

NSW STANDING COMMITTEE ON SOCIAL ISSUES INQUIRY INTO DOMESTIC VIOLENCE TRENDS AND ISSUES IN NSW AUSTRALIAN DOMESTIC AND FAMILY VIOLENCE CLEARINGHOUSE

Question 1 Have you any further suggestion for improvements to the non government sector?

We have a number of suggestions:

- The introduction of an integrated system would clarify the roles and responsibilities for the NGO sector.
- The NGO sector is not adequately funded to meet the demand for service from domestic violence victims so services have to deal with the constant issue of unmet need and victims often have to wait too long for a service or not receive at all. There are too few specialist services and too few domestic violence workers in generalist services.
- There is too little training available for NGO workers – ECAV cannot provide enough training to meet the need.
- There need to be standards and protocols in place for NGOs to ensure that services are of a high quality and are consistent.
- Services to support children need to be developed and funded.
- The funding of a peak organisation to advocate for and work with the NGO sector, along the lines of DVVic in Victoria would be very valuable.

Question 2 What is your understanding of the causes of domestic violence and how well do you think this knowledge informs policy at the moment?

Domestic violence is the result of a fundamental power imbalance between two people involved in the relationship. Primarily it is because of the gender imbalance/inequity between men and women which is still so prevalent in our society. Men hold the power and women don't and this is carried through to the domestic sphere. Where the relationship is not a heterosexual one, the power dynamics mimic those found in heterosexual violent relationships and one person is more controlling and uses violence or the threat of violence to control the other person.

Gender inequity if not being addressed adequately by policy and in fact in many instances even policies relating to domestic violence fail to name men and the perpetrator as the primary perpetrators and women as the primary victims.

Question 3 How could early intervention programs in NSW be improved?

The Clearinghouse considers there are three key strategies to improve early intervention work in NSW:

- Encouraging disclosure by and detection of people at risk of domestic violence facilitates the delivery of information, advice, advocacy and support to them and their families at a crucial time to avoid violence commencing or continuing. Many individuals and families are at risk of violence in the context of a range of other stressors and pressures. Training is needed for generalist workers around domestic violence issues, for them to be able to ask questions about and refer clients at risk of domestic violence to specialised services. This would include training for those working in: housing; health; mental health; drug and alcohol; disability; early parenting/childhood; youth; refugee and migrant; legal; and financial services.
- Many people at risk of or who are first experiencing domestic violence are unaware of information and support available to them, as well as their rights to safety and protection. Increasing victim access to information, (legal and other) advice, advocacy and support at the earliest onset of abuse, will assist them to assess their situation and their options, and to make informed decisions about their safety. Information distribution strategies need to be targeted to discrete groups who access information in different ways.
- The provision of domestic violence services is uneven across the state and there are very limited services for specific groups of victims (e.g. children, Indigenous, women with disabilities). Development of an integrated service system that provides access to support regardless of where a victim is located or the point where a victim enters the system, would dramatically improve equity in access to services.

Question 4 What are your views on the increase in the number of women being proceeded against by the police for domestic violence offenses?

In the US and Canada, increases in the arrests of women have been attributed to the introduction of pro-arrest and mandatory arrest policies for domestic violence, particularly in those incidents in which women engage in retaliatory violence or self defence, where both parties claim injury or where police are unable to determine a primary aggressor. Anecdotal evidence from legal services and domestic violence services in NSW suggests that police do not routinely properly assess the domestic violence situation before making an arrest, including: checking the COPS database to identify any previous history of violence by either party; looking for evidence of injury; use of weapons; taking witness statements, including speaking to the woman directly; collecting forensic evidence; or assessing if violence used was in retaliation or self defence.

The Clearinghouse recommends that NSW Police introduce a primary aggressor policy (requiring police to assess the context of an incident, including a history of violence, and conduct a risk assessment) in dealing with domestic violence incidents, to be accompanied by training, monitoring and supervision of its implementation. NSW Police also need to demonstrate a willingness to withdraw applications for protective orders or charges, if it becomes evident that they are dealing with a victim as an alleged defendant. Judicial oversight of the issuing of protection orders would assist in appropriate implementation.

The Clearinghouse also recommends further research be conducted around this issue, to examine the circumstances surrounding the arrests of women for domestic violence offenders, including police attitudes, knowledge and practice in dealing with domestic violence incidents.

Question 5 Have you any further views on how the police system could improve in its response to domestic and family violence?

The Clearinghouse recommends implementation of the recommendations of the NSW Ombudsman's report of 2011, *Audit of NSW Police Force handling of domestic and family violence complaints: a special report to Parliament under section 161 of the Police Act 1990*. We also recommend that NSW ensure adequate domestic violence training to junior, frontline and senior officers, as well as monitoring and supervision of police response to domestic violence and that NSW Police be better resourced to prosecute applications for police ADVOS; e.g. to allow for better forensic evidence gathering and to allow prosecutors more preparation time to spend with witnesses and frontline police prior to the trial. This could most effectively be achieved by the establishment of domestic violence units in each area which are staffed with detectives and other specialists to investigate and prosecute matters effectively.

The shortage and under grading of Domestic Violence Liaison Officers has been an ongoing issue for many years. There need to be an adequate number of DVLO's available to assist victims if there is to be any progress made in increasing the number of reports to the police.

Question 6 What are your views on the Domestic Violence Court Intervention Model and the plan the Department of Attorney General and Justice to expand elements of it across the State.

We are aware that there were many shortcomings highlighted when the Domestic Violence Court Intervention Model was evaluated and I am not fully up to speed with how many of these issues have been addressed.

