
Chapter 12

Beyond the Justice System

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INTRODUCTION

12.1 In this report we have focused on recommending changes to the way the justice system responds to family violence. However, we recognise that broader change is necessary to ensure an effective legal response. In this chapter, we outline the need for a widespread community education campaign about family violence, including a program in secondary schools. This would ideally accompany legislative change and would promote a broader understanding of the nature of family violence and its prevention. We discuss the possibility of establishing a family violence death review committee to learn from failures in the system, and the governance needs of an integrated family violence system.

FAMILY VIOLENCE AND BROADER CULTURAL CHANGE

12.2 Cultural change requires a transformation in the norms, values, attitudes, and beliefs of people, which changes the way they act and behave. It is a gradual process which can be encouraged through changes to the legal system, government policy, education, people speaking publicly, the media, the arts, social marketing,¹⁴⁵⁰ and public education/communication campaigns.

12.3 Cultural change is particularly important in preventing family violence. Researchers, practitioners, and international human rights standards recognise that violence against women is primarily caused by traditional attitudes and stereotyped views of women and their role in society,¹⁴⁵¹ making public and community education a particularly important part of addressing family violence. People and institutions attempting to address family violence are still often working against ingrained attitudes that explicitly or implicitly condone family violence, misunderstand it, or view it as a 'private' issue. When family violence is responded to in an inappropriate manner, by a member either of the legal system or of the community, it is at least partly caused by problematic cultural attitudes, norms, values or beliefs about family violence.

12.4 In Victoria, much cultural change has already occurred. Although the law's response to family violence is arguably slower than the community response, there are

1450 Robert Donovan and Rodney Vlasis, *VicHealth Review of Communication Components of Social/Marketing/Public Education Campaigns Focusing on Violence Against Women* (2005) 4.

1451 *General Assembly Declaration on the Elimination of Violence Against Women*, GA res 48/104, UN Doc A/RES/48/104 (1993) preamble; Committee on the Elimination of All Forms of Discrimination against Women, *General Recommendation 19* (11th session, 1992) UN Doc A/47/38 at 1 (1993); Radhika Coomaraswamy, *Report of the Special Rapporteur on Violence Against Women, Its Causes and Consequences* UN Doc E/CN.4/1996/53 (1996) paras 22, 27.

encouraging signs of change. The most recent examples are the Victoria Police Code of Practice which reflects a new police approach to family violence, and the establishment of a pilot specialist division of the Magistrates' Court. As outlined in the introduction, new government policies addressing family violence, such as *Changing Lives: A New Approach to Family Violence in Victoria*, respond to and are part of changing cultural attitudes to family violence. As the Minister for Women's Affairs, Mary Delahunty has stated: 'To really change the culture of violence in our community there must be a concerted effort across Government and community agencies to address the issues'.¹⁴⁵²

12.5 Along with service sector, social policy and legal system changes designed to improve the response to family violence, public education/communication campaigns are also useful tools. They may aim to change general community attitudes about family violence and, in doing so, change the community's response to it. They may target particular groups already affected by violence, for example, perpetrators, by attempting to challenge their thinking about violence, or making them aware of help that is available for behaviour change. Alternatively, they may target young people for long-term family violence prevention. They may also seek to educate the community about new family violence policies and initiatives.

12.6 The Victorian Government has not implemented such a campaign in Victoria. A public campaign to create broad cultural change is not part of either the Women's Safety Strategy or the recommendations of the Statewide Steering Committee to Reduce Family Violence. This is for two main reasons:

- priority and funding were given to making substantial improvements to the service sector and justice response to family violence;
- the federal government was launching its own Australian-wide community campaign.¹⁴⁵³

The Victorian Government has, however, supported the international public campaign, 'White Ribbon Day'.¹⁴⁵⁴ They have also published a companion publication

1452 Office of Women's Policy, Department of Premier and Cabinet, *Acting on the Women's Safety Strategy* (2002) 3.

1453 See paras 12.9–12.11.

1454 A UN Development Fund for Women international campaign, 'White Ribbon Day' is said to be 'a chance for the community, and particularly men, to speak out against all forms of violence against women'. In Melbourne in 2005, it involved Australian Football League players signing a huge white ribbon in Federation Square, Melbourne. Supporting such campaigns is also part of changing culture and this campaign perhaps illustrated that family violence as an issue is gaining more diverse attention in the community.

