

Tuesday, 29 July 2014

Senator the Hon Kate Lundy  
Chair  
Finance and Public Administration  
References Committee  
Parliament House  
CANBERRA ACT 2600

Dear Senator Lundy

Family & Relationship Services Australia (FRSA) welcomes the opportunity to provide input to the Senate's Inquiry into Domestic Violence in Australia. By way of background, FRSA is the national representative body for 182 not-for-profit organisations that provide family and relationship services to approximately 400,000 families at 1,300 outlets across Australia each year. Member organisations receive a mix of federal, state and territory and local government funds to deliver a range of services including:

- Accommodation & Housing Services
- Children's Services
- Children's Contact Services & Parenting Orders Program
- Community Services & Playgroups
- Communities for Children
- Disability & Mental Health Services
- Family Relationship Counselling
- Family Support Services
- Family Violence Services
- Mediation, Family Dispute Resolution & Family Therapy
- Men & Family Services
- Youth Services.

### **(1) Terms of Reference – 1 and 2**

Over 230 organisations are funded by the Federal Government to assist families through family relationship centres, family dispute resolution, children's contact services, post separation parenting programs and counselling. Twenty seven organisations are currently funded by the Federal Government to deliver specialised family violence services but funding will cease post December 2014. Many of these organisations are members of FRSA. In 2012-13, conflict was the third highest presenting need reported by family support services (FSP, 2012); and experiences of family violence are common among separated parents, (De Maio, 2012, p.124) many of whom are clients of member organisations.

We refer the Inquiry to the extensive research conducted in this field by the Australian Institute of Family Studies, the Australian Institute of Criminology, the Personal Safety Surveys and metadata

collected by the Australia Bureau of Statistics, the Gendered Violence Research Network and Australia's National Research Organisation for Women's Safety. Rather than reiterate the findings of these eminent bodies, we note the following:

- one in three women has experienced physical violence (ABS 2012)
- one in six women has experienced violence by a partner (ABS 2012)
- approximately 25% of women have experienced emotional abuse by a partner (ABS 2012), and
- Aboriginal and Torres Strait Islander women are 31 times more likely to be hospitalised due to family violence than other Australian women (Productivity Commission 2011).

With respect to the separating population, a significant client group of member organisations:

- over half of mothers and fathers report that the other parent had directed emotional abuse towards them (De Maio, 2012, E1)
- one fifth of parents reported physical hurt from the other parent before or during separation, but this diminished post separation (16% to 5% for fathers, 24% to 6% for mothers) (De Maio, 2012, E1)
- around 5% of parents hold safety concerns for themselves or their child 5 years after separation (Qu, L., 2014, p41); and in these instances the majority of children (over 70%) witnessed physical abuse (De Maio, 2012, p37)
- mothers were twice as likely as fathers to experience high-end intensity of abuse (De Maio, 2012, E1) (or when severity is taken into account a gendered pattern emerges with women more severely abused (Humphreys 2014))
- some women and their children are more vulnerable such as those living in poverty; women with disabilities; Aboriginal women and their children (Humphreys 2014)
- parents with past or current family violence or safety concerns had a high rate of use of family law services (De Maio, 2012, E1)
- just over half of parents who experienced family violence reported to police or other services
  - of these, around four in ten reported that 'nothing happened' in response to their disclosure
- parents have mixed views and uncertainty about the effectiveness of the family law system in dealing with family violence and very few (under 10%) knew about the recent family violence amendments (De Maio, 2012, E2-3)
- four-fifths of parents that experienced family violence before/during separation reported that it had impacted on their mental health, social activities, work attendance and study patterns (De Maio, 2012, p36)
- children in the physical violence group showed the most problems with regard to child wellbeing – the four most common issues were impact on mental health, adverse impact on relationships, less sociable and more withdrawn and behavioural issues, (De Maio, 2012, E3), and
- where safety concerns were reported, the behaviours generating these concerns were emotional abuse/anger, mental health issues, violent/dangerous behaviour, alcohol and substance abuse and gambling (Qu, L., 2014, p35).

Causal factors leading to the over-representation of Aboriginal and Torres Strait Islanders in statistics on interpersonal violence include those identified above as well as dispossession of land, removal of children, inter-generational trauma, interrupted cultural practices that mitigate against interpersonal violence and economic exclusion (ANROW, Fast Facts 2014).

