

# Chapter 4:

“All I want is a life free from violence”<sup>1</sup> – the impact of family and domestic violence on children



A selection of photos from roundtables and consultations about the impact of family and domestic violence on children

# Chapter 4: “All I want is a life free from violence”<sup>1</sup> – the impact of family and domestic violence on children

- 4.1 Introduction **99**
  - 4.1.1 Terminology: Family and domestic violence **99**
  - 4.1.2 Current measures to address family and domestic violence **100**
- 4.2 What did we know about children and family and domestic violence before starting this examination? **102**
  - 4.2.1 Aboriginal and Torres Strait Islander children **103**
  - 4.2.2 Other vulnerable groups of children **104**
  - 4.2.3 Children as homicide victims of family and domestic violence **104**
  - 4.2.4 Intersection between family and domestic violence and the family law system **105**
- 4.3 Why is family and domestic violence a child rights issue? **105**
- 4.4 National examination into the impact of family and domestic violence on children **107**
  - 4.4.1 Written submissions **107**
  - 4.4.2 Roundtables, individual consultations and the 1800RESPECT webinar **108**
  - 4.4.3 Custom data requests from the Australian Bureau of Statistics (ABS) **108**
  - 4.4.4 Research summaries provided by the National Centre for Longitudinal Data **110**
  - 4.4.5 Accessing children’s experiences through BoysTown and Kids Helpline **110**
- 4.5 What did we find out about children’s experiences of family and domestic violence? **114**
  - 4.5.1 Definitional challenges in relation to children affected by family and domestic violence and how this impacts on the data that is collected about them **114**
  - 4.5.2 How do children experience family and domestic violence? **121**
  - 4.5.3 What is the impact of family and domestic violence on children? **124**
  - 4.5.4 What services, programs and supports currently exist for children experiencing family and domestic violence? **132**
  - 4.5.5 What are the current public policy approaches and educational campaigns targeting children’s experiences of family and domestic violence? **139**
  - 4.5.6 Children affected by family and domestic violence who are involved with the family law system **144**
- 4.6 Key issues arising out of my examination **151**
  - 4.6.1 National and disaggregated data about children affected by family and domestic violence is not readily available **151**
  - 4.6.2 The need for early intervention **153**
  - 4.6.3 Aboriginal and Torres Strait Islander children are over represented **157**
  - 4.6.4 Sibling violence **160**
  - 4.6.5 Female children aged 15 to 17 years subjected to physical assault and sexual assault by their partners **161**
- 4.7 Conclusion **164**
- 4.8 Acknowledgments **165**
- 4.9 Recommendations **166**

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## 4.1 Introduction

Family and domestic violence is causing significant damage in Australia.

It is widespread and destroying lives and families. While women are predominately the victims of violence within the family context,<sup>2</sup> many of these women have children. It is also the case that children can be victims of violence within the family. Its effect has consequences in the immediate term and cumulatively over many years and through the generations.

In early 2015, I chose to focus this year's Children's Rights Report on **how children aged 0 to 17 years are affected by family and domestic violence**. Children who live in homes characterised by violence are often the silent, forgotten, unintended, invisible victims.<sup>3</sup>

Children directly raised with me **the importance of living free from all forms of violence** during my listening tour in 2013. My statutory report in 2013 identified the protection of children from violence as a priority issue for my term as National Children's Commissioner.<sup>4</sup>

The impact of family and domestic violence was again raised with me in 2014 in my examination of intentional self-harm, with or without suicidal intent, among children aged 0 to 17 years.

For example, in one jurisdiction, a police representative at a roundtable stated that 'every child who suicided in the last 12 months came from a domestic violence family'.<sup>5</sup>

In June 2014, the Australian Crime Commission concluded its eight year investigation of abuse in Aboriginal and Torres Strait Islander communities and similarly reported that 'there are clear links between suicide and self-harm and domestic violence'.<sup>6</sup>

My statutory report in 2014 identified the **intersection of intentional self-harm and family and domestic violence** as a research priority.<sup>7</sup>

Over the last two years the impact of family and domestic violence on women and their children has increasingly been the subject of media attention and policy initiatives.

Through this research, I am seeking to ensure that the voices and needs of children are an explicit focus in the important national conversation currently underway. Children's experiences of violence must be central to all measures that we take to prevent violence and to deal with the consequences where it has occurred.

### 4.1.1 Terminology: Family and domestic violence

I use the term 'family and domestic violence' throughout my report.

The use of the term 'family and domestic violence' is more inclusive of all those who are affected by it, including children.

The Australian Bureau of Statistics (ABS) also uses the term 'family and domestic violence' because it:

reflect[s] the mixed use of the terms 'Family Violence' and 'Domestic Violence' and is a combination of the various contextual elements implicit in these individual terms, including relationships, location of offences, and/or domestic arrangements.<sup>8</sup>

I acknowledge, however, that in Aboriginal and Torres Strait Islander communities the term 'family violence' is more commonly used. This reflects the lateral nature of violence in many of these communities.

Consistent with the ABS, I use the term ‘family and domestic violence’ to describe: physical violence, sexual abuse, emotional abuse, verbal abuse and intimidation, economic and social deprivation, damage of personal property, and abuse of power which can occur within spouse and de-facto relationships, ex-spouse and ex-de-facto relationships, cultural and kinship relationships, parent-child relationships, sibling relationships, and foster and guardian relationships.<sup>9</sup>

### 4.1.2 Current measures to address family and domestic violence

There are two significant national policy measures in Australia to protect children and reduce violence: the **National Framework for Protecting Australia’s Children 2009–2020** (the National Framework) and the **National Plan to Reduce Violence against Women and their Children 2010–2022** (the National Plan).

The gendered nature of family and domestic violence is recognised in the National Framework and the National Plan. Both also identify family and domestic violence as a major risk factor associated with child abuse and neglect<sup>10</sup> and commit to reducing family and domestic violence and its impact on children.<sup>11</sup>

The **National Framework** is Australia’s long-term plan to promote and enhance the safety and wellbeing of Australia’s children. It is being implemented through a series of three year Action Plans.

The Third Action Plan is due to be released in late 2015. Three overarching strategies and two cross-cutting focus areas form the basis of the Third Action Plan. Strategy 1: Early Intervention with a focus on the early years, particularly the first 1000 days for a child includes specific reference to family and domestic violence as does the cross-cutting focus area, Aboriginal and Torres Strait Islander Children and Families.

Progress under the Third Action Plan will be monitored through a governance arrangement comprising state, territory and federal governments and the non-government sector, as well as annual reports.

The **National Plan** is being implemented through four successive three-year Action Plans up to 2022.<sup>12</sup> It specifically identifies reducing the proportion of children exposed to their mothers’ or carers’ experiences of domestic violence as a national priority.<sup>13</sup>

### National Plan to Reduce Violence against Women and their Children 2010–2022



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As National Children's Commissioner, I have welcomed these important initiatives and have personally participated in the development of the Action Plans attached to each of them.

The then Prime Minister, the Hon Tony Abbott MP, launched the Second Action Plan of the National Plan to Reduce Violence against Women and their Children in June 2014. New initiatives in the Second Action Plan included:<sup>14</sup>

- \$3.3 million for CrimTrac to **develop and test a prototype for a National Domestic Violence Order (DVO) Scheme**, to strengthen the identification and enforcement of DVOs across state and territory borders.
- \$1.7 million to take the next steps in **developing a national data collection and reporting framework** by building a more consistent basis from which to gather, analyse and use data on all aspects of violence against women and their children. This includes \$300,000 for the Australian Bureau of Statistics to augment data sets on victims and offenders.
- More than \$1 million for 1800RESPECT, Australia's first national professional telephone and online counselling service for people experiencing the effects of sexual assault, domestic or family violence, to expand its service. The **new funding for 1800RESPECT** is in addition to government investment of \$28 million over the next four years to support existing services.

Other work is also underway. For example:

- On 26 June 2014, **the issue of domestic violence in Australia was referred by the Australian Government to the Senate Finance and Public Administration References Committee** for inquiry and report. The Senate Committee's final report was released on 20 August 2015.
- In January 2015, retiring Victoria Police Chief Commissioner Ken Ley and 2015 Australian of the Year, Rosie Batty were appointed as founding members of an **advisory panel** to guide the Council of Australian Governments (COAG) in its work to address family and domestic violence.
- On 28 February 2015, the report and recommendations of **'Not Now, Not Ever' – Putting an End to Domestic and Family Violence in Queensland** was released. Dame Quentin Bryce led the investigative taskforce, which examined how soaring rates of domestic violence in Queensland should be tackled. Queensland Premier Anastacia Palaszczuk announced that the Queensland Government will implement all 140 recommendations made in the report. In September 2015, Premier Palaszczuk announced that Dame Quentin Bryce would lead the committee implementing the recommendations.
- The **Victorian Royal Commission into Family Violence** was announced in February 2015 and is due to report by 29 February 2016.
- On 10 August 2015, the **NSW Government announced a review of the sentencing of domestic violence offenders**. The NSW Sentencing Council will analyse the sentences handed down for domestic violence offences and compare them to other states. It will also examine whether domestic violence offenders are more likely to re-offend than people convicted of other types of assault. The NSW Sentencing Council will report back to the NSW Government by the end of 2015.

In April 2015, **COAG agreed to a national, cooperative effort to reduce family violence** and identified it as an issue of major public concern impacting on communities across Australia.<sup>15</sup> By the end of 2015, COAG has committed to:

- Agreeing on a national domestic violence order (DVO) scheme, where DVOs will be automatically recognised and enforceable in any state or territory of Australia.
- Reporting on the progress made on the development of a national information system that will enable courts and police in different states and territories to share information on active DVOs. New South Wales, Queensland and Tasmania will trial the system.
- Considering national standards to ensure perpetrators of violence against women are held to account at the same standard across Australia, for implementation in 2016.
- Considering strategies to tackle the increased use of technology to facilitate abuse against women, and to ensure women have adequate legal protections against this form of abuse.
- Jointly contributing \$30 million for a national campaign to reduce violence against women and their children and potentially for the associated increase of services to support women seeking assistance. The campaign aims to be based on research, with a focus on high-risk groups, including Aboriginal and Torres Strait Islander women.

At the **Sixth Education Council Meeting** in September 2015 the request from COAG regarding initiatives to help reduce violence against women and children was discussed.

Recognising the importance of this issue and the role that education can play in influencing the attitudes of young people to violence, Ministers requested that officials provide advice on linking learning areas of the Australian Curriculum to anti-violence programs, and the delivery of such programs to students at key stages of their schooling and development. Ministers will provide an update to COAG on this matter later in 2015.<sup>16</sup>

Clearly there is significant work being undertaken in the area of family and domestic violence in Australia. **My contribution lies in making the unique experiences and needs of children a critical focus.**

## 4.2 What did we know about children and family and domestic violence before starting this examination?

The impact of family and domestic violence on children generally has been identified as an emerging issue in research.<sup>17</sup>

The 2012 Personal Safety Survey (PSS) by the ABS estimates that 17% of women and 5% of men in Australia over 15 years of age have experienced violence by a partner.<sup>18</sup> **The 2012 PSS reveals that much of the partner violence reported by women and men is seen or heard by children in their care.**<sup>19</sup>

The 2006 World Report on Violence against Children for the United Nations Secretary-General found that violence against women in the home is often linked with violence against children.<sup>20</sup>

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Children are witnesses, bystanders and direct victims of violence in the home. The physical and emotional injuries children sustain are both immediate and far-reaching, and **the experience of children witnessing or being exposed to family and domestic violence has been increasingly recognised as a form of child abuse.**<sup>21</sup>

**Children living with family and domestic violence are also at an increased risk of experiencing emotional, physical and sexual abuse.**<sup>22</sup> In Australia there is no national data on the proportion of child protection notifications that relate to family and domestic violence.<sup>23</sup> It is estimated, however, that family and domestic violence is present in 55% of physical abuses and 40% of sexual abuses against children.<sup>24</sup>

During 2013–14, 40,844 children were the subjects of substantiated child protection notifications in Australia, with 40% for emotional abuse, 19% for physical abuse and 14% for sexual abuse.<sup>25</sup>

Data made available by the Tasmanian Government has indicated that from July 2014 to March 2015, 1,036 children were present at family violence incidents where there was police intervention. For the same period, Tasmanian Police responded to 1,929 family violence incidents.<sup>26</sup>

The ABS Crime Victimization publication (2013–14) shows that significant numbers of children and young people are victims of physical assault. For example, young people aged 15 to 19 years experienced the third highest physical assault victimisation rate (3%), after persons aged 20 to 24 years (4%) and persons aged 25 to 29 years (3.7%).<sup>27</sup> Data from the year earlier (2012–13) showed that children and young people aged 15 to 19 years experienced the highest physical assault victimisation rate (5.1%).<sup>28</sup>

The Western Australian Police: Office of Assistant Commissioner Judicial Services has reported that a 2014 study of 100 Aboriginal children in custody showed that 81 of these children had experienced family violence and half of these children had either been witness to or a victim of child abuse/sexual offences.<sup>29</sup>

Homelessness is a common experience of children affected by family violence. Data from the Australian Institute of Health and Welfare shows that of the 254,001 clients who were assisted by specialist homelessness services in 2013–14, 59% were female, and more than a quarter (just under 70,000) were children. 16% were under ten years of age. 24% of these clients reported family and domestic violence as the main reason for seeking assistance.<sup>30</sup>

#### **4.2.1 Aboriginal and Torres Strait Islander children**

Family and domestic violence disproportionately affects Aboriginal and Torres Strait Islander children. As far back as 2002, *Putting the Picture Together*, also known as the ‘Gordon Report’ stated that:

The true prevalence of Aboriginal family violence is unknown. What is known is that the violence is endemic and presents an extremely troubling picture of the situation in many Aboriginal communities.<sup>31</sup>

Thirteen years later, the problem remains. Nationally, in 2012–13, Aboriginal and Torres Strait Islander women were 34.2 times more likely and men 28.3 times more likely to be hospitalised for non-fatal family violence-related assaults than non-Indigenous females and males.<sup>32</sup>

In 2012–13, family and domestic violence was the second most common main reason both Aboriginal and Torres Strait Islander and non-Indigenous people sought Specialist Homelessness Services (24.0% and 22.4% respectively), after accommodation difficulties (30.6% and 30.1% respectively).<sup>33</sup> The proportion where family and domestic violence was the main reason for seeking assistance increased as remoteness increased.<sup>34</sup>



Aboriginal and Torres Strait Islander children aged 0 to 17 years accompanying clients of Specialist Homelessness Services who were escaping family and domestic violence attended a Specialist Homelessness Services agency at a rate of 443 per 10,000 population, more than 30 times the rate for non-Indigenous children (14 per 10,000 population).<sup>35</sup>

In 2012–13, the rate of female Aboriginal and Torres Strait Islander clients of Specialist Homelessness Services aged 10 years and over escaping family violence (359 clients per 10,000 population) was 10 times the rate for female non-Indigenous clients (34 clients per 10,000 population).<sup>36</sup>

In 2013–14, Aboriginal and Torres Strait Islander children were seven times as likely as non-Indigenous children and young people to be receiving child protection services (136.6 per 1,000 children compared with 19.0 per 1,000 for non-Indigenous children).<sup>37</sup>

## 4.2.2 Other vulnerable groups of children

Other groups of children, such as those from culturally and linguistically diverse backgrounds, children with disability, children who are lesbian, gay, bisexual, transgender and intersex, and children living in rural and remote areas of Australia may also be disproportionately represented. However, data sets for these children are either not collected or not publically available. As pointed out by the Australian Institute of Family Studies:

‘Lack of knowledge about the specific circumstances of these groups is particularly striking’.<sup>38</sup>

## 4.2.3 Children as homicide victims of family and domestic violence

The Australian Institute of Criminology (AIC) released a report earlier this year on characteristics of family and domestic homicides for the 10-year period 2002–2012.

Its data showed that **children comprised the second most frequent group of victims of family and domestic homicides** (21%) after intimate partner homicides (56%).<sup>39</sup>

Of the 238 filicide cases (homicides where the victim is the child of the offender), 229 of these were children under 18 (96%).

51% of all filicide cases were attributed to children aged between 1 to 9 years, 32% for children under the age of one; 11% for children aged 10 to 14 years; and 2% for children aged 15 to 17 years.

In all age categories for children under 18 (under 1, 1-9, 10-14, 15-17) filicide was the most common form of family and domestic homicide, except for 15 to 17 year olds where intimate partner homicide was more common.<sup>40</sup>

Victims of filicide were slightly more likely to be male (56%) than female (44%).<sup>41</sup>

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The report also found that while males accounted for the majority of offenders in domestic/family homicides, in cases of filicides, offenders were slightly more likely to be female (52%) than male (48%).<sup>42</sup> Relatively little is known about the precipitating factors behind filicide for the different genders.

In addition to this, the report shows that 85% of the 27 intimate partner homicides which involved multiple victims, also involved the death of one or more children. Of the 17 filicide incidents that involved one child and multiple offenders, in all but one of the cases both offenders were the parents of the child involved.<sup>43</sup>

The AIC report provides valuable information in terms of building an accurate picture about children under 18 years experiencing family and domestic violence which can be used to guide policy development and service provision.

Further disaggregation of this data is highly desirable. For example, Aboriginal and Torres Strait Islander status, cultural background, disability, and geographical location.

#### **4.2.4 Intersection between family and domestic violence and the family law system**

Through representations made to me personally, media reporting and academic research papers, I was also aware of the interface between **family and domestic violence and the family law system**. The post-separation period, including children's contact arrangements, were identified as periods of time where there was heightened risk of family and domestic violence.

### **4.3 Why is family and domestic violence a child rights issue?**

Children's exposure to family and domestic violence has clearly been identified as a human rights issue.<sup>44</sup>

The United Nations Committee on the Rights of the Child (UN Committee) last reported on Australia's implementation of children's rights in 2012. At this time, **the UN Committee expressed grave concern at Australian children's exposure to family and domestic violence, the high levels of violence against women and children, and the particular situation of Aboriginal and Torres Strait Islander women and children.**<sup>45</sup>

Australia has taken on obligations under the United Nations Convention on the Rights of the Child (CRC) to prevent family and domestic violence as follows:

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**Article 6(2)** States Parties shall ensure to the maximum extent possible the survival and development of the child.

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**Article 19** States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

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**Article 23(1)** States Parties recognise that a mentally or physically disabled child should enjoy a full and decent life, in conditions, which ensure dignity, promote self-reliance and facilitate the child’s active participation in the community.

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**Article 24(1)** States Parties recognise the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

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**Article 27(1)** State Parties recognise the right of every child to a standard of living adequate for the child’s physical, mental, spiritual, moral and social development.

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**Article 39** States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment, which fosters the health, self-respect and dignity of the child.

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The CRC requires Australia to use a child rights-based approach to address family and domestic violence<sup>46</sup> so that:

- vulnerable and marginalised groups of children are protected
- the best interests of children are prioritised
- the views of children are respected, and
- measures consider the impact of family and domestic violence in terms of children's development.<sup>47</sup>

The UN Committee calls for comprehensive and integrated protective measures to address family and domestic violence, including measures for prevention, identification, reporting, referral, investigation, treatment, follow-up, judicial involvement and effective procedures to make sure there is enforcement, quality, relevance, accessibility, impact and efficiency.<sup>48</sup>

It also requires educational measures, which consistently promote positive, non-violent relationships to parents, carers, teachers and all others who work with children and families.<sup>49</sup>

## 4.4 National examination into the impact of family and domestic violence on children

During 2015 I conducted a national examination into the impact of family and domestic violence on children. This included a literature review, written submissions, roundtables, a webinar, data analysis, and engagement with children and young people through supported processes.