to the Women's Safety Strategy, *Women's Safety, Women's Voices*, which outlines the stories of seven women who have experienced violence. The aim of this publication is to 'play an important educative role by increasing community understanding of women's experiences of violence, which are sometimes hidden, even from close friends and family'.¹⁴⁵⁵ VicHealth has also recently published research on social marketing/public education campaigns focusing on violence against women,¹⁴⁵⁶ and will be conducting a survey of Victorian community attitudes to violence.

COMMUNITY CAMPAIGNS IN OTHER STATES AND AUSTRALIA-WIDE

12.7 Two other states have run broad public education campaigns about family violence since 1995. Tasmania's Safe At Home¹⁴⁵⁷ campaign forms part of the Tasmanian Government's response to family violence, which has involved significant change to both the legislative and service responses. Safe At Home involved a ten-week media campaign to coincide with the passing of extensive new family violence legislation through the Tasmanian parliament in December 2004. It included paid television, radio and print commercials, targeted 'secondary material' (eg messages on the back of shopping receipts where women and children can confidentially access information about family violence) and unpaid media advocacy strategies. It aimed to increase awareness of family violence among target audiences; to promote confidence, among victims in particular, that reporting family violence to the police will increase safety; and to communicate the consequences of violent behaviour. The slogan of the campaign is: 'Everyone has the right to be safe at home'.¹⁴⁵⁸

12.8 The Northern Territory Government has run a three-phase campaign from 1995, with the third phase 'Let's stop it...' launched in 2001 and completed in June 2003. The campaign used radio, cinema, television and printed materials to inform people about family violence and 'challenge community attitudes that accept domestic violence as normal'.¹⁴⁵⁹ The 2001–3 campaign aimed to:

1455 Office of Women's Policy, Department of Premier and Cabinet, *Women's Safety, Women's Voices* (2002) 5.

1456 Donovan and Vlasis (2005) above n 1450.

1457 'Safe at Home' is conducted by the Department of Justice, Department of Premier and Cabinet, Department of Policy and Public Safety, and the Department of Health and Human Services. The program as a whole is budgeted at \$17.7 million over four years. The media component was allocated \$175 000.

1458 Donovan and Vlasis (2005) above n 1450, 40–3.

1459 Ibid.

build upon the successes of earlier campaigns by moving beyond increasing awareness to encouraging people who witness, experience or hear domestic violence to take action. It also aimed to increase or reinforce the community's understanding that domestic violence is never justified, and that the offender and not the victim is responsible for the violence.¹⁴⁶⁰

12.9 The federal government's Australia Says No campaign, run in 2004 and 2005, included television commercials, a booklet posted to each Australian household, a poster and brochure. The campaign was aimed at women experiencing violence, 'to increase their understanding that violence is a crime and is not acceptable, is never their fault, and that although seeking help can be and feel difficult, it is the right thing to do and can make a difference'.¹⁴⁶¹ It was also aimed at men in general and those who engage in violence:

to increase their awareness that violence against women is not acceptable and is a crime, women do not deserve violence, men can help to stop other men being violent towards women, that violence does not only include hitting, and they must seek consent for sexual activity.¹⁴⁶²

12.10 This campaign has provoked criticism. It hastily replaced another campaign, No Respect, No Relationship, which was developed over a period of three years at the cost of at least \$3.53 million.¹⁴⁶³ No Respect, No Relationship intended to educate young people about the importance of being shown respect in a relationship, with the aim of producing long term changes in behaviour and attitude.¹⁴⁶⁴ That is, it appeared to aim towards genuine cultural change. It was meant to encourage and reinforce intentions to form non-violent relationships, and to act on warning signs of relationship violence.¹⁴⁶⁵ This is substantially different from the ultimate campaign that was run. As Mandy McKenzie states:

One of the most significant differences between the original campaign and the one that was finally delivered was the removal of references to emotional abuse and controlling or coercive behaviour.¹⁴⁶⁶

1460 Ibid.

1461 Ibid 34.

1462 Ibid.

1463 Mandy McKenzie, 'What Happened to Respect? How a National Violence Prevention Campaign Went Off the Rails' (2005) *No to Violence Journal* 12.

