly in the nature of the relationships included, the types of violence encompassed, whether they emphasise the gender differences between victims and perpetrators and whether they specially recognise the ongoing nature of some forms of violence.¹

The Partnerships Against Domestic Violence Statement of Principles agreed to by the Australian Heads of Government at the 1997 National Domestic Violence Summit included the following definition:

Domestic violence is an abuse of power perpetrated mainly (but not only) by men against women both in relationship and after separation. It occurs when one partner attempts physically or psychologically to dominate and control the other. Domestic violence takes a number of forms. The most commonly acknowledged forms are physical and sexual violence, threats and intimidation, emotional and social abuse and economic deprivation. Domestic violence can involve a continuum of controlling behaviour and violence, which can occur over a number of years, before and after separation.²

An alternative definition is provided by the Australian Medical Association:

Domestic violence is an abuse of power. It is the domination, coercion, intimidation and victimisation of one person by another by physical, sexual or emotional means within intimate relationships. Such intimate relationships include adult to adult, parent to child, child to parent, and child to child. Child abuse, elder abuse and, in particular, abuse of a woman by her partner, are common forms of domestic violence. Family members, other than the person who is the direct recipient of the violence, may be affected.³

1 Laing, L and Bobic, N. 2002, *Economic Costs of Domestic Violence*, Australian Domestic and Family Violence Clearinghouse, The University of New South Wales.

2 Laing, L. 2000, *Progress, Trends and Challenges in Australian Responses to Domestic Violence*, Australian Domestic and Family Violence Clearinghouse, The University of New South Wales, p.1.

3 Australian Medical Association. 1998, 'AMA Position Statement: Domestic Violence', www.ama.com.au/web.nsf/doc/SHEd-5FK5GR

The Family Court of Australia has adopted the following description of family violence:

Family violence covers a broad range of controlling behaviours, commonly of a physical, sexual, and/or psychological nature, which typically involve fear, harm, intimidation and emotional deprivation. It occurs within a variety of close interpersonal relationships, such as between spouses, partners, parents and children, siblings, and in other relationships where significant others are not part of the physical household but are part of the family and/or are fulfilling the function of family.⁴

The report “Putting the Picture Together: Inquiry into Response by Government Agencies to Complaints of Family Violence and Child Abuse in Aboriginal Communities” stated that:

Most research findings suggest Aboriginal people prefer the term ‘family violence’...The use of the term ‘family violence’ allows a focus on the broader experience of violence within extended families.⁵

As the Partnerships Against Domestic Violence noted:

Aborigines and Torres Strait Islanders do not believe that the term ‘domestic’ violence adequately describes what is happening within their families and communities and have generally indicated they prefer the use of the term ‘family’ violence to bring into focus the trauma of inter-connecting transgenerational experiences of individuals within families...⁶

The *Crimes (Domestic and Personal Violence) Act NSW, 2007* defines a “domestic violence offence” as:

a personal violence offence committed by a person against another person with whom the person who commits the offence has or has had a domestic relationship.⁷

Numerous types of relationships are recognised within the category of “domestic relationship” including: marriage and de facto partnerships; intimate personal relationships; living or having lived in the same household; long term residents in the same residential facility; carers; relatives; and extended family or kin in the case of Aboriginal Australians.⁸ It does not matter whether the relationship is past or current.

Most definitions throughout Australian literature reflect a contemporary recognition that violence, whether defined as domestic or family includes a range of violent behaviours: physical violence, sexual violence, verbal, psychological and emotional abuse, stalking and intimidation, as well as social isolation and economic or financial abuse.⁹ A range of behaviours is included at Appendix 1.

4 Family Court of Australia, *What is family violence?* www.familycourt.gov.au/wps/wcm/connect/FCOA/home/about/Family+Violence/FCOA_fv_What_Family_Violence

5 Gordon, S., Hallahan, K., and Henry, D. 2002, *Putting the picture together: Inquiry into Response by Government Agencies to Complaints of Family Violence and Child Abuse in Aboriginal Communities*, Department of Premier and Cabinet, Western Australia.

6 Partnerships Against Domestic Violence 1998, *What is domestic violence* cited in Gordon et al *ibid*, p.518.

7 *Crimes (Domestic and Personal Violence) Act, 2007*, s.11.

8 *Crimes (Domestic and Personal Violence) Act, 2007*, s.5.

9 Laing, L and Bobic, N. ‘Economic Costs of Domestic Violence’, 2002, *op.cit.*

There are a number of dimensions to domestic and family violence including:

- mode - physical, psychological, sexual and/or social;
- frequency - on/off, occasional, chronic; and
- severity – both psychological or physical harm and the need for treatment; transitory or permanent injury; mild, moderate, severe and at the extreme, homicide.

This paper generally focuses on violence between intimate partners but acknowledges the dimensions of this violence within the context of Aboriginal relationships. Violence against other family members, such as children and extended family members will also be discussed in the paper.

1.2 Focusing on violence perpetrated against women by intimate male partners

1.2.1 Prevalence of domestic and family violence

As numerous studies show, the majority of violence that women experience is perpetrated by an intimate male partner. The most recent Australian Bureau of Statistics Personal Safety Survey found that most women assaulted in the last 12 months were assaulted by either a current or previous partner. Only a very small proportion of assaults against men were perpetrated by a former or current female intimate partner (4.3%).¹⁰

Similarly, the Australian component of the International Violence Against Women Survey found that 34% of women who had ever had an intimate partner reported experiencing at least one form of violence during their lifetime from that partner: 31% experienced physical violence and 12% experienced sexual violence.¹¹

Data from the Personal Safety Survey also indicates that women reporting violence in intimate relationships are significantly more likely than men to experience repeated acts of violence.¹² Furthermore, three quarters of intimate partner homicides involve men killing their female partners.¹³

Research collected to date indicates very different experiences of victimisation reported by men and women within a domestic and family violence context. A review of the available literature found the following differences:¹⁴

10 Australian Bureau of Statistics 2006, *Personal Safety Survey, Australia, 2005*, cat no 4906.0, ABS, Canberra.

11 Mouzos, J and Makkai, T. 2004, 'Women's Experiences of Male Violence: Findings from the Australian Component of the International Violence Against Women Survey IVAWS', *Research and Public Policy Series No. 56*, Australian Institute of Criminology, Canberra.

12 Australian Bureau of Statistics, 2006, *op.cit.*

13 Mouzos, J and Rushforth, C. 2003, 'Family Homicide in Australia', *Trends and Issues in Crime and Criminal Justice*, no 225, Australian Institute of Criminology, Canberra.

14 Bagshaw, D and Chung, D. 2000, 'Reshaping Responses to Domestic Violence: The Needs of Children and Young People', *Conference Proceedings from the National Partnerships Against Domestic Violence Forum on Children, Young People and Domestic Violence, The Way Forward*, Melbourne, April 2000, Pirie Printers: Commonwealth of Australia.

- males reported that they were not living in an ongoing state of fear from the perpetrator;
- males did not have prior experiences of violent relationships; and
- males rarely experienced post separation violence and, in the one reported case, it was far less severe than in male-to-female violence.

1.2.2 Health impacts of domestic and family violence

A study by VicHealth found that among women under 45 years of age, domestic violence contributes more to their poor health, disability and death than any other risk factor, including obesity and smoking.¹⁵ Furthermore, Canadian data indicate that compared with male victims of domestic violence, women are:

- three times more likely to be injured as a result of violence;
- five times more likely to require medical attention or hospitalisation; and
- five times more likely to report fearing for their lives.¹⁶

In addition, a study in the United States comparing the mental health impacts of domestic violence for men and women found that women were markedly more likely to suffer impacts than men.¹⁷

1.2.3 Criminal justice

Compared to men, women comprise the majority of domestic and family violence victims brought to the attention of criminal justice agencies. An analysis of reported incidents of domestic assault in NSW between 1997 and 2004 indicated that 71% of domestic assault incidents reported to the police involved a female victim, and that 80% of the offenders were male.¹⁸ By these figures, 29% of victims were male, not an insignificant proportion. A possible explanation for this is given by Flood.¹⁹ On his analysis, the data relied upon may be categorised as being drawn from “acts based instruments”. Flood argues that such instruments have value as surveillance instruments in the general population but they are inadequate for capturing the substance, impact or dynamics of intimate partner violence, and particularly the more serious forms of this violence, which women experience at far greater rates than men. In this regard, whilst the figures show a not insignificant proportion of men experiencing domestic violence, they do not capture the seriousness of that violence.

15 VicHealth 2004, *The Health Costs of Violence: Measuring the Burden of Disease Caused by Intimate Partner Violence*, Melbourne.

16 Statistics Canada 2003, *Family Violence in Canada: A Statistical Profile 2003*, Statistics Canada, Canadian Centre for Justice Statistics, Ministry of Industry, Ottawa, Ontario.

17 Romito, P and Grassi, M. 2007, 'Does violence affect one gender more than the other? The mental health impact of violence among male and female university students', *Social Science & Medicine*, Vol 65, pp.1222–1234.

18 People, J. 2005, 'Trends and Patterns in Domestic Violence Assaults', *Crime and Justice Bulletin*, No 89, NSW Bureau of Crime Statistics and Research, October.

19 Flood, M. 2006, 'Violence Against Women and Men in Australia: What the Personal Safety Survey can and can't tell us', *DIVRC Quarterly*. Edition 4, Summer.

1.3 The incidence of domestic and family violence in NSW

The true incidence of domestic and family violence in NSW is unknown. Nevertheless, some data are available that give some indication of the extent of the problem. In 2005, the NSW Bureau of Crime Statistics and Research (BOCSAR) published *Trends and Patterns in Domestic Violence Assaults*, based on NSW Police records. That report found that, between 1997 and 2004, the recorded rate of domestic assault increased more than 50% across the state. It is not known what caused this increase but according to the BOCSAR report, there has been no consistent upward trend in the willingness of female victims of assault to report the offence to police.²⁰ In the 12 months to 30 June 2007, the NSW Police Force recorded 27,521 domestic assaults, representing over 35% of all reported assaults.²¹

1.4 Consequences of domestic and family violence

Domestic and family violence has very serious consequences for individual women, their families and the wider community. Its impact on women can be both short and long term and can have physical, psychological and financial impacts. The social and health effects include mental health problems, physical stress symptoms, suicide attempts, alcohol and drug misuse, reduced coping and problem solving skills, unemployment and homelessness.²² There is evidence that domestic and family violence is the single most common factor contributing to women's and children's homelessness.²³

Domestic and family violence also affects children. In the Personal Safety Survey, 34% of women experiencing violence by a current partner and 39% of those by a former partner reported that the violence was witnessed by children in their care.²⁴ Exposure to domestic and family violence increases children's risk of mental health, behavioural and learning difficulties in the short term;²⁵ and, in the case of boys particularly, may lead to them perpetrating violence as adults.²⁶

Domestic and family violence can be lethal. In Australia from 1989 to 1998, 57% of female deaths resulting from homicide or violence were perpetrated by an intimate partner, with women being over five times more likely to be killed by an intimate partner than men.²⁷ The National Homicide Monitoring Program annual report for 2005 to 2006 reveals that in 45 homicides, or 13% of the total for that period, either the victim or the perpetrator had a history of domestic violence, and 10% involved a legal intervention order.²⁸

20 People, J. 2005, *op.cit.*

21 NSW Bureau of Crime Statistics and Research, 2007, *Recorded Crime Statistics Quarterly Update*, June.

22 Laing, L and Bobic, N. 2002, *op.cit.*

23 Chung, D., Kennedy, R., O'Brien, B and Wendt, S. 2000, 'Home Safe Home: the Link between Domestic and Family Violence and Women's Homelessness'. *Social Policy Research Group* University of South Australia.

24 Australian Bureau of Statistics, 2006, *op.cit.*

25 Laing, L. 2000, *op.cit.*

26 Indemaur, D. 2001, 'Young Australians and Domestic Violence', *Trends and Issues in Crime and Criminal Justice*, no. 195, Australian Institute of Criminology, Canberra.

27 Mouzos, J. 1999, 'Femicide: An Overview of Major Findings', *Trends and Issues in Crime and Criminal Justice*, no. 124, pp.1–6, Australian Institute of Criminology, Canberra.

28 Davies, M and Mouzos, J. 2007, 'Homicide in Australia: 2005-06 National Homicide Monitoring Program Annual Report', *Research and Public Policy Series* No. 77, Australian Institute of Criminology.

Domestic and family violence has considerable economic costs. There is a direct cost to the health, welfare, child protection and criminal justice systems. An Australian report estimated the total annual cost of domestic violence at \$8.1 billion, in terms of cost to the victim, others affected by violence, and the community.²⁹

1.5 Women seeking help

Women are more likely to disclose domestic and family violence to informal supporters, such as family and friends, than formal supports such as general practitioners, counsellors or police.³⁰

According to national data, women who experience domestic and family violence do not report it to police. Approximately 14% of women who experienced violence from an intimate partner reported the most recent incident to police.³¹ The proportion of women who report domestic and family violence differs significantly according to whether the perpetrator is a current or previous partner. Whilst 24% of women victimised by a previous husband/partner reported the most recent incident to police, the proportion was only 8% for those victimised by a current husband/partner. The offender was charged in 19% of incidents of domestic and family violence reported to police, with charges leading to a conviction in 65% of the cases.³² Chapters 2, 3 and 4 discuss the criminal justice process in greater detail including issues relating to reporting and the court system.

Women experiencing domestic and family violence are often reluctant to ask for help. Reasons for this include: shame and embarrassment; fear of escalating violence; feelings that they are to blame for the violence or potential break up of the family; lack of self esteem; denial, disbelief; hope that his behaviour will change; desire to keep the family together; depression and stress; isolation (social, physical or geographic); lack of services or lack of awareness of services; lack of faith in others' ability to help; and a sense of self-reliance and independence.³³

1.6 Risks and causes of domestic and family violence

Indeed, while there is an emerging consensus that an interplay of personal, situational, social and cultural factors combine to cause abuse there is still only limited information on which factors are the most important.³⁴ Many factors have been linked to a man's risk of physically assaulting an intimate female partner, including: young age, low income, low academic achievement, and involvement in aggressive or delinquent behaviour as an adolescent.³⁵

29 Access Economics 2004, 'The cost of Domestic Violence to the Australian Economy: Part 1', *Australian Government Partnerships against Domestic Violence*, Canberra.

30 Keys Young 1998, 'Against the Odds: How Women Survive Domestic Violence', *Partnerships Against Domestic Violence*, Canberra.

31 Mouzos, J and Makkai, T. 2004, *op.cit.*

32 Mouzos, J and Makkai, T. 2004, *op.cit.*

33 Keys Young. 1999, "Ending Domestic Violence? Programs for Perpetrators: Full report". *National Crime Prevention*, Attorney General's Department, Canberra.

34 Dutton, D.G. 1995, *The Domestic Assault of Women: Psychological and Criminal Justice Perspectives*. University of British Columbia Press, Vancouver.

35 Krug, E., Dahlberg, L., Mercy, J., Zwi, A., and Lozano R. 2002, *World Report on Violence and Health*, World Health Organization, Geneva.

A history of violence in the male partner's family (particularly having seen his own mother beaten or having experienced violence as a child) and growing up in an impoverished family are also important factors.³⁶ Many studies find excessive alcohol use to be strongly associated with perpetrating partner violence, though there is debate as to whether heavy drinking causes men to be violent or whether it is used to excuse violent behaviour. Certain personality factors – including insecurity, low self esteem, depression and aggressive or antisocial personality disorders – are linked to partner violence, as are factors such as discord or conflict in the marital relationship.³⁷

Women are particularly vulnerable to abuse by their partners in societies where there are marked inequalities between men and women, rigid gender roles, cultural norms that support a man's right to inflict violence on his intimate partner, and weak sanctions against such behaviour.³⁸

In acknowledging these identified risk factors, it is also recognised that domestic and family violence is present in all communities regardless of socioeconomic status, ethnicity or family history, to name but a few factors.

1.7 Population groups

Women living with domestic and family violence may share similar experiences, but certain population groups may experience additional barriers to access services or receive adequate responses. Some women in specific population groups may be at a higher risk of being subject to violence, and hence require more intensive or a different intervention; other women may be particularly vulnerable to the impacts of violence once it has occurred.

1.7.1 Pregnant Women

While for most women, pregnancy is a time of great anticipation and joy, for some it can be a time of increased vulnerability to experience domestic and family violence. The actual incidence rates of domestic and family violence during pregnancy are difficult to ascertain. Studies report widely varying statistics from 0.9% to 20.1%.³⁹ This is due to many factors, including: differences in populations sampled (e.g. socioeconomic groups); definitions of abuse used; definition of pregnancy used (e.g. whether it only referred to the actual gestation time or time before and after pregnancy); and where the study took place (e.g. hospital emergency department or prenatal clinic). The majority of studies, however, report an incidence between 4 to 8%.⁴⁰

36 Krug E. et al. 2002, *ibid*.

37 Krug E. et al. 2002, *ibid*.

38 Krug E. et al. 2002, *ibid*.

39 Gazmararian, J.A., Lazorick, S., Spitz, A.M., Ballard, T.J., Saltzman L.E., and Marks J.S. 1996, 'Prevalence of Violence Against Pregnant Women'. *Journal of the American Medical Association* Vol. 275: 24, pp 1915-1920.

40 Gazmararian, J.A. et al. 1996, *ibid*.

Two Australian studies, the Women's Safety Survey and the Personal Safety Survey, have found that pregnancy is a time when a woman may be more vulnerable to abuse and violence. The Personal Safety Survey found that of those women who experienced violence by a previous partner:

- 35.9% of these women experienced violence during the pregnancy;
- 16.8% of the violence occurred for the first time during the pregnancy.⁴¹

A study of pregnant women at the Royal Women's Hospital in Melbourne found that 20% of women experienced violence during their pregnancy.⁴² Another Australian study at the pre-natal clinic of Royal Brisbane Hospital found that almost 30% of pregnant women had a history of abuse and 8.9% suffered abuse during pregnancy.⁴³

There are a number of factors which place a woman at risk of experiencing violence during pregnancy. The most significant of these is the experience of violence prior to pregnancy. Whether the pregnancy was intended or not is also a major factor. One study found that women with an unplanned pregnancy reported higher rates of violence compared to women with an intended pregnancy (15.3% and 12.6% compared to 5.3%).⁴⁴

Other risk factors include: low socioeconomic status; low education level; race/ethnicity; low levels of social support; and youth.⁴⁵ A study in the United States shows that women who experience abuse during pregnancy are three times more likely to become a victim of attempted or actual murder.⁴⁶ Violence during pregnancy increases the risk of poor weight gain, anaemia, infections, preterm labour, and experiencing postnatal depression.⁴⁷ The infants are more likely to have a low birth weight and reduced head circumference.⁴⁸

1.7.2 Aboriginal and Torres Strait Islander Women

Aboriginal and Torres Strait Islander people are over represented as both victims and perpetrators of all forms of violent crime in Australia.