### Consultation overview

- 62 written submissions were received from individuals, government, private, and non-government organisations (see Appendix 5).
- Eight roundtables were held with 147 people invited (see Appendix 6).
- One webinar was hosted by 1800RESPECT with 153 participants.
- Seven individual consultations were held (see Appendix 7).

### 4.4.1 Written submissions

I asked for written submissions from individual experts, government, private and non-government organisations on key issues.

When hearing about my examination, a number of organisations and individuals approached me about making submissions. These were all accepted.

I used the results from the 2013 work undertaken by ABS, which aligned and distilled over 100 research and policy questions about family and domestic violence, as a foundation to identify **key areas of interest relating to how children are affected by family and domestic violence**.<sup>50</sup>

ABS completed this work as an initiative under the National Plan. I used it to guide the nature of submissions, and discussions at my roundtables and the webinar. **These key areas of interest** were:

- What are the definitional issues in relation to family and domestic violence affecting children?
- What do we know about the prevalence and incidence of family and domestic violence affecting children, including who is involved in family and domestic violence events?
- What are the impacts on children of family and domestic violence?
- What are the outcomes for children engaging with services, programs and support?
- What are the outcomes for children of public policy approaches and educational campaigns targeting family and domestic violence?
- What are the surveillance and data gaps/needs in relation to children affected by family and domestic violence?

I received 62 written submissions, which are listed in Appendix 5. The submissions can be viewed online at <https://www.humanrights.gov.au/publications/childrens-rights-report-2015>.

#### **4.4.2 Roundtables, individual consultations and the 1800RESPECT webinar**

During 2015 eight **roundtables** were held with experts in family and domestic violence and child development in all capital cities across Australia.

The Perth roundtable focused specifically on Aboriginal and Torres Strait Islander children. The Aboriginal and Torres Strait Islander Social Justice Commissioner, Mr Mick Gooda, co-chaired this roundtable.

In order to stimulate discussion, up to two experts presented at each roundtable. Appendix 6 includes a list of the expert presenters and participants who attended the national roundtables.

Seven consultations with **individuals**, including with 2015 Australian of the Year, Rosie Batty, were held. These are included in Appendix 7.

Ms Kristy McKellar provided a personal submission and met with me. Ms McKellar courageously shared her personal experience of family and domestic violence including how it impacted on her daughter.

An **interactive webinar hosted by 1800RESPECT** was also conducted. 1800RESPECT hosts free, informative webinars for workers and professionals covering key issues on responding to sexual assault, domestic and family violence.

The webinar provided the unique opportunity for 153 workers and professionals to participate in my national consultation.

#### **4.4.3 Custom data requests from the Australian Bureau of Statistics (ABS)**

**Appendix 8 presents the custom data based on the ABS Recorded Crime – Victims publication**

This appendix presents data about children aged 0 to 17 years who were victims of physical assault and sexual assault offences at a residential location that came to the attention of and were recorded by police during the four year period between 2010 and 2013.

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There are some important caveats to note about this data.

The custom data about police recorded child victims of physical assault and sexual assault based on the ABS Recorded Crime – Victims publication does not include aggregated national data about child victims of physical assault and sexual assault due to some jurisdictions not complying with the National Crime Recording Standard (NCRS)<sup>51</sup> and/or the data quality requirements for national reporting of Aboriginal and Torres Strait Islander status.

As a result, police recorded assault data about child victims was provided to me only for those jurisdictions that are deemed to be in compliance with the national crime recording standard. This currently includes New South Wales, Western Australia, South Australia, and the Australian Capital Territory.

The relationship of offender to child victim data is not available for Western Australia, so it is not possible to provide Western Australian physical assault and sexual assault data broken down by family member offender.

Aboriginal and Torres Strait Islander status data based on the ABS Recorded Crime – Victims publication could not be provided about child victims of physical assault in the Australian Capital Territory or child victims of sexual assault in Victoria, South Australia, Tasmania, the Northern Territory or the Australian Capital Territory.

The ABS recommends refraining from describing this data using the language of family and domestic violence. Whilst disaggregating this data by relationship to offender and location can provide a proxy measure for family and domestic violence incidents, not all occurrences of family and domestic violence are necessarily being represented or captured in this data.

Descriptions of this data should be framed in terms of child victims of physical assault and sexual assault by a family member in a home location, rather than child victims of family and domestic violence.

I note that the ABS is currently working with police jurisdictions to develop and incorporate a family and domestic violence indicator into its recorded crime collections, which will make it possible to more clearly identify all incidents of violence that occur in a family and domestic context.<sup>52</sup>

### **Appendix 9 presents the custom data based on the ABS 2012 Personal Safety Survey**

This appendix presents prevalence estimates about children's experience of physical abuse and sexual abuse before the age of 15 in Australia. The estimates in this appendix are based on survey data collected between February and December 2012 from Australian men and women aged 18 years and over who responded to survey questions about their experience of physical abuse and sexual abuse before the age of 15.<sup>53</sup>

Much of this data has not been published before and provides valuable insights.

I also attempted to obtain custom data about children aged 15 to 17 years based on the ABS Crime Victimization Survey. The ABS advised me that the data set was not robust enough for output when broken down by relationship to family perpetrator and location and so was not provided to me. This is a clear opportunity for data improvement which could generate information about children experiencing violence.

#### 4.4.4 Research summaries provided by the National Centre for Longitudinal Data

Both *Growing Up in Australia: The Longitudinal Study of Australian Children* (LSAC) and *Footprints in Time: The Longitudinal Study of Indigenous Children* (LSIC) include items (over the waves of each study) that relate to family and domestic violence.

Information captured by LSAC and LSIC about children’s experiences of violence in the home was not made available to me.

The National Centre for Longitudinal Data provided research summaries on partner violence for my statutory report.

Results of the LSAC and LSIC research summaries are provided in **Appendix 10**.

#### 4.4.5 Accessing children’s experiences through BoysTown and Kids Helpline

Hearing directly from children about their experiences is critical to my work. However in terms of family and domestic violence, this presents two main dilemmas:

The dilemma of how to include children and young people’s perceptions of the effects of domestic violence, whilst respecting parents’ rights to consent to their children’s involvement in research. Further to this is the dilemma of asking children about their experiences of domestic violence and then not necessarily being able to provide immediate access to appropriate counselling and support.<sup>54</sup>

In the case of this work, I wanted to hear from children in a way that was safe and supportive. I did not want to place those living in violent households at further risk of harm or risk their re-traumatisation.

Given this, I accessed the voices and stories of children through BoysTown and the Kids Helpline. This was the safest, most confidential and sensitive way of hearing from them.

**BoysTown invited me to visit its safe house.** This provided me with the opportunity to meet with their clients and speak directly with professional staff about the programs that they provide and to hear about the resourcing challenges that they face. While at the safe house, with the consent of the mothers and their children, I joined an informal play session. I thank all those involved for the privilege of this opportunity.

The Kids Helpline is Australia’s only national 24/7, confidential support and counselling service specifically for children and young people aged 5 to 25 years. It offers counselling support via phone, email and a real-time web platform.

**The Kids Helpline supplied me with a detailed report of contacts received from children and young people aged 5 to 17 years** between January 2012 and December 2014, who directly raised family or domestic violence as their main concern or as their second significant concern.

A total of 120,408 contacts were received from children and young people aged 5 to 17 years, of these 603 (0.5%) raised family and domestic violence as their main concern and a further 396 (0.3%) raised it as their second significant concern. In 62% of contacts where family and domestic violence was raised as the main concern, no secondary concern was recorded.<sup>55</sup>

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These figures are based on the number of contacts and not individuals.<sup>56</sup> Between January 2012 and December 2014, there were 999 contacts where family and domestic violence was raised as either the main or secondary concern.<sup>57</sup>

Less than 1% of all contacts with the Kids Helpline involved concerns about family and domestic violence.<sup>58</sup>

The Kids Helpline data is not indicative of prevalence. It only represents those who are actively seeking help. Many children and young people do not seek help. The Kids Helpline pointed out that a low number of contacts may mean that children and young people do not see the Kids Helpline as an appropriate source of help and may be seeking help elsewhere.<sup>59</sup>

The Kids Helpline states that:

These data sets are designed to give the child a voice; hence they provide a snapshot of information that children and young people chose to disclose to counsellors. The number of contacts coded as 'exposure to family violence' is a measure of how often young people raise this issue with the Helpline. It is not a measure of how often young people experience this issue, nor of how many young people experience this issue.<sup>60</sup>

Data provided in the Kids Helpline submission is based on the experiences and views of children and young people who are actively seeking help.

**Appendix 11** presents the Kids Helpline data about children's experiences of family and domestic violence.

Page 112 contains a selection of the of the data I obtained from the ABS Recorded - Crime Victims publication, the ABS 2012 Personal Safety Survey, the National Centre for Longitudinal Data and the Kids Helpline.



Appendices 8 to 11 present the data I obtained from the ABS Recorded Crime – Victims publication, the ABS 2012 Personal Safety Survey, the National Centre for Longitudinal Data and the Kids Helpline. A selection of the data is presented below.

The data I obtained makes it clear that children’s experiences of family and domestic violence are widespread and serious.

**ABS Recorded Crime – Victims data between 2010 and 2013 about the number of police recorded child victims of physical assault and sexual assault in a residential location aged 0 to 17 years:**<sup>61</sup>

- There were 14,048 police recorded child victims of physical assault by a family member in New South Wales, South Australia, the Northern Territory and the Australian Capital Territory.
- There were 12,073 police recorded child victims of sexual assault by a family member in New South Wales, Victoria, Queensland, South Australia, Tasmania, the Northern Territory and the Australian Capital Territory.

**ABS 2012 Personal Safety Survey estimated data about the number of adults who first experienced physical abuse and sexual abuse when they were aged 0 to 14 years:**<sup>62</sup>

- It was estimated there were 839,400 adult women and 596,400 adult men who first experienced physical abuse by a family member as a child aged between 0 to 14 years.
- It was estimated there were 515,200 adult women and 97,800 adult men who first experienced sexual abuse by a family member as a child aged between 0 to 14 years.

**National Centre for Longitudinal Data research summaries:**<sup>63</sup>

- Approximately 6% of mothers participating in the Longitudinal Study of Australian Children reported that they had been afraid of their current partners.
- Remoteness was the single biggest predictor of partner violence in the Longitudinal Study of Indigenous Children.

**Kids Helpline data about the number of contacts received from children aged 5 to 17 years between January 2012 and December 2014 where family or domestic violence was raised as the main concern or as a second significant concern:**<sup>64</sup>

- Of the 999 contacts where the main or secondary concern raised was family or domestic violence, 34% were from children aged 10 to 13 years.
- The largest proportion of the 999 contacts (40%) were in relation to exposure to violence between parents, or between a parent and a partner or ex-partner.

My examination of the impact of family and domestic violence on children and young people aged between 0-17 years has been welcomed by a cross-section of government and non-government bodies as well as by academics and individuals.

**Save the Children Australia** thanks the National Children's Commissioner for facilitating the DFV roundtable last week. It was wonderful to be part of an energetic discussion focused on the impact of DFV on children.

**Children with Disability Australia** applauds the National Children's Commissioner for her commitment to further investigation in this area.

**The Western Australian Aboriginal Family Law Services** welcomes the opportunity to have input into the Australian Human Rights Commission on the Examination of Children Affected by Family and Domestic Violence.

**Australian Psychological Society (APS)** welcomes the opportunity to make a submission. . . The APS recognizes every child's right to safety and wellbeing, and to live free from all forms of violence, and affirms that greater protection of children who are exposed to and witness family and domestic violence is required.

**The Royal Australian & New Zealand College of Psychiatrists (RANZCP)** welcomes the opportunity to provide feedback into the Australian Human Rights Commission's examination of children affected by domestic and family violence. As the national conversation on family violence grows it is essential that the voices of children are heard and their support needs met. . . The RANZCP commends the Australian Human Rights Commission for ensuring that the experiences and needs of children & young people are included in the growing national conversation on family violence.

**North Australian Aboriginal Family Legal Service (NAAFLS)** welcomes this invitation to make a submission to the Australian Human Rights Commission to assist in its examination of how children are affected by family and domestic violence. NAAFLS recognises that family and domestic violence, is a significant issue-affecting children, particularly in Indigenous communities.

**The NSW Government** welcomes the opportunity to contribute to the Australian Human Rights Commission's examination into children affected by domestic and family violence. . . The examination by the Australian Human Rights Commission is an opportunity to harness the momentum of recent media and policy attention on domestic and family violence to ensure that the safety of children remains a key focus of our responses. The NSW Government thanks the Australian Human Rights Commission for engaging in this important piece of work.

**National Aboriginal & Torres Strait Islander Women's Alliance** thanks the National Children's Commissioner for the opportunity to provide our submission. . . we owe it to these children to find a better way of dealing domestic and family violence.

## 4.5 What did we find out about children’s experiences of family and domestic violence?

### 4.5.1 Definitional challenges in relation to children affected by family and domestic violence and how this impacts on the data that is collected about them

Family and domestic violence is acknowledged as a national issue in Australia. However across the jurisdictions, there are no consistent definitions, legal frameworks or common methods used to identify it. Combined with this, different terms are used to describe the wide range of behaviours associated with it.

State and Territory governments are responsible for law enforcement in relation to the policing and prosecuting of family and domestic violence.<sup>65</sup> Each respond within their own legislative and policy contexts, which vary in nature. Family law legislation requires the assessment of safety issues for women and their children in determining family law matters.

The 2015 report by the Queensland Government, *Not Now, Not Ever – Putting an End to Domestic and Family Violence in Queensland*, pointed out that:

Many different terms are used to define domestic and family violence. It has become a conceptual problem, which is exemplified by the different definitions in each jurisdiction in Australia. Defining domestic and family violence has significant implications for how the criminal justice system, as well as the human services sector, and the broader community, recognise, understand, and respond to this issue.<sup>66</sup>

The ABS further points out that:

The multi-dimensional nature of family, domestic and sexual violence, and the development of legal and service responses to the problem over time, have led to a variety of definitions and a lack of comprehensive quality data to support effective evidence-based policy, services and responses for victims and perpetrators.<sup>67</sup>

Participants at my roundtables and those who made written submissions used varying terms, including domestic violence, family violence, family and domestic violence and intimate partner violence. They also used different definitions.

**The use of varied terms, different definitions and the disparate means of identifying family and domestic violence was raised as problematic in terms of establishing prevalence at the national level and challenging for those working in the field.**

The submission made by the National Aboriginal and Torres Strait Islander Legal Services (NATSILS) suggests that:

In order to get a more accurate picture of the prevalence of family and domestic violence and its impact on children better data is required, which will need to be predicated on common understandings or definitions of family and domestic violence and related terms<sup>68</sup>...Standardised national definitions for family and domestic violence, and national standard definitions for the relevant variables, are needed for reporting on these issues.<sup>69</sup>

The submission by Relationships Australia (NSW) advises that:

Definitional differences, or inconsistencies, tend to negatively affect the collaborative practice of professionals working across agencies and services. They also impact the client’s access to targeted programs.<sup>70</sup>

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**The lack of national demographic data about certain groups of children affected by family and domestic violence was consistently raised** in written submissions and by roundtable participants.

In its submission, Children with Disability Australia pointed out that:

There is a great paucity in local data as to the prevalence and impact of family and domestic violence upon children with disability in Australia. International research indicates that children with disability are 3.4 times more likely to experience maltreatment than children without disability, however this data is not specific as to the location of the abuse (i.e.: in the family home or an institutional setting). Research to determine the number of children and young people with disability impacted by family and domestic violence in Australia is essential.<sup>71</sup>

Mr Andrew Jackomos PSM, the Victorian Commissioner for Aboriginal Children and Young People stated in his submission to me that:

Overrepresentation of Aboriginal children is known in homelessness, poor educational outcomes, health and mental health issues, school suspensions and expulsions and youth justice; however connecting these to family violence is generally anecdotal. We need to have better data and systems across portfolios that talk to each other to understand family violence impacts in a holistic way.<sup>72</sup>

The National Aboriginal and Torres Strait Islander Women's Alliance told me that:

The data we collect must be disaggregated, and a matrix must be developed whereby we can be sure that the data we are collecting identifies key elements, similarities, gaps and strengths...A well-developed Matrix data collection will assist in identifying the impacts of Domestic/Family Violence on individual children thus identifying the gamut of resources and/or specialists that must be implemented to assist these children in reaching their full potential. Disaggregated data will also indicate the workforce and training required to address this issue. The data we have available to us at the moment at its best is piecemeal and already out-dated.<sup>73</sup>

The Western Australia Aboriginal Family Law Services argued that:

Data related to the prevalence and impact of any policy related to Aboriginal people in Western Australia to date tends to be piecemeal and is not evidence based. This has resulted in unreliable data that does not clearly state the issues that impact Aboriginal communities... Aboriginality needs to be recorded by all services if we are to monitor, evaluate and improve policies and services to Aboriginal people. We currently understand there are some major government and non-government agencies who choose not to ask their clients for this information, as they believe that it may not be relevant to the service they deliver. While this may be the case on the face of it, if we do not understand the use of services – whether under or over use – by Aboriginal people we may not be providing the most appropriate or accessible services possible. Therefore, data collection needs to be standardised and disaggregated in order for it to be of most use.<sup>74</sup>

The National Aboriginal and Torres Strait Islander Services informed me that:

There is a vast divergence in the way that ethnicity of offenders and victims is recorded between states and territories. It is noted that a number of states' and territories data in this regard is of insufficient quality to be included in national data. This makes obtaining an accurate national picture of how these issues relate to Aboriginal and Torres Strait Islander peoples as a distinct sub-set of the population difficult, and an accurate picture in these states impossible. In this respect, the data of Western Australia, Victoria, Tasmania and the Australian Capital Territory is heavily compromised or non-existent and therefore not included in data provided by the Australian Bureau of Statistics.<sup>75</sup>

The submission by the National LGBTI Health Alliance pointed out that:

In Australia, we have limited to non-existent reliable, nationally representative data on the prevalence, incidence, and factors involved in family and interpersonal violence affecting LGBTI young people... ‘family and domestic violence’ events experienced by LGBTI young people typically involve additional people beyond parents, biological relatives, and those who cohabit with young people. Some of the many flaws that limit the utility of Australian data are the categorical exclusion of people with intersex characteristics and people of non-binary experience; the treatment of trans as an identity when many people of trans experience identify simply as girls/women or boys/men; the conflation of sexuality, genders, and bodies to item phrasing.<sup>76</sup>

The ABS, which has been tasked with developing a **national data collection and reporting framework** (DCRF) as part of the Second Action Plan in the National Plan, suggests that:

Behaviour-based definitions of family, domestic or sexual violence can be used to bridge the gap between objective and subjective definitions. They can also provide the basis for comparability by enabling definitions to be derived from behavioural descriptions, rather than legal definitions that can vary across states and territories.<sup>77</sup>

Mr William Milne, ABS Director of the National Centre for Crime and Justice Statistics predicts that:

