



Report of the Inquiry: Review into the system level responses to family violence in the ACT

April 2016

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Board of Inquiry

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FOREWORD

This Board of Inquiry into *System Level Responses to Family Violence in the ACT* was appointed on 22 February 2016 following the tragic death of Bradyn Dillon one week earlier. Its Terms of Reference were to review the current legislative framework, policy, practices and operations of ACT directorates and service providers who respond to family violence with a focus on systemic issues. Specifically, the Inquiry was asked to review the effectiveness of interactions and responses of government directorates/agencies and service providers in relation to mandatory reporting, family violence (particularly where children are involved) and the sharing of information on at risk families.

Issues of responsibility for the death of Bradyn Dillon will be dealt with through the criminal justice system and any coronial inquest, not through this Inquiry. While the Dillon case was the catalyst for this Inquiry and has been considered in detail with a view to identifying any broader systemic issues or practices it has only been necessary to refer in passing to the case on a few occasions.

In relation to the ACT system responses to family violence, this Report makes a number of findings and recommendations about the current state, the desired state and practical mechanisms to move from one state to the other. It is apparent from looking at what other jurisdictions are doing to deal with family violence that the ACT has an opportunity to develop much better approaches, systems and practices.

The findings and recommendations have been informed by an extensive review of research in the areas of domestic and family violence and child protection, and consultation with directorates, statutory officers and service providers. The Inquiry also received several submissions from individuals wishing to share their experiences with the system and their views on broader issues. There is remarkable agreement on the challenges facing the family violence sector and what needs to change.

The range of family violence system issues identified during consultations went beyond mandatory reporting and sharing information mentioned in the Terms of Reference and the strength of the feeling for change was stronger than expected. Although the current interactions between agencies and service providers are less than optimal and affect the quality of responses to family violence there is a strong commitment, indeed passion, within most of the sector to address these issues.

It needs to be noted that there are areas where the system is performing well and where new government initiatives are heading in the right direction. Many of these initiatives represent best practice and will be the foundation of a safer future for children and their families.

The Inquiry has had to undertake its work in a relatively short timeframe and this would not have been possible without the support of a highly competent team. The team has been under the leadership of Vicki Parker, Deputy Director-General, Justice and Community Safety Directorate (JACS) and comprised Nathan Boyle, Community Services Directorate and Megan Sparke, JACS. I thank them for their extraordinary commitment, expertise and support.

I acknowledge the openness and support the Inquiry has received from the executive and staff of all the directorates, agencies, statutory officers and non-government agencies who were consulted. I also appreciate the contribution of those individuals who shared their own stories in the interest of a better and safer future for our families.

Laurie Glanfield AM



EXECUTIVE SUMMARY

This Report of the Inquiry into the system level responses to family violence in the ACT outlines the nature of current responses to family violence and identifies opportunities for improvement to achieve better outcomes for ACT families.

The findings and recommendations in this Report have been informed by an extensive review of research into domestic and family violence and child protection, consideration of other inquiries, and consultation with directorates, statutory officers and service providers. The Inquiry also received several submissions from individuals wishing to share their experiences with the system and their views on broader issues. Both the research and consultations highlighted the considerable agreement on the challenges that face the ACT system in responding to family violence and what needs to be done to address these challenges.

With the focus of the Terms of Reference on systemic issues in the ACT's response to family violence, the Inquiry looked closely at the child protection sector, the domestic violence sector and how the two sectors interact. In addition to considering the interactions between agencies, it

also involved consideration of how the operation of individual agencies, such as child protection can impact on the system. The Child and Youth Protection Services (CYPS) is a central part of the system as it is the entry point for all family violence notifications to human services involving children.

The terms family violence, domestic violence and intimate violence are used in many different ways but at a practical level family violence is used to capture the breadth of all these terms. Despite there being no formal definition of family violence in ACT legislation (domestic violence is defined broadly), the Report uses family violence as being inclusive of domestic violence (intimate partner violence).

Australian and international research is consistent in identifying the need for multi-agency collaboration and information sharing to allow for better identification of client risks, needs and service strategies. Shifting from crisis driven responses to prevention and early intervention to support families at risk is also seen as a fundamental element of improving outcomes for those experiencing family violence.

Unfortunately, as in most jurisdictions, the ACT does not have a single integrated family violence sector but instead domestic violence, child protection and family services operate relatively independently of each other. As a result, one family may have a number of agencies providing different kinds of support to it but without any overall coordination or strategy.

It needs to be noted that there are areas where the system is performing well or there are new initiatives which are heading in the right direction.

The ACT has implemented a range of positive initiatives such as the One Human Services Gateway, *A Step up for Our Kids* (Out of Home Care Strategy 2015–20) and Strengthening Families and funds a large number of programs and services across both the domestic violence and child protection sectors. Many of these initiatives represent best practice and will be the foundation of a safer future for children and their families.

The Inquiry’s recommendations broadly align with four key outcomes that need to be achieved to transform the system’s responses:

1. Creation of a collaborative and information sharing culture within the family violence sector that is focused on whole of family safety and early intervention;
2. Improved assessment, referral and case management processes for vulnerable families and children;
3. Improved quality of, and transparency in, CYPS decision making and practices; and
4. Improved oversight of the system responses and ensuring recommendations are implemented.

Creation of a collaborative and information sharing culture within the family violence sector focused on whole of family safety and early intervention

Within the ACT there is clear consensus on the need for and opportunities to improve information sharing, communication, trust and collaboration within the family violence sector. Although the current interactions between agencies and service providers are less than optimal and affect the quality of responses to family violence, there is an overall strong commitment, indeed passion, within most of the sector to addressing these issues.

The need for better collaboration and integration of services was identified clearly in the Inquiry’s research and consultations and is at the heart of the recommendations. This is necessary to ensure decisions taken to respond to family violence and to manage risk are based on full information and families are provided with appropriate and coordinated services. More informed decisions and coordinated and planned service support will result in more efficient and effective services for families.

While there is argument that privacy legislation currently allows for the information sharing that is required to properly assess and manage family violence cases, the fact is that operational people do not feel they have the authority to share, and generally do not have an information sharing culture. The exceptions to this are the coordination work on family violence cases undertaken by the Family Violence Intervention Program and the criminal justice system more broadly.

The Inquiry has recommended changes to legislation to clearly authorise information sharing in family violence situations with appropriate penalties if information is shared other than for the safety, welfare or wellbeing of a person. However, this will not be sufficient to ensure proactive information sharing without addressing cultural issues. The recommended Coordinator-General for Family Safety position will have responsibility for driving required cultural change and will oversee a related awareness campaign and training about information sharing.

The Report identifies a range of other initiatives directed to improving governance and coordination within the system. These reforms are designed to embed a culture consistent with an integrated and collaborative family service sector focused on a shared goal of safer families.

Mandatory reporters often receive little or no information on the outcomes of their reports and in many cases this leads to further reports adding to the increasing CYPS workload. Better communication and feedback on action taken by CYPS will clearly improve the level of collaboration. Equally mandatory reporters may then be able to provide greater assistance to CYPS. For example, schools can assist in identifying at risk children who are unenrolled and said to be moving to another jurisdiction.

This would allow CYPS to notify the child protection authorities in the other jurisdiction and to ensure the child is not lost from the sight of protective agencies.

The Government has the ability to use its procurement of services through funding and grants to ensure contractual arrangements with agencies encourage collaboration and information sharing through specific performance measures. Contracts that focus on outcomes rather than outputs could also reinforce collaboration.

The Report also recommends the Government considers options for an ICT system to support information sharing and raises the issue of agreement on a possible amendment to Commonwealth privacy legislation through the Council of Australian Governments.

Improved assessment and referral processes for vulnerable families and children

The objective of early intervention for families facing family violence or at risk of family violence will be met through the establishment of a Family Safety Hub undertaking prompt initial assessments of low risk child protection cases and linking families to appropriate services with ongoing follow up. This Family Safety Hub will be co-located with

the One Human Services Gateway and will have representatives from relevant government and non-government agencies working together. This will improve collaboration between agencies and also shift low level child concern reports from CYPS to the Family Safety Hub allowing CYPS to focus on the more serious cases coming to its attention.

Apart from the low level concern reports the Family Safety Hub will also take any referrals from CYPS caseworkers who consider the appropriate response is referral to services. All these cases will be subject to initial assessments and indeed all steps in the subsequent case management will be informed by information that is held collectively by the Hub in a database that will be continually updated. This will ensure that decisions and assessments of children and their families are made based on all the information available to the system not just parts of it.

The Hub will also provide an entry point into the system for self referring individuals or families who are seeking assistance for family violence related issues.

The Report recommends the Government ensure that sufficient funded services are available to which families can be referred, including children witnessing or experiencing family violence and for perpetrators of family violence.

Improved quality of and transparency in CYPS decision making and practices

For many children experiencing or witnessing family violence the current main entry point into the system is through the statutory child protection service, CYPS. The consultation process elicited significant concern about CYPS processes and decision making.

CYPS has been facing increasing numbers of child concern reports over the past 10 years but very few, in fact, proceed to appraisal, substantiation or intervention. Many of the reports that do not meet the thresholds for further appraisal are not resulting in referral of cases to services. When a referral is made it is rarely followed up. This is consistent with CYPS seeing its statutory role as dealing with high risk children not providing human services to vulnerable families more generally.

Within the ACT system each agency or service provider can make a difference by improving its own current practices. As CYPS sits at the centre of child protection responses it has the ability to take the lead in a more open and consultative approach to its work. This will better inform its decisions, and with new recommended processes and improved links to service agencies, will enable a broader range of responses to be available.

The Report makes recommendations regarding the need for cultural change in CYPS to ensure there is greater collaboration and transparency in decision making. The Inquiry sees that this would result in the convening of case conferences early and more often in a case. It is important for there to be diversity among CYPS officers and to ensure this, current CYPS recruitment practices need to be reviewed and further cultural sensitivity and awareness training made available.

To ensure high quality decision making a formal dedicated quality assurance mechanism needs to be put in place for CYPS processes. Consideration should also be given by the Government to which CYPS decisions should be merits reviewable and to ensuring legal representation is available for victims of family violence and those dealing with child protection issues. The Community Services Directorate should ensure that information regarding review rights is available and readily accessible on its website.

During the review one significant legislative constraint on the ability of CYPS to investigate child concern reports was identified. To exercise its investigative powers (an appraisal) CYPS is required to obtain parental consent or to obtain a court order. This requirement allows an opportunity for a perpetrator parent to delay the appraisal while a court order is obtained or to negotiate their presence when their children are interviewed. This significantly decreases the possibility of a child disclosing abuse which in turn is likely to reduce the priority attached by police to matters they may investigate. The report recommends that the Government consider whether the legislation could provide an alternate process to CYPS being required to obtain a court order on every occasion.

Improved oversight of the system responses and ensuring recommendations are implemented

There is nothing more difficult in government at any level than dealing with a complex policy or social issue that crosses the boundaries and roles of many agencies. These are sometimes referred to as “wicked” problems for being resistant to resolution.¹ Family violence is one of those problems.

Implementing the Inquiry’s recommendations will require some reallocation of resources and some additional resources, but most importantly will require strong leadership and oversight to drive the move from the currently siloed sector to a fully collaborative and information sharing sector focused on improving the safety of all family members.

A recommendation to create a Coordinator-General for Family Safety with a small support team is designed to provide that high level coordination, oversight and drive. The current position of Coordinator-General for Domestic and Family Violence would be subsumed into this role.

The report also recommends that the Government review the resources of the Public Advocate and Children and Young People Commissioner and those of CSD to ensure that the oversight being provided by that statutory officer is working effectively.

Every effort needs to be made to ensure priority is given to prevention and early intervention to minimise the incidence and impact of family violence. The recommendations in this Report are directed to assisting the ACT Government to create an integrated system of responses, support and services that both seeks to prevent family violence and to address the needs of the victims of family violence. In the future the ACT family violence sector should be recognised for its culture of collaboration and information sharing as well as its focus on safer families.

¹ Australian Public Service Commission. (2012) Tackling wicked problems: A public policy perspective.



RECOMMENDATIONS

Chapter 5: Delivering better family outcomes

1. The response to family violence should focus on maintaining the mother and child victims as a family unit and build trust with the woman, in particular women and children in the Aboriginal and Torres Strait Islander community.
2. As a matter of course CYPS should refer matters involving family violence to appropriate service providers and when undertaking appraisals should collaborate with those providers to ensure support for the family as a whole.
3. Sufficient services should be made available to which individual members of a family can be referred. This includes specific services for children who have witnessed or experience family violence and services for perpetrators.
4. Adequate resources should be made available or funding provided to deliver training on family violence for frontline workers.
5. Service providers should be funded to deliver outcomes not programs and funding contracts

should incorporate appropriate outcome performance measures.

6. Sufficient funding should be made available to victims seeking domestic violence orders and families dealing with the child protection system to enable them to obtain legal representation.
7. The ACT should remain actively engaged in the Family Law Council Review to improve responses to families with complex needs within the family law system and consider as a priority any recommendations that seek to resolve current issues.

Chapter 6: Mandatory reporting

8. CYPS must ensure appropriate feedback is given to notifiers of child concern reports and, where matters do not proceed, referral to support services to the family must be considered.
9. Consideration should be given to:
 - a. amending the CYP Act (Division 11.2.2) for matters involving allegations of abuse or

neglect by the parent or person with daily care responsibility. In such matters the Director-General should not be required to obtain agreement to the appraisal from each parent or each other person with daily care responsibility or seek an appraisal order from the Childrens Court; or

b. requiring the Director-General of the Community Services Directorate to notify the Childrens Court of the intention to undertake an appraisal providing the parent or person with daily care responsibility the right to lodge an objection.

10. ACT Policing policy regarding not undertaking investigations unless children have disclosed abuse should be modified to ensure this policy is not rigidly applied and that the circumstances in individual cases are considered and discussed with CYPS.

Chapter 7: Decision making, quality assurance and oversight

11. CYPS must adopt a culture of transparency and engagement with clients, agencies and service providers to inform improved decision making and to engage more effectively with those who provide services to families who come to the notice of CYPS.

12. A review should be undertaken of what decisions made by CYPS should be subject to either internal or external merits review. The review should have regard to the position in other jurisdictions and be chaired by the Justice and Community Safety Directorate.

13. Arrangements for regular formal quality assurance of CYPS decisions, practices and procedures should be established. Results of the quality assurance process should be reported quarterly to the Director-General, Community Services Directorate and in the Directorate's annual report.

14. The Community Services Directorate should ensure that information regarding review rights is

provided to individuals notified of a decision and is publicly available on the Directorate's website.

15. A review should be undertaken to determine whether the oversight resources of the Public Advocate and Children and Young People Commissioner and the resources to respond in the Community Services Directorate are sufficient to ensure oversight mechanisms are working effectively.

16. The Community Services Directorate should continue to review its recruitment practices and cultural awareness training programs and ensure appropriate quality control in decision making to reduce unintended bias.

Chapter 8: Sharing information

17. CYPS should use case conferencing more frequently to ensure decision making is more fully informed and is done on a transparent and collaborative basis with government, non-government agencies and families.

18. Legislative provision should be made in the ACT similar to Chapter 16A of the NSW Children and Young Persons (Care and Protection) Act 1998 in relation to family violence more broadly (not just in relation to children) to clearly authorise information sharing and to foster a culture of appropriate information sharing and collaboration.

19. Any legislative amendments to facilitate information sharing should be accompanied by a suitable penalty provision for the disclosure of information shared under the provision for purposes other than the safety, welfare or wellbeing of a person.

20. Any legislative amendments should also be accompanied by an awareness campaign and guideline material about how information can be shared.

21. The proposed Coordinator-General for Family Safety should have oversight of the awareness campaign, training package and guidelines

to accompany the legislative amendment to ensure the development of an information sharing culture.

22. Government agencies should take the lead in creating an information sharing culture through:
 - a. sharing information and creating trust and confidence by open, consultative and transparent decision making; and
 - b. ensuring existing consultative and advisory councils and committees are genuinely co-operative and trust building forums.
23. The Government should encourage information sharing by incorporating in funding agreements for service providers, clear performance measures that include measures of the extent of sharing of information and collaboration.
24. The ACT Government consider funding for ICT systems to support information sharing within the proposed Family Safety Hub discussed in Chapter 9. This may include procurement of an off the shelf product or building on an existing system to keep costs to a minimum.
25. The ACT raises at COAG the issue of amendment of the Commonwealth Privacy legislation to facilitate the sharing of information for the purposes of addressing family violence.
26. When a child is unenrolled from school, and the school has had significant concerns about the particular child, the Education Directorate should advise CYPS. Subsequently the Education Directorate should confirm the move with the family and confirm enrolment in the new jurisdiction. CYPS should inform their counterparts in the new jurisdictions that a family of concern has moved to their state or territory.

Chapter 9: Facilitating collaboration and integration

27. A Family Safety Hub should be established and co-located with the One Human Services Gateway to:
 - a. Ensure integrated and coordinated services are provided to families experiencing or at risk of experiencing family violence; and
 - b. Ensure decision making in relation to families experiencing or at risk of experiencing family violence is made based on all the evidence available to the system as a whole.
28. The Family Safety Hub should comprise representatives from relevant human services directorates, the domestic violence and child protection sectors and police who will be embedded within the Hub.
29. The Family Safety Hub should receive and manage all child concern reports that do not involve physical abuse or sexual assault and CSD should assist in establishing the new arrangements.
30. CYPS should work with the Family Safety Hub as their cases move through the statutory process to ensure families are receiving appropriate services and CYPS has access to the most up to date information. It is accepted that extremely urgent cases may preclude or limit such contact.
31. A Coordinator-General for Family Safety at Deputy Director-General level should be appointed to have high level oversight and strong leadership over an extended period to drive the changes recommended in this Report. Further a small team should be appointed to support the work of the Coordinator-General. The current Coordinator-General for Domestic and Family Violence would be subsumed into this new role.

CHAPTER 1

INTRODUCTION

Family and domestic violence has for too long been a hidden scourge. However, public awareness of the seriousness of violence within the family has increased in recent years together with an increased unwillingness to treat these crimes as ‘private’ or ‘family matters’.

Children who live in homes, where their lives are characterised by violence between their parents, or directed at one parent by the other are often referred to as the silent or invisible victims of domestic violence.² However domestic violence is one of the most significant aspects of child abuse and neglect in Australia.³ “It has been estimated that in at least 30–60% of families where either maltreatment or domestic violence occurs, the other form of domestic violence will also be present”.⁴ Witnessing violence

as a child can affect a child’s emotional, behavioural, health, cognitive and social development.⁵

In February this year Canberra witnessed the tragic death of one child and the serious assault of his sister, allegedly at the hands of their father. The death of any child is a tragedy and rightly the community asks what more could have been done to avoid this happening.

Bradyn’s death prompted the Government to call for a review into family violence in the ACT looking at systemic issues through the lens of this case. The purpose of this Inquiry is to ensure ACT systems operate effectively and efficiently to address and minimise family violence. In considering family violence, the Review necessarily canvassed responses to domestic violence and child protection issues which often intersect.

² Edleson (1999); Kovacs & Tomison (2003); Tomison (2000) cited in Richards. K (2011) *Children’s exposure to domestic violence in Australia*. AIC Trends and Issues No. 419. http://www.aic.gov.au/media_library/publications/tandi_pdf/tandi419.pdf. Page 1.

³ Zannettino.L and McLaren.H (2014) *Domestic violence and child protection: towards a collaborative approach across the two service sectors*. Child and Family Social Work 2014, 19, Page 421.

⁴ Edleson (1999) cited in Potito, C., Day,A., Carson, E., & O’Leary, P. (2009) *Domestic Violence and Child Protection: Partnerships and Collaboration*. Australian Social Work Vol.62. No.3 Page 370.

⁵ Richards. K (2011) *Children’s exposure to domestic violence in Australia*. AIC Trends and Issues No. 419. http://www.aic.gov.au/media_library/publications/tandi_pdf/tandi419.pdf. Page 1.

Terms of Reference

The ACT Government constituted the Inquiry under the *Inquiries Act 1991* and Mr Laurie Glanfield AM was appointed as the Board of Inquiry to conduct the Review. Mr Glanfield has been supported by the ACT Coordinator-General for Domestic and Family Violence and officers from the Justice and Community Safety Directorate and the Community Services Directorate.

In accordance with the Terms of Reference,⁶ the Inquiry considered the current legislative framework, policy, practices and operations of ACT directorates and service providers who respond to family violence and in particular:

- the effectiveness of interactions between government directorates/agencies and service providers in relation to the use of mandatory reporting as prescribed by legislation and the appropriateness of responses to those reports;
- the effectiveness of government directorates/agencies and service providers' response to family violence particularly where children are involved; and
- the extent to which ACT authorities are legally able to, and do actually share and receive information on at risk families internally and with other jurisdictions.

Following the Inquiry Mr Glanfield is to provide a report to the Chief Minister by 22 April 2016 with key recommendations to improve system responses to domestic and family violence incidences in the ACT.

Scope of the Inquiry

As noted, Mr Glanfield was tasked with reviewing the current legislative framework, policy, practices and operations of ACT directorates and service providers that respond to family violence.

In reviewing relevant elements of the ACT's mandatory reporting scheme, the Inquiry considered

⁶ See Appendix 1.

the front end of the child protection system, including the intake and assessment process, and interaction with the human services system more broadly. The Inquiry also looked at domestic violence (or intimate partner violence) and its intersection with child protection services and family violence more broadly.

The Inquiry examined the circumstances of the Dillon case, the information that was held by various ACT directorates and service providers in relation to the case and what information was shared. Information held in other jurisdictions and shared with the ACT was also considered. However, the Inquiry did not look at individual responsibilities as these will be considered in the course of the criminal proceedings and the coronial enquiry into Bradyn Dillon's death. While some other cases were also considered and provided valuable insights, recommendations in relation to specific cases have not been made.

Review methodology

The Inquiry used a number of methods to undertake the Review, including:

- meeting with officers from relevant government directorates;
- meeting with non-government service providers in the areas of family services, domestic and family violence services and child protection;
- meeting with relevant statutory office holders and experts;
- considering subpoenaed information, files and material received from government and non-government agencies;
- considering submissions provided by members of the public;
- considering reports and recommendations from other inquiries into domestic and family violence and child protection services in the ACT and other jurisdictions; and
- considering relevant Australian and international research.

CHAPTER 2

BACKGROUND

Overview of the ACT service system for vulnerable families

Intersection between domestic and family violence and child protection

The Inquiry has noted the strong intersection between domestic and family violence and child abuse and neglect, including:

- the impact of domestic and family violence on adult victims;
- the impact of domestic and family violence on children;
- understanding and assessing past harm and future danger for partners, family members and children;
- safety planning for victims of domestic and family violence and for children of abuse and neglect.⁷

⁷ Campo, M. (2015) *Children's exposure to domestic and family violence: key issues and responses*. CFCA Paper No. 36. Australian Institute of Family Studies: <https://aifs.gov.au/cfca/publications/childrens-exposure-domestic-and-family-violence>; Richards K. (2011) *Children's exposure to domestic violence in Australia*. Trends & Issues in crime and criminal justice No. 419. Australian Institute of Criminology. http://www.aic.gov.au/media_library/publications/tandi_pdf/tandi419.pdf; Australian Law Reform Commission (2010) *Family Violence – A National Legal Response*. ALRC Report 114. Chapter 19 'The Intersections of Child Protection and Family Laws'. <https://www.alrc.gov.au/publications/family-violence-national-legal-response-alrc-report-114>.

Research indicates there is a strong correlation between domestic and family violence and child abuse. For instance, children experiencing domestic violence are more likely to be emotionally, physically or sexually abused and exposure to domestic violence is a form of abuse.⁸ Studies suggest between 12% and 23% of Australian children are exposed to family violence, while international research puts the figure for co-occurrence of family violence and child abuse at between 30% and 50%.⁹

Studies also suggest that children and families who come into contact with child protection services often share common social and demographic characteristics. For instance, families with a history of domestic violence, alcohol and substance abuse,

⁸ ACT Government (2011) *ACT Prevention of Violence against Women & Children Strategy 2011–2017*. http://www.dhcs.act.gov.au/__data/assets/pdf_file/0014/231341/ACT_Prevention_of_Violence_Against_Women_and_Children_Strategy_2011.pdf. Page 2.

⁹ Australian Law Reform Commission (2010) *Family Violence – A National Legal Response*. ALRC Report 114. Chapter 19 'The Intersections of Child Protection and Family Laws'. <https://www.alrc.gov.au/publications/family-violence-national-legal-response-alrc-report-114>. Page 894.

mental illness, and families from low socioeconomic demographics have greater contact with child protection services.¹⁰

As with many jurisdictions the ACT's general governance, policy and legislative framework deals with these issues somewhat separately rather than coherently directing a territory-wide integrated response. The interrelationship is recognised in some measure with the *Children and Young People Act 2008* (CYP Act) making reference to domestic violence and protection orders, *A Step Up for Our Kids* (Out of Home Care Strategy 2015–20) refers to the harm domestic and family violence has on children and the *ACT Prevention of Violence against Women & Children Strategy 2011–2017* recognises the strong correlations between domestic and family violence and child abuse.

Protecting vulnerable families

Ultimately this area of policy is about better supporting and protecting vulnerable families. A family, child or young person may experience vulnerability because:

- a parent, family member or carer may have a history of domestic and family violence, alcohol or substance abuse or misuse, mental ill health, chronic physical illness, low socioeconomic status or social isolation;
- parents may be young, isolated, unsupported or have limited parenting skills;
- the child or young person may have health, mental health, developmental issues or a disability; and
- the family may be experiencing other forms of social exclusion.

When families experience vulnerability, they may need to access multiple services and supports spanning different service systems. These services and supports can be conceptualised as being part of the broader human services system. Based on the public health model these services and supports can be divided into three tiers:

- primary (universal) services that are targeted at the entire population in order to provide support and education before problems occur;

¹⁰ Productivity Commission (2016) *Report on Government Services*. Chapter 15 'Child protection services'. www.pc.gov.au/gsp/rogs/2015. Page 15.2.

- secondary services targeted at families in need to alleviate identified problems and prevent escalation; and
- tertiary (statutory) services that require interventions for families experiencing domestic and family violence or children experiencing abuse and neglect.¹¹

Adoption of the public health model in child protection and human services more broadly aims to shift the attention away from the statutory end of the service system to a more preventative and collaborative model by sequentially accessing the three levels for prevention usually represented as a pyramid: primary, secondary and tertiary. This approach is expected to enhance policy making and service delivery outcomes and shift the focus of effort from protection to a focus on prevention.¹² The public health model is providing a policy framework for informing government intervention to better support vulnerable families.

As can be seen from Figure 1 the main ACT Government portfolios with responsibility for vulnerable families are Community Services, Justice, Health and Education. These directorates are part of the *supporting our community* cluster that was established by the ACT Government in July 2014. The main aim of placing directorates in clusters was to provide a coordinated approach across member directorates to deliver effective Government services and drive innovation through collaboration.

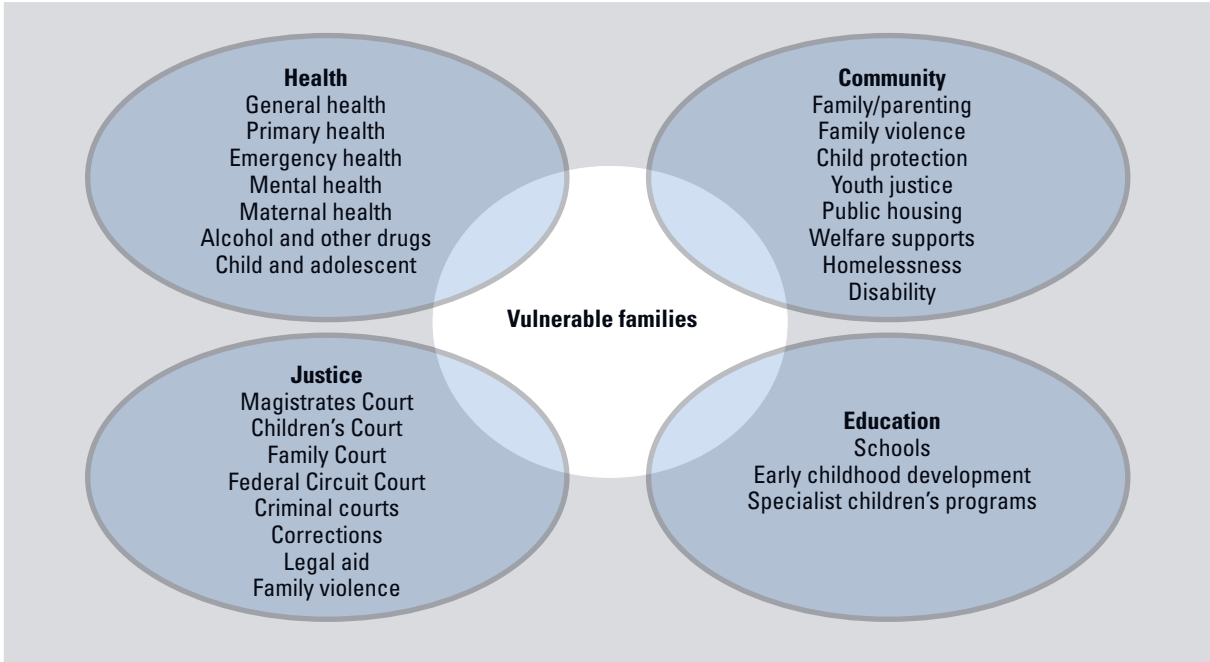
The broader human services system includes:

- mandatory reporters;
- family services and supports;
- domestic and family violence services;
- alcohol and other drugs services;
- health and mental health, including therapeutic and counselling services;
- social housing and homelessness services;
- education and child care services;

¹¹ Australian Institute of Family Studies (2014) *Defining the public health model for the child welfare services context*. CFCA Resource Sheet. <https://aifs.gov.au/cfca/publications/defining-public-health-model-child-welfare-servi>.

¹² COAG (2009) *National Framework for Protecting Australia's Children 2009-2020*. https://www.dss.gov.au/sites/default/files/documents/child_protection_framework.pdf. Page 7.

Figure 1: Services and supports for vulnerable families in the ACT



- corrections services;
- police;
- legal services; and
- courts.

Domestic and family violence context

A breakdown of responsibilities between ACT directorates and the Commonwealth as relevant to family violence is set out in Appendix 2.

There are continuing efforts at a national level on possible reforms to the Australian federal system of government. In some areas the federal system is recognised for its complexity, whereby responsibilities between the Commonwealth, states and territories result in duplication, overlap and inefficiencies. This is most evident in the areas of housing and homelessness, health and education.¹³ It is reasonable to suggest similar findings could be made with regard to human services.

¹³ Commonwealth Government (2014) *Reform of the Federation White Paper: A Federation for our future*. Issues Paper 1. https://federation.dpmc.gov.au/sites/default/files/issues-paper/issues_paper1_a_federation_for_our_future.pdf.

Work is currently being undertaken by the ACT Government to respond better to domestic violence and the *Final Report of the Domestic Violence Service System Gap Analysis Project* has just been completed. A key finding of this work is that the ACT domestic violence system is fragmented and crisis driven.¹⁴ Twenty-three service providers indicated they deliver direct support to victims and perpetrators to address family violence.

A further 58 service providers indicated that they deliver indirect support where family violence arises incidentally to their primary business.¹⁵

¹⁴ Community Services Directorate (2016) *Domestic Violence Service System Gap Analysis Project: Final report*. Page 9. (unpublished).

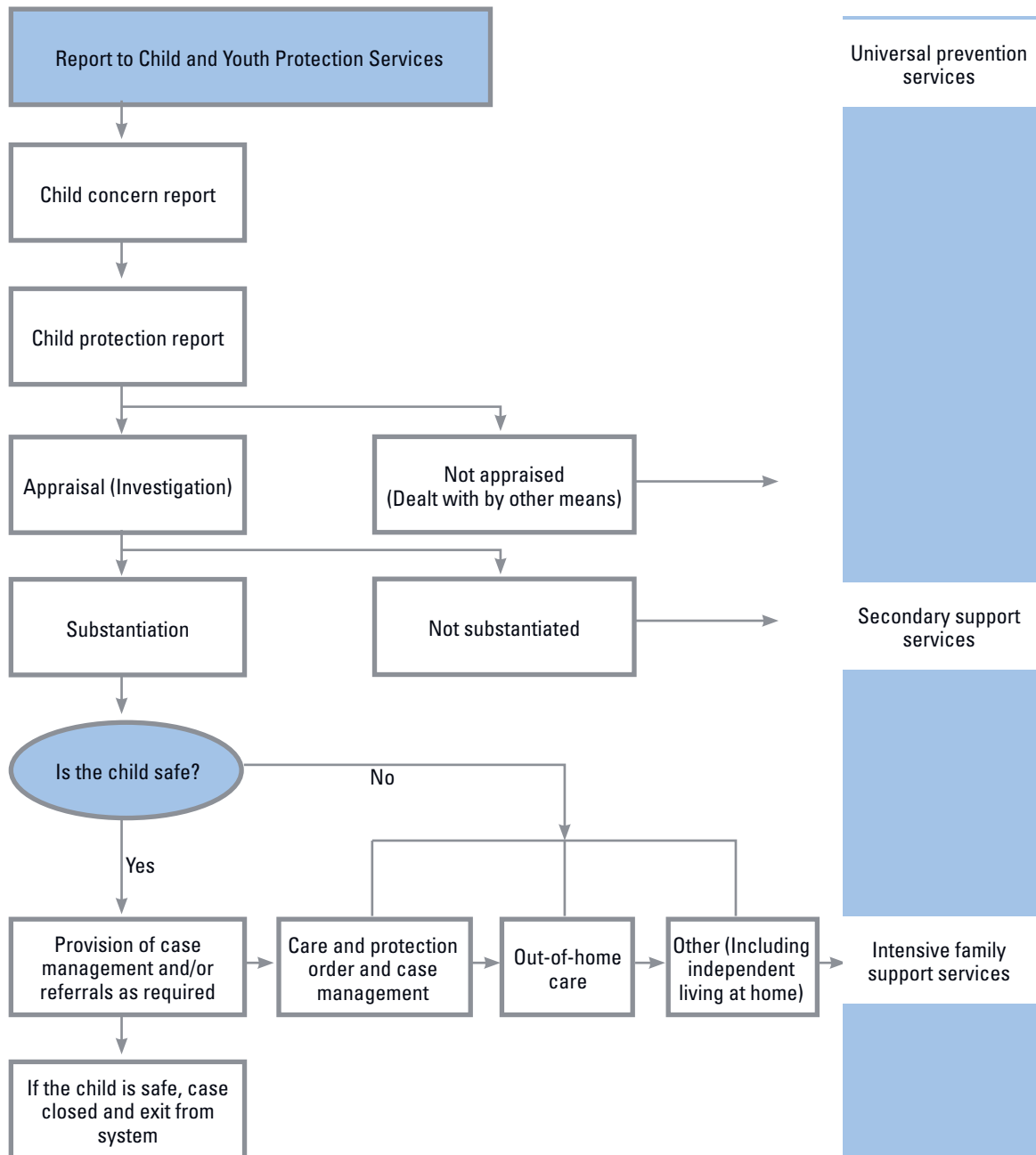
¹⁵ Direct support relates to specialist domestic violence services and services connected to the legal system. Indirect support relates to mainstream services where family violence may arise in their work with clients but is not a core component of their service mandate.

Table 1: Domestic and family violence services in the ACT

	Early intervention	Crisis intervention or support	Sustained safety and ongoing support
Support and advocacy	<ul style="list-style-type: none"> ■ Domestic Violence Crisis Service ■ Victim Support ACT 	<ul style="list-style-type: none"> ■ Domestic Violence Crisis Service ■ Victim Support ACT ■ Beryl Women Inc. ■ Canberra Rape Crisis Centre ■ 1800 RESPECT ■ Social Work Services 	<ul style="list-style-type: none"> ■ Domestic Violence Crisis Service ■ Victim Support ACT ■ Beryl Women Inc. ■ Canberra Rape Crisis Centre ■ Another Closet ■ Women’s Health Services
Refuge and accommodation		<ul style="list-style-type: none"> ■ Beryl Women Inc. ■ Doris Women’s Refuge ■ Toora Women Inc. ■ Communities@Work ■ Northside Community Services 	<ul style="list-style-type: none"> ■ Beryl Women Inc. ■ Doris Women’s Refuge ■ Toora Women Inc. ■ Communities@Work ■ Northside Community Services
Perpetrator	<ul style="list-style-type: none"> ■ EveryMan Australia ■ Men’s Referral Services (National) ■ Men’s Line Australia (National) 	<ul style="list-style-type: none"> ■ EveryMan Australia ■ Men’s Referral Services (National) ■ Men’s Line Australia (National) ■ ACT Corrective Services 	<ul style="list-style-type: none"> ■ EveryMan Australia ■ ACT Corrective Services
Legal and statutory	<ul style="list-style-type: none"> ■ ACT Policing ■ Office for Children and Youth Support 	<ul style="list-style-type: none"> ■ ACT Policing ■ Office for Children and Youth Support ■ Victim Support Service ■ ACT Corrective Services ■ ACT Magistrates Court ■ Supreme Court ■ Director of Public Prosecutions ■ Forensic & Medical Sexual Assault Care ■ Aboriginal Legal Services ■ Legal Aid ACT ■ Women’s Legal Centre ■ Community Law 	<ul style="list-style-type: none"> ■ ACT Policing ■ Office for Children and Youth Support ■ Victim Support Service ■ ACT Corrective Services
Children	<ul style="list-style-type: none"> ■ Office for Children and Youth Support 	<ul style="list-style-type: none"> ■ Office for Children and Youth Support ■ Domestic Violence Crisis Service ■ Beryl Women Inc. ■ Doris Women’s Refuge 	<ul style="list-style-type: none"> ■ Office for Children and Youth Support ■ Domestic Violence Crisis Service ■ Child and Adolescent Health Research Unit

Source: Community Services Directorate (2016) *Domestic Violence Service System Gap Analysis Project: Final mapping report*. Page 5. (unpublished).

Figure 2: The statutory child protection system and links to the broader human services system



Source: Adapted from Productivity Commission *Report on Government Services* (2016) Figure 15.1

Table 1 from the ACT Gap Analysis Project outlines direct support services for victims and perpetrators of domestic and family violence. Services are mapped along a continuum from early intervention and support through to crisis, and ongoing and sustained safety. The services are grouped by service function. It is evident from the findings of the ACT Gap Analysis Project that the ACT has a predominantly crisis driven domestic violence service system, with more than two-thirds of the direct service providers operating in this space. Of the available early intervention services, 40% are nationally operated phone or web-based services, with no physical presence in the ACT.

Child protection context

Research has consistently confirmed that most children and young people are best protected and cared for within their own family. However, when children and young people are at risk of abuse and neglect within their families, or where their families do not have the capacity to protect them, child protection services have a role in ensuring their safety and wellbeing. Child protection agencies have a responsibility to deliver a range of protective and supportive child and family services. Section 22 of the CYP Act outlines the Director-General's functions:

- providing, or assisting in providing, services directed to strengthening and supporting families in relation to the wellbeing, care and protection of their children and young people;
- supporting the community in preventing, or reducing, abuse and neglect of children and young people;
- providing, or assisting in providing, information to parents, kinship carers and foster carers, prospective kinship carers and foster carers, government agencies, non-government agencies and members of the community about the operation of this Act;
- providing, or assisting in providing, information to people who are required to report suspected abuse of children and young people to help them perform their legal obligation;
- providing, or assisting in providing, information to people who report suspected abuse or neglect

of children and young people and encouraging those people to continue their involvement in matters arising from their report;

- exercising aspects of parental responsibility for children and young people;
- providing, or assisting in providing, information, services or assistance to children and young people who have left the director-general's care;
- working with other government agencies and community organisations, to coordinate and promote the care and protection of children and young people, including young offenders.

These functions include:

- receiving and responding to reports of concern about children and young people, including investigation (appraisal) and assessment where appropriate;
- initiating intervention where necessary, including applying for a care and protection order through a court and, in some situations, placing children or young people in out of home care to secure their safety;
- working with families to reunite children, who were removed for safety reasons; and
- securing permanent out of home care when it is determined that a child is unable to be returned to the care of his or her parents, and working with young people to identify alternative supported living arrangements where family reunification is not possible.¹⁶

Figure 2 illustrates the process of decision making in the child protection system and links in to the broader human services system. The Inquiry found the referral of families to services by CYPS was variable.

New ACT initiatives

The ACT is currently implementing major reforms to the child protection and out of home care systems.¹⁷ As part of these reforms new services have been commissioned by the ACT Government to give

¹⁶ Productivity Commission (2016) Report on Government Services. Chapter 15 'Child protection services'. www.pc.gov.au/gsp/rogs/2015. Page 15.2.

¹⁷ See *Snapshot of action taken to address domestic violence and child abuse and neglect in the ACT* for further information about the child protection and out of home care reforms.