Statistics cited in the Australian component of the International Violence Against Women Survey (IVAWS) published in 2004, show that the rate of domestic and family violence victimisation for Aboriginal women may be 40 times the rate for non-Aboriginal women and that despite representing just over 2% of the total Australian population, Aboriginal women accounted for 15% of homicide victims in Australia in 2002–03.⁴⁹

41 Australian Bureau of Statistics, 2006, *op.cit.*

42 Walsh, D and Weeks, W. 2004, 'What a Smile Can Hide: a Report on the Study of Violence Against Women During Pregnancy', *The Women's*.

43 Webster J., Sweett S., and Stoltz TA. 1994, 'Domestic Violence in Pregnancy: a Prevalence Study', *Medical Journal of Australia*, 17; 161: 466-70.

44 Gazmararian J.A., Adams M.M., Saltzman L.E., Johnson C.H., Bruce F.C., and Marks J.S. 1995, 'The Relationship between Pregnancy and Physical Violence in Mothers of Newborns: The PRAMS Working Group', *Obstet Gynecol.*, 85:6:1031-8

45 Jasinski, J. L. 2004, 'Pregnancy and Domestic Violence: A Review of Literature', *Trauma Violence and Abuse*; 5:1, pp.47-64.

46 McFarlane, J., Campbell, J. C., Sharps, P., and Watson, K. 2002, 'Abuse During Pregnancy and Femicide: Urgent Implications for Women's Health'. *Obstet. Gynecol.*, Vol. 100 (1), pp.27-36.

47 Parker, B., McFarlane, J., and Soeken, K. 1994, 'Abuse during Pregnancy: Effects on Maternal Complications and Birth Weight in Adult and Teenage Women', *Obstet. Gynecol.*, Vol. 84, pp.323-328.

48 Quinlivan, J.A and Evans, S.F. 2001, The Impact of Domestic Violence in Teenage Pregnancy – A Prospective Cohort Study. *Journal of Paediatric and Adolescent Gynaecology*; 14:17-23.

49 Mouzos, J and Makkai, T. 2004, *op.cit.*

In NSW in 2002, Aboriginal women reported experiencing domestic and family violence related assault at six times the State average.⁵⁰

Aboriginal communities share in common with the wider community the underlying conditions contributing to violence against women, such as gender power imbalances and violence supportive social norms. The higher prevalence of violence in these communities is widely understood to be due to the impacts of the contemporary social and economic marginalisation of Aboriginal people and the historical impacts of colonisation and associated disruption to Aboriginal culture and identity:

... any response to family violence in Indigenous communities needs to acknowledge the social, cultural and historical context of that community... Historically, programs have been ineffective because they have: ignored the impacts of colonisation on community, spiritual and cultural identity and wellbeing; compartmentalised the associated problems of family violence; lacked a whole-of-community focus; not adopted a developmental approach to service delivery and community involvement and ownership.⁵¹

Issues unique to Aboriginal woman include the complexity of some community power dynamics, which make it difficult for Aboriginal women to seek support and access services, even though the services may be provided by an Aboriginal specific agency. For instance:

- Aboriginal women in some communities may desire to seek medical treatment for injuries, access legal services, or use other services but have to deal with members of their perpetrator's family to do so. Family ties in some communities can make privacy for a woman seeking help almost impossible. Aboriginal women may also face repercussions and alienation from their community and/or upheaval of their home and accommodation as a result of disclosure.
- The fear that an Aboriginal male will enter or re-enter the criminal justice system if a woman reports violence, and the consequences for the male of this, makes it difficult for some women to assert her right for protection. This is particularly difficult in relationships where younger men, brothers, sons, or nephews reside in the home and may be the perpetrators of violence.
- Aboriginal women who do not report violence due to these community issues face ongoing pressures of dealing with both the violence and these broader concerns. This can in turn result in the escalation of behaviours and problems for the woman, such as mental health issues or substance abuse.

50 NSW Department of Aboriginal Affairs. 2005, *Two Ways Together Report*, NSW Aboriginal Affairs Plan 2003-2012, Sydney, p.61.

51 Partnerships Against Domestic Violence. 2003, *Indigenous Family Violence, Phase 1 Meta-Evaluation Report*.

1.7.3 Women in Rural or Remote Areas

Women living with domestic and family violence in rural or regional areas experience social and physical isolation due to geographical location, transport difficulties, and unreliable or unavailable telephone services.⁵²

Isolation, the limited availability of legal services, such as police, legal aid, and advocacy support, and domestic violence services, such as long term counselling and refuge accommodation, mean that accessing help can be challenging.⁵³ In addition, when services are available they are often not used because of a variety of reasons including concerns over confidentiality.⁵⁴

1.7.4 Women with a Disability

Women with physical and cognitive disabilities experience higher rates of violence than those without disabilities. Those with cognitive disabilities are particularly vulnerable.⁵⁵ Once violence has occurred, women with disabilities suffer more severe and prolonged episodes of abuse. This is often due to their social and economic marginalisation and greater dependence on partners.⁵⁶

Women with disabilities experience specific types of abuse related to their disability, such as the withholding of equipment, food and medication; limitations on their access to communication devices; and threats of institutionalisation.⁵⁷ Compared with their non disabled counterparts, restraint and control are more likely to be features of domestic and family violence for women with disabilities.⁵⁸

1.7.5 Women from Culturally and Linguistically Diverse Backgrounds

The extent of domestic and family violence experienced in Australia by people from culturally and linguistically diverse backgrounds (CALD) has not been extensively studied. Rees observes domestic violence occurs in all countries irrespective of culture, socio-economic status or religion. However, it has been identified that women from culturally and linguistically diverse backgrounds, including immigrant women and refugee women, may be at increased risk of experiencing abusive situations.⁵⁹

52 Bagshaw, D., Chung, D., Couch, M., Lilburn, S., and Wadham, B. 2000, *Reshaping Responses to Domestic Violence. Final report Partnerships Against Domestic Violence.*

53 Women's Services Network (WESNET) 2000. *Domestic Violence in Regional Australia, a Literature Review Prepared for the Commonwealth Department of Transport and Regional Services.*

54 Partnerships Against Domestic Violence. 2003, *op.cit.*

55 Brownridge, D. A. 2006, 'Violence Against Women Post-separation', *Aggression and Violent Behavior*, 11 (5), pp.514–530.

56 Young, M. E., Nosek, M. A., Howland, C.A., Chanpong, G., and Rintala, D.H. 1997, 'Prevalence of Abuse of Women with Physical Disabilities', *Archives of Physical Medicine and Rehabilitation*, 78 (12), S34–S38.

57 Curry, M., Hassouneh-Phillips D., and Johnston-Silverberg, A. 2001, 'Abuse of Women with Disabilities: An Ecological Model and Review', *Violence Against Women*, 7(1), pp.60–79.

58 Gilson, S. F., Cramer, E. P., and DePoy, E. 2001, 'Redefining Abuse of Women with Disabilities: A Paradox of Limitation and Expansion', *Affilia*, 16(2), pp.220–235.

59 Rees, S. 2004, Human Rights and the Significance of Psychosocial and Cultural Issues in Domestic Violence Policy and Intervention for Refugee Women , *Australian Journal of Human Rights*, vol. 10 no. 1, June.

Reporting of domestic and family violence incidents by women from CALD backgrounds is low. Reasons identified include that domestic and family violence often creates a feeling of shame, there may be considerable pressure for a woman to maintain a marriage, or she may fear being deported.⁶⁰ She also may feel responsible for providing financial support for family in her country of origin,⁶¹ and consider that their situation is more important or serious than her own. The erosion of self esteem accompanying domestic and family violence is compounded if the woman is isolated by virtue of limited English and lack of family and friends in whom to confide. A finding of the Victorian Community Attitudes Survey was that there is a higher level of support for attitudes linked with the acceptance and perpetration of violence against women in CALD communities and especially among men from certain CALD communities.⁶²

1.7.6 Older Women

In recent years more research is focusing on the incidence and impact of domestic and family violence on older women. Typically, older women are low users of support services and thus, less likely to report violence.

Of women born between the years 1935-45 who participated in the Melbourne Women's Longitudinal Health Study, 5.5% had experienced physical violence from their partner in the last year. In another study in a Melbourne General Practice, 29.6% of women aged 50-69 years experienced physical and/or emotional abuse by their partner in the last year.⁶³

Reasons given by older women for not seeking help about domestic and family violence included:

- the severe losses that would occur if the relationship ended, including losses in family, financial stability and social networks;
- fearing an increase in the violence;
- women were unable to communicate to complain or speak out;
- it may lead to admission to an institution; and
- isolation and shame (1 in 4 women were ashamed to seek help).

Older women are most likely to seek assistance from general practitioners and religious advisers. However, in both cases women reported more unhelpful than helpful responses by these two groups.⁶⁴

60 Hansen, D and Le Sueur, M. 1996, Separating Mothers and Children: Australia's Gendered Immigration Law and Policy. *Alternative Law Journal* 21: 203-206.

61 Lawton K. 1992, 'Needs of NESB Women in Women's Refuges: a Perspective from a Remote Rural Area in the North West of Western Australia'. *BIR Bulletin* 6: 30-33.

62 Taylor, N and Mouzos, J. 2006, *Community Attitudes to Violence Against Women Survey 2006*. Melbourne: VicHealth.

63 Morgan Disney and Associates 2000, 'Two Lives – Two Worlds: Older People and Domestic Violence', *Partnerships Against Domestic Violence*, Canberra.

64 Morgan Disney and Associates 2000, *ibid*.

1.7.7 Young women

Phillips and Park report that women under 35 years experience greater levels of violence than older women.⁶⁵

In its report on the health costs of domestic violence VicHealth found that domestic violence was the single greatest contributor to death, illness and disability among young women.⁶⁶ The report found that intimate partner violence is responsible for more ill-health and premature death among Victorian women under the age of 45 than any other well known risk factors including high blood pressure, obesity and smoking.⁶⁷

In its 2000 report on *Domestic Violence in Regional Australia*, the Women's Services Network found that young women aged 21 and 23 are those most likely to be victims of female homicide.⁶⁸ That report also noted that:

*The research establishes a causal link between young women's experiences of domestic violence within the family home and homelessness. ... (Nationally) 43% of homeless young women left their family home as a result of sexual abuse with a further 37% leaving home as a result of physical abuse.*⁶⁹

Abusive partner relationships among young people remain largely hidden crimes. Often young women do not recognise the abuse as a crime and therefore do not report it or seek assistance.

The recently released report produced by the White Ribbon Day Foundation, *An assault on our future: the impact of violence on young people and their relationships* details the effects of domestic and family violence, and the effects of violent intimate relationships on young people. The report notes that:

- one in four 12-20 year old Australians surveyed was aware of domestic violence against their mothers or step-mothers by their fathers or step-fathers;
- domestic violence has a clear and negative impact on children's and young people's behavioural, cognitive and emotional functioning and social development;
- living with domestic violence can shape young people's attitudes to violence in positive or negative directions;
- experiencing dating and relationship violence at any age has a profound negative impact on women's health and well-being. This impact is long and cumulative; and
- when young women experience physical violence in relationships, this violence is often serious and involves injuries.⁷⁰

65 Phillips J and Park, M. 2004, Measuring Domestic Violence and Sexual Assault Against Women: A Review of the Literature and Statistics E-Brief online, Australian Parliamentary Library.

66 VicHealth, 2004, *op.cit.*

67 VicHealth, 2004,*op.cit.* p.8.

68 Women's Services Network (WESNET), 2000, *op.cit.* p.10.

69 Women's Services Network (WESNET), 2000, *ibid.* p.10.

70 Flood, M and Fergus, L. 2008, *An Assault on our Future: The Impact of Violence on Young People and their Relationships*, White Ribbon Day Foundation, Sydney p.2.

1.7.8 Individuals in Same-Sex Relationships

Domestic and family violence occurs in female and male same-sex relationships. However, there has been limited research in Australia on either the prevalence or the causes of violence in these relationships. ACON (the AIDS Council of NSW) is currently conducting research into the issue in Sydney.

While some of the information and conclusions in this paper may be applicable to same-sex relationships, it is not possible to assert this with certainty. Consequently, this paper does not specifically focus on violence occurring in same-sex relationships. However, in the final chapter, consultation is invited on the impact of domestic and family violence in same-sex relationships.

2 Current Response to Domestic and Family Violence

2.1 Introduction

This chapter outlines the activities and programs currently used to respond to domestic and family violence in NSW.

The generally accepted components of a comprehensive domestic and family violence response cover a spectrum from primary prevention, through early intervention to crisis responses. Broadly, primary prevention is intended to prevent violence occurring in the first place. It focuses on strategies to reduce the risk in the total population and on preventing potentially vulnerable individuals and groups from experiencing an initial violent incident. Early intervention focuses on relationships or communities where limited violence has occurred, but there are realistic prospects that the violence can be eliminated or its escalation prevented. Crisis responses focus on situations where violence has commenced and victims require assistance for their safety and wellbeing and/or the risk from the perpetrators must be managed.

These three components do not have sharply defined boundaries and some activities and programs primarily designed for one will have impacts in another. For example, campaigns aimed at increasing community awareness of domestic and family violence and reducing acceptance of it can have impacts in both primary prevention and early intervention. Similarly, important elements of the crisis response, such as police attendance and notification of child protection concerns, may be present in cases considered for early intervention programs. The primary usefulness of these three components is in describing where effort goes and asking questions about whether that effort is distributed to best effect.

Currently, most resources in NSW are applied to the crisis end of the spectrum. However, the importance of primary prevention and early intervention is now being recognised in most Australian jurisdictions (including NSW) and it is expected that there will be a national shift in emphasis toward primary prevention and early intervention over the next few years.

In a time of economic constraint such a shift will not be simple. As with many other complex areas of public policy and service delivery, services involved in the crisis response are well established and have a long history. They are largely demand driven and demand continues to escalate. On the other hand, primary prevention and early intervention approaches are new and less immediate in their impact, although may have substantial positive cost benefits in the long term. There is no quantitative study that would provide a reliable guide to the most effective distribution of either existing or new resources across the three components and no fail safe method for effecting any such redistribution.

Whilst primary prevention and early intervention are critical to an effective domestic and family violence response, the importance of an effective crisis response must also be acknowledged. All of these components

– primary prevention, early intervention and crisis responses – must be appropriate, accessible, and effective, to ensure a proper, sustainable and effective domestic and family violence response.

In common with all other Australian jurisdictions, NSW does not have a discrete response system that focuses exclusively on domestic and family violence. Whilst there are some specific programs for domestic and family violence such as the Domestic Violence Intervention Court Model, Staying Home Leaving Violence, the Domestic Violence Line and some Integrated Services for victims most are drawn from mainstream services such as hospitals, general medical practitioners, police, courts, child protection services and housing. They compete for priority with the other significant demands on those services.

Delivery of services occurs through a substantial number of government agencies and non-government agencies.

The reasons for these complex arrangements are partly historical (domestic and family violence has only emerged as an issue of national significance in recent times and well after the major components of the crisis response system were established) and partly due to the nature of domestic and family violence itself. With its wide array of contributing factors and the substantial variation in its nature, scale and consequences, many elements of the response to domestic and family violence will be shared with responses to other social problems such as drug and alcohol abuse, child abuse and neglect, sexual assault and homelessness.

This situation has consequences for responding to domestic and family violence now and, more importantly, for contemplating any changes to the way the NSW response is organised or services provided.

There are a number of key issues in relation to the delivery of government and non-government services to victims which add to the difficulty of moving forward with a coordinated approach:

- i. The complex array of service providers across multiple sectors and disciplines;
- ii. Domestic and family violence victims compete for priority with other demands on each of those service systems;
- iii. Coordination across services can be very difficult (barriers include availability of resources, different information systems and capacity to share information, territoriality and, for NSW, structural complexity of government services); and
- iv. Service provider interests are often specific rather than focussed on taking a holistic view of domestic and family violence.

It is also important to look at the domestic and family violence response from the perspective of those who may need to use it: the victims and perpetrators. Although many victims in NSW receive significant services and support from one or more sources, there is no state-wide mechanism that ensures consistency of services provided, the standards of those services or their results. There is also no state-wide approach to providing targeted support for frequent users of government support and criminal justice services to reduce their disproportionate impact across the service spectrum.

From the perspective of victims (and also perpetrators) there are a number of fundamental questions about services for domestic and family violence:

- Is there a service available?
- Is it accessible? (geographically, temporally, culturally, physically)?
- Is it affordable?
- Is it of the required standard?
- If it is not comprehensive, will it provide effective linkages to other essential services?
- Will it provide support for long enough?

Unfortunately the answers to many of these are unknown, both for the response system as a whole and for many individual services.

To get a sound understanding of how NSW responds to domestic and family violence requires two substantial pieces of work. The first is a qualitative description of the domestic and family violence 'pathway' (i.e the elements of the response starting with surveys of population attitudes and knowledge about domestic and family violence, moving through targeted services to vulnerable groups and finishing with services to frequent users of these services). This needs to describe common entry and exit points from the 'pathway' and the services available in each component. This service mapping will be done as part of the Strategic Framework development. An initial draft pathway is included at Appendix 2 for comment.

The second is much more difficult. It involves building a quantitative model of the pathway that shows volumes and costs for both services and users for each component. This enables identification of cost effective interventions, identifies significant weaknesses in the service system, and provides an understanding of the potential impact of different policy options. The feasibility of constructing a viable model for such a complex pathway has yet to be tested.

As the draft descriptive pathway is included for comment, the following brief outline of the services and programs operated by various government and non-government agencies in NSW has been prepared along traditional service lines.

2.2 Non-government sector

The domestic and family violence response in NSW is shared between government and non-government sectors, with the non-government organisations providing a wide range of direct services to victims (and some perpetrators) of domestic and family violence.

Whilst much of the funding for non-government sector activities comes from the Commonwealth and State departments, some comes from the non-government organisations themselves and some from clients. Non-government services are usually delivered with significant expertise, flexibility and effective grass roots engagement.

Services delivered either partially or wholly by the non-government organisations include:

2.2.1 Generalist Family Support Services

These include services with a primary focus on domestic and family violence and those which deal with a broader range of individual and family problems in which domestic and family violence is a contributor. The kinds of services include assessment, counselling, advice, advocacy and referral to specialist services. In NSW many of these programs are funded under the Community Services Grants Program (NSW Department of Community Services – DoCS). DoCS estimates that over \$31 million was allocated in 2008/2009 to programs of this kind. Substantial funding is also provided by specific Commonwealth programs, but usually on a time limited basis.

2.2.2 Health Programs

These include Women's Health Centres which offer either specialist or generalist counselling and support. These centres are funded by NSW Health and are concentrated in metropolitan and coastal regions. They include the Immigrant Women's Health Centre and the Waminda South Coast Women's Health and Welfare Aboriginal Corporation.

The NSW Rape Crisis Centre is also funded by NSW Health to provide a state-wide 24 hour telephone and online support and referral service for anyone who has experienced sexual violence. Sexual violence is often inextricably linked to domestic and family violence.

In NSW there are approximately 40 Aboriginal Community Controlled Health Related Services which, in addition to primary health care, provide support services for women affected by family violence.

2.2.3 Advocacy Services

These operate at two levels: those focused on the individual case and those focused on the broader policy, legal and system issues for domestic and family violence. They are often closely allied with sexual assault advocacy. Examples include:

- Domestic Violence Advocacy Service;
- Wirringa Baiya Aboriginal Women's Legal Centre;
- Thimaya- li Family Violence Service;
- Rural Women's Outreach Program;
- Mudgin-gal Aboriginal Women's Corporation;
- Walanbaa Yinarr Wharoo - Walgett Family Violence Prevention Legal Service; and
- Bourke / Brewarrina Family Violence Prevention Legal Service.