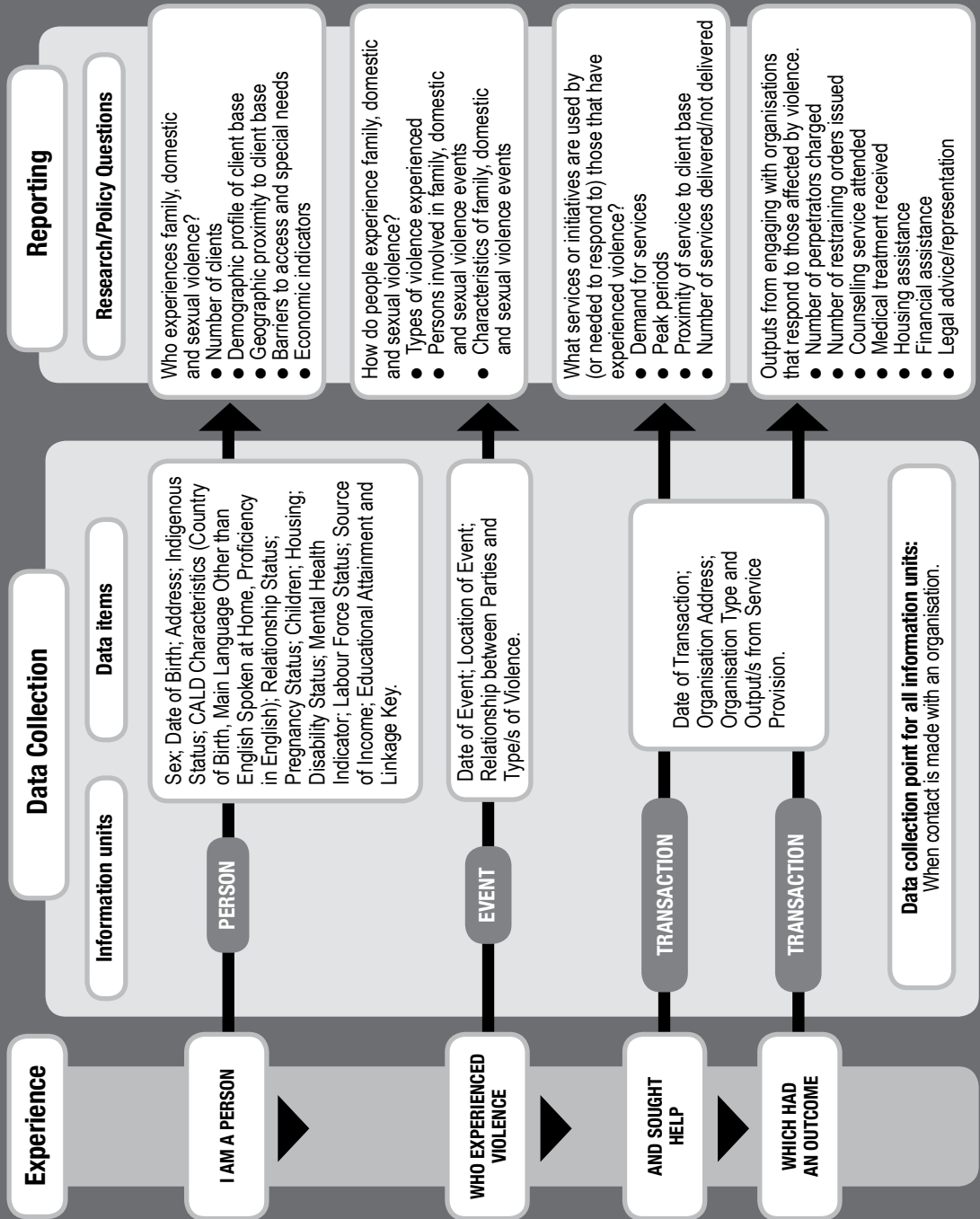
When the national data collection and reporting framework is in place, researchers will be able to better identify common characteristics of family and domestic violence incidents...

They’ll be able to create demographic and economic profiles, see family relationships, the types of violence and frequency of events, as well as look at resulting outcomes such as court proceedings, need for medical treatment or use of services such as housing assistance or counselling at the local, jurisdictional and national levels.<sup>78</sup>

ABS provides a foundation to support a common language which can be used to measure family, domestic and sexual violence. The purpose of a definition in this context is to assist in the collection of data.<sup>79</sup>

The DCRF focuses on improving the quality and consistency of the inputs (data collection) in an effort to lay the basis for answering research and policy questions (reporting).<sup>80</sup> A diagram describing the DCRF is included on page 117.

Foundations for a National Data Collection and Reporting Framework (DCRF)<sup>81</sup>



**Reporting**

**Research/Policy Questions**

- Who experiences family, domestic and sexual violence?**
  - Number of clients
  - Demographic profile of client base
  - Geographic proximity to client base
  - Barriers to access and special needs
  - Economic indicators
- How do people experience family, domestic and sexual violence?**
  - Types of violence experienced
  - Persons involved in family, domestic and sexual violence events
  - Characteristics of family, domestic and sexual violence events
- What services or initiatives are used by (or needed to respond to) those that have experienced violence?**
  - Demand for services
  - Peak periods
  - Proximity of service to client base
  - Number of services delivered/not delivered
- Outputs from engaging with organisations that respond to those affected by violence.**
  - Number of perpetrators charged
  - Number of restraining orders issued
  - Counselling service attended
  - Medical treatment received
  - Housing assistance
  - Financial assistance
  - Legal advice/representation

**Data Collection**

**Data items**

- PERSON**  
Sex; Date of Birth; Address; Indigenous Status; CALD Characteristics (Country of Birth, Main Language Other than English Spoken at Home, Proficiency in English); Relationship Status; Pregnancy Status; Children; Housing; Disability Status; Mental Health Indicator; Labour Force Status; Source of Income; Educational Attainment and Linkage Key.
- EVENT**  
Date of Event; Location of Event; Relationship between Parties and Types of Violence.
- TRANSACTION**  
Date of Transaction; Organisation Address; Organisation Type and Output/s from Service Provision.
- TRANSACTION**  
**Data collection point for all information units:**  
When contact is made with an organisation.

**Experience**

I AM A PERSON

WHO EXPERIENCED VIOLENCE

AND SOUGHT HELP

WHICH HAD AN OUTCOME

The DCRF will capture information and data through three ‘information units’: person, event and transaction. This breakdown helps create an understanding of individual experiences of family, domestic and sexual violence, as well as a broader picture of trends and at risk groups that can be targeted for intervention and prevention measures.

The ‘person’ unit collects information about the individual experiencing the violence, for example; their age, sex, location, Indigenous status, CALD background, relationship, and economic status. This data will help create a greater understanding of who experiences or is exposed to family, domestic and sexual violence, the prevalence of it and common risk factors. It also allows for assessment of barriers that stand between individuals and their access to support services, such as language, finances, and proximity.

The ‘event’ unit provides information on how, when and where family, domestic and sexual violence occurs. It identifies the types of relationships and situations in which family, domestic and sexual violence is more likely to occur, assisting in improving the delivery and operations of support services. Understanding the environment where family, domestic and sexual violence occurs can also help to develop more accurate and targeted education and prevention initiatives.

Finally, the ‘transaction’ unit comprises two sets of data – the types of services sought by individuals experiencing violence and the outcome of the interactions with the services. This data can help in assessing demand for services and those services which are best placed to deal with experiences of violence. Combined with the first two information units, it can also inform on the issues surrounding service delivery, such as the proximity of the individual to support services, including areas where there are insufficient services or resources to respond to the demand and needs of individuals experiencing violence.

This foundation work by ABS was developed in consultation with researchers, frontline contacts such as state and territory justice agencies, and supporting organisations like hospitals and accommodation providers.<sup>82</sup>

The ABS asserts that:

Adoption of the key data items outlined in the DCRF will provide the foundations for the creation of strong reporting frameworks, at the local, jurisdictional and national levels.<sup>83</sup>

The challenge now is for all those working across the jurisdictions to adopt the foundations of the ABS National Data Collection and Reporting Framework.

The ABS is currently working with agencies and jurisdictions towards adopting the foundations of its framework.<sup>84</sup>

COAG has endorsed having the ABS National Data Collection and Reporting Framework operational by 2022 under the National Plan to Reduce Violence against Women and their Children.<sup>85</sup>

### **Recommendation 3:**

**The Annual Progress Reports of the National Plan to Reduce Violence against Women and their Children should detail how all jurisdictions are working towards implementing the Australian Bureau of Statistics National Data Collection and Reporting Framework.**

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While I strongly support the work of the ABS, it is imperative that the DCRF and its users record a child's experience of family and domestic violence as a separate entry in the Australian Bureau of Statistics National Data Collection and Reporting Framework, and not just part of an adult entry.

The need to separately record data about children's experiences of family and domestic violence was raised by the NSW Government in its submission:

Given the extent of the impact of domestic and family violence on children, it is important that they are considered victims in their own right so that policy and operations are reflective.<sup>86</sup>

Improvements are needed in how domestic and family violence is identified and flagged in relevant data sets across the areas of child protection, health, housing, and police and justice systems. This is a particular challenge in terms of capturing information about children affected by violence, as they are often not recorded as a victim or the recipient of services or service referrals. Better and wider flagging of domestic and family violence at a program level across the service system (for example, as a vulnerability where children and families are accessing or affected by services) would build our understanding of how children are affected by domestic and family violence.<sup>87</sup>

The submission by the NSW Advocate for Children and Young People reinforces this point:

It may be helpful to consider children's experience of violence in the home in its own right and not only as it relates to witnessing or being part of domestic and family violence/ intimate partner violence experienced by adults in the home.<sup>88</sup>

Academic, Nicky Stanley, maintains that:

Children's involvement in domestic violence is intimate and central rather than peripheral.<sup>89</sup>

The submission by the Melbourne Research Alliance to End Violence against Women and their Children argues:

The issues for children living with DFV are critical but frequently marginalised in our current response.<sup>90</sup>

During the course of my examination, I met with Ms Kristy McKellar. Ms McKellar shared with me her personal experience of family and domestic violence including how it impacted on her daughter.

**Extract from Ms McKellar's written submission<sup>91</sup>**

We must remain dedicated and advocate for children exposed to family violence, ensuring their experiences are validated and that they are acknowledged to be victims of these violent crimes, even if they are not at a developmental age to articulate their experiences.

Initially I was the only one deemed as a primary victim of the crime. The system failed to view or recognise my daughter and her suffering. It took one year of fighting for her rights and being her voice for the Victims of Crime Assistance Tribunal to acknowledge that she too was also a primary victim of the crime and the tribunal then officially deemed her as so.

If the DCRF is to be inclusive of children, some changes to the proposed guidelines will be required. For example, the data item 'educational attainment' where people self-report their highest level of educational attainment should include categories such as 'currently participating in early childhood education', 'currently participating in primary school education' and 'currently participating in secondary school education' as part of its choice list.



**Recommendation 4:**

**Data about a child’s experience as a victim of family and domestic violence should be recorded as a separate entry in the Australian Bureau of Statistics National Data Collection and Reporting Framework, and not just part of an adult entry.**

It is also important to recognise that the ABS currently excludes LGBTI status in the DCRF on the basis that there is no current agreed standard for measurement.<sup>92</sup> The ABS acknowledges this identification as a priority.<sup>93</sup>

**Recommendation 5:**

**Data about lesbian, gay, bisexual, transgender and intersex status should be recorded in the Australian Bureau of Statistics National Data Collection and Reporting Framework.**

I also note that the **ABS 2012 Personal Safety Survey does not provide prevalence estimates of physical abuse and sexual abuse experienced by vulnerable groups of children**, including Aboriginal and Torres Strait Islander children, children living with disabilities, children from culturally and linguistically diverse backgrounds, asylum seeking or refugee children, children with a past or current involvement with child protection services, children living in regional, rural and remote areas, and lesbian, gay, bisexual, transgender and intersex children.

The Senate Finance and Public Administration References Committee released its report about domestic violence in Australia mid-way through my national examination.<sup>94</sup>

The Senate Committee’s report specifically recommended that vulnerable groups be included in the next ABS Public Safety Survey:

The Australian Bureau of Statistics, along with Commonwealth, state and territory bodies involved in the development of the Personal Safety Survey consider the concerns raised during this inquiry about the adequacy of sampling sizes of particular subgroups within the community, such as women with a disability, women from culturally and linguistically diverse backgrounds, immigrant and refugee women, and Indigenous communities and endeavour to address these issues prior to the conduct of the next PSS.<sup>95</sup>

**Recommendation 6:**

**The Annual Progress Reports of the National Plan to Reduce Violence against Women and their Children should detail how the Australian Bureau of Statistics Personal Safety Survey is working towards surveying adequate sampling sizes across vulnerable groups.**

## Summary

### **Definitional challenges in relation to children affected by family and domestic violence and how this impacts on the data that is collected about them**

A key challenge in addressing family and domestic violence and its impact on children and young people is the lack of consistent terms and definitions used across the state and territory jurisdictions.

Under the National Plan to Reduce Violence against Women and their Children, work is being done by the ABS to implement a national data collection and reporting framework (DCRF). This framework uses behaviour-based definitions of family, domestic or sexual violence to capture cohesive national data about family and domestic violence.

Invariably, the definitional issues are complex and while the approach of the ABS in terms of the potential of behaviour-based definitions offers promise, much work remains to be done to achieve behaviour-based definitions that are fully inclusive of children.

As a nation, we must be able to consistently identify those children affected by family and domestic violence. Where children are identified, more information must be recorded and collected to inform our evidence-base.

## 4.5.2 How do children experience family and domestic violence?

Children's experiences of family and domestic violence are typically described as 'witnessing violence', 'being exposed to violence', and 'being directly abused in the context of family and domestic violence'.<sup>96</sup>

The experiences of children **witnessing violence** are said to include:

- hearing the violence
- being used as a physical weapon
- being forced to watch or participate in assaults
- being forced to spy on a parent
- being informed that they are to blame for the violence because of their behaviour
- being used as a hostage
- defending a parent against the violence
- intervening to stop the violence.<sup>97</sup>

The experiences of children **exposed to violence** are described as:

- having to telephone for emergency assistance
- seeing a parent's injuries after the violence and having to assist in 'patching up' a parent
- having their own injuries and/or trauma to cope with
- dealing with a parent who alternates between violence and a caring role
- seeing the parents being arrested
- having to leave home with a parent and/or dislocation from family, friends and school.<sup>98</sup>

Many participants at my roundtables and numerous submissions argued that differentiating between witnessing violence, being exposed to violence, and/or being directly abused in the context of family and domestic violence is not helpful.<sup>99</sup>

The negative outcomes for children, as a consequence of their witnessing and exposure to family and domestic violence, is increasingly being considered as abuse and reportable to child protection authorities.<sup>100 101</sup>

The submission made by the Royal Australian and New Zealand College of Psychiatrists maintains that:

Even when the child does not directly witness family violence, maternal stress and the overall environment of fear is known to have deleterious impacts on the child’s mental health, with 80-90% of children estimated to suffer from vicarious trauma even if they do not witness the incident directly.<sup>102</sup>

Relationships Australia makes the point in its submission that:

The term ‘witness’ and ‘exposed to’ also has the effect of minimising the child’s experience.<sup>103</sup>

Combined with this, research is progressively showing **a co-occurrence of exposure to family and domestic violence with the direct abuse of children.**<sup>104</sup> It is argued that:

Distinguishing children who suffer abuse in the home from those who are ‘only’ exposed to domestic violence presents a considerable methodological and conceptual challenge, as these two phenomena are rarely discrete.<sup>105</sup>

In terms of its prevalence, research by Richards asserts that:

The rate of co-occurrence of Australian children experiencing *physical* abuse and being exposed to domestic violence, and experiencing *sexual* abuse and being exposed to domestic violence have been estimated at 55% and 40% respectively.<sup>106</sup>

### **The intersection between family and domestic violence and child protection**

Family and domestic violence poses a significant challenge to state and territory child protection systems. Many submissions noted that child protection services are not well equipped to deal with the scale of this problem and have not been designed to accommodate the complexities arising from the co-existence of an adult and child victim.

The submission by the Melbourne Research Alliance to End Violence Against Women and their Children suggests that:

While some children undoubtedly are at risk of significant harm and require a referral to child protection, there are problems routing *all* affected children through this pathway.<sup>107</sup>

Academic, Professor Cathy Humphries from the University of Melbourne asserts that statutory child protection systems across Australia are not capable of managing the influx of referrals of all children affected by family and domestic violence.

She maintains that where family and domestic violence cases are referred to child protection systems, many children do not receive a service.<sup>108</sup>

Her examples of this include the L17 Triage Project conducted in Melbourne between November 2012 and November 2013 where of 1,960 police referrals to child protection, only 13.9% resulted in a child protection investigation.<sup>109</sup>

Similarly in 2008, the NSW Special Commission of Inquiry into Child Protection Services reported that of the 76,000 reports where domestic violence was the primary reason for reporting, only 5,000 (6.5%) of these cases were substantiated and even these substantiated cases were not necessarily provided with assistance.<sup>110</sup>

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Australian researchers Bromfield, Arney, and Higgins warn that:

Child protection services have increased their scope of responsibility without conducting a critical appraisal of whether a residual response system continues to be the best fit to address the size and nature of the problem.<sup>111</sup>

The submission from No To Violence Male Family Violence Prevention Association told me that:

Child protection systems are extremely ill-equipped to deal with the problem in a comprehensive, holistic, family-centred manner. The systems weren't designed with this problem in mind and continue to be flummoxed around how to truly respond in a child-centred manner.<sup>112</sup>

Professor Cathy Humphries argues that:

'Grafting' domestic violence onto the extant child protection system can push an already vulnerable situation towards system failure...issues specific to domestic violence need to be addressed if a more effective intervention is to occur for children affected by domestic violence.<sup>113</sup>

The submission by the National Aboriginal and Torres Strait Islander Legal Services points out that:

The interaction between child protection interventions and family and domestic violence is extremely complex because of the risk to both the child and the non-abusive parent/carer.<sup>114</sup>

One of the fundamental issues in family and domestic violence is the co-existence of the adult victim and the child victim.

Within the context of child protection, mothers can often be assessed as non-protective of their children if they do not leave the perpetrator and this can result in children being removed and placed in out-of-home care.

The fear of this happening can also be a significant barrier to women with children seeking help. This particularly affects Aboriginal and Torres Strait Islander women.

The Australian Psychological Society told me that:

While in some situations there is a clear case for referral to child protection for children directly harmed by family violence, developing policy or legislative responses which mandate referral for all children who experience or witness violence is unlikely to be in the best interests of the child, or the child and protective parent relationship.<sup>115</sup>

At my roundtables and in submissions, I was told that differential response approaches had been adopted in many Australian jurisdictions.

This type of approach uses assessment tools to gauge risk of harm to children and identify low and high-risk families.<sup>116</sup> In cases where family and domestic violence is assessed as low risk and does not require a response from child protection authorities, referrals are made to non-government and community sector organisations.<sup>117</sup>

Bromfield, Arney, and Higgins suggest that while the Australian strategy of adopting differential response approaches to better respond to families has been a pragmatic and sensible addition to child protection services, a more proactive method towards implementing a comprehensive public health model is required.<sup>118</sup>

Public policy approaches and educational campaigns targeting family and domestic violence are discussed further below (see section 4.5.5).

Research on differential response approaches conducted in Canada suggests that difficulties can emerge where community-based services do not have adequate funding for preventative services and intervention programs, and are not able to appropriately respond.<sup>119</sup>

The submission made by Melbourne Research Alliance to End Violence Against Women and their Children emphasises the need for increased funding to make sure that those children diverted from child protection receive support services; and that workers in women’s services and family support services are trained to intervene with both sets of victims.<sup>120</sup>

## Summary

### How do children experience family and domestic violence?

Children’s experiences of family and domestic violence are typically described as ‘witnessing violence’, ‘being exposed to violence’, and ‘being directly abused in the context of family and domestic violence’. These three categories have traditionally been treated as separate entities.

