



Family Relationship Services  
A U S T R A L I A

Response to the Australian Government call for submissions on *Developing a National Plan to Reduce Violence against Women and Children*

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**STRATEGIES FOR REDUCING FAMILY VIOLENCE**

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AUGUST 2008

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## GLOSSARY

**Blended family:** A couple family containing two or more children, of whom at least one is the natural child of both members of the couple, and at least one is the stepchild of either member of the couple. (Australian Bureau of Statistics)

**Child abuse:** is the violation of a child's human or civil rights, through an act or actions of commission or omission, by another person or persons. Abuse can take many forms:

- physical assault;
- sexual assault, rape or incest;
- psychological or emotional abuse;
- constraint or restriction that is inappropriate to the developmental age of the child;
- chemical abuse through the over use or misuse of medications;
- financial abuse; and
- denial of access to rights and services such as the criminal justice system.

**Child neglect:** is the failure to provide the necessary care, aid or guidance to dependent children by those responsible for their care. Forms of neglect include:

- Physical neglect (the failure to provide or willful withholding, of the necessities of life including but not limited to food, clothing, shelter or medical care; and
- Emotional neglect (the failure to provide the nurturance or stimulation needed for social, intellectual and emotional growth or well being)

**Domestic violence:** Domestic violence is an abuse of power perpetrated mainly (but not only) by men against women both in relationships and after separation. It occurs when one partner attempts physically or psychologically to dominate and control the other and includes non-physical as well as physical acts or threats. In some instances the term domestic violence is used to specify 'adult to adult' violence as distinct from violence involving children or other family members. In this submission we prefer to use the term family violence where possible.

**Extended family:** A child's relatives (other than parents) including grandparents, aunts, uncles, and relationships of support such as close family friends or those with cultural ties.

**Family Violence:** Family violence occurs when one person in a relationship deliberately uses threats, force or intimidation to control another. It also includes witnessing violent actions or threats between other family members. Many people, particularly Indigenous people, prefer the term 'family violence' as it encompasses all forms of violence in intimate, family and other relationships of mutual obligation and support.

# 1. Executive Summary

Family Relationship Services Australia (FRSA) welcomes the development of a national plan to reduce violence against women and children. We particularly support the Australian Government taking a leadership role in tackling family violence.

As the national peak body for family relationship services FRSA's response is focused on violence against women and children in the family context, drawing on the expertise of member organisations to inform our recommendations on developing a National Plan to reduce violence. We have also identified other areas in which action is needed.

Family relationship services are community organisations at the forefront of family safety and wellbeing. They have been working in partnership with the Australian Government to provide quality support to Australian families since the 1960's.

Family relationship services work with individuals and families across the life cycle, particularly at the transition points that create 'teachable moments' (e.g. the breakdown of existing relationships or the formation of new ones) and in response to the 'episodic events' that can impact on the safety and wellbeing of women and children. They are the services most likely to be the first contact for families.

While not advocating a one-size-fits-all approach there are strong arguments for a 'universal triage' approach on family violence to ensure all families are risk assessed and screened when accessing services, not only those that self-identify or that have obvious signs of violence. This requires effective screening skills and tools as well as back-up and protocols once violence is identified. A critical part of this is an expansion in skills, training and screening capacity amongst all those dealing with affected families, whether in the legal or therapeutic context.

Our responses need to match the subtlety and complexity of family violence. We need more and better research that differentiates family patterns of violence, and clarifies which directions are most effective. At the same time we need to continue developing and implementing services and be rigorous about evaluating their efficacy.

Of particular note is the need to recognise the role of family courts and family law in child protection and include strategies in the national plan to enhance collaboration between court systems, statutory systems and community services where family violence occurs.

This requires a comprehensive and national approach across sectors, one that works to bring different and often divided perspectives together, building respect, understanding and skill. This submission includes recommendations to create a national forum similar to the US Wingspread initiative, to build core competencies in family violence that recognise and promote good practice within the FRSP and to strengthen expertise across all sectors that intersect with family violence.

## 1.1 Summary of Recommendations

**Recommendation 1:** Recognise preventing and responding to family violence as a core focus for services funded through the Australian Government's Family Relationship Services Program.

**Recommendation 2:** Build on existing infrastructure to expand the reach of family relationship education and increase capacity for early intervention through more intensive programs 'in the field' such as schools, workplaces and in the community.

**Recommendation 3:** Recognise the value of local initiatives that build community connections and reduce social isolation in the prevention of family violence.

**Recommendation 4:** Establish a national collaborative forum for exchanging information and research, developing shared language and understanding of family violence and progressing initiatives to improve the response to families experiencing violence.

**Recommendation 5:** Establish long term collaborative research approaches that include:

- 1) A nationally co-ordinated database that monitors family related instances of homicide, injury and abduction of children, young people and adults
- 2) Different patterns of family violence, risk factors, social trends and patterns of service use.
- 3) Research into the efficacy of specialised violence prevention services and other approaches aimed at preventing and minimising family violence.

**Recommendation 6:** Undertake a national review of abduction, violence and homicide post separation and related research projects to better identify those at risk and recommend strategies for response.

**Recommendation 7:** Include in the National Plan an expansion of relationship coaching and parental coaching services for high conflict post separation families, family dispute resolution and mediation services.

**Recommendation 8:** Support the implementation of models of family dispute resolution that maximise the capacity to identify and respond to family violence.

**Recommendation 9:** Encourage safe contact and support meaningful relationships between parents, other relatives and children by ensuring court ordered parenting arrangements are linked with Children's Contact Services, Child Inclusive Practice and other relationship supports for families where violence is a factor.

**Recommendation 10:** Invest in anger management programs as well as evaluation of their efficacy to assist meeting demand and to target hard to reach groups.

**Recommendation 11:** Enhance the capacity of family relationship services to work with grandparents and extended family networks through targeted communication strategies and the development of more inclusive models such as family group conferencing.

**Recommendation 12:** Recognise the significant role of family courts in identifying and responding to family violence and child abuse and include strategies to enhance this role through case management, collaborative processes and the expansion and strengthening of Magellan Project outcomes to include family violence allegations.

**Recommendation 13:** In family law matters involving allegations of child abuse or family violence consider the development of a single court process to handle child abuse and / or family violence matters and reduce the risk that children fall through the gaps of the two systems.

**Recommendation 14:** Expand service capacity to screen for family violence by resourcing the development and implementation of screening tools and develop competency based training in their use and in family violence screening.

**Recommendation 15:** Resource development of a national professionally recognised family violence qualification to increase skills and disseminate good practice.

**Recommendation 16:** Development of a national system of dedicated and trained judicial officers appointed in each jurisdiction to manage family law proceedings whether or not family violence has been identified.

**Recommendation 17:** Develop options for a national program (recognising jurisdictional variation) to enhance understanding, within the legal sector and between it and other family practitioners, of the nature of family violence and other non-physical controlling techniques and behaviours, as well as the dynamic of perpetrator and victim behaviour.

**Recommendation 18:** Include in the National Plan, the development of properly resourced, sustainable partnership models of integrated service delivery.

## 2. About Us

Family Relationship Services Australia (FRSA) is the national peak body for family relationship services. Our vision is for an Australian society that is enriched through respectful relationships in all of their diversity. In the achievement of this vision, our role is to support the delivery of quality services and engage in the development of public policy.

FRSA is supported by member organisations (Appendix 1) and receives funding through the Australian Government's Family Relationship Services Program (FRSP).

Family relationship services are cost-effective and widely supported by the community.<sup>1</sup> Program and service evaluation over the 40 year history of the FRSP consistently identifies the benefits to individuals, families and the broader community.

Australian Government investment through the Family Relationship Services Program (FRSP) is jointly appropriated from the Attorney-General's Department (AGD) and the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA).

### **Family Relationship Services Program (FRSP)**

Program aims:

1. To enable children, young people and adults in all their diversity to develop and sustain safe, supportive and nurturing family relationships
2. To minimise the emotional, social and economic costs associated with disruption to family relationships

The program currently funds 105 organisations to deliver services in more than 500 locations across Australia, including:

- **Family Relationship Centres**
- **Post Separation Services** (inc. Family Dispute Resolution / Family Relationship Counselling / Children's Contact Services / Parenting Orders Program / Post Separation Cooperative Parenting)
- **Early Intervention Programs** (inc. Family Relationship Counselling / Adolescent Mediation & Family Therapy / Family Relationships Education & Skills Training / Family Relationship Services for Carers / Family Relationship Services for Humanitarian Entrants / Family Relationship Services for Families in Special Circumstances / Men & Family Relationship Services / Specialised Family Violence Services).
- **Mensline Australia**

FRSP services providers are non-profit organisations embedded in local communities. The majority deliver a mix of services including both Australian Government programs and State/Territory Government Programs. Examples of the programs delivered (in addition to FRSP services) include:

- Family violence and sexual assault services (eg counseling and support)
- Child protection services
- Family support
- Community legal services
- Crisis accommodation and support
- Community/neighborhood centres
- Disability and carer support services
- Mental health services
- Children's services

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<sup>1</sup> Department of Families and Community Services & Attorney-General's Department (2004)

## 3. Focus on violence in families

Family Relationship Services Australia (FRSA) welcomes the Australian Government's commitment to understand the causes and to prevent or reduce the effects of violence on women and children. In our response we focus on women and children in the context of their family relationships.