Many of the non-government organisations are small, localised organisations that provide services to a specific type of client or for a specific problem. Over time many of these local organisations with a common interest have developed peak representatives' bodies to raise awareness and to advocate with governments, business and the media. Because of the complex nature of domestic and family violence and the wide array of services involved, there are a substantial number of peak bodies engaged in this issue. Examples are:

- NCOSS;
- Women's Health NSW;
- Combined Community Legal Centres;
- NSW Women's Refuge Movement Resource Centre;
- NSW Family Services Inc;
- Immigrant Women Speakout Association;
- Older Women's Network; and
- Women with Disabilities Australia.

2.2.4 Crisis Response

The non-government sector delivers many of the crisis response services to women escaping domestic and family violence such as women's refuges and other Supported Accommodation Assistance Program (SAAP) services.

SAAP is a joint State/Commonwealth program targeting homelessness. The program is administered by DoCS. Total NSW funding for SAAP services in 2008/09 is \$123.6 million for 363 services state wide. More detailed information on SAAP is provided at 2.5.2.

Other services that are crisis response are domestic and family violence and/or sexual assault focused (e.g. Rape Crisis Centre, Aboriginal Women's Safe Houses) and some assist victims of domestic and family violence as part of a broader range of services to disadvantaged individuals or families. Examples of the broader service providers include Family Support Services, Burnside, the St Vincent de Paul Society and the Salvation Army.

2.2.5 Legal Advice

Community Legal Centres (CLCs) are independent community organisations that provide free legal advice and information as well as legal education for individuals and communities across NSW.

For women experiencing domestic and family violence, CLCs can provide advice on apprehended violence orders (AVOs), family law and relationships, housing and tenancy issues, immigration matters, child protection, social security and other related issues. Within the CLC network, Specialist Legal Services

concentrate on a particular area of law, including domestic and family violence. Examples of these services in NSW are:

- Thiyama-li Family Violence Service;
- Women's Legal Services NSW; and
- Wirringa Baiya Aboriginal Women's Legal Centre.

Specialist services also operate at a number of CLCs including Redfern Legal Centre, Marrickville Legal Centre, Macarthur Legal Centre and Far West Legal Centre.

Additionally, there are six Aboriginal and Torres Strait Islander Legal Services in NSW that provide legal services to Aboriginal people in a culturally appropriate way.

2.2.6 Early Intervention Programs

There are a number of programs in NSW that are designed to intervene before domestic and family violence results in (or contributes to) irretrievable breakdown of family structure. Some of these are operated solely by non-government organisations (e.g. programs such as NEWPIN - Uniting Care Burnside, Campbelltown Family Support Service, Jannawi Family Centre) and others are partially operated by the non-government organisations (e.g. the 'Brighter Futures' program).

For some of these programs (as with the domestic and family response as a whole) it is difficult to separate the early intervention aspects from the crisis response aspects. In reality, clients experiencing domestic and family violence do not stay neatly in one category or the other and services will continue to support clients until they are beyond the service's capacity.

2.3 Multi-agency state government services

This section is intended to cover those activities and programs that operate across the Government as a whole, or across significant parts of it. It includes major changes in the policy landscape for domestic and family violence in NSW over the last decade.

2.3.1 Policy Frameworks

In 1996 the NSW Government established the Strategy to Reduce Violence Against Women, a partnership that included the NSW Police Force, DoCS, the Department of Health, the Attorney General's Department, NSW Housing, the Department of Education and Training and for a time, the then Department for Women. The aim of the Strategy was to prevent and respond to violence against women through:

- raising awareness of, and understanding about, violence against women;
- developing and promoting effective prevention strategies;
- improving women's access to services;
- improving interagency coordination; and
- improving the criminal justice response to violence.

Between 1996 and 2007 funding to support the Strategy was maintained and new initiatives to ensure a multi-agency approach to domestic and family violence were commenced. These included Integrated Case Management trials in various parts of NSW, establishment of Domestic Violence Liaison Officers in the NSW Police Force, the development of Domestic Violence Interagency Guidelines, trial of a Domestic Violence Court Intervention Model, and commencement of Staying Home Leaving Violence. In addition, a number of significant legislative amendments have been implemented since 2006 that have been designed to enhance victims' access to justice, increase their level of protection, and ensure greater accountability of perpetrators.

In 2007 the NSW Government commissioned ARTD Consultants to review the Strategy. The review report was released in February 2008 and made a number of recommendations designed to improve coordination among government agencies.⁷¹

In February 2008 the Government announced a new approach to addressing domestic and family violence, supported by a new structure based on the recommendations of the ARTD report. The new structure includes a central coordination unit in the Office for Women's Policy, Department of Premier and Cabinet. This Unit – the Violence Prevention Coordination Unit - has responsibility for coordinating policies aimed at reducing violence against women and tackling domestic and family violence. These policies, including the Domestic and Family Violence Strategic Framework, will underpin agency responses to domestic and family violence.

⁷¹ ARTD Consultants, 2008, *Coordinating NSW Government Action Against Domestic and Family Violence, Final Report*, Sydney.

Nine region coordinators have been appointed in NSW Police Force regions to ensure coordination between criminal justice and human services agencies in their responses to women and families who have experienced or are at risk of domestic and family violence.

Five senior project officers have also been appointed to oversee key domestic and family violence projects including, the Domestic Violence Intervention Court Model, Staying Home Leaving Violence, the Cross Agency Risk Assessment and Management Approach, the Integrated Domestic and Family Violence Services Program and a training project for workers who work with women and children who have experienced violence. These important initiatives are outlined in more detail below (section 2.3.2).

Other frameworks such as the proposed NSW Homelessness Strategic Framework will improve outcomes for groups such as women and children who become homeless as a result of domestic violence.

2.3.2 Major Multi-Agency Frameworks and Projects

2.3.2.1 Cross Agency Risk Assessment and Management Approach – Domestic and Family Violence

Initiated in 2006-07, the Cross Agency Risk Assessment and Management Approach is co-funded by partner agencies, the NSW Police Force, DoCS and the Attorney General's Department. The approach aims to assess the risk to individuals and families of domestic and family violence, and identify and coordinate interventions to manage or reduce this risk. The project is linked to other government strategies and responses including the NSW Interagency Plan to Tackle Child Sexual Assault in Aboriginal Communities 2006-2011 and the 2006 NSW Ombudsman's report, *Domestic Violence: Improving Police Practice*.

A four month trial of the project commences in early 2009. The trial locations will include one urban and one regional community. One of these locations will include an Aboriginal community.

The evaluation will be concurrent with the trial so that improvements can be incorporated as it progresses. Intended service outcomes of the trial include enhanced service response from participating services/agencies. Intended client outcomes include increased safety and a sense of safety, increased reports of satisfaction with service response and reduced re-offending rates.

It is intended that eventually service providers in NSW Health, the NSW Police Force, DoCS, the Attorney General's Department and other appropriate agencies and government funded services will use the risk assessment tool to:

- assess the risk of further violence - immediate/serious, moderate or low;
- assess the needs of female and male victims over the age of 16;
- identify existing interventions and service options designed to reduce the risk of violence and address the needs of victims;
- provide appropriate referrals and/ or reports; and

- liaise with other agencies to develop a clearer picture of the risk of violence.

2.3.2.2 Integrated Domestic and Family Violence Services Program

In November 2007, the then Premier announced recurrent funding of \$3 million to sustain case management services regarding domestic and family violence.

The Integrated Domestic and Family Violence Services Program is a multi-agency, coordinated response to prevent the escalation of domestic and family violence among high risk target groups and in targeted communities. Coordinated services are intended to be 'seamless' and are provided to clients through a multi-disciplinary team or are based on clear referral pathways between service agencies such as Police, Health, Housing, DoCS and non-government support agencies.

The services attempt to improve the outcomes for those affected by violence through this increased and more coordinated response for victims and children; more proactive, intentional and coordinated criminal justice responses; coordination and integration of the service systems; and increased priority and effort dedicated by the key partner agencies.

There are three Integrated Domestic and Family Violence Services sponsored by DoCS:

- Mt Druitt Family Violence Service;
- Canterbury Bankstown Domestic Violence ResponseTeam; and
- Domestic Assault Response Teams.

There are also four other integrated services sponsored through government and community partnerships:

- Domestic Violence Intervention Response Team, sponsored by the Central Coast Domestic Violence Court Advocacy Scheme;
- Great Lakes Refuge Police Partnership;
- Nowra Domestic Violence Intervention Service, sponsored by YWCA; and
- Liverpool and Green Valley Domestic Violence Service, sponsored by NSW Health.

2.3.2.3 Staying Home Leaving Violence

Staying Home Leaving Violence seeks to remove the violent partner from the home and ensure the immediate and longer term safety for a woman and her children. It has substantial benefits, particularly for children because of continuity of community support, childcare and educational arrangements. The support of the police, the magistrate and local court is an important aspect of the project as an exclusion order is negotiated as part of an apprehended violence order.

Based on a risk assessment for women and children and individualised safety planning, women are provided with information about accommodation choices and other supports. Partners are also provided with accommodation options and details of emergency payments available through Centrelink.

Project workers provide casework and advocacy to address housing and tenancy issues, income support, financial difficulties, legal issues, and facilitated access to mental and general health services. A safety plan and brokerage funding for security equipment, including monitored personal alarms and other security upgrades, are provided for the home. The project workers also coordinate the local service system to lead local community education campaigns to increase awareness of, and support for, the option of staying home safely.

Staying Home Leaving Violence is currently operating in South East Sydney and in Bega. Following positive evaluations, it will be implemented in a further 16 areas across NSW. Six new sites will be funded in 2009/10, and a further 10 sites in 2010/11. Further information on this program, including the agencies involved, is at section 3.7.1.

2.3.2.4 Domestic Violence Intervention Court Model

The Domestic Violence Intervention Court Model (DVICM) was developed to improve the efficiency and quality of the criminal justice response to domestic violence, through agreed protocols and services for:

- improved policing (evidence collection, application for an Apprehended Domestic Violence Order, proactive arrest and charge policy with strict bail conditions, next day contact with the victim for crisis support and proactive case management);
- improved court assistance support (ensuring victim safety and support through the Domestic and Family Violence Intervention Service, providing for witness preparation);
- improved management of local court activities (prosecution of domestic violence matters by specially trained police prosecutors, establishing a benchmark for resolution of cases within 12 weeks from the initial hearing to sentencing); and
- reducing re-offending (ensuring where a matter gets to sentencing, offenders are required to participate in Department of Corrective Services domestic violence perpetrator programs (not in lieu of sentence)).

The two-year trial of the DVICM began in Wagga Wagga and Campbelltown in September 2005. It involves Campbelltown, Macquarie Fields and Wagga Wagga Local Area Commands within the NSW Police Force. Key initiatives of the DVICM have been:

- domestic violence evidence collection kits – to assist police with improved evidence collection, these kits provide them with a digital camera and other resources;
- to increase the support of victims through the court process and to assist with any matters associated with victims' safety. An automatic police referral process to the Domestic and Family Violence Intervention Service ensures that all victims have the opportunity to access this support;

- Local Court Practice Note – to enhance efficiency and enable the DVICM to finalise all matters within 12 weeks of the offender’s first court appearance; and
- Domestic Violence Perpetrator Program – as part of the sentence, offenders may, if appropriate, be placed on a perpetrator program operated by Probation and Parole in Campbelltown and Wagga Wagga.

The report of the evaluation of the DVICM by the NSW Bureau of Crime Statistics and Research was released early in 2008.⁷² Although there was no statistically significant change in either the reported occurrence of domestic and family violence or in the use or outcomes of the legal processes, the support provided was viewed very positively by the participants. Further details on the DVICM is provided at section 3.7.2.

The DVICM is now a permanent court model but there are currently no plans to expand it to other locations.

2.3.2.5 Intersectoral Training Project

The Education Centre Against Violence (ECAV) is a specialist state-wide service of NSW Health focussing on domestic and Aboriginal family violence, sexual assault of adults and children, and physical and emotional abuse and neglect of children. ECAV delivers high quality learning and development programs and training across NSW and develops therapeutic and information resources for professionals working in these areas.

ECAV is currently developing a specialist domestic and family violence training and resources for use across government agencies in NSW. The aim is for consistent and coordinated approaches to planning, development and evaluation of domestic and family violence training programs across government, and that learning and development opportunities in different agencies reflect current developments in research, practice and legislation.

The training package will include particular programs and resources which are sensitive to the needs of groups such as those with disabilities, Aboriginal communities, those from culturally and linguistically diverse backgrounds and refugees.

2.3.2.6 Domestic and Family Violence Advice and Referral Services

The main domestic and family violence specific service is the Domestic Violence Line. This is a 24 hour telephone counselling information and referral service operated by DoCS. It received over 23,000 calls in 2006/2007. It is a centralised access point for all women’s refuges across NSW and maintains close links with other crisis support services in NSW and interstate.

There are also other important services that provide counselling and referral for domestic and family violence related matters as part of their role(s) with women experiencing a broader range of problems.

⁷² Rodwell, L. and Smith, N. 2008, *An Evaluation of the NSW Domestic Violence Intervention Court Model*, NSW Bureau of Crime Statistics and Research, NSW Attorney General’s Department, Sydney.

Examples include the NSW Rape Crisis Centre, Victims' Support Line, Women's Refuge Movement Resource Centre, Women's Health Centres, Family Support Services and Community Legal Centres.

2.3.2.7 The NSW Homelessness Strategic Framework

The NSW Government is developing a homelessness strategic framework in response to a 2007 performance audit report by the NSW Auditor-General. The framework represents a whole of Government response to homelessness in NSW, aimed at improving both the service system and outcomes for people who are homeless or at risk of homelessness. The framework builds on the work of the Partnership Against Homelessness which was established in 1999.

The draft framework recognises that domestic and family violence is a major cause of homelessness for women and children, and includes several actions to improve the outcomes for this group. The framework has been developed in consultation with government and non-government services providers and advocates, including those for women and children escaping domestic and family violence.

The draft homelessness strategic framework will be finalised following release of the Commonwealth's White Paper on homelessness and the finalisation of a new national Affordable Housing Agreement by the Council of Australian Governments (COAG).

2.4 Health services

Victims of domestic and family violence often require access to health services for treatment of physical and/or psychological injury. But health services can also play vital roles in screening vulnerable sub-groups in the population (e.g. Aboriginal women and pregnant women) and as providers of non-stigmatising early intervention and prevention services.

In NSW, health services are provided directly by NSW Health (e.g. public hospital emergency departments), by other health organisations and by private providers such as general practitioners.

2.4.1 Mainstream Health Services

From a health perspective, mainstream health services are by far the major contributors to health services for domestic and family violence. These cover a wide range of direct services (e.g. emergency departments) and related services (e.g. drug and alcohol services, maternity services, mental health services, child and family and other community health and hospital services).

2.4.2 Specific Health Initiatives for Domestic and Family Violence

NSW Health does not administer a state-wide dedicated service stream to provide counselling to victims of domestic violence. However following are NSW Health initiatives that provide a domestic and family violence service/policy response as part of a wider service.

2.4.2.1 Policy and Procedures for Identifying and Responding to Domestic Violence

The NSW Health Policy and Procedures for Identifying and Responding to Domestic Violence (2003, revised 2006) aim to reduce the incidence of domestic violence through primary and secondary prevention approaches and minimise the trauma that people living with domestic violence experience, through tertiary prevention approaches including ongoing treatment and follow up counselling.

The Policy provides guidance:

- for health workers in recognising and responding to victims primarily, but also children and perpetrators, no matter which service they may present to; and
- for programs and services such as emergency departments, maternity services, mental health, alcohol and other drugs services, child and family and other community health and hospital services.

It also mandates routine screening for domestic violence:

- of all women attending antenatal and early childhood health services; and
- women aged 16 years and over attending mental health and alcohol and other drugs services.

Such screening identifies female clients in recent or current domestic violence situations where domestic violence is not already disclosed, and enables the provision of information, support and referral. As information is provided to all women who are screened, it is also an educational as well as an early identification strategy.

Area Health Services have identified “Lead Persons” for domestic violence who coordinate the development, implementation and monitoring of Area domestic violence plans. Lead Persons are generally Women’s Health or Violence and Abuse Coordinators who have this role in addition to other responsibilities. The Women’s Health Strategic Implementation Plan (currently in development) has identified violence against women as a priority health issue.

2.4.2.2 Counselling

There is no dedicated service stream for domestic violence counselling services across NSW Health as there is for sexual assault. Usually victims are referred to other services (where these are available), although

some Area Health Services (e.g. South East Sydney and Illawarra Area Health Service) have developed specialised centres.

2.4.2.3 Aboriginal Family Health Strategy

The Aboriginal Family Health Strategy aims to reduce the occurrence of family violence in Aboriginal communities. A network of trained Family Health Workers has been established, largely through non-government agencies such as Aboriginal Medical Services. While some information, support and referrals are provided to individuals, the focus of these Family Health Workers is on building community capacity and resilience and community education.

2.4.2.4 Education Centre Against Violence

The Education Centre Against Violence, a NSW Health service, provides services state-wide to assist NSW Health to implement its policies and to meet legislative and interagency responsibilities regarding sexual assault, child protection and domestic violence and Aboriginal family violence. It does this through specialised training programs and educational resources. Approximately 155 training programs (500 training days) are conducted annually in rural and metropolitan areas. Approximately 25% of the courses are domestic or Aboriginal family violence related.

2.5 Housing and Crisis Accommodation

Suitable accommodation is a key issue in domestic and family violence and it operates at multiple points along the domestic and family violence spectrum.

At the prevention end, housing is a critical factor in family wellbeing. Through the Commonwealth State Housing Agreement (to be replaced by the National Affordable Housing Agreement) Commonwealth and State funding is provided for a range of housing programs including social housing in NSW.

At the crisis end of the spectrum, a wide range of policies and programs exist to assist victims to stay in their homes (e.g. Staying Home Leaving Violence), provide temporary support for those fleeing violence (e.g. Supported Accommodation Assistance Program (SAAP) services) and provide more permanent arrangements (e.g. social housing). Although all these programs emphasise support for victims of domestic and family violence, most also provide support to other disadvantaged groups and families and are therefore classified as mainstream services.

2.5.1 Mainstream Housing Services

Housing support for disadvantaged families is provided through a wide range of programs from direct provision of social housing to assistance to renters in the private rental market and home ownership schemes.

A key program response is the provision of subsidised social housing assistance (including public housing, community housing and Aboriginal housing). An important form of assistance is provision of priority public housing to clients escaping domestic violence. Affordable secure social housing assists families to establish/maintain access to both formal and informal support services and, for example, schooling and family relationships. Social housing client service staff provide housing assistance to clients who increasingly have more complex needs, often resulting from domestic and family violence, and have an increasing role in service referrals to assist in maintaining tenancies.

A current initiative from Housing NSW that may have a positive impact in the context of early intervention is the Housing and Human Services Accord. This is a formal agreement that provides an overarching framework for both government and non-government human service agencies to work in partnership to support the most vulnerable and disadvantaged people in our community. Families with children who require support are one of the priority target groups under this framework.