1464 Ibid.

1465 Mandy McKenzie, 'What Happened to Respect? How a National Violence Prevention Campaign Went Off the Rails' (2005) *No to Violence Journal*.

1466 Ibid.

McKenzie even argues that the ‘shelving’ of the No Respect, No Relationship campaign, and replacement with Australia Says No, means that ‘Australia now lags behind other countries in terms of violence prevention’.¹⁴⁶⁷

12.11 Another limitation of the Australia Says No campaign is that it created substantial and sudden increases in demand for local and regional family violence services, which were only funded retrospectively to cope with this demand. Also, the help line given in the campaign was the general Life Line help line, rather than a specialist one, creating problems in referring victims to direct help.

PUBLIC EDUCATION AS A STATE RESPONSIBILITY

12.12 International instruments recognise the need for governments to provide community education that seeks to address family violence, particularly violence against women. The committee in charge of implementing CEDAW has stated that all states parties to the convention should:

Identify [in their reports to the Committee] the nature and extent of attitudes, customs and practices that perpetuate violence against women and the kinds of violence that result ... Effective measures should be taken to overcome these attitudes and practices. States should introduce education and public information programmes to help eliminate prejudices that hinder women’s equality.¹⁴⁶⁸

Similarly, the United Nations Model Strategies and Practical Measures highlight the need for:

Relevant and effective public awareness, public education and school programmes that prevent violence against women by promoting equality, cooperation, mutual respect and shared responsibilities between women and men.¹⁴⁶⁹

12.13 As well as public campaigns conducted through the media, international standards state that governments should also support:

the fundamental role of intermediate institutions, such as primary health-care centres, family-planning centres, existing school health services, mother and baby protection

¹⁴⁶⁷ Ibid 14.

¹⁴⁶⁸ Committee on the Elimination of All Forms of Discrimination against Women, *General Recommendation 19* (11th session, 1992) UN Doc A/47/38 at 1 (1993) para 24(e),(f).

¹⁴⁶⁹ *General Assembly Resolution on Crime Prevention and Criminal Justice Measures to Eliminate Violence Against Women*, GA Res 52/86, UN Doc A/RES/52/86 (1998) Annex: Model Strategies and Practical Measures on the Elimination of Violence Against Women in the Field of Crime Prevention and Criminal Justice, para 14(a).

services, centres for migrant families and so forth in the field of information and education related to abuse.¹⁴⁷⁰

12.14 International standards also comment on the potentially negative role of the media in creating cultural change, through portraying stereotyped views of women and using patterns of presentation that generate violence.¹⁴⁷¹

COMMISSION'S RECOMMENDATIONS

12.15 The commission acknowledges that the state government's funding and priority for family violence policy has the potential to bring about substantial improvements in the community and legal sector response to the needs of victims. However, the commission believes that the government's efforts to address family violence, both in the short and long term, would be substantially improved through the use of a community campaign.

12.16 Such a campaign could coincide with the launch of new family violence legislation in Victoria. This would follow the Tasmanian model of integrating a public campaign about family violence with the launch of new government initiatives and legal reform.

12.17 If the government were to fund such a campaign, the commission recommends it should include:

- a broader recognition of family violence, including non-physical family violence, such as emotional abuse and coercive and controlling behaviour;
- the recommendations of this report to incorporate a broader definition of family violence in the legislation, implying a significant change in the legal response to family violence in Victoria.
- attempts at long-term prevention and behaviour change.

The commission also recommends that such a campaign:

- takes account of national and international evidence about potential pitfalls to avoid in campaigns focusing on violence against women;

1470 United Nations, *Report of the Fourth World Conference on Women*, UN Doc A/CONF.177/20 (1995) Annex: Beijing Platform for Action, para 125(j).