Witnessing and exposure to family and domestic violence are increasingly being recognised as forms of abuse that can be reported to child protection authorities.

It is clear that statutory child protection systems across Australia are not well equipped to manage the large numbers of children affected by family and domestic violence.

In particular, child protection systems have not been designed to consider the co-existence of an adult victim and child victims, leading to an absence of cohesive family-centred approaches.

### 4.5.3 What is the impact of family and domestic violence on children?

There is general agreement about the ways in which family and domestic violence manifests itself in children. These include:

- mood problems including depression
- anxiety
- trauma symptoms
- increased aggression
- antisocial behaviour
- lower social competence
- temperament problems
- low self-esteem
- the presence of pervasive fear
- loneliness
- school difficulties
- peer conflict
- impaired cognitive functioning, and
- increased likelihood of substance abuse.<sup>121</sup>

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The Kids Helpline provided me with the thoughts and feelings of children through an examination of its case notes. These comprise:

- fear for their own safety, the safety of their sibling(s), and for the safety of the victim of abuse
- anxiety
- isolation and loneliness
- anger towards both the perpetrator and the victim
- sympathy for the victim, and sometimes the perpetrator
- confused feelings towards the perpetrator (e.g., both anger and love for a violent father)
- guilt over having 'bad thoughts' about the perpetrator (e.g., wishing he would die)
- feelings of responsibility to protect the family or take action to stop the violence.<sup>122</sup>

Little research into family and domestic violence, however, has involved the participation of children. As academic, Nicky Stanley advises:

Research that captures children's perspectives is...limited.<sup>123</sup>...Research with children and young people could usefully explore the extent to which they perceive themselves to be implicated in domestic violence and how this perception affects them.<sup>124</sup>

The submission by Families Australia advocates for research that allows the voices of children and young people to be heard in relation to their experience of family and domestic violence and interventions.<sup>125</sup>

Research also suggests that **the effects of family and domestic violence may manifest differently depending on the developmental stages of the children.**<sup>126</sup>

This was particularly reinforced to me in submissions made by the NSW Government,<sup>127</sup> the Australian Psychological Society<sup>128</sup> and the Royal Australian and New Zealand College of Psychiatrists.<sup>129</sup> Suggested effects at the different developmental stages are:

#### **Infants and toddlers**<sup>130 131</sup>

- delayed language
- delayed toilet-training
- sleep disturbance
- emotional distress and a fear of being left alone
- disrupted attachment.

#### **Pre-school children**<sup>132</sup>

- aggressive behaviour
- temper tantrums
- sleep disturbance
- anxiety
- despondency
- poorer verbal abilities.

#### **School-aged children**<sup>133</sup>

- conduct disorders
- quiet and withdrawn or loud and aggressive.

### Adolescence<sup>134</sup>

- mental health diagnosis
- delinquency
- anger to peers or parent
- depression
- fear, sadness and loneliness, including suicidal feelings.

Clearly there is growing understanding about how family and domestic violence manifests itself in children.

However as academic, Nicky Stanley explains:

The impact of domestic violence on children is not straightforward.<sup>135</sup>

Family and domestic violence is multi-dimensional with many variables simultaneously interacting.<sup>136</sup>

**Variables influencing the impact of family and domestic violence** include:

- The severity and extent of children’s exposure to family and domestic violence.<sup>137</sup> Exposure to an isolated incident is clearly a different experience from regular exposure.<sup>138</sup> Cumulative exposure over time produces profoundly serious problems which can be resistant to change.<sup>139</sup>
- Family and domestic violence often occurs in contexts of other disadvantage and interacts with other family problems to harm children’s health and wellbeing. It is difficult for both practitioners and researchers to disentangle the dynamics and effects of family and domestic violence on children and young people from other family problems.<sup>140</sup>

The joint submission made to me by the Australian Institute of Family Studies (AIFS) and Australia’s National Research Organisation for Women’s Safety Ltd (ANROWS) reinforced this:

Family violence occurs across a spectrum of severity but there is a dearth of evidence on the implications of this for children.<sup>141</sup>

DFV often occurs alongside a host of other risk factors, such as parental substance abuse, poverty, family dysfunction, other forms of child abuse and neglect, mental ill-health, and social isolation...It is consequently difficult to separate the effects of these factors from the effects of exposure to DFV.<sup>142</sup>

The Kids Helpline stated that:

Children living in families experiencing domestic violence typically experience multiple disadvantages and other forms of adversity (e.g., low socio-economic status, parental unemployment, low parental education, parental alcohol and substance abuse, child abuse), making it difficult to isolate the effects of exposure to [family and domestic violence].<sup>143</sup>

Family and domestic violence can also occur in families who do not have these characteristics.

During my roundtables and in submissions, **certain groups of children were identified as being particularly vulnerable.**

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The submission by the National Aboriginal & Torres Strait Islander Women's Alliance pointed out:

The nature, history and context of family violence in **Aboriginal and Torres Strait Islander communities** is different to domestic violence experienced in mainstream communities and populations. Aboriginal and Torres Strait Islander people continue to suffer the intergenerational effects of past welfare practices including the forced removal of their children and dislocation from their communities, country and culture, as well as experiencing higher levels of poverty and social disadvantage compared to other Australians. The combined effects of past practices and current disadvantages present extreme challenges to families.<sup>144</sup>

The Western Australian Aboriginal Family Law Services advised me:

For **Aboriginal** communities the prevalence and impact of family and domestic violence is understood in terms of loss of connection to family, culture and self. The development of a sense of belonging and self may be severely compromised when raised out of one's own family. The circumstances of the removal, the quantity and quality of ongoing contact with parents and the ability to adapt to the new living situation will impact on the child's development. The child's ability to meet developmental milestones will be challenged and almost certainly impaired by the trauma of the removal and any consequent placement shift – as well as from the predisposing circumstances of abuse and trauma.<sup>145</sup>

The submission by InTouch, the Multicultural Centre against Family Violence in Victoria indicated that:

**Culturally and linguistically diverse** children may experience the additional impact of being displaced from other countries, spending time in refugee camps, witness torture and trauma, unsafe travel to Australia and/or loss of extended family and community networks. CALD children may have additional pressures to learn at school while acquiring a second language and navigating new social rules. They may also experience discrimination and racism in the wider community.

The intersection for CALD children of pre-existing loss and grief, adjustment disorders, displacement and post-traumatic stress and the additional trauma of family violence is critical.<sup>146</sup>

Children with Disability Australia informed me that:

In the case of **children with disability**, changes in behaviour have an increased tendency to be pathologised as attributable to the child's disability, rather than a demonstration of distress. This can reduce a child's access to the appropriate support options to protect from further harm and support from trauma.<sup>147</sup>

**Many participants at my roundtables and in submissions also raised the importance of understanding resilience and protective factors.**

The Australian Psychological Society told me that:

Not all children are equally affected by the violence they witness or live with, with some at serious risk of harm, even death, others are not as impacted due to specific protective factors.<sup>148</sup>

The submission made by the Australian Institute of Family Studies (AIFS) and Australia's National Research Organisation for Women's Safety Ltd (ANROWS) pointed out that:

There are considerable divergences in outcomes and impacts in different populations of children...and resilience in children is not well understood. The literature suggests that there are several factors that may mitigate children's exposure to violence, including the extent of children's peer and social support; their relationship with their mother or other primary caregiver; whether the violence was ongoing or short-term; age of child when the DFV occurred; and whether children received an adequate response/treatment following the DFV.<sup>149</sup>



Fehlberg, Kaspiw, Millbank, Kelly and Behrens supported this:

Negative impacts are not uniform or inevitable. Some research suggests a degree of resilience, or ability to recover, among some groups of children; however, the factors that support resilience and recovery are not well understood. Factors such as age, temperament and wider family—including the quality of relationships between the child and non-violent family members—play a role.<sup>150</sup>

The submission by the Royal Australian and New Zealand College of Psychiatrists recommended to me that:

Resilience should be investigated in those children exposed to family violence as a potential source of evidence to inform health promotion and child protection initiatives.<sup>151</sup>

The joint submission by the Australian Institute of Family Studies (AIFS) and Australia’s National Research Organisation for Women’s Safety Ltd (ANROWS) reinforced this:

From a resilience perspective, there is a need for more research that examines the variability in impact and sheds light on the factors and interventions that mitigate negative effects and support recovery.<sup>152</sup>

The submission by the Northern Territory Department of Children and Families argued that:

While Department of Children and Families’ practitioners see many negative impacts of family and domestic violence on children, it is possible that interventions may ultimately be more effective if they can be informed by a stronger evidence base about factors related to children’s resilience.<sup>153</sup>

Academic Nicky Stanley asserts that:

Exposure to domestic violence does not invariably result in substantial harm to children’s health or development. Understanding which factors make for resilience and distinguish those children who will not experience adverse effects is key to targeting resources effectively...Perhaps because resilient children are less likely to come to the attention of services, research has tended to focus on identifying and exploring risk factors for children’s exposure to domestic violence. Less is therefore known about what makes for resilience that is specific to children’s experiences of domestic violence.<sup>154</sup>

In this context, I have sought out Australian research, which may be able to contribute towards the differentiating factors inherent in resilience.

Two ongoing longitudinal studies that have the potential to answer some of our questions include the data linkage study currently being conducted in the Northern Territory and the Australian Longitudinal Study on Women’s Health.

Two of the principal researchers on these studies have provided descriptions of their work for my report. These are provided on the following pages. Some of the findings of these studies will be publically available in 2016.

### **Improving the developmental outcomes of Northern Territory children**

This research partnership aims to advance scientific, policy and community understanding of the main drivers of developmental disadvantage in the Northern Territory (NT).

It is combining data usually retained separately by health, education, child protection, police and justice agencies. This will enable more integrated service planning and evaluation of the impact of initiatives aimed at reducing gaps between Indigenous and other children's health, education and other life outcomes.

Record-linkage will combine data on over 60,000 NT children. These data will also be linked with community-level data enabling longitudinal analyses not previously possible to investigate how early life health status and local socio-demographic factors are jointly related to four developmental outcomes of key policy concern:

1. Early childhood development and readiness for school learning (AEDC).
2. School attendance, literacy and numeracy at ages 8, 10, 12 & 14 years (NAPLAN)
3. Children's involvement with the child protection system
4. Youth involvement with the juvenile justice system.

The police data include information on all individuals involved in investigated incidents: perpetrators, victims and witnesses. This will enable the study of children's exposure to violence as a risk factor of later adverse outcomes, such as juvenile offending behaviour.

Economic modelling of the costs of outcomes 1-4 and the cost-benefit of evidence-based preventative interventions are also being undertaken.

Findings will be widely disseminated through a) publication of separate research monographs on issues 1-4 above; b) research-to-practice stakeholder workshops and community forums; c) scientific journals publications & conference presentations.

The project partners are Menzies School of Health Research (Centre for Child Development and Education), Aboriginal Medical Services Alliance of the Northern Territory (AMSANT) and the NT Departments of Education, Health and Children & Families. This project is funded up to 2017.

National Health and Medical Research Council Partnership Project #109149.1

**Statement by Doctor John McKenzie about longitudinal research by the Menzies School of Health Research on improving the developmental outcomes of Northern Territory children: a data linkage study to inform policy and practice in health, family services and education.**

**The Australian Longitudinal Study on Women’s Health (ALSWH)** offers a rich source of data concerned with women’s wellbeing across the life course. ALSWH was first funded in 1995. It began as a mailed longitudinal survey of over 40,000 women in three cohorts who were aged 18–23 (born 1973–78), 45–50 (born 1946–51) and 70–75 (born 1921–26) when data were first collected in 1996. In 2012–13, over 17,000 women aged 18–23 (born 1989–95) were recruited to form a new cohort.

Participants complete regular surveys that collect qualitative and quantitative information on physical and mental health, health behaviour, health service use, and psychosocial aspects of health such as demographics and life experiences. ALSWH survey data are routinely linked to administrative datasets, including the State-Based Cancer Registry (NSW, QLD, WA, SA, ACT and VIC), Perinatal (NSW, QLD, WA, SA and ACT) and Admitted Patients datasets (NSW, QLD, WA, SA and ACT), and Medicare (Medicare Benefits Schedule, Pharmaceutical Benefits Scheme) and Aged Care datasets.

Data collection for the third survey of the 1989–95 cohort and the seventh survey of 1973–78 cohort are underway. In 2015, data concerned with women’s experiences of adversity in childhood, including the witnessing of domestic violence, is being collected. The eighth survey for the 1946–51 cohort and the fourth survey for the 1989–95 cohort will be pilot tested in 2015 and rolled out in 2016.

The **Mothers and their Children’s Health (MatCH)** project is a sub-study, which is currently recruiting the children of the women in the Australian Longitudinal Study on Women’s Health 1973–78 cohort. It is collecting data from **the male and female children** of the women participating in the survey. This includes measures of the health and social wellbeing of children, as well as different aspects of parenting. The project will investigate the relationship between the mothers’ health history and the family environment to the children’s health and social outcomes, and health service utilisation. The children’s data will be linked to their mother’s data, as well as administrative datasets for early child development and educational outcomes, such as the National Assessment Program – Literacy and Numeracy (NAPLAN).

Together<sup>155</sup> ALSWH and MatCH data will offer the opportunity to conduct powerful analyses to measure the impacts of adversity in childhood across the life course and inter-generationally, and to identify and evaluate factors that might mitigate these impacts.

Data from the 2015 surveys of the 1989–95 and 1973–78 cohorts will be available in 2016. Data from the MatCH survey is expected to be available towards the end of 2016. These datasets will enable examination of the impact of childhood adversity, including witnessing domestic violence, on factors such as later experiences of abuse (e.g. bullying, domestic violence); physical health, including diagnosed conditions, symptoms, bodily pain; health service use including consultations, Medicare funded/subsidised services, medication use, hospitalisations; mental health, including suicidal ideation, self-harm, depression, anxiety; pregnancy experiences and outcomes, including parenting style; flow on effects to the next generation.

ALSWH and MatCH are conducted collaboratively by staff and investigators based at the University of Newcastle and the University of Queensland. ALSWH is funded by the Australian Government Department of Health until 30 June 2016 and MatCH is funded by a National Health and Medical Research Council project grant (2014–2017).

**Statement from Associate Professor Deborah Loxton and Natalie Townsend**

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Data in the ALSWH and MatCH projects offer the opportunity to analyse and measure the impacts of adversity in childhood across the life course and inter-generationally, and to identify and evaluate factors that might mitigate these impacts.

For example, women in the 1973–78 cohort who experienced adversity during childhood can be tracked to see how those experiences impacted on their subsequent lives (e.g. education; domestic violence; health service use; physical and mental health) including influences on pregnancy, breastfeeding and parenting style. It will also be possible to examine the impact on their children's outcomes (e.g. social functioning; bullying; health behaviour). The data provided by the male and female children will offer insights which have not previously been available in Australia, and possibly internationally.

It will be very important to continue to follow these women and their children to better understand how experiencing adversity during childhood influences health and wellbeing across the life course and into the next generation.

**Recommendation 7:**

**Support for the Australian Longitudinal Study on Women's Health (ALSWH) project by the Australian Government Department of Health is extended after 30 June 2016 and support for the Mothers and their Children's Health (MatCH) project by the Australian Government Department of Health is also extended after its National Health and Medical Research Council grant expires in 2017.**

**Recommendation 8:**

**Support for the 'Improving the developmental outcomes of Northern Territory children: a data linkage study to inform policy and practice in health, family services and education' currently being conducted in the Northern Territory by Menzies School of Health Research is provided by the Australian Government Department of Social Services after its National Health and Medical Research Council grant expires in 2017.**

## Summary

### What is the impact of family and domestic violence on children?

While negative outcomes are well recognised and documented, factors that mitigate the impacts of family and domestic violence and promote resilience are less well understood.

Differences in outcomes and impacts for children in different populations highlight the need for more in-depth research on the factors and interventions that enhance children’s resilience and ability to cope with experiences of family and domestic violence.

Efforts to understand children’s experiences are complicated by the difficulties of isolating the impacts of family and domestic violence from other detrimental environmental factors, such as poverty, parental substance abuse, family dysfunction and mental ill-health.

The impact of family and domestic violence on some groups of children is further compounded by experiences of discrimination and marginalisation. In this context, groups of children and young people who are particularly vulnerable include Aboriginal and Torres Strait Islander children, children with disability, children from culturally and linguistically diverse backgrounds and children who are lesbian, gay, bisexual, transgender and intersex.

It has also been observed that the effects of family and domestic violence manifest differently depending on the developmental stages of the children.

### 4.5.4 What services, programs and supports currently exist for children experiencing family and domestic violence?

Participants at the roundtables and also in written submissions described services and programs used to support children experiencing family and domestic violence. These included:

- services helping children and their protective parent to be physically safe
- therapeutic services assisting children to manage the trauma associated with family and domestic violence; including programs that focus on the reparation of parent-child relationships
- perpetrator interventions for behaviour change.

#### 4.5.4.1 Services helping children and their protective parent to be physically safe

The need to improve and expand housing options available to children and their mothers escaping family and domestic violence was raised throughout my examination.<sup>156</sup>

As stated in the submission made by the Australian Psychological Society, there is:

A lack of alternatives for women wishing to exit an unsafe relationship with their children. There is a serious and chronic shortage of affordable housing, and women exiting such relationships are typically under 40 and have dependent children; this reduces the capacity to access paid work or private rental. Refuge housing is a last resort and more women than not are turned away due to shortages.<sup>157</sup>

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Families Australia highlighted some of the issues children and their mothers can face when attempting to escape violence:

The involvement of police, a traumatic move to a refuge or to relatives, and the subsequent dislocation from family, friends and education. Many women's refuges do not accept boys over the age of 15.<sup>158</sup>

Aboriginal Family Law Services also pointed out that:

While a woman may approach a legal service for assistance with a restraining order against her violent partner, her immediate physical safety may depend on whether the local women's refuge has a bed available, will agree to accommodate her teenage son, or will accept her in her intoxicated state – and this all assumes the community she lives in has a refuge or safe place she can stay.<sup>159</sup>

Berry Street also raised issues of limited access and restrictive entry criteria to refuge accommodation as a concern:

For many women and children, refuge accommodation is a supported and safe alternative to remaining at home or with family or friends; however, due to the scarcity of beds, the access criterion has become increasingly narrow. Sometimes women who are at extreme risk, are rendered ineligible, because the most recent incident of violence was more than a week ago.

The criteria can prevent the use of preventative placement, for example, when a person who has used violence is about to be released from remand or jail. Scarcity of beds can result in women with disabilities or mental health issues or mothers with older sons being unable to access refuge due to insufficient vacancies in tailored models that can adequately support them.<sup>160</sup>

The Western Australian Government raised in its submission the benefits of the 'cluster model' refuge which:

enables larger families to be accommodated, including women with older boys and provides more privacy and independence to women and children.<sup>161</sup>

During my consultations, I visited a cluster model refuge and observed the benefits inherent in this model.

Berry Street indicated to me that it has supported women and children who have been in transitional housing for extended periods of time. In some cases, these mothers and their children have waited months and years for a permanent placement.<sup>162</sup>

Berry Street promotes the federal initiative, *A Place to Call Home*, as an example of an effective brokerage program to help families recover from violence and enable their transitional housing to become their permanent home.<sup>163</sup>

Providing accommodation services that help children and their protective parent to be physically safe at home, both in the short and the longer term, must be prioritised.