Member organisations report that the people falling through the cracks are women with no secure residency in Australia (on work or temporary visas) and are therefore ineligible to access services. Conversely, there are women being brought into the country as wives or partners who are unaware of the services that they can access for assistance. There is a significant level of family and domestic violence within this second group and assistance is often not sought until the situation is severe.

## **(2) Terms of Reference – 3 and 4**

### ***Federal Government Support***

We note the commendable work being done by the Federal Government through:

- the newly established Foundation to Prevent Violence against Women and their Children (July 2013)
- the newly established National Centre of Excellence (early 2013) and Australia's National Research Organisation for Women's Safety (ANROW)
- the National Plan to Reduce Violence against Women and their Children 2010-2022 and the recently launched Second Action Plan 2013-2016, and
- the national register of family violence orders.

These strategies aim to drive cultural and attitudinal change through community engagement and advocacy, informed by an evidence base that shapes policy and practice. FRSA fully supports the Second Action Plan 2013-2016 and its five national priorities – driving whole of community action, understanding diverse experiences of violence, supporting innovative services and integrated systems, improving perpetrator interventions and building the evidence base. We support the additional funding of the White Ribbon Foundation, ANROW, the development of self-help resources (eg The Line) and the training of health workers and police.

We note the baseline established through the 2009 survey of national community attitudes to safety and well-being and look forward to the 2013 findings when published.

The Federal Government has also made significant legislative amendments through the Family Law Legislation Amendment (Family Violence and Other Measures) Act 2011 (Family Violence Act). The aim of these amendments was to provide better protection for children and families at risk of violence and abuse and improve the family law system's response. The Attorney-General's Department has commissioned an evaluation of these amendments (Evaluation of the 2012 Family Violence Amendments (AIFS)). We consider this to be an important evaluation and relevant to this Inquiry but note that the timing of this Inquiry does not allow for the evaluation findings to be considered. We also look forward to the 2014 findings from a repeat of the Survey of Recently Separated Parents when published.

We refer the Inquiry to two substantive reports completed by the Australian Law Reform Commission since 2009<sup>1</sup> and the impetus for this work, the Time for Action report (2009), which projected that an estimated 750,000 Australian women 'would experience and report violence in 2021–22, costing the Australian economy an estimated \$15.6 billion'. The two Australian Law Reform Commission reports contain 289 recommendations. We note and support the Federal Government's response to the Australian and New South Wales Law Reform Commissions 2010 report namely:

- the development of the multidisciplinary training package Addressing Violence: Education, Resources, Training; Family Law System Collaborative Responses to Family Violence (AVERT)
- a standardised common screening and risk assessment framework and tool known as the Detection of Overall Risk Screen (DOORS), and
- reforms to the *Family Law Act 1975*.

Collaborative Practice and the exchange of information between the family law system and children protection system are critical to ensuring that information relevant to decisions about children are appropriately shared. We are encouraged by and fully support the work completed by Professor Richard Chisholm in this area.<sup>2</sup>

We note that many Federal Government agencies and courts have developed and implemented best practice principles and family violence strategies on how to identify and assist clients at risk of, or experiencing, family and domestic violence.<sup>3</sup> These are often 'living documents' and will continue to be informed and reviewed in light of the latest research findings and expanding evidence base.

### **(3) Terms of Reference – 5**

We support all of the above actions taken by the Federal Government to date to address family and domestic violence. However, we consider that direct assistance in the form of access to income support, housing, counselling, domestic violence and support services and legal services are essential both in terms of early intervention/prevention and tertiary assistance. For instance, Homelessness Australia reports that family and domestic violence is the most often cited cause of homelessness by those seeking assistance (25%).

Living within a high conflict environment has severe negative effects on children and families. This means that it is critical that individuals and families are able to access early assistance (such as counselling and dispute resolution) to reduce the likelihood of high conflict escalating to

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<sup>1</sup> *Family Violence and Commonwealth Laws – Improving Legal Frameworks*, ALRC Report 117 (2011) and the Australia Law Reform Commission with the New South Wales Law Reform Commission, *Family Violence – A National Legal Response*, ALRC Report 114 (2010).

