

# CHILDREN AND YOUNG PEOPLE'S UNIQUE EXPERIENCES OF FAMILY VIOLENCE

**FAMILY VIOLENCE AND CHILDREN AND YOUNG PEOPLE IN TASMANIA**

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## ACRONYMS AND ABBREVIATIONS

<b>ABS</b>	Australian Bureau of Statistics
<b>ACT</b>	Australian Capital Territory
<b>ADEPT</b>	Administrative Data Exchange Protocol for Tasmania
<b>AIFS</b>	Australian Institute of Family Studies
<b>ANROWS</b>	Australia's National Research Organisation for Women's Safety
<b>ARACY</b>	Australian Research Alliance for Children and Youth
<b>CHaPS</b>	Child Health and Parenting Service
<b>CHYPP</b>	Children and Young People Program
<b>COAG</b>	Council of Australian Governments
<b>CPS</b>	Child Protection Services
<b>CRAF</b>	Common Risk Assessment Framework
<b>CRC</b>	Convention on the Rights of the Child
<b>DV-Alert</b>	Domestic Violence Response Training
<b>FDV</b>	Family and Domestic Violence
<b>FV</b>	Family Violence
<b>FVO</b>	Family Violence Order
<b>FVOIP</b>	Family Violence Offender Intervention Program
<b>FVRC</b>	Royal Commission into Family Violence Victoria
<b>IFSS</b>	Intensive Family Support Services
<b>LSAC</b>	Longitudinal Study of Australia's Children
<b>MYAN</b>	Multicultural Youth Advocacy Network
<b>National Framework</b>	National Framework for Protecting Australia's Children 2009-2020
<b>National Plan</b>	National Plan to Reduce Violence Against Women and Their Children
<b>NSW</b>	New South Wales
<b>PFVO</b>	Police Family Violence Order
<b>PSS</b>	Personal Safety Survey
<b>PTSD</b>	Post-traumatic stress disorder
<b>RACGP</b>	Royal Australian College of General Practitioners
<b>SA</b>	South Australia
<b>SAC</b>	Sentencing Advisory Council Tasmania
<b>SHE</b>	Support, Help and Empowerment
<b>Tas.</b>	Tasmania
<b>WA</b>	Western Australia

# FOREWORD



I offer this Report in the spirit of the United Nations *Convention on the Rights of the Child* which clearly states that every child has the absolute right to live free from all forms of violence, abuse and neglect.

The progress made in recent years on how we respond as a society to address family violence has been significant. Successive Tasmanian Governments have led the way over the last decade, most recently culminating in the whole of government response, *Safe Homes, Safe Families: Tasmania's Family Violence Action Plan 2015-2020*.

Under Tasmania's *Family Violence Act 2004*, "family violence" is conceptualised in a non-gender specific way. While family violence can affect any person regardless of their gender, it is acknowledged that the overwhelming majority of family violence incidents are perpetrated by men against women. These women are often mothers and the impact of this violence on their children can be significant. Consequently, the focus of this Report is on those children and young people who are the dependents of women who experience violence at the hands of their male partner or former partner.

It is becoming increasingly clear that children and young people have their own unique experiences of family violence and that they are victims in their own right. Children by nature of their age and developmental needs are particularly vulnerable to living in a household affected by family violence. Often they are the silent or invisible victims.

Children and young people can be affected by family violence in a range of ways which are often independent of their non-violent parent, and their needs can be different to those of adults. At times children and young people's needs have been overlooked or conceived as secondary to those of adults when strategies and responses have been put in place to address family violence.

We need different responses and perspectives when supporting children and young people who experience family violence. A child or young person's experience of family violence is greatly dependent on their individual circumstances and personal characteristics. It must also be emphasised that children and young people who experience family violence can display great resilience in spite of their adverse experiences.

Building on the positive progress already underway in Tasmania, my Report outlines a series of findings that strive to further strengthen our understanding of children and young people's needs and the responses we as a Tasmanian community can put in place to support them to heal.

What is clear is that for women and their children who are victims of family violence, ensuring their safety must be the priority.

Please consider the findings of this Report, as we together strive to better care for and respond to the needs of our children and young people.

A handwritten signature in black ink, appearing to read 'M. Morrissey', with a long, sweeping underline that extends to the right.

**MARK MORRISSEY**  
COMMISSIONER FOR CHILDREN  
AND YOUNG PEOPLE

# FINDINGS

## EFFECTS OF FAMILY VIOLENCE (FV) ON CHILDREN AND YOUNG PEOPLE

### UNIQUENESS OF EXPERIENCE

1. A child's experience of family violence is greatly dependent on their individual circumstances and personal traits, and no one child is affected uniformly.

### EFFECTS OF FAMILY VIOLENCE ON CHILDREN AND YOUNG PEOPLE

2. The effects of FV on children and young people can have a detrimental effect on their development, as well as their physical and mental wellbeing.

### COMPLEX TRAUMA

3. The experience of FV by children and young people is a form of 'complex trauma' which describes both children's exposure to multiple, chronic and prolonged developmentally adverse traumatic events, and the substantial long-term impact of this exposure.

### VICTIMS IN THEIR OWN RIGHT

4. Children and young people do not have to directly witness or be subjected to family violence in order to be affected. As victims in their own right, children and young people should be supported to recognise and disclose violence, seek assistance, and heal from trauma.

### RESOURCES FOR PARENTS AND SERVICE PROVIDERS

5. There may be value in developing and providing further information, education and communication materials to parents and service providers on understanding the effect of FV on children and young people.

### RESILIENCE

6. Many children and young people who have experienced FV display high levels of self-efficacy and resilience; it should not be assumed that their potential to succeed is lessened compared to those who haven't experienced FV or that they will grow up to be perpetrators themselves.

### MOTHER-CHILD BOND

7. The continuation of a child's secure attachment to their primary caregiver (usually their mother) has been identified as a protective factor for children exposed to FV.

### DATA COLLECTION

8. There is a need to improve the ways in which we gather information on children and young people and their experiences of FV across the system. Data should be analysed to ensure the system is responding appropriately to the needs of children and young people.

# BRINGING CHILDREN AND YOUNG PEOPLE INTO VIEW

## FAMILY VIOLENCE IS A CHILD RIGHTS ISSUE

9. Children and young people have a right to live free from all forms of violence, abuse and neglect and this principle should be a fundamental aspect of family violence policy and practice.

## UNDERSTANDING THE NEEDS OF CHILDREN AND YOUNG PEOPLE

10. A) Responses to children and young people exposed to violence must prioritise their safety and long term well-being.  
  
B) There is a need for services and supports for children and young people to be tailored to their level of understanding, age, stage of development and individual circumstances.

## BEST INTERESTS

11. Children's best interests should be a primary consideration in all actions concerning them - for children and young people with experience of FV, this means that their rights, interests and needs must be considered and responded to as a priority by policy makers and service providers – not merely as secondary to the needs of their parents.

## VIEWS OF CHILDREN AND YOUNG PEOPLE ARE RESPECTED

12. There can be no real appreciation or understanding of what is in a child's or young person's best interests without according them the right to be heard and to have a say on matters that affect them. Crucial to children's ability to cope with family violence and its effects on them are:
  - being listened to and taken seriously as participants in the situation
  - being actively involved in finding solutions and in decision-making.

## VOICES OF CHILDREN AND YOUNG PEOPLE IN RESEARCH AND SERVICE DELIVERY

13. There is value in ascertaining and taking into account the views and experiences of children and young people – in research, and in the scoping, design, and evaluation of services, but always ensuring this is done in a way that does not do them harm.

## VOICES OF CHILDREN AND YOUNG PEOPLE IN LEGAL PROCESSES

14. To maximise positive outcomes it is important to support children and young people having a full and effective participation in child protection, family law and FV intervention making, commensurate with their age, maturity and evolving capacity.

# TASMANIA'S INTEGRATED FAMILY VIOLENCE RESPONSE

## TASMANIAN GOVERNMENTS' RESPONSES TO FAMILY VIOLENCE

15. I acknowledge and commend successive Tasmanian Governments for developing and building upon the existing integrated response to FV, comprised of *Safe at Home* and *Safe Homes, Safe Families, Tasmania's Family Violence Action Plan 2015-2020*.

## CHILD PROTECTION (A)

16. Experience of family violence is a significant contributor to entry to the statutory child protection system – and family violence appears as one of the most common factors in notifications to child protection.

## CHILD PROTECTION (B)

17. Implementation of Strong Families - Safe Kids (the Child Protection Redesign) provides the opportunity to ensure our child protection system responds appropriately to support children and young people and their non-violent primary carer (usually their mother), and takes account of the risk posed by the perpetrator in determining a response.

## INTEGRATED SERVICE SYSTEM

18. An integrated service response to children and young people affected by family violence is essential – and for this to occur we need organisations and agencies across the service system to work together with:
  - a common philosophy and understanding of the effects of family violence on children and young people;
  - a shared understanding of risk;
  - a common approach to how we examine, assess and respond to the needs of children and young people;
  - appropriate information sharing and an understanding of referral pathways.

## PRACTICE GUIDES

19. Experience in other jurisdictions suggests the development of Practice Guides – particularly relating to children and young people affected by family violence – could assist us to work together better. A set of Principles could be developed to guide our response to children and young people affected by family violence.

## EVIDENCE-BASED SERVICES

20. Wherever possible, our services should be evidence informed and evaluated to ensure they have the best available information on how we work to address the harm caused to children and young people by family violence.

# THE SERVICE SYSTEM FOR CHILDREN AND YOUNG PEOPLE EXPERIENCING FAMILY VIOLENCE

## MAINSTREAM SERVICES – SUPPORT, TRAINING, AND RESOURCES

21. Mainstream services especially those which work directly with parents and children - such as health services, early childhood, schools, child health nurses - have an important role to play in identifying and responding to children and young people affected by family violence. We need to support these workers, including by providing training and resources and by considering other responses such as embedding specialist workers, building on the work already underway in Tasmania.

## ANTENATAL AND PARENTING PROGRAMS

22. Acknowledging that pregnancy has been identified as a time of increased risk of violence for women, experience in other jurisdictions suggests that evidence-based programs for expectant, new and vulnerable parents may have positive family violence-related outcomes.

## CRISIS ACCOMMODATION

23. We also need to find ways to build capacity and support those working in crisis accommodation so that they can respond to the specific needs of children and young people affected by family violence.

## INNOVATIVE SERVICE DELIVERY RESPONSES

24. Children and young people access support in different ways – there is value in investigating innovative technologies such as interactive websites.

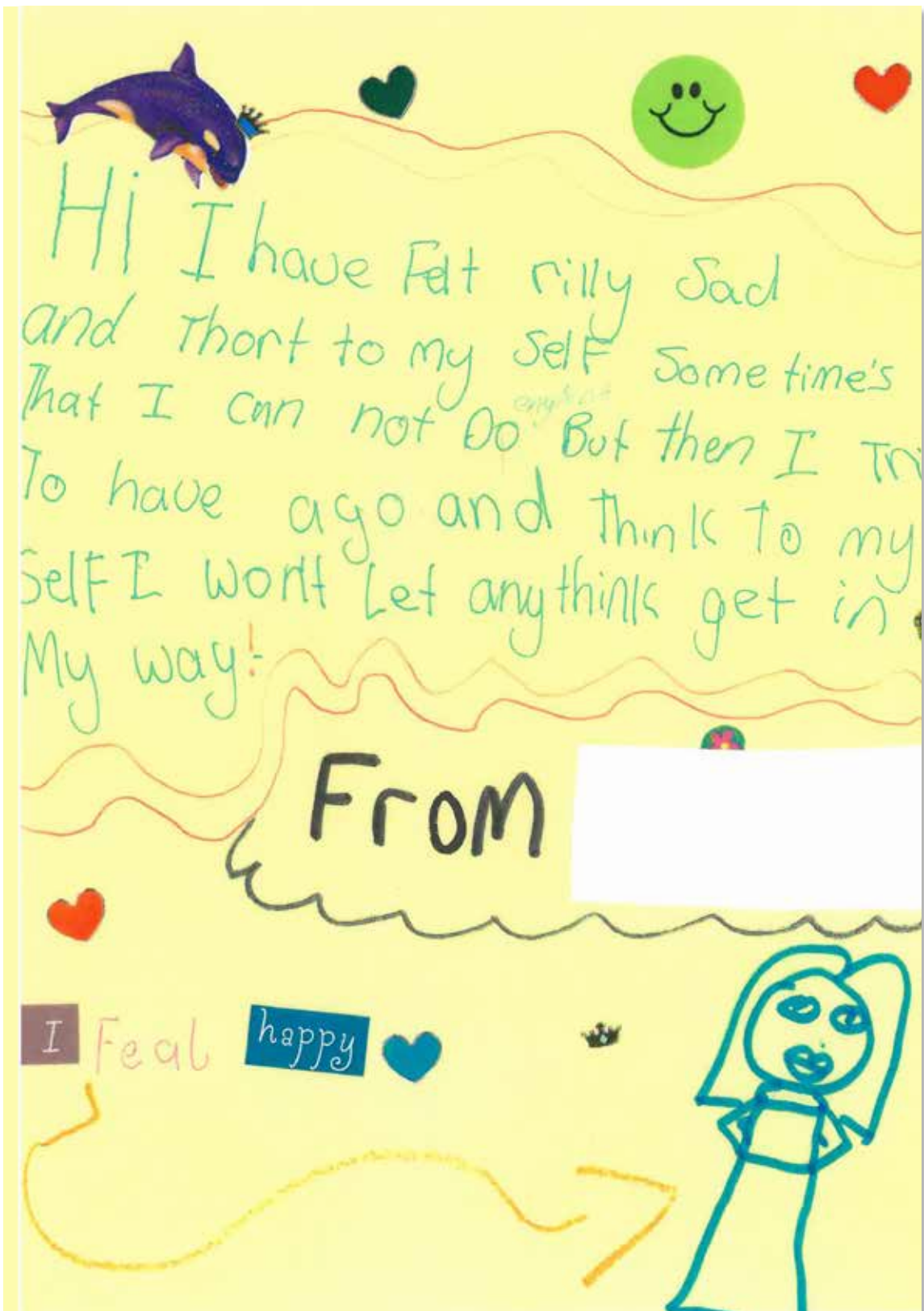
## PERPETRATOR PROGRAMS

25. There may be value in introducing individualised case plans for those persons attending perpetrator programs; these plans would provide the basis for interventions across the system.