The Senate Committee's recent report on family and domestic violence recognised that the longer-term housing needs of children and their mothers must be addressed, and recommended that:

... the Commonwealth Government take a lead role in the provision of affordable housing solutions in Australia to meet long-term needs for those made homeless by domestic and family violence and in order to address the backlog of victims who cannot access affordable housing which stakeholders have identified during the inquiry.<sup>164</sup>

#### 4.5.4.2 Therapeutic services assisting children to manage the trauma associated with family and domestic violence; including programs that focus on reparation of parent-child relationships

Therapeutic interventions targeted at children who experience family and domestic violence are widely recognised as positively influencing outcomes for them.

Participants at my roundtables and written submissions raised issues about the affordability, accessibility and availability of therapeutic services for children. The Dawn House Women’s Refuge in the Northern Territory, for example, stated that:

A significant barrier to service accessibility for children affected by DV&FV tends to be the relatively complicated and protracted process for accessing affordable services that cover a child’s holistic needs.<sup>165</sup>

A child with psychological, behavioural or developmental issues may require a multitude of specialist intervention, including: general practitioners for referrals, occupational therapy, speech pathologists, special education services and school intervention, complex paediatric assessments and diagnosis, child development services, medications, play therapists, counsellors or psychologists, recreational services, disability support services, respite and child care. Many services work in silos and have varying wait list times.<sup>166</sup>

The submission made by the New South Wales Government raised the need for family and domestic violence services to operate from a trauma-informed framework.<sup>167</sup>

The submission made by Berry Street reinforced the need for:

Therapeutic options to aid children’s recovery from any traumatic impact of family violence<sup>168</sup>...clinical interventions targeting children living in families where there is pregnancy, high risk incidents and post-separation violence are lacking.<sup>169</sup>

Ms Emma Gierschick, a mother of a child with disability, also pointed out to me that:

It has often taken a long time to establish a suitable support network for a child with therapists, medical services and educational supports. There are often long waiting lists for such services.

This is a consideration a mother has to make about relocating. It isn’t as easy as just going to a refuge and finding a new therapist.<sup>170</sup>

The NSW Government submission to my examination highlighted some of the factors impeding children’s engagement with services; including:

- Location: access to services vary with children in metropolitan areas more likely to have better access than those in rural and remote areas
- Ethnicity: difficulties in accessing culturally appropriate services for Indigenous children and those from migrant and refugee backgrounds
- Socio-economic status where the costs of services can restrict ongoing access
- Social isolation
- Lack of integrated service models for mothers and their children which obstructs their access.<sup>171</sup>

In terms of therapeutic interventions, **the importance of a supportive relationship for the child** was consistently raised. Mostly, but not solely, this related to the **mother/child relationship**.<sup>172</sup>

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Relationships Australia told me:

It is extremely challenging for a child to feel safe in an environment where they are aware that their mother or care-giver may be in danger. Family violence has a significant impact on the mother/child relationship, which in turn can affect a child's physical, emotional and intellectual development.<sup>173</sup>

The Kids Helpline emphasised to me that:

The quality of the mother-child attachment relationship is compromised in situations of DFV. Both exposure to trauma and poor quality attachment relationships have serious long term negative impacts on children's social, emotional and cognitive functioning, including difficulties with emotional self-regulation, impulse control, learning delays, low self-esteem, and difficulty understanding, trusting, and relating to others.<sup>174</sup>

The submission by Melbourne Research Alliance to End Violence Against Women and their Children highlighted that:

Strengthening the mother-child relationship in the aftermath of family violence is a key point of intervention. A significant aspect of family violence is the systematic attack on the mother-child relationship as one of the major tactics of abuse.

This may be a direct attack – coercing children to insult their mothers, undermining the woman's mothering through criticism and actions which make it difficult for her to parent, ensuring that women are 'punished' for spending time with children particularly if it takes attention away from the man's needs.

It also can be an indirect attack which disables the mother physically or emotionally so that she is unable to parent appropriately.

Interventions which work to actively strengthen the mother-child relationship in the aftermath of abuse are still in the early stages of development, although it is an area gaining traction.

Evidence is emerging that the most effective intervention response in the post-crisis period for both women and children is for them to work together, either in parallel children's and women's groups... and joint mother-child rather than individual counselling.<sup>175</sup>

The submission provided by Relationships Australia informed me that:

Child development and parenting research in the domestic violence context strongly cautions on the disadvantages of counselling and advocacy services working separately with mothers and children and that positive outcomes for mother and child can be achieved by working with them together to restore and repair the mother/child relationship that has been disrupted by the father's abuse, denigration of the mother and control over the mother-child relationship. Keeping mother and child domestic violence services separate in fact replicates the separation and distancing and divisive effect of the father's abuse to the family.<sup>176</sup>

The Judith Lumley Centre at La Trobe University stressed to me that:

Silo operations where women are offered assistance through FDV services that offer a woman centred approach differ from child protection services that are child centred. Feminist researchers argue for interventions to help heal the mother-child relationship rather than offer separate child and parent therapies. The World Health Organisation now recommends children who have been subjected to intimate partner violence undergo both individual and group psychotherapeutic treatment sessions with their mothers. Unfortunately, previous group work (in Melbourne) with mothers and children has not been sustained due to lack of funding. More research and intervention work is needed to support the mother-child bond in the aftermath of FDV.<sup>177</sup>



The submission made by Dawn House Women’s Refuge in Northern Territory reinforced this to me:

We find there are limited therapeutic services that can work with women and children on attachment and relationship strengthening. The same sentiment applies to sibling attachment relationships, which are often also negatively affected. Services tend to be targeting at individual needs, without engaging the entire family system. Women may also see this type of service as low down on the priority scale with so many other competing needs.<sup>178</sup>

The Public Health Association of Australia suggested to me that:

Based on the evidence to date, supporting and strengthening relationships between the protective parent or protective caregiver/s may be helpful. Reducing the impact of FDV on the protective parent may also increase their capacity to parent and also reduce the likelihood of the protective parent engaging in risk-taking behaviour such as alcohol and drug misuse.<sup>179</sup>

BoysTown uses the Expressive Therapies Program, a trauma and attachment informed program of creative arts and play therapy. It provides one-on-one support to children and their protective parent to facilitate children’s social-emotional wellbeing and competence, behavioural adjustment, attachment relationship with the parent, and self-esteem.

The Expressive Therapies Program was evaluated by BoysTown in 2015. Fifty-six children were assessed at entry to the refuge using the Child Behaviour Checklist, which provides a measure of internalising and externalising behaviours.

On entry, over 60% of the children who completed the program fell into the clinical range for problem behaviours. At exit from the program, their parent reported significant improvement, with the number of children in the clinical range dropping to 23%.

BoysTown acknowledges that it cannot directly link the children’s improvement with the Expressive Therapies Program given that it did not have a control group to compare with. However, qualitative insights from parents and therapists suggest connections between specific elements of the Expressive Therapies Program and changes in the children’s behaviour and wellbeing.<sup>180</sup>

Ms Wendy Bunston, PhD candidate and Associate Lecturer at La Trobe University, submitted a summary of evaluations relating to four infant/child and parent interventions to address family and domestic violence. Ms Bunston provided evaluation summaries about The Peek-a-Boo Club, Dads on Board, Parents Accepting Responsibility Kids are Safe, and Building Up Bonds (BuBs) On Board.<sup>181</sup>

Ms Bunston reported there were some positive indicators in a number of these programs in terms of child-wellbeing and functioning, and parent/child relationships.

Again, the small sample sizes and lack of control groups prevent definitive conclusions about efficacy.<sup>182</sup>

While programs and services to support children affected by family and domestic violence were raised throughout my examination, relatively little information is available about the extent of children’s access to such services or evidence of actual outcomes for children.

A recent review of family violence prevention, early intervention and response services found that in Australia there is limited evidence for the efficacy of programs for children aged 0 to 8 years.<sup>183</sup>

Work by Bromfield, Arney, and Higgins indicated that:

In Australia, there is a significant gap between “what we know and what we do”, with many family support services being funded without a clear practice or program model and without being underpinned by an evidence base.<sup>184</sup>

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The implications of this are very serious in terms of making sure that interventions are adding value to children's lives.

As the joint submission made by the Australian Institute of Family Studies (AIFS) and Australia's National Research Organisation for Women's Safety Ltd (ANROWS) noted that:

Overall, there is a lack of evidence about the outcomes for children affected by DFV who engage with services, programs and support. This is largely due to a lack of rigorous evaluation of DFV services. DFV services often lack the resources to undertake or participate in evaluation. There is, however, a significant amount of high quality practice knowledge within the sector about the best approaches to take with children affected by DFV.<sup>185</sup>

Academic, Nicky Stanley points out that:

While the accumulating body of evidence concerning the harmful effects of domestic violence on children's emotional well-being and development has been widely disseminated, there is much less knowledge and understanding of how children can be protected from those effects or which interventions are most successful in ending domestic violence.

It is increasingly recognised that interventions that only target the victim or even those aimed at mothers and children may 'miss the mark' by omitting to engage with fathers who are the perpetrators of the most severe and frequent forms of domestic violence.<sup>186</sup>...interventions aimed at protecting children from domestic violence should focus on promoting mother-child attachments. Other supportive adults, such as grandparents, aunts or older siblings, can also offer supportive relationships that convey continuity, security and a sense of being loved.<sup>187</sup>

#### **4.5.4.3 Perpetrator interventions for behaviour change**

In the main, men who use family and domestic violence 'remain a strong presence in the lives of their children'.<sup>188</sup>

Given this reality, the role of perpetrator interventions to create opportunities for behaviour change was raised in a number of submissions and also at my roundtables. For example, Relationships Australia noted in its submission:

Research suggests that timely interventions can create opportunities for behaviour change. This includes fathers' desires to maintain and improve relationships with their children which can be a significant leverage point through which the impact of their violent behaviour can be realised and confronted.<sup>189</sup>

The Melbourne Alliance to End Violence Against Women and their Children argued that:

primary prevention strategies which support respectful and equal relationships between men and women and their children are central to family violence intervention. We recognise that this work is of primary importance and foundational to an effective response to family violence.<sup>190</sup>

An example of a men's behaviour change program was described by Relationships Australia New South Wales in its submission to me:

Taking Responsibility, a Men's Behaviour Change Program, [developed] over the past twenty years... is one of the leading programs in this state, with robust referral pathways in place via judges and magistrates, police professionals, family law professionals, and clinical service providers.

Significantly, a large proportion of our clients self-direct to this program, and our clients are therefore made up of both voluntary and mandated clients. The program is guided by nearly ten years of research based evaluations, and this activity has helped us develop the clinical objectives and expertise for our Family Safety Programs.<sup>191</sup>

Relationships Australia New South Wales further indicated that its research about men’s behaviour change programs shows that:

... the most personally meaningful changes the men had made, and those that they were most proud of, related to improved relationships with their children...The engagement of men in behaviour change programs therefore appears to have flow on benefits for their children, not only in terms of improved father child relationships, but also the motivation to continually invest in these relationships and maintain positive interactions.<sup>192</sup>

The submission by the North Australian Aboriginal Family Legal Service recommended that attendance at accredited behaviour change programs be court mandated for perpetrators.<sup>193</sup>

Court mandated parenting and male behaviour change programs were also supported by the Australian Association of Social Workers (AASW) in its submission to me.<sup>194</sup>

Additionally, the AASW submission referred to a study of violent men’s perceptions of themselves as fathers, which:

... uncovered a disturbing picture of what these men understood as good fathering.

A number of violent men who were involved in men’s behaviour change programs were interviewed. The study found that they continued to blame their partners for their violence. These men did not display any insight into their behaviour nor the impact it may have had on the partner or the children. Instead they were self-absorbed and felt a sense of entitlement.

All but one of the fathers believed they had been and were good fathers to their children while at the same time minimising the impact of their own violence. Their perception of themselves as good fathers was directly related to their ability to economically provide for the children and did not relate to support, nurture or care.<sup>195</sup>

In its submission to me, the Government of Western Australia referred to research currently underway to ‘investigate how and under what circumstances fathers who use violence are parenting and what the key fathering issues are that need to be addressed within these programs’.<sup>196</sup>

This research is being conducted by the Universities of Western Australia, Melbourne and South Australia, with approximately 30 industry partners, and is funded until 2016. I look forward to reading the findings from this important work.<sup>197</sup>

## Summary

### **What services, programs and support currently exist for children experiencing family and domestic violence?**

While there appears to be a number of promising initiatives to support children affected by family and domestic violence, limited information exists about the extent that these are made available to or accessed by children, or of the outcomes for children who utilise such services.

In the main, children are supported in the context of the needs of the parent escaping family and domestic violence, rather than in response to their specific therapeutic needs.

Evidence is emerging that suggests strategies to engage men as fathers may motivate behaviour change and prevent further acts of violence.<sup>198</sup>

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#### **4.5.5 What are the current public policy approaches and educational campaigns targeting children's experiences of family and domestic violence?**

Both the National Framework for Protecting Australia's Children and the National Plan to Reduce Violence against Women and their Children aim to adopt a public health approach.

The Public Health Association of Australia outlined the importance of a public health approach in relation to family and domestic violence:

A public health approach to reducing violence against women and children would mean preventing violence in the first place. A public health approach includes primary prevention (before any violence has occurred), secondary prevention (support and services for at-risk populations) and tertiary prevention (support to reduce effects of violence and prevent recurrence).

The ideal is primary prevention, which aims to bring about a cultural shift toward gender equality, changing cultural norms toward non-acceptance of violence against women and redistributing resources to promote access to services for all. Public health education campaigns may be useful, but other public health approaches that lead to structural change are needed to support attitudinal change.

Arguably, the needs of children affected by family and domestic violence have been somewhat incidental or peripheral to the public policy approach to family and domestic violence, and increasingly folded into child protection responses.

As researchers, Bromfield, Arney, and Higgins argue:

The degree to which the rhetoric of Australia's public health approach to child protection actually equates with a public health model is debatable. Its apparent failure is a function of the limited forms in which a public health approach has been applied to child protection rather than the public health approach per se... The key elements of a public health approach need to be re-examined as it pertains to child welfare reform in Australia, and missing elements need to be systematically implemented to complement existing reforms.<sup>199</sup>

It is my view that children's experiences of family and domestic violence must be understood in their own right and not just as part of an adult situation.

Save the Children commented on the need for public policy approaches to adopt a greater focus on primary prevention to improve outcomes for children, for example, through education, awareness raising activities and the promotion of equality in our society:

...there is no one-size-fits-all solution to issues of family violence. There are many complex issues, including why women may not leave a violent relationship.

Unless we start taking a primary prevention approach to eliminating family violence in our community, the work of Save the Children and many other organisations to support women and their children will remain reactive not preventative.<sup>200</sup>

Relationships Australia stated in its submission that:

Public policy approaches should be clear about the behaviours they are aspiring to change and the outcomes they are seeking to achieve. For example, general public awareness campaigns that feature women successfully leaving violent relationships may place victims still living in these relationships in greater danger, especially when delivered without links to appropriate support services.<sup>201</sup>

Berry Street emphasised the need for a public health approach to family and domestic violence:

The response to family violence in the public health model of prevention includes a sustained and balanced primary, secondary and tertiary response with significant and sufficient investment at each point of this continuum.<sup>202</sup>

The submission made by the NSW Government told me that:

Given the intergenerational transference of domestic and family violence, successful outcomes for children are affected by the availability of co-occurring primary, secondary and tertiary prevention strategies. Early identification and response to children is critical in order to protect and prevent further violence.

A service system which is invested in all three types of prevention is most likely to succeed in addressing the immediate needs of children and influencing their future relationship choices and behaviours.<sup>203</sup>

The joint submission by the Australian Institute of Family Studies (AIFS) and Australia’s National Research Organisation for Women’s Safety (ANROWS) emphasised the need for:

A comprehensive and coherent policy framework to support understanding and practice of [family and domestic violence] responses, prevention and early intervention for children affected.<sup>204</sup>

AIFS and ANROWS also stated in their joint submission that:

Throughout Australia, there are differing levels of integration of approaches to the issue of DFV and related service provision...

The DFV Children Report suggests a significant need for better integration of services for children, including better communication and integration between family violence services and other systems, including the child protection system, the state-based justice system, family support systems such as those that deliver maternal and child health services, and the education system.

A clear and coherent policy framework is needed at state and federal levels to support understanding and practice of DFV responses, prevention and early intervention to better enable discrete service sectors to work towards common goals and ensure children’s needs are met across the various sectors.<sup>205</sup>

#### **Recommendation 9:**

**The Council of Australian Governments prioritise the development of a child-focused policy framework for responses to family and domestic violence.**

### **4.5.5.1 Educational policies and campaigns**

In April 2015, COAG agreed to a national campaign for reducing violence against women and their children. In July 2015, COAG agreed that the national campaign would focus on:

galvanising the community to change the attitudes of young people to violence. This campaign focus responds to worrying data on young people’s attitudes. Currently, for example, one in four young men believe that controlling and violent behaviour is a sign of male strength...

COAG agreed to hear expert advice at its next meeting on the campaign messaging and how to target it. The campaign will be tailored to address the circumstances in each state and territory.<sup>206</sup>

Earlier in the year, when first announcing the new national campaign, Senator the Hon Michaelia Cash reinforced the need for attitudinal change within the community by emphasising that violence is a crime regardless of whether there is a ‘domestic’ or ‘family’ in front of it. She stated: ‘violence is violence. It’s a crime. Full stop’.<sup>207</sup>

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My examination has therefore provided a timely opportunity to canvas the views of experts about the nature and value of educational campaigns and their potential role as part of a broader public health approach to family and domestic violence.

I will continue to engage with Senator Cash and the Australian Government about the outcomes of the national campaign, including for children.

The Australian Association of Social Workers suggested that public policy approaches will 'fail' children affected by family and domestic violence if they do not 'lead to wide attitudinal and behavioural change in society'.<sup>208</sup>

The need to lift community understanding is evidenced by recent research commissioned by OurWatch in 2015 which confirms a significant number of young people continue to hold views that accept or tolerate violence. This survey of 3000 young people aged between 12 and 24 shows, for example, that one in four young men believe that controlling and violent behaviours are signs of male strength, and one in four young people do not think it is serious if a guy, who is normally gentle, sometimes slaps his girlfriend when he is drunk and they are arguing.<sup>209</sup>

A report released by VicHealth in September 2015 also found that young Australians aged between 16 and 24 had a higher level of attitudinal support for violence against women than those aged 35-64, as well as:

...a lower level of understanding that violence is more than physical violence and forced sex, and are less likely to support gender equality in relationships.<sup>210</sup>

Relationships Australia highlighted some of the difficulties with achieving and monitoring positive outcomes from educational campaigns, stating that it is:

...challenging to ascertain whether any positive outcomes are specifically related to educational campaigns at school or increased community awareness through the current featuring of domestic violence in the media.

Similarly, these difficulties in assessing impact of education programs exist at the community level. Funding rarely includes a component for evaluation, and service delivery experts do not have the resources or skills to conduct rigorous evaluation and research and this has resulted in an incomplete evidence base on which to inform future campaigns.<sup>211</sup>

Participants at my roundtables and written submissions warned against a one-size fits all approach to public education campaigns about family and domestic violence. The need to target approaches to certain community groups was consistently raised, for example, Aboriginal and Torres Strait Islander children and families, culturally and linguistically diverse children and families and those who are LGBTI.