Figure 3: Key elements of new services under A Step Up for Our Kids

A Step Up for Our Kids— a therapeutic trauma-informed system		
Strengthening high-risk families	Creating a continuum of care	Strengthening accountability and ensuring a high-functioning care system
<ul style="list-style-type: none"> ■ Placement prevention services ■ Reunification services ■ Mother and baby unit ■ Parent-child interaction programs ■ Supported supervised contact 	<ul style="list-style-type: none"> ■ Empowering children and young people ■ Continuum of care ■ Outsourcing case management and long-term decision making of all children and young people on long term orders ■ Outsourcing kinship care ■ Revised arrangements for reimbursement of carers ■ Supports for permanency including greater accessibility to Enduring Parental Responsibility and adoption orders where appropriate ■ Extended continuum of care for care leavers up to 21 years of age ■ Salaried foster care ■ Therapeutic residential model ■ Independent cultural advice for Aboriginal and Torres Strait Islander children and young people ■ Child health passport ■ CSD/ETD Education Pathways Initiative 	<ul style="list-style-type: none"> ■ Refreshed governance arrangements ■ Oversight and regulation of non-government agencies ■ Strengthened contract management ■ Performance-based contracting ■ Renewal of carer approvals ■ Improved information management ■ Independent carer advocacy and support service ■ Independent family advocacy and support service
Decrease in number of children and young people in care	Positive life outcomes for children and young people who cannot live at home	Strengthened oversight and accountability

Source: ACT Government (2015) *A Step Up for Our Kids—One Step Can Make a Lifetime of Difference* (Out of Home Care Strategy 2015–20). Page 10–11.

effect to *A Step Up for Our Kids* (Out of Home Care Strategy 2015–20) that have either recently commenced or are intended to commence. Key elements of new services under *A Step Up for Our Kids* are outlined in Figure 3.

Uniting has been commissioned to deliver services under the strengthening high-risk families’ domain called Children and Families ACT. These services are largely focused on managing risks and providing supports within families to prevent children from coming into care, or returning them home as soon as it is safe to do so. This includes specialist support to children, young people and families in Aboriginal and Torres Strait Islander local communities across the ACT.

The ACT Together Consortium has been commissioned to deliver out of home care services under the continuum of care domain, which brings together all of the service elements designed to support children and young people who cannot live with their birth families. It will reduce duplication in the role of government and non-government services, giving service providers greater autonomy and responsibility in providing stable, long term care for children and young people.

These services include trauma informed, therapeutic case management for children and young people in care, and therapeutic residential care and supports for kinship and foster carers. The ACT Together Consortium is led by Barnardos, in partnership with the Australian Childhood Foundation, OzChild, Premier Youthworks and Relationships Australia.

Under *A Step Up for Our Kids*, training is being rolled out to support carers and the workforce to provide trauma informed care to children and young people in the care system. The training commenced in September 2015 with foster and kinship carers the first cohort to receive this training. The training will continue to be delivered during 2016 to carers, agency staff and government staff.

The Australian Red Cross was engaged in December 2015 to deliver the new birth parent advocacy support service. This service provides independent information and support to parents who come into contact with the statutory system, to empower parents, provide information and help them to navigate and understand processes.

The foster and kinship carer advocacy service is currently being commissioned to provide independent advocacy support services to kinship carers and foster carers experiencing difficulty in their caring role. It will provide a mechanism to support and empower carers in resolving issues with service providers and Child and Youth Protection Services (CYPS).

The children and young people engagement support service is also currently being commissioned to provide a mechanism to engage with children and young people who are in the care system, or who have left the care system. It will also provide information and a support network for these children and young people.

ACT governance and legislative framework

To provide an overview of the ACT governance and legislative framework, it is best to explain the separate domestic and family violence and child protection systems before examining how the ACT is responding to these complex policy issues.

Domestic and family violence

Governance arrangements

There is no Minister with sole responsibility for domestic and family violence in the ACT. The Attorney-General has responsibility for the *Domestic Violence and Protection Orders Act 2008* (DVPO Act) which is administered by the Justice and Community Safety Directorate (JACS). The Minister for Women has oversight of issues affecting women including domestic violence. This work is undertaken by the Office for Women, Community Services Directorate.

In May 2015, the ACT Government appointed the Deputy Director-General, Justice of JACS to the position of Coordinator-General for Domestic and Family Violence. The role is tasked with coordinating all domestic and family violence prevention initiatives within the ACT.

Following the appointment, a Coordinator-General Reference Group was established. Members of the reference group include Deputy Directors-General of Education and Training, Health, Community Services and the Chief Minister and Treasury directorates together with the Deputy Chief Police Officer. The reference group is tasked with determining the strategic direction of domestic and family violence work across the ACT Government. There are a number of other governance groups that have oversight of the ACT's response to domestic violence. These groups include:

- Domestic Violence Prevention Council (DVPC) which provides advice to the Attorney-General;
- Family Violence Intervention Program (FVIP);
- Governance Group for ACT Prevention of Violence against Women & Children Strategy 2011–2017 (Governance Group); and
- Domestic Violence Project Coordinator who is currently the Victim of Crime Commissioner.¹⁸

¹⁸ Details on the establishment, functions and key actions of each group are detailed at Appendix 3.

Relevant legislation

Domestic and family violence typically refers to violence of an interpersonal nature occurring in the home or within family or intimate partner relationships. It often includes abuse of a sexual, emotional, physical, economic, verbal, social or spiritual nature.¹⁹ There is no consistent, international definition of domestic and family violence.

The World Health Organisation has defined family violence broadly to include:

Child maltreatment, sometimes referred to as child abuse and neglect, includes all forms of physical and emotional ill-treatment, sexual abuse, neglect, and exploitation that results in actual or potential harm to the child's health, development or dignity. Within this broad definition, five subtypes can be distinguished – physical abuse; sexual abuse; neglect and negligent treatment; emotional abuse; and exploitation.

The terms domestic, family, intimate partner violence and sexual assault are used to describe different forms of violence committed within intimate and family relationships. In the ACT, there is “a general lack of understanding of what constitutes domestic and family violence, especially the non-physical manifestations of family violence – by victims themselves, family, friends, neighbours, services (including Government services), doctors, counsellors, lawyers, co-workers and the general community”.²⁰

In the ACT, these terms are legally encompassed under a single definition of ‘domestic violence’ which includes sexual violence, intimate partner violence and other types of domestic or family violence. Conduct is defined as domestic violence in section 13(1) of the DVPO Act if it:

- a. causes physical or personal injury to a relevant person; or

- b. causes damage to the property of a relevant person; or
- c. is directed at a relevant person and is a domestic violence offence; or
- d. is a threat, made to a relevant person, to do anything in relation to the relevant person or another relevant person that, if done, would fall under paragraph (a), (b) or (c); or
- e. is harassing or offensive to a relevant person; or
- f. is directed at a pet of a relevant person and is an animal violence offence; or
- g. is a threat, made to a relevant person, to do anything to a pet of the person or another relevant person that, if done, would be an animal violence offence.

Under section 15 a relevant person is defined to include:

- a. a domestic partner or former domestic partner of the original person;
- b. a relative of the original person;
- c. a child of a domestic partner or former domestic partner of the original person;
- d. a parent of a child of the original person; and
- e. someone who is or has been in an intimate relationship with the original person.

The ACT definition contained in the DVPO Act has been criticised for failing to mention emotional, psychological or economic abuse.²¹ The recent Victorian Royal Commission stated that, “A clear and comprehensive definition of family violence is important for both practical and symbolic purposes. To define conduct as family violence is to express the community’s shared condemnation of that conduct”.²² Figure 4 outlines the legislative relationship between domestic violence, intimate partner violence, family violence and sexual assault in the ACT.

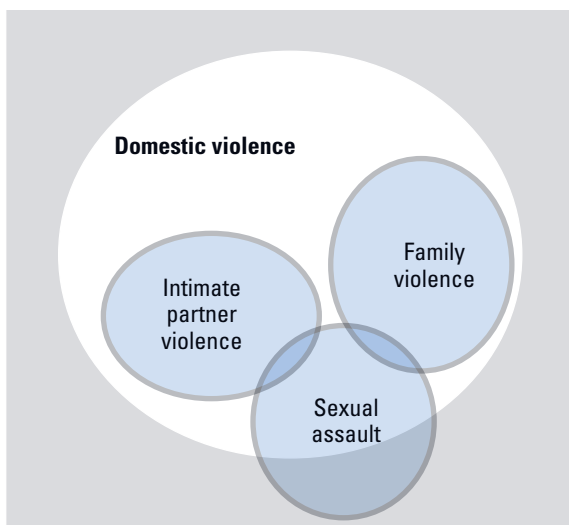
¹⁹ Compo et al (2014) as cited in ANROWS (2015) ‘The Patricia Project’ Pathways and research in collaborative Inter-Agency working. Issue 14, 2015. http://media.aomx.com/anrows.org.au/s3fs-public/14_4.5%20Landscapes%20PATRICIA_F_0.pdf Page 8.

²⁰ Domestic Violence Prevention Council (2016) *Report on the Findings and Recommendations from the Review of Domestic and Family Violence Deaths in the ACT*. Page 3. (unpublished).

²¹ Families ACT (2016) *Domestic and Family Violence Research Briefing Paper*. Page 9; ACT Government (2016) ACT Literature Review for the Gap Analysis of Domestic Violence services. http://www.communityservices.act.gov.au/__data/assets/pdf_file/0005/793337/Gap-Analysis-Project-Literature-Review.pdf Page 11–12.

²² Royal Commission into Family Violence (2016) *Royal Commission into Family Violence Summary and recommendations* (Victoria). http://www.rcfv.com.au/MediaLibraries/RCFamilyViolence/Reports/RCFV_Full_Report_Interactive.pdf. Page 16.

Figure 4: Legislative relationship between domestic violence, intimate partner violence, family violence and sexual assault



However, the general community often refers to domestic violence as intimate partner violence and uses the term family violence as the broader term encompassing violence against a variety of family members including intimate partners (see Figure 4). During the Inquiry’s consultations this was often the language that people used. The Australian Law Reform Commission report *A National Legal Framework* recommended that all jurisdictions provide a definition of family violence that is violent or threatening behaviour, or any other form of behaviour that coerces or controls a family member or causes that family member to be fearful.²³

The *ACT Protection of Violence Against Women and Children Strategy 2011–2017* recognises:

Family violence is a broader term that refers to violence between family members, as well as violence between intimate partners. Domestic and family violence includes physical, sexual, emotional and psychological abuse. While there is no single definition, the central element of domestic and family violence is an ongoing pattern of behaviour aimed at controlling a victim through fear, for example by using behaviour

²³ Australian Law Reform Commission (2010) *Family Violence – A National Legal Response*. ALRC Report 114. Chapter 19 ‘The Intersections of Child Protection and Family Laws’. <https://www.alrc.gov.au/publications/family-violence-national-legal-response-alrc-report-114>. Page 36.

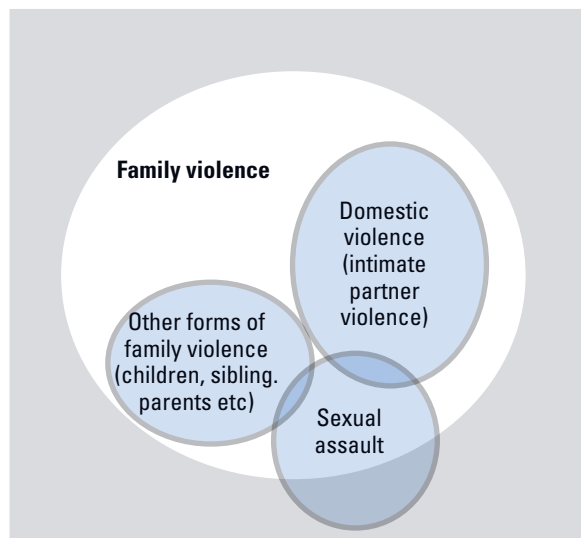
*which is violent and threatening. In most cases, the violent behaviour is part of a range of tactics to exercise power and control over women and their children, and can be both criminal and non criminal.*²⁴

This Report has used the term ‘domestic violence’ in a subset of the broader concept of family violence as illustrated in Figure 5.

The Inquiry understands that family violence does not discriminate and affects the whole community including Aboriginal and Torres Strait Islander people, people from a culturally and linguistically diverse background, people with a disability and lesbian, gay, bisexual, transgender, intersex and queer people.

While anyone can be a victim, statistically family violence is predominantly committed by men against women. The Inquiry notes that “men can also be victims of violence when they are children or as older people, and violence can be used against them by adolescent or adult children, siblings and other family members”.²⁵

Figure 5: The relationship between family violence, domestic violence and sexual assault in practice in the ACT



²⁴ ACT Government (2011) *ACT Prevention of Violence against Women & Children Strategy 2011–2017*. http://www.dhcs.act.gov.au/_data/assets/pdf_file/0014/231341/ACT_Prevention_of_Violence_Against_Women_and_Children_Strategy_2011.pdf. Page 15.

²⁵ Royal Commission into Family Violence (2016) ‘*Royal Commission into Family Violence Summary and recommendations*’ (Victoria) Page 211.

A person cannot be charged with the offence of 'family violence'. Instead a person will usually be charged with an offence against the person or a property damage offence contained in the *Crimes Act 1900*. This may include offences such as intentionally inflicting grievous bodily harm, common assault, stalking, kidnapping, destroying or damaging property etc. For an extensive list of offences that may be charged as a result of a family violence incident see Schedule 1 of the DVPO Act. It is a criminal offence to breach a Domestic Violence Order (DVO). A DVO in the ACT may include children and is not just between intimate partners reflecting the broad legal definition of domestic violence in the ACT.

For further details on legislation operating in relation to domestic violence in the ACT see Appendix 4.

Child protection

Governance arrangements

On 1 April 2016, a new rights protection framework consisting of a restructured Human Rights Commission and expanded Public Trustee commenced in the ACT. The changes to the rights protection framework aim to deliver:

- a more cohesive and unified Human Rights Commission;
- improved accountability and governance;
- more efficient and effective service delivery; and
- improved community interaction and public experience.

It is understood the functions of the Commissioners have largely stayed the same, however, some changes have been made to create a single process for handling complaints. This means complaints are handled by an area of the Commission separate to that delivering individual advocacy.

The Public Advocate and Children & Young People Commissioner in the Human Rights Commission and Official Visitors for Children and Young People have important statutory oversight roles in monitoring and overseeing the support services provided to children, young people and their families who come into contact with the child protection system (see Figure 6). These statutory office holders report to

the Attorney-General who is responsible for the legislation creating these roles.

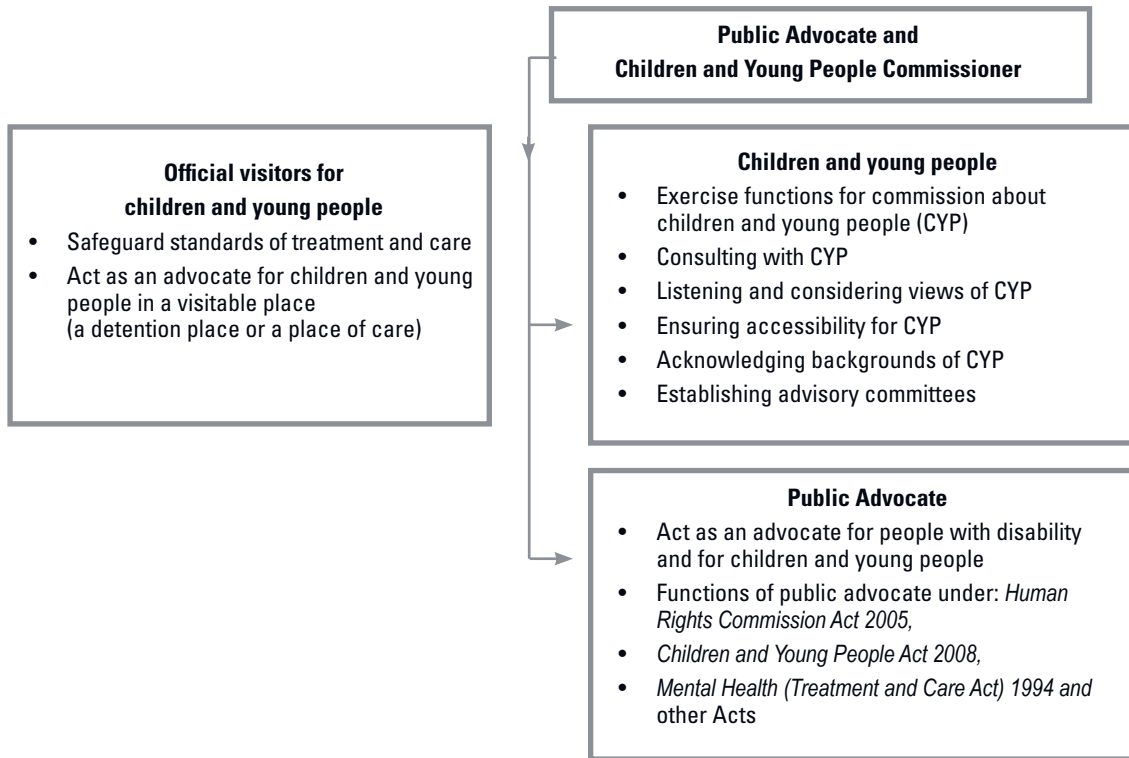
The functions of the Public Advocate and Children & Young People Commissioner are focused on individual advocacy such as for an individual child or young person in contact with the child protection and youth justice systems.

The role of the ACT Official Visitor Scheme is to safeguard standards of treatment and care and advocate for the rights and dignity of people being treated under specified legislation. Under the CYP Act there are Official Visitors for Children and Young People. Official Visitors perform their functions by visiting visitable places (a detention place or a place of care), talking to entitled persons, inspecting records, reporting on the standard of facilities and reporting to the operational Minister and other public authorities. Official visitors also resolve grievances and day to day issues.

The ACT Children and Young People Death Review Committee, which is an independent committee established to review information about the deaths of children and young people in the ACT, identifies emerging patterns and undertakes research aimed at preventing or reducing the deaths of children. The Committee is able to recommend changes to legislation, policies, practices and services that will help to prevent the number of deaths of children or young people in the ACT.

Under section 27(1) of the CYP Act, the Minister may establish a Ministerial Advisory Children and Youth Services Council from time to time to exercise stated functions for a stated period in relation to services for children and young people in the ACT. The current Council has been established to provide advice to the Minister for Children and Young People about the implementation of the out of home care reforms contained in *A Step Up for Our Kids* (Out of Home Care Strategy 2015–20).

Figure 6: Statutory office holder functions



Relevant legislation

The CYP Act is the primary ACT law that provides for the protection, care and wellbeing of children and young people. It addresses a range of areas that impact upon the daily lives of children and young people, such as childcare services, children and young people in employment, children and young people for whom there are care and protection concerns and young people involved in the youth justice system.

Part 1.2 of the CYP Act sets out the objects, principles and considerations that apply to the administration of the Act. Importantly the best interests of the child or young person must be regarded as the paramount consideration for decisions and action taken under the CYP Act. That said, what is in a child’s best interests in a particular situation, is largely a matter for subjective determination. An additional principle applying to Aboriginal and Torres Strait Islander

children and young people is included to recognise the connection of the child or young person to their community and the need to involve their community in decisions being made.

This Inquiry is concerned with the care and protection chapters of the CYP Act that provide the legislative framework for the child protection and out of home care systems, in particular:

- reporting, assessing and appraising (investigating) allegations of abuse and neglect;
- information sharing; and
- regulation and oversight.

The Minister for Children and Young People is responsible for the care and protection chapters of the CYP Act and CSD administers these chapters.

The Inquiry recognises the interplay of the criminal chapters of the CYP Act as some young people come into contact with the child protection and youth justice systems.

Other relevant legislation includes the *Adoption Act 1993*, *Human Rights Act 2004*, *Human Rights Commission Act 2005*, *Official Visitor Act 2012*, *Working with Vulnerable People (Background Checking) Act 2011* and the *Family Law Act 1975 (Cth)*.

Snapshot of past reviews and recommendations

As part of this Review, the Inquiry has looked at outcomes from previous reviews and inquiries on similar or related subject matters in the ACT and elsewhere. These include:

Domestic and family violence

- ACT Victims of Crime Commissioner: *We Don't Shoot Our Wounded Report* (2009)
- Australian Law Reform Commission: *Family Violence – A National Legal Response* (2010)
- The Domestic Violence Prevention Council: *Report on Domestic and Family Violence including sexual assault in the ACT* (2015)
- Victorian Royal Commission into Family Violence: *Report of the Victorian Royal Commission into Family Violence* (2016)
- Council of Australian Governments Advisory Panel on Reducing Violence against Women and their Children: *Final report* (2016)

Child protection services

- Northern Territory Board of Inquiry: *Growing them strong, together: Promoting the safety and wellbeing of the Northern Territory's children* (2010)
- ACT Human Rights Commission: *Report into the ACT Youth Justice System* (2011)
- Professor Eileen Munro: *The Munro Review of Child Protection [in England]: Final Report* (2011)

- ACT Public Advocate: *Review of the Emergency Response Strategy for Children in Crisis in the ACT* (Interim Report) (2011)
- ACT Public Advocate: *Review of the Emergency Response Strategy for Children in Crisis in the ACT* (2012)
- Protecting Victoria's Vulnerable Children Inquiry: *Report of the Protecting Victoria's Vulnerable Children Inquiry* (2012)
- ACT Auditor-General's Office: *Performance Audit Report Care and Protection System* (2013)
- Queensland Child Protection Commission of Inquiry: *Taking Responsibility: A Roadmap for Queensland Child Protection* (2013)
- The Senate Community Affairs References Committee: *Out of Home Care Inquiry* (2015)
- Professor Maria Harries: *Report: Redesign of Child Protection Services Tasmania* (2016)

This Report will not detail the findings or recommendations of these reviews or inquiries as they are publicly available and have been discussed at length in other forums. In reviewing these reports there was a large degree of consistency in the issues identified and recommendations made, as was the case in reviewing the Australian and international research. It is clear to the Inquiry that the significant issue that exists is not identifying the problems but how to implement and secure real change. For this reason the findings and recommendations of this Inquiry attempt to focus on practical implementation elements to effect change, as well as necessary legislative and administrative changes that will facilitate and support the desired outcomes.

It is important to note that many of the broad findings and recommendations from the above reviews and inquiries are highly relevant to the ACT system including the need to:

- improve record keeping and data capability;
- improve robust decision-making, quality assurance and legislative compliance;
- improve information sharing between and within government and non-government agencies;
- provide timely and appropriate services and supports that are person-centred, with a particular focus on early intervention and prevention;

- improve service and system integration;
- reduce demands being placed on statutory services and increase the capacity of the service system;
- improve collaboration across government and with non-government agencies;
- build workforce capability and capacity; and
- strengthen accountability, governance and regulatory arrangements for government and non-government agencies.

Snapshot of action taken to address domestic and family violence and child abuse and neglect in the ACT

Domestic and family violence

'Preventing domestic violence' is an ACT Government Strategic Priority for 2015–16. This incorporates a commitment to working on the Second Implementation Plan for the *ACT Prevention of Violence against Women & Children Strategy 2011–2017* and pursuing legislative reforms, including in relation to the National Domestic Violence Order scheme. It also includes providing further support to ACT services.

The Second Implementation Plan under the ACT Strategy articulates the Government's commitment to end violence against women and children. It also provides a whole-of-Government policy framework for addressing domestic and family violence in the ACT, and reflects the Territory's commitments under the National Plan.

Appointment of the Coordinator-General

In May 2015 the Deputy Director-General, Justice of JACS, Vicki Parker was appointed to the role of Coordinator-General for Domestic and Family Violence. The role is tasked by the Attorney-General to coordinate all domestic and family violence initiatives within the ACT.

Following the appointment, a Coordinator-General Reference Group was established. Members of the reference group include Deputy Directors-General of Education and Training, Health, Community Services

and the Chief Minister, Treasury and Economic Development directorates together with the Deputy Chief Police Officer. The reference group is instrumental in determining the strategic direction of domestic violence work across the ACT Government.

Legislation

On 27 October 2015 the *Crimes (Domestic and Family Violence) Legislation Amendment Bill 2015* (the Bill) was passed by the Legislative Assembly. The Bill contained amendments to:

- amend the offence of strangulation to reflect that where the act does not cause unconsciousness, it is still an act that endangers health;
- allow police records of interview to be admitted as evidence in chief for family violence and all sexual offences
- expand the special measures provisions to allow special measures to apply to breaches of domestic violence orders and other select offences; and
- create a new form of interim Domestic Violence Order (DVO) which will continue to operate while there are current criminal charges unresolved before the court.

The Attorney-General has also announced a major family violence legislative reform program that will address the 131 recommendations directly relevant to states and territories from the Australian and New South Wales Law Reform Commissions' Report *Family Violence – A National Legal Response* (Family Violence Report). It is expected that legislation for a first tranche of amendments will be introduced in 2016. The reform program will include:

- investigation of how police-issued domestic violence orders could be adopted in the ACT; and
- amendments to the definition of domestic and family violence to include 'behaviour by the person using violence that causes a child to be exposed to the effects of violence' (in line with recommendation 5.1 of the Family Violence Report).

ACT Policing

In October 2015, ACT Policing put in place two family violence and community safety teams in a restructure designed to strengthen its response to domestic abuse. The teams made up of both sworn and unsworn officers, will operate alongside frontline police and detectives, who will continue to attend and investigate family violence offences. The Family Violence team has a coordination role, ensuring the front line response by ACT Policing to family violence matters is timely, consistent and comprehensive. Their activities involve working closely with external stakeholders to ensure the best outcomes are achieved.

ACT Policing Family Violence Coordination Unit has commenced training of all sworn operational police officers in relation to the taking of Evidence in Chief statements from victims of family violence in preparation for the relevant amendment commencing on 4 May 2016. These law reforms commence on 4 May 2016. As of 29 February 2016, 12 courses have been conducted, training 336 operational police officers. Recently ACT Policing reviewed and strengthened internal oversight process when allegations of child abuse are received from CYPS and an investigation is not undertaken.

ACT Corrective Services

ACT Corrective Services has commenced the Domestic Abuse Program (DAP) in Community Corrections for medium, medium-high and high-risk offenders. The DAP is targeted at men who are convicted of a domestic abuse offence against their current or recent ex-partner. The program aims to address issues within relationships, whether the victim of the offence is a current or past partner, and explores links between behaviours, thoughts and feelings in relation to offending, leading to a model of accepting responsibility and victim safety.

Education

Housing and Community Services, CSD reviewed and updated its *Domestic and Family Violence Policy Manual* to better reflect contemporary approaches in responding to domestic and family violence, including jurisdictional and national strategies. The manual provides a Family Violence Service Delivery Framework, outlining the pathways and responsibilities for each HACS business unit in responding to family violence.

The ACT Government has funded Social and Emotional Learning in ACT Public schools. Identified evidenced based programs have shown to have a positive impact on the learning outcomes of students and improve a sense of connection with the school. The funding is part of the ACT Government's early intervention and prevention approach to address domestic violence by enhancing the skills of children and young people to engage in respectful relationships.

Research

The gap analysis of the domestic violence service system has been completed and is expected to be published around the same time as this Report. The gap analysis mapped out and reviewed services and systems that interact with women and children who have experienced domestic violence, viewing all these pieces and parts of other systems (such as health and education), as 'the system' for responding to domestic violence.

The analysis identified gaps, duplication and cross-over within the system and identified opportunities to realign resources to better meet the needs of women and children along a continuum from early intervention to post crisis stability and to improve integration across and within the system.

The Office for Women consulted stakeholders both across government and in the non-government sector. Stakeholders were very supportive of the gap analysis project and acknowledged their role in responding to domestic and family violence. Representatives from 28 agencies from across government and community were consulted.

As part of the consultation process the Office for Women developed a survey targeting agencies that interact with, or provide advice, information, support and advocacy to women and children, who are (or may be) the victims of domestic violence, and perpetrators of domestic violence. The survey was available for a two week period in October 2015. 83 completed survey responses were received.

Review of Domestic and Family Violence Deaths in the ACT

The Domestic Violence Prevention Council (DVPC) funded by the ACT Government is undertaking a *Review of Domestic and Family Violence Deaths in the Australian Capital Territory* (the Review). The Council has provided a confidential version of its report to the Attorney-General and is working on completing a version for publication. The Review is an important opportunity to provide a clearer picture of domestic and family violence in the ACT, and will be a valuable tool in informing future government decisions about domestic and family violence prevention and detection mechanisms.

Child abuse and neglect

National approach to addressing child abuse and neglect

In Australia, states and territories have the statutory responsibility for child protection and out of home care. However, out of home care remains a national priority. The Commonwealth, states, territories and the community sector work in partnership to improve child safety and wellbeing, in particular for vulnerable children and young people. This collaborative approach is outlined in the *National Framework for Protecting Australia's Children 2009–2020* (National Framework) that was endorsed by COAG in 2009. The National Framework is delivered through a series of three year action plans aimed at achieving a substantial and sustained reduction in child abuse and neglect over time.

The National Framework focuses efforts on areas where national leadership and collaboration can make a contribution to resolving specific issues affecting the safety and well-being of children and

young people. The National Framework reflects a commitment from governments to move from a crisis-driven system to a public health model focused on universal support for all families with more intensive or targeted responses for families that need additional support.

Under the National Framework service integration, improving information sharing and reducing family violence have been identified as priority areas for action by all governments. To a greater or lesser extent, a number of national and state and territory specific actions have progressed these priority areas.²⁶ However, it is evident from this Inquiry and recent reviews outlined above that further action is necessary to achieve better integration between services, greater responsiveness, increased information sharing and a reduction in family violence.

ACT response

Governments are responding to increasing demands placed on the child protection system through reforms in government and non-government services and programs, funding, legislation, policies, and staff recruitment, retention and development strategies. Many of these reforms are in response to recommendations contained in the 14 reviews or inquiries into child protection systems that have been initiated by governments between 2002 and 2010.²⁷ There have been at least six more inquiries and reviews that have taken place in Australia since 2010.

In the ACT over the past five years there have been two reviews into the child protection system and a third that, while dealing with youth justice issues, also touched on child protection:

- ACT Public Advocate: *Review of the Emergency Response Strategy for Children in Crisis in the ACT* (interim report in 2011 and final report in 2012);

²⁶ ACIL Allen Consulting (2015) *Evaluation of progress under the National Framework for Protecting Australia's Children: Final report*. (unpublished).

²⁷ McHugh, M. and Pell, A. (2013) *Reforming the Foster Care System in Australia: A New Model of Support, Education and Payment for Foster parents and A Call to Action for State and Federal Governments and Community Sector Organisations*. www.berrystreet.org.au/Assets/2472/1/261113EDITEDREPORT_FINAL.pdf.

- ACT Auditor-General's Office: *Performance Audit Report Care and Protection System* (2013); and
- ACT Human Rights Commission: *Report into the ACT Youth Justice System* (2011).

As outlined in the various ACT Government responses to the reviews, a number of significant reforms and initiatives are being progressed by the Government to address child abuse and neglect, strengthen the child protection and human services systems and achieve better outcomes for vulnerable families. Importantly, a number of these reforms aim to address system-wide issues. Key reforms and initiatives include:

Key out of home care and child protection reforms and initiatives

- Additional funding of \$38.9 million in the child protection and out of home care systems
 - Development of an Integrated Management System
 - Implementation of *A Step Up for Our Kids* (Out of Home Care Strategy 2015–20)
 - Establishment of Child and Youth Protection Services (CYPS) which brings together child protection and youth justice services
 - Development of a new client management system for CYPS
- The 2015–16 ACT Budget provided \$38.9 million over four years to fund the out of home care system, including an investment of \$16 million in new services and reforms through the implementation of *A Step Up for Our Kids*.
 - Development of an Integrated Management System (IMS) as a single information system for staff to access policies, procedures and tools to assist staff in complying with legislative and policy requirements and improve decision making. The IMS will include a practice framework, case management framework and risk assessment framework
- Development of a new client management system for CYPS. The new system will replace the existing legacy systems and provide immediate access to information about children and young people at risk, assist case management functions and provide real time reports and data to support the work of CYPS. The ability for field caseworkers to have secure mobile access to the system will be an important part of the development. There will also be mechanisms to improve the automation of the exchange of information about children and young people between non-government out of home care agencies and CSD. The system will also have the potential to be used by other programs in CSD. The new system is estimated to commence on 1 July 2017.
 - Implementation of *A Step Up for Our Kids*, which is the ACT's new five year strategy to reform out of home care. *A Step Up for Our Kids* is designed to stem the rate of entry of children and young people into care through new placement prevention and reunification services; improve outcomes for children and young people in care; and, wherever possible, exit children and young people from care into permanent alternative families in a timely way.
 - Establishment of CYPS on 1 July 2015. CYPS provides a single statutory service by bringing together child protection and youth justice services. It is intended that CYPS will provide a trauma-informed response to diversion, protection, restoration and permanency for children and young people and realising the benefits of fewer children and young people in out of home care and better connection of vulnerable young people with their community.
 - CSD intends to implement a new organisation structure given the significant changes in directorate service provision that is currently underway with disability, therapy and out of home care services being provided by non-government agencies. The new structure is intended to commence 1 July 2016.

As part of these changes, the Early Intervention branch in the Office for Children, Youth and Family Support (OCYFS) division will be moved to Service Strategy and Community Building (SSCB) division. SSCB will be re-named Strategy, Participation and Early Intervention. The new division will incorporate Child Development and Family Support, which will link the Child Development Service (trauma therapy) and early intervention work in the Child and Family Centres more closely with the *Better Services* initiatives and community participation programs.

OCYFS will be re-named Child and Youth Protection Services. This means the division will only be statutory child protection and youth justice services.

Overview of relevant ACT initiatives to support vulnerable families

This section provides an overview of related ACT initiatives that aim to strengthen services provided by the ACT Government to improve outcomes for vulnerable families in the ACT. ACT initiatives supporting vulnerable families include:

ACT initiatives supporting vulnerable families

- Child and Family Centres – focus on early intervention and prevention services for families in local community settings
- *Human Services Blueprint* – aims to change the way human services are designed and delivered across government and non-government agencies by focusing on collaboration, service integration and client outcomes
- *Better Services initiatives* – Local Services Network in West Belconnen, One Human Services Gateway and Strengthening Families give effect to the aims of the *Human Services Blueprint*

- The Child and Family Centres play an important role in supporting vulnerable families. The Centres are located at Gungahlin, Tuggeranong and West Belconnen and work with local children, families and community organisations to determine the service need, and the best way services might be provided to enable children to reach their potential and to strengthen families. Government and community organisations work in partnership with Centre staff to deliver universal, targeted and tailored services to the local community. Services are also delivered in outreach settings such as the family home, the child’s school or a community setting.

It is understood the service model of the Centres is currently being revised to better integrate Centre services with the local service system and align with the *Human Services Blueprint*. The aim is to better collaborate with government and non-government agencies and respond to community needs.

- The development of the *Human Services Blueprint* is a whole-of-community and whole-of-government plan to change the way that human services are developed and delivered in the ACT. The Blueprint will bring together the network of services and supports across the areas of health and wellbeing, education, social housing, disability, child protection and youth and adult justice. The Blueprint guides the implementation of three *Better Services initiatives*:
 - The Local Services Network in West Belconnen (the Network) is implementing key elements of the *Human Services Blueprint* to create better outcomes for individuals in the West Belconnen community, by ensuring that people are supported with the right service, at the right time and for the right duration.
 - The One Human Services Gateway (Gateway) will be a welcoming shopfront that acts as a single point of contact for people who are seeking assistance with housing, disability (including transitioning to the NDIS and employment assistance), support for children, young people and families, conflict resolution and debt management. People can access the information they need from a staff member or using the

self-help function, and where appropriate are linked to a range of services and supports.

The Gateway's partnership model continues to grow, with an increasing number of services co-locating or participating in gateway services by providing information and referrals. The mix and type of services available is increasing.

- Strengthening Families is a voluntary program that works with families to identify their needs and then coordinate the services they require. Each family in the program is supported by a trained lead worker who works with the family to understand what is going well and where things have gone off track and could be improved. The lead worker is chosen by the family and is typically someone they met through a service or program that worked well with them. Together the family and the lead worker develop a family plan which identifies the support and services that will help the families meet their goals.

CHAPTER 3

FAMILY VIOLENCE AND CHILD PROTECTION RESEARCH AND STATISTICS

Overview of key Australian and international research findings

As part of the Review, the Inquiry has looked at Australian and international research findings that are of relevance to this Review. The research findings are largely consistent and have been captured in the majority of the inquiries and reviews into domestic violence and child protection in Australia and internationally.

Domestic and family violence

Key thematic findings from domestic and family violence research are:

- Shifting the focus from protection and reaction to early intervention and prevention including addressing social attitudes and gender inequality that allow family violence to prevail.²⁸
- Responses should focus on the specific needs of people affected by domestic and family violence and improve victim safety. This includes

²⁸ Jewkes, R. (2002). Preventing domestic violence. *BMJ*, 324(7332), 253–254.

implementing therapeutic models as part of criminal justice approaches to family violence.²⁹

- There is a need for multi-agency collaboration, including information sharing and service integration, to allow for better identification of client risks, needs and strategies to address them.³⁰
- Offender accountability needs to be improved.³¹

²⁹ Mulroney, J. (2003). *Trends in interagency work*. Topic paper 2. Sydney: Australian Domestic and Family Violence Clearinghouse; Eley S (2005) Changing practices: The specialised domestic violence court process. *The Howard Journal* 44(2): Page 113–124; Powell A & Murray S (2008) *Children and domestic violence: Constructing a policy problem in Australia and New Zealand*. *Social & Legal Studies* 17(4): Page 453–473.

³⁰ Souhami, A. (2008) cited in Green S, Lancaster E & Feasey S (2008) *Addressing offending behaviour: Context, practice and values*. Devon, UK: Willan Publishing; Dobash, R. (2003) *Women, violence and social change*. Routledge.

³¹ Mulroney, J. (2003). *Trends in interagency work*. Topic paper 2. Sydney: Australian Domestic and Family Violence Clearinghouse; Lee, M. Y., Sebold, J., & Uken, A. (2003). *Solution-focused treatment of domestic violence offenders: Accountability for change*. Oxford University Press, USA.

Shifting the focus from protection and reaction to early intervention and prevention

Domestic and family violence is an important cause of long-term problems for children, families and communities. It has inter-generational consequences in terms of the repetition of abusive and violent behaviours.³² For this reason there is a need to not only focus on crisis and legal/justice responses, but also to invest in early intervention and prevention programs that stop the cycle of domestic and family violence.

Early intervention and prevention responses to domestic and family violence aim to reduce some of the long-term consequences of such abuse and to deliver long-term savings to the government and community. Such approaches include addressing the link between alcohol and domestic and family violence, changing behaviour in perpetrators (mainly men) committing domestic and family violence, addressing social conditions that give rise to it and promoting gender equality. An early intervention approach means shifting government funding and resources from crisis responses and justice system mechanisms to preventive measures.

Parenting programs for vulnerable families can also be considered as prevention strategies given aggression and violence experienced in childhood and adolescence can predict acts of domestic violence, assault and abuse in adulthood.³³ From this perspective primary support services should play an important role in identifying and responding to domestic and family violence at the earliest possible stage.³⁴

³² Guy, J., Feinstein, L., & Griffiths, A. (2014) *Early intervention in domestic violence and abuse*. Page 9.

³³ Toubmourou, J.W., Leung, R., Homel, R., Freiberg, K., Satyen, L., and Hemphill, S.A. (2015) *Violence prevention and early intervention: what works?* In Andrew Day & Ephrem Fernandez (Eds.), *Preventing violence in Australia: Policy, Practice and Solutions*. (pp. 45–62). Sydney: Federation Press. Page 46.; Osofsky, J. D. (2003). Prevalence of children's exposure to domestic violence and child maltreatment: Implications for prevention and intervention. *Clinical child and family psychology review*, 6(3), 161–170.

³⁴ Royal Commission into Family Violence (2016) *Royal Commission into Family Violence Summary and recommendations* (Victoria). http://www.rcfv.com.au/MediaLibraries/RCFamilyViolence/Reports/RCFV_Full_Report_Interactive.pdf. Page 9.

Responses should focus on the specific needs of people affected by domestic and family violence and improve victim safety

Responses to domestic and family violence need to ensure the safety of victims as well as support their recovery and resilience. The age of victims and whether the violence was intimate or non-intimate related can affect the degree of recovery or resilience.³⁵ For many victims recovery not only involves physical and mental health and wellbeing but also economic security (employment) and housing.

Children and young people who witness or experience family violence may as a result display behavioural problems and developmental delays. Consequently children and young people have specific needs that are separate from the needs of adult/parent victims and require specialised knowledge and skills to appropriately respond. Many adult programs are designed for women (in recognition that women are disproportionately the victims) while minimal attention is focused on appropriate responses to children and young people. Service responses tend to consider children and young people as a secondary target group, not the primary victims of family violence.³⁶

Multi-agency collaboration and service integration

Collaboration and service integration across the service system is necessary to better respond to victims of domestic and family violence. There are differences between collaboration and service integration. Collaboration involves the exchange of information, the timing and management of service delivery. In contrast, service integration requires agencies to have common goals and agree on ways to pursue those goals. This can include co-location of service providers, protocols and joined-up service delivery.

³⁵ Cussen, T., & Lyneham, M. (2012). *ACT family violence intervention program review*. Australian Institute of Criminology. Page xiv.

³⁶ Bagshaw, D., Chung, D., Couch, M., Lilburn, S. and Wadham, B. (2000) *Reshaping responses to domestic violence*. University of South Australia. Page 72.

Despite the approach taken, priority needs to be given to a shared understanding of domestic and family violence across all services, prioritising the safety of victims and a proactive approach to information sharing. Improved service responses need to be more holistic and family-centred and include greater collaboration and integration between community and health services, specialist domestic and family violence services, child protection services, police and justice services.³⁷

Offender accountability needs to be improved

As part of developing a service system that works towards the safety and well-being of victims who experience domestic and family violence, there is an increased recognition on improving offender accountability. Many victims of domestic and family violence are dissatisfied with court processes or find them traumatic, often because the processes fail to adequately meet victims' needs for participation, having a voice, validation, offender accountability and restoration.³⁸ Responses to domestic and family violence also need to place victims at the centre of the response and not blame them for their circumstances.