While still at the frontier stage of responding to family violence as a society, we are moving in the right direction. Change occurs when a problem is first recognised. Recent government initiatives have begun the important work of raising community awareness resulting in a shift in the last ten years from 'domestic' violence as a hidden and private phenomenon to recognition in the public sphere.

Improvements in safety for those at risk or experiencing family violence occurs at the local level through the services on the ground, the connection of families to extended family members, neighbours, peer groups, and the wider community as well as to health, education and other community services. The last 20 years have seen significant investment in services that work with communities to respond to family violence, support those affected by it and reduce its incidence.

It is the combination of national leadership and local initiative that will continue to underpin tangible improvements in safety for women and children.

### 3.1 Strengthening program focus

The Australian Government has the opportunity to provide both national leadership and local support to communities to tackle family violence through continued investment in family relationship services.

Family relationship services have a strong track record of working with families and individuals to prevent violence. Relationship education and skill development, intensive coaching as well as post-separation programs and intervention services help individuals and couples through the pain and dislocation of separation and to rebuild new lives that focus on their continuing role as parents.

These organisations are also at the forefront of developing models to respond to violence and expand our understanding of the many ways it manifests, working with research institutions to evaluate, develop or refine practice models, tools and protocols and train professionals and practitioners working with families. A particular strength has also been Australian government investment through the Family Relationship Services Program (FRSP) in Specialised Family Violence Services (SFVS) for families affected by violence. These services use a combination of models and a whole of family approach, to assist children, young people and adults.

Partly due the success of government initiatives in raising community awareness, family violence is increasingly viewed as a problem that should and can be tackled rather than tolerated. In many areas this means that demand continues to outmatch the reach of these services.

All FRSP funded agencies work with families and therefore deal with family violence – even though not all clients are dealing with violence. Identifying and responding to families affected by violence is a significant and core function in the work of the sector. All family relationship services could be resourced to identify family violence and conduct preventative programs.

One report<sup>2</sup> suggests that relationship services are more likely to be the first to identify family violence, abuse, power and control issues than the specialised family violence agencies because many clients do not identify with or do not wish to disclose violence or abuse. This issue is further examined in Section 4 of this submission.

A limitation on family relationship service providers is the restrictions placed on how FRSP funding can be used. The prevention of violence and the safety of women and children is a core focus for the sector and the flexibility of funding structures should reflect this focus. Every organisation in the family relationships sector should have the capacity to identify violence and implement triage (not necessarily 'treat' or deal with it) and be held to account for activities and approaches that identify and work to reduce instances of family violence.

**Recommendation 1:** Recognise preventing and responding to family violence as a core focus for services funded through the Australian Government's Family Relationship Services Program.

### 3.2 Prevention and early intervention

There are a number of robust predictors which alone or in combination are associated with family violence, particularly violence towards children. Research indicates that for the worst affected families, child abuse and other forms of violence and dysfunction are part of a spectrum of behaviours. Indicators associated with abuse include substance abuse, parental childhood experiences of abuse/neglect, low parenting knowledge, especially combined with social isolation and economic disadvantage.<sup>3</sup>

One of the best ways to 'immunise' families against family violence is to link them into community supports, building a relationship of trust that encourages help-seeking and relationship skill development. Knowing the risk factors makes it possible to target intensive support programs to families identified as having risk factors – before there is a report or substantiated report of child abuse or neglect.

The prevention of family violence and child abuse and recommendations made below are also included in FRSA's submission to FaHCSIA in response to 'Australia's Children Safe and Well: Towards a National Child Protection Framework' titled *National Leadership; Local Initiative*<sup>4</sup>.

#### Intensive models of early intervention

Some families benefit from more intensive relationship coaching and parent coaching over the medium to long-term (weeks or months) to successfully address issues such as anger management, family conflict excessive or inappropriate use of discipline, ongoing behaviour problems with children etc. This can be particularly helpful for those who have experienced violence before, during or after separation. More intensive models of relationship skills training, similar to approaches to life coaching or mentoring could be developed to help turn things around before the risk of family violence including child abuse or neglect intensifies.

Making contact with families that are socially isolated and disadvantaged can be challenging and cannot be done in the same way in each community. Community organisations often struggle to secure funding for initiatives that build community connections and address social isolation because they do not target a single issue or fit

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<sup>2</sup> Keys Young, "Against the Odds: How Women Survive Domestic Violence – The Needs of Women Experiencing Domestic Violence who do not use Domestic Violence and Related Crisis Services," (1998)

<sup>3</sup> Jackson et al (1999) cited in Flynn & Hewitt, "Community Bubs Evaluation", (2007)

<sup>4</sup> Available from [www.frsa.org.au](http://www.frsa.org.au)

neatly into funding criteria. Funding programs for community development projects tend to provide small amounts of funding on a time-limited basis.

Organisations working with disadvantaged communities and groups need more sustained investment that can be used flexibly to support initiatives that build community connections and strengths. This is a consistent message from research into areas with entrenched disadvantage<sup>5</sup>.

**Recommendation 2:** Build on existing infrastructure to expand the reach of family relationship education and increase capacity for early intervention through more intensive programs 'in the field' such as schools, workplaces and in the community.

**Recommendation 3:** Recognise the value of local initiatives that build community connections and reduce social isolation in the prevention of family violence.

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<sup>5</sup> See for example Vinson (2007) *Dropping off the Edge: the distribution of disadvantage in Australia*.

## 4. Understanding family violence

### The continuum of human behaviour

Theories of human behaviour are still in the early stages: early childhood development, the psychological basis of human behaviour and therapeutic responses are concepts that have been around for a short time in the history of human development.

Many individuals lack even the basic understanding and skills necessary to reflect on or control their behaviour.

While not condoning violence in any form we recognise that family violence occurs in many different circumstances across a continuum of severity. Research in the last decade has begun to differentiate violence, identifying non-physical violence — patterns of power and control, threats and intimidation — that can have debilitating consequences for all family members. Recent research has raised concepts of 'intimate terrorism', situational violence and the damage to children caused by chronic high level parental conflict.<sup>6</sup>

The concept of criminality in relation to family violence is also a relatively new phenomenon with implications for how the courts, family law practitioners and others operate.

### Teachable moments

Family relationship service providers have extensive experience in using 'teachable moments' — situations where individuals and families may be more open to information and support than at other times — as part of the strategy to reduce family violence.

Some family relationship services use teachable moments in prevention services such as Family Relationships Education and Skills Training, (providing low cost and free relationship education often targeting people on the cusp of significant transitions). Others, through intervention services, use teachable moments that may arise in the context of Family Court orders or mandated mediation where people are more open to support and direction.

There are many more 'teachable moments' that family relationship services could target with more flexible funding to identify opportunities, develop and sustain this work.

### Basic life skills

Some in the sector argue that in simple terms violence persists in families because individuals have not developed other responses to anger. They lack the self awareness, the capacity to reflect and the impulse control necessary to avoid violence.

Common skill deficits prevent individuals from moving beyond violence and blame. Skills deficits include poor communication strategies, e.g. verbal, tonal and body language; inability to reflect rather than 'respond in the moment' and particularly the propensity to blame others for circumstances while failing to consider others' needs. Family relationship service providers use strategies that target couples, men and boys, young people and individuals to provide support, education, counselling, coaching and group work to build these skills.

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<sup>6</sup> See for example Bailey (2007) *Separating safely from situational violence: a response to the AIFS report* and Kelly (1999) *Current research on children's post divorce adjustment - no simple answers*.

## 4.1 Diverse perspectives on a diverse problem

Significant philosophical differences exist across sectors in the area of family violence.

Research in Australia and internationally indicates the reasons for family violence are many and complex and there is much disagreement about causes and best responses. Areas of controversy include the effectiveness of perpetrator programs, strategies other than escape and facilitating connection between children and their violent parent.

This lack of agreement can lead to 'conceptual and practical tensions' that hamper working effectively with families experiencing violence.<sup>7</sup> Such differences can be an obstacle to better inter-agency collaboration and inter-disciplinary approaches.

Yet there are many benefits to be gained by bringing together different sectors and exposing them to differing perspectives, research and insights. A collaborative forum would provide opportunity for developing mutual respect, a common language and sharing expertise. It would allow shared understanding of the wider paradigm within which responses to those inflicting violence and those affected by it are made, including the legal constraints and ethical dimensions operating on different sectors.

*Wingspread*, (see box below) is a United States initiative that brings together all sectors dealing with family law proceedings. It aims to clarify the tensions and differing perspectives between sectors, develop shared understanding and language, better public policy and more collaborative approaches on family violence.