## INTERSECTING LEGAL SYSTEMS

26. There is a need for greater integration between the family violence system, the child protection system and the family law system to overcome well understood issues of concern.





# 1. CONTEXT

It is well understood that children and young people do not have to directly witness or be subjected to family violence (FV) in order to be affected, and that the impacts may affect their social, psychological, behavioural, and emotional development.

This realisation has led to significant and ongoing legal and policy responses at both national and state levels. Policy and legal frameworks including the *Family Violence Act 2004* (Tas), the *Children, Young Persons and Their Families Act 1997* (Tas), the *Family Law Act 1975* (Cth), the *National*

*Plan to Reduce Violence Against Women and Their Children 2010-2022* (the *National Plan*) and the *National Framework for Protecting Australia's Children 2009-2020* recognise exposure to FV as a unique form of child abuse.<sup>1</sup>

The aim of this Report is to discuss the experiences of children and young people who have been affected by FV and suggest ways in which the Tasmanian service system could better meet the needs of this vulnerable cohort.

## 1.1 THE NATIONAL CONTEXT

Significant work has already been undertaken in the area of FV at both national and state levels with numerous reviews and inquiries resulting in extensive findings and recommendations. It is beyond the scope of this Report

to analyse and report on all of these recommendations and findings from a Tasmanian perspective. However it is important to acknowledge the following frameworks.

### 1.1.1 PROTECTING CHILDREN IS EVERYONE'S BUSINESS

The main national policy initiative for protecting children is *Protecting Children is Everyone's Business: National Framework for Protecting Australia's Children 2009- 2020* (the *National Framework*) and its associated action plans. The *National Framework* aims to ensure that Australia's children and young people are safe and well, with a target to substantially and sustainably reduce child abuse and neglect.<sup>2</sup>

The framework adopts a public health model to care and protection as a way to deliver better outcomes for children, young people and their families. Under this model there is an emphasis on assisting families early enough to prevent abuse and neglect occurring:

*Under a public health model, priority is placed on having universal supports available for all families (for example, health and education). More intensive (secondary) prevention interventions are provided to those families that need additional assistance with a focus on early intervention. Tertiary child protection services are a last resort, and the least desirable option for families and governments.<sup>3</sup>*

It recognises domestic violence as a risk factor for child abuse and neglect and commits to enhancing programs which reduce domestic violence.

The focus of the *Third Action Plan: Driving Change: Intervening Early* is to 'strengthen the abilities of families and communities to care for their children and young people...through a much greater focus on prevention and early intervention activities' including specific actions to address family support services in high risk areas.<sup>4</sup>

### **1.1.2 THE NATIONAL PLAN TO REDUCE VIOLENCE AGAINST WOMEN AND THEIR CHILDREN 2010-2022**

The *National Plan to Reduce Violence against Women and their Children 2010-2022* (the National Plan) aims to reduce violence against women and their children, and the proportion of children exposed to their mother's or carer's experience of domestic violence.

National Outcome 4 states that services must meet the needs of women and children experiencing violence, and that responses to children exposed to violence must prioritise the safety and long term wellbeing of children.<sup>5</sup>

Two action plans have been released as part of the National Plan: the *First Action Plan: Building a Strong Foundation,*

*2010-2013* and the *Second Action Plan: Moving Ahead, 2013-2016*. The Tasmanian Government has developed corresponding plans at the state level: the *Tasmanian Implementation Plan: Building a Strong Foundation 2010-2013, Tasmanian Second Implementation Plan – Moving Ahead 2013-2016* and *Taking Action: Tasmania's Primary Prevention Strategy to Reduce Violence Against Women and Children 2012-2022*.

The release of the *Third Action Plan Promising Results 2016-2019* has been delayed by the 2016 Federal election and was not available for consideration in the preparation of this Report.

### **1.1.3 COAG ADVISORY PANEL ON REDUCING VIOLENCE AGAINST WOMEN AND THEIR CHILDREN**

In early 2015, the Council of Australian Governments (COAG) established the COAG Advisory Panel on Reducing Violence against Women and their Children (the COAG Advisory Panel) to drive collective action on reducing violence against women and their children.

Their third and final report, released in April 2016, focuses on delivering practical, innovative and achievable recommendations including areas of action for Commonwealth, and state and territory governments.

All of the action areas focus on the need to consider children and young people

more fully in the response to violence against women. Action Area 3 states explicitly that children and young people should be recognised as victims of violence against women in their own right, and recommends that the views and experiences of children and young people be taken into account during the scoping, design, and evaluation of services.<sup>6</sup>

#### 1.1.4 OUR WATCH

Another key national primary prevention initiative has been the establishment of *Our Watch* which was established under the National Plan to drive change in the culture, behaviours and power imbalances that lead to violence against women and their children.<sup>8</sup> Together with VicHealth and Australia's National Research Organisation

In early 2016, COAG launched a national primary prevention campaign, *Stop It At The Start*<sup>7</sup> which encourages adults to reflect on their own attitudes and behaviours to help break the cycle of violence. The campaign began with television, print and digital advertising and a website ([www.respect.gov.au](http://www.respect.gov.au)), and complements the *Respectful Relationships* education programs already available in Tasmanian schools.

for Women's Safety (ANROWS), Our Watch has developed a national framework for primary prevention: *Change the story: A shared framework for the primary prevention of violence against women and their children in Australia* which aims for shared understanding and collaborative action on preventing violence.

#### 1.1.5 OTHER REPORTS, RESEARCH AND SUBMISSIONS

Particular regard has also been paid to the extensive work of the Victorian Royal Commission into Family Violence (FVRC), the National Children's Commissioner's examination of children and domestic and family violence, the outcomes of which were included in her *Children's Rights Report 2015*, to the extensive body of literature and research now available on this important issue, and to the submissions I received in response to my call for written submissions. A list of the submissions received is at Appendix B.

I would also like to acknowledge the contributions of the following agencies and individuals:

- Officers in the Department of Premier and Cabinet and the Department of Health and Human Services for liaising within relevant government departments and assisted in ensuring this Report is cognisant of the work already being undertaken to address family violence in Tasmania.

- Fae Robinson of Fae Robinson Futures for her wise advice and guidance during the drafting of this report.
- Narelle Whatley Ph D Candidate, School of Social Science, Social Work Program, University of Tasmania for generously allowing us to include the words of those she consulted with about their experiences of family violence in childhood.

And most importantly I wish to acknowledge my small but highly committed and competent policy team here at CCYP who led the drafting of this Report. Thank you Annie, Isabelle and Lucy and also to Ros for her support and encouragement.

## 1.2 A NOTE ABOUT TERMINOLOGY

In Tasmania, under the *Family Violence Act 2004*, “family violence” means any of the following conduct committed by a person, directly or indirectly, against their spouse or partner:

- assault, including sexual assault;
- threats, coercion, intimidation or verbal abuse
- abduction
- stalking
- attempting or threatening to commit conduct referred to above

It also includes

- economic abuse
- emotional abuse or intimidation
- breaching an order relating to family violence
- damage caused by a person, directly or indirectly, to any property owned jointly, or by their spouse or partner, or by an affected child.<sup>9</sup>

Therefore family violence is conceptualised in a non-gender specific way. While violence can affect any person regardless of their gender, it is acknowledged that the overwhelming majority of family violence incidents are perpetrated by men against women.<sup>10</sup> These women are often mothers and the impact of this violence on their children can be immeasurable and invisible.

Consequently, the focus of this Report is on those children and young people who are the dependents of women who experience violence at the hands of their male partner or former partner. It is important to be clear about the focus of this Report because it affects my analysis of the service response to children and young people in Tasmania.

I note that the National Plan is constructed around violence against women and their children, and that the overwhelming tendency of research in this area has this focus. In other states and territories the scope of family violence legislation (noting different terms are used) is broader than it is in Tasmania in that it encompasses violence between family members other than just intimate partners or spouses. However, the service system in these jurisdictions is aligned predominantly to address male violence against women and their children.

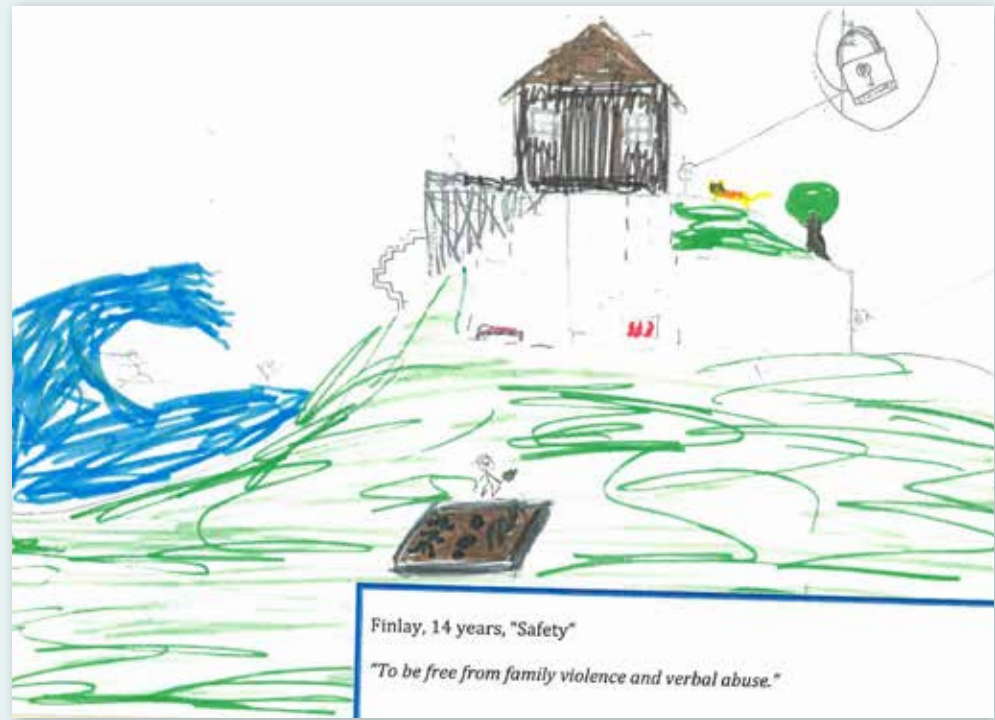
A gender-based focus is reflected in the National Plan in National Outcome 1, Strategy 1.3. Advancing gender equality:

*The unequal distribution of power and resources between women and men and adherence to rigid or narrow gender roles and stereotypes reflects gendered patterns in the prevalence and perpetration of violence. The acting out of jealousy and controlling behaviour is an especially important predictor of violence. If the woman's partner is engaged in controlling behaviour, she is six times more likely to experience physical violence. It has also been noted that psychological abuse, particularly dominance, is a strong predictor of repeat violence.*

*At every level of society, gender inequalities have a profound influence on violence against women and their children. Building greater equality and respect between men and women can reduce the development of attitudes that support or justify violence.<sup>11</sup>*

I acknowledge that there is no one agreed definition of family violence, particularly as it relates to the experience of children and young people. A number of terms such as "violence against women", "domestic violence", "family and domestic violence" or "intimate partner violence" are used in the research and in other state and territory legislation to encompass different forms of violence committed within intimate and family relationships.

When quoting or referencing primary material including submissions, legislation or research, this Report will apply the term used in the primary source.



# 2. EFFECTS OF FAMILY VIOLENCE ON CHILDREN AND YOUNG PEOPLE

Over the past two decades increased empirical evidence on the extent to which children are exposed to FV and the effect of this exposure on their development and wellbeing has had a significant impact on the legal and policy responses to this issue.<sup>12</sup>

Recent research has found significant harmful effects of childhood exposure to FV, which is often experienced throughout childhood and across the lifespan.<sup>13</sup> However it is important to note that no one child is affected uniformly and that a child's experience of FV is greatly dependent on individual circumstances and personal traits.<sup>14</sup>

Many children and young people who have experienced FV display high levels of self-efficacy and resilience and it should not be assumed that their potential to succeed is lessened compared to those who haven't experienced FV or that they will grow up to be perpetrators themselves.<sup>15</sup>

## FINDING 1 - UNIQUENESS OF EXPERIENCE

A child's experience of family violence is greatly dependent on their individual circumstances and personal traits, and no one child is affected uniformly.