Under the Accord, some partnerships are under way that specifically target victims of domestic violence. These include the Moree Family Case Coordination Project which enables housing and support to be provided through an integrated multi-agency case coordination model for families affected by domestic violence living in Moree. Signatory agencies work together to enable families who are nominated to the project have access to secure, affordable, supported social housing products including assistance to secure private rental accommodation. The project provides nominated clients with support through integrated case coordination and responds to the changing needs of clients during the support period.

Housing NSW is also working with other agencies in seven priority locations covering 18 public housing areas. A component of this work may support families experiencing violence and increase their capacity to access mainstream services and supports.

At the crisis response end of the spectrum, Housing NSW has a number of accommodation options for women and children escaping domestic and family violence. Its core program response is the provision of subsidised housing assistance, including priority public housing for applicants and current tenants escaping domestic violence. Programs offered include short term crisis driven interventions and long term arrangements and services.

Housing NSW also provides a range of services to help low income households access private rental accommodation. The Private Rental Brokerage Service assists people with complex support needs, including women escaping domestic and family violence, to find and sustain private rental accommodation. Under *Rentstart*, a variety of other forms of assistance are available including assistance with bond, advance rent and rent arrears to support clients to access and or maintain a private sector tenancy. Temporary accommodation is also offered as part of *Rentstart*. This can assist people who are homeless or at risk

of homelessness from domestic and family violence by providing short term accommodation (up to 4 weeks).

2.5.2 Specific Accommodation Crisis Response Services

The Partnership Against Homelessness brings together a network of 13 NSW Government agencies that fund or administer programs for homeless people, including a focus on women and children escaping domestic violence. The Partnership aims to identify specific homelessness issues and develop appropriate cross-agency responses and initiatives.

However, the main program area is the Supported Accommodation Assistance Program (SAAP). This is a joint State/Commonwealth program targeting homelessness. Almost 30% of all SAAP services are for women and children affected by domestic and family violence. In NSW the program is administered by DoCS.

Domestic and family violence is the single greatest reason people seek SAAP service support. The Commonwealth Government's Green Paper, *Which Way Home? A new approach to homelessness* reported that:

Domestic violence was cited as the main reason for seeking support in 54% of SAAP support periods for women with children, and 37% for females alone aged over 25 years.⁷³

43% of Aboriginal women in remote areas and 32% of Aboriginal women in urban areas reported that domestic and family violence was their main reason for seeking crisis accommodation (i.e. SAAP assistance).⁷⁴

SAAP funds projects which provide a range of services including:

- counselling and personal support;
- early intervention support to assist women and children remain safely in their own homes;
- crisis and longer term accommodation;
- case management to assist women move to independent living including help with legal issues, income support and access to longer term housing;
- support for children including child care, structured play and skills development;
- school liaison and specialist psychologist assistance on the effects of domestic violence; and

⁷³ 4 Department of Families, Housing, Community Services and Indigenous Affairs, 2008, *Homelessness Green Paper: Which Way Home? A New Approach to Homelessness*, Canberra.

⁷⁴ Department of Family and Community Services, *Background Paper for Standing Committee on Indigenous Housing/Policy Research Working Group on Indigenous SAAP Clients*, with data derived from SAAP NDCA (unpublished).

- education around the effects of domestic violence and community prevention programs.

Total NSW funding for SAAP services in 2008/09 is \$123.6 million for 363 services state-wide. Generally dwellings such as refuges are provided under the Crisis Accommodation Program which is administered by the Office of Community Housing in Housing NSW.

The Commonwealth Government has recently committed to provide \$150 million to enable 600 units of accommodation nationally over 5 years to house homeless people under the program A Place to Call Home. The NSW Government will contribute \$38.8 million to match Commonwealth funding for 155 homes in NSW under the initiative.

Families with children are among the groups the Commonwealth Government seeks to prioritise under this initiative. A proportion of these units will be targeted to families escaping domestic or family violence.

Families and individuals will move straight into supported housing for the first 12 months. Critically, they will be able to remain in their home after the first year. Their home will be transferred to the general public housing pool and their tenancy extended in accordance with the normal tenancy arrangements applying to public housing.

Two other initiatives include the Staying Home Leaving Violence (outlined already at section 2.3.2.3) and the Orana-Far West Child and Family partnership Development Project, a project developed between DoCS and the Women's Refuge Movement Resource Centre with Commonwealth funding assistance. This project is designed to improve service provision to Aboriginal women and children in isolated communities by locating a child and family support worker at each of the five safe houses in Orana-Far West region. This support worker is involved in initial assessment, immediate safety planning and developing a comprehensive package of services for longer term support. The program has close links with the DoCS funded 'Brighter Futures' early intervention program. Housing NSW also plays a role in the Orana Far West Safe Houses project. Through NSW Housing and the Human Services Accord, Housing NSW will assist with the transition of families from the safe houses into longer term affordable housing.

2.6 Police services

Police play a pivotal role in preventing and responding to domestic violence. The NSW Police Force is the gateway to the criminal justice system for many victims of domestic and family violence, and therefore has a major responsibility to ensure that officers respond appropriately and have an understanding of the social and legal context in which domestic and family violence occurs and of their responsibilities.

The role of police includes responding to an incident, ensuring the immediate safety of victims, assisting with obtaining an apprehended domestic violence order (AVO), reporting where children are at risk, and prosecuting offenders. As they are frequently the first point of crisis intervention in domestic and family violence situations, police officers need to be properly equipped to respond effectively. As the NSW Ombudsman has stated, police must be able:

to instil confidence in victims, to communicate a strong message to offenders that their behaviour is unacceptable, and to facilitate access to justice and support.⁷⁵

The bulk of police effort on domestic and family violence is delivered through general duties police work, although there is an increasing specialist presence in staff positions, policies and programs.

2.6.1 Mainstream Police Services

There are 15,324 serving police officers in NSW and a substantial amount of police time is devoted to domestic and family violence and related matters.

The main police powers that determine the response of officers to incidents of domestic violence are their search, entry and seizure powers, in addition to applications for apprehended violence orders. Part 6 of the *Law Enforcement (Powers and Responsibilities) Act 2002 (NSW)* provides the basis for police officers' powers in relation to domestic and family violence.

Once a police officer has entered a dwelling he or she must inquire as to the presence of any firearms and may only take action that is reasonably necessary to:

- v. investigate whether a domestic violence offence has been committed;
- vi. render aid to any person who appears to be injured;
- vii. exercise any lawful power to arrest a person; and
- viii. prevent the commission or further commission of a domestic violence offence.

Section 86 of the *Law Enforcement (Powers and Responsibilities) Act 2002 (NSW)* empowers police to enter and search the premises for firearms if he or she believes on reasonable grounds that they are present (despite statements to the contrary by an occupant) and a search warrant has been obtained. Section 87 enables a police officer who has entered a dwelling and believes on reasonable grounds that a dangerous article or implement is present and is being, was or may be used to commit a domestic violence offence, to search the dwelling for the article or implement and seize and detain it.

In recent years there has been a range of legislative reforms in the domestic and family violence area that have further enhanced the powers of police officers. Broadly these include:

- empowering police to make applications for an AVO even when victims are reluctant to proceed;
- empowering police to apply for provisional AVOs by telephone, fax and email on a 24 hour basis; and
- broadening the categories of dangerous implements that police may search for in a dwelling, provided that the police officer reasonably believes that they have been used or may be used to commit a domestic violence offence.

⁷⁵ NSW Ombudsman 2006, *Domestic Violence: Improving Police Practice*, NSW Ombudsman, Sydney, p.7.

Police attending a domestic violence incident where children are usually present are required under their operating procedures to make a report to the Child Protection System. In 2007/2008 there were 61,894 such reports.

The police also play a significant role as prosecutor in domestic violence proceedings. Police Prosecutors provide the vital link between police and local courts for many victims of domestic violence. Police have directed Police Prosecutors to provide assistance, through consultation with the victims of domestic violence prior to attendance at court, where this is possible. Prosecutors are also expected to liaise with domestic violence liaison officers (DVLOs), court support workers and other people relevant to a complaints matter.

The response to domestic and family violence by individual police local area commands (LACs) is dependant on a number of factors. The stationing of a DVLO at a LAC is considered a first step to an improved police response to domestic and family violence. However, improved training for all officers means that any attending officer, not only the DVLO, should be qualified and trained to respond appropriately. Furthermore, where a DVLO position is vacant or where none exists, Local Area Commanders have the power to appoint a serving officer to perform those duties.

The leadership provided by the Local Area Commander is crucial to the type of response to domestic and family violence provided by the LAC. Consistent training, access to resources, relationships with the local sector and management support for the DVLO, are all factors that influence the quality of the LAC response.

2.6.2 Domestic and Family Violence – Specific Police Services

There are 123 DVLO positions within the NSW Police Force. They play an important role by linking the LACs to the community and service providers. Specifically, their role is:

- to provide advice to police and victims;
- assist in referral to appropriate support agencies;
- maintain close working relationships with all support agencies; and
- review and oversight all family and domestic violence reports, and cases.

A further 35 police domestic violence specialists will be deployed across NSW in 2009/10. Already five specialist domestic violence officers have been appointed to the Police Headquarters to develop policies and programs for the NSW Police Force. The key role of these officers is to:

- provide coordination and guidance to DVLOs across NSW, including the additional 35 new specialists to commence in the 2009/2010 financial year;
- review and update NSW Police Force policies, procedures and practices in relation to domestic and family violence;

- develop world's best practice training and education programs for operational police; and
- research the latest trends and strategies in domestic violence, particularly in relation to repeat offenders.

In addition, some LACs participate in joint services with other agencies to provide an integrated response to domestic and family violence incidents.

2.7 The legal system

The legal system is a critical part of the response to domestic and family violence in NSW. It assists in providing protection and in dealing with perpetrators. However, the legal system is a complex formal system that can seem unhelpful, or even hostile, to victims of domestic and family violence. Many of the recent modifications to the system and to the law have been designed to improve both the access to the system and the victim's experience of using it.

2.7.1 Apprehended Violence Orders and Criminal Responses

Apprehended Violence Orders is a general term that is used to encompass Apprehended Domestic Violence Orders and Apprehended Personal Violence Orders. For the purpose of this paper the term Apprehended Violence Order or AVO will be used.

There is a range of civil and criminal responses available in NSW to protect victims and prevent domestic violence. These remedies offer protection against many forms of domestic and family violence, including acts that are not physically violent. Specific processes include:

- protecting the victim (i.e. AVOs);
- criminal charges arising out of a domestic violence incident;
- family law; and
- approved counselling and/or compensation for victims of crime.

In NSW an AVO is the most frequently used avenue for women to obtain protection from a domestic violence perpetrator. An AVO is an order made under the *Crimes (Domestic and Personal Violence) Act 2007 (NSW)* in conjunction with the charging, arrest and prosecution of offenders who commit criminal offences.

Orders by courts for AVOs are made to protect people against acts of violence such as physical assault, non-physical abuse such as harassment, stalking or intimidation, or damage or threatened damage to property. The victim does not have to be living with the person who abuses them. AVOs are a civil matter and thus differ to the laying of criminal charges. The order itself does not attract a criminal record. However, the breach of an AVO is a criminal offence and the police may arrest and charge the alleged offender in relation to a breach.

Many acts of domestic violence constitute criminal offences. The police are responsible for deciding whether or not to proceed with charging the person. If the police decide to arrest and charge the offender, the person will be prosecuted by the police or the Office of the Director of Public Prosecutions.

It is possible (although unusual) for a person to commence a private prosecution for a criminal offence where the police have decided not to act.

Dabsch highlights the differences between AVOs and criminal proceedings are in the table below:⁷⁶

Apprehended Violence Order	Criminal Charge
Is not a criminal conviction.	Offender, if charged and found guilty, usually has a criminal conviction recorded.
Women can apply for the order themselves, or under certain circumstances the police have an obligation to assist a victim by applying for an order for her.	Police lay charges and prosecute the matter. (A woman may commence a private prosecution).
Purpose is to provide protection from future violence, harassment or molestation or stalking.	Purpose is to deal with offences which have already occurred (i.e. past behaviour) and may have a deterrent effect.
Places conditions or restrictions on the offender, i.e. orders the offender not to do certain things. The conditions can be "tailor made" to suit the individual victim's need for protection.	Imposes a sentence (e.g. bond, fine, prison sentence) on the offender.
Standard of proof: a magistrate must be satisfied on the balance of probabilities. (i.e. it is more likely than not that the victim's fear is reasonable and justified).	Standard of proof: must be proved beyond reasonable doubt that the alleged offence occurred.
A breach of an AVO (i.e breaking the conditions of an order) is a criminal offence.	

2.7.2 The Court System

In NSW there are no specialist domestic and family violence courts. Most matters are heard in local courts before magistrates, and the complainants are represented by the police or by a solicitor.

The Domestic Violence Intervention Court Model, a quasi-specialist court, operates in Campbelltown and Wagga Wagga. This was discussed in section 2.3.2.4.

The NSW Women's Domestic Violence Court Advocacy Program is a scheme operating in 62 courts across NSW that provides women and their children with support, advocacy, referral and information

⁷⁶ Dabsch, T. 2007, *Domestic Violence in NSW*, Briefing Paper, 7/07 NSW Parliamentary Library Research Service, p.29.

and facilitates their access to appropriate legal representation, workers and solicitors associated with the program. The program has the following objectives:

- to improve the accessibility of the local court system for women seeking apprehended violence orders;
- to familiarise women and their children with the Court process, layout and personnel;
- to arrange legal representation from appropriately trained, sympathetic legal practitioners/police prosecutors;
- to advocate on behalf of women and their children around or in connection with local court proceedings;
- to be available to follow up on the order and make appropriate referrals on other legal matters;
- to provide referral and advocacy to other appropriate services in the area of income support, housing, order enforcement, counselling and other needs as required; and
- to assist in ensuring that the personal safety of women and children is of the highest priority at all times whilst in the precinct of the court and its surrounds.

The service is administered by the Legal Aid Commission. The Commission also provides the following programs and services in relation to domestic and family violence:

- information, representation and advice to defendants in AVO application proceedings and criminal matters relating to domestic violence;
- information, representation and advice to applicants in AVO proceedings;
- funding for the Domestic Violence Advocacy Service under the Community Legal Services Funding Program; and
- funding for other Community Legal Centres, including Women's Legal Services and Wirringa Baiya Aboriginal Women's Legal Centre.

Court support is also provided by SAAP services.

2.7.3 Legislative Reforms

A suite of legislative reforms has been introduced in recent years to enhance victims' access to justice and improve the accountability of offenders. Broadly, these reforms have been designed to:

- offer greater protection to victims of domestic and personal violence;
- recognise the gravity of domestic violence and how it may differ from other violent crimes;
- minimise as much as possible the stress and trauma that is associated with AVOs;
- streamline the process of making an application and having that application heard; and

- minimise the impact AVO proceedings have on children.

The Government has also stated that the reforms have been put in place to ensure that NSW has the most progressive and up to date laws it can have with respect to domestic and family violence.⁷⁷

Areas of substantial reform include:

- the introduction of a specific offence of domestic violence;
- new expanded definitions;
- a revised test for granting AVOs;
- new provisions concerning the granting of telephone interim orders;
- new limited police powers of detain and arrest for the purposes of serving an order;
- revised restrictions and prohibitions that may be imposed upon a defendant for both interim orders and final orders;
- new provision for property recovery orders;
- the abolition of the outdated complaints and summons process;
- revised police discretion not to make an application;
- extended duration for final orders; and
- revised variation and revocation provisions.

The *Crimes Amendment (Apprehended Violence) Act 2006 (NSW)* and the *Crimes (Domestic and Personal Violence) Act 2007 (NSW)* have further strengthened the protection of victims of domestic and personal violence and enhanced their access to justice.

All matters pertaining to domestic violence are now contained in the discrete, *Crimes (Domestic and Personal Violence) Act 2007 (NSW)* providing an all inclusive legislative instrument for victims, lawyers, magistrates, police and prosecutors. It is considered “user friendly” and as a stand alone Act identifies domestic violence as being a very serious and unique crime. Previously, domestic violence matters were contained in the *Crimes Act 1900 (NSW)* as part 15A. Substantial amendments were subsequently made to Part 15A, following recommendations of the NSW Law Reform Commission’s (LRC) *Report into Apprehended Violence Orders*. The amended provisions of Part 15A eventually formed the current, *Crimes (Domestic and Personal Violence) Act 2007* (the Act).

The Act promotes consistency in charging, prosecution and sentencing and reduces the potential for repeat offenders to escape the court’s notice as specific domestic violence offenders. The legislation has the further potential to improve court data collection for domestic and family violence matters.

⁷⁷ The Hon Tony Kelly MLC, 2007, Second Reading Speech. Legislative Council, *Crimes (Domestic and Personal Violence) Act (2008)*.

According to the LRC report, NSW AVO legislation was considered to be adequate and effective with the greatest impediment to its effectiveness being its implementation and interpretation by police, the legal profession and magistrates.⁷⁸ The amendments have sought to rectify this situation.

The Act provides for automatic protection by an AVO for victims if their alleged attacker is charged with certain serious personal violence offences. AVOs are extended to all victims in these cases, irrespective of whether they are involved in a relationship with the person. The defendant is not entitled to contest the order in court until the concurrent criminal charges have been finalised. This spares victims of violence the trauma of being cross examined at the hearing for an AVO as well as at the hearing of the criminal charges.

It provides better protection for children of domestic violence victims. Under the changes, the presumption is that children are included on the victim's AVO unless there are good reasons for them not to be. This ensures that the focus of all parties will be on the best interests of the child and guarantees that the safety of the child and victim is taken into consideration.

It introduces a new offence of domestic violence to help identify repeat offenders. Previously, offences of violence such as common assault did not specify whether the offence was committed in a domestic situation, making it difficult to track repeat offenders. Being convicted of the new offence of domestic violence is permanently recorded on a person's record and is readily identifiable by a sentencing court or a court making a bail determination.

Other changes include allowing police to search for a greater range of potential weapons at premises where a domestic violence offence has occurred, and giving police the power to demand the name of a person suspected of being the subject of an AVO.

2.8 Domestic violence homicide review process

Apart from Victoria, no Australian jurisdiction hosts a domestic violence homicide review process. The Victorian process was announced on 23 November 2008 so there has been no opportunity to measure its effectiveness.

A number of models operate overseas, including in the United Kingdom, Canada and the United States. While models vary significantly in relation to scope, mode of operating, resourcing and reporting arrangements, teams commonly:

- have a legislative basis;
- comprise government and non-government representatives; and
- adopt the view that domestic related homicides are preventable and have, as a primary focus, prevention and intervention.

⁷⁸ NSW Law Reform Commission 2003, *Report into Apprehended Violence Orders*, Part 1, NSW Government.

In addition, most models are based on a “no-blame” policy. That is, no agency is responsible domestic violence related deaths – only the perpetrator. Their goal is to identify systems gaps for the prevention of future deaths.

The NSW Government has indicated that it will respond to the issue of a domestic violence homicide review process in the context of its response to the Special Commission of Inquiry into Child Protection Services as well as the development of the Domestic and Family Violence Strategic Framework.