1471 Ibid; *General Assembly Resolution on Crime Prevention and Criminal Justice Measures to Eliminate Violence Against Women*, GA Res 52/86, UN Doc A/RES/52/86 (1998) Annex: Model Strategies and Practical Measures on the Elimination of Violence Against Women in the Field of Crime Prevention and Criminal Justice, para 15.

- accompanies appropriate financial and other support to the agencies that would be affected in the short and long term by such a campaign. This support should be in place by the time the campaign begins.

12.18 The commission also believes that long-term prevention of family violence could be facilitated through education in Victorian schools about respect in family relationships, as recommended by international human rights standards.

! RECOMMENDATIONS

148. The Victorian Government should research, fund and implement a community campaign about family violence with the aim of bringing about changes in community attitudes about family violence and respect in family relationships. It might also include education about changes in the legal and service system responses to family violence and prevention of family violence. Such a campaign would ideally be launched in conjunction with the launch of the new Family Violence Act.

149. A community campaign should include a broad recognition of the nature of family violence, including emotional abuse and coercive and controlling behaviour.

150. A community campaign should be based on:

- well-founded research and testing on target groups to ensure its overall effectiveness, including the recent and continuing research of VicHealth;
- the principles expressed by the commission regarding addressing family violence.

151. A community campaign should be accompanied by financial and other support to the relevant agencies which would be affected by such a campaign before the campaign is launched.

152. The Victorian Government should consider introducing a statewide and consistent education program for Victorian secondary schools on respect in relationships.

CULTURAL CHANGE AND MEMBERS OF THE LEGAL SYSTEM

12.19 We make these recommendations in the context of recommending, throughout this report, education initiatives for members of the justice system including police, magistrates and registrars.¹⁴⁷² These include:

- specialised training for registrars who come into contact with family violence matters;
- a specialist list of magistrates who hear all family violence matters, and training on family violence issues for all those who sit on this specialist list;
- better police training on the dynamics of family violence, particularly from a victim's perspective;
- better police training on cultural awareness and the barriers experienced by particular groups to the justice system in the context of family violence.

SYSTEM FAILURE LESSONS: DEATH REVIEW COMMITTEES

12.20 In many jurisdictions of the USA, Canada and the United Kingdom, family violence death review committees have been established over the past ten years.¹⁴⁷³ Although these committees vary in their mandates, scope and features, their aim is generally to develop recommendations for change to ensure a reduction in family violence and homicide.¹⁴⁷⁴ The committees do not look at who is criminally responsible for each death, but focus on how to improve the responses of agencies, policies and protocols, given the circumstances of the death.¹⁴⁷⁵

12.21 Committees are usually made up of professionals such as law enforcement officials, doctors, shelter workers, family violence victim advocates, coroners and

1472 See Chapter 5 and Chapter 6.

1473 Metropolitan Police [Great Britain], *Findings from the Multi-Agency Domestic Murder Reviews in London: Prepared for the ACPO Homicide Working Group* (2003); Neil Websdale, Maureen Sheeran, and Byron Johnson, *Reviewing Domestic Violence Fatalities: Summarizing National Developments* (2004) <www.vaw.umn.edu/documents/fatality/fatality.html> at 19 December 2005; Domestic Violence Death Review Committee [Ontario], *Annual Report to the Chief Coroner: Case Reviews of Domestic Violence Deaths, 2002* (2002).

1474 Santa Clara County Domestic Violence Council, *Death Review Committee Final Report: January 1–December 31, 2003: Speak—Save Lives* (2003) 4; *The Penal Code of California* pt 2 tit 7 ch 4 § 11163.3 (2004); Domestic Violence Death Review Committee (2002) above n 1473, 45.