## 2.1 EXPOSURE TO FAMILY VIOLENCE

A range of longitudinal, meta-analytic and population-based studies have examined the effects of FV on children's wellbeing and development and found that exposure can have a detrimental effect on children's mental and physical wellbeing, lead to poorer outcomes at school, and increased behavioural issues.<sup>16</sup> For example, *Growing Up in Australia: The Longitudinal Study of Australia's Children (LSAC)* found that 'children of mothers experiencing domestic violence also have higher rates of social and emotional problems than those with mothers who did not experience domestic violence'.<sup>17</sup>

Symptoms that children and young people exposed to FV may experience include the following:

- Impaired cognitive functioning and/or learning difficulties
- Intrusive thoughts
- Poor concentration and/or memory
- Hyper- or hypo- arousal
- Developmental delays
- Low self-esteem and/or negative core beliefs
- Social withdrawal/isolation
- Poor emotional regulation including aggression, disobedience, avoidant or dissociative behaviours
- Physical symptoms (such as nausea, over/under eating, unexplained pain)
- Guilt and self-blame
- Depression and anxiety.<sup>18</sup>



*'Family violence affects how kids learn and develop- they don't socialise properly or learn how to interact.'*

(YOUNG WOMAN INVOLVED IN PROJECT O<sup>19</sup>, WYNYARD)

The experience of FV by children can be viewed as a form of “complex trauma” which describes the experience of multiple, chronic and prolonged developmentally adverse traumatic events, which are usually of an interpersonal nature and begin early in life.<sup>20</sup> The exposure usually occurs within the child’s family or caregiving system and can include physical, emotional, and educational neglect and child maltreatment which begins in early childhood.<sup>21</sup>

A cause of complex trauma in children is exposure to cumulative harm which is:

*...experienced by a child as a result of a series or pattern of harmful events and experiences that may be historical, or ongoing, with the strong possibility of the risk factors being multiple, inter-related and co-existing over critical developmental periods.<sup>22</sup>*

Research into the effects of cumulative harm has found that the frequency and severity of incidences of abusive and neglectful behaviours experienced by children can be more important in predicting outcomes than the type of maltreatment.<sup>23</sup>

Cumulative harm can have a significant impact on early brain development and can cause chronic stress responses which can sensitise neural pathways and overdevelop areas of the brain associated with anxiety and fear, whilst causing other brain regions to be under-developed.<sup>24</sup> Younger children, due to the hierarchical nature of brain development, are neuro-developmentally more vulnerable to the experience of trauma.<sup>25</sup>

The Australian Association of Social Workers (AASW) in their submission stated that ‘understanding cumulative harm is crucial in order to appreciate the experiences and needs of children and young people’.<sup>26</sup>

Most of the submissions received by me touched upon the short and long term effects of FV on children, including the effects of cumulative harm, complex trauma, and coercive control, and the impact of FV on children’s health, wellbeing, and social and emotional development. For example, the AASW in their submission stated that:

*Unpacking coercive control means acknowledging that children and young people are being subjected to a pattern of conduct rather than incidents of family violence or physical violence. Coercive control is complex and refers to the relentless tactics used to keep control, whether by disregarding, obstructing or overwhelming the legitimate needs and rights of all members of the family, including children.<sup>27</sup>*

Research assessing the effects of FV on children does come with some methodological limitations, with some urging caution when making assumptions about cause and effect.<sup>28</sup> This is because often research on children’s exposure to FV is conducted within a small and unique cohort of children (usually from women’s refuges/shelters) which may have an over-representation of children who are the most recently and severely affected.<sup>29</sup> Children who experience FV can also be experiencing other significant risk factors such as poverty, parental substance abuse, family dysfunction, other forms of child abuse and/or neglect, mental health and social isolation, so it is difficult to separate the effects of exposure to FV.<sup>30</sup>

As Holt, Buckley and Whelan point out:

*The presence of multiple stressors in a child's life may both elevate the risk of negative outcomes and possibly render indistinct the exact relationship between domestic violence and those negative outcomes.<sup>31</sup>*

It is also important to note that many studies only examine the effects of physical violence or do not distinguish between different types of violence in their analysis.<sup>32</sup>

## **FINDING 2 - EFFECTS OF FAMILY VIOLENCE ON CHILDREN AND YOUNG PEOPLE**

The effects of FV on children and young people can have a detrimental effect on their development, as well as their physical and mental wellbeing.

## **FINDING 3 - COMPLEX TRAUMA**

The experience of FV by children and young people is a form of 'complex trauma' which describes both children's exposure to multiple, chronic and prolonged developmentally adverse traumatic events, and the substantial long-term impact of this exposure.

## 2.2 CHILDREN AND YOUNG PEOPLE ARE VICTIMS IN THEIR OWN RIGHT

Following the relatively recent realisation that children are often adversely affected by FV, the academic and professional debate began to conceptualise children experiencing FV as either “passive victims” or “silent witnesses”.<sup>33</sup> Children were seen as present but not necessarily visible, and their needs were not seen as independent of their non-violent parent (usually their mother).

Recent research has found, on the contrary, that children who experience FV have their own unique experience including individual coping strategies, thoughts and perspectives, as well as a need for services and supports tailored to their level of understanding, age, stage of development, and individual circumstances.<sup>34</sup>

Even classifying children’s experiences of FV as “witnessing” fails to capture the extent to which children are inextricably intertwined in FV.<sup>35</sup> The language we use when conceptualising FV in relation to children and young people is therefore important:

*The vast majority of research in this field uses the concept ‘exposed to’. A small number of predominantly British and Nordic qualitative researchers use the concept ‘experience’, mainly to stress the child’s subjective position. These studies show, among other things, that domestic violence is not something the children ‘witness’ in the sense that they watch it passively from a distance. Children who experience violence in their homes experience it with all their senses. They hear it, see it and experience the aftermath (Edleson, 1999; McGee, 1997; Överlien and Hydén, 2007). Acts of violence against women not only take place in the adult’s lives, they also take place in the children’s lives. The violence is something children experience from a position as subjects, and not as objects, as the concept of ‘being exposed to’ may suggest. The violent episode is situated in a larger context, i.e. the child’s living environment, and is not something to which the child can merely be a passive witness.<sup>36</sup>*

The Understanding Agency and Resistance Strategies (UNARS) project emphasises:

*By focusing on children's capacity for conscious meaning making and agency in relation to their experiences of domestic violence, we highlight the importance of recognising its impact on children, and their right to representation as victims in the context of domestic violence.<sup>37</sup>*

Research also shows that children and young people actively use a wide variety of strategies in response to FV including maintaining vigilance and assessing risk, remaining present in order to protect their mother or siblings, physically intervening or drawing violence towards themselves, help seeking, offering emotional support to their mothers or using psychological coping mechanisms such as blocking out violence.<sup>38</sup>

Recognising children and young people as victims in their own right is consistent with Action Area 3 of the COAG Advisory Panel's Report which states that '[c]hildren and young people should also be recognised as victims of violence against women'.<sup>39</sup> The Report goes on to say:

*Current responses often fail to recognise children of women who experience violence as victims in their own right. Most services are 'adult-centred' and do not meet the needs of children and young people, or consult them on important decisions... As victims in their own right, children and young people should be supported to recognise and disclose violence, seek assistance, and heal from trauma.<sup>40</sup>*

A number of the submissions I received raised this as an issue, noting that children are affected in a range of ways independent of their non-violent parent. The submission from the AASW stated:

*Children and young people are affected by FV in far more broad and complex ways than is currently recognised at a policy level. The overt focus on children hearing and witnessing overt acts of physical violence, does not acknowledge the negative impact that the coercive and controlling actions that perpetrators can have. Children bear witness and are deeply intertwined in the daily manifestations of these coercive behaviours, which can have significant short- and long-term emotional impacts.<sup>41</sup>*

Similarly a submission from a worker with the Burnie Child and Family Centre highlighted the reasons why parents may underestimate the impacts on their children:

*Also, parents tend to underestimate how much their children have witnessed or experienced and they have little understanding of (or reluctance to explore) how the effects of this might affect behaviour and development. Until they have a handle on their own emotions and responses to the situation, it appears that oftentimes the adults cannot respond adequately to their children's needs.<sup>42</sup>*

In their submission, Support, Help and Empowerment (SHE) referred to research which suggests that ‘therapeutic responses must acknowledge the relational world of

the child and attempt to understand the experience the child or young person has of their familial environment’.<sup>43</sup>

#### **FINDING 4 – VICTIMS IN THEIR OWN RIGHT**

Children and young people do not have to directly witness or be subjected to family violence in order to be affected. As victims in their own right, children and young people should be supported to recognise and disclose violence, seek assistance, and heal from trauma.

#### **FINDING 5 – RESOURCES FOR PARENTS AND SERVICE PROVIDERS**

There may be value in developing and providing further information, education and communication materials to parents and service providers on understanding the effect of FV on children and young people.

## **2.3 CHILDREN AND YOUNG PEOPLE DEMONSTRATE RESILIENCE AND AGENCY**

The significant negative effects of FV on children should not be underestimated and the examination above highlights the importance of taking their vulnerability and risks seriously.<sup>44</sup>

However, research is emerging which also highlights a significant proportion of children who are doing as well as other children, in spite of living with serious childhood adversity, such as FV.<sup>45</sup> A meta-analysis by Kitzmann, Gaylord, Holt, and Kenny found that 37% of children who had been exposed to FV had comparable or better wellbeing than children who had not experienced FV in terms of academic performance, cognitive ability, mental health, and wellbeing.<sup>46</sup> These data seriously challenge the over-pathologising of *all* children who are living with FV and notes that a significant number of children living with FV display resilience despite their adverse circumstances.<sup>47</sup> This does not imply however that if children are coping and managing in these situations that they do not have a right to a life free from violence or need tailored support and services.<sup>48</sup>

Some of the protective factors and behaviours that moderate the risks and contribute to coping mechanisms for children who experience FV include:

*...positive self-esteem, personality factors (being easy going and humorous, for instance), secure attachment to a non-abusive parent or carer, the existence of networks of personal support, and supportive community and social frameworks.<sup>49</sup>*

Another key factor which moderates the effect of FV on children is the ability of the mother to maintain positive parenting abilities, model assertive and non-violent responses to the abuse, and to maintain good mental health.<sup>50</sup>

The continuation of a child's secure attachment to their primary caregiver (usually their mother) has been identified as a protective factor for children exposed to FV, however FV often directly impairs the quality of attachment between a child and their primary caregivers.<sup>51</sup> SHE in their submission stated that:

*Following separation, mothers often report having more positive interactions with their children, for example, "Every bump in the road was a big deal [when perpetrator lived with us]. Now I don't have to worry about what will happen if the kids don't do their jobs around the house".<sup>52</sup>*

Children interviewed by Mullender et al emphasised the importance of their relationship with their mothers as their major source of support. One child stated:

*My mum has helped me the most. No one else really talked about it very much apart from my mum. I can't really think of anyone else who has really helped me apart from my mum. All the help was from my mum, she explained everything.<sup>53</sup>*

In acknowledgement of the importance of the bond between a child or young person and their primary caregiver (usually their mother) research is being undertaken into the impact of FV on parenting and on the interventions available that may strengthen and support a positive and healthy mother-child relationship (ANROWS research project 1.8 *Domestic and family violence and parenting – Mixed methods insights into impact and support needs*). The research is the first part of a three part mixed-methods research project which aims to address parenting and abuse tactics.

Children's resilience to FV may also be strongly influenced by the level of family and community support provided to the child.<sup>54</sup> Many children who have experienced FV can recover their competence and behavioural functioning once they are in a safer and more secure environment, making the prioritisation of their safety imperative.<sup>55</sup>

## **FINDING 6 – RESILIENCE**

Many children and young people who have experienced FV display high levels of self-efficacy and resilience; it should not be assumed that their potential to succeed is lessened compared to those who haven't experienced FV or that they will grow up to be perpetrators themselves.

## **FINDING 7 – MOTHER-CHILD BOND**

The continuation of a child's secure attachment to their primary caregiver (usually their mother) has been identified as a protective factor for children exposed to FV.

*"I remember standing at the bathroom door thinking she was dead. That was my impression, I remember thinking 'Oh my god, he has really killed her this time'."*

INDY (ADULT SURVIVOR OF CHILDHOOD FAMILY VIOLENCE) <sup>64</sup>

*"I sort of switched from being fearful to being aggressive. I remember thinking, 'Enough is enough! If she is not going to stand up to you, I am!'"*

INDY (ADULT SURVIVOR OF CHILDHOOD FAMILY VIOLENCE) <sup>66</sup>

*"Daddy might break in and push the door down and run in and get mummy and pull out a gun and shoot her and I can't help."  
"I have this dream that there a witch that throws fire at me and I wake and I don't know where I am. I get real scared and scream out."*

SEVEN-YEAR-OLD CHILD <sup>68</sup>

*"I run down the stairs to see what is happening...I tried to help. I tried to guard my mum so he couldn't hurt her. I didn't talk about it with anyone. I used to run down the stairs to see mum was ok."*

EIGHT-YEAR-OLD CHILD <sup>70</sup>

*"I could never argue. In fact I could never show my emotions 'cause if I showed my emotions dad would get angry."*

ELLEN (ADULT SURVIVOR OF CHILDHOOD FAMILY VIOLENCE) <sup>63</sup>

*"Every time I reacted it would just, instead of taking it out on me, he took it out on mum again. So...you know, everything just had to be held inside."*

LINDA (ADULT SURVIVOR OF CHILDHOOD FAMILY VIOLENCE) <sup>65</sup>

*"I would hear daddy and mummy yelling and it would wake me up. It would get louder. I would run out to the lounge room and sit on mummy's knee...I sit on mummy's knee so daddy would not hit mummy, he loves me and he wouldn't want to hurt me..."*

EIGHT-YEAR-OLD CHILD <sup>67</sup>

*"Mummy told me to hide under the bed and not come out. When I heard the gun shot, I thought mummy was dead... then she walked in the room and I knew she wasn't dead."*

EIGHT-YEAR-OLD CHILD <sup>69</sup>

## But why?

Daddy's car is coming up the driveway,  
But how come mummy has started crying,  
She was happy all day,  
I wish the happiness would stay.  
Daddy comes in and slams the door,  
And mummy is sitting on the floor,  
Daddy walks up to her and slaps her in the face.  
He yells and screams and he won't stop,  
I run too my bedroom and hideaway.  
Daddy has gone,  
Mummy is crying.  
I run to her and hold her hand,  
There is blood everywhere,  
The room is dark,  
I want to help,  
But I don't know how,  
I love her so much,  
And so does daddy, so why does he do it,  
And why now.  
Days pass,  
Then daddy comes back,  
He is so scary,  
I wish he wouldn't come back,  
Because he just hurts mummy again,  
Then he goes.  
I cant hear crying the sounds are so low,  
I run out there to hold her hand,  
But she won't look at me,  
"Mummy mummy, wake up"  
But still she won't look at me,  
Then I relies it's to late,  
Mummy has gone,  
I hate daddy,  
He has hurt mummy too much but why?