Similarly, in Western Australia there has been considerable work done to build a shared understanding of the roles and functions of different sectors including a case management approach in which judicial and social science officers work together on each family law case. This has built greater respect and understanding between professions of the different paradigms within which each sector must operate. It also leads to more positive outcomes particularly for children in family law proceedings. Similar approaches trialled through the Magellan Project have also shown positive outcomes.

### **Wingspread:**

In February 2007, the **U.S. National Council of Juvenile and Family Court Judges** and the **Association of Family and Conciliation Courts** convened a working group of thirty-seven experienced practitioners and researchers. Their brief was to identify and explore conceptual and practical tensions that so far have hampered effective work with families in which violence has been identified or alleged.

Ongoing work from the conference includes to:

- Explore patterns of domestic violence and hypotheses related to them, identify characteristics and variables that lead to the best interventions and outcomes for families and develop a shared vocabulary to describe those characteristics, variables and patterns;
- Increase cultural awareness amongst professionals who work with families experiencing violence,
- Develop effective and culturally sensitive screening and assessment tools and protocols,
- Identify best practices for intervention and provision of services.
- Address how decisions on parenting and residency arrangements can be child-centred and ensure children's safety and security.

Australia would benefit from a forum such as *Wingspread* that creates more dialogue between sectors responding to family violence (eg domestic violence services, child

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<sup>7</sup> Ver Steegh, N and Dalton (2007) Report from the Wingspread Conference on Domestic Violence and Family Courts.

protection, women's services, the family relationships services program, mental health services and family law) and lead to shared language, agreed definitions and terminology as the basis for greater collaboration.

**Recommendation 4:** Establish a national collaborative forum for exchanging information and research, developing shared language and understanding of family violence and progressing initiatives to improve the response to families experiencing violence.

## 4.2 Mapping the dimensions

Despite powerful tools for data collection, analysis and research available to the Australian government (e.g. the Australian Bureau of Statistics, the Institute of Family Studies, the Australian Institute of Health and Welfare and clearinghouses such as the Family Violence and Australian Family Relationships Clearinghouse), we still lack basic information on family violence. For instance, currently Australia has no nationally co-ordinated database on the incidence of family related child homicide and injury or partner-related injury and death for adults. Research into risk factors for family violence, differentiating patterns of family violence, social groupings and their vulnerability to violence, as well as patterns of service usage, is also needed.

## 4.3 Differentiating families, understanding context

Research indicates that differentiating between families in their experience of violence is crucial to developing adequate response. Violence in families is not all alike. We need to be able to identify unique patterns of violence and risk. Not all families affected by violence have experienced violence in the same way. The application of broad-brush definitions and 'one-size-fits-all' responses can lead to the important differences between families being overlooked, as well as failure to examine the context of behaviour in ways that predict and prevent risk. Both oversights have potentially serious consequences for safety and longer term outcomes of family members.

Recent research has noted a developing trend of adolescent male violence particularly towards mothers. The authors suggest it should be further explored as a form of family violence impacting on all family members and particularly for its predictive power in relation to future violence towards women.<sup>8</sup>

In understanding family violence to include non-physical abuse, threats and intimidation, exerting financial, psychological and social control and witnessing of violence, its meaning within the family context also requires better understanding. In this way safety planning, risk assessment and appropriate responses can be determined that take into account each family's needs.

### *Finding what works*

Another area for research is the efficacy of particular services and approaches aimed at violence prevention or reduction, such as anger management and parenting skills programs. In particular research is needed to explore whether apparently beneficial programs achieve short term changes or translate to longer term reductions in violence and positive outcomes for families concerned.

While the sector may not agree on causes and responses to family violence a research based approach liberates practice from assumption and prejudice, helping to refine our understanding and develop new models.

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<sup>8</sup> Howard & Rottem (2008) *If All Starts at Home: Male Adolescent Violence Towards Mothers*.

Ongoing research allows us to test the 'rules' and assumptions that currently limit responses to family violence. A number of family relationship services are undertaking research to explore what strategies are effective. Lifeworks, Victoria and Monash University are currently collaborating on research into the efficacy of programs targeting family violence. In mediation, recent work by FRSA member organisations acknowledge the risks for where family violence exists and the circumstances in which it is not appropriate but have also examined strategies that suggest it can be effective even where violence has been a factor. (This is explored in more detail in section 5).

**Recommendation 5:** Establish long term collaborative research approaches that include:

- 1) A nationally co-ordinated database that monitors family related instances of homicide, injury and abduction of children, young people and adults
- 2) Different patterns of family violence, risk factors, social trends and patterns of service use.
- 3) Research into the efficacy of specialised violence prevention services and other approaches aimed at preventing and minimising family violence.

#### 4.4 Abduction, violence and homicide

The most extreme cases of family violence occur when one partner abducts, assaults or kills the other partner and/or one or more children. Despite the high media profile that family homicides receive there is still relatively little research into the circumstances that might inform future prevention.

The latest available figures for Australian homicides show that in 2005–06, intimate partner homicides accounted for 21 percent of all homicides nationally, followed by 19 percent for family homicides.<sup>9</sup>

One WA study of post-separation suicide/filicide identified common factors in the nature of the couple relationship and its break-down including that:

- the relationship break-down was very difficult,
- where details were available, domestic violence was a known factor in every case,
- the perpetrator seemed unable to 'let go' or even to see himself as separate from his partner or children and in most cases showed obsessiveness, lack of individuation and intense jealousy (including towards his own children), and
- Egocentricity and a perpetrator history of threats to harm self and others were common.<sup>10</sup>

Another conclusion was that, prior to the offence, the perpetrator's mental health appeared to have deteriorated, reducing their ability to cope with the separation. As most perpetrators committed suicide, the study could not verify whether the men had sought mental health support but there were few signs they had.

More information about risk indicators and effective strategies for protecting potential victims is needed to reduce the number of tragedies occurring after family separation.

**Recommendation 6:** Undertake a national review of abduction, violence and homicide post separation and related research projects to better identify those at risk and recommend strategies for response.

<sup>9</sup> Davies & Mouzos (2006) *Homicide in Australia 2005-06*.

<sup>10</sup> Johnson (date unknown) *Familicide and custody disputes – dispelling the myths (A Study of Filicide-Suicide Following Separation)*.

## 5. Enhancing safety during family separation

Family violence can be both a contributing factor to relationship breakdown and/or a result of relationship conflict and separation.

Research indicates that children exposed to violence and high sustained parental conflict are at risk of poor outcomes and that women are particularly vulnerable in the period immediately after leaving a relationship.<sup>11</sup>

There are strongly held and opposing views amongst advocacy groups regarding how to respond to families affected by violence during and after separation. Some argue that violence between partners is largely situational and will reduce after separation, further that violent behaviour towards a partner, while not condoned, is not an indication of the relationship between the parent and children and should not be relevant to decisions regarding shared parenting arrangements. The alternate view is that the safety of women and children should be the paramount consideration and any history of violence should be carefully considered before shared parenting or parental contact with children is facilitated.

Recent reforms to the *Family Law Act* emphasise the principle of the best interest of the child. This incorporates a principle that it is children's best interest to maintain meaningful relationships with both parents where it is safe to do so and that this should be facilitated as much as possible. This is a principle that is also applied in family relationship services that work with families before during and after separation.

FRSA member organisations provide a range of post-separation and specialist violence services that where possible help children sustain these connections safely and that coach parents to build constructive parenting and relationship skills post-separation. The aim is to help separating families and their members make these transitions safely and rebuild their lives.

The demand for such services currently outstrips their availability. Specialised violence services are too few and their comprehensive, family tailored solutions are resource intensive. We need many more to meet demand. Anger management and related programs that provide intensive relationship and life skills coaching are also in high demand.

### Transition points

Contrary to common misconceptions, longitudinal studies show many children from divorced or separated families do not have poorer outcomes because of the family dissolution. However there is a correlation between poor outcomes for children and family dissolution where financial deprivation exists or where children are exposed to high levels of inter-parent conflict or violence, before and after separation<sup>12</sup>.

Family relationship services such as family counselling, family dispute resolution and a range of other supports can help parents through the often highly emotional and difficult transition of separation.

For women, the risk of violence from a partner is often highest at the point of leaving the relationship and in the period immediately following. Family relationship services can help women with safety planning and recovery as well as provide parenting and relationship coaching in the wake of violence. Some FRSP practitioners observe that women also need support to disclose violence and may seek help without disclosing their own or their children's

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<sup>11</sup> Hume & Joy (2004) Child Abuse Prevention, and Kaspiew (2007) *Empirical insights into parental attitudes and children's insights in Family Court litigation*.

<sup>12</sup> Ellis E M (2000); Booth, A, and P Amato (2001) p 197-212; McIntosh, J. (2003) p 63-80.

abuse for fear of losing access to their children. Research indicates that women experiencing domestic violence demonstrate various ways of trying to manage, control, prevent or cope with the violence. Services should be directed to supporting their efforts.<sup>13</sup>

## High conflict separation

Most relationships experience conflict but unhealthy conflict occurs when parties attack each other, perpetuate disagreement and fail to resolve the conflict or move forward. Unresolved, enduring parental conflict compromises children's core developmental needs and their psychological growth.<sup>14</sup>

Family violence occurs when one person in a relationship deliberately uses threats, force or intimidation to control another. It also includes witnessing violent actions or threats between other family members.