1475 See, eg the *Coroners Act* of Ontario that prohibits the finding of legal responsibility for a death: *Coroners Act*, RSO 1990, c 37, s 31(2).

criminologists.¹⁴⁷⁶ Committees generally do not commence their work until after any criminal proceeding is complete.¹⁴⁷⁷ Some committees are required to only consider homicides where the victim and perpetrator are in an intimate partnership,¹⁴⁷⁸ whereas others also examine any relationship where the parties were related or from the same household.¹⁴⁷⁹ The practical operation of death review committees also varies. For example, the Philadelphia Project reviews hundreds of cases, spending about 30 minutes per review,¹⁴⁸⁰ while the Washington State Domestic Violence Fatality Review spends a significant amount of time collecting information regarding the death and several hours discussing each case.¹⁴⁸¹

12.22 Recommendations made by family violence death review committees operating in other jurisdictions have included matters such as the need for broader community education about family violence, for education of key professionals who come into contact with victims and for greater police accountability and supervision.¹⁴⁸² These sorts of findings have led some to comment that such committees may be an expensive way of eliciting findings that already exist in a significant body of other research.¹⁴⁸³ Community sector participation in reviews may therefore be seen as a diversion from core work by some service providers.¹⁴⁸⁴

12.23 In Australia, homicides that occur in the context of family violence are relatively common. Almost two in five homicides occur between family members, with around 60% of these involving intimate partners.¹⁴⁸⁵ Three-quarters of homicides

1476 *The Penal Code of California* pt 2 tit 7 ch 4 s 11163.3 (2004); Domestic Violence Death Review Committee (2002) above n 1473, 46.

1477 See, eg: Sacramento County Domestic Violence Death Review Team, *Annual Report December 2003: Presented to: Sacramento County Board of Supervisors & Sacramento County Domestic Violence Coordinating Council* ([2003]) 15; Domestic Violence Death Review Committee (2002) above n 1473, 6.

1478 Santa Clara County Domestic Violence Council (2003) above n 1474, 4; Domestic Violence Death Review Committee (2002) above n 1473, 45.

1479 See, eg *Domestic Violence, Crime and Victims Act 2004* (UK) c 28, s 9(1).

1480 Websdale, Sheeran and Johnson (2004) above n 1473.

1481 Margaret Hobart, 'Tell the World What Happened to me'. *Findings and Recommendations from the Washington State Domestic Violence Fatality Review* (2002) 86.

1482 Metropolitan Police (2003) above n 1473, 30–1; Santa Clara County Domestic Violence Council, above n 1474, 16; Domestic Violence Death Review Committee (2002) above n 1473, 31.

1483 United Kingdom, *Parliamentary Debates*, House of Commons Standing Committee E, 24 June 2004 afternoon, 134 (Sandra Gidley).

1484 *Ibid.*

1485 Jenny Mouzos and Catherine Rushforth, 'Family Homicide in Australia' (Paper presented at the Eighth Australian Institute of Family Studies Conference, Melbourne, 12–14 February 2003) 1–2.

between intimate partners involve men killing their female partners.¹⁴⁸⁶ It has been suggested that intimate partner homicide is at the extreme end of a continuum of domestic violence¹⁴⁸⁷ and that these homicides cannot be separated from family violence.¹⁴⁸⁸ In this context, a family violence death review committee can be seen as a possible systemic response to such deaths.

12.24 The commission believes that a family violence death review committee may be an important way for the whole system to learn from mistakes and failings. This could be particularly the case in an ‘integrated system’, where a family violence death could reveal systemic failings. Given the various models used in other jurisdictions, the commission recommends that the possibility of establishing a death review committee in Victoria be explored further by the Statewide Steering Committee to Reduce Family Violence, in consultation with the State Coroner.

! RECOMMENDATION

153. In consultation with the State Coroner, the Statewide Steering Committee to Reduce Family Violence should investigate and make recommendations to the government regarding the creation of a family violence death review committee in Victoria.

GOVERNANCE AND AN INTEGRATED FAMILY VIOLENCE SYSTEM

12.25 Broad cultural change is also effected through leadership and policy development. The framework for policy implementation to guide the work of the many government departments in addressing violence against women is detailed in the Women’s Safety Strategy 2002. Responsibility for planning and implementation of the initiatives lies with many individual departments¹⁴⁸⁹ and leadership for the framework is provided by the Annual Meeting of Ministers on Women’s Safety and three key steering committees which provide advice on implementation.¹⁴⁹⁰ The purpose of these