## 2.4 PREVALENCE AND INCIDENCE

Estimating the prevalence and incidence of FV is challenging, and particularly so when considering children and young people's experiences of FV. The Australian Institute of Family Studies (AIFS) has identified a number of barriers to assessing the extent of children's exposure to FV. These difficulties include:

- that police have not traditionally collected information about the extent of children's exposure to FV (although this is changing due to increasing recognition of the impacts of FV on children, and the rise of mandatory reporting to child protection services)
- under-reporting of FV incidents, which in turn leads to a "dearth" of data on children's experiences
- parents' underestimating the extent of their children's exposure to FV
- a tendency for research to focus on those families already known to support services rather than on the general population.<sup>71</sup>

### 2.4.1 NATIONAL STATISTICS

The Australian Bureau of Statistics' (ABS) Personal Safety Survey 2012 (PSS) is widely recognised as Australia's most comprehensive quantitative study of interpersonal violence.<sup>75</sup> The PSS estimates that almost 17% of women and 5% of men in Australia over the age of 15 have experienced partner violence.<sup>76</sup> Additional analysis of the PSS conducted by ANROWS in 2012 has found:

- Just over half of women who experienced violence by a current cohabiting partner had children in their care at the time of the violence (128,500, 54.2%). For 57.8% of women in this group, the children heard or saw the violence (74,300).<sup>77</sup>

The National Children's Commissioner has also emphasised the difficulty in obtaining national and disaggregated data about children and young people who experience FV.<sup>72</sup> The National Commissioner pointed out that 'data gaps undermine our ability to understand the full impact of family violence on our most vulnerable children'; furthermore, these gaps make it difficult to identify the most effective ways of dealing with the impact of FV on children and young people.<sup>73</sup>

In its report on FV, the COAG Advisory Panel described current data relating to children and young people in FV situations as generally "inadequate", particularly in relation to the diversity characteristics of children. It has recommended that data collection must improve in order to better address children and young people's needs.<sup>74</sup>

- Close to three quarters of a million women who have since left their violent cohabiting partner had children in their care when the violence occurred (733,900). Over half a million of these women reported that their children had seen or heard the violence (568,700): this is 77.5% of women who had children in their care at the time of the violence.<sup>78</sup>

According to the 2013-14 annual report on clients of specialist homelessness services across Australia, 33% of the approximately 254,000 people who sought help were escaping FV.<sup>79</sup> For young people aged 15-24 who presented alone (44,400), domestic or family violence was the main reason for seeking assistance in 15% of cases. This figure was second only to housing crises (16%).<sup>80</sup>

Data from the LSAC indicates that approximately six % of mothers reported they had been afraid of their current partners. Those mothers were in turn more likely to report higher levels of hostility and physical violence between themselves and their partners.<sup>81</sup>

It is clear that the prevalence of violence against women and their children is economically very costly – a 2009 KPMG report estimated that without appropriate action, violence against women and their children will cost \$15.6 billion in 2021-22.<sup>82</sup>

## 2.4.2 TASMANIAN STATISTICS

Data from the Department of Police and Emergency Management’s 2014-15 annual report indicate that:

- Police attended 2,615 FV incidents under the *Family Violence Act 2004*. This figure is lower than in 2010-11 (2,693) but represents the second increase in recorded incidents in the last two years<sup>83</sup>
- Police attended 1,810 family arguments (these are events which are not classified as “family violence”)<sup>84</sup>

The internal Tasmania Police Corporate Performance Report for the same period indicates that children were recorded as being present at 1,421 FV incidents (approximately 53%).<sup>85</sup> This figure appears to have increased in 2015-16, with the figure at June 2016 indicating that children were recorded as present at 1,757 FV incidents (see Figure 1 below). This data does not necessarily capture all children in the family.

Police District	2014	2015	2016
South	556	660	845
North	370	416	459
West	330	345	453
Tasmania	1,256	1,421	1,757

**Figure 1: Juveniles present at FV incidents - 2014, 2015 & 2016**

Sources: Tasmania Police, Corporate Performance Reports – June 2014<sup>86</sup>, June 2015<sup>87</sup> & June 2016<sup>88</sup> (This data may not be complete and future refreshing of the data may return slightly different results. Although publicly available, Corporate Performance Reports are internal documents and are not intended to be used for official statistical purposes)

The Sentencing Advisory Council (SAC) examined the incidence of FV in Tasmania in its 2015 report *Sentencing of Adult Family Violence Offenders*. It found that while there was an initial rise in recorded FV incidents after the introduction of the *Family Violence Act* in 2005, the numbers have consistently declined since then (3,667 recorded FV incidents in 2006-07 compared with 2,283 in 2012-13).<sup>89</sup> However, note the Tasmania Police data above which indicate recent increases in annual numbers of family violence incidents.

It is also relevant to note that in 2014-15, the Legal Aid Commission of Tasmania provided 1,063 services to victims of FV<sup>90</sup> and that 532 applications for FVOs were lodged with the Magistrates Court of Tasmania.<sup>91</sup> It is not possible to identify the extent to which children were affected by this FV from this data.

*'It's torn communities apart ... it's an issue for all of us because now we are seen as this community with family violence. We're more than that.'*

(YOUNG WOMAN INVOLVED IN PROJECT O, WYNYARD)<sup>92</sup>

The *Safe at Home Annual Report 2014-15* reported that a total of 231 children, young persons and families were engaged in therapeutic counselling and support through the Children and Young Persons Program (CHYPP) within the Tasmanian Family Violence Counselling and Support Service (TFVCS) in that year.<sup>93</sup>

Region	2012-2013	2013-2014	2014-2015
South	85	113	95
North	88	88	79
North-West	71	54	57
TOTAL	244	255	231

**Figure 2: TFVCS CHYPP Number children, young persons and families who engaged in therapeutic counselling and support**

Source: Tasmanian Government, *Safe at Home Annual Report 2014-15*

The demand for children's FV counselling has historically outstripped service capacity<sup>94</sup> and long waiting lists for children and young people accessing the CHYPP program have been reported.<sup>95</sup> The *Department of Health and Human Services Annual Report 2014-15* indicated that 94 children were on CHYPP's waiting list for FV counselling in 2014-15, compared with 112 in 2013-14 and 69 in 2012-13.<sup>96</sup>

Of the 1,217 calls received by Kids Helpline in 2015 known to originate from Tasmania, 15% of calls related to family relationship issues. However, only 0.3% of calls (four) were specifically recorded as being related to exposure to FV.<sup>97</sup>

Experience of FV is a significant contributor to entry to the statutory child protection system. The Tasmanian Government Submission states that '[e]xposure to FV is a leading catalyst for vulnerable children to enter the child protection system. FV appears as one of the most common factors in notifications to child protection'.<sup>98</sup> This statement is also reflected in the *Strong Families – Safe Kids* report which indicates that more

than 70% of child protection notifications involve FV,<sup>99</sup> with police and school personnel being the largest sources of notifications.<sup>100</sup> Just over 13,500 child protection notifications were made in the year 2014-15 relating to 8,804 children.<sup>101</sup> This equates to almost 9,500 notifications involving FV.

A recently released Australian Bureau of Statistics publication, *Recorded Crime – Victims* includes experimental data about victims of family and domestic violence (FDV)-related offences. This report shows that in 2015 there were:

- 1,198 victims of FDV-related assault in Tasmania, or 232 victims per 100,000 persons
- victims of FDV-related assault were most likely to have been aged between 25 and 34 years, with this age group comprising 29% of victims of FDV-related assault in Tasmania (351)
- Women were more likely than men to be victims of FDV-related assault (77.5%).<sup>102</sup>

It has been acknowledged by the ABS in a submission to the National Commissioner for Children's *Children's Rights Report 2015* 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>103</sup>

It is also noted that violence against women and their children is significantly underreported, as data collections usually only identify violence that has been formally reported or acknowledged, there is poor coverage of some groups (such as Aboriginal and Torres Strait Islander people and culturally and linguistically diverse communities) and many women only recognise that they were in an abusive relationship in hindsight.<sup>104</sup>

The COAG Advisory Panel has recommended (Recommendation 3.1, Final Report) that Governments should:

- ensure data collected on violence against women includes information on children and young people and their experiences as direct and indirect victims of violence; where appropriate, specific data on diverse groups of children and young people should be collected.<sup>105</sup>

## **FINDING 8 – DATA COLLECTION AND ANALYSIS**

There is a need to improve the ways in which we gather information on children and young people and their experiences of FV across the system. Data should be analysed to ensure the system is responding appropriately to the needs of children and young people.

*"So I sort of fell into a role of feeling responsible for making sure that I was the one that would make sure that she lived another day."*

INDY (ADULT SURVIVOR OF CHILDHOOD FAMILY VIOLENCE) <sup>56</sup>

*"So it's not just the physical stuff you know, it's the 'What if's?' and it's the, 'He might's' and it's 'Is this right?' 'Is that a problem?' It's just the constant being on edge."*

ANNA (ADULT SURVIVOR OF CHILDHOOD FAMILY VIOLENCE) <sup>58</sup>

*"It is amazing how children can read faces. You know, and you would think ohhhhh, an instant assessment!*

*Probably, I don't know, but probably children in a happy environment don't do that. But children in a violent environment do it for survival."*

LINDA (ADULT SURVIVOR OF CHILDHOOD FAMILY VIOLENCE) <sup>60</sup>

*"We were both told how useless we were. We were always the reason that he failed in life."*

LINDA (ADULT SURVIVOR OF CHILDHOOD FAMILY VIOLENCE) <sup>62</sup>

*"So noises, you know. Hearing the keys, hearing the car coming home, that was enough. I would be armed and ready. Just his presence. Yeah, just him coming home was enough to be on the ready"*

BILLIE (ADULT SURVIVOR OF CHILDHOOD FAMILY VIOLENCE) <sup>57</sup>

*"I would be woken up, often. Sometimes by something breaking or a door slamming or sometimes by a scream... sometimes by loud voices and I got to the point where I was afraid to go to sleep."*

KELLY (ADULT SURVIVOR OF CHILDHOOD FAMILY VIOLENCE) <sup>59</sup>

*"Mum would have a black eye or cut on her face or fat lip or and I remember sitting there and just continuing on like nothing has happened.*

*I remember thinking 'What the hell is going on here Mum?' It was like the physical wounds were there but it was business as usual."*

INDY (ADULT SURVIVOR OF CHILDHOOD FAMILY VIOLENCE) <sup>61</sup>

# 3. BRINGING CHILDREN AND YOUNG PEOPLE INTO FOCUS

## 3.1 FAMILY VIOLENCE IS A CHILD RIGHTS ISSUE

It is a fundamental principle of the *Convention on the Rights of the Child* (CRC) that every child and young person has the right to live their life free from all forms of violence, abuse and neglect.<sup>106,107</sup> The full text of Article 19 of the CRC provides that:

*1. 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.*

*2. 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.<sup>108</sup>*

FV is clearly a child rights issue.<sup>109</sup>

The United Nations Committee on the Rights of the Child<sup>110</sup> (the Committee) explicitly recognises children's exposure to intimate partner violence as a form

of psychological or emotional neglect.<sup>111</sup> The Committee has expressed grave concern about the high levels of violence against Australian women and children, children's exposure to domestic violence and in particular, the experiences of Aboriginal and Torres Strait Islander women and children.<sup>112</sup>

The CRC provisions are interconnected and '[c]hildren's rights are not detached or isolated values devoid of context but exist in a broader ethical framework'.<sup>113</sup> FV also engages a wide range of other children's rights under the CRC including:

- The right to development – Article 6(2)
- The right to the highest attainable standard of physical and mental health – Article 24(1)
- The right to leisure and play – Article 31
- The right to education – Article 28.

Other fundamental principles under the CRC of relevance in the context of FV are:

- That all rights under the CRC apply to all children without discrimination – Article 2
- The best interests of the child must be a primary consideration in all decisions relating to children – Article 3
- That all children have the right to express their views freely on all matters affecting them and to have their opinions taken into account (also known as the "right to be heard" or the "right to participate") – Article 12.

The right of children and young people to live free from violence should be a fundamental element of FV policy and practice.<sup>114</sup>

### **FINDING 9 - FAMILY VIOLENCE IS A CHILD RIGHTS ISSUE**

Children and young people have a right to live free from all forms of violence, abuse and neglect and this principle should be a fundamental aspect of family violence policy and practice.

### **FINDING 10 – UNDERSTANDING THE NEEDS OF CHILDREN AND YOUNG PEOPLE**

Responses to children and young people exposed to violence must prioritise their safety and long term well-being.

There is a need for services and supports for children and young people to be tailored to their level of understanding, age, stage of development and individual circumstances.

## **3.2 THE BEST INTERESTS OF THE CHILD ARE PRIORITISED**

Previous literature has found that FV responses may often see the needs of children as secondary to adult victims, with minimal attention focused on appropriate responses for children and young people.<sup>115</sup>

The CRC requires that children's best interests are a primary consideration in all actions concerning them (Article 3). For children and young people with experience of FV, this means that their rights, interests and needs must be considered and responded to as a priority by policy makers and service providers – not merely as secondary to the needs of their parents. The Committee is clear that there can be no real appreciation or understanding of what is in a child's or young person's best interests without according them participatory rights or the right to be heard.

### **FINDING 11 – BEST INTERESTS**

Children's best interests should be a primary consideration in all actions concerning them - for children and young people with experience of FV, this means that their rights, interests and needs must be considered and responded to as a priority by policy makers and service providers – not merely as secondary to the needs of their parents.

### 3.3 VIEWS OF CHILDREN AND YOUNG PEOPLE ARE RESPECTED

Children are experts in their own lives and hold valuable information and knowledge about their own particular needs. Respect for children's views is one of the four key principles of the CRC and it is fundamental to the fulfilment of other rights, including the right to live free from violence, and the right to have their best interests promoted and prioritised. The full text of Article 12 provides that:

*1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.*

*2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.<sup>116</sup>*

Given appropriate support and information, even very young children can participate in decisions or express views on matters that affect them. In a General Comment issued in 2013, the Committee said:

*Article 12 of the Convention provides for the right of children to express their views in every decision that affects them. Any decision that does not take into account the child's views or does not give their views due weight according to their age and maturity, does not respect the possibility for the child or children to influence the determination of their best interests.*

*The fact that the child is very young or in a vulnerable situation (e.g. has a disability, belongs to a minority group, is a migrant, etc.) does not deprive him or her of the right to express his or her views, nor reduces the weight given to the child's views in determining his or her best interests. The adoption of specific measures to guarantee the exercise of equal rights for children in such situations must be subject to an individual assessment which assures a role to the children themselves in the decision-making process, and the provision of reasonable accommodation and support, where necessary, to ensure their full participation in the assessment of their best interests [footnote omitted].<sup>117</sup>*



The right to be heard has specific relevance in the context of FV where children and young people have their own distinct experiences (and interpretations of those experiences) which are not necessarily the same as those of their non-violent parent. The literature indicates that:

- Children’s awareness of FV and its extent is often greater than thought
- Children engage in a range of protective behaviours which can be hidden
- Children and women can perceive the effects of FV on children differently.<sup>118</sup>

When asked what children with experience of FV need, children can be “astonishingly clear and consistent”.<sup>119</sup> In Mullender *et al*’s research into children and young people’s understandings and experiences of domestic violence, two issues emerged as crucial to children’s ability to cope with FV and its effects on them. These were the importance of being listened to and taken seriously as participants in the domestic violence situation; and being actively involved in finding solutions and in decision-making.<sup>120</sup>

In their findings from their literature review, Humphreys *et al* revealed that

*Listening to children themselves renders previous constructions of children living with domestic abuse – as spectators or witnesses; hidden, silent or passive victims; disconnected from abuse ‘between adults’ – obsolete.*<sup>121</sup>

## FINDING 12 - VIEWS OF CHILDREN AND YOUNG PEOPLE ARE RESPECTED

There can be no real appreciation or understanding of what is in a child’s or young person’s best interests without according them the right to be heard and to have a say on matters that affect them. Crucial to children’s ability to cope with family violence and its effects on them are:

- being listened to and taken seriously as participants in the situation
- being actively involved in finding solutions and in decision-making.