FRSA does not agree with some advocacy groups that violence towards a partner is unrelated or irrelevant to the safety of children post separation. Some research indicates that violence is likely to escalate in severity and degree<sup>15</sup> and risk to children needs to be understood overall rather than on a piecemeal basis.

Successful programs have been developed by post separation support services to assist parents to reduce conflict and co-parent more effectively. The Building Connections program described below has provided the foundation for expanded post separation services within the FRSP. There is further scope for programs such as this to be utilised in family support and child protection service systems with families that remain intact but have high levels of conflict and those that have separated but did not access support services during that transition.

### **Building Connections: post separation services for high conflict families**

Building Connections is a half-day psycho-educational seminar, developed and piloted by [Interrelate Family Centres](#) and conducted through child contact centres. Twenty seminars held at four different locations were attended by a total of 105 participants. Its aim was to help participants:

- Become aware of the effect of high entrenched unresolved parental conflict on their children
- Recognise the need to deal more constructively with the other parent.
- Become aware of the importance for the child's sake of supporting their relationship with their other parent.
- Value the role of both parents.
- Change attitudes/behaviours during their involvement with the Child contact Service.
- Commit to enrolling in a course or seek other professional help such as mediation or counselling.

An [evaluation](#) of the program showed 58% of participants gave more child focussed parenting responses (compared to 39% prior to the seminar) and 63% of participants identified an increased number of beliefs seen as more conducive to child-focussed parenting. Contact centre managers also observed improved handling of child contact arrangements.

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<sup>13</sup> From Calder (2001) *New responses to Domestic Violence* paper presented to the 4th National Outlook Symposium on Crime in Australia, New Crimes or New Responses Australian Institute of Criminology, Canberra June 2001 and Keys Young (1998) *Against the Odds: How Women Survive Domestic Violence*.

<sup>14</sup> see for example Kelly (1993) *Current research on children's post divorce adjustment - no simple answers*.

<sup>15</sup> Kaspiw (2007)

## 5.1 Specialised family violence approaches

Using a whole-of-family approach, Specialised Family Violence Services aim to support those affected by family violence and help those who use violent behaviour to change. Families, couples, children and young people can all use the services.

Specialised family violence services engage in coordinated and integrated responses to family violence and consider the individual needs of each family member, providing direct assistance through to referral to complementary services. Services include counselling; support, information and referral e.g. to support and accommodation for women and children in the immediate aftermath of violence, as well as behaviour change and support groups such as the **Making Choices** program below.

### **Making Choices: support for women experiencing family violence**

Through the Making Choices Program, [Family Life](#) helps women learn how to make choices and re-gain some control over their lives.

Day or evening courses and a safe and supportive atmosphere help women learn that they are not alone. It also helps women develop skills in taking better care of themselves, build resources and learn acceptance of themselves and others. In 2004 women who participated in Making Choices groups reported the following benefits:

- improved ability to care for themselves physically and emotionally,
- better communication skills and assertiveness in relationships,
- improved social supports, personal networks and friendships,
- stronger self esteem, confidence and capacity to manage stress, and
- reduced depression, anxiety and fear.

**Recommendation 7:** Include in the National Plan an expansion of specialist family violence services to enhance safety during transition phases such as separation, post separation parenting and re-partnering.

## 5.2 Family dispute resolution and mediation services

Family dispute resolution services such as mediation and conciliation help separating couples to reach agreement on issues relating to property, arrangements for children and parenting and finances with the guidance of a family dispute resolution practitioner.

Historically the model for mediation services has been confined to voluntary clients and usually, those with no background of family violence. However some services do not exclude but screen for and have strategies to manage family violence.

Assessing for family violence is a core part of practice and has been since the inception of the mediation model in 1986. There is even some evidence that the family dispute resolution model encourages co-operation and even disclosure of abuse or family violence because its form and language highlights 'disclosure' and 'acknowledgement' in the interests of better outcomes for children and avoids the adversarial language, approach and consequences of the courts, which are based on 'allegations' and 'evidence'.

In any case a reported low incidence of disclosure about violence,<sup>16</sup> difficulties with screening for violence, e.g. inability to identify family violence or tools that emphasise

<sup>16</sup> Bailey & Bickerdyke (2005) *Family Violence and Family Mediation*.

physical violence over other forms of emotional and psychological abuse mean that mediation is already occurring between some couples where violence is an issue.

Co-mediation (in which 2 mediators are present rather than the usual single mediator) has developed as a good practice that maximises outcomes for both clients and enhances practitioner impartiality and skills.

Reforms to the *Family Law Act* in 2006 introduced compulsory family dispute resolution from July 2007, for most separating couples. The aim was to resolve matters without resort to the courts wherever possible and to reduce the stress and cost of family law litigation. Special exemptions exist where family violence or abuse is present.

Reservations about how the new *Family Law Act* requirements would deal with family violence and abuse included:

- Increased safety risks to the parties while participating in the family dispute resolution process (or following).
- Failure to identify or understand family violence and its impacts by the family dispute resolution practitioner
- Power imbalances between parties that reduce one party's capacity to participate
- Parenting arrangements that are unfair or unsafe or not in children's best interests.
- No process to enforce arrangements made during family dispute resolution (unless a consent order is made) or to appeal.<sup>17</sup>

As family dispute resolution is both more widely promoted and known within the community and because expanded services make it increasingly available and free of charge — strong incentives against pursuing court processes<sup>18</sup> — wider use is being made of family dispute resolution by couples. With this growth, we are likely to see increased participation by couples where one party is not strictly 'voluntary' or where violence is a factor.

Since the changes some experienced family dispute resolution services report that staff notice this impact on their practice. Clients are more likely to be negative and uncooperative and often see mediation as an obstruction – a hurdle to jump over – in order to have 'their day in court'. In some cases they may even have been 'advised not to co-operate.' The volume of clients now presenting also means that services are increasingly under pressure to conduct solo mediations, where they might once have offered co-mediation.

The intake process in which clients participate in an extended session (see box) where information is exchanged and screening of clients takes place, is also becoming a more intensive and time-consuming process due to the changes. The new emphasis on shared parenting and the requirement to write certificates for the courts in the case of exemptions as well as the non-voluntary nature of some clients requires more time and greater skill to proceed with assessment and screening.

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<sup>17</sup> Robinson (2007) *Family Law Forum: Family Dispute Resolution & Family Violence*, Family Relationships Quarterly No. 6

<sup>18</sup> Bickerdyke (2007).

**During 2007-08 the FRSP saw nearly 11,000 mediation clients nationally.**

Even where mediation does not proceed, the service spends between 2-5 hours on client intake, providing information, referring to other services and assessing the client/s. Clients frequently report increased confidence and capacity following these discussions.

A typical mediation – excluding child inclusive practice and co-mediation — will extend over 4-6 weeks and will take a minimum of 8-9 hours. This includes intake and screening, briefing, coaching and preparation, conduct of the mediation over usually two sessions and follow-up. Most of these hours require an experienced FDR practitioner.

Where co-mediation (two mediators) is required, the figures are nearly double.

Where Child Inclusive Practice is indicated — a very powerful practice, which often focuses parents away from conflict and onto co-operating for the benefit of their children — the mediation hours per case will be closer to 16-20 hours. A specialised child consultant is briefed, and amongst other things, conducts separate consultations with each child (1-1.5 hr approx) and briefs their co-practitioner and the parents.

*Source: FRSA annual data and Family Mediation Centre Victoria.*

These developments have caused some service providers to rethink current approaches to violence and mediation and to explore ways in which individuals who ‘choose’ or find themselves participating in mediation despite a history of family violence, can be best resourced and supported to do so with safety and integrity. An investigation by the Domestic Violence and Incest Resource Centre (DVIRC), and Relationships Australia Victoria identified factors that supported participants through mediation even where violence was a factor. (See box below).