Perpetrator accountability includes both formal and informal accountability processes. Formal accountability processes include the criminal justice, civil justice and child protection systems. Services and supports for perpetrators of domestic and family violence are considered informal accountability processes. Perpetrator accountability systems are strongest when formal and informal accountability processes work together.³⁹

³⁷ Collins, J. J., Kroutil, L. A., Roland, E. J., & Moore-Gurrera, M. (2002). *Issues in the linkage of alcohol and domestic violence services*. In *Recent developments in alcoholism* Springer US. Page 387-405; Daro, D., Edleson, J. L., & Pinderhughes, H. (2004). *Finding common ground in the study of child maltreatment, youth violence, and adult domestic violence*. *Journal of Interpersonal Violence*, 19(3), Page 282–298.

³⁸ Royal Commission into Family Violence (2016) *'Royal Commission into Family Violence Summary and recommendations'* (Victoria). http://www.rcfv.com.au/MediaLibraries/RCFamilyViolence/Reports/RCFV_Full_Report_Interactive.pdf Page 30.

³⁹ Not to Violence – Male Family Violence Prevention Association (nd) *What can be done to strengthen accountability for men who perpetrate family and domestic violence?* <http://ntv.org.au/wp-content/uploads/130919-ntv-accountability-paper.pdf> .Page 5.

Child protection

Key findings from child protection research are:

- Shift the focus from protection and reaction to early intervention and prevention. The child protection system should be aimed at the limited number of children and young people who are at risk and require statutory intervention.⁴⁰
- There is significant pressure being placed on the capacity of statutory child protection systems due to the large number of children and families in contact with child protection systems. This makes it difficult to respond effectively to the proportionally small number of children and young people who are at-risk of significant harm. There is a similar pressure on the out of home care system.⁴¹
- There is a co-occurrence of factors such as family violence, substance misuse and mental illness in child abuse and neglect cases. Consequently vulnerable families need to interact with multiple siloed services that can result in a 'revolving door' of referrals and fragmented service responses.⁴²
- The need for effective collaboration between adult specialist services and child and family

⁴⁰ Masson, J. (2008) *The state as parent: the reluctant parent? The problems of parents of last resort*. *Journal of law and society*, 35(1), 52–74; Geeraert, L., Van den Noortgate, W., Grietens, H., & Onghena, P. (2004) *The effects of early prevention programs for families with young children at risk for physical child abuse and neglect: A meta-analysis*. *Child Maltreatment*, 9(3), 277–291.

⁴¹ Waldfogel, J. (1998) *Future of child protection: How to break the cycle of abuse and neglect*. Cambridge: Harvard University Press; Bromfield L. M., & Holzer, P. (2008) *A national approach for child protection: Project report*. Melbourne: Australian Institute of Family Studies. www.aifs.gov.au/institute/pubs/cdsmac/projectreport.pdf; CFCA (2014) *Defining the public health model for the child welfare services context*. Melbourne: Child Family Community Australia information exchange, Australian Institute of Family Studies. www.aifs.gov.au/ctca/publications/defining-public-health-model-child-welfare-servi.

⁴² Warshaw, C., Gugenheim, A. M., Moroney, G., & Barnes, H. (2003) *Fragmented services, unmet needs: Building collaboration between the mental health and domestic violence communities*. *Health Affairs*, 22(5), 230–234; Freshman, B., Rubino, L. G., & Chassiakos, Y. R. (2010). *Collaboration across the disciplines in health care*. Jones & Bartlett Publishers; Tolan, P., Gorman-Smith, D., & Henry, D. (2006). *Family violence*. *Annu. Rev. Psychol.*, 57, 557–583; English, D. J., Marshall, D. B., & Stewart, A. J. (2003) *Effects of family violence on child behavior and health during early childhood*. *Journal of Family Violence*, 18(1), 43–57; Dube, S. R., Felitti, V. J., Dong, M., Chapman, D. P., Giles, W. H., & Anda, R. F. (2003) *Childhood abuse, neglect, and household dysfunction and the risk of illicit drug use: the adverse childhood experiences study*. *Pediatrics*, 111(3), 564–572; Smith, M. (2004) *Parental mental health: disruptions to parenting and outcomes for children*. *Child & Family Social Work*, 9(1), 3–11.

services to better respond to child protection and parental needs.⁴³

Shift the focus from protection and reaction to early intervention and prevention

Historically, government support for at risk children and young people has focused on tertiary interventions after abuse or neglect has occurred. In recent years, however, governments have been increasingly seeking to intervene earlier to support vulnerable children, young people and their families.

Early intervention programs can be an effective method of improving outcomes for vulnerable children, young people and their families. Studies have shown early intervention can be a more cost-effective investment in the long term than later interventions. Primary (universal) and secondary support services, both in terms of addressing risk factors and protective factors, can play an important role in preventing child abuse and neglect. Early intervention initiatives not only benefit children, young people and their families, but also the community more broadly, which ultimately bears the economic and social costs of any failure to intervene effectively.⁴⁴ Types of early intervention and prevention programs include:

- supported playgroups for children from birth to five years;
- home visiting programs (professional based);
- parenting and social support programs (professional and peer based);
- maternal health programs; and
- broader social and mental wellbeing programs.

Significant pressure is being placed on the capacity of statutory child protection systems

Across Australia and internationally, there is evidence of increasing demand for child protection and family services and supports. In Australia the drivers of this

⁴³ Scott, D. (2009) 'Think Child, Think Family': How Adult Specialist Services Can Support Children at Risk of Abuse and Neglect. *Family Matters*, 81:37–42; Darlington, Y., Feeney, J. A., & Rixon, K. (2005). *Interagency collaboration between child protection and mental health services: Practices, attitudes and barriers*. *Child abuse & neglect*, 29(10), 1085–1098.

⁴⁴ Victorian Auditor-General (2015) *Early Intervention Services for Vulnerable Children and Families*. PP No 34, Session 2014–15. Page ix.

demand are an increase in notifications (child concern reports), investigations and the number of children and young people being placed in out of home care. This demand is considered unsustainable.

From a public health approach there should be more primary than secondary services, and in turn, more secondary than tertiary services. Families should be referred directly to the most appropriate service to meet their needs. However, child protection services have limited ability to ensure families receive appropriate primary and secondary support services. For this reason governments are pursuing options to divert families from the statutory child protection system. For instance, governments are responding with increasing resources in early intervention and prevention services. Greater investment is also being made to reunite children placed in care with their families, where appropriate, to address the growing numbers and length of time children and young people spend in care.

The co-occurrence of factors such as family violence, substance misuse and mental illness in child abuse and neglect cases and the need to access multiple services

There is increasing recognition that families presenting to child protection services exhibit other issues, also known as risk factors, such as family violence, substance misuse and mental illness.⁴⁵ Common risk factors for child abuse and neglect are outlined in Table 2.⁴⁶

Any response to child abuse and neglect must also appropriately address these broader issues. However, too often families come into contact with siloed services that are not good at referring to other services or connecting services to respond more holistically to the needs of a family. For this reason a public health approach, along with increased collaboration and service integration between service providers, is well suited to address child abuse and neglect and respond to the needs of the family.

⁴⁵ Hartley, C. C. (2002). The co-occurrence of child maltreatment and domestic violence: Examining both neglect and child physical abuse. *Child Maltreatment*, 7(4), 349–358.

⁴⁶ Australian Institute of Family Studies (2013) *Risk and protective factors for child abuse and neglect*. CFCA Resource Sheet. <https://aifs.gov.au/cfca/publications/risk-and-protective-factors-child-abuse-and-neglect>.

Table 2: Common risk factors for child abuse and neglect

	Individual child factors	Family/parental factors	Social/environment factors
Risk factors	<ul style="list-style-type: none"> ▪ low birth weight ▪ disability (physical/cognitive/emotional) ▪ serious physical or mental illness ▪ temperament ▪ aggressive behaviour ▪ attention deficits 	<ul style="list-style-type: none"> ▪ parental substance abuse ▪ involvement in criminal behaviour ▪ family conflict or violence ▪ mental health problems ▪ physical health problems ▪ history of child abuse and neglect ▪ parental disability (physical/cognitive/emotional) ▪ large family size ▪ high parental stress ▪ poor parent-child interaction ▪ low warmth/harsh parenting style ▪ separation/divorce ▪ low self-esteem ▪ teenage/young parent/s ▪ single parent ▪ non-biological parent/s in the home ▪ low level of parental education ▪ use of corporal punishment 	<ul style="list-style-type: none"> ▪ socio-economic disadvantage ▪ parental unemployment ▪ social isolation ▪ inadequate housing ▪ homelessness ▪ lack of access to adequately resourced schools ▪ lack of access to social support, including child care and social services ▪ exposure to racism and/or discrimination ▪ stressful life events

Statistics snapshot

Domestic and family violence

National context

Domestic and family violence in Australia is a serious and growing social problem. It is estimated that 1.5 million women and 0.45 million men have experienced violence by a cohabiting partner.⁴⁷ Out of those affected 73% of women experience more than one incident of violence from their former cohabiting partner.

Between 2008 and 2010, 89 women were killed by their current or former partner equating to nearly

one woman a week.⁴⁸ In the same period 33 men were killed by their intimate partner.⁴⁹ The Australian Institute of Criminology found in May 2015 that, despite the national rate of homicide declining, two in every five homicide victims are killed by a family member. Up to 88% of those deaths occurred within the victim’s home.

The ACT Review of Domestic and Family Violence Deaths in the ACT identified 11 domestic and family violence related cases, involving 14 deaths that occurred between 2001 and 2012.⁵⁰

⁴⁷ ANROWS(2015) *Violence against women: Additional analysis of the Australian Bureau of Statistics’ Personal Safety Survey, 2012*.<http://media.aomx.com/anrows.org.au/s3fs-public/151022%20Horizons%201.1%20PSS.pdf> Page 30.

⁴⁸ AIC (2013) *Homicide in Australia: 2008–09 to 2009–10 National Homicide Monitoring Program annual report*. http://www.aic.gov.au/publications/current%20series/mr/21–40/mr21/04_homicide.html.

⁴⁹ Ibid.

⁵⁰ Domestic Violence Prevention Council (2016) *Report on the Findings and Recommendations from the Review of Domestic and Family Violence Deaths in the ACT*. Page 3. (unpublished).

Cases post-2012 were not considered by the review as they remained open within the criminal justice system or the coronial system.

It is estimated that without appropriate action to address violence against women and their children, three-quarters of a million Australian women will experience and report violence in the year 2021–22, costing the Australian economy an estimated \$15.6 billion.⁵¹

Given the prevalence of family violence in Australia and its attendant social cost, reducing family violence has become a national priority. In 2011, the Council of Australian Governments released the *National Plan to Reduce Violence against Women and their Children 2010–2022*. The first phase of the plan (from 2010 to 2013) included the development of state and territory plans, including the *ACT Prevention of Violence against Women and Children Strategy 2011–2017* (the ACT Strategy). The second phase of the National Plan (from 2013 to 2016) focuses on:

- driving whole of community action to prevent violence, by raising awareness, engaging the community and building respectful relationships in the next generation;
- understanding diverse experiences of violence, such as the increased risk of violence for Indigenous women, women from culturally and linguistically diverse backgrounds, and women with disability;
- supporting innovative services and an integrated system to protect and support women, including risk assessment tools to improve the identification of, and response to, victims and offenders;
- improving perpetrator interventions to reduce recidivism and more effectively respond to high-risk offenders; and
- continuing to build the evidence base through data collection and research.

On 4 March 2015 the then Prime Minister and the Minister Assisting the Prime Minister for Women announced a \$30 million national communication

campaign to help reduce violence against women and their children. It was endorsed by COAG on 17 April 2015, and on 23 July 2015, states and territories agreed to jointly contribute \$15 million in funding for the campaign, with the other \$15 million provided by the Commonwealth. The campaign will run from 2015–16 through to 2017–18 and is the starting point for creating long-term behavioural change within the community to help reduce violence against women and their children.

On 24 September 2015, Prime Minister, The Hon Malcolm Turnbull announced a \$100 million women’s safety package. The package aims to improve frontline support and services, leverage innovative technologies to keep women safe, and provide education resources to help change community attitudes to violence and abuse.

ACT context

The ACT has the lowest rates of domestic violence related homicide, assault and kidnapping of any Australian state or territory, and has the second lowest rate of domestic violence related sexual assault.⁵² However there is no room for complacency as there is still a serious violence problem facing the ACT.

In the ACT service providers are reporting an increasing demand for domestic and family violence services which is reflected in the following data:

- In 2014–15 ACT Policing:
 - Attended 2,548 family violence incidents: and
 - Recorded 1,526 reported offences for family violence, with the three main offence types being:
 - 738 assault (48.3%);
 - 274 property damage (18%); and
 - 350 other offences (23%). Other offences included breach of orders, trespass, breach of the peace, weapons offences and nuisance phone calls.
- The Director of Public Prosecution commenced 517 criminal proceedings related to domestic and family violence in 2014–15.

⁵¹ KPMG (2009) *The Cost of Violence Against Women and their Children*, Australian Department of Families, Community Services and Indigenous Affairs. https://www.dss.gov.au/sites/default/files/documents/05_2012/vawc_economic_report.pdf Page 4.

⁵² Rates are based on the number of recorded offences per capita. Source: Australian Bureau of Statistics, 2015, *Recorded Crime - Victims, Australia, 2014: Experimental data – victims of family and domestic violence*, cat 4510.0, ABS, Canberra.

- Domestic Violence Crisis Service received 17,698 incoming contacts to the 24/7 crisis line for the 2014–15 financial year. During 2014–15, 178 families were placed in emergency hotel accommodation.
- The Legal Aid Commission has experienced a 52% increase in requests for duty advice and assistance in DVO matters over the last five years. In 2014–15 Legal Aid provided 982 advice and assistance services to 711 people. However, only 202 people received grants of aid for ongoing legal representation regarding a DVO.
- Since commencing in November 2014, Strengthening Families has supported 64 families. 35% of those families have identified domestic and family violence as a current issue.
- In 2014–15, 439 clients under the ACT Specialist Homelessness Services identified domestic and family violence as a reason for seeking support.

In 2014–15, Victim Support ACT:

- Provided 325 individual clients with support related to domestic and family violence. This represented a total of 2016 activities (phone calls etc).
- Registered 112 new clients who experienced domestic and family violence.
- Of the children and young people (under 18) supported, 37% experienced domestic and family violence.

In late September 2015 the Commonwealth Government named Canberra as one of 12 national domestic and family violence hotspots to receive funding for a specialist domestic violence hub. \$1.05 million over three years will be provided to the Women’s Legal Centre to establish a new specialist domestic violence unit within the Centre.

Child protection⁵³

Demand is a critical issue facing statutory child protection systems both in Australia and internationally.⁵⁴ The rise in demand for child protection services is, in part, due to a global shift in the breadth and scope of what constitutes child abuse and neglect. Child protection services were established to respond to serious physical abuse, such as multiple fractures and bleeding on the brain. Child protection now includes physical abuse, sexual abuse, emotional abuse, neglect and exposure to domestic violence. The threshold for what constitutes abuse and neglect includes outcomes such as bruising, developmental delay and psychological harm. This broadening of the scope of child protection services has been gradual, and has occurred without a fundamental reappraisal of the assumptions on which child protection services were established.⁵⁵

The increase in *notifications*⁵⁶ nationally and for the ACT can be seen in Table 3. Nationally, 266,745 notifications were received for 165,586 children aged 0–17 years in 2005–06. Total notifications had increased to 320,169 for 208,111 children in 2014–15.

For the ACT, 8,064 notifications were received for 4,099 children in 2005–06 and increased to 10,633 for 5,405 children in 2014–15. Notifications spiked in 2011–12 at 12,419 and steadily reduced in 2012–13 and 2014–15.

It is understood from unpublished data held by the Community Services Directorate (CSD) notifications for 2015–16 year to date have significantly increased.

⁵³ The data has been compiled from the Productivity Commission (2016) *Report on Government Services*. Chapter 15, Child Protection Services. <http://www.pc.gov.au/research/ongoing/report-on-government-services/2016/community-services/child-protection/rogs-2016-volume-f-chapter15.pdf>. There are jurisdictional variations across states and territories in legislation, policies and procedures in areas such as mandatory reporting, notifications, investigations and substantiation thresholds. Consequently there are limitations in the comparability of jurisdictional child protection data.

⁵⁴ Bromfield, L., & Holzer, P. (2008). *A national approach for child protection*. Melbourne: Australian Institute of Family Studies. Page 6.

⁵⁵ Bromfield, L. (2014) *Abuse and neglect: Australia’s child protection ‘crisis’*, The Conversation. <http://theconversation.com/abuse-and-neglect-australias-child-protection-crisis-32664>; Humphreys, C., Holzer, P., Scott, D., Arney, F., Bromfield, L., Higgins, D., & Lewig, K. (2010). The planets aligned: Is child protection policy reform good luck or good management?. *Australian Social Work*, 63(2), 145–163.

⁵⁶ Notifications (child concern reports) consist of allegations of child abuse or neglect made to Child and Youth Protection Services. Notifications involving multiple reports are not included in the national Report on Government Services data.

Table 3: Notifications for the ACT and nationally

	Notifications	Children	Rate per 1,000 all children	Rate per 1,000 Indigenous children	Rate per 1,000 Non-Indigenous children
National					
2005-06	266,745	165,586	36.4	81.0	33.7
2014-15	320,169	208,111	39.2	143.1	28.6
ACT					
2005-06	8,064	4,099	56.8	137.1	54.1
2014-15	10,633	5,405	62.8	261.1	32.7

Table 4: Finalised investigations for the ACT and nationally

	Investigations	Children	Rate per 1,000 all children	Rate per 1,000 Indigenous children	Rate per 1,000 Non-Indigenous children
National					
2005-06	114,277	73,963	16.3	45.9	14.5
2014-15	140,719	100,994	19.0	88.7	14.0
ACT					
2005-06	2,497	1,578	21.9	73.5	20.1
2014-15	1,451	957	11.1	84.2	8.6

Table 5: Substantiations for the ACT and nationally

	Substantiations	Children	Rate per 1,000 all children	Rate per 1,000 Indigenous children	Rate per 1,000 Non-Indigenous children
National					
2005-06	55,921	34,336	7.5	23.6	6.6
2014-15	56,423	42,457	8	39.8	5.9
ACT					
2005-06	1,277	853	11.8	42.5	10.8
2014-15	595	386	4.5	40.2	3.3

Over the 10 year period (2005–2015) child protection notifications rates per 1,000 children increased nationally and in the ACT. This was due to an increase in notifications for Aboriginal and Torres Strait Islander children.

Nationally, there has been a small increase in the number of *finalised investigations*⁵⁷ over the past 10 years (see

⁵⁷ Investigations (appraisals) is the process whereby CYPS obtains more information about a child who is subject to a notification and an assessment is made about the harm or risk of harm and the child's protective needs.

Table 4). 114,277 investigations were undertaken for 73,963 children in 2005–06 and increased to 140,719 for 100,994 children in 2014–15.

For the ACT, there has been a decrease in the overall number of finalised investigations over the past 10 years. 2,497 finalised investigations were undertaken for 1,578 children in 2005–06 and decreased to 1,451 for 957 children in 2014–15. Finalised investigations rates increased nationally over the past 10 years while decreasing for the ACT.

Nationally, there has been an increase in the number of *substantiations*⁵⁸ of child abuse and neglect over the past 10 years (see Table 5). 55,921 substantiations were made for 34,336 children in 2005–06 and increased to 56,423 for 42,457 children in 2014–15.

For the ACT, there has been a considerable decrease in the number of substantiations over the past 10 years. There were 1,277 substantiations made for 853 children in 2005–06. Total substantiations more than halved to 595 for 386 children in 2014–15.

Nationally, substantiation rates increased over the past 10 years while they decreased in the ACT. For Aboriginal and Torres Strait Islander children substantiation rates increased nationally (23.6 to 39.8 per 1000 children) while decreasing in the ACT (42.5 to 40.2 per 1000 children).

Nationally about 1 in 5 children (20%) who were the subject of a substantiation during the 2013–2014 year were the subject of more than one substantiation (see Table 6). For the ACT the figure was higher at 23.5%.

Table 6: Number of substantiations per child, 2013–14

Number of substantiations	ACT	National
1	76.5%	80.5%
2	17.6%	12.4%
3	3.5%	3.9%
4+	2.3%	3.2%
Total children in substantiations	341	40,844

Source: AIHW 2015:20

Nationally, emotional abuse was the most common primary type of abuse or neglect substantiated for children (40%), followed by neglect (28%). However, the reverse was the case for the ACT with neglect being the most common primary type of abuse or neglect (50%), followed by emotional abuse (34%) (see Table 7). Neglect and emotional abuse in the ACT are not types of abuse that must be reported by mandated reporters.

⁵⁸ Substantiations of notifications occur when an investigation has concluded and there is reasonable cause to believe that the child had been, was being, or was likely to be, abused, neglected or otherwise harmed.

Table 7: Type of substantiated abuse or neglect

Type of abuse or neglect	ACT	%	National	%
Physical*	33	11.5	7,906	19.4
Sexual*	14	4.9	5,581	13.7
Emotional	97	33.9	16,093	39.5
Neglect	142	49.7	11,194	27.5
Not stated	55	0	70	0
Children in substantiations	341	100	40,844	100

Source: Australian Institute of Health and Welfare *Child protection Australia* (2015). Pages 72–73.

* In the ACT it is a requirement for mandated reporters to report physical (non-accidental physical injury) and sexual abuse.

Nationally and in the ACT there has been an increase in the number of children subject to a *care and protection order* over the past ten years (see Table 8). Nationally, 26,215 children were the subject of a care and protection order at 30 June 2006 and this increased to 48,730 at 30 June 2015. For the ACT, there were 558 children subject to care and protection orders at 30 June 2006 and this increased to 747 in 2014–15.

Table 8: Care and protection orders for the ACT and Nationally

	Children	Rate per 1,000 All children	Rate per 1,000 Indigenous children	Rate per 1,000 Non-Indigenous children
National				
2005–06	26,215	5.4	23.8	4.3
2014–15	48,730	9.2	57.5	6.3
ACT				
2005–06	558	7.3	40.9	6.2
2014–15	747	8.6	83.0	6.4

Rates of care and protection orders per 1000 children have similarly increased over the same period both nationally and in the ACT. The rate of orders for Aboriginal and Torres Strait Islander children has increased dramatically both nationally and in the ACT.

Nationally and in the ACT there has been an increase in the number of *children in out of home care* over the past 10 years (see Table 9). Nationally, 25,454 children were in out of home care at 30 June 2006 and increased to 43,399 at 30 June 2015.

For the ACT, there were 388 children in out of home care at 30 June 2006 increasing to 671 in 2014–15. Similarly rates of children in out of home care have increased both nationally and in the ACT over the same period.

Table 9: Children in out of home care for the ACT and Nationally

	Children	Rate per 1,000 All children	Rate per 1,000 Indigenous children	Rate per 1,000 Non-Indigenous children
National				
2005–06	25,454	5.3	24.1	4.2
2014–15	43,399	8.2	52.5	5.5
ACT				
2005–06	388	5.1	33.5	4.1
2014–15	671	7.8	74.8	5.7

The numbers of admissions and discharges from out of home care fluctuate yearly. For the ACT the increase in numbers of children in care overall is, in part, the result of children entering care at an earlier age and staying for longer. It is understood this was the intention of amendments to the CYP Act in 2008. Included in the number of children in out of home care are children and young people on Enduring Parental Responsibility (EPR) Orders. EPR orders support permanency placements whereby the Director-General no longer has responsibility for the child or young person. EPR orders are increasing in the ACT.

Nationally, there has been an increase in *child protection services expenditure* per child over the past ten years from 140.51 per child in 2005–06 to 222.30 in 2014–15 (see Table 10). In the ACT, there has been a decrease in child protection services expenditure per child over the same period from 195.06 in 2005–06 to 160.11 in 2014–15.

Table 10: Child protection services expenditure per child for the ACT and Nationally (2014–15 \$)

	2005–06	2014–15
ACT	195.06	160.11
National	140.51	222.30

Analysis of the child protection statistics

The statistics above show that for the ACT over the past 10 years there has been an increase of 24% in notifications (child concern reports) from 8,084 in 2005–06 to 10,633 in 2014–15. Notifications peaked in 2011–12 at 12,419. Over the same period, the number of individual children involved in these cases increased by 24% from 4,099 in 2005–06 to 5,405 in 2014–15. Some of these children received multiple reports within the one year. Notification rates for Aboriginal and Torres Strait Islander children have significantly increased while rates for non-Indigenous children have decreased over this period. ACT notification rates are higher than national notification rates based on Australian Bureau of Statistics projections.

A significant challenge facing all jurisdictions, including the ACT, is the significant overrepresentation of Aboriginal and Torres Strait Islander children and young people in the child protection and out of home care systems. Aboriginal and Torres Strait Islander people are also significantly overrepresented in the statutory youth and adult justice systems. ACT notification and children in out of home care rates for Aboriginal and Torres Strait Islander children are higher than national rates.

Over the same period there has been a decrease in the number of finalised investigations from 2,497 in 2005–06 to 1,451 in 2014–15. This suggests fewer cases are meeting legislative thresholds for statutory interventions. Similarly, the number and rates of substantiations have reduced over the same period from 1,277 substantiations in 2005–06 to 595 in 2014–15.

Despite this downward trend in finalised investigations, there has been a 42% increase in the number of children being placed in out of home care from 388 at 30 June 2006 to 671 at 30 June 2015. This increase is largely due to children and young people staying in care for longer

Figure 7: Key ACT child protection services statistics, 2014–15

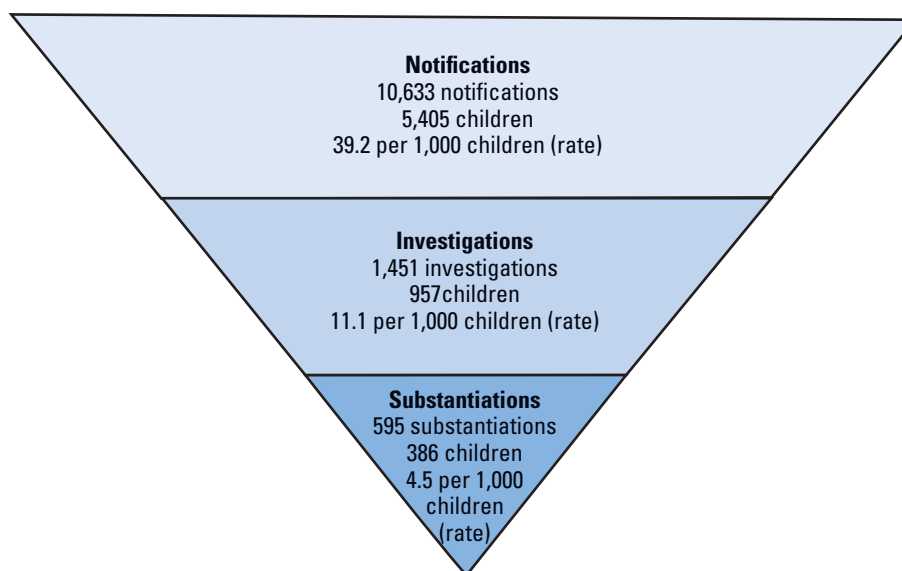


Table 11: National recurrent expenditure on child protection services (2014-15 dollars \$'000)

2005–06	2006–07	2007–08	2008–09	2009–10	2010–11	2011–12	2012–13	2013–14	2014–15
679,000	745,912	842,135	867,982	996,032	1,052,311	1,085,698	1,184,909	1,189,825	1,183,681

Source: Productivity Commission (2016) *Report on Government Services* Table 15A.1

periods. Over this period child protection services expenditure (2014–15\$) per child in the ACT reduced from \$195,060 in 2005–06 to \$160,110 in 2014–15. In contrast national expenditure per child significantly increased from \$140,510 in 2005–06 to \$222,300 in 2014–15.

It is clear from the statistics there are two main pressure points in the child protection system – the front end of the statutory system and at the point of placing children and young people in out of home care. The Inquiry is principally interested in the first pressure point.

At the front end of the statutory child protection system there is significant ‘churn’. Figure 7 illustrates the vast

majority of child concern reports (notifications) do not meet statutory thresholds to warrant an investigation and only a very small number of reports investigated result in a substantiation of abuse and neglect, i.e. only one in every seven child concern reports is investigated and only one in every 17 reports results in substantiation. This means there are extensive Child and Youth Protection Services (CYPS) resources being used to sort out from the many notifications children who are genuinely at risk and potentially needing intervention to ensure their protection.⁵⁹

⁵⁹ Governments have recognised this demand on the child protection system is unsustainable and alternative options for handling notifications are being considered or actioned in a number of jurisdictions. This issue is explored in further detail in Chapter 9.

The demand being placed on the statutory child protection system has seen national government expenditure on child protection services almost double from more than \$600 million in 2005–06 to over \$1 billion in 2014–15 (see Table 11). These costs are expected to grow given the increasing number of children and young people being placed in out of home care.

The increasing demand on statutory child protection services is also placing pressure on the broader human services system and community services.⁶⁰ All jurisdictions are currently grappling with this issue and are actively looking at how to strengthen universal and early intervention services to improve services, supports and outcomes for vulnerable families.

⁶⁰ Carmody, T. (2013) *Taking Responsibility: A Roadmap for Queensland Child Protection*. Queensland Child Protection Commission of Inquiry. http://www.childprotectioninquiry.qld.gov.au/_data/assets/pdf_file/0017/202625/QCPCI-FINAL-REPORT-web-version.pdf. Chapter 4.

CHAPTER

4

CONSULTATIONS — KEY THEMES AND ISSUES

The Inquiry consulted with a wide range of agencies and individuals throughout the review period. This included:

- Executives from a number of Government agencies including Education and Training, Health and Community Services directorates as well as ACT Policing and Legal Aid;
- Frontline workers from Government agencies, which greatly assisted in providing a holistic view of the system;
- A number of statutory officeholders who provided an oversight perspective on the system. This included the Victims of Crime Commissioner, the Public Advocate, the Human Rights Commissioner and the Commissioner for Children and Young People;⁶¹
- The Chief Magistrate and Registrar of the ACT Magistrates Court;
- An extensive range of service providers who work with people experiencing domestic violence as well as service providers who work in the

child protection space. This included services such as the Domestic Violence Crisis Service, the Canberra Rape Crisis Centre, Belconnen Community Services, Barnardos, Relationships Australia, Women’s Legal Centre, Winnunga Nimmityjah Aboriginal Health Service, Gugan Gulwan, Woden Community Services, Families ACT, Connections ACT, the Australian Childhood Foundation and Uniting;

- Key advisory boards including the Domestic Violence Prevention Council, Institute of Child Protection Studies, the Children and Youth Services Ministerial Advisory Board, the Child Death Review Committee and the Children and Youth Services Council; and
- A small number of individuals made submissions to the Inquiry in relation to their experiences of the domestic violence and/or child protection system. While the Review was not focused on individual cases these submissions helped identify issues for the Inquiry to consider as it conducted the Review and helped inform findings and recommendations in the Report.

⁶¹ At the time of the consultations the Public Advocate and the Children and Young People Commissioner were separate statutory officers.

For a full list of agencies and people consulted by the Inquiry see Appendix 5.

While this Review is about family violence those consulted focused mostly on child protection issues. Respondents recognised the expertise and dedication of officers in Child and Youth Protection Services (CYPS) but also provided frank views and suggestions for improving the child protection system. Both their time and candour were appreciated by the Inquiry.

The Inquiry is mindful that consultations are a reflection of people's perceptions. However, perceptions can be reality, especially when the themes and issues raised are consistent across sectors.

Key themes arising from the consultations included:

- Best practice service provision includes early intervention, collaboration and an integrated service response.
- The need for improved information sharing and the benefits that this would bring.
- Recognition of the overlap between domestic violence and child protection issues, the need for perpetrators of violence to be made accountable for their actions and for agencies/services to deal with families experiencing these issues more holistically.
- Systemic issues with the operation of Child and Youth Protection Services in the ACT.

Best practice service provision

Those consulted made favourable remarks regarding Community Services Directorate (CSD) initiatives to target individual tailored services to families concerned such as the *Better Services* initiatives. They also supported having a One Human Services Gateway filtering cases through to the Child and Family Centres where relevant directorates and services are co-located. The emphasis on early intervention for at risk families was also viewed as very positive. However, concern was expressed that CYPS did not seem to be included as a co-located service/agency.

It was noted that services receive funding from the Government to provide programs and that this model of funding resulted in organisations competing for funds. There are many disparate programs that are

not necessarily coordinated in any way with other services. Service recipients may be receiving the same or a similar service from several providers with no single service provider having a lead role. This results in service provision not being delivered in a coordinated way which is an inefficient use of limited resources.

Service providers also highlighted that performance measures are generally based on the number of people participating in a program as opposed to outcomes that measure whether the program actually achieved its intended results.

Information sharing

While information sharing is a necessary tool for better collaboration, it was raised as a separate issue by people consulted and as such warrants separate discussion. It was noted that with limited information sharing everyone is making decisions in the absence of a full understanding of the circumstances of a vulnerable family, including child protection.

Information sharing in relation to domestic violence in the law enforcement context was viewed as working well with a number of people citing the success of the Family Violence Intervention Program. ACT Policing were also specifically acknowledged as being very cooperative and open to sharing information.

Outside these areas the Inquiry observed a culture, at all levels, both within and outside government that did not facilitate information sharing with legal/privacy constraints being cited as the main reason.

Information sharing in the context of mandatory reporting and cases touching on statutory child protection was criticised. Respondents complained that after having made a report they often receive no, or very basic feedback on what was happening with the case. They agreed that this can lead to them making subsequent reports where they have continuing concerns as they are usually unaware if the original report is being actioned. People also commented that it can impact on their ability to provide professional and appropriate services if they are required to deal with the family again and are not aware of what has happened since the report

or if any support services have been provided to the family. Respondents indicated if they received timely information about their reports, they would feel less of a need to make repeat reports. This should result in child protection services receiving less child concern reports.

Service providers also reported that the lack of transparency and sharing of information also leads to a sense that child protection decisions are inconsistent, ill-informed or even “bizarre”.

The overlap between domestic violence and child protection and the need to make perpetrators accountable

Respondents understood that often intimate partner violence and violence against children go hand in hand. They noted that there appeared to be different services working in parallel (at best) and sometimes in opposition to each other (at worst) in families where both forms of violence are present.

Overall there was a recurring message arising from the consultation: that services and government need to work together to support the “protecting parent” (usually the mother) and her children in situations where there has been domestic violence. There was a sense that child protection focuses solely on the “best interests of the child”. This is the case even if the mother is in need of additional supports and priority access to those supports in order to continue in her parenting role. Respondents felt that seeking support is often seen by child protection services as an admission of being unable to cope as a parent or to provide a safe environment for children.

Providing better assistance to mothers who are the main victims of violence would also assist in the need to stop making the victim accountable for ending the violence. The victim is seen as being made to bear this responsibility when child protection requests that she take out a DVO or leave the perpetrator to avoid the need for intervention regarding her children. Giving this ultimatum to women experiencing violence fails to recognise the significant supports needed by women to actually separate in these circumstances (and which are often not available, for example, safe accommodation).

Systemic issues in Child and Youth Protection Services

Respondents almost universally raised concerns regarding the operation of Child and Youth Protection Services (CYPS) and its current culture. This was the case even though changes and reforms have taken place in recent years.

They noted a huge discrepancy in the power relationship between the service and its clients, leading to a lack of transparency and unwillingness to work with service providers and indeed other directorates. Non-government agencies expressed eagerness to work more closely with CYPS but felt they were not accepted as professionals and had their views discounted despite often possessing detailed knowledge of the families. It was also noted that broader family members, who often have the most knowledge, can have little opportunity for input or to seek review of a child protection decision – for example a placement decision. Respondents also expressed disappointment that CYPS were often seen to not seek or to discount the views of children and young people.

There was a concern that while mandatory reporting has had some positive impacts it has meant that CYPS are being overwhelmed with child concern reports (notifications) that ultimately do not result in an appraisal or substantiation. Increasing numbers of reports have undoubtedly placed pressure on the service. Some respondents also felt that case conferences, while an opportunity for information sharing and coordinated service provision, were often only convened to “tick a box” on decisions already made or in order to close a case. Case conferences were also seen not to be held early enough, where appropriate, to enable a family plan to be developed.

Some respondents who felt they could make a useful contribution to case conferences were not invited or invited but instructed not to speak.

Some respondents felt that CYPS had a highly risk averse culture which meant a greater willingness to intervene and place children in out of home care. There was also concern raised at a perceived lack of cultural sensitivity, especially in relation to Aboriginal

and Torres Strait Islander people. This came from a lack of diversity in the service and possibly as a result of a large number of workers recruited from the United Kingdom, who may lack an appropriate understanding of Aboriginal culture.

While it was recognised there are early intervention services for families, some respondents felt more could be done to try and keep families together when children are considered at risk of being placed in out of home care.

Conclusion

Overall the Inquiry found that the consultations supported many issues identified in the literature and research and assisted in identifying some additional issues specific to the ACT. The Inquiry was certainly left with the view that the system's response to family violence in the ACT is not ideal and that there is an eagerness for this to be addressed.

CHAPTER 5

DELIVERING BETTER FAMILY OUTCOMES

Outcomes for families: not just for women and not just for children

Throughout the Review the Inquiry found a disconnection between the way child protection and domestic violence issues are addressed. While there was acknowledgement of the overlap between domestic violence and engagement with statutory child protection, in practice domestic violence and child protection issues were dealt with as mutually exclusive issues rather than being interconnected.

According to the Australian Bureau of Statistics, 54% of women experiencing violence perpetrated by their current partner were caring for children at the time.⁶² Thirty-one percent of those women indicated that their children either heard or saw the violence. For women who reported experiencing violence perpetrated by their ex-partner, the rate of child involvement was higher with 61% of women indicating that they were caring for children at the time and 48% reporting children had witnessed the violence.⁶³

⁶² Australian Bureau of Statistics' (2014) 2012 Personal Safety Survey cited in Australian Institute of Family Studies (2015) Children's exposure to domestic and Family Violence. <https://aifs.gov.au/cfca/publications/childrens-exposure-domestic-and-family-violence/export>.

⁶³ Ibid.

Domestic violence is one of the most common reasons for reporting to child protection services with it often being categorised as emotional abuse. Domestic violence is involved in 53–69% of statutory child protection cases.⁶⁴ For the ACT of the 595 substantiated child protection reports in 2014–2015, 178 (30%) of these reports related to 119 children that had the primary substantiated abuse type of emotional abuse due to exposure to domestic violence. According to figures provided by the Department of Health and Human Services to the Victorian Royal Commission into Family Violence, approximately 58% of reports made to child protection services by police in 2013–14 were made via the police family violence notification process.⁶⁵

According to Zannettino and McLaren the system response has been to categorise mandatory

⁶⁴ Burney, L (2008) cited in C. Popito, A. Day, E. Carson and P. O'Leary (2009) *Domestic Violence and Child Protection: Partnerships and Collaboration*, Australian Social Work, vol. 62, no. 3 Page 370.

⁶⁵ Royal Commission into Family Violence (2016) *Royal Commission into Family Violence Summary and recommendations* (Victoria). http://www.rcfv.com.au/MediaLibraries/RCFamilyViolence/Reports/RCFV_Full_Report_Interactive.pdf. Page 163.

notifications detailing children's exposure to domestic violence (that is, witnessing domestic violence) as "low risk" and to close these reports without intervention.⁶⁶ For our systems to effectively respond to the needs of vulnerable families, our language must reflect the complex nature of domestic violence.

The Australian and New South Wales Law Reform Commissions' Family Violence Report (the LRC Report) outlined that family violence committed in the presence of children is, in and of itself, a form of violence.⁶⁷ It is important to understand what constitutes family violence, and that often family violence may not be 'directed' against a person, but rather 'lived' and 'experienced'.

The Inquiry notes the Attorney-General Simon Corbell MLA has indicated that amendments will be made to the definition of domestic violence in the ACT in 2016 legislation.⁶⁸ It is understood that the amendment will be in line with recommendation 5.1 of the LRC Report, so that the definition of family violence captures 'behaviour by the person using violence that causes a child to be exposed to the effects of this behaviour'.

The Inquiry considers that this will go some way to addressing the disconnection between domestic violence and the children affected by it.

The fact that the domestic violence and child protection systems operate largely independently in the ACT is not unusual. As far back as 2009 Potito et al noted:

*The interface between the child protection and domestic violence sectors is often problematic, in that the two sectors operate relatively independently, with little integration.*⁶⁹

⁶⁶ Zannettino, L. McLaren, H. (2014) *Domestic violence and child protection: towards a collaborative approach across two service sector*. Child and Family Social Work 2014, Vol 19. Page 422.

⁶⁷ Australian Law Reform Commission (2010) *Family Violence — A National Legal Response (ALRC Report 114)* Available. <https://www.alrc.gov.au/publications/20.%20Family%20Violence,%20Child%20Protection%20and%20the%20Criminal%20Law/protection-orders-and-childr>.

⁶⁸ The Canberra Times (11 May 2015) *ACT Government announces strengthened Domestic Violence Orders*. <http://www.canberratimes.com.au/act-news/act-government-announces-strengthened-interim-domestic-violence-orders-20150511-ggytfe.html>.

⁶⁹ Potito, C., Day, A., Carson, E., & O'Leary, P. (2009) *Domestic Violence and Child Protection: Partnerships and Collaboration*. *Australian Social Work* Vol.62. No.3 Page 369.