*“The worst is to be portrayed as to the world at large of you being the liar when you are the one who is telling the truth; That stays with you because you doubt yourself.”*

RACHAEL (SURVIVOR OF CHILDHOOD FAMILY VIOLENCE)<sup>122</sup>

### 3.3.1 THE VOICES OF CHILDREN AND YOUNG PEOPLE IN RESEARCH

In light of the disproportionate impact of FV upon women, many programs are designed primarily for women and service responses tend to conceive of children and young people as a secondary target group rather than as primary victims in their own right.<sup>123</sup> Consequently, information

regarding the needs and experience of children and young people in relation to FV is often obtained through their parent. The voices of children are often lost in research and in service provision, something which was emphasised by the AASW in their submission:

*Research is not always focused on the voice of the child but on the voice of adults. Unfortunately, this means that the experience of children within families affected by family or domestic violence is not fully understood or embraced. Young people are victimised and negatively affected, but also often play a very positive role in the family in response to their father's abuse. For example, young people are quite capable of protecting their siblings, standing up for their mother, caring for pets, learning the best techniques to keep themselves as safe as possible. Children and young people demonstrate resilience and fortitude and creativity, which can sometimes be overlooked.<sup>124</sup>*

The Law Society of Tasmania has argued that more research is required on the frequency and nature of children's direct and indirect exposure to FV on a longitudinal basis so that program responses can 'optimise resilience building in children and young people'.<sup>125</sup>

CREATE Foundation said in its submission that 'it is imperative that the voices of children and young people relaying their experiences and views, is a crucial element to any discussion or research about children and or the child protection system.'<sup>126</sup>

I do note that there are complex ethical issues surrounding the involvement of children in research into the effects of FV on them. In simple terms, there is a need to ensure that discussions with children about their experiences with FV for research purposes "do no harm". Issues also arise in relation to informed consent, privacy, confidentiality and anonymity, justice and inclusion, disclosures of abuse and the processes for following up on possible distress or harm disclosed in the research process.<sup>127</sup>

However, there is an equally strong view that it is essential for children's voices to be heard and that this must be done in a way that ensures processes are in place to address known ethical obstacles.

In an extensive literature review undertaken by Professor Cathy Humphreys, Claire Houghton and Dr Jane Ellis, the authors discuss the benefits of children's participation in research and policy making and provide directions for good practice in this field. They recommend that:

*Guidance should be issued (and reissued alongside developments in the field) on good practice in engagement of children with experience of domestic abuse, not only to ensure that participation does not cause further harm but that it can be part of the commitment to undo the harm to children.<sup>128</sup>*

Having regard to the complex ethical issues discussed above, it was beyond the scope of my office to undertake primary research involving children and young people with experience of family violence to appropriate ethical standards. As the service system response becomes more attuned to the specific needs of children and young people, I anticipate increased opportunities for engaging children and young people in research.

### 3.3.2 THE VOICES OF CHILDREN AND YOUNG PEOPLE IN THE DESIGN AND DELIVERY OF SERVICES

The COAG Advisory Panel has recommended (Recommendation 3.1.) that Governments should 'ensure the views and experiences of children and young people are taken into account in the scoping, design and evaluation of services and programs, where appropriate.'<sup>129</sup> The Tasmanian Government, through *Safe Home, Safe Families*, has committed to listening to those who have experienced FV and to base its actions on what is proven to work.<sup>130</sup>

The benefits of children and young people's participation are numerous: importantly, decisions which are informed by their views and perspectives are more likely to be relevant, effective and sustainable; and the process of children and young people's participation nurtures their citizenship and promotes their sense of belonging and respect for others.<sup>131</sup>

*'So, currently there are 20 of us young women working on Project O right now –to build confidence, gain resilience, work as a team, learning how to take action. We're participating in events in our community, like this morning. We are learning to speak up, be heard, look people in the eye and be confident.'*

(YOUNG WOMAN INVOLVED IN PROJECT O, WYNYARD)<sup>132</sup>

The submissions I received which commented on this issue were in favour of children's participation in research and service design and delivery.

For example, Family Planning Tasmania argued that the 'views of children and young people need to be taken into account in order to effectively design the what, how and who of respectful relationships education'.<sup>133</sup>

The Migrant Resource Centre (Southern Tasmania) suggested that the views of culturally and linguistically diverse children and young people be sought 'via processes and consultation with organisations such as MYAN (Multicultural Youth Advocacy Network) and other youth forums',<sup>134</sup> whilst acknowledging the difficulties that arise where children act as interpreters for their parents.

The Australian Red Cross identified a need to enhance young people's voices and respond to their needs and concerns so that there is 'equality in design of response systems' and asks what 'consumer feedback mechanisms' are in place for children?<sup>135</sup>

Anglicare's submission notes as follows:

*Anglicare believes the opinions and experiences of children and young people need to be honoured and incorporated into services that are provided to them. We find that if a child or young person feels in control of their therapy, they are more likely to heal. At an individual service provision level, Anglicare staff work with the child or young person to develop a program that suits their individual needs. While Anglicare does not have a youth reference group, we see value in the State Government setting up a group of young people to advise the development of programs across Tasmania.*<sup>136</sup>

### FINDING 13 - VOICES OF CHILDREN AND YOUNG PEOPLE IN RESEARCH/SERVICE DELIVERY

There is value in ascertaining and taking into account the views and experiences of children and young people – in research, and in the scoping, design, and evaluation of services, but always ensuring this is done in a way that does not do them harm.

### 3.3.3 THE VOICES OF CHILDREN AND YOUNG PEOPLE IN LEGAL PROCESSES

As the Tasmanian Government submission states:

*There are difficulties in children's voices being heard within legal processes, due to their dependency on adults, developmental stage and capacity and the potential to increase risk to safety. There are also issues regarding the perceived competency of children to provide evidence which can effectively silence children's voices and privileges adult voices.<sup>137</sup>*

The submission also points out that while the *Family Violence Act 2004* allows for children to be issued with a protective order in their own right, 'this rarely occurs because of concerns for the supports available to a child or young person. These situations are viewed as more appropriately dealt with through the Child Protection Service'.<sup>138</sup>

The Migrant Resource Centre (Southern Tasmania) explained in its submission that children and young people from culturally and linguistically diverse backgrounds, and in particular humanitarian migrants, are often called upon to assist and interpret

for their parents who may have little or no English language or may be illiterate. This can be problematic as they can be uncertain of legal processes, protective of their parents and frightened of police.<sup>139</sup>

The AASW notes that its members 'have raised concern regarding legal processes that do not take into account the needs and concerns of children and young people because of the rights of the father to access' and calls for an increase in the education and training around FV for all court personnel.

The Australian Red Cross raised the issue of children's involvement with *Safe at Home*:

*We would also like to highlight the need to understand what the experience of the child is in the legal system from the FV perspective and would suggest that strategies such as Safe At Home could significantly benefit from expansion to include engagement with children.<sup>140</sup>*

In its submission, the Law Society notes that the *Children, Young Persons and Their Families Act 1997* (Tas) and the *Family*

Law Act 1975 (Cth) both provide that the views of affected children are to be taken into account.

From the Law Society's comprehensive description of the various ways in which the views of children and young people are obtained or sought in these contexts, it is clear that a number of methods are utilised. For example, a child or young person in child protection proceedings may speak directly to the Magistrate, may be represented by a separate representative, or their views may be contained in affidavits filed in the proceedings. The Law Society states that:

*The most common manner in which a Court exercising jurisdiction under the Family Law Act informs itself of children and young persons is through the evidence of others, such as parents, family consultants, psychologists or court experts.<sup>141</sup>*

In its 2016 *Australian Child Rights Progress Report 25*, the Australian Child Rights Taskforce made recommendations designed to promote the active participation by children and young people in court processes and other decision-making that affects them as follows:

- Support children and young people to have a full and effective participation in child protection, family law and FV intervention making, commensurate with their age, maturity and evolving capacity.
- Establish youth specific legal centres to ensure young people have access to legal services tailored to their specific needs, noting that Tasmania and the Northern Territory do not have such a centre.<sup>142</sup>

There has been well based argument and expressions of concern around the manner in which Courts exercising jurisdiction under the *Family Law Act 1975* have dealt with parenting matters where there are allegations of FV. Criticisms have included

that the Court does not understand the nature of FV – particularly coercive control – nor appreciate that separation does not mean an end to the violence and can be a time of heightened risk.

The situation is complicated by the intersection between the family law, child protection and FV jurisdictions, a matter dealt with later in this Report.

These and other issues of concern are under active consideration<sup>143</sup> in various spheres.

*"I was very angry. I have a very big part of me that is about justice ...and I think it came from that time of 'this is not just, this is not right, you don't get to get away with this every day!'"*

CAT (SURVIVOR OF CHILDHOOD FAMILY VIOLENCE)

#### **FINDING 14 - VOICES OF CHILDREN AND YOUNG PEOPLE IN LEGAL PROCESSES**

*To maximise positive outcomes it is important to support children and young people having a full and effective participation in child protection, family law and FV intervention making, commensurate with their age, maturity and evolving capacity.*

## UNDERSTANDING THE NEEDS OF CHILDREN AND YOUNG PEOPLE

It is important that children and young people affected by FV receive a needs-based response and to acknowledge that their wellbeing extends beyond just the absence of risk.

The Anti-Discrimination Commissioner emphasised in her submission how diverse experiences of FV may lead to the need for specific service responses:

*Experiences of family violence may also differ according to the individual characteristics of those involved.*

*Young people from diverse cultural and linguistic backgrounds; those who are lesbian, gay, bisexual, transgender or intersex; those with disability; and those from Aboriginal or Torres Strait Islander background are all likely to have different experiences of violence and require specific service supports.<sup>144</sup>*

In their research, Mullender *et al* found that the most common need cited by children was safety, closely followed by someone to talk to.<sup>145</sup>

By way of example, a Victorian practice guide for FV practitioners<sup>146</sup> provides a structure for assessing and responding to children and young people in terms of their safety, stability and development. It emphasises that the key purposes of assessing children and young people are to express an interest in them and in what happens to them, to provide an opportunity for their story to be heard and to enable appropriate responses both within and outside the FV service sector.

The practice guide provides a set of child-centred underpinning principles (see below) which include reference to the primacy of the child's best interests, the right to be heard and the uniqueness of children and young people's experiences. A similar set of Principles could be adopted for use in Tasmania.

## PRINCIPLES FOR ASSESSING CHILDREN <sup>149</sup>

- Children's best interests are always paramount
- Children's wellbeing is about much more than the absence of risk
- Every child has a unique experience of FV and their own specific needs
- Children can contribute to their own assessment – directly and/or via a professional's observation
- Children have a right to be involved in decisions that affect them, in ways appropriate to their capacity
- Children might need support to have their voices heard within their family and the service system
- Children's views and needs change; therefore their assessment is an ongoing process
- Children's silence is not a reason to stop listening to them.
- Children must be allowed their own time, space and trusting stable relationships, to talk when they are ready and to communicate in any way that suits them
- Children must be assessed individually, with significant reference to their family context
- Children's cultural, spiritual, gender and sexual identities must be respected and affirmed
- A secure primary attachment is critical for all children
- Children thrive when they have strong, positive relationships with their family members and other significant people
- Parents might need support to reach decisions and take actions that are in children's best interests
- Children are service users in their own right and organisations require appropriate policies, procedures and practices to ensure they receive quality services
- Children's needs are best met by a whole-of-system response, involving universal, specialist and tertiary services as required
- All adults share responsibility for working towards children's best interests.

*"It was home and what else did I know? What was the alternative? Really there wasn't a viable alternative. And I don't think that I ever even considered that there might be."*

ANNA (SURVIVOR OF CHILDHOOD FAMILY VIOLENCE) <sup>147</sup>

# 4. TASMANIA'S INTEGRATED FAMILY VIOLENCE SERVICE RESPONSE

Tasmania's response to FV is at an important and exciting point in time. It has built a policy and practice framework over more than a decade, starting with the *Family Violence Act 2004* and implementation of *Safe at Home* and in recent times, *Safe Homes*, *Safe Families*. Both these initiatives are based on an integrated service response which was highlighted by the Tasmanian Government in its submission:

*An integrated service response is crucial as there is growing recognition that a number of different services deal with FV and that a unifying strategy is required for these organisations to work together with a common philosophy. Services need to be able to examine and assess children's needs in a holistic manner. This will be made possible in Tasmania with actions under Safe Homes, Safe Families and, in particular, the recent establishment of the Safe Families Tasmanian Coordination Unit.<sup>148</sup>*

The progress made so far is to be highly commended.

## FINDING 15 - TASMANIAN GOVERNMENT RESPONSES TO FAMILY VIOLENCE

I acknowledge and commend successive Tasmanian Governments for developing and building upon the existing integrated response to FV, comprised of *Safe at Home* and *Safe Homes: Safe Families*.



## 4.1 FAMILY VIOLENCE ACT 2004

The *Family Violence Act 2004* (the Act) defines “family violence” as any of the following types of conduct committed by a person, directly or indirectly, against their spouse or partner:

- Assault
- Sexual Assault
- Threats, coercion, intimidation or verbal abuse
- Abduction
- Stalking
- Attempting or threatening to commit any of the above
- Economic abuse
- Emotional abuse or intimidation
- Damage to property.<sup>149</sup>

The Act is limited to specified behaviour toward a spouse or partner (or former spouse or partner) and specifically recognises that children and young people may be affected by this behaviour as victims in their own right.<sup>150</sup> In the administration of the Act, ‘the safety, psychological wellbeing and interests of people affected by family violence are the paramount considerations’.<sup>151</sup> The reach of FV legislation in other states and territories is broader than it is in Tasmania in that it covers conduct occurring between intimate partners, relatives, family members, carers and children.