**Mediation and violence: a DVIRC and RA Victoria exploration**

The Domestic Violence and Incest Resource Centre (DVIRC), collaborated with Relationships Australia, Victoria exploring models of mediation that can take account of women’s experience and respond to the higher incidence of families facing violence presenting to mediation services. They identified factors that appear to improve women’s perception of safety and satisfaction with mediation outcomes, particularly where mediators:

- worked in a co-mediation, gender-balanced team
- asked specific questions about violence or abuse, including non-physical types of abuse or harassment;
- offered women detailed information about the process and specific guidance on the possible impact of violence or abuse on the mediation process;
- offered women separate time with the mediator to disclose or discuss any concerns before, during and after mediation sessions;
- demonstrated that they understood the woman’s concerns both within and outside the mediation session by implementing specific strategies to deal with those concerns such as
- demonstrating that they could control abusive behaviour in the session and/or assist the woman to deal with it; and
- assisting the woman to deal with harassment or intimidation occurring outside the mediation session.
- Taking steps to ensure physical safety and safe protocols such as separate entrances and waiting areas as well as departure protocols are important but mediators also need to:
- Find ways to validate the experiences that victims have of violence while remaining neutral – women seek acknowledgement and belief, which are distinct from neutrality.
- Assess a victim’s capacity — in the context of her experience — to participate in mediation, particularly where trauma affects capacity;
- Extend ongoing external support, including intensive coaching or counselling before, during and after mediation.
- Incorporate practices that provide ‘time out’ during mediation sessions, demonstrate understanding of non-physical abuse and its impacts and find ways to continuously ‘check in’ with

Building on this work, Bickerdyke also argues that the concepts of 'neutrality' and advocacy for children need to be carefully determined. The mediator must listen about and acknowledge violence and seek recognition by the perpetrator; the point is to weigh this information in the best interests of children rather than respond simply in terms of mediator 'objectivity' or neutrality.' He also argues that there are 'degrees of violence in family dispute resolution'<sup>19</sup> but through constantly classifying, assessing and checking the circumstances, a mediator uses the information to modify the mediation process rather than simply define cases 'in' or 'out'. All types of violence can be severe. Non-physical or seemingly less severe physical violence (particularly where control and intimidation are present) may in some circumstances be more debilitating or traumatising than other forms.

While some cases are unsuitable for mediation particularly those associated with 'intimate terrorism', a party who has been chronically abused and undermined over many years who wishes to mediate, can, Bickerdyke believes, with careful management by the family dispute resolution practitioner, be supported to participate and achieve outcomes that may not have been available via the court process. (See box).

#### **Safety Strategies in Family Dispute Resolution:**

A number of features can be incorporated into the mediation process to assist abused partners participate safely and achieve constructive decision-making for their children and for other outcomes, including:

- An experienced practitioner undertaking thorough assessment for safety, capacity and willingness of each party
- Coaching and information prior to the session not only on process but how to anticipate the impact of violence on mediation
- Safety planning before and after mediation
- Short, multiple mediation sessions to reduce stress and impact of contact with an ex-partner
- Presence of a third party to assist in speaking freely or legal representation in or between sessions
- Separate 'time out' for mediator to check with parties
- Shuttle mediation (where parties do not meet/attend simultaneously) or co-mediation: using two mediators (male and female)
- Separate waiting rooms, separate arrival and departure times.
- Follow up after mediation to ensure safety and provide support, post-mediation coaching or counselling.
- Source: Bickerdyke (2007)

The greatest challenge for FDR services as the sector expands in response to family law reforms is to maintain its high professional standards and intensive service delivery models while enhancing sector capacity for adequate client screening. A recommendation to develop enhanced screening tools and competency based family violence screening is contained in Section 7 of this submission, 'Improving expertise'.

**Recommendation 8:** Support the implementation of models of family dispute resolution that maximise the capacity to identify and respond to family violence.

### 5.3 Children's contact services

Family law reforms emphasise finding appropriate ways for children to maintain meaningful relationships with both parents wherever possible. Even when it is not safe for the child or young person to be with one or both parents alone or overnight, arrangements can be made through Children's Contact Service for supervised visits to occur.

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<sup>19</sup> Bickerdyke (2007)

Contact centres can provide therapeutic intervention to both parents to assist them in coping with the situation and build their parenting capacity. They can also assist with the development of strategies for safe contact to occur outside the centre.

Many children are aware of the risk and do not deny abuse but will often choose to stay connected if safety can be provided: as providers we need to listen and facilitate this where practical. Child Inclusive practice can assist children to be involved in significant decisions about where they live and the relationships they have with parents and other relatives they are not living with. While not allowing children to make decisions that might be unsafe contact services, child inclusive practice and family dispute resolution services can ensure that children are heard and their views genuinely considered in decisions made about their living and other arrangements.

Research by Mudaly & Goddard (2006) also raises the importance to children's identity and healing of having the opportunity to tell their story and continue to have relationships with parents and relatives even where there may be a history of abuse or neglect.

The use of Child Inclusive Practice in post separation services involves specialist child consultants who discuss the impact of parental separation with the child/ren and feed this back to parents during family dispute resolution. It is a powerful way to ensure that parents move past old conflicts to focus on the best interests of their child/ren. Comprehensive research confirms the benefits of child inclusive practice when properly implemented, particularly in the process of family dispute resolution<sup>20</sup>.

Recent Australian research showed that inappropriate contact arrangements can be detrimental.<sup>21</sup> Participants believed that contact arrangements provided a forum for ongoing abuse and control by their ex-partner and believed that ongoing contact was inappropriate or dangerous. This shows that Children's Contact Services are an important part of ensuring safety as well as positive outcomes for women, children and men.

Despite increased investment in Children's Contact Services over recent years, access cannot be guaranteed for all children at risk because there are gaps in coverage and areas where supply is very limited. Further expansion of services is needed.

**Recommendation 9:** Encourage safe contact and support meaningful relationships between parents, other relatives and children by ensuring court ordered parenting arrangements are linked with Children's Contact Services, Child Inclusive Practice and other relationship supports for families where violence is a factor.

## 5.4 Behaviour change and anger management skills

Anger is a normal and natural emotion, part of our primal 'fight/flight' responses. Anger helps us know and communicate what is acceptable and what is unacceptable to us and others.

The challenge is to convert anger to assertion. This takes acquired rather than innate skills: patience, deferment, consideration of others. Many people, raised without these skills themselves, are unable to adopt them in adulthood or pass them to their children. Instead they use dominance and threats to control behaviour.

As one FRSP practitioner described it:

*"We are primal creatures with physiological responses but we often don't acknowledge this. Many individuals are not self aware. They do not recognise their own physiological signs of anger and as a result they do not know when they are becoming angry and react without reflection."*

<sup>20</sup> McIntosh, Wells & Long (2007) pgs 8-25; McIntosh & Long (2006).

<sup>21</sup> Bickerdyke (2007)

An example of a program that assists men to develop skills in recognising and modifying behaviour as well as provide activities that build relationship skills is conducted by Bethany Community Support Service in Victoria (see box below).

#### **Men Choosing Solutions: Bethany Community Support Victoria**

The 'Men Choosing Solutions to Violence Program' is a 10-week Behaviour Change Program for men who want to change their abusive behaviour. The program offers non-violent options in the ways men can relate to their partner, children and family members.

The 'Men's Group' runs on a weeknight evening, with a forum for discussion of issues of importance to the membership. The group provides peer support, information, education and mentoring for men.

The 'Band' provides an opportunity for men to relax together while creating music whilst the 'Walking Group' is another opportunity for men to relax and talk as they walk.

Other behaviour change programs can help those exposed to violence to build support networks, increase their self-esteem and confidence in relationships as well as provide coaching to deal with their violent ex-partner. An example is the 'Problem Solving for One' program provided by the Family Mediation Centre, Victoria to clients who for various reasons are unable to proceed with family mediation. These (mostly) women are helped to develop strategies and plan for inevitable future dealings with their former partner over children, parenting and sometimes financial or other arrangements.

There is a high demand for behaviour change programs particularly anger management and the capacity to use teachable moments to target them to groups in workplaces and schools that might otherwise be resistant or hard to reach.

**Recommendation 10:** Invest in anger management programs as well as evaluation of their efficacy to assist meeting demand and to target hard to reach groups.

## 5.5 Engaging extended family in post separation services

Family relationship services work with extended family members at key moments in the provision of support to separating couples and the negotiation of shared parenting arrangements.

FRSA recognises the important role of grandparents and the value of their relationships with children whose parents separate. Frequently a trusted insider in vulnerable families, they may be amongst the first to recognise where children are experiencing or at risk of neglect or abuse. They can also be a constant in the lives of children experiencing difficult or traumatic transitions such as high-conflict or violence between separating parents.

The family relationship services are well placed to work with the extended families and regularly engage with grandparents keen to maintain regular contact with children after family dissolution.

There is also considerable interest in developing models of dispute resolution that can more readily accommodate multiple parties – family group conferencing is being used now in some centres but could be further developed.

**Recommendation 11:** Enhance the capacity of family relationship services to work with grandparents and extended family networks through targeted communication strategies and the development of more inclusive models such as family group conferencing.

## 6. Enhancing safety in family law

There is now a legislative base to children and young people maintaining meaningful relationships with both parents after separation. Parents are encouraged to share parental responsibility, including sharing residential care of the child where appropriate.

In the past, the family courts have adopted the view that separating couples benefit from more time to sort out their difficulties. However couples experiencing the highest level entrenched conflict are disproportionately represented in family law proceedings. They do not have the skills to 'work things through' on their own but need more support and direction to have improved outcomes. Delays can exacerbate the conflict, defer solutions and impose more hardship on the couple and particularly on children caught in these proceedings.