This is despite the fact that one of the most prevalent risk factors impacting on children's development and life outcomes is domestic violence. Zannettino and McLaren note that children affected by domestic violence are rarely well served by either domestic violence services or statutory child protection authorities.⁷⁰ They suggest that this may be as a result of the sectors operating under different paradigms flowing from different philosophical underpinnings. The domestic violence sector has a feminist empowerment philosophy focused on providing women with choices, whereas child protection is focused solely on the best interests of the child as the paramount consideration and often imposes outcomes.

It is also worth noting that most domestic violence services are delivered by non-government agencies and are sought out by victims. This needs to be compared with child protection, which involves government agencies exercising powers under usually prescriptive legislation in relation to involuntary clients.

The 'ACT Report on the Review of Domestic and Family Violence Deaths in the ACT' found "[c]hildren were identified as having particular unmet needs. In the cases reviewed, around 25 children witnessed family violence and at least 15 children experienced family violence. Despite this, children were largely invisible in the information contained in the cases reviewed".⁷¹

The Inquiry heard during consultations that in many family violence situations where child protection services is involved the woman who is the victim of the violence and the "protecting parent" becomes the subject of intense scrutiny as to her capability to continue parenting including, ensuring any children are not subjected to violence. Child protection services see this as necessary to confirm that the mother is capable of continuing to parent and protect the child so the child does not need to be placed in out of home care. Domestic violence services see this as placing the responsibility for,

⁷⁰ Zannettino, L. McLaren, H. (2014) *Domestic violence and child protection: towards a collaborative approach across two service sector*. Child and Family Social Work 2014, Vol 19. Page 421.

⁷¹ Domestic Violence Prevention Council (2016) *Report on the Findings and Recommendations from the Review of Domestic and Family Violence Deaths in the ACT*. Page 3. (unpublished).

and consequences of the violence, on the woman. This scenario is again recognised in extensive research on this issue:

[W]here domestic violence is an issue the attention to the woman as victim is frequently overridden by assessment of her as a parent. Child protection social work is all too often only about mothers...and social workers' engagement with fathers can be limited...with the consequence that the risks posed by the perpetrator retreat into the background.⁷²

Stakeholders consulted by the Inquiry also noted that many women seek domestic violence orders only because they have been told they must do this by child protection services or risk losing their children. Often women are effectively told they must leave the family home or face the same outcome:

The typical response of the child protection system to domestically violent situations is to exercise its statutory power by placing pressure on the woman to leave the abuser. This pressure can involve threats to take the children away if the mother does not leave, regardless of whether the act of leaving improves her safety or actually increases the risk.⁷³

Stanley notes that risk factors may be interpreted differently depending on the service, with separation being seen as heightening risk from a family violence perspective and paradoxically being seen as a goal of intervention from a child protection perspective.⁷⁴

When Legal Aid provides advice to a client to seek a domestic violence order this has involved a careful assessment of whether, in all the circumstances, a domestic violence order will make the client or their child more or less safe. This takes into account the client's views as they have intimate knowledge of the

perpetrator's conduct and are generally well placed to make an assessment regarding risk.⁷⁵

The requirement to separate from the violent parent often fails to recognise just how difficult this can be and how much support is required for a woman and her children at this time. The difficulties that may be faced are recognised in the final report of the COAG Advisory Panel on Reducing Violence against Women and their Children which notes separation from a violent partner may be "...logistically, financially, legally and emotionally very difficult especially if the woman has children".⁷⁶

The CYP Act provides a mechanism for child protection workers to apply to the Childrens Court for a Domestic Violence Protection Order (DVPO), which is the equivalent of a DVO for the child. These can be sought where an application for a care and protection order for the child or young person has been made but not yet finally decided and a DVPO is necessary to ensure the child or young person's safety until the application is decided.⁷⁷ The Inquiry understands that these provisions are rarely used by CYPs due to the requirement of there being an application for a care and protection order. CYPs has cited that these provisions have little utility if there is no one willing to report a breach (i.e. the mother does not support the DVO application).⁷⁸ Despite this the Inquiry considers that these provisions may have some value as a neighbour or extended family member may report a breach. Further, the woman may support the application but be frightened to consent. A review of these sections to assess their utility should be considered.

The Victorian Royal Commission on Family Violence also noted that during its community engagement process, many women victims indicated that they felt unsupported by child protection service practitioners

⁷² Scourfield (2003) cited in Stanley, N., & Humphreys, C. (2014) *Multi-agency risk assessment and management for children and families experiencing domestic violence. Children and Youth Services Review. No.47* Page 79.

⁷³ Edleson(1998): Magen (1999) cited C.Popito, A. Day, E.Carson and P.O'Leary (2009) *Domestic Violence and Child Protection: Partnerships and Collaboration*, Australian Social Work, vol. 62, no. 3 Page 373.

⁷⁴ Stanley et al (2011) cited in Stanley, N., & Humphreys, C. (2014) *Multi-agency risk assessment and management for children and families experiencing domestic violence. Children and Youth Services Review. No.47* Page 80.

⁷⁵ Legal Aid ACT submission to the Inquiry, 30 March 2016, part 4.1. (unpublished).

⁷⁶ COAG Advisory Panel on Reducing Violence against Women and their Children (2016) Final Report. <https://www.dpmc.gov.au/sites/default/files/files/taskforces/COAGAdvisoryPanelonReducingViolenceagainstWomenandtheirChildren-FinalReport.pdf>. Page 41.

⁷⁷ *Children and Young Peoples Act 2008*, section 459 and 460.

⁷⁸ CSD response to the Camilleri, P. (2015) Report: *Review of care and protection matters where children have been exposed to domestic/family violence*. (unpublished).

to deal with the court process and by failing to provide their views to the court regarding safety issues.⁷⁹

Requiring the woman to take responsibility for stopping the violence may also reflect attitudes noted in a 2014 survey that 78% of the population find it hard to understand why women stay in an abusive relationship and 51% that women affected by family violence could leave the abusive partner if they really wanted to.⁸⁰

While it is clear that working across these sectoral boundaries may be difficult it is also clear that outcomes for both women and child can be improved by a focus on the family unit comprising the protecting mother and her children. One stakeholder noted that to not do this is to give a very short term perspective to the best interests of the child, as clearly the longer term best interests of children would generally be to remain in the family unit with their mother. Zannettino and McLaren note that research has increasingly suggested that support to abused mothers may offer children increased protection in families affected by violence.⁸¹ This acknowledges that they are integral to their children's care and welfare and their needs are both interconnected and separate.⁸²

The Inquiry recognises that supporting families with lived experience of domestic violence is complex, especially as the exposure to violence will affect each family member differently and require different interventions.

Furthermore, the violence is often compounded by other issues such as mental illness or substance abuse.

⁷⁹ Royal Commission into Family Violence (2016) *Royal Commission into Family Violence Summary and recommendations* (Victoria). http://www.rcfv.com.au/MediaLibraries/RCFamilyViolence/Reports/RCFV_Full_Report_Interactive.pdf. Page 172.

⁸⁰ Silke, M (2015) *Still blaming the victim of intimate partner violence? Women's narratives of victim desistance and redemption when seeking support*, citing Victoria Health (2014) *National survey on Community Attitudes towards violence against women 2013*. Melbourne. Victorian Health Promotion Foundation.

⁸¹ Zannettino, L. McLaren, H. (2014) *Domestic violence and child protection: towards a collaborative approach across two service sectors*. Child and Family Social Work 2014, Vol 19. Page 428.

⁸² Ibid.

The Inquiry is of the view that there is a pressing need in family violence situations for child protection and domestic violence services to work together more closely to provide supports to an abused woman, both for her own benefit but also for making every effort to ensure the mother and her children can remain together. Intervening to place children in out of home care should be reserved as an option of last resort.

The Inquiry also felt that child protection workers would benefit from increased training regarding the dynamics of domestic violence. While there is some reference to domestic violence in CYPS guidelines including a practice paper from 2006, these are fairly basic and do not fully articulate the vulnerable and traumatised position a woman may be in where she has suffered continuing domestic violence and the complex relationship she may have with the perpetrator. Professor Peter Camilleri's internal CYPS review in August 2015 of care and protection matters where children have been exposed to domestic and family violence made similar observations:

*The internal practice and policy documents were not particularly helpful for CYPS workers and need to be re-worked. The practice paper was written nearly a decade ago and its focus was on violence towards children in DV rather than examining the cumulative impact on development of children experiencing DV. More effective practice guidelines need to be developed to assist workers in such cases.*⁸³

The Inquiry notes that in response to Professor Camilleri's findings, CYPS has developed a comprehensive training program on domestic violence and its impact on women, children and young people and staff training commenced in April 2016.

The need for training of front line workers not directly practising in the relevant areas of domestic violence and child protection was recognised by respondents during the consultations. This was particularly raised by health workers who noted that non-specialist

⁸³ Camilleri, P. (2015) Report: *Review of care and protection matters where children have been exposed to domestic/family violence*. Page 15. (unpublished).

workers had little idea of how to respond to possible family violence situations. Many front line workers were reluctant to ask questions or raise matters that may lead to a disclosure of family violence for feeling ill-equipped to deal with the disclosure. The Final Report of the Domestic Violence Service System Gap Analysis Project (March 2016) notes:

The need for consistent training was raised as a significant issue across the consultations and was evident in the survey results as a key factor in mainstream services [sic] current lack of capacity to deal with domestic violence. The volume of training required to cover front line human services in the ACT government is substantial ...and needs therefore to be contained within a clear whole of government training strategy that includes prioritisation of high volume first contact areas.⁸⁴

Outcomes for families including the perpetrator

Outcomes for families means looking at the family as a whole and that must include the perpetrator, whether the perpetrator remains within the family unit or has separated from it. Many reports note that in domestic and family violence situations the perpetrator becomes invisible.

Some perpetrators will be engaging with the criminal justice system but there is also a need for behavioural issues to be addressed. Australian perpetrator programs are currently below international standards and research is needed to establish a national standard for perpetrator programs so that there can be a national framework ensuring consistency and quality.⁸⁵

The ACT mapping and consultation undertaken in the ACT Gap Analysis Project indicates that there has been a “significant lack of attention and response”

⁸⁴ ACT Government (2016) ‘Final Report for the Gap Analysis of Domestic Violence services’. Page 52. (unpublished).

⁸⁵ COAG Advisory Panel on Reducing Violence against Women and their Children (2016) *Final Report*. <https://www.dpmc.gov.au/sites/default/files/files/taskforces/COAGAdvisoryPanelonReducingViolenceagainstWomenandtheirChildren-FinalReport.pdf>. Page 84.

in this area to date.⁸⁶ Input to the Gap Analysis from the Domestic Violence Prevention Council was to the effect that “[p]erpetrator programs and their effectiveness are not given priority in the ACT”.⁸⁷ In particular there is an absence of programs such as: residential programs for perpetrators that assist women and children to remain at home after violence; and early intervention programs and programs that work with couple or families as a whole.⁸⁸

Focusing on the family as a whole and at an early stage will undoubtedly reap positive benefits as will addressing more serious perpetrator behaviour. As such it is important that perpetrator service providers are part of any integrated approach to dealing with family violence and that there are programs to which perpetrators can be referred. One such program that was drawn to the Inquiry’s attention is the Breathing Space residential program being run in Western Australia.

The views expressed by stakeholders to the Inquiry are consistent with the findings of Professor Peter Camilleri’s internal review in 2015 into care and protection matters where children have been exposed to domestic and family violence. Professor Camilleri found in the 10 cases reviewed that there was “little attempt to engage the male and the focus was getting the women to effectively end the relationships”. There was also evidence in the cases of ‘victim blaming’.⁸⁹

Outcomes for families: legal proceedings

During the consultations several stakeholders referred to the unequal power balance between CYPS and families involved with the service.

There is undoubtedly a significant power

⁸⁶ ACT Government (2016) *Final Report for the Gap Analysis of Domestic Violence services*. Page 24. (unpublished).

⁸⁷ Ibid.

⁸⁸ Ibid. Page 35.

⁸⁹ Camilleri, P. (2015) Report: *Review of care and protection matters where children have been exposed to domestic/family violence*. Page 17. (unpublished).

balance between vulnerable children, their family members and the [CSD] Directorate. ... Clients often report to Legal Aid that they feel CYPS 'holds all the cards' and that in some circumstances, caseworkers make decisions without considering relevant information from parents, carers or family members. These concerns are often accompanied by reports that CYPS is unwilling to provide written information or reasons for their decisions. Our experience is that court based action is of course accompanied by written material, but that parents in the lead up to formal proceedings are confused due to conflicting information. This is compounded by an absence of written documentation of interactions between parties.⁹⁰

The Inquiry was also advised of instances where families are not legally represented in court proceedings and have no capacity to challenge evidence or findings which can lead to outcomes that may ultimately not be in the best interests of the child.

Anecdotal similar issues arise in the domestic violence space in the ACT with many women who obtain an interim domestic violence order on an urgent basis (with the assistance of Legal Aid) subsequently having to abandon obtaining a permanent order when Legal Aid is unable to continue to represent them as they do not meet strict eligibility criteria.

The Final Report of the Gap Analysis Project notes that stakeholders consulted indicated a lack of support for women, both legal and emotional, to manage court processes. Without representation women can be re-victimised with perpetrators using the legal system to their advantage.

The Dillon matter does not involve the Family Court and therefore the Review has not looked at the issues of the interrelationship of the Family Court and state and territory courts in relation to family violence issues. This issue has been examined in the Australian Law Reform Commission's "A National Legal Response" Report and continues to be examined by the Family Law Council. The Council's

⁹⁰ Legal Aid ACT submission to the Inquiry 30 March 2016, Part 1.3

final report on 'Families with Complex Needs and the Intersection of the Family Law and Child Protection Systems' is due to the Commonwealth Attorney-General on 30 June 2016. The final report will examine opportunities for enhancing collaboration and information sharing within the family law system.

It is interesting to note in the Dillon matter that many agencies involved with the family treated the domestic violence order in place as if it was a parenting order made by the Family Court. The Family Law Council in its interim report notes: "Previous research has also shown that many families whose first point of contact with the legal system is a state or territory court fail to access the family courts to obtain the orders they need".⁹¹

Consistent with reports made by other bodies the Family Law Council also notes that in its view "... it is essential that the criminal law, child protection and family law systems, along with relevant federal, state and territory agencies, are encouraged and supported to work collaboratively to achieve safe outcomes for children".⁹²

Without this collaboration it is clear that the competing court systems can actually work against each other. An example is where a state and territory court and relevant government agencies such as child protection services have determined that it is unsafe for the protective mother and child to have contact with the perpetrator but the Family Court makes orders allowing or requiring this contact. The COAG Advisory Panel notes that amendments to the Family Law Act in 2012 broadened the definition of family violence and indicated that in determining the question of best interests the child's safety should be given greater weight than having a relationship with both parents.⁹³ These provisions have gone

⁹¹ Family Law Council (2015) *Interim Report on Families with Complex Needs and the Intersection of the Family Law and Child Protection Systems* (Terms 1 and 2) <https://www.ag.gov.au/FamiliesAndMarriage/FamilyLawCouncil/Documents/Family-Law-Council-Interim-Report-Family-Law-and-Child-Protection.pdf>. Page 97.

⁹² Ibid. P95.

⁹³ COAG Advisory Panel on Reducing Violence against Women and their Children (2016) *Final Report*. <https://www.dpmc.gov.au/sites/default/files/files/taskforces/COAGAdvisoryPanelonReducingViolenceagainstWomenandtheirChildren-FinalReport.pdf>. Page 1-3.

some way to reducing the number of cases where family violence and child safety are issues, and where the court has made an order for shared care, but a more coordinated national approach is still required.⁹⁴

While the Inquiry was unable to examine these issues in detail the ACT Government should remain actively engaged in the Family Law Council Review and consider as a priority any recommendations that seek to resolve current issues.

Outcomes for Aboriginal and Torres Strait Islander families

While this Review has not examined in detail all permutations of family violence in relation to many different groups, the Inquiry did feel it necessary to include some issues that arose in the course of its consultations.

As noted in Chapter 2, Aboriginal and Torres Strait Islanders are overrepresented in both domestic violence statistics and child protection statistics in the ACT. This is consistent with the position nationally.

Many reports note the unwillingness of some women to access services in relation to family violence for fear that the safety of their children will be raised and that they will ultimately be taken from them. This concern is heightened for Aboriginal and Torres Strait Islander women where there is a history of the “stolen generation”.

The Inquiry heard from stakeholders that Aboriginal women can be terrified to access mainstream services such as the QE II Family Centre for fear that they will end up having their babies taken from them. There is particular concern with Canberra hospital and a number of Aboriginal women seek to deliver their babies interstate for fear they will be removed before they leave the hospital.

In relation to working with child protection services

⁹⁴ Ibid.

in a collaborative manner, one stakeholder indicated that she advises Indigenous women “Don’t divulge anything to child protection without your lawyer present. They are not your friend.”

Several stakeholders from the Aboriginal and Torres Strait Islander community noted that families often only have a general idea of what the child protection concerns are about regarding their child or children. They are provided with no advice about the process or their rights. There was unanimous support for working more concertedly with vulnerable families and focusing on the potential long term impact of removal of a child from their family not just the immediate crisis.

These issues may be addressed by new service provisions under *A Step Up for Our Kids* with the recent commencement of the Uniting’s Children and Families ACT program. This program is focused on managing risks and providing supports within families to prevent children from coming into care, or returning them home as soon as it is safe to do so. This includes Uniting’s Aboriginal Services and Development Unit, ‘Jaanamili’, which provides cultural guidance, expertise and support and ensuring that services are Aboriginal specific and culturally inclusive.

Service delivery reform

The Inquiry has heard about a number of ACT Government reforms that based on their intent and early findings, even in their infancy, aim to make a significant contribution to improving the system response to supporting and protecting vulnerable families. These reforms have been briefly outlined in Chapter 2. This section outlines how they aim to address some of the key issues identified as part of this Review.

Overall, these reforms are about focusing more government effort and resources on early intervention and prevention, developing person-centred services, improving access to services, integrating services, and improving collaboration between government and non-government agencies. Of particular interest to the Inquiry are the human services reforms as part of the

Better Services initiatives (Local Services Network in West Belconnen, One Human Services Gateway and Strengthening Families) and the out of home care reforms contained in *A Step Up for Our Kids*.

Person-centred services

With an increased focus on outcomes instead of outputs, the intended recipient of the service gains prominence. Person-centred approaches are about providing and organising services that are rooted in listening to what people want and providing the services they need in the right way. This approach fundamentally changes the way services have been traditionally developed and delivered. That is people should not be simply placed in a pre-existing service and expected to adjust, rather the service strives to adjust to the person.⁹⁵

An example of this approach is the *Better Services* initiative *Strengthening Families* which supports families who are currently engaged with multiple services but are not achieving positive progress. The approach seeks to utilise resources from the existing service system more effectively and to support families to move from high cost and intrusive service systems. Each family will be supported by: a trained Lead Worker who will work holistically with the family; a Single Family Plan that seeks to use and build natural support networks; and a tailored support package that matches needs with available resources and seeks to reduce the level of service use over time.

Early intervention and prevention

The need for governments to direct greater resources to early intervention and prevention programs is recognised by all jurisdictions and is a common feature of ACT Government reforms. For instance, the ACT Child and Family Centres play an important role in supporting vulnerable families. The Centres deliver universal, targeted and tailored services in outreach settings. Health and community organisations also operate from the Centres to provide a broad suite of supports to families as well as community education and engagement programs.

⁹⁵ Life Without Barriers (nd) *Person Centre Practice Approach*. <http://www.lwb.org.au/assets/Uploads/person-centred.pdf>. Page 4.

The reforms contained in *A Step Up for Our Kids* focus on supporting parents to retain care of their children safely. This has seen increasing investment in early intervention services and supports that have been designed to reduce the likelihood of children and young people entering or remaining in the child protection and out of home care systems.

Under *A Step Up for Our Kids*, Uniting has been commissioned to better support vulnerable families with children at risk of entering care. The Uniting's Children and Families ACT program is designed to keep families together and provide intensive in-home and practical family supports, parent and/or child interaction programs, and coaching and mentoring for parents. These services include specialist support for Aboriginal and Torres Strait Islander children, young people and their families.

Improve access to services

Increasingly, governments are recognising that the issue is not 'difficult to reach target groups' but rather there are barriers to accessing services, especially for some marginalised and vulnerable groups. With this changed mindset, governments are looking at new ways to improve access to services for people.

The Child and Family Centres are a good example of delivering services in environments that people find inviting, are community and locally based, and provide a broad suite of services. Having accessible services is important, especially when adopting an early intervention and prevention approach as the willingness of people to engage is crucial for the services to be effective.

Service integration

All jurisdictions are pursuing different models of service integration. Policy makers and practitioners realise that siloed approaches to service delivery are not as effective as they could be and traditional program-based approaches to service delivery miss the mark for many people given the issues people face are often interrelated and cross different programs. In doing so there is an expectation that service integration reforms will serve people better,

lead to better outcomes and use limited resources more efficiently.⁹⁶

The ACT One Human Services Gateway is a good example of service integration. The aim is to increase efficiency while aiming to improve the service response to people. The Gateway acts as a single point of contact for people seeking assistance with a broad range of human and social services, to access information and where appropriate be referred to services and supports.

Improving collaboration between government and non-government agencies

Given the complexities and challenges faced in implementing these significant reforms to the human services system, greater collaboration is necessary between and within government and non-government agencies. This includes at the stages of policy development; service delivery planning, implementation and evaluation; and in governance and oversight arrangements.

The ACT *Human Services Blueprint* is a plan to change the way human services are developed and delivered in the ACT. The Blueprint brings together government and non-government agencies in the areas of health, education, social housing, disability, child protection and youth and adult justice services. The ACT *Better Services* initiatives that are being guided by the Blueprint involve greater coordination and collaboration by government and non-government agencies to provide timely and appropriate services to vulnerable families.

In a number of policy areas, the ACT Government has established whole-of-government approaches to addressing complex policy problems. For instance, the *ACT Prevention of Violence against Women and Children Strategy 2011–2017*, the *Blueprint for Justice in the ACT 2012–2022*, and the *ACT Aboriginal and Torres Strait Islander Agreement 2015–18* aim to improve coordination across government through improved collaborative governance arrangements.

⁹⁶ KPMG (2013) *The Integration Imperative: reshaping the delivery of human and social services*. <https://www.kpmg.com/Global/en/IssuesAndInsights/ArticlesPublications/Documents/integration-imperative.pdf>. Page 1.

Outcomes not programs

Managing program performance has always been a challenge, regardless of the portfolio area. This is because results are not measured in dollars alone and what should be measured can be difficult to determine and might be hotly contested.⁹⁷ Given this inherent challenge the successful planning, development and implementation of services is critical to providing effective services and achieving good outcomes for vulnerable families. Clear lines of accountability and responsibility within and between different agencies are also important.

Program performance management

Until recently, the performance of public sector programs has been judged largely on financial and resource inputs, activities and outputs. In more recent times this approach has come into question given the inherent limitation in understanding the relationship between government intervention (funding and programs) and desired benefits and outcomes, i.e. have public monies been used well.⁹⁸ There is now a move towards integrated models that are intended to provide a clearer picture of the results or outcomes that have been achieved, i.e. whether the outcomes or the impacts sought by government are being realised.⁹⁹ Key to this change was greater calls for accountability of government and its public servants.¹⁰⁰

In the ACT, the performance management of government programs for vulnerable families is largely outputs focused even though attempts are being made to move towards outcomes. It is

⁹⁷ McPhee I. (2005) *Outcomes and Outputs: Are We Managing Better as a Result? CPA National Public Sector Convention* (Vol. 20). Page 1.

⁹⁸ Perrin, B. (2006). *Moving from outputs to outcomes: Practical advice from governments around the world*. IBM Center for the Business of Government. Page 20.

⁹⁹ Australian National Audit Office (2013) *The Australian Government Performance Measurement and Reporting Framework - Pilot Project to Audit Key Performance Indicators*. Report No.28 2012–13. http://www.anao.gov.au/~/_/media/Files/Audit%20Reports/2012%202013/Audit%20Report%2028/2012-13%20Audit%20Report%20No%2028.pdf. Page 14.

¹⁰⁰ Alach, Z., & Crous, C. (2012). *A tough nut to crack: Performance measurement in specialist policing*. Canberra, ACT: Australian Institute of Criminology. http://www.aic.gov.au/media_library/publications/tbp/tbp053/tbp053.pdf. Page 3.

recognised this is a challenge for all jurisdictions. This approach also means it is difficult to determine what impact, if any, programs are making. The implication from this approach to performance management is a potential lack of direction and strategic priority setting of government intervention and services.¹⁰¹

A focus on outputs alone can have a perverse incentive for service providers. This is more likely where the performance indicators focus on particular outputs, rather than outcomes.¹⁰² The Inquiry heard that under current program arrangements for vulnerable families, there was a sense that sometimes service providers were competing against each other for funding. Consequently, in some circumstances service providers were reluctant to refer clients to other service providers because this might result in a competitive disadvantage.

This sense of competition was increasing with the tightening of government funding and more service providers bidding for government tenders.¹⁰³

The Inquiry heard about the recent reforms in domestic and family violence, child protection services and the broader human services system. Despite the significant effort and activity that is underway, there is a sense the reforms in domestic and family violence and child protection are largely being progressed in parallel to each other. Similarly, the Victorian Royal Commission found there are barriers to service integration, collaboration and innovation between the different sectors and service systems.¹⁰⁴ Without a strategic approach to government investment in supporting vulnerable families with clear outcomes that must be reported against, the ACT runs the risk of progressing significant reforms without achieving the desired outcomes.

¹⁰¹ Perrin, B. (2006). *Moving from outputs to outcomes: Practical advice from governments around the world*. IBM Center for the Business of Government. Page 20.

¹⁰² Alach, Z., & Crous, C. (2012). *A tough nut to crack: Performance measurement in specialist policing*. Canberra, ACT: Australian Institute of Criminology. http://www.aic.gov.au/media_library/publications/tbp/tbp053/tbp053.pdf. Page 3.

¹⁰³ This issue is not unique to the ACT or vulnerable families services.

¹⁰⁴ Neave, M., Paulkner, P. And Nicholson, T. (2016) *Royal Commission into Family Violence Report* (Victoria). *State Government of Victoria, Melbourne*. Page 7. The need for better collaboration and integration is discussed in Chapter 9.

Programs for vulnerable families

The number of government and non-government agencies and professions required to work-well together in order to support a child or family is part of the inherent challenge in building an effective human services system.¹⁰⁵

In Chapter 2 a brief outline is provided of the services and supports available to vulnerable families in the ACT. In the domestic and family violence portfolio, services can be generally categorised as being predominantly crisis driven while a few services focus on early intervention and support. For child protection, services can be categorised as comprising early intervention, family preservation and reunification and intensive family support. These services are provided by the Community Services Directorate (CSD) and other government directorates, non-government agencies and the Commonwealth Government.

The role of non-government agencies in delivering human services has grown rapidly in recent years in the ACT and in other jurisdictions.¹⁰⁶ There has been a concerted effort by governments to transfer delivery of government services to the non-government sector. Policy makers recognise government and non-government sector arrangements provide more flexibility in service delivery, benefit from different perspectives and are often better equipped to engage with and provide services for particular populations of people.¹⁰⁷

In the ACT, many non-government agencies already deliver family services and support. As part of the recent reforms to child protection and out of home care in the ACT, non-government agencies will take on greater

¹⁰⁵ Munro, E. (2011) *The Munro review of child protection: Final report-a child-centred approach* (Vol. 8062). The Stationery Office. Page 52.

¹⁰⁶ Considine, M. (2003) *Governance and competition: The role of non-profit organisations in the delivery of public services*. *Australian Journal of Political Science*, 38(1), 63–77.

¹⁰⁷ Bamblett, M., Bath, H. and Roseby, R. (2010) *Report of Board of Inquiry into the Child Protection System in the Northern Territory*. Board of Inquiry into the Child Protection System in the Northern Territory. http://www.childprotectioninquiry.nt.gov.au/__data/assets/pdf_file/0010/49780/CPS_Report_Volume_1.pdf. Page 24.

responsibility for the provision of out of home care services.¹⁰⁸ Significantly non-government agencies will have greater autonomy in making decisions about children and young people as well as accountability (regulation and oversight).

There is a clear interrelationship between family violence and child abuse and neglect. This is supported by the findings of the Victorian Royal Commission into Family Violence (2016), the Queensland Child Protection Commission of Inquiry (2013), the Protecting Victoria's Vulnerable Children Inquiry (2012) and the Board of Inquiry into the Child Protection System in the Northern Territory (2010). All these inquiries have found services for vulnerable families operate more like a patchwork of services and supports rather than being joined-up and integrated and in some instances there are service gaps.

The Inquiry heard some families find it difficult to access appropriate and timely services and supports and that navigating the service system can be very confusing and challenging, especially when a family needs to interact with multiple government and non-government agencies. This is made even more difficult when agencies seem to be focused on different priorities and outcomes for the one family. This can lead to a poor level of services being provided, for example to children witnessing domestic violence.¹⁰⁹

Moving from outputs to outcomes

Research and best practice highlight the importance of moving towards an outcomes approach in public administration.¹¹⁰ Importantly, an outcomes approach can serve as a frame of reference to ensure financial and resource inputs, activities and outputs are appropriate and achieving intended results.¹¹¹

¹⁰⁸ ACT Government (2015) *A Step Up for Our Kids—One Step Can Make a Lifetime of Difference* (Out of Home Care Strategy 2015–20). http://www.communityservices.act.gov.au/__data/assets/pdf_file/0009/682623/CSD_OHCS_Strategy_web_FINAL.pdf.

¹⁰⁹ This issue has been identified in the ACT domestic violence gap analysis project (see Community Services Directorate (2016) *Domestic Violence Service System Gap Analysis Project: Final report* (unpublished)).

¹¹⁰ Hood, C. (1995). *The "New Public Management" in the 1980s: variations on a theme*. Accounting, organizations and society, 20(2), 93–109; Heinrich, C. J. (2002) *Outcomes-based performance management in the public sector: implications for government accountability and effectiveness*. Public Administration Review, 62(6), 712–725; Flynn, N. (2007). Public sector management. Sage.

¹¹¹ Perrin, B. (2006). *Moving from outputs to outcomes: Practical advice from governments around the world*. IBM Center for the Business of Government. Page 22.

Key reasons for an outcomes approach include the ability to:

- measure the effectiveness of an intervention;
- identify effective practices;
- identify practices that need improvement;
- prove organisational value; and
- accountability.

On this last bullet point, Professor Peter Shergold argues:

*It follows that if government commissions services on the basis of outcomes sought, the emphasis of public accountability should be on the audit of outcome performance rather than simply a report on compliance with process requirements*¹¹²

In the ACT there are examples of government programs moving towards an outcomes approach. The ACT's Family Violence Intervention Program is a good example of agencies collaborating to achieve better outcomes for vulnerable families (see Figure 9).

In addition, as part of the *Human Services Blueprint* a Human Services Outcomes Framework is currently being developed. The aim of the Framework is to measure population or community level progress against individual (wellbeing and wellness) and population outcomes. This is intended to be done through a Performance Measurement and Accountability Framework that is currently under development and aims to promote shared responsibility and accountability across the human services system.

As part of the out of home care reforms being progressed under *A Step Up for Our Kids*, services have been commissioned from non-government agencies. The commissioning for services is seen as an important mechanism to drive better value and outcomes for people. Commissioning for services and outcomes is concerned with orienting public services to be more strategic in approach and more explicit about resource allocation decisions.¹¹³ Importantly, it requires a shift in the way the public service operates (see Table 12).

¹¹² Shergold, P. (2013). *Service Sector Reform: A roadmap for community and human services reform*. State Government of Victoria. <http://vcoss.org.au/documents/2013/11/FINAL-Report-Service-Sector-Reform.pdf>. Page 25.

¹¹³ Dickinson, H. (2015) *Commissioning public services: the definition and aims matter*. *The Mandarin*. <http://www.themandarin.com.au/18604-commissioning-public-services-definition-aims-matter/>.

Figure 9: ACT's Family Violence Intervention Program

The ACT's Family Violence Intervention Program (FVIP) provides an interagency response to family violence matters that have come to the attention of police and then proceeded to prosecution. The FVIP partner agencies are:

- Australian Federal Police;
- Office of the Director of Public Prosecutions;
- ACT Magistrates' Court;
- ACT Corrective Services;
- Domestic Violence Crisis Service;
- Office for Children, Youth and Family Support, CSD;
- Policy and Regulatory Division, Justice and Community Safety Directorate; and
- The Office of the Victims of Crime Coordinator.

The FVIP's focus is on improving the criminal justice system response to family violence. The overarching objectives of the FVIP are to:

- work cooperatively together;
- maximise safety and protection for victims of family violence;
- provide opportunities for offender accountability and rehabilitation; and
- work towards continual improvement of the FVIP.

A review of the FVIP undertaken by the Australian Institute of Criminology in 2012 found:

- evidence of cooperation — the FVIP is effective in establishing relationships between agencies and ensuring they work cooperatively;
- evidence of safety and protection of victims of family violence — the breadth of services provided by FVIP agencies contributes to the perceived safety and protection of victims of family violence;
- evidence of offender accountability — the majority of incidents are being attended by police, proceeding to charges and then processed efficiently by the court. This contributes to victim safety and offender accountability; and
- evidence of continual improvement – FVIP agencies have implemented a range of practices to improve the criminal justice system response to family violence.

Source: Cussen, T., & Lyneham, M. (2012). *ACT family violence intervention program review*. Australian Institute of Criminology. <http://www.aic.gov.au/publications/current%20series/tbp/41-60/tbp052.html>.

Table 12: A shift in required in the way the public service operates¹¹⁴

From	To
Government choosing	User choice and control
Doer	Enabler
Siloed	Collaborative
Contract managers	Relationship managers
Program managers	Outcome managers
Control	Influence

In commissioning services, CSD developed an Outcomes Framework that was the result of a collaborative process between ACT Government officials and out of home care agencies. The outcomes developed relate to the child or young person and their family, both where there is risk of the child or young person entering care and after they have entered care.¹¹⁵

An outcomes approach to program management can facilitate collaboration.¹¹⁶ In commissioning out of home care services, a consortium of service providers was successful in providing services as part of the continuum of care domain of *A Step Up for Our Kids*, called ACT Together.¹¹⁷ The benefits of this collaborative approach include an increase in expertise, shared resources, improved program designs, shared risk and avoiding service duplication.¹¹⁸

¹¹⁴ EY (2014) *Public Service Commissioning: A catalyst for better citizen outcomes*. [http://www.ey.com/Publication/vwLUAssets/EY_-_Public_service_commissioning:_a_catalyst_for_change/\\$FILE/EY-Public-service-commissioning-brochure.pdf](http://www.ey.com/Publication/vwLUAssets/EY_-_Public_service_commissioning:_a_catalyst_for_change/$FILE/EY-Public-service-commissioning-brochure.pdf).

¹¹⁵ ACT Government (2015) *A Step Up for Our Kids – the ACT’s new five year strategy for ACT out of home care services*. Request for Proposal No. 25341.110. Page 57-58.

¹¹⁶ See Chapter 9 on collaboration.

¹¹⁷ See Chapter 2.

¹¹⁸ Lawson, H. A. (2004). *The logic of collaboration in education and the human services*. *Journal of interprofessional care*, 18(3), 225–237; Leathard, A. (2004). *Interprofessional collaboration: from policy to practice in health and social care*. Routledge.

Findings

- Outcomes for women and children in family violence situations can be improved if there is a focus on the family unit comprising the protection of the mother and children.
- The ACT lacks programs that focus on the perpetrator’s behaviour despite the fact that the perpetrator is the source of the family violence.
- Victims in family violence legal processes and families involved in child protection legal proceedings are often unrepresented and are confused by the processes.
- Many women in family violence situations, particularly Aboriginal and Torres Strait Islander women, avoid seeking support for fear their children will be removed.
- Not all frontline workers feel equipped to deal with clients that raise family violence issues. Appropriate training could assist. This may also mean more mainstream services might be able to provide services and support, rather than relying on already stretched and overwhelmed domestic and family violence services.
- Many programs for vulnerable families in the ACT are focused on outputs and activities rather than outcomes. Apart from anecdotal evidence, program administrators are not able to assess whether programs are working or the relative effectiveness of programs. This makes it difficult for the ACT Government to determine strategic priorities, appropriate interventions and services.

Recommendations

1. The response to family violence should focus on maintaining the mother and child victims as a family unit and build trust with the woman, in particular women and children in the Aboriginal and Torres Strait Islander community.
2. As a matter of course CYPS should refer matters involving family violence to appropriate service providers and when undertaking appraisals should collaborate with those providers to ensure support for the family as a whole.
3. Sufficient services should be made available to which individual members of a family can be referred. This includes specific services for children who have witnessed or experience family violence and services for perpetrators.
4. Adequate resources should be made available or funding provided to deliver training on family violence for frontline workers.
5. Service providers should be funded to deliver outcomes not programs and funding contracts should incorporate appropriate outcome performance measures.
6. Sufficient funding should be made available to victims seeking domestic violence orders and families dealing with the child protection system to enable them to obtain legal representation.
7. The ACT should remain actively engaged in the Family Law Council Review to improve responses to families with complex needs within the family law system and consider as a priority any recommendations that seek to resolve current issues.

CHAPTER 6

MANDATORY REPORTING

This Chapter addresses, in part, the Terms of Reference relating to the effectiveness of interactions between government directorates/agencies and service providers in relation to the use of mandatory reporting as prescribed by legislation and the appropriateness of responses to those reports.

Mandatory reporting laws

Mandatory reporting is the term used to describe the legislative requirement imposed on certain professions to report suspected cases of child abuse and neglect to government authorities. Mandatory reporting is a strategy that acknowledges the prevalence, seriousness and often hidden nature of child abuse and neglect, and aims to enable early detection of cases which otherwise may not come to the attention of government agencies.¹¹⁹

¹¹⁹ Mathews, B. (2015) *Mandatory reporting laws: Their origin, nature, and development over time*. Mandatory reporting laws and the identification of severe child abuse and neglect (pp. 3–25). Springer Netherlands; Australia Law Reform Commission, Australia. Human Rights & Equal Opportunity Commission. (1997). *Seen and Heard: priority for children in the legal process* (No. 84). Australian Government Publishing Service.

Mandatory reporting requirements reinforce the moral responsibility of community members to report suspected cases of child abuse and neglect. Mandatory reporting legislation aims to develop an awareness of child abuse amongst professionals, require them to report suspected cases of child abuse and protect them as mandated reporters.¹²⁰ Mandatory reporting schemes are an important part of the legal framework protecting children and young people from abuse.¹²¹

All states and territories have enacted mandatory reporting laws. However, the laws are not the same across jurisdictions and are unlikely to be as there is no national uniformity of child protection systems.

The main differences in mandatory reporting laws between jurisdictions concern:

- who has responsibility to report (reporter groups);
- what types of abuse and neglect have to be reported;

¹²⁰ Ibid.

¹²¹ Cummins, P., Scott, D., & Scales, B. (2012). Protecting Victoria's Vulnerable Children Inquiry Report. *State Government of Victoria, Melbourne*. Page 330.

- the state of mind that activates the reporting duty (e.g. having a concern, suspicion or belief on reasonable grounds);
- where reports are sent (e.g. child protection services or referred to community family support services);
- whether the reporting duty relates to past current or the risk of future harm;
- the definition of 'child'; and
- the penalties that apply for non-compliance.¹²²

Figure 8 illustrates the mandatory reporting law spectrum for states and territories. The ACT and Victorian schemes have the narrowest grounds on which reports are made — physical injury and sexual abuse — while the Northern Territory and New South Wales schemes have the broadest coverage thresholds including exposure to family violence. Victoria also has a parental protection clause which

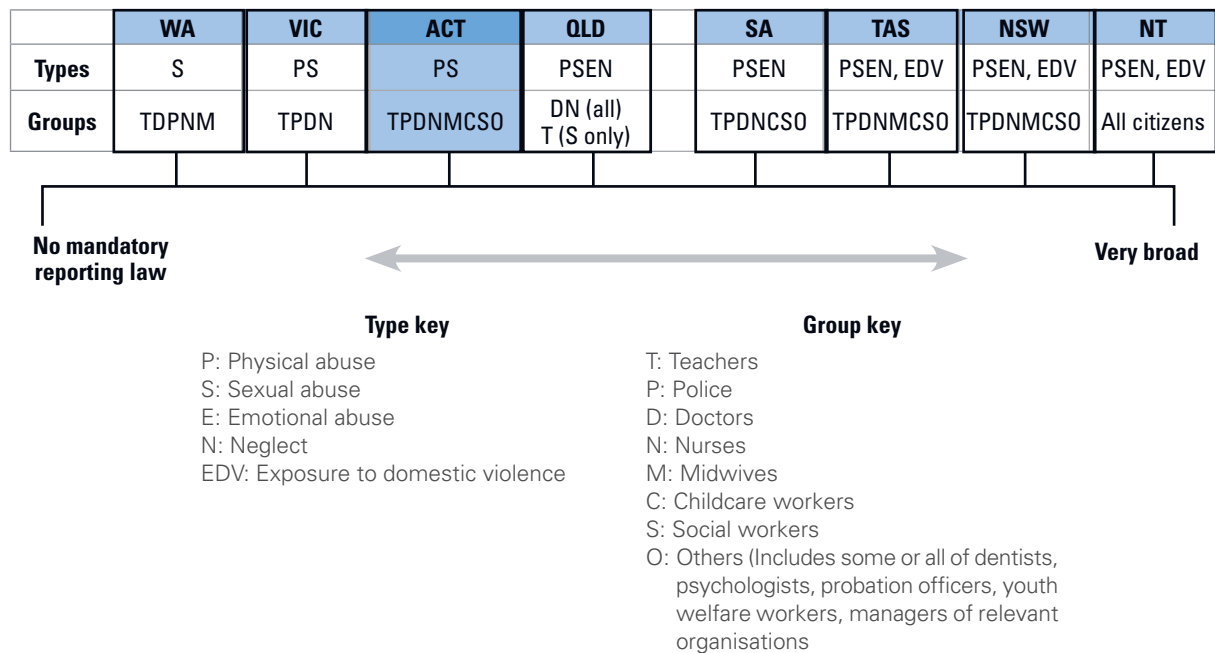
limits the duty to report in a number of areas of harm (e.g. sexual abuse, physical injury, emotional or psychological harm). It requires that the reporter to also hold the view that the child's parents have not protected or are unlikely to protect the child from this type of harm.

