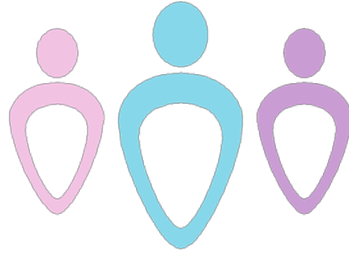


**Submission
No 43**

INQUIRY INTO CHILD PROTECTION

Organisation: Women's Domestic Violence Court Advocacy Service NSW Inc.
Date received: 30 June 2016



**Women's Domestic Violence
Court Advocacy Service NSW Inc**

**NSW General Purpose Standing Committee No. 2
Inquiry Into the role of the Department of Family and
Community Services in relation to Child Protection**

Renata Field and Maria Le Breton

30 June 2016

Women's Domestic Violence Court Advocacy Services Network Inc.
PO Box K278, Sydney NSW 2000
Tel: 0474779847

Contents

About WDV CAS NSW Inc.	2
Introduction	3
WDV CAS Submission into Child Protection in NSW	
1. The capacity and effectiveness of systems, procedures and practices to notify, investigate and assess reports of children and young people at risk of harm	3
2. The capacity and effectiveness of systems, procedures and practices to notify, investigate and assess reports of children and young people at risk of harm in cases of domestic violence	6
3. The amount and allocation of funding and resources for the employment of casework specialists, caseworkers and other frontline personnel and all other associated costs for the provision of services for children at risk of harm, and children in out of home care to the Department of Family and Community Services and to non-government organisations	7
4. The support, training, safety, monitoring and auditing of carers including foster carers and relative/kin carers	7
5. Specific initiatives and outcomes for at risk Aboriginal and Torres Strait Islander children and young people	8
6. The amount and allocation of funding and resources to universal supports and to intensive, targeted prevention and early intervention programs to prevent and reduce risk of harm to children and young people	10
Recommendations for all children	10
Recommendations for Aboriginal and Torres Strait Islander Children.....	13

About WDV CAS NSW Inc.

Established in 1996, Women's Domestic Violence Court Advocacy Service NSW Inc. (WDVCAS NSW) is the peak body for the state-wide Women's Domestic Violence Court Advocacy Services who provide services to assist women and children seeking legal protection from domestic violence. WDV CAS NSW is an incorporated association comprising representatives from 28 individual WDV CAS¹ that operate in 114 local courts throughout metropolitan, regional and rural New South Wales.

Each WDV CAS is auspiced and works locally in collaboration with government agencies, non-government organisations and the private sector to deliver an integrated service to clients.

The purpose of WDV CAS NSW Inc. is to:

- advocate in social, legal and political settings on behalf of women and children who have experienced domestic violence;
- collaborate and consult with key stakeholders; as well as
- formulate recommendations for systemic policy and law reform.

The specific aims of WDV CAS NSW Inc. are to:

1. identify and respond to emerging issues associated with domestic violence, with a focus on systemic policy and law reform;
2. promote a cooperative and integrated approach to working in domestic violence to ensure effective service delivery;
3. collaborate with local courts, NSW police, referral support services and other relevant bodies where appropriate;
4. promote dialogue and debate on issues associated with domestic violence; and
5. identify, analyse and disseminate up to date research.

¹ Blue Mountains, Burwood, Central Coast, Central West, Far South Coast, Far West, Hunter, Hunter Valley, Illawarra, Macarthur, Macquarie, Mid-North Coast, New England, North Coast, North West, North West Sydney, Northern Rivers, Northern Sydney, Riverina, South Coast, South Eastern, South West Sydney, Southern, Southern Sydney, Sydney, Wagga Wagga, Western, Western Sydney

Members of WDV CAS NSW exchange information and discuss social, legal and procedural issues impacting on their services. In identifying and discussing systemic issues and developing strategies to address these issues, WDV CAS NSW acts as a strong advocate for legal and social policy reform for women and their children experiencing domestic violence.

The WDV CAS NSW is funded by Legal Aid NSW through the Women's Domestic Violence Court Advocacy Program.