### 6.1 Case Management

A tendency to view allegations of child abuse and family violence with suspicion; as attempts by one parent to gain advantage over the other in the court has coloured the family law system's response. For some time there has been concern that it has not adequately protected women and children who are the subject of abuse allegations.<sup>22</sup>

The Family Courts have relied on State/Territory Child Protection Authorities to respond but many family law cases, particularly where children reside with a non-abusing parent, never make highest priority. Sometimes child protection workers presume that the Family Court will investigate and deal with abuse allegations. One Queensland study shows that where family law proceedings were underway a mother's report of child abuse to state protection authorities were likely to be viewed as 'vindictive, malicious or not serious.'<sup>23</sup>

'Project Magellan' (see description below) was introduced to improve response to cases involving allegations of sexual abuse against children and young people.

#### **Project Magellan**

In mid-1998 the Family Court began Project Magellan, initially in Victoria. With a judge-lead tightly focused time line, a child centred approach, uncapped legal aid for all parties, along with a well resourced and expert team, Magellan's outcomes were positive.

Disputes were resolved more quickly, fewer cases proceeded to judicial determination, the proportion of children 'highly distressed' was down, parent satisfaction levels were up and the length of proceedings was reduced.

Recently the Family Court of Australia incorporated 'Magellan matters' across all its registries. Cases where child abuse (including witnessing of family violence) is alleged, are placed on the Magellan list to be managed by a single judge, registrar and counsellor. The court is empowered to investigate allegations. It can request reports and information from state authorities, appoint Independent Children's Lawyers and take evidence, clinical advice and guidance from a Family Consultant who works with a family, collectively and individually.

A recent evaluation of Magellan found that of the approximately 200 cases dealt with through the Magellan process (nationally), court appearances had been dramatically reduced and the judge led proceedings had hastened the process. It is also interesting to note that all allegations of abuse were confirmed.

Other measures include the use of Independent Children's Lawyers to provide independent representation for children in family law proceedings and the capacity for courts to

<sup>22</sup> Family Law Council Report to the Attorney-General (2002) *Family Law and Child Protection*.

<sup>23</sup> Braaf & Sneddon (2007) *Family Law Act Reform: the potential for screening and risk assessment for family violence*.

commission a family report undertaken by a family consultant or expert who interviews parents and sometimes children.

### ***Gaps in Magellan***

While the results of the evaluation are encouraging Magellan has some limitations. A major criticism is that Magellan deals only with allegations of violence involving children. It ignores family violence and has no process to address these allegations despite a strong correlation between child abuse and family violence. Other limitations are:

- Success in Victoria, primarily due to co-operation of state agencies, have not been replicated in all states.<sup>24</sup>
- Capital city focus — regional and rural families are obliged to travel significant distances to access capital city registries.
- Magellan case lists are overloaded leaving many Magellan-appropriate cases to the Federal Magistrates system.
- Insufficient monitoring for outcomes — more follow-up and data sharing is needed to determine if families, in which violence is alleged, come to the attention of authorities following family law hearings.

**Recommendation 12:** Recognise the significant role of family courts in identifying and responding to family violence and child abuse and include strategies to enhance this role through case management, collaborative processes and the expansion and strengthening of Magellan Project outcomes to include family violence allegations.

## Caught between two systems

Commonly cases involving the same children and families are lodged in State Children's Courts and Australian Family courts. However state agencies may be pursuing child abuse and the child's removal from a residence or situation while in the Family Court parents may seek judicial determinations on parental care arrangements.

Due to differing judicial systems, burdens of proof, procedures and administrative arrangements, information is not communicated between the state and Australian court systems. Individuals and their representatives must present the same information in different courts, often in the absence of a court decision.

State protection agencies regularly withdraw from child abuse cases once applications are lodged in the Australian courts, arguing that it is no longer in their jurisdiction. The withdrawal of state agencies from child abuse cases, results in many lawyers and other advocates advising clients to not raise child abuse concerns in Australian jurisdictions for at least two reasons including:

- **Ongoing child safety** – unless the family court issues immediate interim orders restricting parental contact, it is likely the child will have to continue to see and visit with the abusive parents. The allegation of child abuse in the court is likely to increase the child's risk of abuse and/or homicide; and
- **Court prejudice against the alleged** – recent Family Law reforms focus on the future parent relationship – not the past relationship. Many lawyers quietly acknowledge that in raising instances of family violence and / or child abuse, their clients (predominantly women) are seen as unwilling to facilitate a meaningful relationship between the other parent and the child. As a result they face an increased likelihood that shared care and time will be awarded against them.

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<sup>24</sup> The Family Law Council (2002) noted "Through the Family Law Act, the Australian Government has a major responsibility for child protection. It requires the co-operation of the States and Territories also, in meeting that obligation and ensuring that no children are endangered because of preventable harm arising from system failure."

## 6.2 A single court solution

Another option advocated in recent years is a single court process to oversee children's matters or the appointment of dedicated judicial and social support officers to 'see through' specific cases involving family violence or child abuse. The Family Law Council of Australia called for a 'single court' process in cases where issues of protection and family law intersect,<sup>25</sup> and other jurisdictions, such as New Zealand and the UK use single courts or joint directions hearings in matters affecting families and children.

These arguments and the following recommendations are explored in FRSA's submission to FaHCSIA in response to 'Australia's Children Safe and Well: Towards a National Child Protection Framework'.

**Recommendation 13:** In family law matters involving allegations of child abuse or family violence consider the development of a single court process to handle child abuse and / or family violence matters and reduce the risk that women and children fall through the gaps of the two systems.

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<sup>25</sup> Family Law Council Report to the Attorney-General (2002) *Family Law and Child Protection*.

## 7. Improving expertise

### 7.1 Family violence triage

For a range of reasons women and children may not disclose family violence when accessing services. They may fear retribution from the perpetrator or doubt the capacity of services to help. They may consider the violence 'normal' or not 'bad enough', not relevant to other problems or they may be reluctant to disclose abuse or attend specialist services such as a women's refuge or sexual assault service.

The community's limited responses: exclusion, punishment or ignoring violence can result in the worst affected families being left to deal with the situation alone and unsupported.

One suggestion is for a 'universal approach' to screening in relationship services. Such an approach assumes family violence is present in some form in all families and screens all families for violence at service entry point rather than only those families that self-identify or show signs of violence.

Universal screening avoids service reliance on victim disclosure or assumptions, intuition or approaches that screen individuals in or out of services. It adopts strategies to maximise identification and disclosure.

A universal risk assessment allows an inclusive response (while not condoning violence) and avoids assumptions that can increase risk for women and children.

Universal approaches have been effective in a wide range of areas such as infant immunisation, HIV health campaigns and early childhood development, where improving the status of all, benefits and avoids stigmatising the most vulnerable.

However such an approach requires back-up, skills and support. Services and practitioners need to know what to do once violence is identified. Tools in screening and risk assessment and the skills to use them effectively are needed.

Effective triage would include access to tools and training in screening for violence for all relationships service providers, and other services that intersect with families such as schools, parenting services, health practitioners. These are most likely to have first contact with individuals or families and need help to recognise and respond to indicators of family violence (even where it is not the presenting issue), determine the appropriate preliminary response and ensure referral to specialised help and follow-up.

**Recommendation 14:** Expand service capacity to screen for family violence by resourcing the development and implementation of screening tools and develop competency based training in their use and in family violence screening.

### 7.2 Vocational training

There is a dearth of specialised training to equip services and professionals working with family violence.

There is a need for skills development and training in the use of tools and resources that goes beyond awareness raising and information seminars. One approach is to develop core competencies for practitioners and others dealing with family violence

A set of family violence competencies developed by Relationships Australia (SA) has been incorporated into family dispute resolution and family relationship counselling qualifications however a separately recognised qualification in family violence is also needed. While this area is controversial some in the sector argue that a specialised qualification would open

practice to scrutiny, clarify the competencies needed, allow assessment of skills and give professional recognition.

A vocational qualification in family violence would also shift the focus to tools, skills and protocols that address violence and away from reliance on highly variable beliefs, attitudes and intuition. It is important, for example, that practitioners or court appointed Family Report writers and child consultants, do not wait for clients to raise the issue or screen for narrowly defined physical forms of violence rather than wider examples of controlling and abusive behaviour.

Training would cover skills in:

- screening, eliciting full information and risk assessment,
- protocols and options to respond when violence is identified,
- models that provide support, coaching, safety plans, and other tools that empower both practitioners and clients, and
- environments that address safety and intimidation before, during and after client interaction.

A qualification would better position practitioners to work across sectors on family violence as well as create career and professional development pathways. It would also assist the courts in appointing practitioners to advise and guide them in family violence or child abuse matters.

**Recommendation 15:** Resource development of a national professionally recognised family violence qualification to increase skills and disseminate good practice.

### 7.3 Improving family violence expertise in the legal sector

An overhaul of the requirements for practicing family law as well as consideration of comprehensive training for the legal sector and related practitioners such as child consultants and those writing family reports for the family courts, would help in screening for and eliciting disclosures of violence as well as managing the impact of legal proceedings on couples and families where violence is a known factor.