In the ACT, mandatory reporting requirements are set out in the *Children and Young People Act 2008* (CYP Act) and have been in place since 1 June 1997 when the relevant provisions in the *Children's Services Ordinance 1986* (No 13) commenced. Subsection 356(2) of the CYP Act provides who is a mandatory reporter - broadly a person who delivers health care, welfare, education, children's services, residential services, or law enforcement, wholly or partly to children.

If a mandatory reporter believes on reasonable grounds (arising in the course of their work) that a child has experienced, or is experiencing sexual abuse or non-accidental physical injury, they are required to report the name of the child and the

¹²² Matthews, B (2014) *Mandatory Reporting laws for child sexual abuse in Australia: A legislative history*. Report for the Royal Commission into Institutional responses to Child Sexual Abuse. Royal Commission into Institutional responses to Child Sexual Abuse. Sydney. Pages 3–5.

Figure 8: Mandatory reporting law spectrum for states and territories



Source: Matthews, B. et al. (2015) *Child Abuse and Neglect: A Socio-legal Study of Mandatory Reporting in Australia*. Report for Australian Government Department of Social Services. https://www.dss.gov.au/sites/default/files/documents/03_2016/child-abuse-and-neglect-v1-aust-gov.pdf. Page 11

nature of the harm to Child and Youth Protection Services (CYPS). Under section 356 of the CYP Act a person who is a mandated reporter and does not report sexual abuse or non-accidental physical injury commits an offence.

Reporting to child protection services

One of the factors driving demand for child protection services is the growth in the number of reports that subsequently do not meet the threshold for appraisal (investigation) and statutory intervention.

Reports from mandated reporters account for the vast majority of reports in the ACT (see Table 13). In the ACT and nationally, police were the main reporters. A number of notifications are made by persons who are not mandated reporters either because they are not a person providing the sorts of services covered, the information has not arisen in the context of their work or it relates to abuse that is not physical or sexual.

Numerous reviews and studies have found that mandatory reporting requirements have contributed to the dramatic increase in child concern reports over the past 30 years and even more pronounced in the last 10 years.¹²³

Longitudinal research shows that of all children born in South Australia in 1991, almost a quarter had been notified to child protection services by age 16. For Aboriginal children, this figure was almost 60 percent and more than half of the Aboriginal children born in 2002 were the subject of a notification by the time they were four years old.

Source: Hirte, C et al. (2008) Contact with the *South Australian child protection system: A statistical analysis of longitudinal child protection data*. Government of South Australia, Department for Families and Communities, Adelaide.

¹²³ Harries, M (2016) Report: *Redesign of Child Protection Services Tasmania: Strong Families – Safe Kids*. Department of Health and Human Services: Tasmanian Government. http://www.dhhs.tas.gov.au/_data/assets/pdf_file/0003/214356/Redesign_of_Child_Protection_Services.pdf. Page 12.

Table 13: Number of investigations, by source of notification, 2013–14

Source of notification	ACT	Nationally
Police*	249	30,898
School personnel*	167	22,771
Hospital/health centre*	205	5,287
Parent/guardian	40	6,720
Non-government organisation	187	7,557
Sibling/other relative	95	8,007
Other	92	5,509
Anonymous	0	4,945
Friend/neighbour	49	5,725
Social worker	19	13,709
Medical practitioner*	11	6,725
Departmental officer*	177	4,664
Other health personnel*	19	3,392
Child care personnel*	6	1,560
Subject child	11	398
Not stated	17	3,178
Total	1,344	137,585

* ACT mandated reporter
Source: AIHW *Child Protection Australia 2013–14* Table A5.

For the ACT over the past 10 years, child concern reports (notifications) increased from 8,064 in 2005–06 to 10,633 in 2014–15. However, child concern reports spiked in 2011–12 at 12,419 and have steadily reduced from 2012–13 to 2014–15.¹²⁴ However, it is understood that for 2015–16 year to date the number of child concern reports has increased.

The increase in child concern reports in the ACT has placed considerable resource pressures on CYPS resulting in resources being moved to assess child concern reports. For example, after a short trial period of child protection officers being placed in the three Child and Family Centres, they were recalled back to CYPS. A section established in CYPS to undertake quality assurance work undertook that work for a short period before officers had to be redeployed to deal with other areas in CYPS that were resource constrained.

¹²⁴ See Chapter 2 for child protection statistics.

Table 14: Outcome of mandated child concern reports to CYPS (2010-11 to 2014-15)

Report outcome	Number	%
Child concern reports – not proceed to child protection report	31,754	72
Child concern report – advice/referral/other	20,266	46
Child concern report – advice/referral	9,224	21
Child concern report – multiple report	2,264	5
Child protection reports – not proceed to appraisal	3,641	8
Child protection report – advice/referral/other	1,557	3
Child protection report – advice/referral	794	2
Child protection report – multiple report	1,290	3
Child protection reports – proceed to appraisal	5,840	14%
Not substantiated	3,382	8
Substantiated	2,458	6
Other	3,303	6%
Total	44,538	100

Source: Data supplied by Community Services Directorate

This increase in reporting is not sustainable and is an inefficient way of identifying seriously at risk children. While it cannot be expected that all child concern reports made by mandated reporters must meet statutory thresholds for child protection services intervention, there is room for more efficiency.¹²⁵

Responding to reports

Crucial to the issue of protecting children and young people from abuse and neglect is the response the child concern reports receive. Mandated reporters in the ACT made 44,538 reports to CYPS from 2010-11 to 2014-15 (see Table 14). This includes both mandatory reports and voluntary reports. Of these reports the following assessments were made and captured in the CYPS database:¹²⁶

- 2,458 (6%) of investigations resulted in substantiated abuse and neglect;

¹²⁵ Carmody, T. (2013) *Taking Responsibility: A Roadmap for Queensland Child Protection*. Queensland Child Protection Commission of Inquiry. http://www.childprotectioninquiry.qld.gov.au/___data/assets/pdf_file/0017/202625/QCPCI-FINAL-REPORT-web-version.pdf. Page 69.

¹²⁶ Over this five-year period there were changes in procedures, definitions and data collected.

- 3,382 (8%) of investigations did not result in substantiate abuse and neglect;
- 35,754 (72%) child concern reports did not proceed to a child protection report;
- 10,018 (23%) cases were provided advice and/or referred to services; and
- 3,554 (8.0%) cases were multiple reports of the same incident.

It is revealing that only a very small proportion (6%) of child concern reports result in substantiation, 80% (35,395) of the cases do not meet thresholds for statutory intervention (an appraisal) and 23% (10,018) of these cases were referred to services or provided advice. It is unclear from the high level data contained in the CYPS database what assistance, if any, was provided to the other (49%) cases. However, it is understood that CYPS officers may discuss family/child support options when reporters make a child concern report.

Given the large number of cases involved in the latter category, there would be value in understanding what has been the service response especially given families in contact with the child protection system may have multiple child concern reports. It was also not apparent to the Inquiry whether there is any

follow-up by CYPS when they do refer a case to services in terms of whether the service is actually accessed or effective. Professor Camilleri made similar observations as part of his internal review of CYPS:

The [10] cases reviewed have usually seen 'passive referrals' if a CCR [child concern report] is not substantiated or NFA [no further action] is decided. There was no active engagement by CYPS in nearly all the cases with only a few exceptions, to ensure the services are connected and that the family receive the intervention, nor monitoring to see if the expected outcomes have occurred.¹²⁷

This raises the question which part of the service system should be responsible for contacting vulnerable families with services when they do not meet thresholds for statutory child protection intervention.

The new client management system for CYPS that is currently in development and is estimated to commence on 1 July 2017, will have greater functionality and ability to capture more information about service referrals. The new system will replace the existing legacy systems and provide immediate access to information about children and young people at risk, assist case management functions and provide real time reports and data to support the work of Child and Youth Protection Services. There will also be mechanisms to improve the automation of the exchange of information about children and young people with service providers.

In the ACT, as in other jurisdictions, while many service systems have contact with children and young people, the responsibility for child safety and protection ultimately lies with child protection services. This is enshrined in the CYP Act. Yet child protection services is not a comprehensive child protection system. The statutory child protection response operates more like a patchwork of services that, at times, connect to other services in the human and justice services systems. For instance, the most common form of service is case management and referral and this is usually provided by child protection workers. Actual direct services and supports are delivered by other parts of

¹²⁷ Camilleri, P. (2015) Report: *Review of care and protection matters where children have been exposed to domestic/family violence*. Page 15. (unpublished).

the service system such as housing, health and mental health services, family supports, and domestic and family violence services. For this reason, collaboration and integrated services are imperative to effectively respond to child abuse and neglect.

Mandatory reporting requirements can have the unintended effect of creating a culture of mandated reporters *only* reporting and feeling relieved of responsibility for protecting children and young people. This is reinforced by mandatory reporting legislation being silent on reporters' responsibilities beyond their reporting obligations. From the information, files and material received from government and non-government agencies as part of this Review, it is clear they all have well documented policies and procedures for reporting child abuse and neglect. The statistics outlined in Chapter 2 and in this chapter support this finding given the high rates of reporting. It is less clear what supports may be provided to potential reporters in terms of helping them to manage the risk of not reporting and determining the circumstances when it is necessary to report.

The ongoing responsibility of reporters for supporting and protecting a child, especially in circumstances when the child concern report does not meet statutory thresholds for child protection services intervention, is also less clear. For example, teachers and other school personnel have the most interaction with children, are well placed to observe changes in behaviour and distress and are readily available for children who want to disclose abuse and neglect.¹²⁸

This is why in cases such as the Dillon case there are multiple reports from education officers and the statistics show education officers are high-level mandatory reporters more generally. As noted by the Camilleri Review, CYPS focus on separate incidents. There can be a "churning" of the cases where a concern report is received, no further action is taken or an appraisal is undertaken and substantiated but then the case is closed. Another concern report can result in the same process. Neither education nor CYPS will have taken responsibility for ensuring the family is linked

¹²⁸ Gilbert, R., Kemp, A., Thoburn, J., Sidebotham, P., Radford, L., Glaser, D., & MacMillan, H. L. (2009) *Recognising and responding to child maltreatment*. *The Lancet*, 373(9658), 167–180. Page 173.

to appropriate services and that they access them.¹²⁹ The Inquiry is of the view that reporting concerns to child protection services alone is insufficient. The system needs to ensure there is clear responsibility to ensure the child or young person and their family has access to and actually engaged with appropriate services. This issue is addressed more fully in Chapter 9.

Information provided to mandatory reporters

One issue that arose repeatedly during the Inquiry's consultations was the lack of feedback provided to mandated reporters whether they were government or non-government agencies. Feedback is currently likely to be nothing more than an indication that the matter is not proceeding to appraisal or that the concern raised do not warrant statutory intervention. It is not made clear whether the child or family has been referred to support services or whether they are actually accessing those services. This issue was also identified in the 2012 Victorian child protection inquiry.¹³⁰ A lack of information about the child or family may also result in ongoing reporting.

It is clear there are multiple and sometimes duplicated child concern reports by agencies all concerned about the one child or family. As a part of the performance audit of the care and protection system that was undertaken by the ACT Auditor-General's Office, 30 case studies were reviewed. Seventeen of the children and young people had between 11 and 30 concern reports and/or child protection reports. The lowest number of such reports was six and the highest for one young person was 58.¹³¹ Many of these reports are likely to have related to different incidents, but some are also likely to have been reports by multiple agencies related to the one incident or be repeat reports of general concerns made in the absence of any knowledge about what is happening in relation to the relevant child/family.

¹²⁹ Camilleri, P. (2015) Report: *Review of care and protection matters where children have been exposed to domestic/family violence*. Page 14. (unpublished).

¹³⁰ Cummins, P., Scott, D., & Scales, B. (2012). *Protecting Victoria's Vulnerable Children Inquiry Report*. State Government of Victoria, Melbourne. Page 346.

¹³¹ ACT Auditor-General's Office (2013) *Performance Audit Report Care and Protection System*. Report No. 01/2013. <http://www.audit.act.gov.au/auditreports/reports2013/Report%201%202013%20Care%20and%20Protection%20System.pdf>. Page 8.

Research suggests that a perceived lack of action by child protection services is an incentive for professionals to continue to report minor incidents that are part of the same incident in the hope that a multitude of reports will influence some sort of action. This can cause frustration for child protection services for having their decisions questioned about whether or not a case met their threshold for statutory intervention. This 'conflict' between professionals illustrates a potential lack of understanding of the different roles agencies have in supporting and protecting at risk children and young people.¹³²

Lack of information in relation to the outcome of a report can also undermine professional services being provided to the family or child. By way of example, health professionals noted that often a report would be made in relation to a child or family with little or no feedback being provided. When the child presents again at the hospital health professionals do not know whether there are broader issues, what supports are being provided or which organisation to contact to assist in providing services.

Other jurisdictions are seeking to address the issue of increased child concern reporting through a number of measures such as providing training and support for mandatory reporters. Probably the most significant measure is creating clear and visible pathways to access services at an early stage and having capacity within the system to respond. This approach is generally referred to as a 'differential response' which is an attempt to separate cases earlier, often at the initial intake point, and provide either an investigation — in cases of sexual abuse or other serious abuse — or an assessment in other less serious cases to provide the appropriate service response. This approach operates more like a triage system whereby at an earlier stage families may be referred to community services and supports, where appropriate, and to reserve more formal investigations for cases where a child is more likely to be in need of protection.¹³³

¹³² Scott, D. (2012) *Improving the measurement and surveillance of child maltreatment in Queensland Emergency Departments*. Doctor of Health Science, Queensland University of Technology, Brisbane. Page 177.

¹³³ Drake, B., & Jonson-Reid, M. (2015). *Competing Values and Evidence: How Do We Evaluate Mandated Reporting and CPS Response?* In *Mandatory Reporting Laws and the Identification of Severe Child Abuse and Neglect*. Springer Netherlands. Page 47.

The KPMG Business Case for a One Human Services Gateway in the ACT notes that adoption of an integrated system through a one human services gateway is likely to lead to “a reduction of avoidable demand (and cost) on the child protection, out of home care and youth justice systems... [This includes] an alternative referral pathway to support responsive and timely early intervention”.¹³⁴ To support this conclusion KPMG relied on the Midterm Review Report for the Tasmanian Gateway and Family Services undertaken by the Tasmanian Department of Health and Human Services. At that time the report noted quantified reductions in entries to child protection and a reduction in eventual substantiations to child protection of approximately 15% between 2005–06 and 2008–09 compared to an average increase of approximately 25% for the rest of Australia.¹³⁵

Unfortunately, it has now been recognised that a reduction in reporting to the Tasmanian child protection service has not been sustained. Instead of providing an alternate pathway for reporting and accessing services where there were lower level concerns, the outcome has been the creation of an additional pathway, with reports to child protection services continuing to increase due in large part to increasing community awareness and mandatory reporting requirements.¹³⁶

These results would suggest that if the level of reporting to child protection services is to be reduced so that they only deal with the most serious cases, there needs to be a formal filtering or triaging mechanism. Such a mechanism in the ACT could be the new One Human Services Gateway working with the Child and Family Centres provided that child concern reports were initially assessed by the Gateway. In the absence of clear requirements changing where child concern reports are to be lodged it is likely that the Tasmanian experience will be repeated in that a dual pathway for reporting will be created.

¹³⁴ KPMG (2013) *One Human Services Gateway Business Case*. Page 3. (unpublished).

¹³⁵ Ibid.

¹³⁶ Harries, M (2016) Report: *Redesign of Child Protection Services Tasmania: Strong Families – Safe Kids*. Department of Health and Human Services: Tasmanian Government. http://www.dhhs.tas.gov.au/__data/assets/pdf_file/0003/214356/Redesign_of_Child_Protection_Services.pdf. Page 5.

Having the Gateway working with Child and Family Centres to filter and triage child concern reports and facilitate the provision of appropriate services at any early stage would require some child protection resources to be located in the Centres working with the broader human services resources. The Inquiry formed the view that this would be a positive move more generally not just in terms of assisting in reducing low level concern reports being assessed by CYPS. Certainly the consultations undertaken indicated strong support for child protection resources being located in the Child and Family Centres.

ACT Policing responses to reports

In reviewing the files, records and information relating to the Dillon matter, the Inquiry considered how ACT Policing respond to family violence and interact with government and non-government agencies.

SACAT advised CYPS that ACT Policing would not undertake an investigation without a specific disclosure from the children.

In raising this issue with ACT Policing, the Inquiry was told while there is a recognised role for police in managing welfare issues, the primary responsibility falls with CYPS. ACT Policing explained that the first objective in receiving a referral from CYPS is obtaining disclosure from the child. This is because a key difficulty police have in such cases is determining whether or not the injury is accidental or the result of abuse. If the child refuses or will not disclose information relating to how an injury was sustained, consideration is given to any other corroborating evidence to support an investigation.

It is apparent that with finite resourcing ACT Policing is required to prioritise the allocation of police resources and is reluctant to allocate resources to cases that are unlikely to proceed to investigation. The Inquiry recognises that a particular threshold of evidence must be met to proceed with an investigation with a view to laying criminal charges.

In cases involving reasonable grounds that a child may be in need of care and protection, CYPS needs

to undertake an appraisal. To undertake an appraisal CYPS is required to seek agreement from the parent or person with daily care responsibility (section 368 of the CYP Act) unless an appraisal order has been obtained from the Childrens Court. CYPS has indicated that this requirement means parents often refuse to agree to an appraisal and their children being interviewed without their presence. In cases where the parent is accused of inflicting violence and the parent is present, disclosure from the child is unlikely to be obtained. The Inquiry was advised that the provision requiring parental consent for an appraisal was included on the basis of human rights considerations. The Inquiry has formed the view that in practice this requirement limits CYPS to perform its functions.

In considering the right of a child to be free from abuse and neglect, the Inquiry has formed the view, on balance, that it is reasonable in matters involving allegations of abuse and neglect by a parent or person with daily care responsibility, for CYPS not to be required to obtain agreement to the appraisal from the parent or person with daily care responsibility.

In a resource constrained environment, whether there is a more practical arrangement for CYPS than obtaining a court order to undertake an appraisal in the absence of parental consent, should also be considered. It may be that CYPS would be required to notify the Childrens Court of its intent to undertake an appraisal and the parent or person with daily care responsibility having a right to lodge an objection. This option could represent a reasonable and proportionate arrangement consistent with human rights obligations. In such circumstances the onus would be on the parent or person with daily care responsibility to convince the Court the appraisal was not in the best interests of the child.

ACT Policing process for referrals from CYPS:

- SACAT assess the referral by dedicated SACAT child protection liaison member
- Assessment oversight by SACAT Sergeant
- SACAT seek additional history and discuss with child protection services
- Conduct appropriate PROMIS history checks (ACT Policing case management system)
- Ascertain whether or not child has made any disclosure
- Commence investigation – conduct evidence-in-chief, obtain medical and other corroborating evidence.

If a referral does not proceed to investigation (nil disclosure and no other corroborating evidence):

- Child protection services is advised of no further police action
- Reason for rejection recorded.

Following the Dillon matter, additional oversight processes have been adopted when allegations of child abuse are received:

- Dedicated Child Protection Services Referral Officer within SACAT is responsible for receipt and evaluation of all child protection referrals
- All referral decisions are reviewed by a Detective Sergeant prior to final decision
- Family Violence Coordination Unit notified of all referral outcomes (accepted or rejected). The Unit evaluates information in a broader context.

Findings

- a. The number of child concern reports received by CYPS has increased over the past 10 years but many of these reports do not result in an appraisal being undertaken or the report leading to substantiation.
- b. Dealing with this increasing volume of reports is resource intensive and may be diverting resources from focusing on higher risk cases.
- c. Other jurisdictions are looking at measures to deal with the issue of child protection services being overwhelmed, such as diverting the reporting of low risk cases to other mechanisms for the provision of services and supports.
- d. Better feedback on outcomes flowing from a child concern/child protection report would be likely to reduce the number of reports received by CYPS.
- e. Improved information about outcomes and supports being received by a family/child would reduce multiple referrals to multiple services.
- f. The level of access to services and assistance for families following a child concern report through referrals by CYPS is not clear and may vary depending on the worker. There also does not appear to be routine follow-up as to whether those services have actually been accessed.
- g. Any process to divert reporting of low level concerns from CYPS will need to be backed by clear authority and processes to avoid creating a dual reporting pathway.
- h. Requiring parents to consent to an appraisal, combined with tight resources in CYPS, can mean the right to refuse can be used to constrain the intent of an appraisal. This can reduce the likelihood of a disclosure which in turn can affect whether ACT Policing will investigate.

Recommendations

8. CYPS must ensure appropriate feedback is given to notifiers of child concern reports and, where matters do not proceed, referral to support services to the family must be considered.
9. Consideration should be given to:
 - a. amending the CYP Act (Division 11.2.2) for matters involving allegations of abuse or neglect by the parent or person with daily care responsibility. In such matters the Director-General should not be required to obtain agreement to the appraisal from each parent or each other person with daily care responsibility or seek an appraisal order from the Childrens Court; or
 - b. requiring the Director-General of the Community Services Directorate to notify the Childrens Court of the intention to undertake an appraisal providing the parent or person with daily care responsibility the right to lodge an objection.
10. ACT Policing policy regarding not undertaking investigations unless children have disclosed abuse should be modified to ensure this policy is not rigidly applied and that the circumstances in individual cases are considered and discussed with CYPS.

CHAPTER 7

DECISION MAKING, QUALITY ASSURANCE AND OVERSIGHT

While Child and Youth Protection Services (CYPS) is part of the ACT Community Services Directorate (CSD) it has particular statutory responsibilities under the CYP Act relating to the care and protection of children and young people. The responsibilities involve the exercise of decision making generally relating to involuntary clients. Any intervention to protect a child or young person that may include placement in out of home care is likely to involve some degree of opposition from those who may be affected. Making decisions to separate a child from their family or a parent is without question a difficult role.

Officers of CYPS who make the significant decisions are social workers and psychologists who should be well placed and qualified to carry out this role. During the Inquiry's consultations there was consistent recognition on the one hand that the role of CYPS officers was a challenging one but on the other hand it was seen that a culture had developed or persisted where CYPS officers were so focused on their role they rarely sought or listened to advice and guidance from those who were working closely with affected families. Communication was seen to be one directional with affected parties and service

providers struggling to find out what was happening or to be able to have input into decision making.

The issue of communicating decisions is related to their recording. In his internal, independent review of how CYPS responded to the Dillon children, Mr Peter Muir found "decisions and the reasons for decisions are not always clearly recorded in accordance with the Directorate's procedures".¹³⁷ A similar finding was also made by the Auditor-General in 2013.¹³⁸

Many of the decisions of CYPS are not reviewable externally and this issue is addressed later in this section. However, it is not uncommon where agencies are making decisions not subject to review and with limited accountability that a degree of over-confidence develops leading to the view that 'we make the right decisions'. This can lead to a degree of agency defensiveness when their decisions are questioned or reasons are sought for particular actions. The perception of many of the service providers consulted

¹³⁷ Muir, P. (2016) *Independent Review Child and Youth Protection Services Response to the Dillon Children*. Report to the Office for Children, Youth and Family Support ACT Government. Page 30. (unpublished).

¹³⁸ Cited in Ibid.

during the Inquiry is that CYPS has isolated itself too much from the service providers. Its culture is focused on the performance of its statutory role and the protection of children with the result that it may not seek or accept advice or information that does not align with its intentions or views. That limited and immediate focus may mean that outcomes for families, more broadly, are being overlooked.

CYPS has been undergoing a reform process which to date has been largely inwardly focused. There has been, within CSD, a recognition that service providers and government agencies need to be more actively involved and communicated with by CYPS and internal efforts have been made to improve the consistency and effectiveness of processes and decision making. These efforts were recognised by some service providers and agencies that are able to work more closely with CYPS but they too felt that more needs to be done.

For organisations working with the community, whether government or non-government, perceptions have to be treated as reflecting reality and be addressed. There is little doubt that CYPS needs to make greater efforts to become more transparent, to engage with other agencies and service providers, to seek information and advice to inform decision making and to consult and engage more with those who provide services to families who come to the notice of CYPS. This Report has identified the need for improved collaboration and information sharing across the family violence and child protection sectors and CYPS should take a leading role in accepting and promoting a more collaborative style of working in the interests of safer families and children.

Both the Executive leadership of CSD and CYPS should ensure that the values and collaborative culture are modelled and promoted at all levels throughout CYPS and are embedded in all processes, interactions and decision making. Although formal processes of review of decisions as described below will enhance the consistency and quality of decision making, it is important that CYPS sees itself as being openly accountable to the Government and the community for the way it carries out its role and the decisions it makes.

During the course of consultation with the non-government agencies concern was expressed that CYPS decision making was not reflective of cultural aspects of many of the families affected by their decisions. In particular comment was made by both Aboriginal and Torres Strait Islander and non-Indigenous agencies that the home environment of Aboriginal children was being measured against an Anglo-non-Indigenous standard that simply did not reflect the more communal nature of Aboriginal and Torres Strait islander families and their socioeconomic status.

It is recognised all jurisdictions struggle in recruiting and retaining child protection workers. A strategy adopted by the ACT, and some other jurisdictions, to address this issue has been to recruit child protection workers from the United Kingdom. There was a strong feeling that there was a lack of diversity in the past employment practices of CYPS and an inadequate number of coalface CYPS workers who were of Aboriginal or Torres Strait Islander background. It is understood CYPS had 11 Aboriginal and Torres Strait Islander staff out of 262 at 9 March 2016, representing 4.2%. The view was also expressed that greater efforts had to be made to place Aboriginal and Torres Strait islander children within their own community rather than with non-Indigenous family placements or out of home care placements outside the community.

Together these issues meant that the relationships between a number of the service providers and CYPS were weaker and less cooperative than is desirable for the best interests of children to be accommodated in the decision making process. The Inquiry considers this to be a significant issue. It heard on many occasions that Aboriginal women were avoiding seeking assistance or medical treatment for fear that their children would be taken away from them. In some cases women were travelling to out of Territory hospitals to have their children to ensure CYPS did not become involved. In part this behaviour reflects the already mentioned issue of the mother, who is subject to domestic violence, becoming the target of assessment of parental suitability almost as a perpetrator herself and potentially losing her child or children.

“Legal Aid ACT recommends that Caseworkers engaging with Indigenous families must have cultural competency assessment including an understanding of the historically fraught relationship Indigenous Australians have with authorities of the State particularly in relation to the removal of children. Legal Aid ACT recommends the recruitment and engagement of Indigenous caseworkers to improve and enhance the engagement of CYPS with Indigenous families.”

Legal Aid Submission to the Review, 31 March 2016

Greater attention needs to be paid to recruitment practices to ensure diversity, cultural awareness training and appropriate quality control of decision making to ensure the absence of unintended bias.

Decision making

Child protection agencies face a myriad of difficulties, James Mansell notes these as:

*[S]urging demand, inability to manage or forecast demand, the inability to respond to criticism for not being responsive enough (e.g. driven by high-profile child deaths), the inability to defend against criticism for being too intrusive (United Kingdom experience), pressure to apply reactive changes to intervention thresholds and continual pressure to risk-manage intake, and becoming more forensic to avoid errors, thereby shifting resources away from effective intervention.*¹³⁹

In this difficult environment it hardly needs to be stated that child protection decisions can have life changing consequences, whether they be to intervene to place a child in out of home care, to leave the child with their family or decisions made in terms of a child’s placement and contact with birth parents. The important decision to pursue a care and protection order (an order to confirm the

¹³⁹ Mansell, J. (2006). The underlying instability in statutory child protection: Understanding the system dynamics driving risk assurance levels. *Social Policy Journal of New Zealand*, 28, 97. Page 99.

decision of child protection services that parenting responsibility in relation to a child should be held by the Director-General) is supervised by the judiciary, in often contested circumstances. The Inquiry heard that as a consequence of decreasing funding for legal representation, families are often unrepresented at hearings for care and protection orders in the Childrens Court. While not always the case, these families may have poor reading and writing skills and little capacity to represent themselves.

The literature in relation to decision making in the area of child protection notes that the provision of child protection services varies across the world. There are two general approaches: the “child protection” approach adopted in Australia and the “family service” approach prevalent in Europe.¹⁴⁰ The child protection approach places emphasis on risk, with statutory child protection authorities assessing risk and undertaking investigations of reported abuse. Price-Robertson et al suggest that with rising demands placed on child protection services the child protection orientation in Australia is moving towards a family services approach.¹⁴¹

In practice many professionals, especially social workers rely heavily on intuitive skills or their professional judgement.¹⁴² This reliance on professional judgement was also observed by Muir in discussions with the Inquiry. Child protection decisions can thus be subject to the shortcomings of human judgement, a slowness to revise judgements in light of new evidence, reliance on verbal not written information and decision making on “available evidence” when further evidence might and should have been gathered.¹⁴³

In an article on Common Errors of Reasoning in Child Protection Munro notes:

¹⁴⁰ Lonne, B., Brown, G., Wagner, I., & Gillespie, K. (2015). Victoria’s Child FIRST and IFS differential response system: progress and issues. *Child abuse & neglect*, 39, 41–49.

¹⁴¹ Rhys Price-Robertson, Leah Bromfield and Alister Lamont (2014) *International approaches to child protection. What can Australia learn?* Child Family Australia Paper No 23.

¹⁴² Farmer, E and Owen, M (1995) *Child protection practice: Private risks and Public Remedies-decision making, intervention and outcome*. HMSO, London.

¹⁴³ Munro, E. (2000) *Common errors of reasoning in child protection work*. LSE Research Articles Online Page 5

It was found that professionals based assessment of risk on a narrow range of evidence. It was biased towards the information readily available to them, overlooking significant data known to other professionals. The range was also biased towards the more memorable data, that is, towards evidence that was vivid, concrete, arousing emotion and either the first or last information received. The evidence was also often faulty, due, in the main, to biased or dishonest reporting or errors in communication. A critical attitude to evidence was found to correlate with whether or not the new information supported the existing view of the family. A major problem was that professionals were slow to revise their judgements despite a mounting body of evidence against them.¹⁴⁴

In this regard service providers consulted by the Inquiry noted that their views were often discounted as not being professional, despite the fact they had been working with the family over a long period. It was also noted that often broader family members have the best understanding in relation to the family and that current review arrangements do not give them a voice. It is important in making these difficult decisions that child protection is open to, and takes account of, all of the available evidence before making decisions:

Sound decision-making is dependent on the quality of information held. If information is incomplete or inaccurate, then this will directly impact on the quality of decision-making.¹⁴⁵

In a context where life changing decisions are being made based on human judgement, in circumstances where errors can never be entirely eliminated, review of decisions and quality assurance arrangements can play an important role. As noted by The Hon. Justice Deidre O'Connor:

[T]he responsibilities of government must include not only a system for making correct and

fair decisions but also an effective mechanism for review of decisions if they do not comply with objectives. Directly or indirectly, the government continues to exercise a significant amount of decision making power and administrative review remains a useful tool of accountability both for individuals whose interests are affected by specific decisions, and, in a more general sense, for the community.¹⁴⁶

Merits review of Child and Youth Protection Services decisions

Provision can be made for either internal merits review of decisions or for independent external merits review. Merits review is where a new decision maker makes a fresh decision on the merits of the case trying to ensure the decision is fair and reasonable. Certain decisions set out in section 839 of the *Children and Young People Act 2008* (CYP Act) such as refusal to approve a residential care organisation, refusal to authorise a person as a kinship carer or as an approved carer can be reviewed by the ACT Civil and Administrative Tribunal (ACAT). Certain other important decisions that are not merits reviewable (i.e. reviewable by ACAT) in the ACT, are merits reviewable in other jurisdictions such as Victoria and Queensland. Examples are:

- care plans made by the Director-General under section 455 which can be amended from time to time; and
- a decision by the Director General not to provide information to a child's parents about the child where he or she is in out of home care because of a care and protection order.

As noted by the former Children and Young People Commissioner:

I consider that the availability of administrative review of such key decisions would improve

¹⁴⁴ Ibid.

¹⁴⁵ Muir, P. (2016) *Independent Review Child and Youth Protection Services Response to the Dillon Children*. Report to the Office for Children, Youth and Family Support ACT Government. Page 25. (unpublished).

¹⁴⁶ O'Connor, D (2000) "*Lessons from the Past/Challenges for the future: Merits Review in the New Millennium*". Paper presented to the 2000 National Administrative Law Forum-Sunrise or Sunset? Administrative Law in the new Millennium. <http://www.aat.gov.au/about-the-aat/engagement/speeches-and-papers/the-honourable-justice-deidre-oconnor-former-pr/lessons-from-the-past-challenges-for-the-future>.

accountability for decisions that have a significant impact on the lives of children and young people, and their families and carers and would promote high quality evidence-based decision-making by CPS [now CYPS].¹⁴⁷

There are no formal provisions for internal merits review of CYPS decisions relating to the intake and assessment process. Once matters have escalated to the level where orders are being sought in the Childrens Court there is an Application Review Panel (ARP) that reviews the case. This panel is an internal review mechanism that is a creature of policy not legislation. Applications that are to be made for court orders are reviewed internally by a panel of senior managers from CYPS, the senior manager from legal services and advisers from CYPS. The Legal Aid Commission in a submission made to the Inquiry noted that there is no readily available information that explains the role and procedures of the ARP including how information or evidence can be presented to and considered by the Panel and what reasons will be provided.¹⁴⁸

In cases where a complaint has been made to CYPS that has not been able to be resolved the Executive Director of CYPS may convene a Decision Review Panel which is an advisory panel "...to review significant decisions...which have a significant impact on the safety, well being or living circumstances of children, young people, families or carers".¹⁴⁹ There is no further elucidation of what issues might be relevant to whether a matter has "significant impact" and could arguably cover many CYPS decisions. The panel is made up of a CSD representative, a representative from CYPS and an external representative.

The Inquiry was advised that a decision review panel is only convened in rare circumstances. This is supported by the statistics which indicate that four matters have been reviewed by the Decision Review Panel since 1 July 2012.

¹⁴⁷ Roy, A. (2014) Letter to Director-General, Community Services Directorate. (unpublished).

¹⁴⁸ Legal Aid ACT, Submission to the Inquiry, 30 March 2016

¹⁴⁹ Community Services Directorate (2013) OCYFS Decision Review Panel Charter, January 2013. Page 4 (unpublished).

As noted, there are no formal merits review processes (internal or external) for decisions taken much earlier in the intake process, such as whether a case meets the threshold to proceed to appraisal, other than sign off on decisions by a team leader. The Inquiry noted that the current sign off processes had occurred in the Dillon case.

Case Study

The Director-General applies to the Children's Court for a care and protection order for Ms X's children. The Children's Court Magistrate makes a Care and Protection Order, providing the Director-General with parental responsibility for the children until they are 18. In her judgement, the Magistrate notes that the children currently have contact with their mother three times a week, and highlights the importance of an ongoing relationship between Ms X and the children. A CYPS caseworker later varies the Children's Care Plan so that the children will only see their mother four times per year.

Ms X asks for written reasons for this drastic change, after she is dissatisfied with the explanation given by the Caseworker at a Review of Arrangements meeting,. The caseworker declines to provide his reasons in writing, simply stating that 'things have changed' and that 'the new arrangements are in the children's best interests.' Ms X seeks assistance from Legal Aid regarding the change to the Care Plan. She is advised that there is no pathway for her to seek external review of this decision.

Legal Aid Submission to the Review, 31 March 2016

Judicial review

As noted above, certain decisions made under the care and protection chapters of the *Children and Young People Act 2008* (CYP Act) need to be endorsed by the Childrens Court in the form of orders. These relate to orders such as a care and protection order or an appraisal order. Decisions made by the Childrens Court in relation to the making, refusing to make, extending or refusing to extend, amending or refusing to amend, revoking or refusing to revoke an order or other decision may be appealed to the Supreme Court (sections 835 and 836).

In addition, a person may seek judicial review in the Supreme Court of a decision made or proposed to be made under the CYP Act 2008 pursuant to the *Administrative Decisions Judicial Review Act 1989* (the ADJR Act 1989). This review is on the basis that the decision breached or would breach procedural decision making rules such as the rules of natural justice. However, the decision regarding a child's placement is made by the Director-General pursuant to the care and protection order made by the Childrens Court and is therefore not a decision under the CYP Act, and is therefore not reviewable pursuant to the ADJR Act 1989.

In any event judicial review options can often provide little comfort to disgruntled citizens if they are unable to afford legal representation or are not eligible for legal aid to conduct such proceedings.

Quality assurance arrangements

Quality assurance arrangements can also play an important role in managing risk and in ensuring that decisions are being made lawfully and consistently. The value of good quality assurance processes is even greater where review rights in law or in practice are limited.

The first level of quality assurance can be supervision. "Supervision of caseworkers is an essential tool to reflect on judgements and guard against predictable errors in child protection work".¹⁵⁰

¹⁵⁰ Department of Family and Community Services (2012) *Improving child protection casework practice*. Research to Practice Note cited in Muir, P. (2016) *Independent Review Child and Youth Protection Services Response to the Dillon Children*. Report to the Office for Children, Youth and Family Support ACT Government. Page 61. (unpublished).

The Inquiry noted that in the Dillon case the CSD internal review conducted by an officer after Bradyn Dillon's death found that the intake decision making process demonstrated a lack of understanding of thresholds and that there was no consideration of the impact of cumulative harm.¹⁵¹ Cumulative harm is where individual child concern reports that do not in themselves meet the threshold may in fact collectively mean that cumulative harm is occurring and should be looked into further.

The 2013 Performance Audit Report into the Care and Protection System noted there were no scheduled or regular quality assurance activities conducted on case files by experienced and qualified care and protection staff in the then Care and Protection Branch (the predecessor to CYPS).¹⁵² Team leaders, managers and practice managers were required to perform quality assurance reviews as part of their duties. The Care and Protection Branch noted that the absence of such reviews was due to increased demand for services and a workforce shortage. The Report noted "[w]ithout a suitable level of quality assurance there is a risk that not all decisions are being made in the best interests of a child or young person and compliance with statutory obligations may be compromised".

The Auditor-General noted that a Quality Practice and Compliance Unit was established in 2012 to undertake care and protection quality assurance reviews on practice management. Recognising the high risk of no quality assurance, the Auditor-General recommended that the Unit develop a forward review program and commence reviews.

The Inquiry was advised that the Unit did undertake some quality assurance reviews for a period, but again due to the workload pressures, these did not continue. Team leaders and managers were again given a quality assurance role as part of their duties. At the time CYPS came into being on 1 July 2015, an internal audit function was created that reports to the Executive Director. Regular audits are currently

¹⁵¹ Community Services Directorate (2016) Report: *Internal review of Child and Youth Protection Services response to the Dillon children*. (unpublished).

¹⁵² Office of the ACT Auditor General (2013) *Performance Audit Report: Care and Protection System Report No. 1 /2013*. <http://www.audit.act.gov.au/auditreports/reports2013/Report%201%202013%20Care%20and%20Protection%20System.pdf> Page 4.

undertaken in relation to specific processes or areas of concern. It may be that as part of these audits intake decisions are independently reviewed but the Inquiry felt that there is no certainty regarding this and no certainty that if they are reviewed this will be on a regular and ongoing basis.

The Inquiry was advised that where there have been many reports in relation to a child that do not meet the threshold, this may still amount to “cumulative harm” and that officers may choose to forward the case to another team leader for appraisal, which is a form of subjective quality assurance.

Oversight

The Public Advocate has traditionally had an advocacy role in relation to children and young people involved with the Territory’s care and protection services, particularly if the child or young person is placed in out of home care or detained at the Bimberi Youth Justice Centre. The functions of the Public Advocate include monitoring and reviewing notification of emergency actions, care and protection orders, assessment orders and revocations/amendments/extensions of those orders.

This role is similar to other agencies in other jurisdictions that provide statutory representation of children and young people’s interests, for example the Children’s Guardian in South Australia and the NSW Commission for Children and Young People.

However, there is one significant difference, in the ACT the Public Advocate has had the ability to be heard and be a party to proceedings in the ACT Children’s Court.

From 1 April 2016 this role was taken up by the new Public Advocate and Children and Young People Commissioner (the PACYP Commissioner) as part of the newly created ACT Human Rights Commission. The PACYP Commissioner continues to exercise similar powers under the CYP Act and the *Human Rights Commission Act 2005*.

During consultations the relationship between the Public Advocate’s office and CYPS was raised as an issue. Lack of communication and a level of defensiveness by CYPS was viewed as creating an adversarial relationship. There

was a need to work more collaboratively and to view the oversight and advocacy role of the Public Advocate as one that could ensure better outcomes for the system as a whole. The Inquiry was advised that the Public Advocate has a cooperative and collaborative working relationship with other directorates such as the Health Directorate.