Introduction

WDV CAS NSW appreciates the opportunity to comment on the NSW Legislative Council General Purpose Standing Committee No.2's inquiry into Child Protection in New South Wales. As the peak body in NSW supporting women and children to access justice outcomes through the local court system, our direct experience for over 20 years makes WDV CAS NSW well placed to comment on the child protection system as experienced by our workers and clients. Child protection issues are a frequent feature of our work, with more than 60% of WDV CAS clients reporting that they have a child under 16².

WDV CAS Submission into Child Protection in NSW

1. The capacity and effectiveness of systems, procedures and practices to notify, investigate and assess reports of children and young people at risk of harm

WDV CAS NSW Inc. holds concerns that the NSW child protection system is significantly under-resourced, impacting upon its ability to receive reports regarding children at significant risk of harm, investigate these reports and provide support to vulnerable families. This under-resourcing is evident to WDV CAS NSW Inc. in the

² 64%. Data retrieved 16.2.16 from the Women's Domestic Violence Court Advocacy Program database from the time period 1 July-31 December 2015.

long waiting periods routinely experienced by WDVCS workers in making a report to the child protection helpline; the frequent lack of response received by WDVCS workers from Family and Community Services (FaCS) to reports made to the helpline and the apparent lack of further investigation of concerning cases (evident through the matter being referred to a CSC but not becoming an open case and being allocated a FaCS caseworker). WDVCS are of the opinion that such under-resourcing of vital child protection services leaves vulnerable children and young people at risk of further abuse and/or neglect.

WDVCS workers have also expressed concern that children, young people and their families may receive differing levels of FaCS intervention and support depending upon their location. This is seen by WDVCS workers to be a potential result of community services centre's (CSC) in some areas experiencing a higher percentage level of risk of significant harm reports than other CSC's. For example, a child living in Mount Druitt may not be assessed at high enough risk to be allocated a caseworker by FaCS and their case may be closed due to competing priorities within the CSC, yet if the family were to move to the Northern Beaches, they may be considerably more likely to be allocated a FaCS case worker.

WDVCS workers also hold concerns regarding the increase to the level of risk of cases that are now managed by the Brighter Futures program and other community based programs. This results in children at serious risk of harm receiving support from community agencies such as family support services that may not be as well-equipped as FaCS to safely assess and manage the risk faced by vulnerable children and young people or as well-resourced to provide the supports necessary. WDVCS staff have expressed the view that FaCS require a significant increase in their ongoing funding to ensure that in instances where a child/children face a high level of risk of abuse and/or neglect in their home they should receive support from FaCS. WDVCS staff have expressed their support for community based programs to continue supporting children and young people assessed to be at a medium risk of harm.

WDVCAS workers have expressed great concern regarding the practice in some regions across NSW of non-government organisations (NGO's) and FaCS holding risk of significant harm report panels where various NGO's are taking on responsibility for families who are the subject of a ROSH report to FaCS as FaCS have indicated that they do not have capacity to take any action or offer any support to the family. WDVCAS workers believe that such a practice may result in vulnerable children not receiving the level of assessment and protection that they require. Though skilled and experienced, NGO's do not have the same access to information or resources as FACS. WDVCAS support the enhanced resourcing of FaCS to ensure that FaCS are able to respond to all reports of children and young people at risk of serious harm.

WDVCAS NSW Inc. believes that the practice of mandatory reporting is well established within the domestic violence sector (in organisations such as WDVCAS, women's refuges and domestic violence specialist services), and is certainly the practice within the WDVCAS services across NSW. Workers value receiving a response as to the allocation or otherwise of cases in order to provide ongoing referral and information to families, however this does not always occur.

WDVCAS workers have noted that there appears to be limited capacity for FACS to provide adequate support for young people at risk of significant harm. WDVCAS workers have reported that there appears to be a far greater emphasis upon providing a FACS intervention when the concerns relate to a baby, infant or young child. Although WDVCAS NSW Inc. acknowledges that it is vital to protect young children at risk of harm due to their particular vulnerabilities and the long-term effects of abuse and/or neglect in early childhood, such practices result in vulnerable young people being left with very little support or assistance. WDVCAS NSW Inc. believes that increased ongoing resourcing of FACS would enable an improved response from FACS which would see more young people receiving urgent assistance, protection and support.