2.9 Children

Children can be direct victims of domestic and family violence and can also be impacted negatively by witnessing domestic and family violence. There is evidence of intergenerational transfer of violent behaviour patterns. In addition, children will usually suffer the same physical and social dislocation as the mother should she decide to leave the home to escape the violence.

Domestic and family violence is a major reason for reports to DoCS about child abuse and neglect and is commonly present in the history of families where the primary reason(s) for reporting are other risks (e.g. mental illness, drug and alcohol abuse, neglect). Police are the major reporters of domestic and family violence and in 2007/2008 made 61,894 reports where domestic and family violence was a primary factor (59,192 in 2006/2007).

The recent report of the Special Commission of Inquiry into Child Protection Services in NSW found that domestic violence is the most commonly reported issue in child protection reports. The report stated that

Domestic and family violence poses a number of challenges for the child protection system as well as for other human services and justice systems.⁷⁹

The NSW Government is considering the recommendations of that report and is due to respond by March 2009.

This rate of reporting has a huge impact on the statutory child protection system and it is not possible for DoCS to provide a service response to reports assessed as being of lower risk. Where reports are assessed as high risk, responses range from direct intervention to remove the children, to referral to funded services for counselling and other relevant support.

More recently, DoCS has entered into partnership with non-government agencies to deliver the Brighter Futures child protection early intervention program. This program aims to prevent families and children from being entrenched in the child protection system by providing early support to prevent their problems escalating. Services provided as part of the program include case management, home visiting, parenting programs and access to quality children’s services for families. Families experiencing domestic and family violence problems are one of the target groups for the program. In May 2008, the first results from the

⁷⁹ Hon James Wood AO QC. 2008, *Report of the Special Commission of Inquiry into Child Protection Services* in NSW, Sydney. p.697

evaluation indicated that almost half (46%) of the 975 families who have participated in the program were affected by domestic violence.

Non-government organisations operate many other family support programs designed to assist families experiencing domestic and family violence. These programs either focus on domestic and family violence as their core function, or as one of a number of factors affecting family cohesion and safety. In 2008/2009 DoCS has funded 212 such programs at a total cost of over \$31 million.

2.10 Community awareness

High levels of community awareness and strong public messages that are critical of violence against women are a much needed primary prevention initiative. Awareness programs typically aim to “educate people about domestic violence, raise public awareness about domestic violence, decrease public acceptance of domestic violence and put people in need of help, both perpetrators and victims, in touch with emergency or other services.”⁸⁰

In NSW significant stakeholder and public awareness of the issues around domestic and family violence is matched by a strong community desire for action from governments and the criminal justice sector.

Public information campaigns by the Commonwealth and State Governments, UNIFEM and the White Ribbon Day campaign and events associated with preventing violence against women, including *16 Days of Activism to Stop Violence Against Women*, *Stop Domestic Day* and smaller localised campaigns, such as the Mudgin-Gal Aboriginal Women’s Corporation’s *Blackout Violence* have all contributed to a high level of community awareness of issues of violence against women.

In NSW community awareness is assisted by a network of about 95 Local Domestic and Family Violence Committees who work to increase awareness of and prevent violence against women in local communities. The NSW Government has recently increased funding to these committees for activities to promote anti-violence messages during the *16 Days of Activism to Stop Violence Against Women* campaign.

There is considerable work in NSW schools and with young people to promote healthy and respectful relationships and prevention of domestic and family violence. The NAPCAN *Love Bites* program defines and clarifies for young people exactly what sexual assault and domestic violence are, and that they are crimes. It has been developed based on practice standards for education programs as recommended by the Australian Domestic and Family Violence Clearinghouse.⁸¹

Over 9,000 high school students in the Mid-North Coast and throughout NSW and Australia have participated in this interactive and innovative program aimed at Year 9 and 10 students. Over 300 service providers and teachers have been trained to facilitate the program on the Mid North Coast, and over 150 workers have been trained in other areas of NSW.⁸²

80 Donovan, R. 2008, ‘Mass Media Communications Strategies for Violence Against Women Campaigns: A Review and Good Practice Example’. *From Margins to Mainstream: 5th World Conference on the Promotion of Mental and Behavioural Disorders*, Melbourne.

81 National Association for Prevention of Child Abuse and Neglect (NAPCAN) www.napcan.org.au/love_bites.htm

82 National Association for Prevention of Child Abuse and Neglect (NAPCAN), *ibid*.

Evaluations of the program showed the program content to be well structured and presented by the trainers. However, young people in schools are attending multiple training sessions each year and needed follow up sessions, which increase with the maturity of the students (from Year 9 through to Year 11) to ensure continuity of information retention.⁸³

The YWCA's *Y-ise Up About Relationships*, is an abuse prevention education program for high school girls and boys. The program is being delivered in high schools in metropolitan and Western Sydney. The Wingecarribee and Shoalhaven regions. Over 34,000 young people have participated in the program which is delivered to Years 7, 9, 10 and 11 students providing them with information to make informed decisions about relationships.

Both *Love Bites* and *Y-ise Up* have received new funding from the NSW Government in 2008 to expand their programs across NSW.

⁸³ Spannari-Oxley, M. 2007, *Love Bites Evaluations*, TAFE Port Macquarie.

3 Strengths in the Current Response to Domestic and Family Violence

3.1 Introduction

That the Government recognises there are significant problems with the response to domestic and family violence in NSW is evidenced by the ARTD review in 2007, the commitment to a new structure and programs, the commitment to develop a strategic response framework and this Discussion Paper. Some of the problems are obvious from the previous chapter describing the NSW response to domestic and family violence and some will be discussed in Chapter 4, which is specifically focused on weaknesses.

However, there have been significant improvements in the response to domestic and family violence in NSW over the past decade. New programs have started, commitments have been made to improved agency practices, substantial legislative reform has occurred and resources have been increased for successful existing programs. It is important that these positive aspects are not lost in the review and reform process. The purpose of this chapter is to highlight some important strengths and expand on some key aspects of the response outlined in Chapter 2.

3.2 NSW Government Commitment to Improve Responses

Positive change in something as complex as the response to domestic and family violence is very difficult to achieve without clear commitment from government. NSW is fortunate in this regard.

The NSW Government's 2007 election commitments and the implementation of the State Plan have made domestic and family violence a priority for the NSW Government. This commitment can be seen clearly in the State Plan priorities:

- R1: Reduced rates of crime, particularly violent crime
- R3: Reduced re-offending
- F4: Embedding the principle of prevention and early intervention into government service delivery in NSW.

The Government's commitment to get the policy and the service settings right and to commit the resources to improve its own performance and reduce the incidence of violence is strengthened by the public accountability it has committed to in the State Plan. Stakeholders and the public can track government action and progress to meet its commitment to reduce violence against women.

The Government has backed these commitments with \$40 million over four years for a new approach that places the NSW Police Force and the criminal justice response at the forefront of government action. There is also a wide range of other initiatives covering policy, structures and legislative reform. Some of these were outlined in Chapter 2.

3.3 NSW Police Force

3.3.1 Cultural/Attitudinal Shift

As indicated in section 2.6, police often provide the first official response to a domestic violence incident. They have a significant role in ensuring the immediate safety of the victim and facilitating access to other services that can help stop the violence.⁸⁴ Although police cannot eliminate domestic violence, their attitudes are influential in communicating that domestic violence is neither acceptable nor tolerable.⁸⁵

Following allocation of increased responsibility for domestic and family violence and number of inquiries and reports (in particular the 2006 Ombudsman's Report, *Domestic violence: Improving Police Practice*)⁸⁶, the NSW Police Force has undertaken a number of structural and practice changes to better fulfil its obligations of protecting women and children from domestic and family violence. The increased willingness of the NSW Police Force to address issues raised in these reports at the highest levels is an emerging positive aspect of the current NSW response to domestic and family violence. For example, as a first response to the Ombudsman's report, the Commissioner established a steering committee and working parties to address the reform themes identified in the recommendations. In December 2007 the Ombudsman wrote to the Police Commissioner, commending him on the progress made in implementing the report's recommendations.

Police have also initiated annual stakeholder forums to provide information on current initiatives and respond to emerging issues. These forums are indicative of the evolving nature of the relationship between the police and the non-government sector and demonstrate a willingness to address long standing criticism of the police culture and attitude to domestic and family violence.

Another obvious strength in NSW is the capacity for the NSW Ombudsman to initiate an independent external review of agency performance in a particular area, to report publicly on the findings, and then to monitor implementation of any recommendations made.

84 Queensland Crime and Misconduct Commission. 2005, *Policing Domestic Violence in Queensland: Meeting the Challenges*. Brisbane: Crime and Misconduct Commission.

85 Wakim, J. 'Attitudes and Opinions of Police, Service Providers and Community Leaders to Domestic Violence in Culturally Diverse Communities in Sydney', Third Australasian Women and Policing Conference, Canberra, 20-23 October 2002, p.3.

86 NSW Ombudsman 2006, *Domestic Violence: Improving Police Practice*, NSW Ombudsman, Sydney.

3.3.2 Training and Education

Domestic violence is included in the curriculum of the NSW Police Academy. Training of general duties police in domestic and family violence is essential and each Local Area Commander within the NSW Police Force is responsible for providing their officers with the necessary training and support to ensure:

- domestic violence matters are dealt with promptly and efficiently;
- mechanisms are in place to respond strategically to domestic violence;
- victims of domestic violence are responded to in a non-judgmental manner and treated with dignity and respect; and
- all police officers provide victims of domestic violence with the highest level of professional intervention in a culturally sensitive manner.

The importance of police training, the training content and the influence it has on the nature and effectiveness of the police response is a significant issue for a police force seeking to undergo a cultural shift. The Ombudsman identified training as a key practice reform and recommended that training be standardised and location specific, and provided to all police, including Domestic Violence Liaison Officers (DVLOs) and general duties officers.

The response by the NSW Police Force to the Ombudsman's recommendations has seen significant reforms to the training of all general duties police officers and additional specific training for DVLOs and police in supervisory roles. A two day domestic and family violence workshop training course is being implemented which includes input and presentations from local and state wide service providers and the women's sector. The workshops are a major undertaking by the NSW Police Force, and provide frontline services and sector perspectives directly to all police as an integrated component of police training.

In addition, a Six Minutes of Intensive Training (SMITs) program on domestic and family violence has been developed to ensure police training is current and to reinforce standard police policies and procedures. SMITs are designed around specific themes for use in all local commands on a regular basis to ensure police training is current and to reinforce standard police policies and procedures.

A new domestic violence course for supervisors, and another focusing on Aboriginal family violence, are also being developed. Police in 'high risk' commands will be required to undertake annual domestic violence training.

Another recommendation related to training is the inclusion of specific domestic and family violence provisions in the Standard Operating Procedures (SOPs) for all officers attending a domestic or family violence incident to help provide a consistent response.⁸⁷ The revised SOPs were released on 25 November 2008. The SOPs will provide police with clear guidelines about investigating and managing domestic and family violence. They will play an important part in the process of continually improving the policing of domestic and family violence.

⁸⁷ NSW Ombudsman. 2006, *ibid* p.90.

3.3.3 Domestic Violence Evidence Kits

The expansion of the use of Domestic Violence Evidence Collection Kits to all Local Area Commands (LACs) was a key recommendation of the Ombudsman's report. In response, the NSW Police Force is equipping all frontline police cars with these specialist evidence kits. The kits, which include a digital camera, video camera and victim information pack, assist police to gather photographic and video evidence of injuries sustained by victims or damage to property. The kits expedite investigations, provide a strong evidence base for prosecution, and assist the tender of more effective briefs of evidence. This reduces court times and is expected to produce better overall outcomes for victims.⁸⁸

All commands have received the kits and the associated training.

3.3.4 Other Police Force Initiatives

Some of the important initiatives were dealt with in section 2.6. The key thing to note is that there is a strong commitment to improving police performance in the area of domestic and family violence and, while there is obviously some way to go to achieve state-wide uniformity in response, significant progress is being made.

3.4 Legislative reform

The improvement in police practices and increases in police resources are supported by significant legislative reform, giving NSW some of the toughest and most comprehensive domestic violence laws in the country. These reforms were outlined in some detail in section 2.7.3 but it is worth reiterating some of the key areas which include:

- the introduction of a specific offence of domestic violence;
- new expanded definitions;
- a revised test for granting AVOs;
- new provisions concerning the granting of telephone interim orders;
- new limited police powers of detain and arrest for the purposes of serving an order;
- revised restrictions and prohibitions that may be imposed upon a defendant for both interim orders and final orders;
- new provision for property recovery orders;
- the abolition of the outdated complaints and summons process;
- revised police discretion not to make an application;
- extended duration for final orders; and

⁸⁸ NSW Ombudsman. 2006, *ibid* p.72.

- revised variation and revocation provisions.

3.5 Reform of Commonwealth/NSW response to homelessness

Significant reform is currently being negotiated at both a national and state level to improve the Commonwealth and NSW policy response to homelessness. The change in the national political landscape has important ramifications for NSW's efforts to develop both the NSW Strategic Framework on Homelessness and the NSW Strategic Framework on Domestic and Family Violence. A significant element of reform in the NSW Strategic Framework on Domestic and Family Violence will be to improve access to support and accommodation for women and children escaping domestic violence to prevent them from becoming homeless. This target group comprises almost 30% of SAAP clients.

The Commonwealth Government has identified addressing homelessness as one of its priorities, and initiated two important processes:

1. Announcement of a Green and White Paper process that will set the strategic national direction for homelessness service provision in the decade to 2020. A Green Paper was released in May 2008, and a White Paper is expected to be released shortly;
2. Implementation of its election commitment *A Place to Call Home*, whereby \$150 million would be made available nationally over five years to provide 600 units of accommodation linked with support to homeless people. States and Territories have agreed to match this funding with a combination of support services, land and capital.

The Council of Australian Governments (COAG) is progressing work on a new National Affordable Housing Agreement (NAHA) and a National Partnership Agreement for Homelessness (NPAH) that includes additional funding for homelessness programs. The Commonwealth has stated that the Green and White Paper process will inform development of the homelessness elements of the Agreements.

In view of these developments, and the importance of the NSW Government working collaboratively with the Commonwealth and other jurisdictions, it was determined that finalisation of the NSW framework should occur in tandem with the Green and White Paper processes, allowing national directions to be incorporated into the NSW framework wherever relevant. Accordingly, the NSW homelessness framework is being finalised through a two stage process. A draft framework document has been developed, and formed the basis of the NSW Government response to the Commonwealth on its Green Paper. The NSW Government has conducted extensive consultations on the draft framework with NGOs and people experiencing homelessness, and the framework will be refined to reflect key issues coming from that process. Finalisation of the framework will occur following release of the Commonwealth's White Paper.

Recognition of the work occurring around homelessness will ensure that strategies developed within NSW to respond to domestic and family violence are aligned and where possible augment those strategies being developed nationally to provide support and accommodation for women and children escaping domestic violence.

3.6 Non-government sector

As seen in section 2.2, in NSW the non-government sector provides a wide range and number of primary prevention, early intervention and crisis responses to domestic and family violence. The character of the organisations, the scope of the services and the context in which they operate is diverse and multi-faceted.

The advantages of strong non-government sector involvement in domestic and family violence in NSW includes local knowledge, substantial experience in the field, a less stigmatising profile than some of the mainstream government service providers, a capacity to advocate, and cost effectiveness.

The establishment of a strong Advisory Council (the Premier's Council on Preventing Violence Against Women) with substantial non-government sector representation to advise government on violence against women's issues, including domestic and family violence, must also be regarded as a strength. It is expected that the Council will play a significant role in development of the Strategic Framework.

3.7 Multi-agency initiatives

NSW can point to a number of recently evaluated multi-agency initiatives that are shown to be making some difference. These initiatives identified in the ARTD report and recommended for ongoing support, enable early intervention in high risk situations, provide more options for women and children to escape domestic or family violence and coordinate service responses so victims receive integrated police, legal and social assistance. They are outlined in section 2.3 and include Staying Home Leaving Violence; the Domestic Violence Intervention Court Model; and Integrated Domestic and Family Violence Services Program. In recognition that interagency programs are more successful where a dedicated coordination officer is appointed,⁸⁹ each of these programs is supported by a Senior Project Officer.

The improved communication and information networks of these multi-agency initiatives work to facilitate referral systems and collaborative program responses,⁹⁰ providing better information sharing, and increasing the capacity and willingness of justice, human and non-government services to work together to improve outcomes for victims of violence.

The decision to continue funding longer term initiatives, based on independent evaluations that have demonstrated evidence of success, signals a commitment to policy and funding decisions based on research and evidence of positive outcomes over time. Some of the more important evaluations are summarised below.

89 Loxton, D., Hosking, S., Stewart Williams, J., Brookes, J., and Byles, J. 2008, *A Review of Selected Domestic and Family Violence Prevention Programs*, Research Centre for Gender, Health and Ageing, University of Newcastle, under consultancy of the Sax Institute, p.1.

90 Loxton, D. et al. 2008, *ibid*, p.1.

3.7.1 Evaluation of Staying Home Leaving Violence

The aims of Staying Home Leaving Violence (SHLV) were detailed in section 2.3.2.3. The evaluation found that the South East Sydney project was achieving its aim of expanding the choices available to women who are victims of domestic violence. 63% of SHLV clients were able to remain living in their home without the perpetrator of violence, while a further 17% made planned relocations to another home, enabling them to minimise the disruption to their family, while still improving their safety.⁹¹ For the majority of clients (80.5%) no further breaches of their safety were experienced after entering the service.

A key factor in the success of the pilot in South Eastern Sydney was the negotiation of a Memorandum of Understanding (MOU) with NSW Police Eastern Beaches LAC with over half of all clients in the pilot referred by police.⁹² Under the MOU, police officers responding to domestic violence situations provide every victim with information about their option to remain in the home without the perpetrator of violence. The victim is given a SHLV information card, which includes brief information about the availability of exclusion orders and services offered by SHLV, and police ask for the victim's consent for follow-up by a SHLV worker.

The evaluation confirmed that the response of the police and legal system is critical to the effectiveness of the model, in particular the need to ensure high level support within the LAC of each SHLV site, and the need for a continued focus on training of general duty police officers in relation to domestic violence.

A further major strength identified was the applicability of SHLV to a wide range of women from a variety of socio-economic groups with 44.4% of clients living in public housing, 27.7% in private tenancies, and 27.7% in privately owned homes.⁹³

Whilst the Bega evaluation recorded over sixty percent of clients reporting positive outcomes,⁹⁴ there was also significant reporting of inadequate or unsupportive police and court responses, which identified the need for formal MOUs or agreements between SHLV and police. In response, a robust MOU between the police and the SHLV pilot has now been developed with monthly review measures to foster communication and safety planning between the DVLO and the SHLV worker, and data sharing processes.

The pilot addresses one of the key weaknesses identified in the current service system – the lack of suitable accommodation available to women who are forced to flee their homes because of violence. As noted in section 2.3.2.3, the overall success of SHLV has been recognised by the Government and funding has been secured to extend the program to a total of 16 locations across NSW. The Department of Community Services is currently working with the NSW Police Force, the Department of Housing, the Department of Health, the Attorney General's Department, the Department of Premier and Cabinet and the Legal Aid Commission to identify suitable sites for the expansion.