In order to perform his or her functions, the Public Advocate requires access to information from CYPS. Section 879 of the CYP Act provides a broad power for the Public Advocate to request from a welfare organisation (which includes officers in CYPS) information, advice, guidance documents, facilities or services in relation to the physical or emotional welfare of children and young people.

Due to staff absences the Public Advocate only made seven requests for information from the Director-General pursuant to section 879 in 2014–2015. This year 64 requests have been made as at 16 March 2016. The Inquiry understands that responses from CSD have been delayed and that the Operational Compliance and Support area in CYPS that focuses on responding to the Public Advocate is under resourced to deal with this level of requests in a timely manner. The Inquiry noted the importance of appropriate resourcing for oversight bodies and for those responding to them particularly in an area of public administration where there are limited review opportunities.

Findings

- a. Certain CYPS decisions have only a limited form of internal merits review and some important decisions that are externally merits reviewable in other jurisdictions are not reviewable in the ACT.
- b. Decisions made early in the process, such as intake assessment, are not subject to merits review.
- c. Some CYPS decisions are judicially reviewable but the value of that review right may be undermined by a lack of legal representation.
- d. There are no formal, internal, dedicated and regular quality assurance mechanisms for CYPS decisions. Responsibility for oversight and quality assurance rests with team leaders.

Recommendations

11. CYPS must adopt a culture of transparency and engagement with clients, agencies and service providers to inform improved decision making and to engage more effectively with those who provide services to families who come to the notice of CYPS.
12. A review should be undertaken of what decisions made by CYPS should be subject to either internal or external merits review. The review should have regard to the position in other jurisdictions and be chaired by the Justice and Community Safety Directorate.
13. Arrangements for regular formal quality assurance of CYPS decisions, practices and procedures should be established. Results of the quality assurance process should be reported quarterly to the Director-General, Community Services Directorate and in the Directorate's annual report.
14. The Community Services Directorate should ensure that information regarding review rights is provided to individuals notified of a decision and is publicly available on the Directorate's website.
15. A review should be undertaken to determine whether the oversight resources of the Public Advocate and Children and Young People Commissioner and the resources to respond in the Community Services Directorate are sufficient to ensure oversight mechanisms are working effectively.
16. The Community Services Directorate should continue to review its recruitment practices and cultural awareness training programs and ensure appropriate quality control in decision making to reduce unintended bias.

CHAPTER 8

SHARING INFORMATION

Information sharing in the ACT

Sharing information between and across a range of agencies is critical to protecting women and children, experiencing or at risk of experiencing family violence, and to ensure they receive the assistance they require. The *ACT Literature Review for the Gap Analysis Project* recognised that “proper and appropriate sharing of information is particularly critical for domestic and family violence, not only because of the stark reality of risk and homicide, but because it is a complex issue involving many agencies, which often alone do not have the information needed to make accurate assessments of risk”.¹⁵³

The problem of information sharing and family violence is not a new problem. In 1995 the ACT Community Law Council identified the ongoing issues with data collection and information sharing that is still occurring today:

¹⁵³ ACT Government (2015) *ACT Literature Review for the Gap Analysis of Domestic Violence services*. http://www.communityservices.act.gov.au/__data/assets/pdf_file/0005/793337/Gap-Analysis-Project-Literature-Review.pdf Page 28

*If agencies are dealing with the same clients, then one of the significant measures of intervention effectiveness must involve tracing of those cases common to agencies.*¹⁵⁴

Following that 1995 Report the ACT Government established the Family Violence Intervention Program (FVIP) in 1998, as the ACT’s coordinated response to family violence incidents that come to the attention of the police and proceed to prosecution. The FVIP was largely a response to concerns that family violence issues were not being taken seriously by criminal justice agencies. One of the key tasks the FVIP undertakes is to track family violence matters through the criminal justice system.

Once a week officers from the following agencies attend a case tracking meeting: ACT Policing, the Office of the Director of Public Prosecutions Witness Assistant, Care and Protection Services, Domestic Violence Crisis Service and ACT Corrective Services. Case tracking allows agencies to monitor how

¹⁵⁴ *ACT Law Reform Commission (1995) Domestic Violence*. <http://www.austlii.edu.au/au/other/actlrc/reports/9.html>.

matters are progressing, identify potential concerns for victims and update risk assessments.

The Domestic Violence Prevention Council (DVPC) Extraordinary Meeting held in April 2015 highlighted that a barrier to good service provision in the Territory continues to be privacy restrictions that impact on the sharing of information but are also essential to ensuring the safety and security of victims.

Following the meeting, the DVPC provided the Attorney-General with a report making a number of recommendations for addressing family violence, including sexual assault, in the ACT. Recommendation 7 provides:

That the ACT Government considers allowing information sharing between agencies (Government and non-Government) within integrated responses, with appropriate safeguards, particularly where a risk assessment indicates it is important for the purpose of protecting the safety of the victim and their immediate family.

In recent years a number of other reports, at a local and national level, have recommended that appropriate information sharing arrangements be put in place to facilitate responses to family violence. These recommendations are at Appendix 6.

The right of an individual to privacy is protected in a variety of ways in the ACT. The *Human Rights Act 2004* (ACT) grants all individuals the right to privacy. There are also further statutory protections for privacy provided in the *Privacy Act 1988* (Cth) (Commonwealth Privacy Act) and the *Information Privacy Act 2014* (ACT) (Information Privacy Act).

The right to privacy is not absolute and often one right has to be balanced against another. The Human Rights Act provides that human rights may be subject to reasonable limits set by laws, such as privacy laws, that can be demonstrably justified in a free and democratic society. A number of limitations exist allowing agencies to share information where there is a risk to the safety and wellbeing of one or more people, a strong likelihood of an offence being committed, and where sharing is authorised by law or required by a court.

Generally, personal information should only be collected, used or disclosed for the purpose for which it was collected, unless consent is given by the individual. Agencies are advised to seek a person's informed consent, where appropriate and practicable, before collecting, using or distributing that person's personal information. Valid consent can be given where a person is adequately informed and provides voluntary, current and specific consent. In addition, a person must have the capacity to understand and communicate that consent.

Where a person does not consent or consent cannot be obtained, personal information may still be shared where it is reasonably appropriate to do so for a legitimate purpose. These purposes are:

- the purpose of preventing, detecting, investigating or punishing a criminal offence;¹⁵⁵
- information about a person charged with or convicted of an offence where the aim is to reduce crime, promote accountability and provide appropriate support for offenders;¹⁵⁶
- information about a victim of an offence where agencies are seeking to improve the victim's safety, provide appropriate support services or prevent future crime;¹⁵⁷
- if it is necessary to lessen or prevent a *serious threat* to life, health or safety of any individual, or to public health and safety;¹⁵⁸
- personal health information contained in a health record where the disclosure is necessary to prevent or lessen a serious and *imminent risk* to the life, or physical, mental or emotional health of a consumer or another person;¹⁵⁹
- safety and wellbeing information under the *Children and Young People Act 2008* (CYP Act) between members of a declared Care Team;¹⁶⁰ and

¹⁵⁵ *Information Privacy Act 2014*, Territory Privacy Principle 6.

¹⁵⁶ *Crimes (Sentencing) Act 2005*, section 136.

¹⁵⁷ *Crimes (Sentencing) Act 2005*, section 136.

¹⁵⁸ *Information Privacy Act 2014*, section 19.

¹⁵⁹ *Health Records (Privacy and Access Act) 1997*, Principle 10.

¹⁶⁰ *Children and Young People Act 2008*, section 863.

- sensitive information collected under the CYP Act for a purpose under the Act or pursuant to another territory law Territory law.¹⁶¹

The Community Services Directorate under *Better Services* has developed an *Information Sharing Protocol* (protocol) focused on improving workforce practice in sharing information on common clients. The protocol provides practice principles aligned to the *Information Privacy Act 2014*, and guidelines for sharing information with and without consent when required. A training package has been developed to support the implementation of the protocols. Training is initially being provided to government and non-government service providers in the West Belconnen Local Services Network.

Very restricted information-sharing in the explicit context of family violence can occur under section 18 of the *Domestic Violence Agencies Act 1986* (ACT). This section enables police officers, who suspect the past or future commission of a 'domestic violence offence', to disclose to approved crisis support organisations 'any information that is likely to aid the organisation in rendering assistance to the person or to any children of the person'. Crisis support organisations are approved by the Minister pursuant to disallowable legislative instruments. Currently the Domestic Violence Crisis Service (DVCS) is the only approved organisation. The Inquiry is of the impression that this provision is underutilised as no non-government organisation has been approved since the DVCS in 1992 and instead section 136, discussed below, is relied upon.

Section 136 of the *Crimes (Sentencing Act) 2005* (Crimes Sentencing Act) provides lawful authority for a criminal justice entity (CJE) to share information in relation to an offence including an alleged offence. Under the Crimes Sentencing Act, a CJE may give another CJE information in relation to an offence, or an alleged offence, where that information is contained in a record of a CJE. This includes information about a victim of an offence, a person charged with an offence or a person convicted or found guilty of an offence. This is the basis upon which the FVIP members share information. A list of CJEs can be found at Appendix 7.

¹⁶¹ *Children and Young People Act 2008*, section 847–848

What sharing will fall within this provision will depend on the context in which each CJE is operating and the functions it performs in relation to offenders and victims, and law enforcement more broadly. Agencies' purposes or responsibilities regarding offences can be determined by looking at the functions of the agency.

The CYP Act provides that information is protected information if it is obtained or disclosed to the person as an information holder (section 844). It includes sensitive information which very broadly means information associated with a child protection process (section 844 and 845). The Act also restricts the sharing of this information. Section 846 makes it an offence to disclose protected information and then there are a plethora of additional provisions that deal with exceptions to this offence.¹⁶² Despite a general provision (section 851) allowing the Director-General or Minister to share protected information with anyone if it is in the best interests of the child, many of the sections then deal with specific information being used and shared in specific circumstances by specific people. This creates what can only be described as an impenetrable labyrinth.

Despite there being legal avenues for sharing information consultations suggested that in practice there is a considerable reluctance to do so with legal constraints cited as the reason. The Inquiry was advised that the broad power for the Director-General to share information in the best interests of a child would only be used in practice in very specific cases. It was not entirely clear why this was the case. There was almost universal agreement that the system's response to family violence is being impeded through lack of information sharing by relevant agencies.

Cases considered by the Inquiry also demonstrated that a great deal of information that would be relevant to a risk assessment on the potential for family violence or relevant to an assessment of the best interests of a child is often held by numerous agencies but not known by any one single agency or indeed the agency undertaking important decision making or service delivery.

¹⁶² *Children and Young People Act 2008*, sections 847–867

It is also possible that the structure of the system and the way that non-government service providers are funded and their performance is measured is leading to a culture that is reluctant to share information. Non-government organisations are competitors for limited funding and can improve their performance measures by retaining clients to whom they deliver programs. This is not conducive to broader information sharing.

During consultation information sharing between the Child and Youth Protection Services (CYPS) and mandated reporters was identified as a particular issue. Reporters indicated that after reporting they are provided with minimal feedback on what is happening with the case. They can also be asked to provide additional information without any context for the request. Lack of feedback or information regarding a case can impact in terms of the capacity for a mandatory reporter to provide a professional service (for instance if a child represents at the hospital and the health worker has no information on what has happened in relation to the child/family since the mandatory report was made or who else may be providing services). It can also lead to multiple reports regarding the same incident by different agencies and multiple subsequent reports of continuing concerns where it is unclear what is happening in relation to the family.

The national context

Lack of information sharing is not a localised problem. Across Australia homicide reviews have identified the lack of information sharing among agencies as a significant factor contributing to homicide/suicide in families where there is domestic violence. In particular, the NSW Death Review 2010–2011 highlighted;

Domestic homicides warrant particular attention, not only because of their high prevalence, but because they are seldom without warning... Review teams recognise that reducing and preventing domestic violence and domestic violence deaths requires communication, cooperation, and collaboration between the various domestic violence response agencies,

*that have traditionally worked separately and sometimes at odds with each other. By promoting an environment of information sharing and partnership, review teams seek to help agencies improve their capacity to respond to potentially fatal situations.*¹⁶³

The National Council's plan for Australia to reduce violence against women and their children 2009–2021 'Time for Action' noted that privacy laws contribute to a lack of communication and collaboration between government and non-government organisations, which impedes systems working together effectively:

*While privacy laws generally allow the sharing of information between government agencies and other specified organisations where there is a serious and imminent threat to a person's safety ... many service providers report inconsistencies in the way privacy laws and principles are applied, suggesting the need for clarification of, and/or education for, relevant agencies about privacy laws and principles.*¹⁶⁴

In 2010 the Australian Law Reform Commission's Family Violence, 'Improving Legal Frameworks, Consultation Paper One', proposed that state and territory family violence legislation should authorise agencies in that state or territory to use or disclose personal information for the purpose of ensuring the safety of a victim of family violence or the wellbeing of an affected child.

In response the Office of the Australian Information Commissioner (OAIC) stated that the exceptions to the use and disclosure principles provide the necessary flexibility to enable agencies to disclose information for the purposes of ensuring safety in family violence situations.

The OAIC stated that the threshold test for relying on the life, health or safety exception may be

¹⁶³ NSW Domestic Violence Death Review Team (2011) *Annual report 2010–2011*. http://www.coroners.justice.nsw.gov.au/Documents/dvdr_t_annual_report_oct2011x.pdf Page 14.

¹⁶⁴ National Council to Reduce Violence against Women and their Children (2009) 'Time for Action: The National Council's plan for Australia to reduce violence against women and their children 2009–2021'. https://www.dss.gov.au/sites/default/files/documents/05_2012/the_plan.pdf Page 154.

met where a significant degree of harm is being caused through a series of incidents occurring over time. Finally, the OAIC noted that threats to health under the exception are not limited to physical harm but would also include threats to an individual's psychological wellbeing. The exception may therefore be relied on to disclose information where there is the threat of serious psychological harm that may be experienced as a result of ongoing family violence or fear for safety.

However, the practical issue is that information holders may not be satisfied of the threshold to share information (that there is a serious or imminent threat) based on their siloed component of information. That justification for sharing information may only be apparent after the information has been shared. Only then may the existence of a series of incidents become apparent. Even if the threshold is actually met before information is shared many staff of relevant agencies and service providers are uncertain that this is the case.

During the Victorian Royal Commission into Family Violence the Commissioner for Privacy and Data Protection advised the Commission that merely removing legislative barriers to information sharing will not ensure that information will be shared:

In short, my experience is that there are many reasons why individuals refrain from sharing information. These include:

- a general reluctance to share information;
- an overly legalistic approach to information sharing;
- professional or ethical obligations of confidentiality; and
- concerns about sharing information in breach of their legislative obligations.

A culture of information sharing requires willingness by public sector organisations to engage for a common purpose.¹⁶⁵

¹⁶⁵ Royal Commission into Family Violence (2016) 'Royal Commission into Family Violence Summary and recommendations' (Victoria). http://www.rcfv.com.au/MediaLibraries/RCFamilyViolence/Reports/RCFV_Full_Report_Interactive.pdf. Page 174

New South Wales

Part 13A of the *Crimes (Domestic and Personal Violence) Act 2007* (NSW)

New South Wales has one of the most comprehensive and detailed sets of provisions for sharing information in family violence situations.¹⁶⁶ Information sharing is facilitated by Part 13A of the *Crimes (Domestic and Personal Violence) Act 2007* (NSW) which was introduced in 2013 to improve integrated responses to family violence. Part 13A facilitates the collection, use and disclosure of personal and health information in cases involving family violence. It provides for the making of a Protocol setting out detailed arrangements for information sharing.¹⁶⁷

Information about a family violence victim and a perpetrator may be shared at first instance under section 7.1 of the Protocol:

- by a service provider where there is a family violence threat;
- where there are Apprehended Domestic Violence Order proceedings by a NSW Local Court; or
- if it is disclosed by the NSW Police Force for contact purposes.

Subsequently, information can continue to be shared in any of these cases by any service provider that receives this information, where it is for a legitimate purpose.

Where the legal basis in 7.1 has not been met, personal and health information about a victim and a perpetrator can only be shared without consent, where:

- the service provider reasonably believes there is a serious and imminent threat to the life, health or safety of a person; or
- it is reasonably necessary for the NSW Police Force to carry out its functions, and there are reasonable grounds to believe that an offence may have been committed.

¹⁶⁶ Taylor, A., Ibrahim, N., Wakefield, S., & Finn, K. (2015) Domestic Violence protection orders in Australia: An investigation of information sharing and enforcement: State of Knowledge Paper. Queensland Centre for Domestic and Family Violence Research. *ANROWS Landscapes*. http://media.aomx.com/anrows.org.au/s3fs-public/16_4.1%20Legal%20WEB_FINAL_0.pdf Page 14

¹⁶⁷ The detailed Protocol is extensive yet practical and can be found at http://www.domesticviolence.nsw.gov.au/__data/assets/file/0019/301177/DV-info-Sharing-Protocol.pdf.

Personal and health information about a perpetrator may also be shared without consent where a service provider believes that a criminal offence may be committed or that a perpetrator's behaviour or attitude may affect another person's life, health or safety. In this situation, information about the victim cannot be shared without their consent.

In all other circumstances, the consent of the victim and the perpetrator is required to share personal or health information. In deciding whether to disclose information to a law enforcement agency, a service provider should consider:

- whether the circumstances indicate a serious and imminent threat to the life, health or safety of a person;
- relevant professional and ethical obligations; and
- how to best to balance the protection of the perpetrator's privacy with the serious and imminent threat to a person.

All service providers that collect, hold or share information under the Protocol are expected to monitor their own compliance with the Protocol and to develop systems to support continuous quality control of their internal information sharing processes.

If there is evidence that a service provider is not complying with the Protocol or where a service provider does not have sufficient processes in place to ensure compliance with the Protocol there are a number of actions that can be taken to ensure compliance or ultimately the service provider can be suspended or defunded.

Children and Young Persons (Care and Protection) Act 1998

Chapter 16A of the NSW *Children and Young Persons (Care and Protection) Act 1998* allows government agencies and non-government organisations that are prescribed bodies to exchange information that relates to a child's or young person's safety, welfare or wellbeing, whether or not the child or young person is known to Community Services, and whether or not the child or young person consents to the information exchange.¹⁶⁸ Within Chapter 16A section 245C is a key provision.

¹⁶⁸ NSW Government (2009) *'Keep them safe: Information exchange'*. http://www.keepthemsafe.nsw.gov.au/reporting_concerns/information_exchange.

Section 245C Provision of information

1. A prescribed body (the "provider") may provide information relating to the safety, welfare or well-being of a particular child or young person or class of children or young persons to another prescribed body (the "recipient") if the provider reasonably believes that the provision of the information would assist the recipient:
 - a. to make any decision, assessment or plan or to initiate or conduct any investigation, or to provide any service, relating to the safety, welfare or well-being of the child or young person or class of children or young persons, or
 - b. to manage any risk to the child or young person (or class of children or young persons) that might arise in the recipient's capacity as an employer or designated agency.
2. Information may be provided under this section regardless of whether the provider has been requested to provide the information.

Chapter 16A also requires prescribed bodies to take reasonable steps to coordinate decision making and the delivery of services regarding children and young people.¹⁶⁹ Furthermore the provisions are supported by a set of template letters and forms that prescribed bodies can use to request and provide information in line with Chapter 16A.

The NSW Evaluation of the *'Keep them Safe'* approach found that Chapter 16A is highly valued and has made a difference to the way that agencies work together. However, many stakeholders reported continuing challenges and significant bureaucratic delays in relation to information sharing.¹⁷⁰ Issues identified included:

- there are delays in receiving requested information and that at times the process of requesting and

¹⁶⁹ NSW Government (2009) *Keep them safe: Information exchange* Available http://www.keepthemsafe.nsw.gov.au/reporting_concerns/information_exchange.

¹⁷⁰ UNSW, Social Policy Research Centre (2014) *Keep them safe: Outcomes Evaluation, Final Report*. http://www.keepthemsafe.nsw.gov.au/_data/assets/pdf_file/0006/166281/KTS_Outcomes_Evaluation_Final_Report.pdf Page 10.

waiting for information detracts from the capacity to deliver services;¹⁷¹

- grey areas in the legislation, in particular the fact that Chapter 16A does not include the private sector. For example, paediatricians and GPs not working for a 'prescribed body' pursuant to section 248 (6) are not obligated to share information;¹⁷²
- sharing information with consent still constitutes best practice wherever possible and is unlikely to exacerbate risk, however there was little evidence of children and parents being routinely consulted when statutory agencies shared information;¹⁷³
- 16A is often interpreted as supporting information sharing about children for the purposes of assessment, but does not necessarily lead to collaborative holistic interventions to support those children.¹⁷⁴

The Report noted that stakeholders confirmed that Chapter 16A was a real 'game changer' although the legislative change was less significant than the message that exchanging information to support or protect children was to be encouraged.¹⁷⁵

Of interest the Victorian Royal Commission into Family Violence has recommended that a hybrid model of Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998 (NSW)* and Chapter 13A of the *Crimes (Domestic and Personal Violence) Act 2007 (NSW)* be adopted in Victoria noting that the introduction of specific legislative authority in NSW was useful in developing a culture of appropriate information sharing. They noted the following benefits of this approach:

- clear authority for organisations responding to family violence to share information;
- provides a single point of reference for the law relating to information sharing, cutting through the complexity of the current legislation and policy;
- a clear basis for workforce training and the development of protocols and procedures;

¹⁷¹ Ibid. P55

¹⁷² Ibid. P55–56

¹⁷³ Ibid. P56

¹⁷⁴ Ibid. P78

¹⁷⁵ Ibid. P69

- enables professionals to confidently share information from other organisations and to take timely and decisive action to respond to family violence;
- will probably take less time and involve less cost than preparing multiple information usage arrangements or a code of practice under the Privacy and Data Protection Act.

Tasmania

Under section 37 of the Tasmanian *Family Violence Act 2004* (Tas) 'personal information custodians' are permitted (but not required) to collect, use, disclose or otherwise deal with personal information where this is done in good faith for the purpose of furthering the objects of the Act.¹⁷⁶ Section 3 of that Act states the objects as follows: 'In the administration of this Act, the safety, psychological wellbeing and interests of people affected by family violence are the paramount considerations'.¹⁷⁷

The main limitation of this provision is that it only extends to government agencies with non-government organisations often reporting frustration with their inability to access certain information under the Tasmanian Safe At Home Program.¹⁷⁸

South Australia

Practically information sharing is often supported by collaboration or integrated service delivery as best practice in the area of family violence. The converse is also true – better information sharing is important for greater collaboration and integration. An example of integrated practice and information sharing can be found in South Australia. The South Australian Family Safety Framework aims to provide an action based, integrated service response to families experiencing family violence.

¹⁷⁶ Australian Law Reform Commission (2010) *Family Violence - A National Legal Response* (ALRC Report 114). <https://www.alrc.gov.au/publications/30.%20Information%20Sharing/information-sharing-between-agencies>

¹⁷⁷ *Family Violence Act 2004* (Tas), Section 3

¹⁷⁸ Tasmanian Department of Justice (2008) *Review of the Family Violence Act 2004*. http://www.safeathome.tas.gov.au/review_of_family_violence_act_2004/review_of_the_family_violence_act_tas_2004

A crucial part of the framework is the Family Safety Meeting (FSM) which occurs fortnightly. The purpose of the meetings is to co-ordinate services for victims at imminent risk of serious injury or death due to family violence. Meetings are chaired by South Australian police and attended by child protection, relevant health agencies, mental health, housing, drug and alcohol SA, education, women victim support services, correctional services and women's family violence services.¹⁷⁹

The Framework is dependent upon agreement to share information about people who experience severe family violence and the perpetrators of family violence. All agencies participating in the Framework must adhere to information sharing protocols and a confidentiality agreement is signed by all attendees at every FSM.¹⁸⁰ Agencies are responsible for the safeguarding of information presented at the FSM in keeping with the Information Privacy Principles.¹⁸¹

Western Australia

In Western Australia, Family and Domestic Violence Response Teams (FDVRT) are located in each child protection district. FDVRT are a partnership between the Department for Child Protection and Family Support, Western Australia Police and community sector family and family violence services.

The FDVRT aims to improve the safety of child and adult victims of family and family violence through a collaborative approach that focuses on timely and early intervention following a police call out to a family violence incident. A shared database has been developed to support the operations of the FDVRT including recording outcomes.¹⁸²

¹⁷⁹ Taylor, A., Ibrahim, N., Wakefield, S., & Finn, K. (2015) *Domestic Violence protection orders in Australia: An investigation of information sharing and enforcement: State of Knowledge Paper*. Queensland Centre for Domestic and Family Violence Research. *ANROWS Landscapes*. http://media.aomx.com/anrows.org.au/s3fs-public/16_4.1%20Legal%20WEB_FINAL_0.pdf Page 43.

¹⁸⁰ ACT Government (2015) *ACT Literature Review for the Gap Analysis of Domestic Violence services*. http://www.communityservices.act.gov.au/__data/assets/pdf_file/0005/793337/Gap-Analysis-Project-Literature-Review.pdf Page 53.

¹⁸¹ Ibid.

¹⁸² Department of Child Protection (2015) *Family and Domestic Violence Response Team*. <https://www.dcp.wa.gov.au/CrisisAndEmergency/FDV/Pages/FamilyandDomesticViolenceResponseTeam.aspx>.

Further Western Australia has a Memorandum of Understanding, 'Information sharing between agencies with responsibilities for preventing and responding to family and domestic violence in Western Australia.' The MoU formalises uniform arrangements for the exchange of information between signatory agencies. It establishes the protocols that will govern the exchange of information between the agencies on matters of mutual interest and responsibility, in order to address family violence in the community, reduce risks and enhance the future safety of victims.

Victoria

Victoria is similar to the ACT in that there is two main types of legislation governing information sharing in Victoria — information privacy laws and subject-specific legislation, this is then supported by formal information-sharing arrangements and policies of relevance to family violence.¹⁸³ The aim of the information sharing guidelines is to assist agencies working together as part of the integrated family violence system by explaining how information can be shared within the constraints of the legislation.

Despite this the Royal Commission heard evidence that at present, information is not routinely or systematically shared within the family violence system.¹⁸⁴ The Commission noted in their report that the reasons for the lack of information sharing are complex and overlapping, but three important themes emerged:

- "the fact that legislation and policy governing information sharing are complex, confusing and restrictive;
- the lack of an information-sharing culture and leadership; and
- reliance on outdated IT systems, which impedes information sharing."¹⁸⁵

¹⁸³ Royal Commission into Family Violence (2016) '*Royal Commission into Family Violence Summary and recommendations*' (Victoria) http://www.rctv.com.au/MediaLibraries/RCFamilyViolence/Reports/RCFV_Full_Report_Interactive.pdf Page 160.

¹⁸⁴ Ibid. Page 166.

¹⁸⁵ Ibid. Page 170.

As noted above the Royal Commission has recommended that Victoria adopts a hybrid model of Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998* (NSW) and Chapter 13A of the *Crimes (Domestic and Personal Violence) Act 2007* (NSW). The Commission also noted that legislative change alone will not create a culture of information sharing throughout the family violence system. It has recommended that the Victorian Secretaries Board should oversee the development of the new regime and be responsible for developing an information sharing culture.¹⁸⁶

Is legislative amendment required to facilitate better information sharing in the ACT?

It seems there is no absolute legislative impediment in the ACT for sharing information with mandated reporters, or sharing information between relevant directorates, government authorities such as police and service providers. However, the Inquiry noted a great emphasis on privacy issues as the reason for the apparent lack of information sharing in the Territory. It was not possible to determine whether this is as result of a culture where there is little collaboration, distrust and protecting “patches” between relevant actors, or a genuine lack of understanding of privacy requirements and a fear of breaching privacy due to the complex and confusing model operating in the Territory.

The Inquiry notes that the specific legislation for the sharing of information has been instrumental in shifting the information sharing culture in NSW. Further the Inquiry notes the extensive research undertaken by the Victorian Royal Commission and their recommendation for the Victorian Government to implement a regime similar to what is in place in NSW.

It is clear that there are a number of benefits from adapting a model similar to the NSW framework, most importantly providing a clear legislative intent for organisations to share information and clear authority for frontline workers to feel comfortable sharing information.

186 Ibid. P194

The Inquiry recognises the value of Chapter 13A of the *Crimes (Domestic and Personal Violence) Act 2007* but believes a more straight forward model would be to implement legislation similar to Chapter 16A of the *NSW Children and Young Persons (Care and Protection) Act 1998* in relation to family violence more broadly not just in relation to children. This would clearly authorise information sharing and foster a culture of appropriate information sharing and collaboration across all aspects of family violence. In drafting the legislation the Government should also bear in mind Chapter 13A.

To ensure that information is shared appropriately and in line with its legislative intent any legislative amendments to facilitate information sharing should be accompanied with a suitable penalty provision for the disclosure of information, shared under the provision, for purposes other than the protection of a person(s) or the prevention of harm.

To ensure workers understand how the new provisions work and to encourage and facilitate better information sharing the legislative amendment needs to be accompanied by an awareness campaign about how information can be shared and simple, easy to use guideline material developed and published to support the ongoing use of the provisions.

The Inquiry notes that effective information sharing is enhanced by IT systems that support the timely and accurate provision of information between agencies.¹⁸⁷ An integrated IT system would allow agencies to share up to date risk assessment and management information — as noted by the ACT Coordinator-General for Domestic and Family Violence:

*We’ve been working on a common risk-assessment tool for domestic violence, but what’s the point of having a fabulous tool if you’re only using it on the little scrap of information that you might have about the particular individual or family where there’s a whole lot of other bits of information scattered across government and other service providers which may change your risk assessment if you knew about it?*¹⁸⁸

187 Ibid. Page 195.

188 Canberra Times (29 November 2015) ‘ACT’s anti-domestic violence boss calls for better information sharing across the sector’. <http://www.canberratimes.com.au/act-news/act-antidomestic-violence-boss-calls-for-better-information-sharing-across-sector-20151124-gl6cd7.html>.

The DVPC's *'Report on the Review of Domestic and Family Violence Deaths in the ACT'* found that "Timely access to and sharing of information is critical to ensuring the safety of people at risk of or experiencing family violence. But the review found that information was often seen in isolation by service providers".¹⁸⁹

An integrated IT system will not only allow services to respond better to the needs of people affected by family violence but the data can also be used to design improved management systems both for the single client but also for the cohorts of clients.

As such the Inquiry recommends that the ACT Government consider the provision of funding for an ICT system to support information sharing within the proposed Family Safety Hub discussed in Chapter 9. This may include procurement of an off the shelf product or building on an existing system to keep costs to a minimum.

Finally, it should be noted that overlaying these various state and territory arrangements for better information sharing remains the Commonwealth Privacy Legislation and the limitations it imposes either legally or in practice. Much of the discussion on the new information sharing arrangements in states and territories does not address Commonwealth privacy requirements.

The Commonwealth privacy provisions do not specifically provide for the sharing of information in relation to family violence. In the ACT when the Information Privacy Act or Commonwealth Privacy Act principles are engaged, they must be considered before accessing or releasing information under the provisions of the Territory Records Act or CYP Act. Although ACT legislation may create an authorised reason for use or disclosure of information (see Australian Privacy Principle 6) this must be carefully justified in the context of the ACT and Commonwealth privacy principles and is not absolute. As a result, even if the ACT provides specifically for information sharing in relation to family violence, at times this may be overridden by Commonwealth legislation, particularly in relation to non-government entities.

¹⁸⁹ Domestic Violence Prevention Council (2016) *'Findings and Recommendations from the Review of Domestic and Family Violence Deaths in the ACT'*. Page 4. (unpublished).

The Inquiry formed the view that while legislative changes in the ACT are imperative, the Commonwealth also needs to consider complementary amendments to Commonwealth legislation. As such the Inquiry recommends the ACT raises the issue of information sharing under Commonwealth Privacy legislation at Council of Australian Governments (COAG).

Information sharing between the ACT and other jurisdictions

Research has drawn links between the importance of information sharing and the ability for services to collaborate in relation to child protection and family violence matters: "information sharing between services and jurisdictions further compounds barriers to networking and communication between Commonwealth and state services, despite evidence that the legalities of sharing information are not as prohibitive as service deliverers often believe."¹⁹⁰ Anecdotally the Inquiry heard that it was not unusual for perpetrators of family violence to move their families around within jurisdictions or to a different state or territory. Families escaping family violence may move interstate to distance themselves from perpetrators. Given this and the reality that a number of Australian states border two or more others it is important that there should be appropriate and consistent information sharing between one another.

Sharing child protection information

The Protocol for the Transfer of Care and Protection Orders and Proceedings and Interstate Assistance (the Protocol) facilitates information sharing in relation to child protection matters between state and territory governments. All Australian States and Territories and New Zealand are signatories to the 2009 Protocol.

¹⁹⁰ The Allen Consulting Group (2011) cited in Winkworth, G., & White, M. (2011) *Australia's Children 'Safe and Well?' Collaborating with Purpose Across Commonwealth Family Relationship and State Child Protection Systems*. Australian Journal of Public Administration. Page 10.

The purpose of the Protocol is to provide care and protection services to children and young people engaged with the child protection system where there is a proposal for the child to move interstate.

The Protocol provides the framework for the facilitation and management of interstate requests for assistance and transfers of orders in respect of children subject to child protection intervention, in accordance with the respective child protection legislation of each jurisdiction.

It is acknowledged no protocol can align with every jurisdiction's legal framework; however, the best interests of children cannot be met without an agreed and operable protocol that assists all States.

The Protocol states that a review of the protocol must be undertaken every three years. An amendment was made in 2011 to provide for the sharing of information between signatories for the purpose of assessing the suitability of carers. This allows for general information sharing between child protection agencies within their respective legislative frameworks. Final agreement between the signatories on the 2012 review of the Protocol has not been reached.

The benefit of the protocol for the ACT is that it provides a mechanism for jurisdictions to easily and quickly share information, and it is reported that the protocol in reality does facilitate information sharing. However, its value requires resource short jurisdictions to prioritise requests and action them in a timely manner.

The 'Information Sharing Protocol between the Commonwealth and Child Protection Agencies' (the Commonwealth Protocol), an initiative under the *National Framework for Protecting Australia's Children 2009–2020*, was implemented in 2009. Centrelink, Medicare and the Child Support Agency as well as all state and territory child protection agencies are parties to the Protocol. The aim of the Protocol is to facilitate investigations and assessments of vulnerable and at risk children in Australia in order to promote their 'care, safety, welfare, wellbeing and health'.

In 2011 a review of the Commonwealth Protocol was undertaken. Consultation with state and territory protection agencies indicated an overwhelmingly positive view of the Protocol as a useful tool in

obtaining relevant information that well complemented other information sources.¹⁹¹ A significant number of stakeholders indicated that the information obtained under the Protocol either did, or was expected to, help move child protection processes forward, thus promoting positive outcomes for children.¹⁹²

A number of recommendations were made in the Review Report to strengthen the protocol including:

- expanding the scope of the protocol;
- providing training for workers using the protocol; and
- improving the relationship between child protection workers in state and territory agencies and the Commonwealth officers processing requests to ensure the protocol works efficiently.¹⁹³

The Inquiry has not identified that further work has been undertaken to implement the recommendations of the Review. Based on anecdotal advice, it is understood that the Protocol does assist in getting information from the Commonwealth agencies and is generally a tool used by child protection services.

National Domestic Violence Order Scheme

COAG is progressing a number of initiatives at a national level to implement the Second Action Plan of the National Plan, including the development of a National Domestic Violence Order Scheme. On 11 December 2015 the COAG agreed to progress national legislative implementation of the National Domestic Violence Order Scheme. The Scheme will ensure that DVOs issued in one state will be recognised in all other states and territories and endeavour to improve information sharing on a national level with the aim to improve safety for women and children escaping family violence. Jurisdictions have committed to introducing laws to give effect to the scheme in the first half of this year.

¹⁹¹ The Allen Consulting Group (2011) *Operational Review of the Information Sharing Protocol between the Commonwealth and Child Protection Agencies*. Available https://www.dss.gov.au/sites/default/files/documents/op_review_info_sharing_protocol.pdf P viii

¹⁹² Ibid. P viii

¹⁹³ Ibid. Pix

The Scheme will cover children protected under a DVO. Most commonly, children are named as protected persons on applications for family violence orders made to protect a parent, although they may also be sought directly in the child's own right.¹⁹⁴ The Scheme does not cover personal protection orders or apprehended violence orders, essentially protection orders are not taken out in the context of family violence.

COAG also agreed to establish a comprehensive national DVO information sharing system that police and courts will be able to use for evidentiary purposes or to enforce DVOs. It is expected that this will take several years to implement fully. In the short-term, an interim information sharing system will be established to provide police and courts with information on all DVOs that have been issued, but will not have the same evidentiary or enforcement capacity as the permanent system.

Education

In late October 2015 Graham Dillon unenrolled his children from their school. Graham Dillon told the school that he and the children were moving interstate. It does not appear that any inquiries were undertaken by the school to confirm this was the case. The Education Directorate confirmed that inquiries are made and files transferred when children are unenrolled to attend a different school in the ACT. This is not routine practice when children are moving interstate.

Children's access to good schools and strong, positive social networks is seen as a protective factor by child protection services.¹⁹⁵ "Protective factors are positive attributes that can strengthen all families".¹⁹⁶ A sense of belonging to a school also has a positive impact on a child's mental health and

¹⁹⁴ Australian Law Reform Commission (2010) *Family Violence - A National Legal Response* (ALRC Report 114) Available <https://www.alrc.gov.au/publications/20.%20Family%20Violence,%20Child%20Protection%20and%20the%20Criminal%20Law/protection-orders-and-childr>.

¹⁹⁵ Child Family Community Australia (2013) *Risk and protective factors for child abuse and neglect*. <https://aifs.gov.au/cfca/publications/risk-and-protective-factors-child-abuse-and-neglect>.

¹⁹⁶ Ibid.

wellbeing.¹⁹⁷ The Inquiry heard during consultation that a child not attending school, or moving schools frequently, can be a sign of child abuse and neglect.

If CYPS or the school had been aware that the children were not attending school intervention would have occurred.

The Inquiry formed the view that where children are moving interstate and they are children that have been subject of significant concern, the risk of children not being re-enrolled in school may be mitigated by liaison and follow up between the Education Directorate and CYPS. The Education Directorate should advise CYPS that the children are relocating. Subsequently the Education Directorate should confirm the move with the family and confirm enrolment in the new jurisdiction. CYPS should inform their counterparts in the new jurisdictions that a family of concern has moved to their state or territory.

Creating an information sharing culture in the ACT

Across Australia and internationally the importance of sharing information and collaboration among government agencies and non-government agencies working in the area of family violence and child protection has been recognised for a considerable period of time. As already noted research projects and reviews undertaken over the past decade have also identified the need for improved sharing and collaboration. Yet despite numerous recommendations from those reviews and research projects, the enactment of legislative provisions reinforcing the ability to share and the establishment of Councils and forums to facilitate better interchange and collaboration, the problem remains in most jurisdictions.

This is not to say that those initiatives to improve legislation and create collaborative forums are not vital reforms because they are. In many cases they have clearly improved sharing. The key question is what continues to limit the ability for agencies and service providers to share information.

¹⁹⁷ Kids Matter (2012–13) *'Building protective factors: suggestions for school staff'*. https://www.kidsmatter.edu.au/sites/default/files/public/KMP_C3_RPFCMH_BuildingProtectiveFactors_SuggestionsFor%20SchoolStaff.pdf. Page 1.

Interestingly, within the ACT criminal justice system sharing information is not seen as a problem with law enforcement agencies being well settled into a culture of sharing information relating to the commission of offences. Specific legislation, which authorises this sharing of criminal records and similar information, exists in all jurisdictions. It was not always the case but it appears that a culture of sharing is now well entrenched.

The culture within the ACT family violence sector more broadly, both government and non-government, is less developed. The reluctance to share information appears to reflect, in part, the significantly disaggregated and siloed nature of the sector. Many agencies and service providers have quite discrete and narrow functions and service roles. There is considerable recent research identifying that the family violence and child protection sectors generally run almost independently of each other. As highlighted in the Victorian Royal Commission merely removing legislative barriers to information sharing will not ensure that information will be shared.¹⁹⁸

Within each sector agencies and service providers have their own particular focus whether determined by their clientele, geographical location or program delivery. The Review's consultations confirmed a high level of professional expertise and dedication across all agencies working in the family violence and child protection areas. It is not surprising that service providers place their priority on the needs of their clients and seek to enhance their services through additional funding grants and support. As mentioned earlier this often puts the non-government service providers in competition with each other for scarce government grant funding.

A number of stakeholders raised concerns about the missed opportunity for information sharing in the context of case conferencing meetings held by CYPS. Under the CYP Act, information about a child or young person can be shared between a declared care team. A declared care team may only be declared by an authorised delegate of the

Director-General.¹⁹⁹ Members of a declared care team should have a recent/current/future role with the child or young person.²⁰⁰ This may include family members, health professionals, community agency staff or police. In practice the sharing of information between a declared care team will occur in a case conferencing meeting which can take place for a variety of purposes including case planning, a family meeting, a review of a child's arrangements or a safety planning meeting.²⁰¹

Case conferencing was viewed by some agencies and service providers as a mechanism for child protection to tell them the outcome of their review rather than to work together to come up with a shared outcome for the child. It was reported that at times relevant agencies are not invited to attend case conferencing or are invited but not to speak. Overall consultation with relevant agencies highlighted that the way conferencing is currently being run is not conducive to collaboration and in any event are often held after CYPS has already made a decision about the child's future.