<sup>2</sup> *Information sharing in family law and child protection – Enhancing Collaboration* (April 2012) and *The sharing of experts' reports between the child protection system and the family law system* (March 2014)

<sup>3</sup> Examples include the Family Court's *Best Practice Guidelines* and the Department of Human Services' *Family and Domestic Violence Strategy*.

violence. Intervening at the earliest stage also avoids the intergenerational impact of violence on individuals and families that research has shown can result in diminished life outcomes for all members of the family (and subsequently higher overall 'costs' to the community of managing escalated and intensive interventions). McIntosh's research (2007) found a significant and enduring reduction in levels of conflict and improved management of disputes for those couples attending mediation about entrenched parenting disputes.

We refer the Inquiry to the Federal Government's obligations as a signatory to the United Nations Convention on the Rights of the Child to have regard to the best interests of the child as a primary consideration in decision-making. Part VII of the *Family Law Act 1975* is based on the same principle, although in some provisions the best interests of the child are paramount (Explanatory Memorandum 2011). The family law system (eg courts, lawyers and family support services) and the broader service network (eg primary and specialist health services) must prioritise the safety of children to ensure their best interests are met. We note the important work currently being done through the Monash Filicide Project and the findings relevant to medical, legal, health and social welfare professionals. We support this work and hope that sufficient funds will be made available to enable the findings from this work to inform and develop appropriate professional resources (Attachment 1).

### **Family Violence Act**

Prior to the Family Violence Act receiving Royal Assent on 7 December 2011, the Bill was referred to the Senate Legal and Constitutional Affairs committee for Inquiry. FRSA considers that the Senate Committee's report (22 August 2011) identified issues that remain relevant such as:

- the *Family Law Act 1975* is too complex (Senate Committee report para 3.155)
- the issue of family violence cannot be adequately addressed without looking at the issue of the lack of resources – for court processes, support services and legal assistance – as all of these things are a major contributor to the failure of the court system to adequately protect victims of violence (Senate Committee report para 3.141), and
- a community education campaign is needed to explain the family violence amendments (Senate Committee report para 3.186 and noting also that very few separating parents are aware of the legislative changes (De Maio, 2012 p.124)).

### **Specialised Family Violence Services (Department of Social Services)**

In 2013-14, 27 organisations were funded a total of \$2.4M per year under the Federal Government's Family Support Program to provide specialised family violence services. These services assisted 4576 clients of which 11% were Aboriginal and Torres Strait Islander and 52% were receiving income support. These services were often delivered alongside other family support and dispute resolution services thereby providing an holistic, wrap-around service to clients presenting with complex needs at family relationship services.

The Department of Social Services (DSS) recently conducted a grants funding round which saw the specialised violence services rationalised under the Children and Parenting Support activity.

It appears that the service model delivered under specialised violence services no longer complies with the defined activities under the new programme guidelines; and it is not clear that these services will be funded under the National Plan to Reduce Violence. The DSS website also states that "States and Territories have the primary responsibility for providing programs and services to support women, children affected by domestic violence and to men who want to change their violent behaviour. These include specialist domestic violence services, perpetrator programs, refuges, generalist services (eg health services, family relationships services), and police and the court system."

Member organisations also provide perpetrator programs. We note the Australian Research Council's program of research on engaging men who use violence in relation to their fathering. Initial findings by Professor Humphreys indicate that:

- there are very few family and domestic violence programs that address men's fathering
- program evaluation is very limited and therefore so is evidence for practice
- the perspective is generally not child focussed
- there is a need for programme development, and
- the most holistic programmes are the Aboriginal and Torres Strait Islander programmes.

We consider that this research is essential to identifying and building the evidence base; and that it is vital that the men's services continue to be funded in the interim.

FRSA considers that the therapeutic nature of specialised family violence services means that the services are most effective within the family support service stream. Given the significant adverse consequences for those women and children exposed to high conflict, FRSA considers it essential that specialised family violence services continue to be funded by the Federal Government.

### ***Indigenous Family Safety Programmes (Prime Minister and Cabinet)***

FRSA has had queries from member organisations about the status of Indigenous Family Safety Programmes such as Intensive Family Support Services and Supported Playgroups previously funded by the Federal Government under the Family Support Programme but now transferred to Prime Minister and Cabinet as per the new Administrative Arrangement Orders. Current funding agreements have been extended to 30 June 2015 but the status of the programmes and funding past this date are unknown. This has implications for capacity to plan for service delivery and staff retention. More importantly, the significant over-representation of Aboriginal women experiencing high levels of domestic violence necessitates immediate action – the continuation of existing services is essential.