91 RPR Consulting 2007, *NSW Department of Housing Evaluation of Staying Home Leaving Violence Eastern Sydney Pilot*, p.28.

92 RPR Consulting. 2007, *ibid*, p.36.

93 RPR Consulting. 2007, *ibid*, p.61.

94 Purple Kangaroo Consultants 2007, Unpublished Final Report of the Evaluation of Staying Home Leaving Violence Project, p.10.

3.7.2 Evaluation of the Domestic Violence Intervention Court Model

The Domestic Violence Intervention Court Model (DVICM) model is outlined in section 2.3.2.4. It was developed to respond to two key concerns of victims of violence: that they feel safer after seeking a criminal justice response; and that the perpetrators of violence are held to account for their crimes.

The pilot was evaluated by the NSW Bureau of Crime Statistics and Research (BOCSAR) in 2007 with a range of findings for each of the locations. These included:

- victims reporting they were very satisfied with the police response in the Campbelltown, Macquarie Fields and Wagga Wagga LACs and with the support they received from the Victims' Advocate in Campbelltown and Client Advocate in both locations (the Victims' Advocate is now called the Domestic and Family Violence Intervention Service);
- most victims reported they felt safe at the time of the interview and said they would report a similar incident to the police in the future;
- the majority of key stakeholders believed the DVICM was a successful pilot and that the model should be continued at the present sites and considered for implementation in other locations; and
- court delays for matters that proceeded to hearing improved in Campbelltown Local Court after the DVICM but remained stable in Wagga Wagga Local Court.⁹⁵

The evaluation report found that most stakeholders felt victim safety has improved with the key contributing features being the services of the Victim's Advocate, the referral process and the availability and use of brokerage funds to purchase additional victim services.⁹⁶

In their review of selected domestic and family violence prevention programs for the NSW Violence Prevention Coordination Unit, Loxton *et al* found the DVICM to be effective as a crisis response and short term management program with the rollout of the program and evaluation thorough and effective in identifying areas that require additional consideration.⁹⁷

In particular, the inclusion of the number of domestic violence incidents evaluated indicates a sound example of program evaluation, and demonstrated that the main aims of the model with regard to stakeholder and victim satisfaction were met.⁹⁸

The BOCSAR evaluation also identified a number of areas of the DVICM that were not meeting its goals. Partner agencies involved in the DVICM have since developed a range of strategies to address the remaining challenges identified in the evaluation. These include further measures to ensure the timely management of domestic violence matters within Local Courts; refining the governance of the model as it moves from its establishment phase; completion of a modelling process for victims services to enhance victim support;

⁹⁵ Rodwell, L. and Smith, N. 2008, *An Evaluation of the NSW DVICM*, NSW Bureau of Crime Statistics and Research, Sydney.

⁹⁶ Rodwell, L and Smith, N. 2008, *ibid*, p.61.

⁹⁷ Loxton, D. *et al.* 2008, *op.cit*, p.13.

⁹⁸ Loxton, D. *et al.* 2008, *op.cit*, p.13.

further strengthening of offender programs to reduce re-offending; and continued focus on prevention and community capacity building by partner agencies within the model.

3.7.3 Evaluation of Integrated Domestic and Family Violence Services

Developing a coordinated response to domestic and family violence is a complex, ongoing task with only a small number of well-developed models of coordinated responses by specialist domestic violence and statutory child protection services.⁹⁹ Since no single government agency is structured and resourced to provide this complex service mix, an interagency model that is linked to local domestic violence services and provides a case management approach is likely to be best placed to meet the conditions for a successful intervention.

An independent evaluation of the Green Valley Integrated Domestic and Family Violence Service pilot undertaken by Dr Lesley Laing, School of Social Work and Policy Studies at the University of Sydney in 2005, described the pilot as “a modestly resourced model, with efforts directed primarily at the service delivery, rather than at the policy level. In this sense it is a ‘ground up’ model, with the interagency response driven by a specialist domestic violence service.”¹⁰⁰

The evaluation found the practice to be woman-directed, flexible, focussed on system-wide advocacy and calibrated to the woman’s stage of dealing with the violence. The data provided strong evidence that the pilot had developed a model of service delivery to women and children consistent with good practice, and provided a model for domestic violence service delivery within the health system.¹⁰¹

A number of other Integrated Domestic and Family Violence Services are operating in NSW and these are identified in section 2.3.2.2. Some have been evaluated as they existed prior to becoming part of the Government’s latest initiatives and all are to undergo evaluation in their current form. For example, the Domestic Violence Intervention Response Team (DVIRT), initiated in the Brisbane Waters Local Area Command, provided an information referral and support service for people who had contact with Police in relation to domestic violence. An independent evaluation of DVIRT found that between 2002/03 and 2004/05 there had been reductions in the percentage of repeat offenders and victims, and the percentage of AVO breaches.

Since the inception of DVIRT, there had been a sustained decrease in court dismissals due to no parties attending. There was a statistically significant reduction in the percentage of AVO withdrawals in 2003/04 after DVIRT commenced, however this difference was not maintained in 2004/05. Although the earlier reductions were small, the evaluation concluded that they represented “trends in the right direction” and could be expected to become statistically significant in the future. The evaluation also found a high level of satisfaction on the part of victims with the services they received from DVIRT.

99 Laing, L. 2005, *Evaluation of the Green Valley Domestic Violence Service, Final Report* p.7.

100 Laing, L. 2005, *ibid*, p.5.

101 Laing, L. 2005, *ibid*, p.7.

3.7.4 Women's Domestic Violence Court Assistance Program

The Women's Domestic Violence Court Assistance Program (WDVCAP) was developed to assist victims of violence to obtain AVOs and access support services that can help them with their ongoing needs. It is outlined in section 2.7.2.

In 1998, Bradfield and Nyland were commissioned by the Legal Aid Commission to report on the program. They found the service to be:

A highly successful program, despite being set up with limited resources in a relatively short time... the work done by the scheme coordinators with local courts is critical to client outcomes.¹⁰²

97% of clients surveyed for the Bradfield and Nyland report stated that the program had made a difference for them, demonstrating the overwhelming effectiveness of the program. The ongoing success of the WDVCAP demonstrates a crisis and short-term management program that by all appearances meets its targets.¹⁰³

In 2007, the NSW Government announced that the program would receive an additional \$2.7 million in 2009-2010, an increase of 64% in funding. The increased funding will increase the capacity of existing schemes to deliver services to a larger number and broader range of clients in existing areas, as well as to an additional number of Local Courts across NSW.

3.8 Workforce training

A well trained and informed workforce is essential to successful domestic and family violence interventions. Many women who disclose domestic violence to services report judgemental and unhelpful contacts.¹⁰⁴ Workforce training on the nature, extent and impact of domestic violence is therefore a crucial component to an effective human service and justice response.

The NSW Government has a strong commitment to workforce training and a number of NSW Government agencies are involved in providing training for practitioners - both within their agency and with partner Government and non-government agencies. NSW Health, NSW Police Force and DoCS provide specialist training for officers and case workers in recognising and responding to domestic and family violence.

NSW Health's Education Centre Against Violence (ECAV), administered by Sydney West Area Health Service is described in section 2.3.2.5. ECAV has particular expertise in providing training to Aboriginal communities with Senior Aboriginal Educators specialising in community-based projects. ECAV conducts training directly with Aboriginal communities, and has produced a number of educational tools including

¹⁰² Bradfield J and Nyland J. 1998. *Evaluation of the NSW Women's Domestic Violence Court Assistance Program: A Report to the NSW Legal Aid Commission*, NSW Legal Aid Commission, Sydney.

¹⁰³ Loxton, D. et al. 2008, *op.cit*, p 1.

¹⁰⁴ Laing, L. 2001, Working with Women: Exploring Individual and Group Approaches, *Australian Domestic and Family Violence Clearinghouse, Issues Paper 4*, The University of New South Wales, Sydney.

the international award winning video *Big Shame*, which educates children about child sexual abuse within families, and *Who's the Loser*, a video about family violence within Aboriginal communities.

In addition to government training, the non-government sector provides a range of training programs to people working in the area of domestic and family violence. Some of these include the Centre for Community Welfare Training, Burnside / Institute of Family Practice and the Family Worker Training and Development Program.

4 Weaknesses in the Current Response to Domestic and Family Violence

4.1 Introduction

This chapter describes the perceived weaknesses of the NSW response to domestic and family violence. It is not exhaustive. Nor could it be: there is no comprehensive research study focussing on domestic and family violence in NSW and there are few reliable data available on domestic and family violence activity in the mainstream services. Sources are therefore limited to:

- extrapolation to the NSW context from the national and international literature where it appears relevant;
- the limited amount of research based on NSW data;
- the ARTD consultants' report; and
- consistent (but largely untested) anecdotal information from advocates, academics, service providers and victims.

The responses to this Discussion Paper will provide an important additional source of information about weaknesses in the current NSW response to domestic and family violence.

Taking this broad and open approach to weaknesses will inevitably raise issues that cannot be solved by NSW, either alone or at all. They are common to all domestic and family violence responses in Australia and are included to provide context within which changes might be contemplated. Focusing on weaknesses in this chapter should also not be allowed to completely overshadow the positive actions already taken to improve the domestic and family violence response in NSW – and the excellent services that many victims do receive. The purpose is to provide a platform for a constructive approach to the improvement of the domestic and family violence response.

4.2 An Uncoordinated Response

As noted in Chapter Two services for the various aspects of domestic and family violence come primarily from mainstream services, which operate largely independently of each other.

The ARTD Consultants' Report, *Coordinating NSW Government Action Against Domestic and Family Violence* identified a number of weaknesses in relation to the approach to domestic and family violence including:

- lack of a strategic policy framework that defines the priorities for coordinated action to deal with domestic and family violence;
- lack of integration between the different components of criminal justice responses;
- lack of integration between the case management approaches focused on early intervention and the victim support approaches used in criminal justice responses; and
- lack of consistency and coordination in different agency approaches to training of practitioners around issues of domestic and family violence.

The consequence for victims is that they are frequently forced to navigate a range of services and processes that may not be properly linked or coordinated. As a result, responses may not always provide realistic or safe solutions for women and children. It is also not clear whether resources and interventions are being used in the most effective way.

Numerous studies have found that coordinated services are better for victims of violence.¹⁰⁵ Studies observe that coordination can ensure greater safety and provide for more effective outcomes.¹⁰⁶ According to Campbell and Ahrens "coordinated programs reflect an understanding of the multiple contexts of service delivery and embody that knowledge in services that are consistent with victims' needs."¹⁰⁷

However, coordination is not an end in itself and there is a substantial amount of international literature urging caution in embarking on joined-up or coordinated approaches without a very clear idea of the costs and benefits.¹⁰⁸

In the domestic and family violence context there are probably two broad objectives:

- i. to provide a comprehensive service to individual victims that meets their needs such that they are safe and adequately provided for. This includes reducing the trauma for victims and supporting them so that they do not need to return to violent situations. Since these services will often be drawn from more than one provider, either the victim or someone else will have to coordinate them if they are to occur in a logical sequence or if there are other strong interdependences.¹⁰⁹

¹⁰⁵ Petersen, R. J., Gazmararian, J., and Clark K.A. 2001, 'Partner Violence: Implications for Health and Community Settings' in *Women's Health Issues* 11(2): 116-125; Allen, N. 2005. *American Journal of Community Psychology* 35 (1/2, March): 49-63; Martin, P. 'Coordinated Community Services for Victims of Violence' in O'Toole, et al. 2007, *Gender Violence: Interdisciplinary Perspectives*, 2nd ed. New York University Press.

¹⁰⁶ Shepard, M and Pence, E. 1999, *Coordinating Community Response to Domestic Violence: Lessons from Duluth and Beyond*. Thousand Oaks, California: SAGE Publications, 1999.

¹⁰⁷ Campbell, R and Ahrens C. E. 1998, 'Innovative Community Services for Rape Victims : An Application of Multiple Case Study Methodology' in *American Journal of Community Psychology*, Volume 26, No. 4, pp.537-571.

¹⁰⁸ State Services Commission 2004, *Managing for Outcomes Programme Office*, Wellington, New Zealand; Seidman, H. 1999. *Politics, Position, and Power: The Dynamics of Federal Organization*, Oxford University Press, New York; Huxham, C. and Vangen, S. 2003, *Doing Things Collaboratively Realizing the Advantage or Succumbing to Inertia?* Working Paper No. 2003 -11 University of Strathclyde.

¹⁰⁹ Similar to the objective described by Kettl in Kettl, D. F. 2001, *Central Governments in 2010: A Global Perspective*, UK Strategic Unit Seminar Paper, London.

- ii. to provide a level of coordination across agencies and programs such that overall efficiency is enhanced in provision of domestic and family violence services. A simple example is changed reporting procedures for police about domestic violence incidents where children may be part of the household. The changes came about following amendments to the legislative framework. These resulted in a 300% increase in reports per serving police officer between 2000 and 2007 and this was compounded by an extra 2000 police between 2002 and 2007. Consequential impacts of changes in one agency are often not factored into the operating parameters of other agencies which may result in substantial gaps appearing in service provision.

4.3 Under-reporting of domestic and family violence

Domestic and family violence is one of the most under-reported crimes.¹¹⁰ Victimisation surveys have found that women are more likely to disclose domestic and family violence to informal supports such as friends and family than to police or other social service agencies.¹¹¹ Reasons for this can be varied and complex. In particular, cultural and institutional barriers are identified as among the major reasons women do not report violence or fail to follow through on a report.

Under-reporting is important where the reasons for not reporting are system 'barriers' that discourage women from making a report. These barriers operate at two broad levels:

- i. those which discourage women from even considering making a report (e.g. cultural barriers, language barriers, and lack of information about reporting domestic and family violence); and
- ii. those which discourage women from making a report, even with knowledge about domestic and family violence and the system for reporting it (e.g. lack of access, concerns about confidentiality, prior negative experience).

Under-reporting is also often cited as a major cause of the poor understanding of demand for services and ineffective distribution of services. However, reporting is only useful as the primary source of information on system dynamics if reports either match the demand or are a constant proportion of it (the first is far from true and the second is unknown). Fortunately there are other ways to get more reliable information on system dynamics, but some investment in research and surveys will be necessary for this purpose.

Provided there is some baseline measure of demand, reporting statistics can become useful as a source of information about system functionality. Movements in the gap can indicate either improvement in system responsiveness or the reverse, and can be used as an indicator that more detailed investigation is required.

¹¹⁰ Ferrante, A., Morgan, F., Indermaur, D. and Harding, R.W. 1996, *Measuring the Extent of Domestic Violence*, Hawkins Press, Sydney; Mouzos, J. and Makkai, T. 2004, *Women's Experiences of Male Violence: Findings from the Australian Component of the International Violence Against Women Survey IVAWS*, Research and Public Policy Series No. 56, Australian Institute of Criminology, Canberra; Australian

¹¹¹ Statistics Canada, www.statcan.ca/start.html

4.3.1 Extent of under-reporting

The Australian component of the 2004 International Crime Victimisation Survey found that nationally only 37% of domestic violence-related assaults and threats of assault were reported to police.¹¹²

In NSW there is still a high level of under-reporting of domestic and family violence, despite increased community awareness and knowledge about domestic violence and the legal remedies available, and the NSW Police Force responsibility and commitment to investigating and dealing with domestic violence.¹¹³

The 2006 report of the NSW Ombudsman, *Domestic Violence: Improving Police Practice* reported that only 14% of women who experienced violence from an intimate partner reported the most recent incident to police.¹¹⁴ The proportion of women who report domestic and family violence differs significantly according to whether the perpetrator is a current or previous partner. Whilst 24% of women victimised by a previous partner reported the most recent incident to police, the proportion was only 8% for those victimised by a current partner.¹¹⁵

4.3.2 Perceived seriousness of offence

The degree of seriousness of offending also affects reporting, with less serious offending less likely to be reported to police. The most common reason offered by women for not reporting to police was that the incident was too minor in nature, with 42% of women who experienced either intimate partner or non-partner violence giving this reason in the Australian component of the International Crime Victimization Survey.

4.3.3 Reasons for not reporting

The reasons for not reporting an incident to police are many and complex, and can include institutional and systemic barriers and cultural, financial and personal barriers. Some common reasons (apart from perceived seriousness) for women not reporting a domestic and family violence incident to police include:¹¹⁶

- the victim dealt with the violence herself;
- the victim wants to keep the matter private, because of a sense of shame and embarrassment;
- the victim is afraid of the offender;
- the victim does not think the police are able to or will act;
- the victim blames herself;

¹¹² People, J. 2005, 'Trends and Patterns in Domestic Violence Assaults', *Crime and Justice Bulletin*, No 89, p.1.

¹¹³ Lawlink NSW, NSW Government. www.lawlink.nsw.gov.au

¹¹⁴ NSW Ombudsman. 2006, *Domestic Violence: Improving Police Practice*, NSW Government, Sydney, p.6.

¹¹⁵ NSW Ombudsman. 2006, *ibid.*

¹¹⁶ People, J. 'Trends and Patterns in Domestic Violence Assaults', *op.cit.* p.6.

- the victim does not realise that help is available;
- the victim wants, or is under pressure, to keep the family together;
- the victim is financially dependent on the partner;
- alcohol or other drug use;
- police officers know, or are friends, with the perpetrator;
- cultural differences are used to justify, hide or explain the abuse;
- fear that the perpetrator may present as a victim or make a counter-claim; and
- health issues such as psychoses, depression, bipolar disorder for either or both the victim and perpetrator.

There is also anecdotal evidence that women who have had some previous experiences with the police or another government agency may be more reluctant to disclose or report domestic and family violence because of fear of having their children removed, being charged with a criminal offence themselves, or no action being taken.

Among certain groups of women, reporting can be particularly low. Aboriginal women in particular are less likely to report incidents to police, than non-Aboriginal women for a range of reasons. Suspicion, distrust and fear of the police, fear of losing their children, feelings of shame, and a perception that they will be marginalised by their communities, are some of the reasons that Aboriginal women often do not report violence against them.¹¹⁷

A review of the literature on domestic and family violence in culturally and linguistically diverse communities in Australia, noted that there are considerable difficulties in determining the extent of family and domestic violence experienced by women from culturally and linguistically diverse backgrounds, as research has found that such women are less likely to report the violence to the police and less likely to seek help until the later stages of a violent relationship. Further, it has been suggested that those women who do seek assistance are regarded by service providers as being in the minority.

Accessibility of services can also impact on under-reporting rates. This is particularly the case for women in remote areas and women with a disability. The perceptions of confidentiality in small rural communities (particularly where the perpetrator and police officers may socialise) and geographic accessibility are considered key reasons why women in these areas do not report domestic violence.¹¹⁸

For women with disability, the Victorian Domestic Violence Resource Centre observes that discrimination, a lack of access to financial and other resources to enable independence, and a lack of accessible services makes escaping abuse or violence extremely difficult for these women.¹¹⁹

¹¹⁷ Domestic Violence Resource Centre, Victoria, www.dvirc.org.au/UpdateHub/DisabilityProject.htm

¹¹⁸ The Commonwealth Department of Transport and Regional Services by the Women's Services network (WESNET), *Domestic Violence in Regional Australia*, 2000.