The Menzies School of Health Research provided information about social marketing campaigns and community approaches to promoting the safety of children in the Northern Territory:

Families, communities and practitioners require more information about what constitutes child abuse and neglect, its impact and how it can be prevented. Due to the over-representation of Aboriginal children in the NT statutory child protection system it is imperative that community education strategies resonate with Aboriginal families and communities.<sup>212</sup>

The Aboriginal Family Law Services (WA) also identified the need for targeted campaigns:

...focussing on the impact of family and domestic violence on Aboriginal men, women and children. We realised the gap in existing campaigns which focused on gender issues, were mainstream in their approach and may not have had the reach that an Indigenous specific campaign could achieve.<sup>213</sup>

The National LGBTI Alliance also reinforced the need for nuanced approaches targeting groups with different experiences and needs:

Our respondents identified multiple adverse outcomes of public policy approaches and educational campaigns that claim to address family and domestic violence without addressing the needs of LGBTI young people. Similarly, many respondents felt that LGBTI specific resources did not consistently or adequately address the family and domestic violence needs of LGBTI young people.<sup>214</sup>

The submission from the NSW Government highlighted the key elements of its effective child protection and parenting education practices for newly arrived migrant and refugee communities:

- grassroots, including engagement with key community members. An example of a successful program is the nationally recognised We All Say No project funded by FACS
- use of experienced casework practitioners or experts who have knowledge of an area such as child protection in partnership with workers who are well connected with the target community and culture
- training and use of bilingual community educators to deliver information.<sup>215</sup>

The Interim Report on domestic violence in Australia prepared by the Finance and Public Administration References Senate Committee released in March 2015 included a recommendation supporting the inclusion of respectful relationships education in the national curriculum.<sup>216</sup>

The Senate Committee’s Final Report released in August 2015 recommended that:

The Commonwealth Government consider focusing on work that reinforces the value of school based education across all age groups on respectful relationships and responses to domestic and family violence.<sup>217</sup>

The Australian Institute of Family Studies (AIFS) and Australia’s National Research Organisation for Women’s Safety Ltd. (ANROWS) state in their joint submission:

Most school-based prevention programs are delivered in secondary schools. There is little evidence about effective practice with younger children; however, there is a strong argument for primary prevention to begin in pre- and primary school levels given that attitudes towards gender and violence may already be ingrained by the time children reach secondary school age.<sup>218</sup>

In its submission to me, the NSW Government also noted the lack of evidence about effective education campaigns for younger children:

The rationale for primary prevention work with children, including education campaigns, is premised on the theory that attitudes to gender equality and violence are formed in early childhood. However, there is relatively little evidence for the efficacy of primary prevention programs for children, as most evaluated programs are delivered to secondary school students.<sup>219</sup>

Submissions referred to a range of existing programs that promote healthy relationships to school-aged children.

The National Association for the Prevention of Child Abuse and Neglect (NAPCAN), for example, runs LOVEBiTES, which is a school based family and domestic violence and sexual assault prevention program for 15 to 17 year olds. Respectful Relationships, also run by NAPCAN, offers programs for preschool, primary school and high school.

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The submission from the North Australian Aboriginal Family Legal Service is supportive of programs like LOVEBITES:

A more integrated program, such as the Love Bites program offered by NAPCAN is recommended for delivery in schools throughout the Northern Territory. Ideally, respectful relationships programs should commence as early as possible in primary school and progress in an age appropriate manner throughout each child's schooling years.<sup>220</sup>

An evaluation of the LOVEBITES program (among Year 10 students) and Respectful Relationships program (among Year 7 students) reported 'uneven findings' based on the 135 survey responses collected from students and suggested that the programs are 'more effective in changing students' attitudes in some domains than in others'.<sup>221</sup>

The evaluation reported, for example, that:

The LOVEBITES and Respectful Relationships programs had a significant and positive impact on students' attitudes towards domestic violence, attitudes towards gender relations, and skills in having respectful relationships. Students who participated in the two violence prevention programs showed significant improvements in their attitudes and skills in these areas.

On the other hand, the programs had little or no impact on Year 7 or Year 10 students' attitudes towards aggression and alternatives to aggression, no impact on Year 10 female students' attitudes towards dating violence and a mixed impact on males' attitudes, a mixed impact on Year 10 students' perceptions of various abusive or coercive behaviours as violence, and a negative impact on Year 7 female students' attitudes towards bullying.<sup>222</sup>

I welcome the joint-announcement by the Prime Minister, Senator Cash, Rosie Batty and Ken Lay on 24 September 2015 that respectful relationships programs will be rolled out in schools across Australia from Kindergarten to Year 10 no later than 2017.<sup>223</sup>

I am pleased that respectful relationships programs will commence as early as Kindergarten and continue through to secondary schooling.

School-based educational programs alone, however, cannot address attitudinal change. Certain groups of children and their families will require targeted community-led and community based initiatives to effect change in attitudes and behaviours.

Programs to influence the values and behaviours of children should directly involve children in their design, delivery and evaluation, and be grounded in a child rights framework that promotes dignity and respect.



## Summary

### **What are the current public policy approaches and educational campaigns targeting children’s experiences of family and domestic violence?**

Overall there is no coherent public policy approach to children affected by family and domestic violence. This results in uncoordinated and poorly directed responses to children who experience family and domestic violence.

Children’s experiences of family and domestic violence must be understood in their own right and not just as part of an adult situation.

Most school-based prevention programs are delivered in secondary schools. There is little evidence about effective practice with younger children.

Children and young people should be directly involved in the development and evaluation of programs designed to achieve attitudinal and behavioural change.

## **4.5.6 Children affected by family and domestic violence who are involved with the family law system**

Since beginning my term as National Children’s Commissioner in March 2013, the issue of family and domestic violence in the context of the family law system has been raised with me by children, by adults on behalf of children, and by adults reflecting on their childhood experiences.

Concerns about family and domestic violence in relation to the family court system were raised in 18 submissions provided to my current examination.

Expert participants at each of my eight roundtables raised similar concerns.

The types of concerns raised in my examination included: a lack of understanding and inappropriate responses to family and domestic violence by those working in the family law system;<sup>224 225 226</sup> a conflict between the right of parental contact and the rights and best interests of the child and their non-violent parent;<sup>227 228</sup> court decisions which do not yet fully reflect the amendments to the Family Law Act in 2012;<sup>229</sup> and the inappropriate use of mediation for these families.<sup>230 231</sup>

Also highlighted was the manipulation of court decisions by some perpetrators of family and domestic violence as a means to continue to control and inflict abuse and violence on their ex-partner which invariably impacts on their children, often for prolonged periods.<sup>232</sup>

Post-separation violence in families was identified as a serious problem.<sup>233 234 235 236 237</sup>

The submission by Melbourne Research Alliance to End Violence Against Women and their Children suggested that:

The pathway to children’s safety through separation is currently marred by the Family Law response which is frequently unresponsive to the on-going dangers and threats to the well-being of children who are continuing to live with post-separation violence.<sup>238</sup>

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The submission by the NSW Government stated:

In abusive relationships, domestic and family violence does not end with separation and in fact can escalate to lethal violence. Children may be subjected to increased exposure to domestic and family violence after separation, since this may be the only context in which the violent partner has access to his victim. As such, it is vital that the family law system identifies and responds appropriately to domestic and family violence to ensure the safety and wellbeing of women and children.<sup>239</sup>

The submission made by the Australian Association of Social Workers cautioned me that:

Care should be taken when there are high levels of threats and violence to limit the contact between the violent parent and any children.<sup>240</sup>

During my consultations, I met with Ms Kristy McKellar. Ms McKellar shared with me her personal experiences with the family court system.

**Extract from Ms McKellar's written submission<sup>241</sup>**

On the final assault the perpetrator raised a glass vase lid above my daughter whilst she lay in her cot, gesturing to throw it at us, I stood with my arms outstretched across the cot as I was shaking knowing that if he was to throw it at us, it would hit me and hopefully I could protect the majority of the impact for my daughter. Further on the final assault he threw a book at the wall next to my daughter's cot, this book landed in her cot hitting her feet.

After the final assault I was too terrified to apply for an intervention order, the police actioned a complaint and warrant intervention order on behalf of myself and my daughter for one year in 2012 and then I obtained a 5 year intervention order for both my daughter and I, as the perpetrator was found guilty of contravening this family violence intervention order on six occasions.

#### **4.5.6.1 Family Violence Amendments in 2012**

The *Family Law Legislation Amendment (Family Violence and Other Measures) Act* was passed by the Senate on 24 November 2011 and the amendments came into effect on 7 June 2012.

The amendments, which commenced on 7 June 2012, apply to proceedings issued on or after that date. Where proceedings commenced prior to 7 June 2012, the majority of amendments do not apply.

The 2012 amendments included:

- a broader definition of family violence (section 4AB)
- a broader definition of abuse (section 4(1))
- giving greater weight to child safety (section 60CC2A)
- requiring the court to actively ask each party about family violence (section 69ZQ(1)(aa))
- empowering courts to arrange for children to see a family consultant (section 11F(1))
- removing 'friendly parent' provision (repealed section 60CC(3)(c), (4) & (4A))

- new consideration of parental involvement (section 60CC(3)(c) and (ca))
- broader scope of family violence orders (section 60CC(3)(k))
- new advisors applications (section 60D)
- disclosure of family violence (repeal of section 60K and adding of sections 67ZBA & 67ZBB)
- new requirement to disclose child protection matters (section 60CH & section 60CI)
- removal of mandatory cost orders (repeal of section 117AB)
- immunity from costs order for state, territory or commonwealth child protection authorities (section 117)
- giving effect to the Convention on the Rights of the Child (section 60B).

In the context of the 2012 amendments, Fehlberg, Kaspiew, Millbank, Kelly and Behrens note that:

It remains to be seen how this recognition of the exposure of children to family violence will play out in practice.<sup>242</sup>

Recently, the Australian Institute of Family Studies (AIFS) completed a project evaluating the 2012 Family Violence Amendments. The project has three parts:

- Responding to Family Violence – A survey of family law practices and experiences, which primarily involve online surveys of professional practices and perspectives
- A Survey of Recently Separated Parents 2014, based on a large-scale survey of parents' experiences and perspectives
- A Court Outcomes Project involving:
  - » a quantitative analysis of patterns in orders for parental responsibility and time made in the Family Court of Australia (FCoA), the Federal Circuit Court of Australia (FCCoA) and the Family Court of Western Australia (FCoWA)
  - » a national analysis of court filings data provided by the FCoA, the FCCoA and the FCoWA
  - » an analysis of published judgments.

A report on the results of this project was provided to the Commonwealth Attorney General at the beginning of August 2015.

The AIFS evaluation report was publicly released on 12 October 2015, two days before I transmitted my report to the Attorney-General.

AIFS acknowledges that its evaluation occurred two years after the family law reforms were implemented and notes that ‘this is a comparatively short period of time for change to unfold’.<sup>243</sup>

The AIFS report concluded that:

Practice continues to evolve and it is likely that greater effects of the reforms will unfold over time.<sup>244</sup>

I look forward to reading the report in full, especially the issues it raises in relation to children’s safety and the family law system.

#### 4.5.6.2 The Magellan Program

Another issue brought to my attention is the operation of the Magellan Program<sup>245</sup> in the Family Court of Australia.<sup>246</sup> At present this program includes children who have experienced ‘serious physical abuse or sexual abuse’ only. The Family Court of Australia’s Annual Report 2013–2014 states that:

Magellan cases involve allegations of serious physical abuse or sexual abuse of a child and undergo special case management. When a Magellan case is identified, it is managed by a small team consisting of a judge, a registrar and a family consultant. Magellan case management relies on collaborative and highly coordinated processes and procedures. A crucial aspect is strong interagency coordination, in particular with state and territory child protection agencies. This ensures that problems are dealt with efficiently and that high-quality information is shared. An independent children’s lawyer is appointed in every Magellan case, for which legal aid is uncapped... not all notices will necessarily result in the case being classified as a Magellan matter. The Court assesses and determines from the issues raised the matters that are managed under the Magellan program.<sup>247</sup>

Given the known impact of all types of family and domestic violence on children, and the complexity of cases that now present to the Family Court of Australia and the Federal Circuit Court of Australia, consideration should be given to expanding the Magellan program to incorporate the broader definitions of family violence and abuse as reflected in the 2012 amendments.

This approach is supported by Professor Easteal and Dimian Grey who argue that:

Exposure to family violence, or its after effects, does not seem to be attributed the same level of potential harm to children as direct abuse, especially sexual interference with a child... This is despite research clearly showing that exposure to family violence is extremely harmful to children and that family violence is correlated with a heightened risk of child abuse<sup>248</sup>... The Magellan program should be expanded to include family violence matters in which the harms of exposure are an issue. A uniform integrated response would better ensure that informed investigation of individual cases would take place, translating into more in-depth and uniform child welfare expert evidence to better inform judicial perceptions of risk of harm.<sup>249</sup>

While I understand that amending the criteria for access to the Magellan program has resource implications for child protection agencies and the family law system, it also has the capacity to promote and protect the wellbeing of significantly more children affected by family violence.

#### **Recommendation 10:**

**A review of the criteria for entry into the Magellan program should be undertaken by the Family Court of Australia or another appropriate entity.**

**Regard should be given to the findings and recommendations of the Victorian Royal Commission into Family Violence and also the Family Law Council Inquiry into families with complex needs and the intersection of the family law and child protection systems.**

### 4.5.6.3 The work of the Family Law Council

Currently, the Family Law Council is preparing a report on families with complex needs and the intersection of the family law and child protection systems. An interim report was released by the Commonwealth Attorney General on 21 August 2015, with the final report due by 30 June 2016.

In its Interim Report, the Family Law Council, through its review of research data and submissions, found that two aspects of the current legal system impede the protection of children. These are:

- (1) the increasingly public law nature of the parenting order work of the family courts, which were designed to deal with private law matters; and
- (2) the separation of courts and systems dealing with parenting orders, child protection and family violence matters.<sup>250</sup>

Specifically, the Interim Report noted that:

The family courts have no capacity to compel a child protection department to intervene in a family law case or to investigate the family court’s concerns, and the family law system has no independent investigative body akin to a child protection department that can provide the courts with a forensic assessment of child risk issues. These limitations mean that the risk of harm to children in family law cases is managed by judicial officers within a framework designed for ‘private’ disputes about the child’s care time with each parent, rather than a child protection framework. Although the family courts are not strictly bound by the proposals of the parties, there will rarely be an option available to a judicial officer beyond making a parenting order in favour of the ‘least detrimental’ of the proposals presented to the court.<sup>251</sup>

The Interim Report focuses on the prospect of having a streamlined, coherent and integrated approach to improve the overall safety of families and in particular children, while involved in the family law, child protection and family violence jurisdictions.

The Family Law Council made six recommendations in its Interim Report to the Attorney-General. The Family Law Council indicates that these issues will be further considered and addressed in its final report.<sup>252</sup>

The Interim Report by the Family Law Council states that its recommendations:

Represent the first step in a larger program of reform to address the wider systemic issues. In particular, the Council’s recommendations are designed to build on the stated priorities of the National Framework for Protecting Australia’s Children 2009–2020 and the National Plan to Reduce Violence against Women and their Children 2010–2022.<sup>253</sup>

The intent of the Family Law Council to be inclusive of the existing work of the National Framework for Protecting Australia’s Children 2009–2020 and the National Plan to Reduce Violence against Women and their Children 2010–2022 is very welcome.

As a member of the National Forum for Protecting Australia’s Children, I look forward to engaging with the Family Law Council as it progresses towards its final report and recommendations.

I also advocate that the Family Law Council directly consults with children as part of its work. Hearing the views of those most affected by the decisions that the courts make is fundamental to any program of reform.

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#### 4.5.6.4 The joint Family Court/Federal Circuit Court Children's Committee

In 2012, the Chief Justice of the Family Court and the Chief Judge of the Federal Circuit Court established a joint Children's Committee to:

explore what...work needs to be undertaken with respect to the involvement of children in parenting cases and how the courts might ascertain whether children feel their voices have been heard in proceedings that addressed their living arrangements.<sup>254</sup>

According to the Chief Justice of the Family Court, one of the factors leading to the establishment of the Family Court/Federal Circuit Court Children's Committee was the need to explore the issue of whether the voice of the child was being appropriately heard in parenting cases.<sup>255</sup>

In 2012, the joint Family Court/Federal Circuit Court Children's Committee asked the ACT Children and Young People Commissioner to undertake a consultation with children and young people about their participation in court proceedings.<sup>256</sup>

The consultation involved 15 children aged between 11 and 13 years. 13 of 15 children, in a show of hands, felt that children and young people should have a say in Family Court matters. The ACT Children and Young People Commissioner recommended that further consultations should occur with larger numbers of children and young people.

The joint Family Court/Federal Circuit Court Children's Committee has indicated that it would like to engage with me in my role as National Children's Commissioner in order to advance its objectives.<sup>257</sup>

Given my statutory responsibility to promote the human rights of all children in Australia, and the representations that have been made to me about children's safety and involvement in the family law system, particularly throughout my examination of family and domestic violence, I am pleased to offer my assistance to the Joint Children's Committee.

I am aware of the Family Violence Plan 2014–16 which is being implemented in the Family Court of Australia and the Federal Circuit Court.<sup>258</sup> The updated *Family Violence Best Practice Principles* used in both courts provides sound guidance to judicial officers.

I acknowledge the commitment of both courts to children's safety and wellbeing, and the early identification and management of matters where violence, or the risk of violence, is alleged.

## Summary

### **Children affected by family and domestic violence who are involved with the family law system**

The issue of family and domestic violence in the context of the family law system was consistently raised throughout my examination.

Key concerns about the family law system were:

- lack of understanding and inappropriate responses to family and domestic violence by those working in the family law system
- a conflict between the right of parental contact and the rights and best interests of the child
- court decisions which do not yet fully reflect the amendments to the Family Law Act in 2012
- the inappropriate use of mediation for some families.

In this context, the Australian Institute of Family Studies recently completed a project evaluating the 2012 amendments to the Family Law Act, which included greater consideration of children’s exposure to family violence. This evaluation examines how these changes have effected court decisions and outcomes for families.

Similarly, the Family Law Council, an independent advisory body which provides family law policy advice to the federal Attorney-General, is undertaking a review of the intersection of family law and child protection systems, and ways of improving assistance to families with complex needs.

I look forward to the public release of these reports and their recommendations on how to improve the overall safety of children and their families.

Another issue brought to my attention is the Magellan Program, which operates in the Family Court of Australia. Magellan cases are those where a child has experienced ‘serious physical abuse or sexual abuse’ and undergo special case management.

Given the known impact of all types of family and domestic violence on children, and the complexity of cases that now present to the Family Court and the Federal Circuit Court, consideration should be given to expanding the Magellan program to incorporate the broader definitions of family violence and abuse as reflected in the 2012 amendments.

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## 4.6 Key issues arising out of my examination

The aim of my national examination and my report is to make children an important focus in the current conversation about family and domestic violence.

Despite the lack of helpful national data about the prevalence and impacts of family and domestic violence on children aged 0 to 17 years, a number of issues emerged from my consultation.

### 4.6.1 National and disaggregated data about children affected by family and domestic violence is not readily available

The lack of reliable national data about children affected by family and domestic violence was raised throughout my consultation.

The data gaps undermine our ability to understand the full impact of family and domestic violence on our most vulnerable children. It is very difficult to build a national picture about children impacted by family and domestic violence.

Ensuring Australia has adequate data holdings to monitor child wellbeing is critical and forms part of our obligations under the Convention on the Rights of the Child. Without this we cannot understand the extent or nature of the impact of family and domestic violence on children, nor identify the most effective ways to address it.

The adoption of the ABS National Data Collection and Reporting Framework across all jurisdictions is critical to address the current gaps in understanding about the prevalence and incidence of family and domestic violence.