Under the Act, an “affected child” is defined as ‘a child whose safety, psychological wellbeing or interests are affected or likely to be affected by family violence’.<sup>152</sup> Protection orders (for example, a FVO or a PFVO) can include orders designed to protect the interests of an affected child who may also apply in person for a FVO if the court is satisfied that the child is capable of understanding the nature of the proceedings.<sup>153</sup> The interests of an affected child are also considered in the context of bail applications for FV

offences where there is a presumption against bail unless the release of the person would not be likely to adversely affect the safety, wellbeing and interests of an affected person or affected child.<sup>154</sup> Although children can make an application for a FVO, this rarely happens because these situations are ‘viewed as more appropriately dealt with through the Child Protection Service’.<sup>155</sup>

In Tasmania, it is a requirement that prescribed persons notify Child Protection Services if they believe, or suspect, on reasonable grounds, or know that a child is an affected child within the meaning of s4 of the *Children, Young Persons, and Their Families Act 1997*.<sup>156</sup> All employees or volunteers of a Government agency that provides health, welfare, education, child care or residential services are mandatory reporters. They must make a report to Child Protection Services or Gateway Services when they believe or suspect that a child is suffering, has suffered, or is likely to suffer abuse or neglect. This requirement extends to employees of an organisation that is funded by the State Government to provide services of the sort mentioned in s14(1)(k) of the *Children, Young Persons, and Their Families Act 1997*.

When police attend a FV incident where children are present or known to reside, a notification to Child Protection Services is also generated.

## 4.2 SAFE AT HOME

Tasmania's *Family Violence Act 2004* provides the basis for an integrated criminal justice response to family violence known as *Safe at Home*.<sup>157</sup> It is operated in partnership by the Departments of:

- Police, Fire and Emergency Management
- Justice
- Health and Human Services
- Education
- Premier and Cabinet.

Its objectives are to:

- improve the safety and security for adult and child victims of FV in the short and long term
- ensure that offenders are held accountable for FV as a public crime (and change their offending behaviour)
- reduce the incidence and severity of FV in the longer term
- minimise the negative impacts of contact with the criminal justice system on adult and child victims.

It is founded on the principle of the "primacy of the safety of the victim" and uses a pro-arrest, pro-prosecution strategy to realise this principle.

Under *Safe at Home*, a range of services work together to protect and support victims of FV, including children and young people.

These services include the following:

- The FVCSS offers professional and specialised services to assist children, young people and adults affected by FV. The FVCSS has a statewide service dedicated to children and young people – CHYPP – which provides counselling and support for children affected by FV. It also provides therapeutic parent/child sessions (for parents, and children from birth to five years) and group sessions for parents and children (five years and older).
- The Court Support and Liaison Service provides support to adult and child victims of FV.
- Victim Safety Response Teams within each of the police districts provide post-incident support to victims of FV (including children).

A comprehensive discussion of *Safe at Home* services can be found in the *2014 Internal Performance Review* and in Annual Reports, which are located on the Tasmanian Department of Justice website.

The Anti-Discrimination Commissioner emphasised in her submission that '[a] key recommendation arising from the 2014 review of the *Safe at Home* framework was the need to develop a continuum of service provision that unites the family violence, child protection and family support systems to provide a more comprehensive response to both adult and child victims of family violence.'<sup>158</sup>

## 4.3 SAFE HOMES, SAFE FAMILIES

*Safe Homes, Safe Families: Tasmania's Family Violence Action Plan 2015-2020* is the Tasmanian Government's coordinated and whole-of-government action plan to respond to FV.<sup>159</sup> Arguably it expands the reach and scope of the FV service system in Tasmania.

Safe Homes, Safe Families focuses on three key areas of action:

- Changing the attitudes and behaviours that lead to FV
- Supporting families affected by violence
- Strengthening our legal responses.

The short and long term negative impacts of FV on children and young people are recognised throughout Safe Homes, Safe Families. Specific actions related to children and young people are concentrated in the area of supporting families affected by violence, and include additional support for children in schools and Child and Family Centres and an extension of counselling services for children and young people experiencing FV.

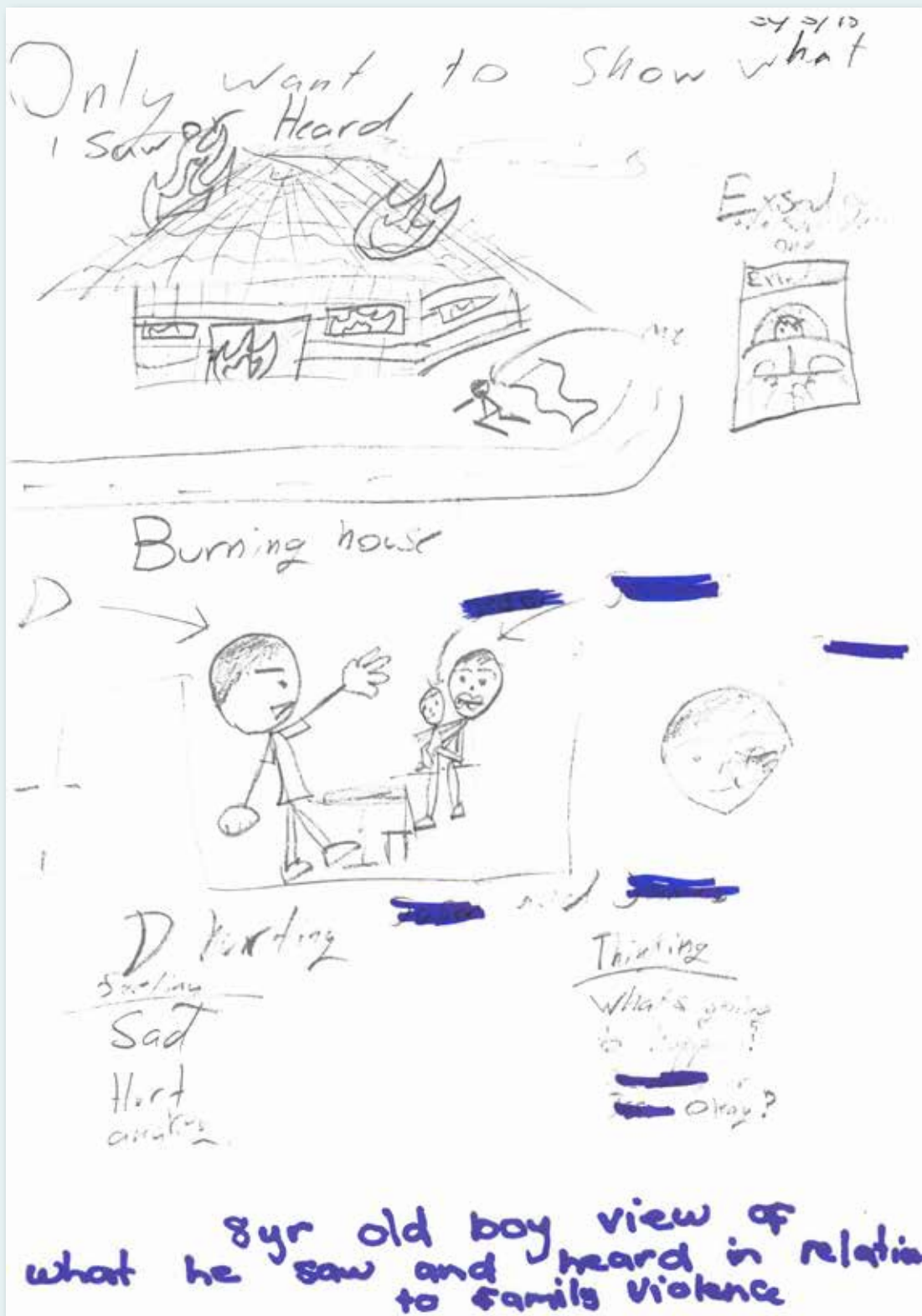
Progress to date under Safe Homes, Safe Families includes:

- Establishment of the Safe Families Coordination Unit, which became operational in late June 2016. In its submission the Tasmanian government described the Unit as follows:

The Unit provides for the coordination of support services for victims, by bringing the best available information from across Government together in one place to ensure families at risk are identified and supported as early as possible, which also aids the prosecution of perpetrators.

As one part of its broader role, this Unit provides advice to frontline services who support children and students who are impacted by family violence, by undertaking case management processes, instigating service provision and building the capacity of schools and their communities in relation to understanding issues of family violence. The Unit will also work collaboratively with school-based psychologists, social workers and support staff.<sup>160</sup>

- *Safe Choices* will be available through an interactive website, email or by phone, and face-to-face support will also be provided. Assessment Workers will review and respond to all enquiries and a Case Worker will be allocated when it is assessed that a person needs more intensive support
- A community based Men's Behaviour Change Program to assist men who have used violence and abuse towards their partners; and a specialist FV education and training program for workers in mainstream services who may come into contact with low to medium risk family violence perpetrators to be delivered statewide by Relationships Australia.
- A telephone counselling, information and referral service for FV perpetrators and their families to be provided by The Men's Referral Service.
- Counselling services for children and young people (Action 8) will be delivered by the Australian Childhood Foundation (ACF) and counselling services for adults (Action 9) will be provided by Support Help Empowerment Inc. (SHE).
- *Safe Choices* Statewide Service, an early intervention support service available to anyone affected by FV including those who want to exit violent relationships. The wrap-around support model includes case coordination, information, advice, and referrals to be delivered by CatholicCare. *Safe Choices* is intended to work alongside the Safe Families Coordination Unit.



## 4.4 'STRONG FAMILIES – SAFE KIDS'

The child protection system in Tasmania must be included in any discussion of Tasmania's response to FV, given the mandatory reporting obligations that arise in relation to an "affected child" as defined in the *Family Violence Act 2004* and referred to earlier in this Report.

A common theme in recent major inquiries or reviews into FV is that child protection services are not equipped to deal with matters involving children affected by FV. For example, in her witness statement to the FVRC, Professor Cathy Humphreys said:

*The default position in Australia, the United Kingdom (UK) and North America has tended to be to refer all children living with family violence to statutory child protection. Sometimes this is through legislation on mandatory notification, at other times through practice guidance. Hitching children who are living with family violence to 'the child protection juggernaut' fails to acknowledge the differential response that may be needed and more appropriate.<sup>161</sup>*

She went on to say:

*31. Currently, the child protection system is not designed to intervene effectively where there is a protective mother (or father), but the child and often the mother are continuing to be subjected to post-separation violence and stalking. Much of the abuse occurs when the child moves from time with their father to time with their mother. Under these circumstances, children are not safer and their wellbeing not protected when abuse occurs at 'handover'. However, on-going stalking and ongoing control through texting, threats and the use of social media means that the child's mother can continue to be abused and her mothering undermined. The absent presence of the perpetrator of violence and abuse is often experienced many years after separation.*

*32. In the past, 'separation' from an abusive relationship has been used as a marker of 'the protective parent'. However, separation is a time of heightened risk, danger and fear for women and their children. While all Intimate Partner Violence risk assessments recognise that separation creates a heightening of risk, the child protection intervention has been slow to consistently recognise this fact.<sup>162</sup>*

As has been noted previously, mandatory reporting obligations exist in relation to children and young people affected by FV, including where police attend an incident where a child is present.

The Redesign of Child Protection Services (CPS) in Tasmania, '*Strong Families – Safe Kids*' (the Redesign Report) was released in March 2016 and provided recommendations to the Tasmanian Government to improve the delivery of child protection services and ensure the safety and wellbeing of children and young people is the focus of the service response.<sup>163</sup>

The Redesign Report acknowledged that the child protection system in Tasmania was under increasing pressure from rising notification rates, increased complexities and the growing costs in terms of children being placed in out of home care. The Report concluded that this has led to:

- An implicit increase in the threshold for children and families that receive active support and attention from child protection services
- A related emergence of a significant service gap for families and children that are above the threshold of services accessible through Community Based Intake Services (Gateway Services),<sup>164</sup> and below the threshold of active intervention by child protection services
- A significant gap for families that do not meet the statutory threshold but who do not get the intensive protective supports they require due to a lack of current service options, leading to "churning" i.e. children and families in adversity receiving no help and who are subject to multiple notifications before receiving a service response.<sup>165</sup>

The Redesign Report noted that:

- Tasmania Police and schools are the most significant source of notifications into the child protection system
- In 2014-15, 43% of all notifications received were from Tasmania Police primarily related to FV incidents leading to a conclusion that '[i]t is critical therefore that CPS and Tasmania Police work together, along with dedicated FV support services to respond to children appropriately'.<sup>166</sup>

The Report recognised that there is a range of services within government and non-government that are intended to care for the wellbeing of children and to support adults and families but that these services tend to be fragmented and often work in silos.

The establishment of a statewide Advice and Referral Service, with strong links to the broader child and family service system, is proposed as a way of 'refocusing the system away from statutory interventions of last resort, to a system that is more focused on providing early access and integrated support to vulnerable children and their families'.<sup>167</sup>

Recommendation 10 of the Redesign Report acknowledges the links between the FV and child protection systems in Tasmania by recommending:

*That, in developing the Child Protection Advice and Referral Service, the Tasmanian Government consider how best it can build on the Safe Families Tasmania initiative (Safe Families Coordination Unit and Safe Choices) and Safe at Home to provide cross Agency and cross sectoral support for children at risk and their families.<sup>168</sup>*

Development of a cross-government coordination model is also proposed (Action 10 of the *Strong Families – Safe Kids Implementation Plan*).

The Report clearly notes that an effective system for protecting children from harm:

- Requires the fostering of an overarching conceptual approach that is variously called a public health or a community development approach
- All parts of the systems have to focus on support for children, young people, families and communities to promote health and wellbeing, prevent problems and enable early intervention and effective intervention when problems do escalate.<sup>169</sup>

Of particular relevance is the proposal in the *Strong Families – Safe Kids Implementation Plan* to adopt a statewide common risk assessment framework for children and to encourage an increased use by agencies and organisations of the Common Approach framework developed by the Australian Youth Alliance for Children and Youth (ARACY). As the *Implementation Plan* says:

*[i]n recognition that the current service system is fragmented and has a number of different professional frameworks, practices and approaches to the safety and wellbeing of children and families, the Tasmanian Government will develop a common risk assessment and planning system.<sup>170</sup>*

Furthermore,

*DHHS will work with relevant government agencies to produce, by quarter four of 2017-18, a statewide Common Risk Assessment Framework for Risks to the Wellbeing of the Child. The framework will build on the elements of the Common Approach and the material developed through Action 2.*

*The risk assessment framework will provide consistent and evidence based guidance for use across agencies on the most appropriate interventions for children and families. The risk assessment framework will enable all professionals to have the same understanding of risk, thresholds, and the relevant options for intervention across each level of the risk continuum.*

*It is envisaged that the risk assessment framework will be a useful tool for professionals working with complex clients to assess when intervention by other services may be appropriate and to foster collaboration and a multi-agency approach.<sup>171</sup>*

In developing the Advice and Referral Service and the Common Risk Assessment Framework, it will be particularly important to incorporate a shared understanding of the needs of, and risks to, children and young people affected by FV.