¹¹⁹ Domestic Violence Resource Centre, Victoria, www.dvirc.org.au/UpdateHub/DisabilityProject.htm

4.4 Police responses to domestic and family violence

The NSW Ombudsman Report, *Domestic Violence, Improving Police Practice* (2006) identified a number of issues in relation to police responses to domestic and family violence incidents. Service providers expressed concerns about:

- a lack of consistent service provided by police, both within and between local commands;
- the failure of officers to apply basic steps set out in police policy and procedures;
- delays by police in responding to incidents;
- failure to act on reported breaches of Apprehended Domestic Violence Orders;
- failure to fully investigate domestic violence incidents; and
- inadequate victim support and follow-up.

The Ombudsman's report observed that the work involved in handling domestic and family violence matters poses a variety of challenges and frustrations for police which affects their responses. In focus groups conducted for the report, police officers articulated a wide range of views about domestic violence and their responsibility to respond to it. Whilst the majority were positive, some indicate a significant level of concern and frustration including:

- resentment at being required to attend incidents that do not involve "genuine" domestic violence and/or that involve verbal arguments "only";
- criticism of victims who call police to report domestic violence but then fail to "cooperate" by providing a statement or attending court;
- the negative impact on morale and attitude when victims and others at the scene of incidents are hostile and abusive towards police, e.g. being yelled at, spat at, having objects thrown at them;
- frustration, disillusionment and "hopelessness" due to attending multiple incidents involving the same victim and/or offender;
- frustration at "non-genuine victims" of domestic violence who seek to "use the system" for their own purposes, e.g. to exact "revenge" on their partner or ex-partner or to obtain "ammunition" for Family Law Court purposes; and
- a perception that the courts impose lenient penalties for domestic violence offences, thereby undermining the efforts of police to enforce the law and leading them to view the policing of domestic violence incidents as a waste of time and effort.¹²⁰

In addition, in those focus groups police officers expressed a range of views about their capacity to respond effectively to domestic violence, including:

¹²⁰ NSW Ombudsman. 2006, *op.cit*, p.37.

- being inadequately resourced to cope with the large number of domestic violence incidents they are required to attend;
- the legislative definition of domestic violence being too broad, requiring them to respond to too many matters that they do not think warrant being treated as such;
- the “onerous” legislative and administrative requirements associated with policing domestic violence;
- feeling pressure to “turn over” jobs as quickly, while as thoroughly as possible; and
- the community, including victims’ advocates, not having an accurate appreciation of the demands on the limited resources of police.¹²¹

In acknowledging (although not endorsing all of) these concerns the Ombudsman stated that:

*Given the scale of domestic violence, and its impact on families and communities, it is critical that the response of police is as efficient and effective as possible. Police need to be given the tools to do their job properly and good practice needs to be identified and rolled out across the state. Wherever they live, victims of domestic violence and those who support them are entitled to receive a consistent standard of service.*¹²²

Since the release of that report in December 2006, the NSW Police Force has introduced a substantial range of measures aimed at making responses more effective, including greater training, the development of evidence kits for all Local Area Commands and establishing a specialist domestic violence unit in Police Headquarters. In addition, there has also been strengthened engagement between the Police and the non-government sector in relation to the improvement of police strategies regarding domestic and family violence. These measures are outlined in more detail at section 3.3.

An additional concern, raised by the sector is a perception that the police pro-arrest policy used when responding to domestic and family violence has caused an increase in the number of women being arrested. The issue has been considered in consultation with sector representatives in the development of the new police Standard Operating Procedures, which provide police with guidance on how to identify the primary aggressor in a domestic violence incident.

Despite the recent reforms, frequent anecdotal evidence suggests that inconsistent responses by police to domestic and family violence incidents still occur across the State. These inconsistencies can include how responses to incidents are carried out, the accuracy of information provided to women by police and the level of engagement with support services.

There is also anecdotal evidence that suggests that the inconsistent responses or the perception of an inconsistent response are significant contributing factors to the under-reporting of domestic and family violence and to the reason a number of women withdraw from the complaint process before it is finalised.

121 NSW Ombudsman.2006, *op.cit*, p.38.

122 NSW Ombudsman.2006, *op.cit*, p.39.

It is simply too early to judge whether reforms on the scale outlined in Chapter 3 have been successful. However, even though the reforms appear to be headed in the right direction, the community needs to be satisfied that the implementation is being monitored effectively and corrective action is being taken as required. If anecdotal concerns persist it may be necessary to undertake a repeat investigation to determine the reasons for inconsistency and recommend further changes.

4.5 Access to Services

4.5.1 Health

Women who experience domestic violence can face barriers in their access to and use of health and other social services. Such barriers can include lack of awareness of existing services, limited availability of these services and lack of accessibility due to geographic, financial, linguistic or cultural barriers. In addition, some mainstream providers, including GPs or other health professionals, may not recognise or acknowledge that a woman has experienced domestic violence. Previous research finds that, in general, the use of social services by women who have experienced violence is low.¹²³

There is evidence that more medical treatment is sought for injuries resulting from domestic violence than from any other cause¹²⁴ with one in four women presenting to Emergency Departments in Australia having experienced domestic violence at some point in their lives.¹²⁵ More than one in twenty women experience domestic violence during pregnancy and women abused during pregnancy have increased risk of poor weight gain, anaemia, infections, preterm labour and post natal depression.¹²⁶

There is no doubt the community believes health services are appropriate places for women to seek help after a violent incident, with health workers well placed to identify an incident or a risk of domestic violence and take appropriate action. However, the identification of domestic violence by health services has been low. This was part of the rationale for the introduction of NSW Health's Routine Screening for Domestic Violence Program in 2003 which has resulted in an increase in women disclosing current or recent domestic violence.

Whilst the reasons many women do not disclose are complex and have been canvassed in Chapter One there is evidence that women who disclose to services, including health services receive unhelpful responses.¹²⁷ With no specialist service stream for victims of domestic violence, NSW Health must ensure that the appropriate response can be provided across the full range of health settings: hospitals, community health services and specialist health services.

¹²³ According to the results from the Violence Against Women Survey in Canada, in only 9% of violent incidents victims reported using the services of a social agency (Statistics Canada 2003, *Family Violence in Canada: Statistical Profile 2003*, Statistics Canada, Canadian Centre for Justice Statistics, Ministry of Industry, Ottawa, Ontario).

¹²⁴ NSW Department of Health, 2003, *Policy and Procedures for Identifying and Responding to Domestic Violence*, Sydney.

¹²⁵ NSW Department of Health, 2003, *ibid*.

¹²⁶ NSW Department of Health, 2003, *ibid*.

¹²⁷ Laing, L. 2001, 'Working with Women: Exploring Individual and Group Work Approaches', Australian Domestic and Family Violence Clearinghouse, The University of New South Wales.

Lack of access to appropriate services is more pronounced for women in rural and remote communities, particularly Aboriginal women. Distance from services, ability to access transport, the availability of an appropriately trained workforce and resourced services is a recognised problem across regional NSW. For Aboriginal people these conditions are heightened by poverty, the lack of culturally appropriate services, and a lack of a trained Aboriginal workforce to provide services.

4.5.2 Accommodation

A major challenge of the current response is the capacity to provide safe and appropriate accommodation for women escaping domestic and family violence. In Chapter 2 it was noted that domestic and family violence is the most common cause for women and children seeking assistance from accommodation and homeless assistance services and that it is also the single greatest reason people seek Supported Accommodation Assistance Program (SAAP) service support.¹²⁸ Homelessness NSW has reported that the number of women and children becoming homeless as a result of domestic violence in NSW is not decreasing under current strategies.

In some circumstances when refuges or other crisis accommodation is full, women can be housed in motels or caravan parks which can compound safety risks.

Children accompany many women escaping violence, and women with children tend to seek crisis accommodation rather than sleeping rough or trying to find a bed in a boarding house. When crisis accommodation is unavailable or inadequate, there is a risk that women and children will stay or return to a situation of violence.

Women with children who find accommodation in a women's refuge often find it difficult to get into longer-term housing due to a lack of supply of suitable housing stock, discrimination and cost of private rental accommodation.¹²⁹

There are extensive anecdotal reports that suggest that those who do escape are often turned away from refuges because they are operating at maximum capacity. Alternative accommodation, such as hotels or motels can be hard to find as approximately seventy per cent (70%) of female SAAP clients in NSW are not in paid employment, and eighty per cent (80%) receive some type of Government pension or benefit.¹³⁰

The most significant problem identified with the current response is the lack of exit points from crisis and transitional accommodation – i.e. gaining access to medium and long term accommodation across all tenures, particularly in social housing (public and community housing) and in affordable private rentals.¹³¹

128 Australian Institute of Health and Welfare. 2007, *Homeless People in SAAP: Supported Accommodation Assistance Program National Data Collection Agency Annual Report 2005–06*, Cat. No. HOU 156, Canberra: AIHW.

129 Department of Families, Housing, Community Services and Indigenous Affairs, 'Partnerships Against Domestic Violence Summary Findings from Phase 1: For Policy Makers, Implications of Partnerships Against Domestic Violence for Housing and Accommodation', Canberra, www.ofw.facs.gov.au/downloads/pdfs

130 Australian Institute of Health and Welfare 2006, *Homeless people in SAAP: Supported Accommodation Assistance Program National Data Collection Annual Report 2004–05* New South Wales supplementary tables, Cat. No. HOU 133, Canberra: AIHW.

131 Tually, D., Cutler, C. and Slatter, M. 2008, *Women, Domestic and Family Violence and Homelessness: a Synthesis Report*, Flinders Institute for Housing, Urban and Regional Research. Flinders University, Victoria.

The accessibility of social and public housing, and the mechanisms that determine access for women and children escaping domestic and family violence, are of critical importance, especially where women and children have been made homeless. Additionally, support is needed for women who face eviction from social housing who have complex needs as a consequence of experiencing domestic violence.

A recent development is the establishment of the National Rental Affordability Scheme (NRAS) which has been developed to generate large scale investment into affordable rental housing. The NRAS would act as a complement to the existing housing assistance system by assisting those who may not be eligible for social housing but are still in housing need.

The Commonwealth Government has identified a number of priority areas for the Establishment Phase of the NRAS. One of these priorities is for proposals that include dwellings for tenants with special needs and, while not made explicit, this would include women affected by family and domestic violence.

There is no one accommodation and support solution to violence related homelessness for women and children. Programs that assist women to stay in their homes, such as Staying Home Leaving Violence, whilst showing signs of success are still relatively new and will not necessarily meet the needs of all women.

A range of options is needed, including: accessible and well resourced shelters and refuges, safe houses for Aboriginal women and cooling off spaces for Aboriginal men, staying safe at home options for those women for whom they are appropriate, supported housing options for women with higher needs and accommodation to ensure that violent men do not return to the home.¹³²

Integrated approaches to addressing domestic and family violence, such as those in Tasmania, Victoria and the ACT are held up by the sector and in the literature as examples of best practice because they provide a continuum of care and support for women.¹³³

4.5.3 The Justice System

Accessibility of the justice system for women escaping domestic and family violence can pose significant barriers and challenges. Whilst many women do not proceed as far as the court system following police intervention, a significant proportion still withdraw before proceedings are finalised. It has been suggested that the process itself is a significant reason for many women not to proceed through the courts.

Recent data on the rates of withdrawal are not available for NSW. However, Prichard and Malcolm observed that in 1999 the rate was over 40%¹³⁴ and anecdotal evidence suggests that the rate remains high.

¹³² Tually, D. et al., 2008, *ibid*.

¹³³ Tually, D. et al. 2008, *ibid*.

¹³⁴ Prichard, J and Malcolm, S, 'Integrated Intervention: The Women's Domestic Violence Court Assistance Program (WDVCAP)' *The Second Australasian Women and Policing Conference* 7-9 July, Brisbane, 8 July 1999.

In its *Report on Apprehended Violence Orders*, the NSW Law Reform Commission¹³⁵ identified a number of factors as being significant barriers to women's access to justice in relation to obtaining AVOs, including proceeding with the matter in the first place or withdrawing the complaint during the process. These include:

- fear of the repercussions from the defendant;
- lack of action on breach of an interim order;
- numerous adjournments;
- lack of service of complaints and orders;
- attitudes to domestic violence conveyed by the police and the magistrates;
- the lack of safety measures at local courts which leave some women; feeling unsafe and intimidated by the defendant; and
- the use of a cross application by the defendant.

The Report observed that an understanding of the complexity of domestic violence issues and the attitudes towards victims held by police, judicial officers, court staff and lawyers, can have an impact on pursuing AVOs. It noted that,

where those attitudes are well-informed and take full account of the power dynamics involved in domestic violence...the system can work very well.¹³⁶

A further issue that has been raised is the inconsistency in outcomes between courts. Inconsistent interpretations of laws and legislation can arise and more disturbingly, it has been suggested that some magistrates remain ill-informed about domestic and family violence.

4.6 Data Collection on Domestic and Family Violence

The difficulties posed by under-reporting were discussed briefly above, but it is important to emphasise that the inherent problems with reporting data will make them an unreliable source of information about system dynamics for some time to come.

Victimisation Surveys provide a more reliable source of information on the extent of domestic and family violence. These surveys take into account the experiences of people irrespective of whether they decide to report to the police or indeed to any service provider. However, the extent to which even these surveys prompt victims to disclose domestic violence may depend on the sensitivity of the approach taken to collecting the information. There have been no victimisation surveys conducted in NSW, however, the Australian Bureau of Statistics conducted the Women's Safety Survey in 1996 and the Personal Safety Survey in 2005.

¹³⁵ NSW Law Reform Commission 2003, *Apprehended Violence Orders*, Report 103, NSW Government.

¹³⁶ NSW Law Reform Commission, 2003, *ibid*, p.9.

There are other aspects of data collection and management that pose significant problems for any serious attempt to improve service delivery across the government and non-government sectors:

- There is no agreement on definitions for domestic and family violence and no agreement as to what data need to be collected and how they will be managed. This has implications for funders and also for service providers. It also has implications for sharing data.
- The capacity to record and extract effort expended on domestic and family violence is highly variable (generally very poor or non-existent for mainstream providers where domestic and family violence victims are only a partial source of the client base). For example, whilst we may know how many domestic and family violence incidents police attended, we have no way of extracting how much police time was expended in total in dealing with those incidents.
- Data quality is very variable across both government and non-government agencies and also varies between programs within agencies. Poor systems, inadequate training, lack of facilities and demand pressures all contribute to this.
- Data sharing is problematic for some of the reasons above (particularly compatibility and quality), but also because of concerns about privacy. Data sharing will become a very significant issue if government decides to pursue more effective integrated case management approaches.

4.7 Allocation of the “domestic and family violence dollar”

The cost of domestic violence is considerable. It affects the social, psychological, physical and financial well-being of victims and their families and has significant social and economic impacts on the community.

Access Economics, in their 2004 study for the Commonwealth Government, estimated the cost of domestic violence to Australia as a whole at \$8.1 billion. That report found that of that amount, approximately \$4 billion accounted for the cost of pain, suffering and premature mortality to the victims, who are predominantly women.

From this national figure, and using NSW population percentages, it can be estimated that the cost of domestic violence to the NSW economy is approximately \$2.8 billion. This figure includes the cost of support services, police intervention, court services and the pain and suffering of victims. Indirect costs such as relocation and reduced work force participation and income loss also contribute to this amount. The largest part of this figure is spent as part of mainstream services or core agency business, such as the Department of Community Services Helpline or emergency health services. In contrast, only a small proportion of the total cost borne by the NSW Government is allocated to targeted domestic and family violence services, such as the Domestic Violence Helpline run by Department of Community Services or the Domestic Violence Liaison Officers provided through the NSW Police Force.

Laing and Bobic report that indirect costs also include replacing damaged or lost household items, replacing school uniforms and equipment when children change schools and settlement of a partner's outstanding

debts.¹³⁷ They also note that opportunity costs (i.e. the costs of opportunities which the participant has lost as a result of being in or leaving the violent relationship) are also incurred as a result of domestic violence. Examples would be loss of employment promotion opportunities and quality of life. Most studies find that women bear the bulk of the indirect costs of domestic violence.¹³⁸

In spite of the considerable amounts of money spent on responding to domestic and family violence there has been no cost benefit analysis of the nature of spending on domestic violence, including an analysis of whether that spending has been effectively allocated.

4.8 Frequent clients of human services and justice agencies

Anecdotal evidence suggests that a small proportion of the NSW population are frequent clients of human services and justice services provided by multiple government and non-government agencies. It is believed that many of these individuals have experienced domestic and family violence.

There are two primary reasons for exploring this. First, we may be able to direct a much more effective integrated service response that improves the situation for these individuals. Second, if we succeed in improving their outcomes, their disproportionate pressure on services will reduce and services will become available for others.

At present there is no unequivocal evidence on the number of individuals/families who might fit this pattern in NSW or whether it would be possible to identify them and provide targeted services that would be more integrated and coordinated than the current individual agency responses. The principal barriers to identifying and targeting effective services to these individuals/families are thought to be: the lack of coordination between human services and justice agencies, barriers to sharing information (IT limitations, attitude and potential privacy implications) and the lack of ownership by any agency of the combined problems faced by these individuals/families.

Some agencies have undertaken limited data exchange and data integration exercises. These include:

- case tracking between Attorney General's Department, the NSW Police Force and the Department of Corrective Services;
- data matching between Department of Community Services (DoCS) and the Department of Juvenile Justice;
- Department of Ageing, Disability and Home Care, the Ministry of Transport and NSW Health are involved in an Integrated Community Transport dataset;
- the Department of Education and Training has provided DoCS with the Basic Skills Test Literacy and Numeracy results for students in out of home care; and

¹³⁷ Laing, L. and Bobic, N. 2002, *Economic Costs of Domestic Violence*, Australian Domestic and Family Violence Clearinghouse, The University of New South Wales.

¹³⁸ Laing, L. and Bobic, N. 2002, *ibid*.

- a cross agency database for the DVICM is being planned and developed by the Attorney General's Department to enable data sharing and coordinated case management between partner agencies.

Although there are some interagency programs and some integrated case management models under trial, there is currently no state-wide focus designed to modify the impact of high demand families on the community, the State's resources or themselves. As a result it is unclear whether a positive impact is being made to the lives of these families by state services and interventions, whether these responses are cost effective, or whether significant changes in direction or emphasis are required.

One issue that will need to be addressed if an integrated approach to service delivery is taken for this group is who will take overall responsibility. At present, responsibility for the assessment and case management of frequent clients of domestic and family violence services is spread across a number of agencies.

4.9 Domestic and Family Violence and Family Law Proceedings

A number of commentators have expressed concern about the challenges faced by women involved in both domestic violence and family law proceedings, including in NSW. Family and domestic violence is a common cause of marital breakdown - 60% of couples cite family violence as a contributing factor in the breakdown of marriages and 30% describe it as a major reason why their relationship ended.¹³⁹

Australian research has shown that women who are victims of domestic and family violence can face considerable barriers during family law proceedings and that these proceedings are intimidating and disempowering.¹⁴⁰ Examples of these barriers and challenges have been identified as including:

- repeated court applications for enforcement of contact, or in relation to parenting decisions;
- the use of court-ordered or privately negotiated contact as an occasion to continue abuse and/or to undermine parenting;
- actual or threatened abduction, or non-return of children; and
- applications to prevent relocation away from the area where the perpetrator lives.