2. The capacity and effectiveness of systems, procedures and practices to notify, investigate and assess reports of children and young people at risk of harm in cases of domestic violence

WDVCAS staff hold concerns that FACS safety and risk assessment tools/practices may not give adequate weight or consideration to the effects of domestic violence upon the safety and development of children and young people particularly when the child is not considered the primary victim of the violence. Research indicates that both witnessing and experiencing domestic violence can have serious impacts on children's development and wellbeing³.

WDVCAS workers have also raised concerns regarding the perceived FACS practice of 'mother blaming'. In circumstances where domestic violence is identified as a risk to the safety, welfare and well-being of a child, the mother's perceived lack of willingness or inability to protect the child from the harmful behaviour of the perpetrator is seen as the primary focus of FACS interventions. Such a focus fails to hold the perpetrator responsible for their behaviour and places an undue and unrealistic responsibility upon the mother to control the actions of the perpetrator⁴.

WDVCAS suggest that FaCS engage the perpetrator of the violence, hold them responsible for their actions and assist them to cease using violence whilst working simultaneously with the mother to increase her safety and the safety of her children. WDVCAS further suggest that when engaging a woman who is experiencing domestic or family violence that FACS offer the mother referral to a domestic violence specialist service, such as WDVCAS or the Staying Home Leaving Violence program.

³ Richards, Kelly, *Children's Exposure to Domestic Violence in Australia*, Australian Institute of Criminology, Australian Government (2011).

⁴ Lapierre, Simon, *More Responsibilities, Less Control: Understanding the Challenges and Difficulties Involved in Mothering in the Context of Domestic Violence*, Br J Soc Work (2010) 40 (5): 1434-1451.

3. The amount and allocation of funding and resources for the employment of casework specialists, caseworkers and other frontline personnel and all other associated costs for the provision of services for children at risk of harm, and children in out of home care to the Department of Family and Community Services and to non-government organisations.

WDVCAS NSW Inc. believes that there are insufficient funds and resources available to FACS to employ front line caseworkers, casework specialists and other personnel to meet the demand for services to vulnerable children and families in our communities. Such a conclusion is reached through WDVCAS workers experience of extended waiting times to make reports to the child protection helpline and the high number of concerning cases which do not receive further FaCS assessment or intervention. WDVCAS workers have expressed the view that the high turnover of staff at FACS also suggests that employees perhaps experience high stress levels in their roles and may not receive adequate support.

WDVCAS NSW Inc. believes that non-government organisations providing services to children at risk of harm and children in out of home care are significantly underfunded. There is also a belief that there is a need for further funding for training of staff in non-government organisations so that they are well equipped and resourced to support vulnerable families. WDVCAS workers are of the opinion that as early intervention and support for families is more beneficial for children's well-being and development than removal from the family,⁵ it is essential that services which support capacity building and safety within families are well funded.

4. The support, training, safety, monitoring and auditing of carers including foster carers and relative/kin carers.

WDVCAS workers are of the opinion that there is inadequate support and training for carers, and insufficient monitoring to ensure the safety and well-being of children

⁵ Osborn, Alexandra & Bromfield, Leah *Outcomes for Children in Care*, Australian Institute of Family Studies (2007).

in out of home care. It is also felt that there is insufficient financial support, training and general support provided to foster carers and kinship carers in their vital roles caring for children and young people. WDV CAS workers have formed this opinion after hearing from women who report that they feel isolated and unsupported in their roles as kinship carers.

WDV CAS workers believe that FACS guidelines in relation to the approval of kinship carers can be prohibitive particularly in relation to Aboriginal and Torres Strait Islander families. It is felt that the implementation of such guidelines needs to be reviewed to ensure that potentially viable kinship placements for children are not overlooked or rejected by FACS due to resourcing concerns (housing, financial capacity etc) which may be overcome with adequate support. WDV CAS believe that potential kinship carers should be generously supported by FACS to access supports that may assist them in their application as kinship carers.