1486 Ibid 2.

1487 Ibid 6.

1488 Metropolitan Police (2003) above n 1473, 16.

1489 There are 11 ministers and their respective departments: Office of Women’s Policy (2002) above n 1452.

1490 These committees are the Statewide Steering Committee to Reduce Family Violence; the Statewide Steering Committee to Reduce Sexual Assault and Non-relationship Violence; and the Statewide Steering

committees is to provide high level consultation and co-ordination across government departments, between government departments and between government and non-government sectors. The three committees all report to the Chief Commissioner of Police.¹⁴⁹¹

12.26 Comprehensive policy directions which define the aims of each committee are grouped under four key themes of protection and justice; options for women; education and violence prevention; community action and co-ordination. In 2005 the Statewide Steering Committee to Reduce Family Violence published its report in response to the outcomes detailed in the Women's Safety Strategy. The specific task for this committee is to provide advice on the development of a multi-agency and integrated response to family violence.¹⁴⁹²

12.27 The complexity of the task in achieving change and reform to create an integrated system for dealing with family violence is compounded by the multiplicity and complexity of the many key partners, participating services and support agencies involved.¹⁴⁹³ The Statewide Steering Committee has proposed that the responsibility for the implementation, monitoring and evaluation of an integrated system be placed within a single government agency or department and has said that this department must have influence and authority to ensure that all services adhere to their responsibilities.¹⁴⁹⁴

Committee to Reduce Violence Against Women in the Workplace. All committees have representatives from government and non-government organisations.

1491 Office of Women's Policy (2002) above n 1452.

1492 Statewide Steering Committee to Reduce Family Violence, *Reforming the Family Violence System in Victoria: Report of the Statewide Steering Committee to Reduce Family Violence* (2005) 5.

1493 Key partners include: Victoria Police, Magistrates' Courts, the Family Violence Division of the Magistrates' Court and the Family Violence Court Intervention Project; family violence support and crisis accommodation services; generalist and community services offering family violence crisis services; men's behaviour change programs; Men's Referral Service; community legal centres; child protection services; Indigenous and culturally and linguistically diverse support services; women and children's support programs. Additional participating services who will work closely with the partner agencies include: family violence networkers, homeless and children's networkers; victim's services; family services; hospital emergency departments and community health services; Indigenous family violence regional action groups; regional Aboriginal Justice Advisory Committees; and Corrections Victoria: *ibid* 33.

1494 *Ibid* 45.

12.28 Minister Candy Broad has been appointed the coordinating minister of the five ministers who are working together on the whole-of-government approach to family violence.¹⁴⁹⁵

12.29 Similar issues were identified in Tasmania when the Family Violence Act introduced sweeping changes into the law which significantly impacted on the level of service required from police, courts, corrective services, prosecution agencies and victim support services, as well as requiring the development of new services to support the legislative requirements. The policy framework for the new approach proposed that an interagency steering committee be convened under the auspices of the Department of Justice and Industrial Relations.¹⁴⁹⁶ This department has broad powers to identify gaps or problems in the emerging system and is able to require other government departments to address issues. The department is able to make alterations to the budgets of other departments to ensure the system operates effectively. This structure has at its peak the Cabinet Social Policy Sub-Committee with membership from Attorney-General's, Justice, Health, Police and Education Departments.¹⁴⁹⁷

12.30 An integrated family violence system will pose many challenges in achieving necessary cultural change, in prioritising and phasing in its program elements and in achieving sufficient flexibility to enable the system to be developed. Placing the responsibility and authority for its implementation and monitoring within a single department will be essential in achieving this goal.

1495 Department for Victorian Communities, *Changing Lives: A New Approach to Family Violence in Victoria* (2005). As of November 2005, the ministers were: the Attorney-General, Rob Hulls; the Minister for Women's Affairs, Mary Delahunty; the Minister for Police and Emergency Services, Tim Holding; and the Minister for Community Services and Children, Sherryl Garbutt.

1496 Tasmania Department of Justice and Industrial Relations, *Safe at Home: A Criminal Justice Framework for Responding to Family Violence in Tasmania*, Options Paper (2003) 46.

1497 Interview with Elizabeth Little, Principal Consultant, Department of Justice [Tasmania], 30 May 2005.