It is my view that domestic violence specialist courts operate most effectively when there is strong leadership and commitment from all the personnel involved. In principle, I don't believe in taking some aspects of the model and rolling them out in other places as you end up perpetuating an inadequate system. There is a considerable amount of research material available on what constitutes good practice with regard to the operation of specialist domestic violence courts and it is my contention that NSW should be building on and improving its court model based on the evidence available. The Centre for Court Innovation in the United States is the primary source for material on good practice in this area.

<http://www.courtinnovation.org/topic/domestic-violence>

Question 7 A number of submissions have called for continuing education of judicial officers in order to improve their understanding of and decisions about domestic and family violence. What are your views on this and have you any further recommendations in relation to the court system?

It is the view of the Clearinghouse that Judicial Officers should be required to attend training on this issue or else they should not be presiding over domestic violence cases. Obviously this line is easier to uphold if there are specialist domestic violence courts as in this case all personnel should be specially trained. Once again I refer you to material produced by the Centre for Court Innovation and to the material on the specialist courts in New York http://www.nycourts.gov/courts/problem_solving/dv/key_principles.shtml

The leadership shown by Judge Kluger in the New York jurisdiction has provided a clear direction for these courts and is broadly regarded as world's best practice. She has introduced a 'one family one judge model' the court hears all matter relating to the parties and this seems to be proving to be a highly effective model. The court role also includes judicial monitoring and referral.

Question 8 What are your views on the suggestion that domestic violence has been constructed as a 'women's issue', such that men experiencing domestic violence and women in same sex relationships find it difficult to identify and seek out support?

Hospital admissions data, disability and mental health data, reports to police, homicide data and extensive domestic violence research provide overwhelming evidence that domestic violence is a gendered crime, with the vast majority of victims being female and perpetrators being male. Service provision reflects this situation. That said, some specialist domestic violence services will see male clients and same sex clients and, increasingly, mainstream charitable organisations are providing supports to clients affected by domestic violence; these are services which are not gender specific.

There are, however valid concerns with regards to the skill sets of services being sufficient to provide adequate support to address the specific needs of gay, lesbian, bisexual, transsexual and intersex victims of domestic violence. ACON has recently released a report on this issue (ACON 2011, *One size does not fit all*, ACON, Sydney), with recommendations for better meeting the needs of this population. The Clearinghouse recommends the Committee consider the ACON report and look to implementing its recommendations.

Question 9 Have you any recommendations for how NSW men's domestic violence behaviour change programs could be improved in terms of effectiveness?

International evidence is extremely mixed about the effectiveness of behaviour change programs. Key difficulties in evaluating effectiveness are the few long term evaluations conducted and that programs vary in terms of: their length (from a few weeks to a few years); aims; theoretical basis; whether or not they are mandatory; where they are run from (e.g. from community-based services or within the criminal justice system); their understanding of the causes of domestic violence; as well as the degree of coherence between stated aims and principles, and actual practice.

Indeed, a range of evaluations and empirical studies have found limited or no improvement in the behaviour of men who complete programs. See for example:

- Babcock JC, Green CE & Robie C 2004, 'Does batterers' treatment work? A meta-analytic review of domestic violence treatment', *Clinical Psychology Review*, vol. 23, issue 8, pp. 1023-1053
- Feder L & Wilson DB 2005, 'A meta-analytic review of court-mandated batterer intervention programs: Can courts affect abusers' behavior?', *Journal of Experimental Criminology*, vol. 1, issue 2, pp. 239-262
- Labriola M, Rempel M & Davis RC 2008, 'Do batterer programs reduce recidivism? Results from a randomized trial in the Bronx', *Justice Quarterly*, vol. 25, issue 2, pp. 252 – 282
- Olver ME, Stockdale KC & Wormith JS 2011, 'A meta-analysis of predictors of offender treatment attrition and its relationship to recidivism', *Journal of Consulting and Clinical Psychology*, vol. 79, issue 1, pp. 6-21

Other studies have shown positive results for some men in programs but not all, and also an intractable group for whom such treatment does not work (e.g. Gondolf EW 2002, *Batterer intervention systems: Issues, outcomes and recommendations*, Sage, California, London & New Dehli). Most successful outcomes for such programs are typically for female partners where programs provide support for them. Their partners' referral into a program may be the first occasion on which women have access to information and support, counselling and assistance to leave the relationship. Yet, despite the lack of good evidence of their effectiveness, such programs continue to be funded and proliferate.

Emerging research indicates that *more targeted programs* may be more effective; i.e. ones that address violence issues, alongside mental health, drug and alcohol, child abuse and other issues for abusive men. Standards can also provide *consistency* around safety measures, content, program length, protocols and performance measures, where there are penalties for non compliance.

The Clearinghouse therefore advises the NSW Government to introduce mandatory minimum standards for behaviour change programs (based on the No To Violence standards), with penalties for non compliance (e.g. withdrawal of funding and withdrawal of accreditation). We advise that government funded programs be required to provide support services for partners of program attendees and that programs be requested to provide individualised treatment, attending to mental health, drug and alcohol, child abuse and other issues for attendees. We also strongly recommend that NSW Government fund long term evaluation of programs, in particular programs providing a more targeted response to men, in order to provide information about their performance and the value of investment of public funds.

Question 10 What recommendations would you like to see come out of this inquiry?

Our key recommendations would relate to establishing a comprehensive and robust governance structure to facilitate the implementation of an integrated system. This would be the precursor for all other changes.

The recommendations made by the NSW Audit Office in their recent report *Responding to domestic and family violence* provide a good scaffold for change and also suggest a timeframe. We would support these recommendations as a good place to start.