Specialised training on family violence for the family law sector could cover the aetiology of family violence, its many non-physical manifestations including social and economic isolation, threats and psychological control. Research e.g. on 'intimate terrorism', situational violence and the damage to children caused by exposure to violence or 'high level conflict' could be included. It could also cover 'grooming' and other techniques used by child abusers to target, isolate and undermine their victims and the other parent, as well as the factors that can prevent those experiencing violence from speaking out, leaving the situation or otherwise taking steps to end the violence.

Other approaches to enhance responses and reduce the intimidation and disempowerment experienced by participants in legal proceedings<sup>26</sup> could include consideration of appointment and education of dedicated family law judicial officers and a case management approach. These have been canvassed or are in place in some jurisdictions to improve the understanding and expertise of the courts in relation to family violence.

In Western Australia where a case management approach is in place for family law proceedings with violence problems (with a dedicated judicial officer and a dedicated family practitioner to see the case to its conclusion), improved collaboration has been noted between the legal and social science sectors as well as better outcomes particularly for children.

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<sup>26</sup> Braaf & Sneddon (2007)

In 2000 the Australian Law Reform Commission<sup>27</sup> noted the 'patchy' and inconsistent approach to training Australian judicial officers and that Australia lags behind many other common law countries in not having a judicial college. Countries such as the US, Canada, the UK, New Zealand and France use various approaches such as specialised formal judicial qualifications, internships as well as ongoing professional development to train judicial officers, magistrates and sometimes tribunal members. The report also notes that calls for a national judicial college in recent years received high level support including from two Chief Justices of the High Court: the former head of the court Sir Anthony Mason and the outgoing Chief Justice Murray Gleeson.

**Recommendation 16:** Development of a national system of dedicated and trained judicial officers appointed in each jurisdiction to manage family law proceedings whether or not family violence has been identified.

**Recommendation 17:** Develop options for a national program (recognising jurisdictional variation) to enhance understanding, within the legal sector and between it and other family practitioners, of the nature of family violence and other non-physical controlling techniques and behaviours, as well as the dynamic of perpetrator and victim behaviour. Training for newly appointed members of the judiciary would ideally occur within the context of such as nationally recognised base level requirement.

## 7.4 Service integration

Across both community and legal service sectors there is a strong commitment to integrating services for families with complex needs to streamline timely access to a range of supports. However, there are many challenges in service integration for family violence including:

- Differing philosophical approaches and ethical standards concerning working with perpetrators, facilitating contact between violent individuals and children/partners and use of safety or escape plans;
- Funding restrictions that prevent agencies pooling resources across programs or across organisations;
- Inconsistent and overly prescriptive eligibility criteria for funded programs;
- Performance requirements for funded organisations that prevent more intensive assistance being provided when needed or fail to 'count' improvements in child safety or wellbeing as an output (particularly in adult service programs); and
- The use of competitive selection processes to distribute funding amongst providers which can negatively impact collaboration and sharing of knowledge.

In the domestic violence arena a major evaluation of inter-agency coordinated programs involving 200 initiatives in Britain found that where inter-agency approaches consisted primarily of agency representatives meeting to network and share information about domestic violence they were not found to be particularly effective or efficient<sup>28</sup>. Initiatives which were identified as undertaking innovative practice were generally those where there was a designated employee to the program who acted as a coordinator. For inter-agency approaches to be effective the systems that they are coordinating have to be adequately resourced. Agencies must have a commitment to the project through delegated representatives who are able to implement change in their agency policy and practice. Power differences between agencies need to be acknowledged and dealt with. A further issue of importance was consideration of how such initiatives can be accountable to those they aim to assist.

<sup>27</sup> Australian Law Reform Commission (2000) *Report No. 89: Managing justice: review of the federal civil justice system*.

<sup>28</sup> Hague (1997) cited in PADV (1999) *Report on Phase 1 of Partnerships Against Domestic Violence*.

Partnership models require resources and expertise to develop effective relationships between agencies and across programs. This is often not well resourced in the community services sector and there has been very little investment in research or skills sharing to identify the best approaches.

The Child First model adopted in Victoria in which local partnerships underpin service delivery is proving very effective, benefits include:

- Providing single point of contact for information and referral for professionals and families
- Reducing the number of 'hand overs' between services and therefore the number of times families need to "tell their story".
- Reducing service duplication and multiple referrals to services for same family.
- Facilitating collaborative coordination of 'best fit' service by working closely with the broader service system including specialist and other community services and Child Protection.

Developing integrated responses to children and families cannot be left to individual discretion or good will. It must be underpinned by a commitment at all levels of the system, from the political commitment by Ministers to shared budgets, joint planning and approaches, down to service delivery undertaken collaboratively with the client.

**Recommendation 18:** Include in the National Plan, the development of properly resourced, sustainable partnership models of integrated service delivery.

## 8. Concluding comments

Rather than respond to each questions posed by the National Council, FRSA has chosen to focus on priority areas in which we believe the opportunities arising from development of a National Plan are particularly important.

We believe responses to family violence, while still in early stages, are moving in the right direction.

We welcome the government's investment in specialised services on family violence. However these initiatives require significant expansion to meet demand. A significant limitation on their reach is the restrictions placed on flexibility of government funding resulting in segmented services. Prevention of violence and the safety of women and children should be recognised as a core focus for the family relationship services program.

Preventing and reducing family violence requires national leadership in combination with local initiative.

Real change in safety and responding to family violence will occur at the local level through the services on the ground, the connection of families to extended family members, neighbours, peer groups, and the wider community as well as to health, education and other community services.

While we need more research to clarify which directions are most effective, we need to keep developing and implementing services and evaluating their efficacy.

Our responses need to match the subtlety and complexity of family violence. A critical part of this is an expansion in skills, training and screening capacity amongst all those dealing with affected families, whether in the legal or therapeutic context.

We would be happy to provide more detail around any of the recommendations made in this submission and look forward to continuing to work with the Australian and State/Territory Governments as the National Plan takes shape.

## 9. Bibliography

- Australian Bureau of Statistics (2006) Census Community Profile for Australia Cat. No. 2001.0. Available from [www.abs.gov.au](http://www.abs.gov.au)
- Australian Institute of Health and Welfare (2007) Australia's Welfare 2007. Cat. No. AUS 93. Canberra: AIHW. Available from [www.aihw.gov.au](http://www.aihw.gov.au)
- Bailey A and Bickerdyke A (2005) *Family Violence and Family Mediation* in DVIRC Newsletter, Autumn 2005 available at [www.dvirc.org.au/PublicationsHub/Autumn05MediationArticle.pdf](http://www.dvirc.org.au/PublicationsHub/Autumn05MediationArticle.pdf)
- Bailey, A (2007) *Separating safety from situational violence: a response to the AIFS report DVIRC Quarterly* (Domestic Violence and Incest Resource Centre) No.3 Spring 2007: 11-14 available at Domestic Violence Resource Centre Victoria <http://www.dvrcv.org.au>
- Bickerdyke A (2007) *Implications for family dispute resolution Practice: Response from Relationships Australia Victoria to the Allegations of Family Violence and Child Abuse in Family Law Children's Proceedings Report*, Family Matters, Issue No. 77, 2007, Australian Institute of Family Studies. Available from [www.aifs.gov.au](http://www.aifs.gov.au)
- Booth A and Amato P (2001) *Parental pre-divorce relations and offspring post divorce well-being*, Journal of Marriage and Family 63 (91) 197-212.
- Braaf R and Sneddon C (2007) Family Law Act Reform: the potential for screening and risk assessment for family violence, Australian Domestic and Family Violence Clearinghouse.
- Brennan D, Cass B, Hampshire A, Marchant T (2007) *Understanding Grandparent care: policy and practice implications of grandparents as primary carers of their grandchildren in the Australian Context*. Australian Social Policy Conference Proceedings. University of New South Wales.
- Brown T (2006) *Child Abuse and Domestic Violence in the context of parental separation and divorce: new models of intervention*. In Domestic violence and child protection: directions for good practice by C Humphrey and N Stanley, 155 - 168. London: Jessica Kingsley Publisher, 2006.
- Davies, M & Mouzos, J (Date) Homicide in Australia 2005-06, National Homicide Monitoring Program Annual Report, Australian Institute of Criminology.
- Department of Families and Community Services & Attorney-General's Department (2004) Review of the Family Relationship Services Program. Canberra: Commonwealth of Australia. Available from [www.fahcsia.gov.au/frsp](http://www.fahcsia.gov.au/frsp)
- Edleson, J. (2002) *Studying the co-occurrence of child maltreatment and domestic violence in families*. In Domestic Violence in the Lives of Children. The Future of Research, Intervention and Social Policy by S & Edleson, J (eds) Graham - Bermann. Washington, D.C: American Psychological Association.
- Ellis E M. (2000) *What have we learned from 30 years of research on families in divorce conflict? Summary of extracts from the text by the same author*. In Divorce, Wars, Interventions with Families in Conflict, by Ellis E M. APA Books.
- Ernst & Young (2006) Costing Methodology for the Family Relationships Services Program. Ernst & Young.
- Evans I (2007) Battle Scars: Long term effects of prior domestic violence. Melbourne: Centre for Women's Studies and Gender Research Monash University.
- Family Law Council (2002) Family Law and Child Protection Final Report. Canberra: Commonwealth of Australia, 2002.
- Flyn C & Hewitt L (2007) Community Bubs Evaluation, Monash University and Family Life. Available from [www.familylife.com.au/innovation-enterprise/images/FL%20Bubs%20report2008.pdf](http://www.familylife.com.au/innovation-enterprise/images/FL%20Bubs%20report2008.pdf)
- Fogarty AM J (2008) *Some aspects of the early history of child protection in Australia*, Family Matters Issue No.79 2008 Australian Institute of Family Studies. Available from [www.aifs.gov.au](http://www.aifs.gov.au)
- Friedman M (2006) Trying Hard is not Good Enough, Trafford Press. Available from [www.fiscalpolicystudies.com](http://www.fiscalpolicystudies.com)
- Goldner V, Penn, P, Sheinberg, M, Walker, G. "Love and violence: gender paradoxes in volatile attachments family process, vol.29." 343 - 364.