I urge all agencies and jurisdictions to work with the ABS towards adopting the foundations of its framework.<sup>259</sup>

#### 4.6.1.1 Limited breakdown on the age of child victims

The custom data provided to me based on the ABS Recorded Crime – Victims publication about child victims of physical assault and sexual assault could not be disaggregated beyond the age groupings of 0 to 9 years, 10 to 14 years and 15 to 17 years.<sup>260</sup> The limitation is because police data received by ABS is coded in terms of the three groupings, rather than in a single year format.<sup>261</sup>

The current age groupings about child victims of physical assault and sexual assault are too broad to be particularly helpful. For example, the developmental stages of children under 2 years of age and children aged 7 years are very different, yet they are included in the one age group.

I am encouraged that, for the next cycle of data collection, ABS will be requesting that police jurisdictions provide information on the dates of birth of victims. It will be possible to derive the exact age of victims in future releases of the Recorded Crime – Victims publication.

The custom experiences of childhood abuse data provided to me by ABS based on its 2012 Personal Safety Survey was disaggregated by four age groups (0 to 4 years, 4 to 9 years, 10 to 11 years and 12 to 14 years). The ABS was not able to provide data about people's experiences of childhood abuse between the age of 15 and 17 years because the 2012 Personal Safety Survey only collected information from respondents about experiences of abuse before the age of 15. Experiences of childhood abuse between the ages of 15 and 17 was not collected in the survey.



**Recommendation 11:**

**The Australian Bureau of Statistics Personal Safety Survey should extend its collection of information from men and women aged 18 years and over about their experiences of abuse from the ages of 0-15 years to the ages of 0-17 years.**

#### **4.6.1.2 Limited data about offenders**

The custom data about offender types provided to me by ABS based on its Recorded Crime – Victims publication cannot be used in any aggregated or comparative way due to discrepancies in definitions and ways the data is recorded in different jurisdictions.

For example, there are inconsistencies in the coding of current and former boyfriends and girlfriends as offenders:

Boyfriend/girlfriend:

- for New South Wales, Victoria, Queensland, South Australia and Tasmania, boyfriend and girlfriend are coded to ‘boyfriend/girlfriend’
- for the Northern Territory, some boyfriends and girlfriends may be included in ‘Other non-family member not elsewhere classified’ or in ‘Partner’
- for the Australian Capital Territory, boyfriend and girlfriend are coded to ‘Partner’

Ex-boyfriend/ex-girlfriend:

- for Queensland, Victoria, South Australia and Tasmania ex-boyfriends and ex-girlfriends are coded to ‘ex-boyfriend/ex-girlfriend’
- for New South Wales, ex-boyfriends and ex-girlfriends are coded to ‘Boyfriend/girlfriend’
- for the Northern Territory and the Australian Capital Territory, ex-boyfriends and ex-girlfriends are coded to ‘Ex-partner’.<sup>262</sup>

I anticipate these present inconsistencies may be resolved when the ABS National Data Collection and Reporting Framework is adopted by all jurisdictions.

In the meantime, gaining national consistency in the coding of all offender relationships to child victims should be prioritised. Accurate data about types of offenders will assist in the development and evaluation of prevention initiatives to reduce the number of child victims of physical and sexual assault.

**Recommendation 12:**

**The Australian Bureau of Statistics prioritise working with state and territory jurisdictions to achieve national consistency in the coding of offender relationships to child victims.**

## 4.6.2 The need for early intervention

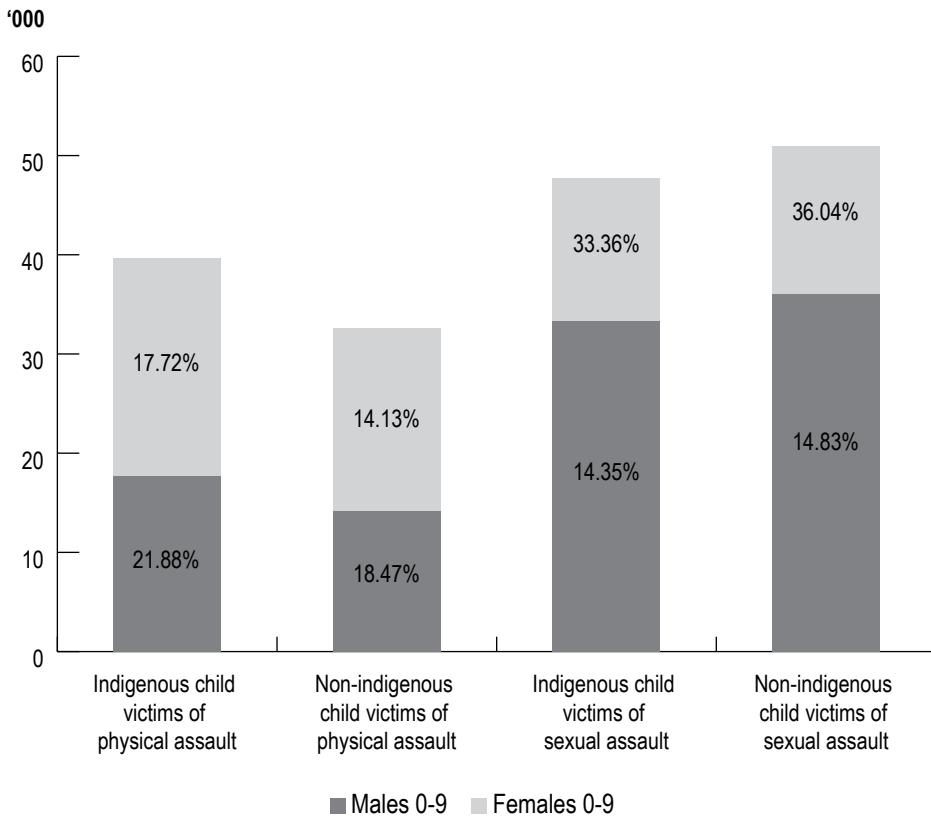
Consistently I was told that early intervention must be a priority for children affected by family and domestic violence.

The need for early intervention was reinforced by the data provided by the ABS and Kids Helpline, which showed that children in the younger age groups were predominately victims of violence.

The custom data I obtained from the ABS, based on its Recorded Crime – Victims publication, about police recorded child victims of physical assault and sexual assault in a residential location shows that **male and female children aged 0 to 9 years** accounted for a significant proportion of child victims who **reported the offender was their parent**.

Based on the custom report provided to me by ABS, I was able to compare the proportion of both Indigenous and non-Indigenous child victims of physical assault and sexual assault by parents in the state of New South Wales only:

**Figure 1: Proportion of child victims who reported the offender was their parent, by child victims aged 0 to 9, by the victim’s sex and and by Indigenous status (New South Wales, 2010–2013)**



The custom ABS 2012 Personal Safety Survey data about children who first experienced physical abuse and sexual abuse before the age of 15 also shows the vulnerability of young children, for example:

Of the 504,900 **male children** aged 0 to 14 years whose first incident of **physical abuse was perpetrated by a parent**, 302,000 (59.8%) were aged between 4 and 9 years when the incident occurred.

Of the 431,900 **female children** aged 0 to 14 years whose first incident of **physical abuse was perpetrated by their father**, 246,900 (57.16%) were aged between 4 and 9 years when the incident occurred.

Of the 150,700 **female children** aged 0 to 14 years whose first incident of **sexual abuse was perpetrated by their father/stepfather**, 62,700 (41.6%) were aged between 4 and 9 years when the incident occurred.

Of the 296,000 **female children** aged 0 to 14 years whose first incident of **sexual abuse was perpetrated by some other male relative or in-law**, 162,000 (54.72%) were aged between 4 and 9 years when the incident occurred.

With respect to the Kids Helpline, when comparing its family and domestic violence contacts with the demographic characteristics of all contacts to the Kids Helpline, there was a higher rate of contact about family and domestic violence by children aged 5 to 11 years.

Having said this, it should be noted that less than 1% of all contacts with the Kids Helpline involved concerns about family and domestic violence.<sup>263</sup> As the Kids Helpline submission stated:

It may be that children do not see Kids Helpline as an appropriate source of support for this situation, that they are seeking support elsewhere, or that they are not seeking support at all.<sup>264</sup>

Research<sup>265</sup> into neuroscience has shown that:

Early experiences influence the developing brain. From the prenatal period through the first years of life, the brain undergoes its most rapid development, and early experiences determine whether its architecture is sturdy or fragile. During early sensitive periods of development, the brain’s circuitry is most open to the influence of external experiences, for better or for worse.<sup>266</sup>

Ms McKellar shared her experience of family and domestic violence including how it escalated during her pregnancy and how it impacted on her daughter in the early years.

#### **Extract from Ms McKellar’s written submission<sup>267</sup>**

Obligation sits with all of us to understand and prioritise the relationship between early life experiences and cognitive, social, emotional, and physical health and the consequences of chronic exposure to violence for the unborn child and in early childhood.

My daughter’s brain development was heavily focussed on strengthening its strategies for survival in her hostile world, which disrupted her attachment and compromised her right to feel safe, calm, protected and nurtured.

The family violence my daughter suffered resulted in her developing hypervigilance, feeling highly sensitive, overreacting to triggers and nonverbal cues that other children would find non-threatening.

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I had to prioritise my daughter's early intervention and recovery, whilst acknowledging and addressing my own recovery, to ensure I could support and nurture her in reducing the negative physical, cognitive, emotional, and social growth impacts from her early exposure to family violence.

I hope to assist in providing a wider appreciation of the devastating impact of family violence on the unborn and developing child, influencing decisions that will create a safer, more predictable and enriching world for children.

**Information on family and domestic violence in pregnancy was identified as a key information gap in the National Maternity Data Development Project.<sup>268</sup>**

No jurisdiction collects information on family and domestic violence as part of its Perinatal Data Collection. Currently, some jurisdictions do routinely screen women for family and domestic violence in pregnancy while others screen on a case-by-case basis.<sup>269</sup>

A participant at my Perth Roundtable, Ms Sharon Cooke, Australian Association for Infant Mental Health West Australian Branch indicated that:

In the last 30 years we have seen a marked erosion in quality coordinated continuous care of families from pregnancy to school-age...It's a critical window of time that can most significantly impact the trajectory of an individual's life – maximising brain development, regulating their stress response (HPA axis) and creating psychological, social/emotional and physical wellbeing...Recent breakthroughs in how we understand brain development and epigenetics point towards early intervention as the best long-term outcome for all.<sup>270</sup>

The Royal Australian and New Zealand College of Psychiatrists pointed out that:

Pregnancy is a time of heightened risk for mother and child. Doctors must ensure they screen women for family violence and be familiar with appropriate responses.<sup>271</sup>

I am very encouraged by the 2015 Australian Institute of Health and Welfare's report on *Screening for domestic violence during pregnancy – Options for future reporting in the National Perinatal Data Collection*.<sup>272</sup>

The report discusses barriers to, and opportunities for, the collection of data on screening for family and domestic violence during pregnancy. The report proposes options for data collection through the National Perinatal Data Collection.

A mother of a child with disability who experienced family and domestic violence during pregnancy and after giving birth provided me with a submission from which I have taken this extract.

**Extract from Ms Emma Gierschick's written submission<sup>273</sup>**

I have absolutely NO photos of ——— smiling at all in the first 20 months of her life – and just thought I had an unanimated quiet withdrawn child who would look startled with big wide eyes most of the time – who didn't smile. She rarely cried, but also didn't engage much and certainly never laughed or giggled with happiness or joy. It was only upon leaving that I discovered what a giggly, energetic bundle of mess, noise and mischief I have who is always very 'busy' and loves dancing, singing and laughing. She wakes with a smile on her face now or a giggle.

Future screening will enable women experiencing family and domestic violence to have an increased chance of receiving support. I will monitor progress for the screening of family and domestic violence during pregnancy.

**Recommendation 13:**

**Options for data collection on screening for family and domestic violence during pregnancy through the National Perinatal Data Collection are progressed by the Australian Institute of Health and Welfare.**

Participants at a number of my roundtables and numerous submissions<sup>274</sup> reinforced the importance of the first 1000 days between conception and two years of age, and the value of investing in the early years.

Experiences of family and domestic violence have been linked to detrimental consequences for brain development of children during pregnancy and early childhood.

Families Australia emphasised that:

In order to reduce the negative impact on children, who experience family and domestic violence, to improve their life outcomes, and to break the intergenerational cycle of violence, it is vital that comprehensive support be available as early as possible, and on a long-term basis if necessary.<sup>275</sup>

The submission from the Australian Association for Infant Mental Health West Australian Branch reinforced this:

For infants and young children who experience developmental trauma, prevention and early intervention is of crucial importance given the immediate and long-term impact on development and the compelling evidence for the impact of intervening early.<sup>276</sup>

Researchers, Fehlberg, Kaspiew, Millbank, Kelly and Behrens point out that:

... a growing field of neurodevelopmental research show[s] that exposure to family violence may have permanent effects on the development of the brain in young children, especially in the absence of therapeutic intervention.<sup>277</sup>

The National Framework for Protecting Australia’s Children is committed to early intervention. Its Third Action Plan will be incorporating a First 1000 Days Strategy, which is supported by all states and territories in Australia.

The focus on the early period of child development will hopefully drive improved awareness and understanding of its importance and the critical role of parenting.

As a member of the National Forum for the National Framework and its Third Action Plan, I will continue to advocate for laws, policies and programs that prioritise investment in the early years and early intervention initiatives for children.

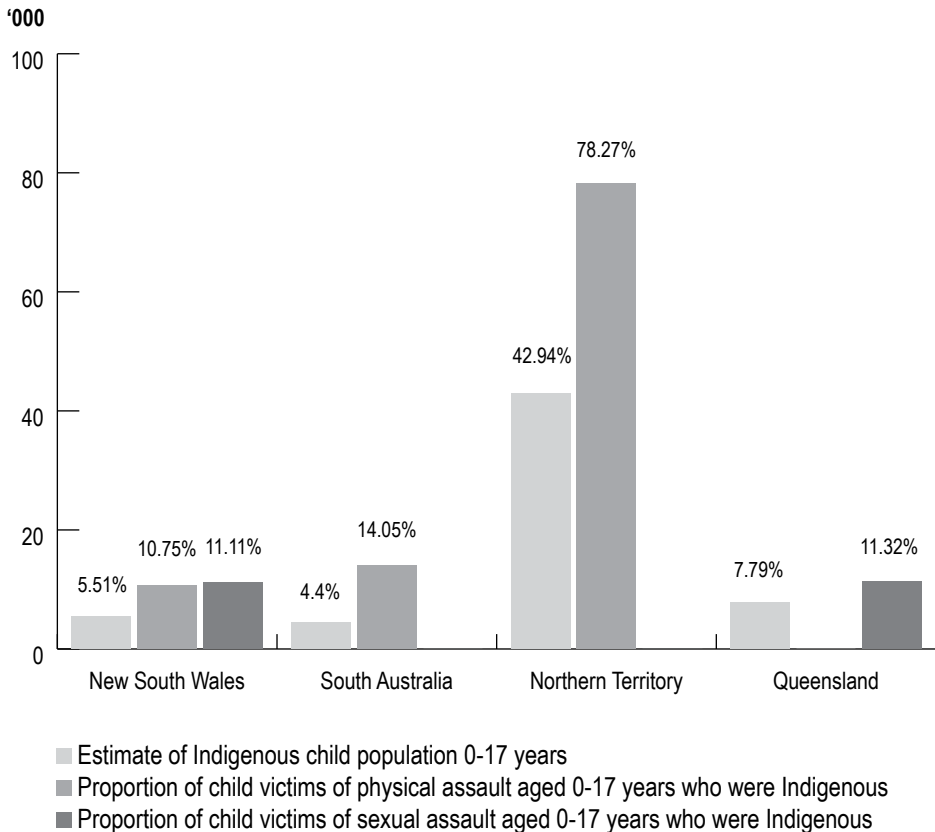
### 4.6.3 Aboriginal and Torres Strait Islander children are over represented

The over-representation of Aboriginal and Torres Strait Islander children in the context of family and domestic was raised in written submissions, at all of my roundtables and in many of the individual consultations I conducted.

The custom data I obtained from ABS based on its Recorded Crime – Victims publication about police recorded child victims of physical assault and sexual assault in a residential location shows that Aboriginal and Torres Strait Islander children are overrepresented as child victims.

The physical assault and sexual assault data about child victims provided to me by ABS based on its Recorded Crime – Victims publication is likely to be an underestimate of the actual number of victims. The ABS data only includes offences that come to the attention of police.<sup>278</sup>

**Figure 2: Estimate of Indigenous child population aged 0 to 17 years compared with proportion of police recorded child victims of physical assault and sexual assault aged 0 to 17 years who were Indigenous, by jurisdiction (2010–2013)**



In Victoria, the Taskforce 1000 initiative is examining the circumstances facing Aboriginal and Torres Strait Islander children in out-of-home care.<sup>279</sup> Victorian Commissioner for Aboriginal Children and Young People and Co-Chair of the Taskforce 1000 Steering Committee, Mr Andrew Jackomos, told me that:

After reviewing and discussing over 400 (out of approximately 1300) Aboriginal children in out of home care; the primary driver into child protection for Aboriginal children is Family Violence, and it is often accompanied with alcohol and drug misuse. This has been in approximately 85% of cases. Specific data collected in the T1000 is the responsibility of DHHS and has not been published.<sup>280</sup>

The need for a spectrum of primary, secondary and tertiary interventions to overcome the disadvantages faced by Aboriginal and Torres Strait Islander children and families was raised in my national examination.

The Third Action Plan of the National Framework for Protecting Australia’s Children has a cross-cutting strategy to focus on Aboriginal and Torres Strait Islander children and families.

The Third Action Plan’s focus on early intervention will seek to address the needs of Aboriginal and Torres Strait Islander children and families dealing with complex issues, including family and domestic violence.

It is intended that a new Aboriginal and Torres Strait Islander working group will be established to support the implementation of the Third Action Plan and report on progress and outcomes.

While the Third Action Plan will have a cross-cutting strategy to address the needs of Aboriginal and Torres Strait Islander children, and a focus on early intervention, the Indigenous Health Equity Unit at the University of Melbourne has established a Scientific Committee to progress a research agenda on the impact of a First 1000 Days approach.<sup>281</sup>

The research agenda for the First 1000 Days approach is coordinated by Professor Kerry Arabena, Chair of Indigenous Health from the University of Melbourne’s School of Population and Global Health. Professor Arabena is also the Director of the Onemda VicHealth Koori Health Unit.

Professor Kerry Arabena has provided me with a description of the work underway, as it relates to family and domestic violence.

Professor Arabena’s statement can be found on page 159.

Professor Arabena believes that ‘a radical change is required in how we think about and enhance the early outcomes for Aboriginal and Torres Strait Islander children in Australia.’

It is crucial that our interventions achieve sustained change by investing in the early years, rather than the default position of intervention at the point of crisis.

The current funding for Professor Arabena’s project is from the Onemda VicHealth Koori Health Unit, which will cease on 30 June 2016.

#### **Recommendation 14:**

**The Australian Government Department of Social Services support the work of Professor Arabena and the Indigenous Health Equity Unit at the University of Melbourne to progress the early intervention research agenda under the First 1000 Days initiative.**

### **Statement from Professor Kerry Arabena and the importance of the First 1000 Days**

A radical change is required in how we think about and enhance the early outcomes for Aboriginal and Torres Strait Islander children in Australia. Too many children and young people do not have the start in life they need. As our understanding of developmental science improves, it becomes clearer and clearer that adverse events in a child's life lead to structural changes in brain development that have life-long and societal ramifications. We now also know these ramifications are intergenerational. Not intervening will affect not only this generation of children, but also the next. Those who suffer adverse childhood events achieve less educationally, earn less and have worse health outcomes – all of which makes it more likely that the cycle of harm is perpetuated in the following generation.