5. Specific initiatives and outcomes for at risk Aboriginal and Torres Strait Islander children and young people

The disproportionate number of Aboriginal and Torres Strait Islander children in out-of-home-care (Aboriginal and Torres Strait Islander children constitute approximately 5.5% of the children aged 0-17 and 35% of the children and young people in out-of-home-care)⁶, indicate that FaCS need to urgently review the initiatives and outcomes for at risk Aboriginal and Torres Strait Islander children and young people.

WDV CAS workers recalled numerous instances of Aboriginal children being removed by FACS intervention and placed with non-Aboriginal foster families. WDV CAS NSW Inc. believe that it is essential that the initial presumption of child protection services needs to be that it is in the child's best interests to remain in the care of their family as recognised by recommendation 46 (a) of the Bringing them Home Report.⁷ It is

⁶ Australian Institute of Family Studies (2015). Fact Sheet- *Children in Care*.

⁷ Australian Human Rights Commission, *Bringing them Home Report* (1997).

also essential that the Aboriginal or Torres Strait Islander families/communities are supported to retain care of their children wherever possible in accordance with Section 13 of the *Child and Young Persons (Care and Protection) Act 1998*. This is so as connection to culture and family/community is vitally important to Aboriginal children and young people.

Where removal of a child/children is deemed necessary for the child/children's safety, it is essential that siblings remain together and that all kinship care options are thoroughly explored. Kinship carers may require a high level of support in order to ensure they are fully equipped to support the child/children in their care.

WDVCAS NSW Inc. believes that it is essential that all FACS workers are thoroughly trained in cultural safety. Such training should include awareness raising regarding the legacy of child removal and the Stolen Generations in Australia and the ongoing trauma and dislocation that this creates in Aboriginal and Torres Strait communities. This knowledge is fundamental to FACS workers supporting Aboriginal and Torres Strait Islander families. Wherever possible, Aboriginal families should be offered the support of an Aboriginal specialist caseworker. In all instances of removal, an Aboriginal specialist caseworker should be consulted prior to removal of the child/children and should provide support and oversight to the placement of the child/children.

WDVCAS NSW Inc. believes that early intervention and support is essential. Aboriginal and Torres Strait Islander families should be offered the utmost support in reducing the risk of harm to children and to assist families well before removal is deemed necessary. WDVCAS workers have seen examples of children, including newborn babies, being removed from families due to homelessness and other factors which could potentially have been avoided if adequate support were provided, for example in finding and maintaining stable accommodation.

WDVCAS workers have noted that during FACS interventions, some families have high expectations placed upon them, tasks to complete or standards to meet set

down by FACS in order for them to retain their children in their care. WDVCAS workers have suggested that it is important that requirements and expectations placed upon families are reasonable and that families are offered culturally appropriate supports in order to comply with FACS stated requirements.

Due to the high level of domestic and family violence in all Australian communities, it is essential that FACS workers be trained to understand the complex nature of domestic and family violence, particularly in the context of Aboriginal and Torres Strait Islander communities. For further recommendations about domestic violence, see section 2 above.

WDVCAS workers also consider it important to acknowledge the impact of funding cuts to Aboriginal support services on vulnerable Aboriginal and Torres Strait Islander families. Recent cuts to services such as healing centres, specialist refuges and Aboriginal Legal Services have reduced the supports that are available in the community to Aboriginal and Torres Strait Islander families. Families in rural and remote areas face additional barriers, as there is a lack of resources such as housing and support services. Culturally specific services are desperately required to offer appropriate support to Aboriginal and Torres Strait Islander families.

6. The amount and allocation of funding and resources to universal supports and to intensive, targeted prevention and early intervention programs to prevent and reduce risk of harm to children and young people.