### ***Indigenous Family Violence Prevention Legal Services (Prime Minister and Cabinet) and Aboriginal and Torres Strait Islander Legal Services (Attorney-General's Department)***

Annual funding of \$1M was provided under the Indigenous Family Violence Prevention Legal Services Program for the delivery of early intervention and prevention projects to communities (eg 'Sister's Day Out'). Funding for these activities ceased in 2013.

In the May 2013 Budget, additional one off funding of \$12M was made available to Aboriginal and Torres Strait Islander legal services over two years to increase family law services. The additional funding was not ongoing, making it difficult to recruit and retain family lawyers; and funding cuts announced in May 2014 (\$13.3M over four years) negated the benefits that may have resulted from the temporary funding increase.

***Family Law Council reports - Improving the Family Law System for Aboriginal and Torres Strait Islander clients and Improving the Family Law System for Culturally and Linguistically Diverse Clients***

FRSA refers the Inquiry to two Family Law Council reports, *Improving the Family Law System for Aboriginal and Torres Strait Islander clients (2012)* and *Improving the Family Law System for Culturally and Linguistically Diverse Clients (2012)*. FRSA notes that not only have very few of the recommendations been progressed, funding for activities has ceased rather than been maintained or expanded over the last twelve months.

For Aboriginal and Torres Strait Islanders, the Council found that family law system services are under-utilised because of a lack of understanding about the system and a resistance to engagement with, and even fear of, family law system services. This resistance stems from forced removal of Aboriginal children and the contemporary extent of non-voluntary engagement with criminal justice and child protection agencies. The report makes nine recommendations (Family Law Council, 2012, pp. 9-12) including:

- increasing outreach, community education and early intervention by both mainstream and Aboriginal and Torres Strait Islander-specific service providers
- promoting cultural competency (eg good practice guides, reviewing professional development frameworks)
- building collaboration between Aboriginal and Torres Strait Islander-specific service providers and the mainstream family law system
- building an Aboriginal and Torres Strait Islander Workforce in the family law system
- increasing Family Consultants and Liaison Officers (in community based services and/or courts)
- reviewing the accessibility and appropriateness of court, legal and family dispute resolution services, and
- improving access to interpreter services and developing a national protocol on the use of interpreters in the family law system.

From 2011-2014, FRSA administered a Family Dispute Resolution (FDR) scholarship scheme (totalling \$0.245M) which resulted in nine Aboriginal and Torres Strait Islanders and twenty three culturally and linguistically diverse people being trained and qualified as family dispute resolution practitioners. Funding for this scheme has since ceased.

Member organisations have implemented Aboriginal-specific models of mediation, community engagement strategies, community legal information materials and specialist Aboriginal service units within mainstream family relationships services. Examples include:

- an Aboriginal model of mediation developed by the FRC Darwin
- an Aboriginal Building Connections Program being developed by Interrelate Family Centres, and
- a DVD incorporating dreamtime stories for use with Aboriginal families by the Port Augusta FRC (Family Law Council, 2012, p.6)

Although the 2014 DSS funding round allows for 10% of grant funding to be used for innovative activities, this funding is not additional to core funding. This means that services must re-direct funds, usually from service delivery, if they wish to trial or evaluate different approaches to practice.

### ***Coordinated Family Dispute Resolution Pilot (Attorney-General's Department)***

In 2009, the Federal Government funded a pilot of legally assisted and supported family dispute resolution in family violence cases in five locations. The process applied a multiagency, multidisciplinary setting to provide parents with a safe, non adversarial and child sensitive approach to resolving post separation parenting disputes. The 2012 evaluation found that while coordinated family dispute resolution practice is complex, most of the professionals and clients of the service were positive about the process (Kaspiew, R., 2012, p.xi). Where mediation is handled carefully, the process can be safe and empower parents to make appropriate arrangements for their children (Kaspiew, R., 2012, p.xii). The evaluation recommended the development of practice guidelines and use of a uniform risk assessment framework (which has since been developed); as well as a further evaluation, within an appropriate time. Funding for the pilot has since ceased. FRSA considers that the pilot made significant inroads to some of the practice issues that arise in this area and that the Federal Government should commit to developing practice guidelines and rolling out this model across the network of family support services.