These and related issues are addressed in the context of the discussion below on the importance of an integrated response to children and young people affected by FV.

#### **FINDING 16 – CHILD PROTECTION (A)**

Experience of family violence is a significant contributor to entry to the statutory child protection system – and family violence appears as one of the most common factors in notifications to child protection.

#### **FINDING 17 – CHILD PROTECTION (B)**

Implementation of *Strong Families - Safe Kids* (the Child Protection Redesign) provides the opportunity to ensure our child protection system responds appropriately to support children and young people and their non-violent primary carer (usually their mother), and takes account of the risk posed by the perpetrator in determining a response.

## **4.5 THE IMPORTANCE OF AN INTEGRATED SERVICE SYSTEM FOR CHILDREN AND YOUNG PEOPLE AFFECTED BY FAMILY VIOLENCE**

In their submission to the National Children’s Commissioner’s examination of children affected by FV, the AIFS and ANROWS said:

*One of the most important implications for practice that emerged from the AIFS DFV Children Report is the need for a comprehensive and coherent policy framework to support understanding and practice of DFV responses, prevention and early intervention for children affected by DFV. Over the last 20 years or so, there has been a move in many jurisdictions to adopting an integrated policy and practice approach to complex social issues such as DFV. Throughout Australia, there are differing levels of integration of approaches to the issue of DFV and related service provision. The 2009 National Plan (COAG, 2009) provides a good framework for this to occur, particularly if states have complementary policies*

*and frameworks in place. 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>172</sup>*[my emphasis]*



In its *Final Report*, the COAG Advisory Panel emphasised in Action Area 6 the fundamental importance of integrated responses to keeping women and children affected by FV safe. As is pointed out in that Report:

*The complex needs of victims and perpetrators require interventions involving many agencies and service providers. Responses to violence must be informed by a systemic understanding of the nature of the problem. Approaches that integrate responses for women, their children, and perpetrators, which are well established overseas, have had success in improving safety and reducing patterns of violent behaviour.<sup>173</sup>*

Implementation of an integrated response is now generally accepted by governments and service providers as best practice and, while there is no “one way” to provide an integrated response,<sup>174</sup> the *Safe at*

#### 4.5.1 A COMMON PHILOSOPHY

In the context of an integrated service response to children and young people affected by FV it is vital that participating agencies and services have a shared understanding of FV (including its underlying causes), its impact and the factors which can affect the likelihood and severity of FV and victims’ vulnerability.<sup>177</sup> This necessitates consideration of children and young people in their own right.

Due to the complex and multifaceted nature of children and young people’s experiences of FV, a unique, integrated and comprehensive service system is required to ensure that all children are identified early so that appropriate supports can be provided. Ideally the service system should provide timely assistance to children and young people which is “accessible, inclusive, and responsive”<sup>178</sup> to their

*Home* model has been recognised as being among the best practice models for integrated service delivery in relation to FV.<sup>175</sup> With the number and diversity of agencies in both the government and community sectors engaged in the continuum of FV-related support services expanding under Safe Homes, Safe Families, it is vital to ensure all service providers operate within a framework which incorporates at a minimum:

- A common philosophy including a set of shared principles
- A standardised approach to recognising, screening and assessing risk
- Appropriate referral pathways and information sharing.<sup>176</sup>

A specific focus on the rights and needs of children and young people, as victims in their own right, is imperative within each of these elements. I acknowledge there are other elements of an integrated system; consideration of their application in Tasmania could be done in the context of progressing these three elements, which are set out in more detail below.

particular needs, including providing the appropriate level and type of support for individual children for when and for how long it is needed.<sup>179</sup>

Vital to this responsive and efficient service system is a common philosophy and coordinated approach which requires all service providers to be aligned under a common framework. A set of shared principles or aims can provide a ‘unifying starting point from which to build collaboration, reflect on and adapt existing agency practice and build a shared and agreed practice’.<sup>180</sup>

By way of example I have compiled a list of principles drawn from the literature to inform service provision for children and young people with experience of FV. These

principles are provided as examples and are not intended to be exhaustive:

- The safety and wellbeing of children and young people affected by FV is paramount.
- Children and young people experiencing FV are recognised as victims in their own right, and services should be responsive to the experiences and needs of children and young people.
- Service delivery should be trauma-informed, strengths-based and reflect a shared understanding of FV including coercive control.
- Service organisations must ensure that children and young people's participation does not cause further harm, but that it can be part of the commitment to undo the harm to children and young people.
- Both the short-term and long-term harm (including cumulative harm) caused to children and young people should be addressed by the service response.
- Children and young people have different needs (depending on their age, cultural background, personal circumstances etc.) – and this should be recognised when planning and delivering responses to FV.
- Approaches should be flexible, integrated, coordinated and collaborative.
- Services should demonstrate cultural competence when dealing with individuals from indigenous and culturally and linguistically diverse backgrounds.
- Service providers should be committed to ongoing FV training and education of their staff.
- Service responses for children and young people experiencing FV are informed by the views of children and young people, and are based on evidence and what is proven to work.<sup>181</sup>

#### 4.5.2 A STANDARDISED APPROACH TO RECOGNISING, SCREENING AND ASSESSING RISK

A common approach to risk assessment is widely recognised as a key feature of an integrated FV response. While uncertainties remain about the predictive power of risk assessment tools, common risk assessment can assist agencies by providing:

*a 'galvanising' and unifying tool to build integration, triggering and framing appropriate interventions and sending clear and consistent messages across the service system that build trust in the intervention itself.*<sup>182</sup>

The COAG Advisory Panel in Recommendation 6.1 recommended the introduction of a national common risk assessment framework for violence against women and their children. The full text of the Advisory Panel's recommendation is:

## RECOMMENDATION 6.1

*All Commonwealth, state and territory governments should support the development and use of a national common risk assessment framework for violence against women and their children.*

*This framework should:*

- include nationally agreed principles, draw on existing best practice and specify nationally agreed core content
- inform risk assessment tools that are flexible and tailored to different jurisdictions and/or to different high-risk groups
- be applied accurately and consistently by professionals who should also receive regular, high-quality training
- ensure risks associated with all forms of violence against women and their children are appropriately accounted for (including, but not limited to, risks associated with technology, disability, finances or immigration status)
- incorporate guidance on appropriate referral pathways for victims of violence (both women and their children) and perpetrators
- be evaluated and updated at least every three years to ensure relevance and accuracy.

In its final report, the Advisory Panel emphasised that:

*By establishing a shared understanding and language for risk, common risk assessment frameworks can:*

- ensure consistent, reliable risk assessments based on relevant evidence, so that appropriate risk identification and triaging occurs in every response to violence
- improve communication and collaboration between agencies
- encourage best practice and reduce duplication
- provide the foundation for integrated, consistent responses to violence.<sup>183</sup>

COAG has given in-principle support for this action area, Action Area 6, 'Integrated responses are needed to keep women and their children safe'.<sup>184</sup>

Australian states and territories are currently considering the Advisory Panel's recommendations in the development of the Third Action Plan under the *National Plan to Reduce Violence against Women and their Children 2010-2022*. It should also be noted that the *National Plan* includes a number of key actions and initiatives under *National Outcome 4 – Services meet the needs of women and their children experiencing violence* which emphasise the importance of risk assessment and management frameworks in identifying and responding to FV-related needs.<sup>185</sup>

While Tasmania does not currently have a common risk assessment framework in relation to children and young people affected by FV, as discussed earlier in this Report in the context of the redesign of Child Protection Services,<sup>186</sup> the Tasmanian Government has committed to developing a statewide common risk assessment and planning system for the safety and wellbeing of children and their families.

This strategy includes the following specific actions:

**Action 5:** *Promote the use of the Common Approach across the service system.*

**Action 6:** *Develop a statewide risk assessment framework to build a greater understanding across the service system of when government services and authorities need to intervene to keep a child safe, or to build strength and resilience in a child.*<sup>187</sup>

These commitments to action recognise the importance of having a common language and understanding of risk across a broadly conceived child protection system which was described as fragmented and involving a number of different professional approaches to the safety and wellbeing of children and their families.<sup>188</sup>

The *Implementation Plan* states that:

*It is not envisaged that statewide frameworks will take the place of current service specific risk assessments, but rather they will support more effective collaboration and a multi-agency approach by enabling service providers to have a common language, common understanding of risk thresholds across agencies, and defined referral pathways depending on the level of risk.*<sup>189</sup>

A major theme of the child protection redesign is to improve broader service system responses for those children and their families experiencing family violence who do not meet the threshold for statutory intervention.<sup>190</sup>

*[This] is an area where professional judgment is central: the 'problem is that the safety of children is dependent upon risks associated with the perpetrator, risk factors associated with their primary carer (usually their mothers), and the effectiveness of protective factors which surround the child'.<sup>191</sup>*

In the development of the common risk assessment and planning system, it is essential that a consistent approach to assessing and responding to the unique risks and needs associated with FV for Tasmanian children and young people is considered. This is particularly so given the mandatory reporting requirements in relation to children and young people who are “affected” by FV,<sup>192</sup> where ‘exposure to FV is a leading catalyst for vulnerable children to enter the child protection system’.<sup>193</sup>

Ideally all specialist services engaged in this space will work under the common risk assessment framework to be developed under the *Strong Families – Safe Kids Implementation Plan* and their approach will be underpinned by specific practice guides in relation to the protective parent, the perpetrator of FV and the child or young person (as is the case in Victoria, for example).

Some Australian jurisdictions have already undertaken work to develop and introduce common risk assessment frameworks as a fundamental aspect of their integrated response to FV. Some of these approaches are briefly detailed in Appendix A.

It must be noted that concern has been raised in the literature, submissions and in various other contexts that CPS assessments and responses in various jurisdictions have tended to focus on a non-violent parent’s capacity to protect their child from FV rather than on the perpetrator of violence. Professor Humphreys, in a submission to the FVRC,

said that ‘women are still urged to separate but without the necessary supports to keep themselves and their children safe’.<sup>194</sup> While I do not have evidence to suggest that this is necessarily the case in Tasmania, I suggest that in the context of the implementation of the child protection

redesign, policies and practices are reviewed to ensure an appropriate focus on the risks posed by a perpetrator of FV to the child or young person. One way of doing this is by developing the shared risk assessment framework and underpinning understanding with specific practice guides.

### 4.5.3 APPROPRIATE REFERRAL AND INFORMATION SHARING

Appropriate information sharing between agencies, organisations and services across the government and non-government sectors is critically important to an integrated response. Uncertainty and misunderstanding around privacy and information sharing laws and policies can lead to reluctance or even fear on the part of some to share information necessary to support the safety of those affected by FV.

This was emphasised by the COAG Advisory Panel in its *Final Report* which emphasised the complexity of laws governing information sharing without consent and proposed that ‘information sharing must be guided by a clear understanding of privacy laws, with an emphasis on the safety of women and their children’.<sup>195</sup> The Panel has recommended that governments ensure information sharing across government and non-government sectors to support the safety of women and their children and further, that governments should:

- review privacy legislation and reduce unnecessary barriers to information sharing
- promote organisational cultures and links that enable information sharing across organisations and jurisdictions
- improve staff understanding of privacy laws and protocols in order to reduce perceived barriers to information sharing.<sup>196</sup>

The Victorian Commissioner for Privacy and Data, Mr David Watts, described this sensitive balance when he submitted to the FVRC that:

*The need to identify, reduce and prevent family violence, and ensure the safety of individuals affected by family violence requires integration and coordination between various organisations. This will regularly involve the sharing of sensitive personal information. Having the ability to share the right information with the right people at the right time for the right purpose will significantly supports [sic] better outcomes by protecting those at risk.<sup>197</sup>*

The importance of communication and information sharing was emphasised in some of the submissions to this Report. A submission from a school social worker noted for example that fragmentation of information can leave children and young people vulnerable.<sup>198</sup>

The Law Society of Tasmania emphasised that ‘communication between agencies is ... vital in responding to immediate needs in a timely manner’<sup>199</sup> and that:

*It is imperative for the protection of the community as a whole and individual victims specifically, that barriers be removed to information sharing and replaced by collaboration between agencies along intra-state and interstate lines and that a [sic] nationally consistent assessment frameworks are utilised.<sup>200</sup>*

I understand that the recently developed Safe Families Coordination Unit led by Tasmania Police will develop information sharing protocols with non-government agencies. In light of the expansion of Tasmania's FV service system, particularly to include specialised FV services situated within the non-government sector, it is important to ensure there is effective information flow between government and non-government agencies and organisations.

The Tasmanian Government recently released a new data exchange protocol in response to the need for a shared understanding of privacy responsibilities accompanied by practical guidelines for the collaborative exchange and integration of data. The Administrative Data Exchange Protocol for Tasmania (ADEPT) is an administrative protocol for Tasmanian Government agencies which is intended to support the responsible sharing and better use of information by, and across, Tasmanian Government agencies. ADEPT aims to 'ensure proper safeguards are in place to enable and encourage the responsible and transparent exchange of data between agencies in the public interest'.<sup>201</sup> This is a very positive development and is to be commended.