WDVCAS NSW Inc. believe that it is vitally important to adequately resource early intervention programs that support families to nurture and protect their child/children and thereby support the child to remain in a safe home environment with their family. It is understood that children and young people who have been removed from their family of origin and placed in out of home care are likely to

experience additional challenges and difficulties both during their childhood and into their adult lives.⁸

Section 8(c) of the *Child and Young Persons (Care and Protection) Act 1998* states that an object of the Act is to ensure that families and people caring for children and young people are provided with appropriate assistance to enable them to provide a safe and nurturing environment for the child or young person.⁹ WDV CAS NSW would suggest that this object could be best implemented by the consistent provision of adequate, responsive and culturally appropriate supports, early intervention and targeted prevention programs to provide assistance and support to families and those caring for children to provide a safe and nurturing environment for the children in their care. Such assistance may make it possible for a child/children to remain in the care of their family and thereby avoid the trauma and disruption of removal and possible multiple placements in out-of-home-care.

WDV CAS workers have expressed the opinion that funding to universal supports, targeted prevention and early intervention programs is inadequate to meet the current demand. Long-term, ample funding is required to best ensure vulnerable families have access to appropriate supports and services required to assist them in providing for and nurturing the children and young people in their care.

Furthermore, WDV CAS workers believe that FACS employees require information regarding the role of WDV CAS and other domestic violence specialist services in supporting women and children experiencing domestic and family violence. WDV CAS NSW Inc. would suggest that FACS workers be encouraged and supported to refer families to specialist domestic violence services where appropriate. Such services can offer specialised, targeted and accessible support to women and children in situations where domestic and/or family violence is compromising the safety, welfare and well-being of the child/children.

⁸ Cashmore, Judy, *Children in the Out-of-Home-Care System*, Australian Institute of Family Studies (2014).

⁹ *Child and Young Persons (Care and Protection) Act (1998)*.

Recommendations for all children

- A significant increase in the ongoing resourcing of FACS to ensure that children experiencing a high level of risk of abuse and/or neglect in their home receive the specialist support they require.
- Greater training to support FaCS workers to develop a thorough understanding of domestic and family violence, including how to identify it, how to avoid the harmful practice of 'mother-blaming' and the frequent lack of focus on the harmful behaviour of the abusive parent.
- WDVCAS recommend a sustained increase in the resourcing of services which support capacity building and safety within families such as early intervention and targeted programs.
- Ensuring that a response is always given to workers reporting an incident, to inform them of the outcome.
- Ensuring that children across the state receive the same, high quality support and intervention from FACS regardless of their location.
- Increased funding to community based programs to support children and young people assessed to be at a medium risk of harm.
- For FaCS to be adequately resourced and prioritised to support all high risk cases, allowing non-government agencies to be able to support medium, low risk and early intervention cases.
- Additional resourcing to ensure that young people specifically are able to receive the support they require from FACS.
- FaCS to acknowledge the impact upon families of cuts in the community sector, especially to Aboriginal support agencies, and the lack of services in some areas, including families in regional/rural communities and therefore ensure that FaCS provides additional supports to affected families.
- FACS to ensure that women and children experiencing domestic and family violence are offered support from a specialist service at the commencement of FACS involvement. FACS workers require information regarding the role of

WDVCAS and other domestic violence specialist services in order to make appropriate referrals.

- Potential kinship carers should be supported by FACS to access resources and supports that may assist them in their application as kinship carers, and reduce the likelihood of children being placed outside the family.
- In cases where children must be removed from their families, it is essential that every effort is made for siblings to be placed together.

Recommendations for Aboriginal and Torres Strait Islander Children

- The disproportionate representation of Aboriginal and Torres Strait Islander children in care demonstrates that there is an urgent need for FaCS to review its' policies and procedures regarding the support of Aboriginal and Torres Strait Islander families.
- FACS workers to be provided with thorough, ongoing training in cultural safety which is approved by Aboriginal agencies.
- Ensuring that FaCS makes every effort to support Aboriginal children to remain within their families including supporting Aboriginal and Torres Strait Islander families and potential kinship carers to access universal and specialist services for essential supports.
- Where removal of Aboriginal children is deemed necessary for their protection, ensuring that every effort is made to support kinship carers and possible kinship carers, due to the importance of retaining family, community and cultural ties, or that the child is placed with an Aboriginal family.