Braaf and Sneddon identify further areas of concern in relation to family law proceedings and domestic and family violence. These include:

- the existence of a widely held view that women fabricate allegations of abuse at court as a tactic in claims for residence although women are less likely than men to make false allegations of child abuse; and

¹³⁹ Standing Committee on Law and Justice, *Impact of the Family Law Amendment (Shared Parental Responsibility) Act 2006 (Cth)* NSW Parliament, 2006.

¹⁴⁰ Kaye, M., Stubbs, J., and Tolmie, J. 2003, *Negotiating Child Residence and Contact Arrangements Against a Background of Domestic Violence*, Families, Law and Social Policy Research Unit, Griffith University.

- instances where police were reluctant to take action on breaches of protection orders when these occurred in the context of contact handovers, and that police perceived them as a ‘family matter not a police matter’.¹⁴¹

Anecdotal evidence also suggests that domestic and family violence orders may not always be made available in, or forwarded to, the Family Court in proceedings. This can result in inappropriate family law orders being made that may not take into account an AVO.

In 2006 amendments to the *Family Law Act* came into force which focussed on the notion of shared parenting and mediation to resolve certain family law disputes. There has been some concern that these changes create risks for women and children experiencing family violence. It has been suggested that domestic violence is seen as secondary to the high importance placed on children having access to both parents.¹⁴²

As part of the reform process 64 Family Relationship Centres (FRCs) have opened across Australia. Parties to family law matters that involve children now attend a free three hour mandatory joint dispute resolution session at FRCs before any legal advice is sought, except in cases where violence or child abuse is present.

For some, compulsory mediation will be beneficial and remove the adversarial approach to resolving family law matters. For others, however, it will be counter-productive and compel some parents into a dialogue with people they fear or feel intimidated by. Mediation is not required in cases where there is family and domestic violence or child abuse. However, this exception suggests that cases of family and domestic violence are uncommon in family separation situations and can be easily identified. Parties will not be able to “self-select” out of mediation but will be screened regarding their eligibility for the mediation process.

It is acknowledged that family law is a Commonwealth responsibility and as such, any fundamental reform to that system is beyond the scope of the NSW Government. Nevertheless, we have an obligation to ensure that women who have escaped domestic and family violence are not exposed to further risk because of their involvement with other institutions or systems, such as the family law system. In this regard, the proper and consistent implementation and recognition of AVOs by the family law system may need examination.

4.10 Domestic and Family Violence and Immigration Law

Like family law, immigration law is a Commonwealth responsibility but can also impact on domestic and family violence issues. Recent anecdotal evidence indicates that an increasing number of women seeking immigration advice and assistance are victims of domestic and family violence. In addition to the trauma of being in violent relationships, these women have the added vulnerability of being recent migrants to Australia, often without any family or social support network independent of the perpetrating partner. They are in an unfamiliar environment, and are often unaware that they do not have to remain in an

¹⁴¹ Braaf, R. and Sneddon, C. 2007, *Family Law Act Reform: the potential for screening and risk assessment for family violence*, Australian Domestic and Family Violence Clearinghouse, The University of new South Wales.

¹⁴² Domestic Violence Resource Centre, Victoria, www.dvrc.org.au/UpdateHub/DisabilityProject.htm,

abusive relationship in order to obtain permanent residency, and are unaware of other social support agencies, such as women's refuges. Many are unaware that the violence they experience is criminal.

In its 1994 report, *Equality Before the Law: Justice for Women*, the Australian Law Reform Commission (ALRC) found that violence against women is a matter of concern in immigration law and practice.¹⁴³ Issues examined in that report included the abuse of sponsorship of women as spouses and fiancés; women brought into Australia for the purpose of prostitution; considerations in granting refugee status and the detention of illegal entrants. Experiences vary according to the woman's ethnicity, her education, her fluency in English and the availability of support. However, the report found that there are many common elements, including significant power imbalances in such relationships.

Since the release of that report there have been changes to domestic and family violence and immigration law. The family violence provisions of the *Migration Regulations*, introduced in 2007, are designed to ensure that visa applicants do not remain in abusive relationships in order to obtain permanent residence in Australia. The family violence provisions come into effect when:

- the relationship that is the basis for the visa applicant's eligibility for a permanent visa has ceased; and
- the visa applicant claims that family violence has occurred (there is no requirement that the relationship has broken down because of family violence).

The legislation goes a long way to addressing the concerns raised in the ALRC report. However, challenges for migrant women experiencing domestic and family violence still remain. For instance, the evidence requirements to prove domestic and family violence for the purposes of the *Migration Regulations* can be difficult for women. Evidence can be judicial or non-judicial. Judicial evidence usually requires a final Apprehended Violence Order. Anecdotal evidence indicates a high level of under-reporting of domestic and family violence among migrant women and few proceed right through the court process. This would suggest that many migrant 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 be even more complex for migrant women to undertake. The Immigration Advice and Rights Centre advises that the legislation is prescriptive about not only the type of professional considered to be a "competent person", but also about the role that some professionals must play within their organisation (e.g. workers in women's refuges/ crisis/ counselling services). It has been suggested that these requirements can be particularly complex and bewildering for migrant women.

4.11 Responses to Domestic and Family Violence in Aboriginal Communities

Domestic and family violence is one of the most serious issues affecting Aboriginal communities. Its impact on families and on the health and wellbeing of Aboriginal communities can be devastating. With increased media attention on the disadvantages suffered by Aboriginal communities, and in particular, women and

¹⁴³ Australian Law Reform Commission 1994, *Equality Before the Law: Justice for Women Part 1*, Report 69, Australian Government.

children, there is a greater awareness of the prevalence and trauma suffered as a result of domestic and family violence. Nevertheless, responses to domestic and family violence in Aboriginal communities are not always effective and can even result in further trauma for women and families.

In NSW, Aboriginal women remain significantly overrepresented among reported victims of sexual assault and domestic violence related assault. Police figures show that Aboriginal women are nearly three times as likely to be victims of a sexual assault as the general female population and nearly six times as likely to be victims of domestic violence related assault.¹⁴⁴

The long term effects of colonisation, the forced removal of Aboriginal children, the high levels of incarceration of Aboriginal people and the over-representation of Aboriginal people in deaths in custody has meant there is a long standing distrust of government agencies, particularly the police, community services and the courts. These factors have had a significant impact on the under-reporting of domestic and family violence by Aboriginal women.

Anecdotal evidence also notes that instances have occurred when Aboriginal women, in the process of reporting a family violence incident are themselves charged with an unrelated offence.

The cultural relevance of our responses to domestic and family violence in Aboriginal communities is a significant barrier to Aboriginal women obtaining access to justice and appropriate services. Greater efforts to make the system more culturally competent, inclusive and responsive to the needs of Aboriginal women have been made in recent times, but there still are significant gaps in the extent to which these women are seeking and receiving proper support.

The Partnerships Against Domestic Violence (PADV) meta-evaluation in 2003 determined that Aboriginal programs have been ineffective because:

*they have ignored the impacts of colonisation on community, spiritual and cultural identity and wellbeing; compartmentalised the associated problems of family violence; lacked a whole of community focus; and not adopted a developmental approach to service delivery and community involvement and ownership.*¹⁴⁵

Against this background other reviews and studies have indicated that the following points also need to be addressed by any programs that seek to prevent domestic and family violence.¹⁴⁶

- Alcohol and drug use are often contributing factors and family violence cannot be addressed in isolation from these issues. Unresolved issues of grief, stress and trauma impact on both perpetrators and victims of family violence;
- Consideration of poverty and social exclusion must underpin initiatives to address family violence;

¹⁴⁴ NSW Department of Aboriginal Affairs 2007, *Two Ways Together: Report on Indicators*, Sydney, p.6.

¹⁴⁵ Szirom T., Chung, D. and Jaffe, R. 2003, *National meta evaluation of Partnerships Against Domestic Violence*, Office of the Status of Women, Department of the Prime Minister and Cabinet, Canberra, p.13.

¹⁴⁶ Aboriginal and Torres Strait Islander Women's Task Force on Violence, 2000, *The Aboriginal and Torres Strait Islander Women's Task Force on Violence Report*, Department of Aboriginal and Torres Strait Islander Policy and Development, Queensland.

- Racism within systems (health, police, housing) may prevent access to services and interfere with the implementation of new programs. Perceptions among Aboriginal people that the legal system is ineffective interferes with the implementation of new services and is a barrier to uptake of services;
- Previous failures of the legal system reinforces poor future trust and engagement;
- Applying non-Aboriginal interventions were viewed as ineffective; and
- Perceptions that refuges were ‘all white’, or would require women to leave relationships, discouraged their use.

Other barriers to successful service delivery include limited resources and short funding timeframes, and the need to build capacity in families and communities prior to interventions, which is both time consuming, resource intensive and seen as expensive by funders.

This need was underscored by findings of other studies that indicated burnout among non-Aboriginal and Aboriginal workers, due to a lack of preparation and extremely high workload. A number of reports further stressed the high workloads of workers - pointing out that solo workers were expected to be available 24 hours a day, every day, as there was no perception of being “off duty”.

5 Questions for Discussion

This chapter suggests a number of questions to guide discussion and input on the issues raised in this Discussion Paper. People writing submissions in response to the Discussion Paper should use the questions as a guide only. They are not required to limit their responses to the questions if other relevant issues are identified. It is important that we capture as wide a selection of ideas, evidence and opinion as possible.

1. What are the key principles that should guide the Strategic Framework on Domestic and Family Violence in NSW?
2. What are the key areas that need improvement or change in the current service response to domestic and family violence? How can these areas be improved?
3. What elements of the current service response are effective? What elements could be built upon or expanded?
4. What areas in the current service response can be improved to meet the needs of certain groups, including (but not limited to):
 - Aboriginal women
 - CALD women
 - Women with a disability
 - Older women
 - Young women
 - Women from rural and remote communities
 - People in same-sex relationships?
5. What are the key elements of an effective primary prevention response to domestic and family violence and what is required to implement these elements?
6. How can NSW improve its data collection on the incidence and prevalence of domestic and family violence and on the usage of services by women?
7. What are the priorities for a domestic and family violence research agenda?
8. What are the most effective ways to raise community awareness on domestic and family violence?

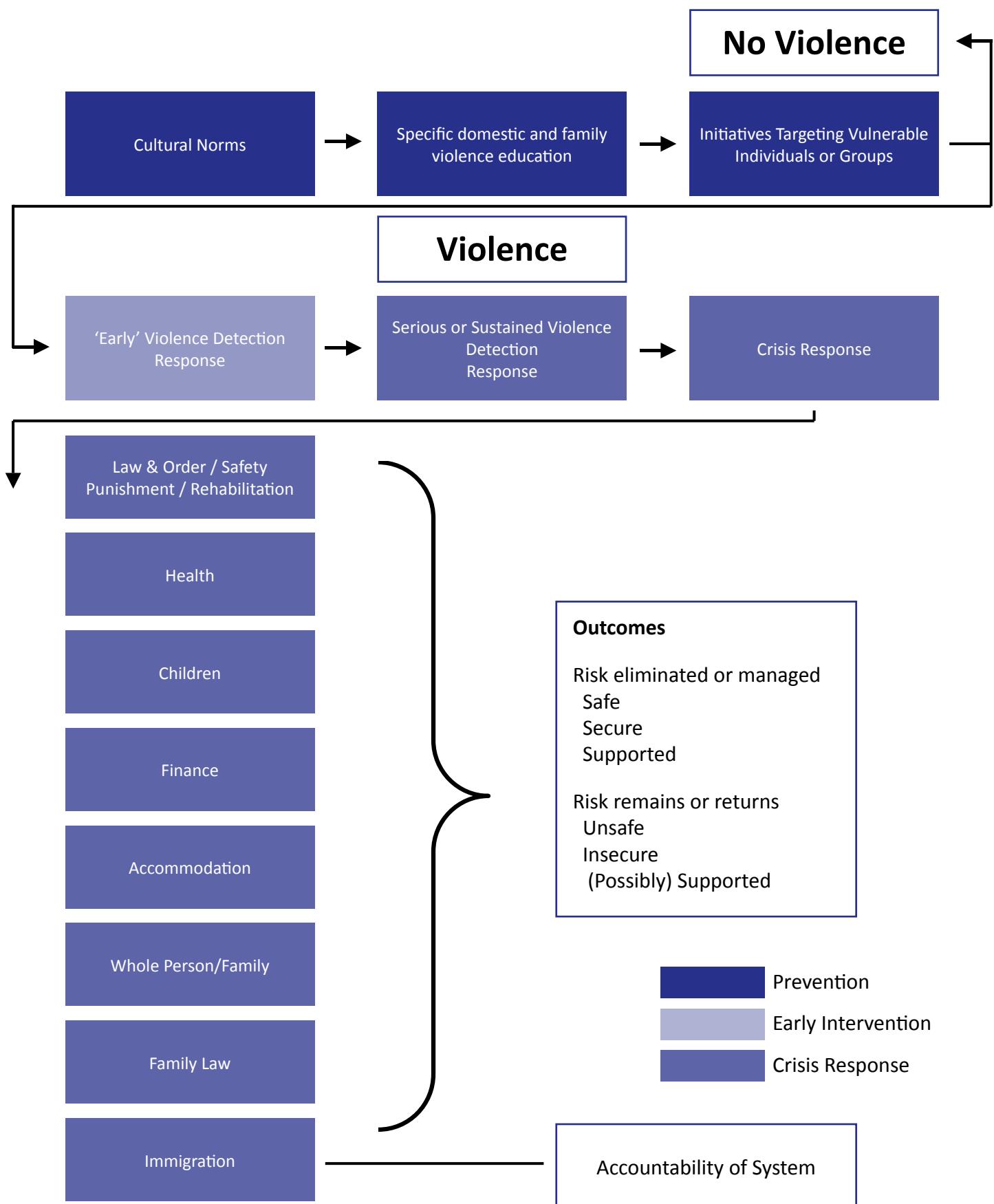
Appendix 1 - Behaviours that can Constitute Domestic and Family Violence¹⁴⁷

Domestic or family violence may involve a wide range of behaviours including:

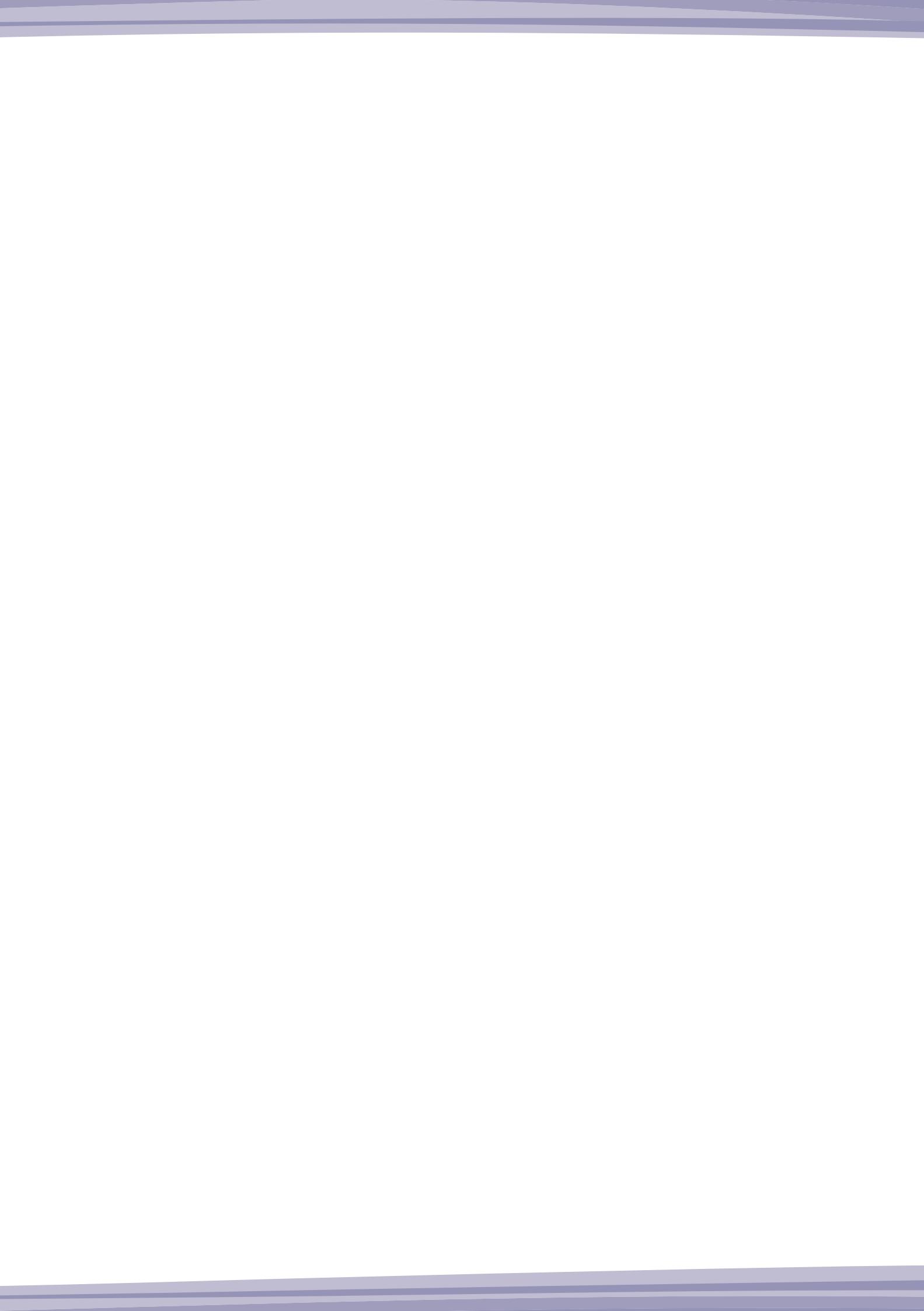
- physical abuse — including direct assaults on the body, use of weapons, driving dangerously, destruction of property, abuse of pets in front of family members, assault of children, locking the victim out of the house, and sleep deprivation
- sexual abuse — any form of forced sex or sexual degradation, 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, criticising, or using sexually degrading insults;
- verbal abuse — continual ‘put downs’ and humiliation, either privately or publicly, with attacks following clear themes that focus on intelligence, sexuality, body image and capacity as a parent and partner;
- 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 (e.g. weeks of silence);
- social abuse — systematic isolation from family and friends through techniques such as ongoing rudeness to family and friends, moving to locations where the victim knows nobody, and forbidding or physically preventing the victim from going out and meeting people — in effect, imprisonment;
- spiritual abuse — denying access to ceremonies, land or family, preventing religious observance, forcing victims to do things against their beliefs, denigration of cultural background, or using religious teachings or cultural tradition as a reason for violence; and
- economic abuse — complete control of all monies, no access to bank accounts, providing only an inadequate ‘allowance’, using any wages earned by the victim for household expenses.

¹⁴⁷ Commonwealth of Australia 2001 *Working Together Against Violence: the first three years of Partnerships Against Domestic Violence*, Canberra.

Appendix 2 – Domestic and Family Violence Pathway









New South Wales Government

Department of Premier and Cabinet
Office for Women's Policy

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