Higgins D J (2007) Co-operation and co-ordination: An evaluation of the Family Court of Australia's Magellan case-management model. Canberra: Family Court of Australia and Australian Institute of Family Studies, 2007.

Howard, J. and Rottem, N. (2008) It All Starts at Home: Male Adolescent Violence Towards Mothers, Inner South Community Health Service Inc and Child Abuse Research Australia, Monash University, August 2008.

Hume, M & Joy, H. (2004). Child Abuse Prevention, 12 (1), 19-21.

Jackson, A.C., Johnson, B., Millar, J. & Cameron, N. (1999) High Risk Infants Known to Child Protection Services. Literature Review, Annotation and Analysis. Melbourne: Department of Human Services.

Johnson C H Familicide and custody disputes – dispelling the myths (A Study of Filicide-Suicide Following Separation), University of Western Australia.

Kaspiew, R. "Empirical insights into parental attitudes and children's insights in Family Court litigation" (2007) The Sydney Law Review, Vol. 29, No. 1, at [http://www.law.usyd.edu.au/slr/slr29\\_1/Kaspiew.pdf](http://www.law.usyd.edu.au/slr/slr29_1/Kaspiew.pdf)

Kelly, J B (1993) Current research on children's post divorce adjustment - no simple answers, Family & Conciliation Courts Review 30 (1) pp 81-101.

Keys Young (1998) Against the Odds: How Women Survive Domestic Violence – The Needs of Women Experiencing Domestic Violence who do not use Domestic Violence and Related Crisis Services, (1998), Office of the Status of Women, Barton, ACT

Kids Helpline (2007) Kids Helpline 2006 Overview - Issues Concerning Children and Young People. Brisbane: Boystown.

McIntosh J E & Long C M (2006) Children Beyond Dispute: A prospective study of outcomes from child - focussed and child inclusive post-separation family dispute resolution, Final Report for Attorney General's Department. Family Transitions, School of Public Health, LaTrobe University.

McIntosh JE, Wells YD, & Long CM. (2007) Child-focused and child-inclusive family law dispute resolution: one year findings from a prospective study of outcomes, Journal of Family Studies, vol. 13 (1) pp 8-25.

McIntosh, J. (2003) Enduring Conflict in Parental Separation: Pathways of Impact on Childhood Development, Journal of Family Studies 9 (1) April 2003: 63-80.

Mission Australia (2007) National Survey of Young Australians 2007: key and emerging issues. Mission Australia.

Moloney, I., Smyth, B., Weston, R., Richardson, N., Qu, L. & Gray, M. (2007) Allegations of family violence and child abuse in family law children's proceedings: a pre-reform exploratory study, Australian Institute of Family Studies, Report No. 15, 2007. Available from [www.aifs.gov.au](http://www.aifs.gov.au)

Mudaly, N & Goddard, C (2006) The Truth is Longer than a Lie. London: Jessica Kingsley.

PADV: Partnerships Against Domestic Violence (1999) Report on Phase I of Partnerships Against Domestic Violence, Canberra, AusInfo. Available from [www.women.gov.au](http://www.women.gov.au)

Robinson E (2007) Family Law Forum: Family Dispute Resolution and Family Violence, Family Relationships Quarterly Issue 6, Australian Institute of Family Studies – [www.aifs.gov.au/frsc](http://www.aifs.gov.au/frsc)

Ver Steegh, N and Dalton C. "Report from the Wingspread Conference on Domestic Violence and Family Courts, February 2007," available online at <http://www.afccnet.org/pdfs/Report%20from%20the%20Wingspread%20Conference%20on%20Domestic%20Violence%20and%20Family%20Courts.pdf>

Vinson T (2007) Dropping off the Edge: the distribution of disadvantage in Australia. Jesuit Social Services & Catholic Social Services Australia.

## 10. Appendix A: FRSA Members

### NEW SOUTH WALES

Anglican Counselling Service  
Anglicare NSW  
Baptist Community Services  
Broken Hill Family Mediation Service  
Centacare Bathurst  
Centacare Broken Bay  
Centacare Maitland-Newcastle  
Centacare New England North West  
Centacare Parramatta  
Centacare Sydney, Catholic Community Services  
Centacare Wagga Wagga  
Centacare Wilcannia-Forbes  
Centacare Wollongong  
Community Connections North Coast NSW Inc.  
Community Programs Inc  
Interrelate Family Centres  
Macquarie Legal Centre  
Manning Support Services Inc  
Newcastle Family Support Services  
Relationships Australia NSW  
The Family Centre  
UnitingCare Burnside  
UnitingCare Unifam Counseling & Mediation

### QUEENSLAND

Centacare - Catholic Diocese of Rockhampton  
Centacare Brisbane  
Centacare Cairns  
Centacare Toowoomba  
Centacare Townsville  
Community Services Australia Ltd  
Foundations Child & Family Support Kinctions  
Kyabra Community Association Inc  
Lifeline Community Care Queensland  
Lifeline Darling Downs & South West QLD - Men & Relationships Program  
Mackay Children's Contact Services  
Men's Information and Support Association Inc  
Mercy Family Services  
Pine Rivers Neighborhood Centre  
Queensland Program of Assistance to Survivors of Torture and Trauma  
Relationships Australia QLD  
Sunshine Coast Family Contact Centre  
Toowoomba Children's Contact Centre  
Youth and Family Service (Logan City)

### VICTORIA

Anglicare Victoria  
Australian Greek Welfare Society  
Berry Street Victoria  
Bethany Community Support  
Brotherhood of St Lurance  
Centacare Ballarat  
Centacare Melbourne  
Centacare Sandhurst - Bendigo  
Child & Family Services Ballarat  
Children's Protection Society  
City of Greater Geelong  
Community Connections (VIC) Ltd.  
Community West Inc.  
Crisis Support Services  
Drummond Street Relationship Centre  
Eastern Access Community Health (EACH)  
Family Life  
Family Mediation Centre  
Family Relationships Institute Inc (RELATEWELL)  
GordonCare for Children  
Goulburn Valley Family Care Inc t/a Family Care  
LifeWorks Relationship Counselling & Education Services  
MacKillop Family Services  
Mallee Family Care  
Relationships Australia Victoria  
South East Region Migrant Resource Centre  
Spectrum Migrant Resource Centre Inc  
Stepfamily Association of Victoria Inc  
The Cairnmillar Institute  
The Salvation Army Bendigo Community Services  
Upper Hume Community Health Service  
Upper Murray Family Care

### SOUTH AUSTRALIA

Anglican Community Care Inc  
Anglicare SA Inc  
Centacare Adelaide  
Centacare Whyalla  
Lutheran Community Care  
Relationships Australia SA  
UnitingCare Wesley Adelaide  
UnitingCare Wesley Bowden  
UnitingCare Wesley Port Adelaide  
UnitingCare Wesley Port Pirie  
Whyalla Counselling Service

### WESTERN AUSTRALIA

Agencies for South West Accommodation  
Anglicare WA  
Catholic Marriage Education Services  
Centacare Geraldton  
Centrecare  
Clan WA  
Men's Outreach Service Broome  
Ngala Inc  
Relationships Australia Western Australia

### TASMANIA

Anglicare Tasmania Inc  
Centacare Tasmania  
Positive Solutions  
Relationships Australia Tasmania

### NORTHERN TERRITORY

Anglicare Northern Territory - Resolve  
Centacare NT  
Relationships Australia NT

### AUSTRALIAN CAPITAL TERRITORY

Centacare Canberra & Goulburn  
Marymead Child & Family Centre  
Relationships Australia Canberra and Region

### ASSOCIATE MEMBERS

Citizens Advice Bureau of WA (Inc)  
Family Action Centre  
First Light Care Association Inc  
Lifeline Australia  
MAREAA  
Migrant Resource Centre of SA  
Mission Australia  
Parentline ACT Inc  
Pathways Counselling & Family Services  
Relationships Australia - National  
Southern Youth & Family Services Association  
The Centre for Excellence in Child and Family Welfare Inc  
The Salvation Army Counselling Service  
UnitingCare Family Services - Northern Tasmania  
Victoria Legal Aid