Non-government organisations reported that they did not feel that their professional judgement was taken seriously by CYPS when they were not allowed to contribute or their comments were simply dismissed.

As the significant provider of funding to the non-government service providers, the ACT Government should give consideration to incorporating provisions within its grant contracts that both encourage and reward sharing of information and collaboration. This could be the subject of reporting on the extent to which this has occurred both in relation to cases and more generally. Creating incentives for positive sharing behaviours would assist in changing the somewhat siloed current culture.

¹⁹⁸ Royal Commission into Family Violence (2016) *'Royal Commission into Family Violence Summary and recommendations'* (Victoria). http://www.rcfv.com.au/MediaLibraries/RCFamilyViolence/Reports/RCFV_Full_Report_Interactive.pdf. Page 174

¹⁹⁹ Children and Young People Act, section 863(1).

²⁰⁰ Children and Young People Act, section 863(2).

²⁰¹ Community Services Directorate, CYPS, *Practice Guideline: Case Conferences*. (unpublished).

As mentioned before many ACT funding agreements currently incorporate output performance measures that relate to client participation in program delivery. Interestingly there does not appear to be much focus on outcome measures such as how individual behaviours have changed as a result of participation in particular programs. The focus appears to be on program objectives and participation numbers. It may be that this has some impact on collaboration as it could be discouraging interaction, the referral of clients to other agencies and the sharing of information.

Some agencies expressed concerns about other agencies, both government and non-government, which reflected a lack of confidence and maybe trust in those other agencies. This was particularly the case in relation to CYPS and reflected a fear that sharing information could lead to adverse outcomes for an agency's clients. This issue could be addressed through government agencies taking the lead and ensuring more frequent and consistent consultation and communication with all service providers. Some of the current lines of communication are essentially one-way and need to be two-way to engender better working relationships and build trust and confidence in outcomes when sharing occurs.

Improved communication and confidence could also be secured through genuine collaboration within existing consultative Councils and forums and through conferences and open dialogue leading to shared problem solving, outcomes and decision making especially in the area of child protection.

Findings

- a. The issue of poor sharing of information among agencies and service providers working in the family violence and child protection sectors is an Australian-wide and internationally shared problem.
- b. Within the ACT family violence and child protection sectors there is considerable room for improvement in information sharing between agencies.
- c. Government agencies and non-government service providers tend to focus on their specific areas of responsibility often leaving no-one with the full picture of the issues or needs of an individual or family. Not having the full picture can mean agencies are incorrectly assessing risk, making decisions and providing services on incomplete evidence.
- d. It appears that clear legislative authority to share information, coupled with training and practical mechanisms requiring or supporting this, can result in better information sharing between agencies which facilitates better outcomes for vulnerable families.
- e. ACT legislation to provide clearer authority for the sharing of information in family violence cases between agencies and service providers would assist in dispelling concerns about privacy barriers to the sharing of information.
- f. Legislative authority to share information will not alone ensure sharing occurs. Efforts are required to create an information sharing culture with government agencies taking the lead, including open, consultative and transparent decision making.
- g. Information sharing can be effectively facilitated through IT system support.
- h. The range of existing consultative forums and committees should also be used to encourage open discourse and sharing of experiences and ideas to assist in creating confidence and trust across the whole family violence and child protection sector.

Recommendations

17. CYPS should use case conferencing more frequently to ensure decision making is more fully informed and is done on a transparent and collaborative basis with government, non-government agencies and families.
18. Legislative provision should be made in the ACT similar to Chapter 16A of the NSW Children and Young Persons (Care and Protection) Act 1998 in relation to family violence more broadly (not just in relation to children) to clearly authorise information sharing and to foster a culture of appropriate information sharing and collaboration.
19. Any legislative amendments to facilitate information sharing should be accompanied by a suitable penalty provision for the disclosure of information shared under the provision for purposes other than the safety, welfare or wellbeing of a person.
20. Any legislative amendments should also be accompanied by an awareness campaign and guideline material about how information can be shared.
21. The proposed Coordinator-General for Family Safety should have oversight of the awareness campaign, training package and guidelines to accompany the legislative amendment to ensure the development of an information sharing culture.
22. Government agencies should take the lead in creating an information sharing culture through:
 - a. sharing information and creating trust and confidence by open, consultative and transparent decision making; and
 - b. ensuring existing consultative and advisory councils and committees are genuinely co-operative and trust building forums.
23. The Government should encourage information sharing by incorporating in funding agreements for service providers, clear performance measures that include measures of the extent of sharing of information and collaboration.
24. The ACT Government consider funding for ICT systems to support information sharing within the proposed Family Safety Hub discussed in Chapter 9. This may include procurement of an off the shelf product or building on an existing system to keep costs to a minimum.
25. The ACT raises at COAG the issue of amendment of the Commonwealth Privacy legislation to facilitate the sharing of information for the purposes of addressing family violence.
26. When a child is unenrolled from school, and the school has had significant concerns about the particular child, the Education Directorate should advise CYPS. Subsequently the Education Directorate should confirm the move with the family and confirm enrolment in the new jurisdiction. CYPS should inform their counterparts in the new jurisdictions that a family of concern has moved to their state or territory.

CHAPTER

9

FACILITATING COLLABORATION AND INTEGRATION

There is a general move both internationally and nationally towards integrated service models for the delivery of human services. There are three main sets of arguments for improved integration: improved access for consumers; increased efficiency, achieving more from the use of limited resources; and enhanced effectiveness, resulting in enhanced outcomes for consumers and funders.²⁰² Integrated service delivery is accepted by government and service providers as constituting best practice.²⁰³

An increasingly accepted way of thinking about integrated service models is through a continuum or scale, as set out in Figure 10. The continuum extends from the complete autonomy of the separate parties at one extreme, through a series

of graduated steps involving more intensive forms of linkages to a fully integrated single organisation.²⁰⁴

In research undertaken by the UNSW Social Research Policy Centre over 10 different service integration models were identified including: Service Hubs; Multipurpose Services; School linked services; One stop Shops for Information and Referral; Innovative Case Management Approaches; Social Partnerships; Formal Networks; Community Level Integration; Collaboration Approaches; and The Merging of Government Departments.²⁰⁵ The Centre noted that the models identified are not necessarily alternatives to each other, nor do they provide an exhaustive coverage of all possible approaches but are indicative of the integrated models available and being used.

²⁰² Fine, M as cited in Social Policy Research Centre (2005) *'Coordinated and Integrated Human Service Delivery Models: Final Report'*. Available https://www.sprc.unsw.edu.au/media/SPRCFile/Report1_05_CoordinatedHuman_Service_Delivery_Models.pdf Page 2.

²⁰³ ANROWS (2015) *'Meta-evaluation of existing interagency partnerships, collaboration, coordination and/or integrated interventions and service responses to violence against women: State of Knowledge paper'*, Issue 11. [http://media.aomx.com/anrows.org.au/Integrated%20Responses%20Meta-Evaluation%20-Landscapes%20\(State%20of%20knowledge\)%20Issue%20Eleven.pdf](http://media.aomx.com/anrows.org.au/Integrated%20Responses%20Meta-Evaluation%20-Landscapes%20(State%20of%20knowledge)%20Issue%20Eleven.pdf). Page 9.

²⁰⁴ Fine, M., Thomson C. and Graham, S. as cited in Social Policy Research Centre (2005) *'Coordinated and Integrated Human Service Delivery Models: Final Report'*. https://www.sprc.unsw.edu.au/media/SPRCFile/Report1_05_CoordinatedHuman_Service_Delivery_Models.pdf. Page 4.

²⁰⁵ Social Policy Research Centre (2005) *Coordinated and Integrated Human Service Delivery Models: Final Report*. https://www.sprc.unsw.edu.au/media/SPRCFile/Report1_05_CoordinatedHuman_Service_Delivery_Models.pdf.

Figure 10: The Continuum of Integration

← Autonomy			Integration →
<p>Autonomy</p> <p>Parties/agencies act without reference to each other, although the actions of one may affect the other(s).</p>	<p>Cooperative Links</p> <p>Parties establish ongoing ties, but formal surrender of independence not required. A willingness to work together for some common goals. Communication emphasised. Requires good will and some mutual understanding.</p>	<p>Coordination</p> <p>Planned harmonisation of activities between the separate parties. Duplication of activities and resources is minimised. Requires agreed plans and protocols or appointment of an external coordinator or (case) manager.</p>	<p>Integration</p> <p>Links between the separate parties draw them into a single system. Boundaries between parties begin to dissolve as they become effectively work units or sub-groups within a single larger organisation.</p>

Source: Fine, Thomson and Graham, 1998; leutz, 1999.

Integrated service delivery to respond to family violence

Internationally a number of jurisdictions have responded to the challenges presented by family violence through implementing an integrated model of response. There is no one way to provide an integrated response to family violence. However, there are key principles and practices that are evident in most models. ANROWS identified three key principles that are generally acknowledged by agencies engaged in an integrated model, this includes:

- focus on the victim’s wellbeing including their emotional, psychological and physical safety in the short term, longer term or both;
- minimising secondary victimisation such as having to retell their story; and
- holding perpetrators accountable for their actions.²⁰⁶

A shared understanding of the principles that will inform an integrated model are essential to ensuring that agencies are able to collaborate to improve service delivery to victims. However, agencies must also form strong partnerships to put the principles into practice. Potito et al have proposed a number of key features that ensure successful collaboration and partnership between agencies. These include:

²⁰⁶ ANROWS (2015) *Meta-evaluation of existing interagency partnerships, collaboration, coordination and/or integrated interventions and service responses to violence against women: State of Knowledge paper*, Issue 11. [http://media.aomx.com/anrows.org.au/Integrated%20Responses%20Meta-Evaluation%20-Landscapes%20\(State%20of%20knowledge\)%20Issue%20Eleven.pdf](http://media.aomx.com/anrows.org.au/Integrated%20Responses%20Meta-Evaluation%20-Landscapes%20(State%20of%20knowledge)%20Issue%20Eleven.pdf) Page 12.

- communication;
- trust;
- shared goals;
- equity between agencies; and
- leadership.²⁰⁷

As mentioned earlier in this Report the needs of people experiencing family violence can be many and complex. As such integrated models are usually comprised of a number of services from different disciplines.

All integrated models include three key areas: the criminal justice system; the women’s advocacy and support system; and those agencies providing perpetrator interventions. Most models also include a range of other support areas and providers, more often child protection, health, drug and alcohol services and housing.²⁰⁸

What does best practice integrated service delivery look like in practice? Research suggests that there are many elements that can provide a shared framework and support integrated system delivery.

As identified in the *ACT Literature Review for the Gap Analysis of Domestic Violence Services* a number of these elements will usually be combined

²⁰⁷ Potito et al (2009) as cited in Ibid.

²⁰⁸ ACT Government (2015) *ACT Literature Review for the Gap Analysis of Domestic Violence services* Available http://www.communityservices.act.gov.au/__data/assets/pdf_file/0005/793337/Gap-Analysis-Project-Literature-Review.pdf

to develop an integrated service. These elements include but are not limited to:

- cross agency memorandums of understanding;
- shared risk assessment and intervention protocols;
- centralised training;
- co-location;
- case coordination and management;
- clear processes and policies in relation to information sharing, data collection and storage; and
- identification of a lead agency.²⁰⁹

While integrated systems have a different mix of these elements ANROWS identified that the key element critical to the success of all integrated service models is clearly defined governance structures.²¹⁰

The Literature Review for the ACT Gap Analysis Project provided a detailed summary of three best practice models for integrated service delivery in relation to family violence. These summaries have been reproduced for the purpose of this Review at Appendix 8. The models are the Cardiff Model in the UK, the Tasmanian Safe At Home Program and the Gold Coast Domestic Violence Integrated Response. Reviews of these models have supported their effectiveness in achieving their aims. South Australia’s Family Safety Framework

²⁰⁹ Ibid.

²¹⁰ ANROWS (2015) *Meta-evaluation of existing interagency partnerships, collaboration, coordination and/or integrated interventions and service responses to violence against women: State of Knowledge paper*, Issue 11. Page 13.

is also an example of an integrated model. Being relatively new it has not yet been evaluated.

The case studies reinforce that integrated service delivery can take varying forms and that no particular model is considered the gold star model. Instead integration needs “to be viewed as a progressive and iterative process along a continuum in keeping with the particular locational needs, sector readiness and local strengths and constraints”.²¹¹

Collaboration: What are the advantages and disadvantages?

Research suggests working collaboratively through an integrated response network facilitates access to relevant services for women and children and fosters victim’s safety through improved interagency communication and tighter monitoring of perpetrator behaviour.²¹² Fine et al summarised the benefits of integration for service providers and clients in Figure 11.²¹³

²¹¹ Ibid. Page 15.

²¹² Meyer.S (2014) ‘Victims’ experiences of short-and long-term safety and wellbeing: Findings from an examination of an integrated response to domestic violence’ AIC, Trends and Issues in Crime and criminal justice: No.478 Available <http://aic.gov.au/publications/current%20series/tandi/461-480/tandi478.html>.

²¹³ Fine et al (2000) as cited ANROWS (2015) ‘Meta-evaluation of existing interagency partnerships, collaboration, coordination and/or integrated interventions and service responses to violence against women: State of Knowledge paper’, Issue 11. [http://media.aomx.com/anrows.org.au/Integrated%20Responses%20Meta-Evaluation%20-Landscapes%20\(State%20of%20knowledge\)%20Issue%20Eleven.pdf](http://media.aomx.com/anrows.org.au/Integrated%20Responses%20Meta-Evaluation%20-Landscapes%20(State%20of%20knowledge)%20Issue%20Eleven.pdf). Page 9.

Figure 11: Benefits of integration

Benefits to service providers	Cost effectiveness achieved through minimising duplication of services
	Formalised information sharing between services
	Potential up-skilling of workers across different issues
	Enhanced transparency and accountability between service providers and workers
Benefits to clients	Simplified coordinated response to multiple client needs particularly when they are one-stop shops
	Multiple entry points for intervention
	Minimisation of secondary victimisation
	Enhanced transparency and accountability between service providers and workers

Research considered in the ACT Gap Analysis indicates that integrated models provide improvements for victims in the short term but there is less compelling evidence that integrated models improve the situation for victims in the longer term. There is little evidence to support the proposition that integrated models reduce the prevalence of re-assault, change perpetrator behaviour or effectively hold perpetrators to account. Unfortunately, there are very few empirically-based evaluations of outcomes related to integrated service models.

On the other hand research has stressed that collaboration itself cannot be the goal of integrated service delivery but rather a means to enhance the safety and wellbeing of women and children and keeping the perpetrator accountable.²¹⁴

There is little evidence to support the idea that collaboration alone, to address complex social issues such as family violence, will definitely have a positive impact or that results will be equal to the resources expended.²¹⁵ What is clear is that collaboration needs to be linked to a specific purpose or outcome.²¹⁶ Collaboration should not be an outcome itself but should be the process through which an articulated shared outcome is reached.²¹⁷

The state of family violence service integration in the ACT

The *Final Report for the ACT Gap Analysis Project* paints a less than positive picture of the current state of collaboration and integrated service delivery in relation to family violence in the ACT.

²¹⁴ G.Winkworth (2011) *Australia's Children 'Safe and Well'? Collaborating with purpose across Commonwealth Family Relationships and State Child Protection Systems*. Australian Journal of Public Administration. P11.

²¹⁵ Ibid. Page 2.

²¹⁶ Ibid.

²¹⁷ Ibid. Page 9.

*It is clear that the current system in the ACT is fragmented, crisis driven, has limited responses for children experiencing domestic violence and is not holding perpetrators to account or providing adequate options and incentives to change their violent behaviour.*²¹⁸

During consultations the Inquiry did observe some collaboration between ACT agencies. A number of people consulted referred to the work of the Family Violence Intervention Program (FVIP) case tracking meeting which occurs fortnightly resulting in coordinated service delivery for family violence cases within the criminal justice system.

The 'Crisis Response project for women with disabilities who experience domestic violence and/or sexual assault' completed its first year of operation in 2015. The scheme operates between the Disability and Community Services Commissioner, the Domestic Violence Crisis Service, Canberra Rape Crisis Centre, Women with Disabilities ACT and the Victims of Crime Commissioner to provide immediate support to women with a disability to escape domestic violence and/or sexual assault. In its first year of operation the scheme assisted five people with a disability by sourcing emergency accommodation, obtaining interpreter services and providing assistance with court matters.

While there is positive collaboration occurring it is disjointed and it was clear to the Inquiry that the ACT service delivery for family violence is far from integrated. However, stakeholders demonstrated a clear willingness for greater co-operation and integration to be achieved.

The Final Report for the ACT Gap Analysis Project highlighted that there are 81 services currently providing direct (23) or indirect (58) support to victims or perpetrators of family violence.²¹⁹ The number of services and lack of coordination by a central agency is contributing to the currently fragmented system.

The Inquiry heard that incentives to collaborate may be limited in part due to the structure of funding that

²¹⁸ ACT Government (2016) *'Final Report for the Gap Analysis of Domestic Violence services'*. [Unpublished]. Page 24.

²¹⁹ Ibid.

non-government organisations receive (see more detailed discussion in Chapter 5). Funding sources are based on the number of people in programs rather than being outcomes based. This structure is not conducive to collaboration. The Final Report for the ACT Gap Analysis Project quoted

*People protect 'their patch' and there is a failure of the system to integrate. I have worked in lots of state governments but here [the ACT] is by far the worst communication and information sharing that I have seen.*²²⁰

It is clear that non-government organisations and Government have different underlying drivers. The Government is working to ensure the efficient spending of public money by measuring the number of people placed in programs. Non-government service providers look to meet individual needs of the client but are forced to deliver programs to them (to ensure future funding) which may or may not make any difference to outcomes for that client.

As discussed in Chapter 2 there is no lead ACT Government Directorate with responsibility for family violence. Directorates take responsibility for disparate parts of the issue. For example, Justice and Community Safety (JACS) has responsibility for legislative policy and Community Services Directorate (CSD) has oversight of the Office for Women and CYPS and funds many of the service providers. Within the Education Directorate schools independently implement responses to manage vulnerable families leading to inconsistent and disparate responses. Depending upon the individual principal, some schools work in a well integrated way with services and others do not engage at all.

The appointment of a Coordinator-General for Domestic and Family Violence in May 2015 has gone some way towards ensuring that directorates are collaborating on a whole of government response to family violence. This has especially been achieved through the Reference Group supporting the Coordinator which meets fortnightly with representation at Deputy Director-General level. However, there is still a disconnection between policy responses in relation to family violence across

²²⁰ Ibid.

directorates. This may in part be due to the fact that the Coordinator-General role is an additional role undertaken by the Deputy Director-General of JACS without additional resourcing. To coordinate and oversee collaborative service delivery to ensure families are safe the Inquiry recommends that the position of the Coordinator-General be resourced to operate as a full time position, separate from other Government responsibilities (see Chapter 9).

The need for Government to have established governance structures for implementing and overseeing systemic improvements in family violence policy was recently recognised by the Victorian Royal Commission which recommended that the Victorian Government introduce an independent Family Violence Agency established by statute to monitor the implementation of the Commission's recommendations.²²¹

The Inquiry noted that at a broader level there are reforms underway by CSD across the human services system to, in some measure, encourage a more holistic and joined-up service system. These are discussed in more detail in Chapters 2 and 5.

A move towards integration

As has been discussed, currently there is a lack of integrated service delivery and collaboration within both the family violence sector and the child protection sector and between the two sectors. On the positive side the Inquiry's consultations identified that agencies within the system do recognise the benefits of interagency cooperation and coordination and are open to a move towards more integrated service delivery.

The Final Report for the Gap Analysis Project suggests that the ACT Government provide ongoing funding to establish a single integrated service for family violence (a domestic violence unit) to address the legal and non-legal needs of people experiencing family violence. The Inquiry supports the underlying

²²¹ Royal Commission into Family Violence (2016) *Royal Commission into Family Violence Summary and recommendations* (Victoria). http://www.rcfv.com.au/MediaLibraries/RCFamilyViolence/Reports/RCFV_Full_Report_Interactive.pdf. Page 54.

premise behind this recommendation, and believes that this would be a move in the right direction. However, the Inquiry sees the need for an integrated service that:

- is focused on the whole family;
- deals with lower level child protection concerns so that:
 - these low level concerns enter the system at the service provider end not through the statutory process as they often currently do; and
 - CYPS statutory role is reserved for serious cases;
- deals with crisis situations but has an increased role in early intervention; and
- builds on, or integrates with existing structures.

It is important to note that when we speak of an integrated service model proposed for the ACT we are talking about co-location and collaboration not full integration of each agency into one organisation.

A focus on families: Family Safety Hub

The Inquiry cannot stress enough the importance of ensuring that any integrated service is ‘family centred’ looking at the needs of all members of the family rather than being either child centric or focused on the woman. Appropriate supports for the perpetrator as well as keeping them accountable will be a crucial role for any integrated service. This will not be an easy task, as this Report has already identified that the differing philosophies and focus between service providers have often lead to roadblocks in collaboration. As such, services need to work towards a shared goal that complements their parallel ideologies. That common or shared goal should be the delivery of positive outcomes for families. Indeed, this should be the high level shared goal for all agencies working in the area of human services.

The Inquiry believes that integrated services to address family violence should be coordinated through a Family Safety Hub. The Family Safety Hub should enhance safety for victims and outcomes for families by:

- providing a single entry point into the system that deals with family violence;
- facilitating information sharing and promoting collaboration;
- early identification of needs and coordination of service provision; and
- identification of a lead agency.

To achieve this focus on the family, the Hub should include personnel from key Government and non-government services who play a crucial role in keeping families safe. Ideally the Hub will include worker/s from:

- DVCS (non-crisis worker)
- Child protection
- Victim support
- A perpetrator service
- ACT Policing
- Education Directorate
- Health Directorate
- Community Service Directorate

An Aboriginal and Torres Strait Islander liaison worker should also work within the Hub to assist Aboriginal or Torres Strait Islander clients navigate the services.

The Hub would incorporate the collaboration envisaged by the Final Report of the Gap Analysis Project by including those agencies that would have been involved in the recommended domestic violence unit. This would remove the need to create a separate unit for family violence and assist in greater collaboration between the domestic violence and broader family violence sectors.

How will the Family Safety Hub work?

Following a central intake process effective case coordination by the Hub will be critical to supporting access to the range of responses an individual victim may need and to avoiding duplication of services. Central intake will mean victims only have to tell their story once rather than risking re-victimisation by providing their story to a number of different services.

The Hub will collaborate to case plan for high risk or complex cases and an agreed lead agency, such as Health, Education, CSD or a non-government

service provider, depending on what services are required, will take on the role of case coordination. It will be integral to the success of the Family Safety Hub that agencies within the Hub share available information in accordance with the new legislative regime this Report is recommending. Co-location in itself should facilitate and encourage the sharing of information.

It is intended that the services located within the Hub will also refer out to non-government or government services not located within the Hub but will maintain a case coordination role for the client or clients. In terms of domestic violence incidents, it is envisaged that the Domestic Violence Crisis Service (DVCS) would provide the same sort of emergency services as it does currently from its current premises, but that crisis workers would be able to liaise with Hub DVCS workers to ensure services are provided in a coordinated way. Non-crisis DVCS workers in the Hub could also deal with cases coming to the Hub directly or through the Gateway at an early intervention stage.

The family violence sector has indicated a willingness to try to move from crisis responses to more early intervention and the Inquiry is of the view that the Hub will assist in this endeavour. Child concern reports that involve family violence coming to the Hub will also allow the men's service located in the Hub to undertake intervention follow up work as they will also be located in the Hub.

Non-government organisations not located in the Hub should be given the opportunity to regularly provide feedback and openly engage in conversation about the operation of the Hub. As noted early in the report there is a need for ongoing constructive engagement with all agencies responding to family violence to build trust and confidence. This feedback and engagement might be through regular quarterly meetings involving all stakeholders for example.

Where should the Family Safety Hub be located?

Noting the need for integrated services coordinated through the Hub, the question then arises as to where the Hub should be located. The Inquiry noted those reforms that have already taken place and

those that are ongoing in the delivery of human services in the ACT, including the creation of a One Human Services Gateway. At the moment the Gateway is effectively two gateways working side by side: homelessness services and Child and Youth Family Services. These are intended to be merged into one gateway, in due course, to provide a broad intake point for people into human services provided in the ACT. The Inquiry heard that while health and education are not represented in the gateway at the moment, the preference is that they should be.

As the Hub will need to be working closely with the broader human services system and linking into mainstream services the Inquiry formed the view that the Hub should be co-located with the current human services gateways (soon to be the One Human Services Gateway located in Belconnen). This will allow the Hub to easily access the homelessness service (housing) and Child and Youth Family Services gateways. It will also mean that Education and Health liaison officers could work between the current Gateway services and the Family Safety Hub. Figure 12 reflects this proposed structure and location for the Hub.

It may be that as processes develop and relationships build, the Hub could actually be located within the One Human Services Gateway. This may further assist in streamlining services and allowing the ACT community to access a number of services through one channel. This Inquiry leaves this possibility with the ACT Government for further consideration in the future.

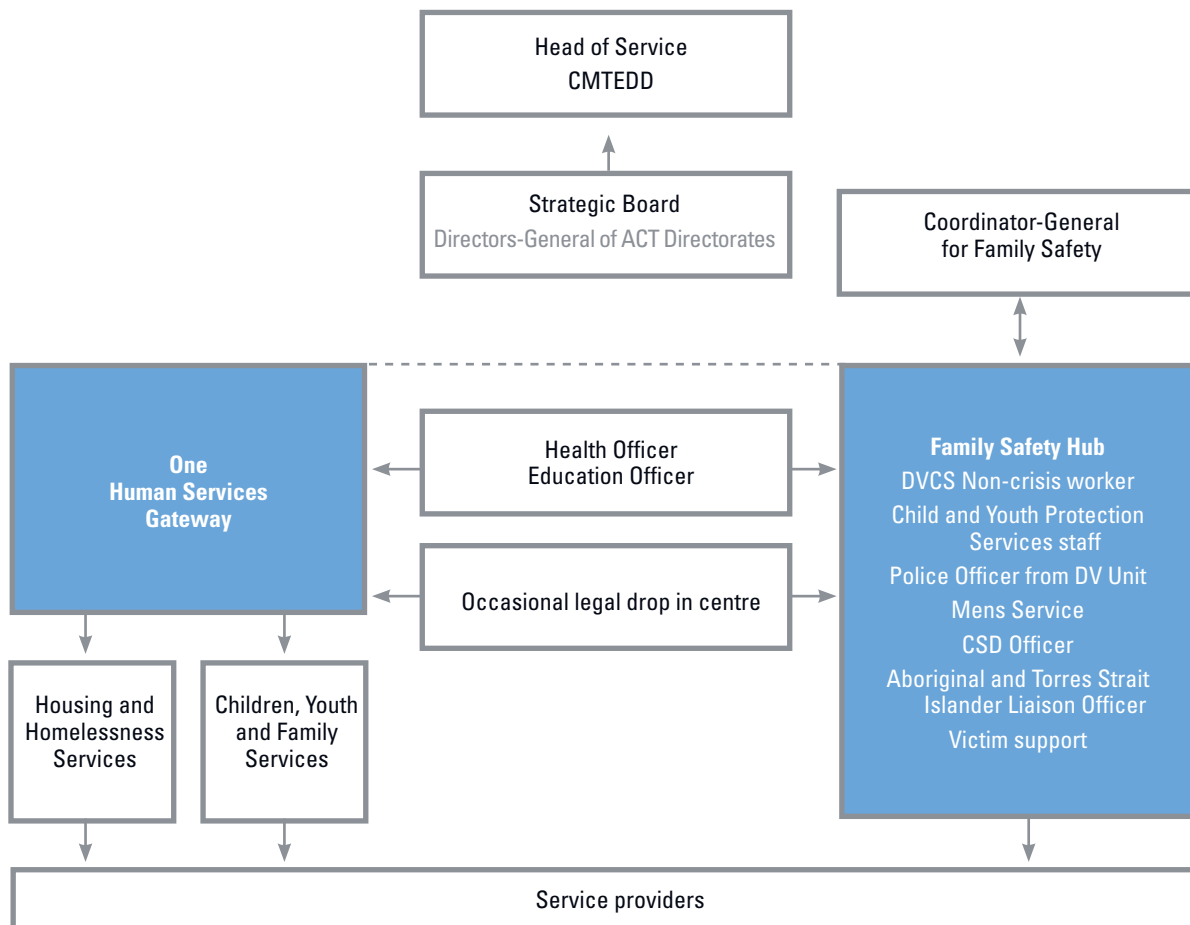
Child protection issues being dealt with in the Family Safety Hub

Where do child protection services fit within the proposed integrated model of service?

The Wood Inquiry in NSW noted that effective interagency collaboration has the potential to enhance services to children by delivering better assessments of need, improving the delivery of holistic services by minimising gaps and discontinuities in services, achieving greater efficiency in resource use and providing more support for workers.²²² Integrated

²²² Wood, J (2008) *Special Commission of Inquiry into child protection services in NSW*. <http://www.dpc.nsw.gov.au/publications/news/stories/?a=33796> Page 958.

Figure 12: Proposed structure and location of the Family Safety Hub



service delivery in the child protection space is often focused on supporting children and young people, families and communities via the promotion of health and wellbeing, to prevent problems before they begin and enable early intervention measures.²²³

When looking at the broad system of child protection, statutory child protection plays a small but limited role which is often at the “end of the road”.

In the ACT, as in many other jurisdictions, child protection is no longer the “end of the road” but in fact the entry point for many concerns related to children. This is partly due to a reporting culture that has emerged in the ACT where concerns in relation to

children, regardless of the seriousness, are referred to CYPS even though a more appropriate and effective response would be referral to other services. As a result and as noted in previous chapters, CYPS is being overwhelmed by child concern reports at the lower risk level.

As discussed previously a large number of child concern reports are not proceeding to the appraisal/ investigation stage and of those that do, many cases are not substantiated. This is taking up CYPS resources on low risk cases. While in the ACT a child witnessing family violence has not been recorded in systems, it is likely that most of the child concern reports coming from police that refer to “emotional abuse” relate to family violence incidents between the child’s parents. Based on the Victorian experience outlined in the

²²³ Tasmanian Government (2016) *Redesign of Child Protection Services Tasmania; Strong Families-Safe Kids* Available http://www.dhhs.tas.gov.au/_data/assets/pdf_file/0003/214356/Redesign_of_Child_Protection_Services.pdf Page 25

Report of the Royal Commission²²⁴ the majority of such reports are unlikely to yield statutory action. In addition, in the ACT, the data relating to closed cases is unclear as to whether the family is referred on to an appropriate service/s or nothing further happens.

Outcomes for children would be improved if instead of a child concern report being made to CYPS in cases of emotional abuse and neglect, they were made to the Family Safety Hub. This would leave any reports of physical violence or sexual abuse, whether made by a mandatory reporter or a voluntary reporter, going directly to CYPS. Intake and initial triaging of these child concern reports would be undertaken by the Hub based on full information, as a result of input from all of the agencies involved in the Hub. At the present time it seems that an initial appraisal decision made by CYPS can often be made on very little evidence.

The Inquiry anticipates that a decision made in the Hub, based on evidence that can be drawn together very quickly, would provide a better assessment of risk posed to the child and increase child safety. This work would be undertaken by intake officers located in the Hub supervised by a child protection caseworker. Any emergency case would be immediately referred to CYPS for action but with input from all of the agencies in the Hub. Any cases proceeding directly to CYPS could also be informed by information held in the Hub.

One of the additional benefits would be the capacity for these lower risk cases to be quickly dealt with and referred to appropriate non-government service providers either directly or through liaison with the Child, Youth and Family Services Gateway. As many of the agencies likely to be making child concern reports will be located in the Hub this would facilitate feedback to those agencies about outcomes of the child concern report, thereby reducing the need for repeat reporting where there is uncertainty about what action is being taken in respect of a child (see discussion in Chapter 6 regarding the need to provide better feedback to mandatory reporters).

²²⁴ In 2013–14 84 % of police reports made as part of the police family violence reporting process were not investigated by child protection. Royal Commission into Family Violence (2016) *Royal Commission into Family Violence Summary and recommendations* (Victoria). http://www.rcfv.com.au/MediaLibraries/RCFamilyViolence/Reports/RCFV_Full_Report_Interactive.pdf. Page 182.

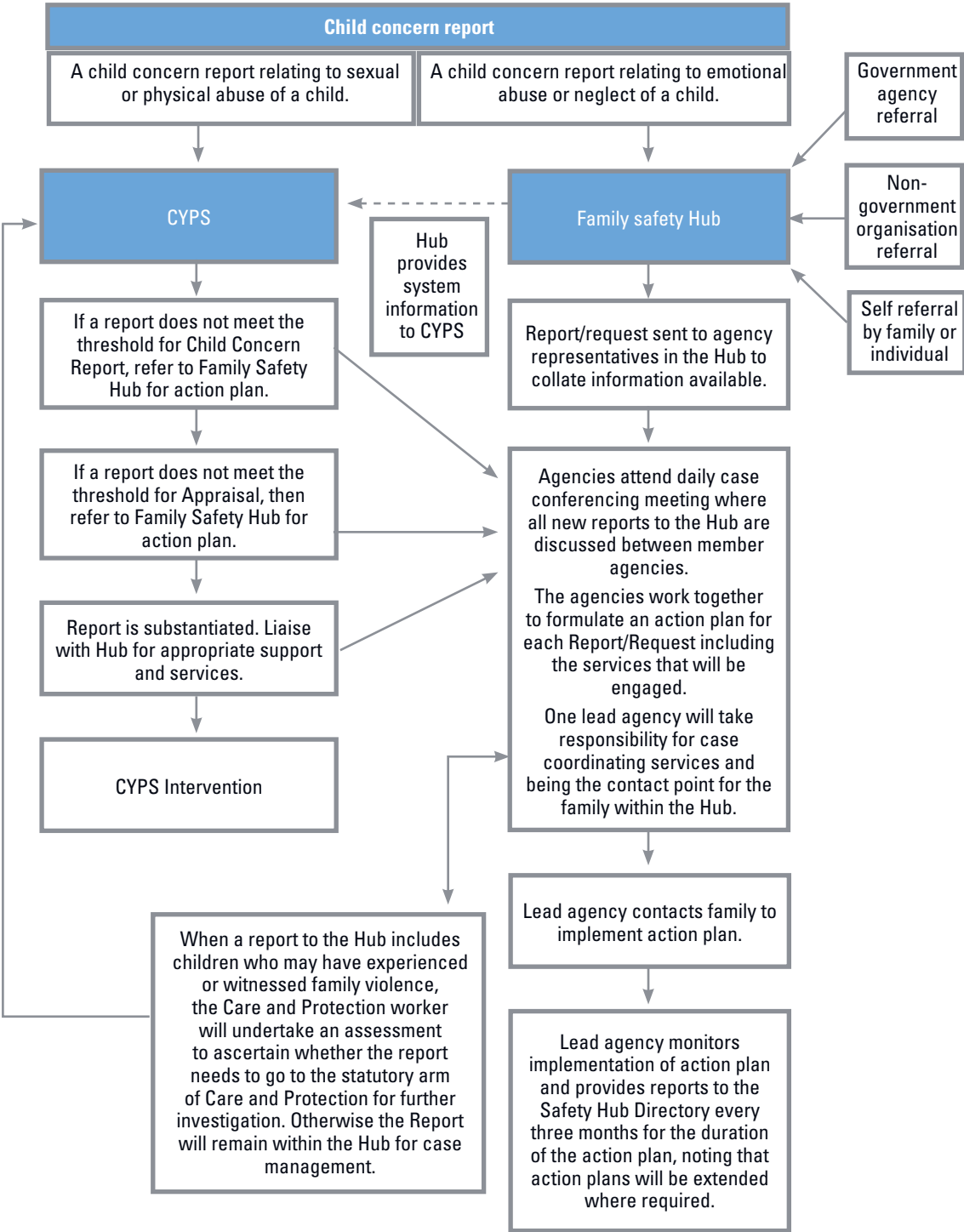
Additionally, it would be clear that the Hub would be responsible for the case and overall coordination. At the moment cases can bounce between agencies and CYPS. The Hub would also be able to monitor changes in risk; for example, if further family violence incidents are reported, the perpetrator is involved in other violent activity or the perpetrator drops out of programs.

Diverting these reports away from CYPS will allow it to concentrate its effort on responding to children at a high risk of physical or sexual abuse and at the same time ensure that children (and their families) exposed to family violence actually receive services rather than just having their case closed. The statutory arm of CYPS will also have the ability to refer appropriate cases to the Family Safety Hub which would then coordinate appropriate services and nominate a lead agency. Figure 13 demonstrates how a child concern report would be actioned under the new proposal.

The Inquiry is aware there may be concerns that, with any child protection activity being undertaken at the Hub, women may be reticent to seek help in relation to family violence. While this is certainly an issue, the Inquiry felt this might be mitigated to some extent by the fact the majority of cases dealt with by the Hub would not result in referral to CYPS but to services. The Inquiry also considers that the net benefit to the overall family violence response in the ACT and in alleviating the current workload pressures in CYPS outweighed this concern.

To change mandatory reporters' understanding of what and where they should report concerns about the safety and wellbeing of children will require a clear direction being provided to them and cultural change. As identified in the section of this Report dealing with mandatory reporting, there is an existing need for mandatory reporters to have better training on what to report to which service, and to be provided with support in making that decision in difficult cases. In addition to this there will need to be further awareness training as a result of these proposed changes. Any training and awareness campaign should be overseen by the Coordinator-General for Family Safety (creation of this role is discussed below).

Figure 13: The Safety Hub at Work, Child Concern Report



The Family Safety Hub at work: Child Concern Reports

ACT Policing attend a home at midnight after a neighbour has called reporting shouting and screaming coming from inside. When Police arrive the husband is agitated and hostile and the wife is very upset. It is obvious that a verbal altercation has occurred with some threats and pushing and shoving. There are three children in the home, who are also visibly upset. It does not appear that they have been physically assaulted. ACT Policing calls the Domestic Violence Crisis Service who attends the home. ACT policing reports the incident to the Family Safety Hub as the abuse to the children is not physical or sexual.

The Family Safety Hub receives the Report the next day; each agency within the Hub is given notice of the Report. Each agency collates information available on the family to take to the daily case conferencing meeting. At the daily case conferencing meeting all new reports to the Hub are discussed between member agencies. The agencies work together to formulate an action plan for the family including the services required and to which the family should be referred.

A lead agency agrees to take responsibility for the case, coordinating services to the family and being the lead agency for the family within the Hub.

As the Report to the Hub identifies that the children have witnessed family violence the CYPS worker within the Hub will undertake an assessment to ascertain whether the report needs to go to the statutory CYPS for appraisal. It is determined that this matter does not require appraisal by CYPS and the CYPS worker in the Hub works with the lead agency to ensure appropriate supports are in place for the family.

The lead agency works with the family to access appropriate services and supports. It monitors the implementation of the action plan agreed to by member agencies for the duration of the action plan. The lead agency would report to the Director of the Hub every three months on progress under the action plan. The action plan can be extended if necessary.

A Coordinator-General for Family Safety

As noted earlier in this Report the position of Coordinator-General for Domestic and Family Violence in the ACT is currently mandated to coordinate domestic and family violence responses across directorates and to oversight implementation of recommendations in various reports and plans accepted or endorsed by the ACT Government.

The Inquiry understands that the Coordinator-General role has made a difference, but that it has mainly focused on domestic violence rather than family violence more broadly. The role is also undertaken by the Deputy Director-General of Justice in the Justice and Community Safety Directorate in addition to her DDG duties, and this necessarily impacts on the intensity with which issues can be pursued.

The Inquiry is of the view that if the structural and cultural changes recommended in this Report are to be implemented there will need to be high level oversight and strong leadership over an extended period. The creation of a Coordinator-General for Family Safety role would provide that high level oversight to work across directorates, implement the new Family Safety Hub, drive the necessary cultural change regarding information exchange and collaboration, and lead consultations between the government and relevant sectors to support greater transparency and accountability.

While the Coordinator-General's office could be physically located in the Hub the role would provide high level oversight not operational supervision. The Coordinator-General will need to be of sufficient seniority to have standing with DGs and the community and will need to have strong change management credentials. This position will need to be supported by a small team.

As this role is working across government the Inquiry is of the view that it should report to the Chief Minister, Treasury and Economic Development Directorate but also provide regular feedback to the Strategic Board made up of Directors-General.

Funding

The proposals recommended in this chapter will need to be appropriately resourced either through reallocation of existing resources or by the provision of additional funding. Some of the work in the Hub will be current work being undertaken in directorates.

The new Coordinator-General role and small supporting team are not current roles and will require resources. The Inquiry sees that the small team might consist of a SOGB, an ASO6 and administrative support at an approximate cost of \$700,000 per year/indexed. The proposal for systems support, as discussed in Chapter 8, for enhanced information sharing will also require new funding which could be substantial and will need to be the subject of a detailed business case.

The Final Report of the Gap Analysis suggests that some funding from Commonwealth sources could be used for the proposed domestic violence unit. If that unit is subsumed into the Family Safety Hub as recommended, this funding could be used to offset some of the additional costs.

The Inquiry cannot over-emphasise the importance of better collaboration across the system in the area of family violence. It will be vitally important, should the recommendations in this Report be accepted, that the Government gives priority to proper funding to support the recommendations.