### ***FRSA's Recommendations to the Federal Government***

In terms of what the Federal Government can do to support, contribute and drive change FRSA recommends that:

- a designated funding stream, possibly under the Second Action Plan, be made available to support the delivery of, or access to,
  - specialised family violence services (as previously funded under the Family Support Programme)
  - early intervention, prevention and perpetrator services
  - early intervention and prevention services to Indigenous communities (as previously funded under the Indigenous Family Violence Prevention Legal Services Programme)
  - coordinated family dispute resolution services (as previously funded by Attorney-General's Department)
  - innovation funds, to which service providers can apply to pilot, evaluate and build the evidence base
- clarification be provided on the future arrangements of the Indigenous Family Safety Programmes (Prime Minister and Cabinet)

- ongoing funding be made available to maintain family law services delivered by Aboriginal Legal Services (as previously funded by the Attorney-General's Department)
- funding be made available to offer FDR scholarships to Aboriginal and Torres Strait Islanders and Culturally and Linguistically Diverse peoples (as previously funded by the Attorney-General's Department)
- the *Family Law Act 1975* be simplified (Attorney-General's Department)
- a community education campaign on the Family Violence Act be conducted (in line with the work already planned more generally under the Second Action Plan 2013-16) (Attorney-General's Department with Department of Social Services), and
- the recommendations made in the two Family Law Council reports in 2012 be re-examined, particularly the recommendation to increase the number of Family Consultants (or Indigenous Advisers) in locations such as Family Relationship Centres (Attorney-General's Department, Prime Minister and Cabinet).

FRSA considers that the Federal Government has funded many pilots and services over recent years that have demonstrated their effectiveness and it is time for funding surety.

Thank you for this opportunity to provide input to the Inquiry. Please contact me if you require any further information on the material outlined in this submission.

Yours sincerely



Jackie Brady  
Executive Director  
Family and Relationship Services Australia

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## ATTACHMENT 1

### THE UNLAWFUL KILLING OF A CHILD OR CHILDREN BY THEIR PARENT OR EQUIVALENT GUARDIAN/CARE-GIVER (FILICIDE)

#### INFORMATION SUMMARY FILICIDE PROJECT

##### MONASH UNIVERSITY

The Monash Filicide Project, led by Professor Thea Brown (Department of Social Work) and Dr Danielle Tyson (Department of Criminology) with Ms Paula Fernandez Arias (Department of Social Work), has been collecting data on filicide victims and their families since 2010. It has a data base comprising all victims of filicide in Victoria over a ten year period sourced from the files of the Coroners Court of Victoria, 2000-2009. The project has established an international conference series, the Addressing Filicide Conference Series, and edited and contributed to a special edition of the UK journal, Child Abuse Review to be published in April 2014. It has established a number of international research networks and a second Addressing Filicide Conference will be held June 3-4th 2015, Prato, Italy.

The following summarises a selection of findings for the use of medical, legal, health and social welfare professionals.

- In Australia some 12% of victims in domestic homicide are children.
- This incidence appears to be stable and not diminishing like other types of domestic homicide
- Victims are most commonly young children aged 0-4 but older children are victims too
- Male children are far more likely to be killed than female children (double the rate)
- Perpetrators are biological mothers, biological fathers, mother and father acting together, and step-fathers
- Mothers and fathers and step-fathers are almost equally perpetrators but the presence of step-fathers is disproportionately high in relation to their numbers
- The child's (children's) death appears to arise from a number of stress factors factors that cluster differently for the major three groups of perpetrators
- For mothers the cluster is: mental illness, especially depression, parental separation, victim of domestic violence, suicidal ideation and substance abuse.
- For fathers the cluster is: mental illness, especially depression, parental separation, suicidal ideation, homicidal ideation, abuse of children
- For stepfathers the cluster is: mental illness, especially depression, domestic violence to partner, abuse to partner's children, substance abuse (drugs and/ or alcohol)
- Perpetrators are involved with services, usually several, but the services may not appreciate the dangers to the children from these clusters of stresses; they may not understand the indirect references or coded references made by a perpetrator to the forthcoming event
- Friends and family members are likely to have been informed by the perpetrators but they too may not understand the significance and gravity of what is being said
- If you have clients or patients with these clusters of stresses who have children, ask them if they are feeling despairing, if they are thinking of suicide, if they feel distant from their children, or if they think they must save their children from other family members or events

- If they have these clusters of stress and give indications of suicide or homicide after discussions refer them to a psychiatric service and a family support service immediately.
- Monitor their progress and keep them within a support service network long term even if they appear to be improving.

Professor Thea Brown

Dr Danielle Tyson

Ms Paula Arias Fernandez