The First 1000 Days Scientific Symposium was a call to consider the implementation of new interventions founded in rigorous science, and to consider the cultural protective factors needed to support mothers, fathers and their children in the 'critical window of opportunity' from conception to the age of two. International research shows that early intervention programs during pregnancy and in the early months and years of a child's life have tremendous positive impacts on health later in life. The physiological, educational and emotional environment of the child in this 'First 1000 Days' has been shown to exert a profound impact on long-term developmental and life trajectories.

The Symposium considered how to develop and apply high-quality evidence to the issue of childhood vulnerability in Aboriginal and Torres Strait Islander populations that is grounded both in the neuroscience of early brain development and in the complex effects of social and community environments on children's development.

Addressing family violence was identified as one of many possible research themes for the First 1000 Days approach.

Research into family violence and violence interventions has direct implications for child protection and child deaths. There is a need to find out what works in family violence interventions, and to use an approach that recognises the spectrum of violence and addresses both physical and emotional violence. For example, empowerment is inversely related to levels of violence, but empowerment does not change negative attitudes to women.

An in-depth investigation into communities' needs and goals is required along with a scoping of what people are already doing in Aboriginal and Torres Strait Islander communities. Such an approach would enable a project to be tailored to the geographic area in which it is being implemented and address the community's needs and goals. This project could be integrated with, but not limited to, drug and alcohol services and housing services specific to the area in which it is being implemented in partnership with industry organisations and communities.

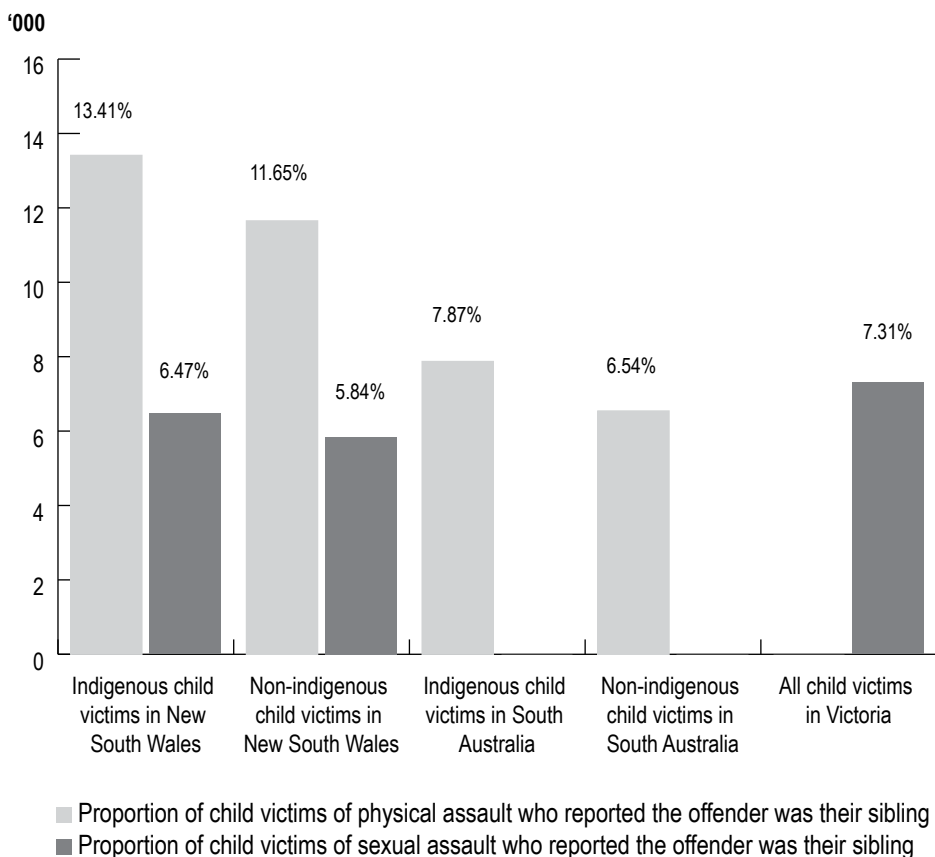
To assess barriers and current knowledge on family violence and violence interventions, a thorough literature review is required to identify gaps in this area, previous successful interventions and different models. Community consultation is needed to ensure that the community has input on their needs and goals, which are then included and embedded in the interventions. There could be an application of the same model in different contexts or with a different focus that is tailored to specific geographic areas.



### 4.6.4 Sibling violence

The custom data I obtained from ABS based on its Recorded Crime – Victims publication about police recorded child victims of physical assault and sexual assault in a residential location shows siblings accounted for a sizable proportion of offenders.

**Figure 3: Proportion of child victims who reported the offender was their sibling, by Indigenous status and by jurisdiction (2010–2013)**



The extent of sibling violence against children aged 0 to 17 years is not known at the national level. Preliminary research suggests that **disclosure** of sibling sexual abuse is rare:

The small number of qualitative studies into disclosure in cases of sibling sexual abuse consistently shows that disclosure is extremely rare, especially during or soon after the abuse had occurred.<sup>282</sup>

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Sibling violence was identified as an emerging concern by participants at some of my roundtables and in some of the written submissions. The Kids Helpline, for example, pointed out that:

Nearly 14% of DFV contacts to Kids Helpline involved violence by siblings, and many children reported that their parents were either unwilling or unable to address the issue. It is our view that this form of family violence is under researched. There would be considerable value in undertaking research in regard to this issue to better inform the development and implementation of preventative strategies.<sup>283</sup>

**The need for greater research about sibling violence** was reinforced in the submission made by Australian Psychological Society:

Another area that is often overlooked is the impact on children of their siblings who may be violent towards one or both parents or stepparents. The complex aetiology of such violence is embedded in family violence research, with power differentials operating often during the younger years of the violent adolescents, and the change with growth and impulse control evident, even with the filicide data... This area of violence towards parents and younger siblings is an emerging area of research that needs attention.<sup>284</sup>

The Kids Helpline provided this case study of one contact to highlight the reality of sibling violence:

#### **Extract from the BoysTown / Kids Helpline submission**

I'm 15 and live in a small country town in Australia. I have recently been abused by my older brother. He was throwing me across rooms, slamming me into walls, punching me in the face and threatening me with knives. After that I started self-harming and I lost all my friends except my best friend. I had told my best friend, family and even the police and nothing is still done about it. He comes up every month for about 2 weeks. That whole 2 weeks, I have to, either leave the house and stay at a friends', or stay locked in my room.<sup>285</sup>

Sibling violence is an area that requires further investigation. The Australian National Research Organisation for Women's Safety (ANROWS) has identified sibling sexual abuse as an area where there is a research gap.<sup>286</sup>

#### **Recommendation 15:**

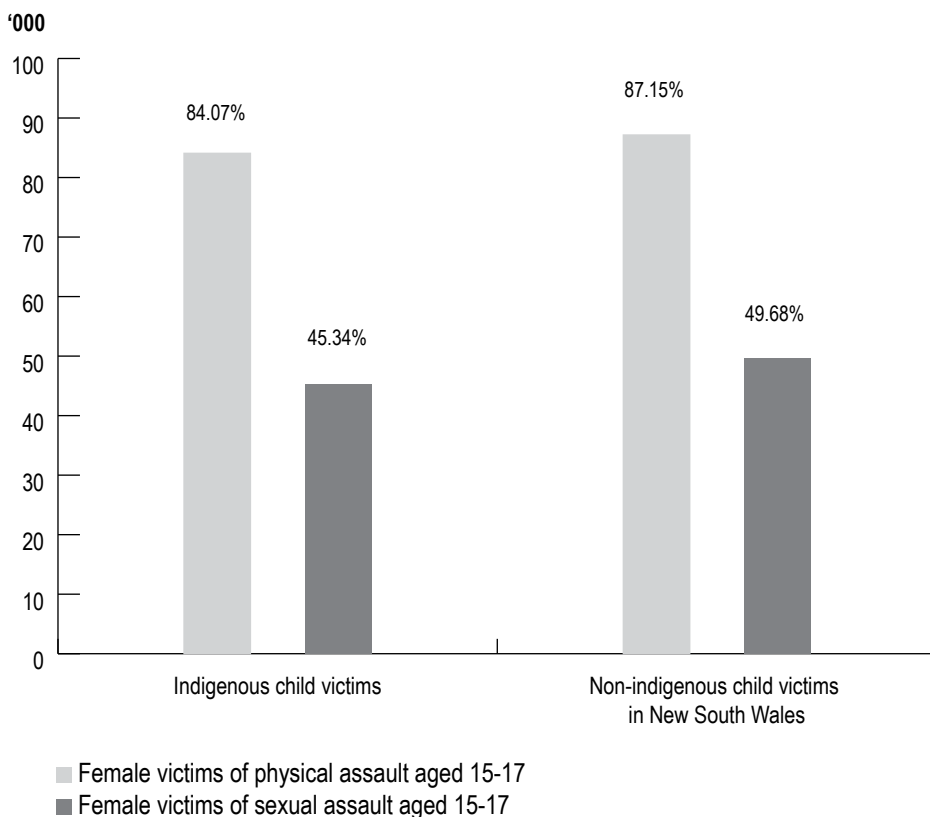
**The next ANROWS (Australia's National Research Organisation for Women's Safety) Research Program should include research into sibling violence.**

### **4.6.5 Female children aged 15 to 17 years subjected to physical assault and sexual assault by their partners**

The custom data I obtained from ABS based on its Recorded Crime – Victims publication about police recorded child victims of physical assault and sexual assault in a residential location shows that female children aged 15 to 17 years accounted for a significant proportion of child victims who reported the offender was their partner.

Based on the custom data provided to me by ABS, I was able to compare the proportion of both Indigenous and non-Indigenous female child victims aged 15 to 17 of physical assault and sexual assault by partners in the state of New South Wales only:

**Figure 4: Proportion of child victims who reported the offender was their partner, by female child victims aged 15 to 17 years and by Indigenous status (New South Wales, 2010–2013)**



The custom report provided to me by ABS based on its 2012 Personal Safety Survey did not provide physical abuse or sexual abuse prevalence estimates for children aged 15 to 17 years.

Evidence I gathered through my roundtables and written submissions also indicated that an increasing number of female children aged 15 to 17 years are experiencing and seeking help for violence perpetrated by their partners.

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The Northern Territory Department of Children and Families pointed out in its submission to me that:

Frontline practitioners have observed a growing cohort of young people experiencing violence within their relationships. Typically, they are teenage girls partnered with teenage boys or young men, and include cases where the teenage girl is still technically a child and already has children of her own. The girls and their children may be the subject of child protection interventions. They may be 'self-placing', removing themselves from a child protection placement and relocating to another place of their own choosing, typically with their boyfriend and/or his family, which both reflects and reinforces inter-generational trauma related to family and domestic violence.<sup>287</sup>

In its submission, Relationships Australia also raised the issue of emerging service gaps for this vulnerable group:

We are seeing a trend of an increasing number of children aged 15-17 years who are seeking support through our domestic violence programs. Older adolescent males are either mandated or voluntarily seeking support to stop using abuse in their relationships with women. Older adolescent women are seeking support as the victim of domestic violence from relationships with young men at school and in the community. At present we do not have sufficient resources to tailor additional services for this age group.<sup>288</sup>

It is important that we take steps to better meet the needs of and understand at the national level the situation of female children aged 15 to 17 years who are experiencing violence by their partners.

**Recommendation 16:**

**The next ANROWS (Australia's National Research Organisation for Women's Safety) Research Program should include research into female children aged 15 to 17 years affected by family and domestic violence.**

The Australian Institute of Family Studies and ANROWS brought to my attention the fact that:

... The current commitment of funding for ANROWS expires six years before the end of the National Plan. A longer term funding commitment (at least to the end of the National Plan in 2022) is necessary to enable ANROWS to fulfil its potential, including providing support for longer term research projects, which are crucial in understanding, for example, the effects of perpetrator intervention programs.

To illustrate this point, the open grants applications process conducted by ANROWS for its Research Program 2014–2016 resulted in 50 applications for research projects to address current gaps in the evidence base, with a total value of approximately \$15 million; however, ANROWS has been able to fund a Research Program valued at \$3.5 million.<sup>289</sup>

I encourage the Australian Government to commit to funding ANROWS to at least the end of the National Plan to Reduce Violence against Women and their Children in 2022.

## Summary

### Key issues – the impact of family and domestic violence on children

A number of key issues emerged from my national examination:

- National and disaggregated data about children affected by family and domestic violence is not readily available, including limited breakdown on the age of child victims and limited data about offenders and perpetrators.
- There is a need for early intervention, especially in the first 1,000 days between conception and the age of two years and a need for better information on family and domestic violence in pregnancy.
- Aboriginal and Torres Strait Islander children and families in the context of family and domestic violence are over represented.
- There is a need for targeted research into sibling violence, and family and domestic violence experienced by female children aged 15 to 17 years.

## 4.7 Conclusion

On 28 September 2015, the Victorian State Coroner, Judge Ian Gray, delivered written findings into the death of Luke Batty and made 29 recommendations.

28 of the recommendations were directed to the State of Victoria and its agencies. Each state and territory jurisdiction in Australia, however, has the potential to review its own laws and policies and make lasting improvements based on the findings from Luke Batty’s death.

Clearly much remains to be done to make sure that children aged 0 to 17 years can live free from family and domestic violence.

While the evidence-base about the harmful effects of family and domestic violence on children’s wellbeing is growing, much less is known about the variability in impact and the effectiveness of interventions.<sup>290</sup>

The definitional and data issues are complex. As a nation, however, we must be able to consistently identify those children affected by family and domestic violence. Where children are identified, more information must be recorded and collected.

Comprehensive data about children is required to improve our understanding about the prevalence and impact of family and domestic violence on children at the national level. As a first step, the ABS National Data Collection and Reporting Framework should be used by all jurisdictions.

I welcome the recent policy and research initiatives which aim to promote greater understanding. For example, the importance of the First 1000 Days initiative and its focus on investing in the critical period of child development between conception and the age of two.

I also welcome the Council of Australian Governments agreement to fund a national campaign to reduce violence against women and their children. I strongly encourage the direct participation of children and young people in the campaign’s development. It is critical that the campaign be tailored to address the circumstances and diverse population groups in each state and territory.

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I hope that by conducting this examination I have contributed to making the experiences of children an explicit focus in the broader national discussion currently underway.

I look forward to reporting on the progress of my recommendations in my next statutory report to federal parliament about the human rights of children in Australia.

## 4.8 Acknowledgments

I sincerely thank the following people and organisations for their support and contribution to my examination:

- Aboriginal and Torres Strait Islander Social Justice Commissioner, Mr Mick Gooda.
- The staff of the Australian Bureau of Statistics.
- Ms Tracy Adams, Chief Executive Officer of BoysTown and Kids Helpline, and Mr John Dalgleish, Manager of Strategy and Research.
- Ms Rosie Batty for meeting with me as part of my examination.
- Ms Kristy McKellar for meeting with me and for also providing a personal submission to my examination.
- Professor Kerry Arabena for providing me with information about her First 1000 Days research program.
- Doctor John McKenzie for providing me with information about the longitudinal research by the Menzies School of Health Research.
- Associate Professor Deborah Loxton and Natalie Townsend for providing me with information on Australian Longitudinal Study on Women's Health (ALSWH) and the Mothers and their Children's Health (MatCH) project.
- Everyone who took the time to make a written submission (see Appendix 5).
- Those who presented at the roundtables in order to stimulate discussion and all participants (see Appendix 6).
- Those State and Territory Children's Commissioners/Guardians who participated in my roundtables and those who made written submissions.
- The staff at 1800RESPECT for their support in arranging the webinar consultation.
- The federal Department of Social Services who hosted my roundtables in Canberra, Adelaide, and Perth.
- The Tasmanian Department of Premier and Cabinet who hosted my roundtable in Hobart.
- Colin Biggers & Paisley for hosting my roundtables in Sydney, Melbourne and Brisbane, and for transcribing the discussions that took place.
- Doctor Helen Rogers and those working on LSAC and LSIC at the National Centre for Longitudinal Data for providing their research summaries for my report.

## 4.9 Recommendations

<b>Recommendation 3:</b>	The Annual Progress Reports of the National Plan to Reduce Violence against Women and their Children should detail how all jurisdictions are working towards implementing the Australian Bureau of Statistics National Data Collection and Reporting Framework.
<b>Recommendation 4:</b>	Data about a child’s experience as a victim of family and domestic violence should be recorded as a separate entry in the Australian Bureau of Statistics National Data Collection and Reporting Framework, and not just part of an adult entry.
<b>Recommendation 5:</b>	Data about lesbian, gay, bisexual, transgender and intersex status should be recorded in the Australian Bureau of Statistics National Data Collection and Reporting Framework.
<b>Recommendation 6:</b>	The Annual Progress Reports of the National Plan to Reduce Violence against Women and their Children should detail how the Australian Bureau of Statistics Personal Safety Survey is working towards surveying adequate sampling sizes across vulnerable groups.
<b>Recommendation 7:</b>	Support for the Australian Longitudinal Study on Women’s Health (ALSWH) project by the Australian Government Department of Health is extended after 30 June 2016 and support for the Mothers and their Children’s Health (MatCH) project by the Australian Government Department of Health is also extended after its National Health and Medical Research Council grant expires in 2017.
<b>Recommendation 8:</b>	Support for the ‘Improving the developmental outcomes of Northern Territory children: a data linkage study to inform policy and practice in health, family services and education’ currently being conducted in the Northern Territory by Menzies School of Health Research is provided by the Australian Government Department of Social Services after its National Health and Medical Research Council grant expires in 2017.
<b>Recommendation 9:</b>	The Council of Australian Governments prioritise the development of a child-focused policy framework for responses to family and domestic violence.

<b>Recommendation 10:</b>	<p>A review of the criteria for entry into the Magellan program should be undertaken by the Family Court of Australia or another appropriate entity.</p> <p>Regard should be given to the findings and recommendations of the Victorian Royal Commission into Family Violence and also the Family Law Council Inquiry into families with complex needs and the intersection of the family law and child protection systems.</p>
<b>Recommendation 11:</b>	<p>The Australian Bureau of Statistics Personal Safety Survey should extend its collection of information from men and women aged 18 years and over about their experiences of abuse from the ages of 0-15 years to the ages of 0-17 years.</p>
<b>Recommendation 12:</b>	<p>The Australian Bureau of Statistics prioritise working with state and territory jurisdictions to achieve national consistency in the coding of offender relationships to child victims.</p>
<b>Recommendation 13:</b>	<p>Options for data collection on screening for family and domestic violence during pregnancy through the National Perinatal Data Collection are progressed by the Australian Institute of Health and Welfare.</p>
<b>Recommendation 14:</b>	<p>The Australian Government Department of Social Services support the work of Professor Arabena and the Indigenous Health Equity Unit at the University of Melbourne to progress the early intervention research agenda under the First 1000 Days initiative.</p>
<b>Recommendation 15:</b>	<p>The next ANROWS (Australia's National Research Organisation for Women's Safety) Research Program should include research into sibling violence.</p>
<b>Recommendation 16:</b>	<p>The next ANROWS (Australia's National Research Organisation for Women's Safety) Research Program should include research into female children aged 15 to 17 years affected by family and domestic violence.</p>



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