Increased funding is likely to be an “up front” investment with savings made or increased costs covered in the future. This will occur through reduced need for ongoing support for vulnerable families and individuals trying to cope with the long term effects of family violence. There is a strong economic case for government investment in early intervention and prevention programs to address family violence. Significantly, without intervention these costs will only increase. It is estimated the cost of violence against women and their children to the Australian economy is \$21.7 billion annually.²²⁵

²²⁵ PwC (2015) *Report: A high price to pay: the economic case for preventing violence against women*. <https://www.pwc.com/gx/en/psrc/publications/assets/high-price-to-pay.pdf>. Page 4.

This estimation is supported by other national and international research, although the figures vary.²²⁶ Victims primarily bear the burden of this cost, as do governments through expending monies in health, community services, welfare and legal and justice services.

PwC estimate that community mobilisation programs to address family violence could save governments between \$35.6 million to \$71.1 million, while individual and direct participation programs to address family violence could save governments \$2.2 billion to \$3.6 billion over a life time.²²⁷ The benefits associated with preventing and reducing family violence is wider than those captured in most economic modelling.²²⁸

²²⁶ The National Council to Reduce Violence against Women and their Children (2009) Report: *The cost of violence against women and their children*. https://www.dss.gov.au/sites/default/files/documents/05_2012/vawc_economic_report.pdf; National Institute for Health and Care Excellence (2013) Final Report: *Economic analysis of interventions to reduce incidence and harm of domestic violence*. <https://www.nice.org.uk/guidance/ph50/evidence/economic-analysis-domestic-violence-final-report-for-consultation-430410637>.

²²⁷ PwC (2015) *Report: A high price to pay: the economic case for preventing violence against women*. <https://www.pwc.com/gx/en/psrc/publications/assets/high-price-to-pay.pdf>. Page 4.

²²⁸ National Institute for Health and Care Excellence (2013) Final Report: *Economic analysis of interventions to reduce incidence and harm of domestic violence*. <https://www.nice.org.uk/guidance/ph50/evidence/economic-analysis-domestic-violence-final-report-for-consultation-430410637>. Page 11.

Findings

- a. Strong collaboration requires, inter alia, open communication, trust, shared goals, and clear governance and leadership.
- b. It is important that family violence within the ACT is addressed through integrated service delivery that ensures collaboration between all agencies and services working in the family violence sector including domestic violence and child protection.
- c. Greater collaboration and integration can ensure risk assessments and decisions are made based on full information and assists coordinated delivery of services.
- d. Although the suggestion in the Final Report of the Gap Analysis Project to create a Domestic Violence Unit would be a move in the right direction for the domestic violence sector, there is an opportunity to achieve greater collaboration between the domestic violence and the broader family violence/child protection sector.
- e. Low level child concern reports that currently enter the human services system through CYPS need to be managed so that they enter at the service provider level, reserving serious cases to be dealt with by CYPS.
- f. Collaboration and integration can be improved by co-location of services, database technology to improve access to shared information and leadership commitment across the family violence sector to cultural change.

Recommendations

27. A Family Safety Hub should be established and co-located with the One Human Services Gateway to:
 - a. Ensure integrated and coordinated services are provided to families experiencing or at risk of experiencing family violence; and
 - b. Ensure decision making in relation to families experiencing or at risk of experiencing family violence is made based on all the evidence available to the system as a whole.
28. The Family Safety Hub should comprise representatives from relevant human services directorates, the domestic violence and child protection sectors and police who will be embedded within the Hub.
29. The Family Safety Hub should receive and manage all child concern reports that do not involve physical abuse or sexual assault and CSD should assist in establishing the new arrangements.
30. CYPS should work with the Family Safety Hub as their cases move through the statutory process to ensure families are receiving appropriate services and CYPS has access to the most up to date information. It is accepted that extremely urgent cases may preclude or limit such contact.
31. A Coordinator-General for Family Safety at Deputy Director-General level should be appointed to have high level oversight and strong leadership over an extended period to drive the changes recommended in this Report. Further a small team should be appointed to support the work of the Coordinator-General. The current Coordinator-General for Domestic and Family Violence would be subsumed into this new role.

CHAPTER 10

A SAFER FUTURE

From the consultations undertaken as part of this review and both national and international research it is evident that increasing reporting of family violence and the absence of collaboration and information sharing are critical issues for both child protection and family violence services. Much of the increased reporting is due to an increasing public awareness of what constitutes family violence and the breadth and scope of what constitutes child abuse and neglect. The task of addressing family violence is made harder by the siloed and independent nature of agencies and service providers working in the areas of family violence and child protection.

In the ACT this is producing less than optimal outcomes for those experiencing family violence. The challenges of increasing demand and a culture not conducive to sharing information and collaboration are testing an already stretched system.

It is clear that the current approach to addressing child protection and family violence has the potential to be significantly improved. To keep ACT families safe a new, integrated approach to the issue of family violence, including children's experience of

family violence, is required. The recommendations made in this Report look to redefine the ACT system response to family violence.

Central to this new approach is the establishment of a Family Safety Hub, with co-located key service providers it aims to provide better case management for families experiencing violence and facilitate improved collaboration between agencies. The Family Safety Hub will ensure that decision making is informed by cross-sector knowledge, information and expertise and result in better coordinated services to ACT families.

The creation of an information sharing culture within the broad family violence sector is essential to ensuring positive outcomes for families both through the Family Safety Hub and service providers and agencies responding to family violence. Too often opportunities to improve outcomes for families are missed due to the inability, or perceived inability to share information. Clear legislative authority for the sharing of information, cultural change and linking funding to positive collaboration and sharing are the first steps towards removing this barrier.

Overall the key to the success of the Family Safety Hub will be good governance. The role of the Coordinator-General for Family Safety will be to provide high level oversight across directorates, implement the new Family Safety Hub, drive the necessary cultural change regarding information exchange and collaboration, and lead consultations between the government and relevant sectors to support greater transparency and accountability.

APPENDIX

1

TERMS OF REFERENCE

Purpose

The ACT Government is committed to reducing the incidences of domestic and family violence against women and their children. The effective and integrated operation of a number of systems in the ACT is fundamental to ensuring the safety of women and children in the Territory.

To ensure ACT systems operate effectively and efficiently, to ensure the safety of women and their children, Mr Laurie Glanfield AM has been appointed to conduct a review of the current legislative framework, policy, practices and operations of ACT Directorates and service providers who respond to family violence.

The review will be conducted in the context of the recent death of Bradyn Dillon. Any issues of [individual] responsibility will be dealt with through the criminal justice system and the coronial inquest that will ensue in due course. For the purposes of ensuring access to protected and sensitive information the review will be formally constituted under the Inquiries Act 1991. However, the government expects that the review will inquire and make recommendations in relation to systemic issues.

Terms of reference

In particular the review will consider:

- the effectiveness of interactions between government directorates/agencies and service providers in relation to the use of mandatory reporting as prescribed by legislation and the appropriateness of responses to those reports;
- the effectiveness of government directorates/agencies and service providers response to family violence particularly where children are involved;
- the extent to which ACT authorities are legally able to, and do actually share and receive information on at risk families internally and with other jurisdictions.

Following the review Mr Glanfield will provide a report to the Chief Minister with key recommendations to improve system responses to domestic and family violence incidences in the ACT.

Reporting obligations

Mr Glanfield will report to the Chief Minister by 22 April 2016.

Mr Glanfield will be supported by the ACT Coordinator-General for Domestic and Family Violence and a small team.

APPENDIX

2

ACT DIRECTORATE AND COMMONWEALTH FUNCTIONS IN RELATION TO FAMILY VIOLENCE

Of relevance to this Review, the Community Services Directorate has responsibility for the following human services functions:

- domestic and family violence policy and services;
- children, youth and family support policy and services including child protection and youth justice services;
- Child and Family Centres
- public and community housing policy and services;
- homelessness and community services
- disability policy and services; and
- therapy services.

The Justice and Community Safety Directorate comprises several agencies and is responsible for a wide range of activities and services in the areas of justice, the law and emergencies. Relevant justice functions include:

- law enforcement and policing;
- community safety;
- Indigenous justice policy;
- domestic and family violence policy and services;
- criminal, civil and administrative law policy;
- legal aid services;
- adult corrections and sentencing policy;
- Magistrates Court, Supreme Court and the Children's Court; and
- Coordinator-General for Domestic and Family Violence.

The Health Directorate is responsible for a range of health functions including:

- health planning;
- public and community health policy and services;
- primary health care policy and services;
- emergency health care services;
- public hospital services;
- alcohol and other drugs policy and services;
- Aboriginal and Torres Strait Islander health policy and services; and
- women, youth and child health policy and services.

The Education and Training Directorate is responsible for a range of education functions including:

- education planning; and
- schools;
- early childhood development policy and services; and
- specialist children's programs.

The Commonwealth Government is also responsible for a range of services and supports to vulnerable families in the ACT:

- family and children's policy and services;
- childcare policy and services;
- social welfare policy and services;
- general health care policy and services;
- alcohol and other drugs policy and services;
- domestic and family violence policy and services;
- family law policy; and
- Family Court and the Federal Circuit Court.

APPENDIX

3

FAMILY VIOLENCE GOVERNANCE GROUPS

Establishment	Objectives, purposes, aims	Membership	Key actions, programs and initiatives	Reporting structure
Coordinator-General for Domestic and Family Violence				
<p>The Coordinator-General role was established by the ACT government, in May 2015, in response to a recommendation for better coordination across government in the Domestic Violence Prevention Council's Report on Domestic & Family Violence, including Sexual Assault, in the ACT (2015).</p> <p>The Reference Group was established to provide support to the Coordinator-General role.</p>	<p>The Coordinator-General role was established to provide stronger coordination of policy and programs across government in response to domestic and family violence, including sexual assault, in the ACT.</p> <p>The Coordinator-General has responsibility for implementing the Government Response to the Domestic Violence Prevention Council's Report and to ensure the government meets its responsibilities and actions under the Second Implementation Plan under the ACT Prevention of Violence against Women & Children Strategy 2011–2017.</p>	<p>The Deputy-Director General (Justice) in the Justice & Community Safety Directorate (JaCS) is currently appointed to the role of Coordinator-General.</p> <p>The Reference Group consists of representatives at the Deputy Director-General/ Deputy Chief Police Officer level from ACT government directorates with key responsibilities relating to addressing domestic & family violence, including sexual assault. Reference Group members are from the following agencies:</p> <ul style="list-style-type: none"> ■ Justice and Community Safety ■ Community Services ■ Chief Minister Treasury and Economic Development ■ Health ■ Education and Training ■ ACT Policing 	<p>Oversight and coordination efforts across government, including in relation to:</p> <ul style="list-style-type: none"> ■ the implementation of the Government Response to the Domestic Violence Prevention Council's <i>Report on Domestic & Family Violence, including Sexual Assault, in the ACT</i>; ■ the government's efforts under the <i>National Plan to Reduce Violence against Women & Children 2010–2022</i>; ■ ensuring that government meets its responsibilities and actions under the Second Implementation Plan under the <i>ACT Prevention of Violence against Women & Children Strategy 2011–2017</i>; ■ oversight of key recommendations from the 'We don't shoot our wounded' report; ■ the government Response to the ALRC/NSWLRC Report <i>Family Violence – A National Legal Response</i>; and ■ government involvement in COAG initiatives including the development of an information and awareness campaign, and the National Domestic Violence Order Scheme. 	<p>Minister for Women Attorney-General</p>

Establishment	Objectives, purposes, aims	Membership	Key actions, programs and initiatives	Reporting structure
Domestic Violence Prevention Council (DVPC)				
<p>The Council was established in 1997 as an independent statutory body under the <i>Domestic Violence Agencies Act 1986</i> (the DVA Act).</p>	<p>The Council's authority and accountabilities are shaped by legislation and the Council Standing Orders.</p> <p>The Council is the peak body to offer advice to the ACT Attorney-General on issues relevant to its responsibilities on domestic violence.</p> <p>The objective of the Council is to reduce the incidence of domestic violence offences (s 5(1) of the DVA Act).</p> <p>Section 5(2) of the DVA Act provides the functions of the Council, which include:</p> <ul style="list-style-type: none"> (a) to promote collaboration among government agencies and nongovernment organisations involved in— <ul style="list-style-type: none"> (i) law enforcement; or (ii) the provision of health, education, crisis or welfare services to victims or perpetrators of domestic violence or otherwise relating to the incidence or prevention of domestic violence; and (b) to assist and encourage the agencies and organisations referred to in paragraph (a) to promote projects and programs aimed at enhancing the safety and security of victims of domestic violence offences, with particular regard to children; and (c) to advise the Minister on any matter relating to domestic violence; and (d) to inquire into and provide advice to the Minister on matters relating to domestic violence that have been referred to the council by the Minister. 	<p>The membership requirements of the Council are stated in section 6 of the DVA Act. Council members must include:</p> <ul style="list-style-type: none"> ■ the domestic violence project coordinator; ■ at least six people as community members, including— <ul style="list-style-type: none"> (i) a representative of the Aboriginal and Torres Strait Islander community; and a representative of people from a non-English speaking background; ■ representative of the Domestic Violence Crisis Service Incorporated; ■ Other members may be statutory office holders; public servants; or police officers. 	<ul style="list-style-type: none"> ■ Extraordinary Meeting of the Council (2 April 2015) ■ <i>Report on Domestic & Family Violence, including Sexual Assault, in the ACT</i> (2015) ■ Review into Domestic & Family Violence Deaths in the ACT ■ Domestic & Family Violence Data Framework Project ■ Advise Attorney-General relating to the definition of 'domestic relationship' in the <i>Domestic Violence & Protection Orders Act 2008</i>. ■ Advise the Government on common risk assessment tool 	<p>Attorney-General</p> <p>The FVIP and DVPC have an MOU that outlines how the operational activities of the FVIP complement the higher level strategic activities of the DVPC to ensure that work is not duplicated.</p>

Establishment	Objectives, purposes, aims	Membership	Key actions, programs and initiatives	Reporting structure
Family Violence Intervention Program (FVIP)				
<p>The FVIP was established following recommendations of the ACT Community Law Reform Committee for a coordinated interagency response to family violence in their 1995 report, Report 9: Domestic Violence.</p> <p>This recommendation was accepted by the ACT government in 1996 and the FVIP was established in 1998.</p>	<p>The FVIP provides a coordinated criminal justice, government and community response to criminal family violence incidents that come to the attention of the police and proceed to prosecution.</p> <p>The overarching objectives of the FVIP are to:</p> <ul style="list-style-type: none"> ■ work cooperatively together; ■ maximise safety and protection for victims of family violence; ■ provide opportunities for offender accountability and rehabilitation; and ■ work towards continual improvement of the FVIP. <p>The FVIP also provides coordinated interagency case management with a focus on the legal, police and crisis responses.</p> <p>The goals or objectives of the FVIP are:</p> <ul style="list-style-type: none"> ■ to maximise the safety and protection of victims of family violence; ■ to work together cooperatively and effectively; ■ to provide opportunities for offender accountability and rehabilitation; and ■ to seek continual improvement in responses to family violence in the ACT. <p>The FVIP is made up of two core initiatives —a coordinating committee and weekly case tracking meeting program</p>	<p>The key partner agencies are:</p> <p>Case Tracking</p> <ul style="list-style-type: none"> ■ Australian Federal Police (ACT Policing); ■ Office of the Director of Public Prosecutions (witness assistants); ■ ACT Corrective Services; ■ Domestic Violence Crisis Service; ■ Care and Protection Service, Community Services Directorate; and ■ Victim Support ACT <p>Coordination Committee</p> <ul style="list-style-type: none"> ■ Legislation, Policy and Programs Branch, Justice and Community Safety Directorate; ■ the Victims of Crime Commissioner ■ Office of the Director of Public Prosecutions (prosecutor); ■ ACT Law Courts and Tribunal Administration; ■ ACT Corrective Services, Justice and Community Safety Directorate; ■ Australian Federal Police (ACT Policing) ■ Care and Youth Protection Services, Community Services Directorate ■ Division of Women, Youth and Children Community Health Programs, Health Directorate; ■ Domestic Violence Crisis Service ■ Canberra Rape Crisis Centre ■ Legal Aid ACT 	<p>To maximise victim safety and provide opportunities for offender accountability and rehabilitation, FVIP agencies, subject to their roles and responsibilities, have consolidated efforts into a focus on two key operational policies:</p> <ol style="list-style-type: none"> 1. pro-charge, pro-arrest and presumption against bail policing; and 2. pro-active prosecution. <p>Further there are three operational goals</p> <ol style="list-style-type: none"> 1. early provision of victim support; 2. coordination and case management; and 3. rehabilitation of offenders. <p>Agencies perform varied roles within the FVIP to implement policy and achieve goals.</p>	<p>The FVIP does not have a legislative basis and instead operates under the direction of protocols established at its inception in 1998 and a Memorandum of Agreement most recently signed in 2014. The activities of the FVIP are reported on in the Victim Support ACT annual report.</p> <p>The FVIP and DVPC have an MOU that outlines how the operational activities of the FVIP complement the higher level strategic activities of the DVPC to ensure that work is not duplicated.</p>
Governance Group for ACT Prevention of Violence against Women & Children Strategy 2011–2017 (Governance Group)				
<p>The Governance Group was established in 2011 to be led jointly by CSD and JaCS, and to include representation from across government and the community sector.</p>	<p>The role of the Governance Group is to oversee the implementation of the <i>ACT Prevention of Violence against Women & Children Strategy 2011–2017</i> (ACT Strategy) and to develop the Implementation Plans under the Strategy.</p> <p>The Governance Group also ensures that the ACT Strategy and Implementation Plans form the foundation for the ACT's jurisdictional Implementation Plan for the <i>National Plan to Reduce Violence against Women & Children 2010–2022</i>.</p>	<ul style="list-style-type: none"> ■ CSD ■ JACS ■ Office for Women ■ Aboriginal and Torres Strait Islander Elected Body representative; ■ Youth representative ■ ACT Policing ■ Victims of Crime Commissioner ■ Non-government representatives including DVCS and CRCC 	<ul style="list-style-type: none"> ■ Oversight of the ACT Strategy <ul style="list-style-type: none"> ■ First Implementation Plan 2011–2014 ■ Second Implementation Plan 2015–2017 ■ Oversight of deliverables against the <i>National Plan to Reduce Violence against Women & Children 2010–2022</i>. 	<p>The Coordinator-General for Domestic and Family Violence, Attorney-General and the Minister for Women.</p>

Establishment	Objectives, purposes, aims	Membership	Key actions, programs and initiatives	Reporting structure
Domestic Violence Project Coordinator				
<p>The Domestic Violence Project Coordinator is appointed by the Attorney-General under the <i>Domestic Violence Agencies Act 1986</i>.</p>	<p>The Project Coordinator has the following functions in relation to domestic violence:</p> <ul style="list-style-type: none"> a) to monitor and promote compliance with the policies of the ACT and Commonwealth governments; b) to assist government agencies and non-government organisations involved in— <ul style="list-style-type: none"> (i) law enforcement; or (ii) the provision of health, education, crisis or welfare services to victims or perpetrators of domestic violence or otherwise relating to the incidence or prevention of domestic violence; to provide services of the highest standard; c) to assist and encourage agencies and organisations to provide appropriate educational programs; d) to facilitate cooperation among the agencies and organisations; e) to assist in the development and implementation of policies and programs as directed by the council; f) to carry out any other functions the council directs. 	<p>The Victims of Crime Commissioner is appointed as the Project Coordinator.</p>	<ul style="list-style-type: none"> ■ Chairs the FVIP ■ Member of the DVPC ■ Review into Domestic & Family Violence Deaths in the ACT ■ Domestic & Family Violence Data Framework Project 	<p>Attorney-General DVPC</p>

APPENDIX

4

FAMILY VIOLENCE LEGISLATION IN THE ACT

Domestic Violence and Protection Orders Act 2008

As noted the DVPO Act provides the ACT's definition of domestic violence. The DVPO Act provides a mechanism for people to apply to the ACT Magistrates Court for a Domestic Violence Order (DVO) to protect them from future assaults, threats of violence, property damage, stalking, and acts of indecency, harassment and offensive conduct by another person (the respondent). DVO's protect the applicant by ordering the respondent not to engage in conduct that amounts to domestic violence (see section 13(1) above). It is a criminal offence to breach a DVO.

In October 2015 the DVPO Act was amended to allow for special interim domestic violence orders to be made by the court when there is an application for an interim domestic violence order, and related current criminal charge. The amendments to the DVPO Act create a new category of interim domestic violence order (DVO), a "special interim order", to allow the interim DVO to extend until related criminal charges have been determined by a criminal court. The result is that a court cannot consider whether to issue a final DVO if there are current criminal charges relating to the same applicants and respondents. Under the amendments, a court may extend an interim DVO for longer than two years if domestic violence criminal charges are still before the court.

Bail Act 1992

The *Bail Act 1992* supports the ACT Family Violence Intervention Prevention Program's (FVIP) pro-arrest policy. For police bail, in the ACT, there is a presumption *against* granting bail for family violence offences. The *Bail Act* provides that police must not grant bail to a person accused of a domestic violence offence unless satisfied that the person 'poses no danger to a protected person while released on bail.'²²⁹

The Domestic Violence Prevention Council (ACT) in its submission to the Australian Law Reform Commission report, A National Legal Response reiterated support for the presumption against police bail for domestic violence stating:

*There are too many circumstances where the rights of the accused person have been favoured above those of the victims and the safety of the victims has been compromised. There are many examples of this nationally, some of which have resulted in the murder or murder/suicide of families. We have found in the ACT that the operation of the presumption against bail has effectively worked to protect victims without unnecessarily prejudicing the accused.*²³⁰

Domestic Violence Agencies Act 1986

²²⁹ Bail Act 1992, section 9F.

²³⁰ Domestic Violence Prevention Council (ACT), *Submission FV 124*, 18 June 2010.

The Domestic Violence Agencies Act establishes the position of Domestic Violence Project Coordinator. The Coordinator is appointed to monitor and promote compliance with domestic violence policies of the ACT and Commonwealth governments and to assist and promote collaboration between government agencies and non-government organisations. Currently the Victims of Crime Commissioner is appointed as the Project Coordinator. No funding has been provided for a separate Domestic Violence Project Coordinator.

The Domestic Violence Agencies Act is the statutory authority for the Domestic Violence Prevention Council (the Council). The Council consists of the ACT Domestic Violence Project Coordinator and 12 other members. The members include at least six people as 'community members' including representatives of the Aboriginal and Torres Strait Islander community and the culturally and linguistically diverse community. The Council also consists of a representative of the Domestic Violence Crisis Service. The remainder of the Council is made up of representatives from different arms of the ACT Government including Health, Chief Minister and Cabinet, Justice and Community Safety, and Community Services directorates. ACT Policing is also represented on the Council.

The objective of the Domestic Violence Prevention Council (DVPC) is to reduce the incidence of domestic violence offences in the ACT. The functions of the Council are to:

- monitor developments within and outside Australia of legislation, policy and community views on domestic violence and the provision of health and welfare services to victims and perpetrators of domestic violence offences;
- to collect statistical and other information relating to domestic violence offences; and
- inquire into and provide advice to the Minister on domestic violence matters referred to the Council by the Minister.

The Council also has a function to establish and maintain links with and among, and promote collaboration among, government agencies and non-government organisations in the ACT in order to:

- assist and encourage those agencies and organisations to promote projects and programs aimed at enhancing the safety and security of victims of domestic violence offences, with particular regard to children; and
- assist them to develop procedures for the collection, standardisation and sharing of statistical information relating to domestic violence offences.

Evidence (Miscellaneous Provisions) Act 1991

The *Evidence (Miscellaneous Provisions) Act 1991* (the EMPA) contains special measures to support a relevant person to give evidence in Court. For example in a proceeding for a sexual or a violent offence, where the complainant is a domestic partner or former domestic partner of the accused they may be able to give evidence via CCTV, may not be cross-examined by the accused or have a support person with them in the court.

In October 2015 the EMPA was amended to allow a police record of interview of a complainant of domestic violence to be provided to the court as the complainant's evidence in chief. This evidence may be used in other proceedings where the evidence is relevant and appropriate submissions are made as to whether the evidence could be appropriate in the circumstances. The provisions do not expressly restrict the use of such evidence in other proceedings instead allows for the rules of evidence to apply. The amendment will commence in May 2016.

APPENDIX

5

CONSULTATION UNDERTAKEN BY THE INQUIRY

Organisation	Representatives
Community Service Directorate	Natalie Howson, Director-General Sue Chapman, Deputy- Director General Dr Mark Collis, Executive Director Maureen Sheehan, Executive Director Helen Pappas, Senior Director Austin Kenny, Director Maria Kanellopoulos, Manager
Health Directorate	Elizabeth Chatham, Executive Director Madeline Clark, Manager Deborah Colliver, Manager Catherine Furner, Operational Director Genny Herbert, Manager Greg Hollis, Clinical Director Fleur Joyce, Policy Officer Samantha Lang, Executive Officer Christine Long, Director Margaret McLeod, Director Vanita Parekh, Unit Director Jane Pepper, Manager Bronwyn Roberson, Clinical Nurse Chris Stanilewicz, Senior Policy Officer Naree Stanton, Assistant Director Cassandra Tinning, Clinical Services Coordinator Catherine Sansum Wendy Alder Cassandra Beaumont Dianne Bradshaw Paul Jenkins

Organisation	Representatives
ACT Education Directorate	Diane Joseph, Director-General Meg Brighton, Deputy Director-General
ACT Policing	Andrea Quinn, Deputy Chief Police Officer
Victims of Crime Commissioner	John Hinchey
Women's Centre for Health Matters/ Chair of the Domestic Violence Prevention Council	Marcia Williams, Executive Director
Domestic Violence Crisis Service	Mirjana Wilson, Executive Director
Connections ACT (CanFACS)	Anthony Rochester, Executive Officer
Canberra Rape Crisis Centre	Chrystina Stanford, Executive Director
Women's Legal Centre	Elena Rosenman, Executive Director Marilyn Wright Teletha Elmes Tracey Harris
Children and Young People Commissioner	Alasdair Roy
Woden Community Services	Chris Redmond, Chief Executive Officer
ACT Children and Young People Death Review Committee	Dr Penny Gregory, Chair Eric Chalmers Dr Catherine Sansum Louise Freebairn Dr Sue Packer
Winnunga Nimmityjah (Strong Health) Aboriginal Health Service	Julie Tongs, Chief Executive Officer

Organisation	Representatives
Gugan Gulwan	Kim Davidson, Chief Executive Officer
Institute of Child Protection Studies	Professor Morag McArthur, Director
Families ACT	Will Mollison, Executive Officer
ACT Magistrates Court	Chief Magistrate Lorraine Walker Amanda Nuttall, Registrar
Belconnen Community Services	Dira Horne, Chief Executive Officer
Children and Youth Services Council	Bev Orr, Chair
Human Rights Commissioner	Helen Watchirs
Public Advocate	Andrew Taylor
Uniting	Charlie Chubb, Implementation Leader, Children and Families ACT Lisa Kelly
Barnados	Annette Kelly-Egerton, ACT Manager
Relationships Australia	Mary Perkin, Chief Executive Officer
Australian Childhood Foundation	Jana Sarnovski, Team Leader

APPENDIX

6

INFORMATION SHARING RECOMMENDATIONS

DVPC Report to the Attorney General
16 April 2015

Recommendation 7

That the ACT Government consider s allowing information sharing between agencies (Government and non-Government) within integrated responses with appropriate safeguards, particularly where a risk assessment indicates it is important for the purposes of protecting the safety of the victim and their immediate family.

ACT Prevention of Violence Against Women and Children Strategy 2011–2017

“In the ACT there have been significant and sustained activities to improve system responses to family violence and sexual assault. This has included the Family Violence Intervention Program (the FVIP) established in 1998 and more recently the Sexual Assault Reform Program (SARP) established in 2007..... FVIP and SARP have a focus on the interaction of victims of violence with the justice system and services, and provide responses after violence has occurred ... However, the ACT Strategy also encompasses a broader response to violence against women and children, including a focus on prevention and early intervention and provision of support to those who do not engage with the criminal justice system.”

2nd Implementation Plan 2015–2017

Key Priority Three – supporting innovative service and joined up service systems

- There is a need for a properly integrated service system, with all Directorates working together to deliver connected and well – targeted services and responses to domestic and family violence, including sexual assault. (From the DVPC report)
- Services and systems need to work well together for women and their children to be protected and supported. This means fostering integration (National Plan p27)

A key reportable action under Priority 3 is the DVPC Recommendation 7 regarding information sharing.

Australian Law Reform Commission and the NSW Law Reform Commission Report — Family Violence National Legal Response

29. *Integrated responses*

Recommendation 29–1

The Australia, state and territory governments, in establishing or further developing integrated responses to family violence , should ensure that any such response is based on common principles and objectives, developed in consultation with relevant stakeholders.

Recommendation 29–2

The Australian, state and territory governments, in establishing or further developing integrated responses to family violence, should ensure ongoing and responsive collaboration between agencies and organisations supported by:

- a. Protocols and memorandums of understanding;
- b. Regular meetings; and
- c. Where possible, designated liaison officers.

30. Information Sharing

Recommendation 30–3

Non publication provisions in state and territory family violence legislation should expressly allow disclosure of information in relation to protection orders and related proceedings that contains identifying information in appropriate circumstances, including disclosure of family violence protection orders to the federal family courts under s 60CF of the Family Law Act 1975 (CTH).

Recommendation 30–9

The Australian, state and territory governments should ensure that privacy principles regulating the handling of personal information in each jurisdiction expressly permit the use or disclosure of information where agencies and organisations reasonably believe it is necessary to lessen or prevent a serious threat to an individual's life, health or safety.

Recommendation 30–10

The Australian, state and territory governments should consider amending secrecy laws that regulate the disclosure of government information to include an express exception to allow the disclosure of information in the course of a government officer's functions and duties.

Recommendation 30–11

State and territory family violence legislation should expressly authorise the use and disclosure of personal information for the purposes of ensuring the safety of a victim of family violence or an affected child.

Recommendation 30–12

State and territory child protection legislation should expressly authorise agencies to use or disclose personal information for the purposes of ensuring the safety of a child or young person.

Recommendation 30–13

State and territory family violence legislation and child protection legislation should expressly provide for information sharing among specified agencies in specified circumstances, and should include provision to allow information to be shared with specified private sector organisations.

Recommendation 30–14

The Australian, state and territory governments should develop guidelines to assist agencies and organisations working in the family violence and child protection systems to better understand the rules relating to the sharing of information.

Recommendation 30–15

The Australian, state and territory governments should ensure that, in developing any database to allow the sharing of information between agencies and organisations in the family violence or child protection systems, appropriate privacy safeguards are put in place.

Recommendation 30–16

Federal family courts, state and territory magistrates courts, police, and relevant government agencies should develop protocols for the exchange of information in relation to family violence matters. Parties to such protocols should receive regular training to ensure that the arrangements are effectively implemented.

Recommendation 30–17

Federal family courts and state and territory child protection agencies should develop protocols for the exchange of information in those jurisdictions that do not yet have such arrangements in place. Parties to such protocols should receive regular training to ensure that the arrangements are effectively implemented.

Recommendation 30–18

A national register should be established. At a minimum, information on the register should:

- a. include interim, final and police-issued protection orders made under state and territory family violence legislation; child protection orders made under state and territory child protection legislation; and related orders and injunctions made under the *Family Law Act 1975* (Cth); and
- b. be available to federal, state and territory police, federal family courts, state and territory courts that hear matters related to family violence and child protection and child protection agencies.

Recommendation 30–19

The national register recommended in Rec 30–18 should be underpinned by a comprehensive privacy framework and a privacy impact assessment should be prepared as part of developing the register.

COAG Advisory Panel on Reducing Violence against Women and their Children

Recommendation 6.4

All Commonwealth, state and territory governments should promote information sharing across government and non-government sectors to support the safety of women and their children.

Governments should:

- Review privacy legislation and reduce unnecessary barriers to information sharing
- Promote organisational cultures and links that enable information sharing across organisations and jurisdictions.
- Improve staff understanding of privacy laws and protocols in order to reduce perceived barriers to information sharing.

Recommendation 6.5

All Commonwealth, state and territory governments should identify opportunities to expand models of co-location and outreach that include courts, agencies and services. These models should

enhance collaboration and information sharing with the aim of improving the safety of women and children.

Governments should:

- Develop and implement robust information sharing protocols and opportunities for collaboration.
- Adopt, expand and/or improve models of co-location of services and courts which have already been successful in some jurisdictions.

APPENDIX

7

CRIMINAL JUSTICE ENTITIES

Section 136 of the *Crimes (Sentencing Act) 2005* provides a lawful authority for criminal justice entities (CJE) to share information in relation to an offence including an alleged offence.

A CJE includes any of the following:

- Supreme Court;
- Magistrates Court;
- Director-General responsible for the Crimes (Sentencing) Act 2005;
- Children and Young People Director-General;
- Sentence Administration Board;
- Director of Public Prosecutions;
- Chief Police Officer;
- Victims of Crime Commissioner;
- Any entity prescribed by regulation.

The following are prescribed CJEs:

- Aboriginal Legal Service (NSW/ACT);
- Canberra Men's Centre Incorporated;
- Canberra Rape Crisis Centre Inc;
- Domestic Violence Crisis Service Inc;
- Domestic Violence Project Coordinator as appointed under s 11 of the *Domestic Violence Agencies Act 1986*;
- The Director-General responsible for administering the *Disability Services Act 1991*;
- Volunteering ACT;
- Judicial Commission of New South Wales, established under the *Judicial Officers Act 1986* (NSW).

APPENDIX

8

BEST PRACTICE MODELS SUMMARY FROM THE ACT

Best practice models

Cardiff

Along with the Duluth model, one of the most frequently cited examples of best practice intervention in the literature was the Multi Agency Risk Assessment Conference (MARAC) model, implemented in the city of Cardiff in 2003.

Internationally, the MARAC model, initially introduced in Wales and now operating throughout the United Kingdom, has informed recent development of high-risk management models in Australia... it is summarised below because of the influence it has had on contemporary Australian models and to reference the evidence base for developments (Finn & Keen, 2014: 7).

Using data from a death review of 47 local domestic homicides, best practice research and women's lived experiences, the Cardiff model was led by police and its implementation was centred on a common risk assessment which was reviewed by domestic violence victims before being operationalised. This risk assessment was identified as a critical feature in developing the Cardiff model.

The identification of risk played an important role in galvanising people from many agencies to contribute to the coordinated community response in Cardiff (Robinson 2015: 784).

The Cardiff model centres on Multi-agency Risk Assessment Conferences (MARAC's). At the first of these conferences 16 agencies attended "including police, probation, local authority, health, housing, Women's Aid [refuges] child protection charity and women's safety unit [a community based advocacy service for domestic violence].

The importance of these conferences and the breadth of the services in attendance is critical to fully understanding the situation and the risk.

There is usually a wealth of information held in the community about all the people affected by domestic violence in a particular household, but it takes a MARAC type process for that information to come together in a way that can actually create a meaningful difference in people's lives (Robinson 2015: 775).

The Cardiff MARAC model has been reviewed a number of times and its success in improving outcomes for victims in Cardiff has resulted in this model being successfully replicated and expanded across the UK.

As noted earlier the Cardiff MARAC model has also been influential in development of Australian models and may have particular relevance in the ACT given that Cardiff is a city of similar size to the ACT with a population of 308,000 people in 2015.

Given the similarity in population size to the ACT, the usage data may give some broad suggestion as to the numbers of cases the ACT could expect.

In Cardiff in 2003 there were 260 domestic violence police matters per month and on average 24 per month of these cases were identified as high risk and referred to a multi-agency risk assessment conference.

Tasmania Safe at Home program

[Safe at Home] was initially a 'top-down' exercise but once the framework was in place, extensive processes were required to establish understanding in service delivery agencies" (Department of Justice Tasmania, 2009: 20).

While the review of this program was conducted in 2009 which is now some considerable time ago, the "Safe at Home was a ground breaking and paradigm shifting reform when it commenced in 2004 and was considered best practice in 2009 (Department of Justice Tasmania, 2009: 67).

Implementation of the Tasmanian model has been the responsibility of the Department of Justice. The model, "has been driven by collaborative service system planning" and supported by legislation and has been recognised for its approach in "uniting police, prosecutors, counsellors, legal aid, court support and child protection workers in a collaboration that has led to increased community confidence" (Department of Justice Tasmania, 2009:19).

The first point of contact is the police and a number of services were established or enacted under The Safe at Home integrated response across four government Departments: Department of Police and Public Safety; Department of Justice; Department of Health and Human services; and Department of Premier and Cabinet. These services included:

- 24 hour referral line
- Victim safety response teams within the police – case coordination, following up orders etc
- Six specialist police prosecutors (though this has not been successfully implemented)

A significant finding and learning in the 2009 review was the importance of developing a language or shared frame to contain the at times conflicting philosophical standpoints of the varying partners in the program.

South Australia Family Safety Framework Practice Manual

The aim of the Family Safety Framework is to provide an action based, integrated service response to families experiencing domestic violence. It is intended that the Framework will drive the development of improved, integrated service responses to violence against women and children across all of South Australia.

The Framework will work towards better safety outcomes for the whole family by providing guidelines for each region and organisation about strategies to enhance the safety of women, children and young people through integrated service responses. While the Framework has been developed within a victim/perpetrator construct, importantly it recognises that situations where violence against women and children occur can involve:

- a continuum of victimisation;
- victims as perpetrators;
- victimisation across generations; and
- the increasing escalation of violence.

This Framework articulates a commonality of approach and practice across services for cases assessed as high risk. It positions the immediate safety of women, children and young people as critical at all times.

The commonality of approach and practice involves agreement about:

- definition of risk/s;
- what constitutes breaches to the safety of women, children and young people; and
- how these breaches of safety will be managed by services.

The Family Safety Framework is supported through endorsement by State Cabinet and the Privacy Committee of South Australia. The model operates within a context of limited confidentiality with the Information Privacy Principles clearly indicating that where an individual is at risk of serious injury or death you are obliged to act.

The Framework respects the role and functions of each agency and does not aim to replace existing processes within the South Australian Criminal Justice System. The Framework also recognises the role of Federal jurisdictions such as the Family Court and Australian Government agencies such as Centrelink in responding to families when violence against women and children occurs.

The essential elements of the Family Safety Framework are:

1. Common Risk Assessment

- The Domestic Violence Risk Assessment Form is used by all agencies.
- The Form can be used as a guide to assure consistency of assessment and referral to a FSM.
- The Form uses known risk factors to compute the probability of harm occurring.
- Risk assessment also relies on a judgement of the *immanency* of serious harm or death due to domestic violence.

2. Protocol for Information Sharing

- The Framework is dependent upon agreement to share information about people who experience severe domestic violence and the perpetrators of domestic violence.
- In all circumstances the overriding objective of agencies must be to safeguard the person at imminent risk of death or serious injury due to domestic violence.
- All agencies participating in the Framework must adhere to information sharing protocols.
- A Confidentiality Agreement is signed by all attendees at every FSM.
- Agencies are responsible for the safeguarding of information presented at the FSM in keeping with the Information Privacy Principles.

3. The Family Safety Meeting

- The role of the FSM is to facilitate, monitor and evaluate effective information sharing to enable appropriate actions to be taken to increase the safety of victims.
- A FSM will generally occur on a fortnightly basis

- Each agency participating in the Framework will identify a high level agency representative to attend regular FSMs.
- Referrals to a FSM can be made by any agency participating in the Framework, via the SAPOL FSM Chair, who has the coordinating role in the Framework.
- Referral pathways will also be established to allow referrals to be made by agencies not directly or regularly involved in the Framework.
- The FSM will generate a multi-agency Positive Action Plan to support the reduction of risk for each person/family referred.

Gold Coast Domestic Violence Integrated Response

The Gold Coast Domestic Violence Integrated Response (GCDVIR) is a community based integrated response to domestic violence that focuses on agencies working together to provide coordinated interventions. The Integrated Response has **two functions** – working on a daily operational level, and as a framework to advocate the enhancement of system responses to domestic and family violence.

Under the Integrated Response, agencies work together to provide co-ordinated, appropriate and consistent responses to women and children affected by domestic and family violence and to men who perpetrate domestic violence. The Integrated Response operates within a justice reform model and has drawn on international expertise to continue to develop the model.

The Centre and its work with women are central to the Integrated Response and consistent with a Duluth based model of service. It is the experiences and the voices of women, along with the impacts on the safety of children, which drive the Centre's interventions, and therefore the Integrated Response.

The **guiding principles** of the Integrated Response are:

- that victim's safety is of paramount concern at all times;
- systems must hold perpetrators of domestic violence accountable for their behaviour;

- domestic violence is a crime that needs a criminal justice response;
- everyone has the right to a life free from domestic violence;
- the cultural diversity of society requires that all strategies and programs are inclusive and culturally appropriate; all victims of domestic violence are entitled to access services which are immediate, consistent, and work together to lessen the occurrence of secondary victimisation; and
- domestic violence needs to be understood in the political, social, cultural, and economic conditions which create unequal power between men and women.

The Integrated Response has a coordinating committee that includes Child protection, Queensland Police Service, Queensland Corrective Services, Women's Refuges, Legal Aid, Gold Coast Hospitals – Southport and Robina, Centacare – men and Family Relationship Centre and the Southport and Coolangatta Magistrates Court.

The Integrated Response has a number of key components, which are:

- information sharing, problem solving and coordinated multi-agency responses to all high-risk clients;
- multi-agency wrap around responses to all clients of the Centre as required;
- multi-agency collaboration and communication, training and enhanced domestic violence awareness;
- coordinated referral to members of the Integrated Response and other appropriate services; and
- multi-agency risk assessment for the Men's Domestic Violence Education and Intervention Program participants and their partners/ex partners.