However, in my opinion, it is important to have a better assessment and understanding of the circumstances in which information may be shared about a child or young person at risk across the whole service system. In this context, the approach to information sharing which has been adopted in South Australia (SA) is

worthy of consideration. SA's Ombudsman has developed *Information Sharing Guidelines* to provide a consistent state wide approach to appropriate information sharing where there are threats to safety and wellbeing. The guidelines are intended to:

- enable actions to be informed by a more comprehensive understanding of a client's circumstances and needs while respecting the privacy of individuals to the extent that is possible
- reduce the risk of different service providers having conflicting information sharing practices
- limit the possibility of service providers working at cross-purposes with each other and missing vital details that could expose clients to harm.<sup>202</sup>

The guidelines are supported by a number of key principles, many of which specifically relate to children, for example:

- The safety and wellbeing of people are the primary considerations when making information sharing decisions.
- Working in partnership with parents and others to provide safe and supportive family environments directly protects children's and young people's wellbeing.
- An adult's wellbeing needs must not compromise a child's rights to safety and wellbeing.<sup>203</sup>

In addition to clarity around information sharing, an overall understanding of the existing service responses which are available to ensure children's needs are examined and assessed in a holistic manner is needed. The Tasmanian Government in their submission stated that:

*Within the non-government sector there are numerous independently operated service providers. A positive action in supporting their valuable contribution may be the creation of a consolidated resource list, readily available to government and the community. This would serve to provide a single point of information for those affected by family violence as well as service providers.<sup>204</sup>*

### **FINDING 18 – INTEGRATED SERVICE SYSTEM**

An integrated service response to children and young people affected by family violence is essential – and for this to occur we need organisations and agencies across the service system to work together with:

- a common philosophy and understanding of the effects of family violence on children and young people;
- a shared understanding of risk;
- a common approach to how we examine, assess and respond to the needs of children and young people;
- appropriate information sharing and an understanding of referral pathways.

### **FINDING 19 – PRACTICE GUIDES**

Experience in other jurisdictions suggests that the development of Practice Guides – particularly relating to children and young people affected by family violence – could assist us to work together better. A set of Principles could be developed to guide our response to children and young people affected by family violence.

### **FINDING 20 – EVIDENCE-BASED SERVICES**

Wherever possible, our services should be evidence informed and evaluated to ensure they have the best available information on how we work to address the harm caused to children and young people by family violence.

# 5. THE SERVICE SYSTEM FOR CHILDREN AND YOUNG PEOPLE EXPERIENCING FAMILY VIOLENCE

An integrated service system that responds to the safety and needs of children and young people affected by FV must include all of the possible entry points to the system. This can be understood within a “public health” framework including the following service providers:

- Mainstream services such as health care, education, mental health services, drug and alcohol services, family services, disability services, and Centrelink
- FV specialist services, such as case management, practical support and counselling, refuges, perpetrator and men’s behaviour change programs
- Justice and statutory services, such as police and correctional services, courts, child protection services, legal services and victim support services.

## 5.1 MAINSTREAM SERVICES OVERVIEW

Mainstream services encompass all of the public services available to every Tasmanian including health services, early childhood services, and schools. In addition they include targeted services for certain client groups (drug and alcohol, mental health, families, people with disabilities) where their core business is not responding to FV.

As many mainstream services work directly with parents and children, professionals in these spaces have the potential to play an important role in the identification and early intervention of children and young people at risk of, and experiencing FV.<sup>205</sup> The Tasmanian Government in their submission stated that:

*Early intervention is a particular priority to minimise harm to help stop the cycle of family violence. It is the Tasmanian Government’s goal to provide a supportive environment for children and young people at home, at school, in their communities and when they need to engage with our legal system.<sup>206</sup>*

Recommendation 18 of the 2009 internal review of *Safe at Home* stated that increased support and education needed to be provided to health and other professionals ‘so that they understand and recognise FV and can make reports of family violence to police where they consider the victim faces an ongoing risk of serious harm’.<sup>207</sup>

The *National Framework for Protecting Australia’s Children Third Action Plan 2015-2018* notes the importance of the first 1,000 days between conception



and the age of two for early intervention opportunities across a number of areas, including FV.<sup>208</sup> Action Area 1.2 of the *Third Action Plan* states:

*Improve access to evidence based family support services, especially for expectant, new and vulnerable parents where alcohol and other drug, mental health, and domestic and family violence issues combine.*<sup>209</sup>

The overwhelming view from submissions and the literature around how to better support mainstream services to respond to FV is to provide frontline workers with specific FV training and resources to assist them when a case of FV presents. This acknowledges the challenges frontline workers face in knowing how to respond to FV and the reluctance on the part of some to ask questions or raise matters which may lead to disclosures.<sup>210</sup>

Resources and training for teachers can provide information and guidance on how to recognise the signs that students might display when they are having difficulties (including FV), learn how to support students who have challenging behaviours at school, and response options for teachers when students disclose FV. One example of a teacher's resource guide is the *Children Exposed to Domestic Violence: A Teacher's Handbook to Increase Understanding and Improve Community Responses*<sup>211</sup> developed by the Centre for Children and Families in the Justice System of the London Family Court Clinic in Canada.<sup>212</sup> The guide steps through the definitions of FV, the potential signs and impacts of FV on students of different ages, strategies to deal with problem behaviour, and how to respond to student disclosures of FV.

Specialist FV services also offer training to mainstream service providers, such as Lifeline's Domestic Violence Response Training (DV-Alert) which is a nationally-run, accredited training program available at no cost for health, allied health and frontline workers which provides them with

the skills to recognise, respond and refer cases of domestic and family violence.<sup>213</sup> The training program is offered face-to-face or online, to ensure rural and remote workers can participate.

In addition to training and resources, there is evidence to suggest that embedding FV specialists in some mainstream services can ensure consistency of approach across organisations, and provide additional support to staff who are not specifically trained to deal with FV cases.<sup>214</sup> In particular, if FV specialists are located within Integrated Family Support Services (IFSS), it means that workers can work alongside family support workers within family units where the perpetrator has not left the family, providing specialist expertise and strategies to manage these complex issues.<sup>215</sup>

Domestic Violence Victoria, in their submission to the FVRC, argued that:

*the embedded worker model is superior to service co-location because the family violence worker is a full member of the team; decisions are made jointly before taking action; client management systems are accessible; and information can be shared.*<sup>216</sup>

The Tasmanian Government has committed, under Action 6 of the Safe Homes, Safe Families to this practice, by providing an additional six professionals, including social workers and psychologists across the three regions of Tasmania, to support children in schools and Child and Family Centres.

The six Safe Homes, Safe Families professionals – three social workers and three psychologists - are based across the three regions in Tasmania (ie 1 Social Worker and 1 Psychologist within each region – North, North-West, South).

The Department of Education Investigation Officer within the Safe Families Coordination Unit advises the Safe Homes, Safe Families psychologist/ social worker of children/families within schools and Child and Family Centres within their region that have been identified as needing support due to family violence. The Safe Homes, Safe Families Social Worker and Psychologist then work with school principals and other professional support staff (such as school social workers) to ensure those children and families have access to professional support services.

The Safe Homes, Safe Families professional staff provide a specialist FV resource for children and young people affected by FV in government schools and Child and Family Centres in each geographical region, as needed. They are also able to work proactively to hold community information sessions and professional learning.

These professional staff also play a role in providing a resource to support children and young people who are affected by FV to attend and succeed in education.

Whilst this is to be welcomed and commended, consideration could be given to embedding additional FV

specialists, particularly with expertise regarding children and young people, across a range of other mainstream services such as those mentioned below.

### **FINDING 21 – MAINSTREAM SERVICES – SUPPORT, TRAINING, RESOURCES**

Mainstream services especially those which work directly with parents and children - such as health services, early childhood, schools, child health nurses - have an important role to play in identifying and responding to children and young people affected by family violence. We need to support these workers, including by providing training and resources and by considering other responses such as embedding specialist workers, building on the work already underway in Tasmania.

In the section below, I describe some of the mainstream services which are more likely to come into contact with a child or young person either directly or through their non-violent parent (usually their mother).

## **5.1.1 ANTENATAL AND PARENTING SERVICES**

Pregnancy has been identified as a time of increased risk of violence for women, with 17% of women experiencing FV for the first time while pregnant.<sup>217</sup> Therefore pregnancy offers a unique opportunity for health and support services to identify risks and intervene early, particularly as it is a time of frequent contact with service providers. A recent AIHW report found that screening had minimal adverse effect on women experiencing FV and that:

*Even if women choose not to accept help, the delivery of screening questions by trained workers can break the silence, reduce isolation, increase the sense of support and send a message that the abuse is wrong, that it can adversely affect a woman's health and that something can be done.*<sup>218</sup>

The above report also notes that screening can benefit workplace development by increasing awareness of and

responsiveness to family violence within the workforce conducting the screening.<sup>219</sup>

Both the Victorian Government's FVRC and the COAG Advisory Panel recognise the importance of screening for FV during pregnancy and make recommendations about implementing perinatal domestic violence screening across all jurisdictions<sup>220</sup> and training for health professionals who engage with pregnant women to screen for, identify and respond to FV.<sup>221</sup>

I understand that the Tasmanian Health Service operates an electronic information system that steps out protocols for services offered to pregnant women. A question screening for family violence is asked at the time of the first booking for pregnancy services. This usually captures women in their first trimester of pregnancy. If the issue is raised, the woman is supported to make a decision on next steps and receives a referral to a social worker if she agrees. At the same time, legislation requires the Tasmanian Health Service to make a disclosure to child protection if the woman discloses she is in a violent relationship.

Screening postnatally for FV in Tasmania is carried out by the Child Health and Parenting Service (CHaPS) nurses as part of their family assessment, where mothers either experiencing FV or at-risk of FV are identified and referrals made to other services and interventions.

The importance of parenting programs which focus on developing coping skills for expectant, new and vulnerable parents is also highlighted in the literature.

### 5.1.2 GPS AND HOSPITALS

Women who are experiencing FV use health services more often as they seek assistance for the emotional and physical impacts of violence.<sup>226</sup> Primary health care services therefore serve as an important pathway for referral to specialist FV services, and it is vital that general practitioners and other medical professionals are equipped to identify

In her witness statement to the FVRC, Professor Humphreys described the *Cradle to Kinder* program. This program is targeted at vulnerable pregnant women aged below 25 and while not specifically directed at women with experience of FV, many of the participants will be living with FV.<sup>222</sup> The program guidelines 'emphasise the importance of family violence risk assessment and risk management, and encourage staff to consult with specialist FV services'.<sup>223</sup> One of the program's outcome measures is a reduction in (or absence of) FV incidents and there is evidence that programs such as this are 'having very positive outcomes'.<sup>224</sup>

Another program for expectant and new parents, the Family Foundations program from the United States, aims to assist parents to gain knowledge and skills for parenthood and focuses on strengthening co-parenting support. Whilst not specifically designed to address FV, this program has reportedly contributed to lower levels of FV.<sup>225</sup>

#### FINDING 22 – ANTENATAL AND PARENTING PROGRAMS

Acknowledging that pregnancy has been identified as a time of increased risk of violence for women, experience in other jurisdictions suggests that evidence-based programs for expectant, new and vulnerable parents may have positive family violence-related outcomes.

symptoms, analyse and assess risks, and provide targeted referrals.<sup>227</sup> General practitioners are guided by the Royal Australian College of General Practitioners' (RACGP) key manual in the sphere of abuse and violence, called the "White Book" – *Abuse and Violence: Working with our patients in general practice*. This resource 'offers a set of accessible, evidence-

based recommendations and strategies ranging from how to respond to patients presenting with signs of abuse or violence through to legal options to consider with

their patients'.<sup>228</sup> Additional training and education for health professionals is however still required to ensure the most up-to-date information is utilised.

### 5.1.3 SCHOOLS

Teachers, school nurses, social workers and counsellors also play an important role in identifying and responding to children who have experienced FV. The *Safe at Home Internal Performance Review Report 2014* stated that school social workers, for example, play an important role in providing support to children and young people affected by FV and are a key referral point for both child protection and the CHYPP of the FVCSS.<sup>229</sup>

As part of Safe Homes, Safe Families under Actions 6 and 7, the Government has committed to expanding the provision of targeted support for children in both government and non-government schools.<sup>230</sup> As identified earlier, this includes six additional professional support staff in government schools, and funding assistance to establish support for children experiencing FV for independent schools.<sup>231</sup>

A submission by a school social worker in the north of Tasmania documented the important role that all professionals within the school environment play in the identification and response to FV:

*Within the school environment family violence could potentially be present in the lives of many students therefore it is vital those in contact with the students are able to recognise and respond in ways that will assist in the protection of students and enhance their ability to learn and reach their full potential i.e. be mindful when contacting home as part of school disciplinary processes and the impact this may play in putting students at risk.<sup>232</sup>*

Anglicare, in its submission, also touched on the need for schools to be supportive of students who may be experiencing FV:

*...Anglicare finds too often that children who experience FDV are treated by their school as having behavioural problems without identifying or understanding the underlying FDV. If a child who has experienced FDV is suspended, their poor behaviour is likely to be reinforced because the intervention (suspension) does not deal with the underlying cause and does not provide the child with tools to change their behaviour.<sup>233</sup>*

Women's Health Tasmania stated in their submission that 'school-based programmes can reduce aggression and violence by helping children to develop positive attitudes and values, and a broader range of skills to avoid violent behaviour.'<sup>234</sup>

*"I had that one teacher who didn't just, other teachers had comforted me when I told them what was happening, but I had that one who was really so active about getting me the hell out of there."*

RACHAEL (SURVIVOR OF CHILDHOOD FAMILY VIOLENCE)<sup>235</sup>

## 5.1.4 CHILD AND ADOLESCENT MENTAL HEALTH SERVICES

Research has shown that experiences of interpersonal violence – in childhood, adulthood or both – are more common among women with a mental illness than among those without.<sup>236</sup> The experience of FV can contribute to the development of mental health problems and mental illness, and/or exacerbate mental health symptoms in both adults and children.<sup>237</sup> FV is also closely associated with post-traumatic stress disorder (PTSD), depression, anxiety and suicide.<sup>238</sup>

For children and young people experiencing FV the first point of contact with mainstream services may be through their local GP. Specialist services such as Child and Adolescent Mental Health Services (CAMHS) are scarce, and see a minority of children with significant mental health problems.<sup>239</sup> In addition CAMHS are often fully occupied supporting the children that access their services, most of whom have very high level chronic and complex problems.<sup>240</sup>

## 5.1.5 PARENTING SERVICES AND INTEGRATED FAMILY SUPPORT SERVICES (IFSS)

IFSS in Tasmania provide a voluntary service which is 'focused on increasing the wellbeing and safety of children, young people and families by providing support and resources to build family strengths, resilience and capacity'.<sup>241</sup> They are coordinated and led by Baptistcare and Mission Australia. Case workers provide a range of individually tailored services to families which can include early intervention, practical support and skill development, parenting skills, outreach support, case management and advocacy.<sup>242</sup>

These services can provide support to the whole family; SHE's submission stated that a whole family approach can be beneficial for children and young people experiencing FV:

*Services and organisations can best respond to children and young people affected by family violence by using a whole-of-family focus with an understanding that the experiences of children and young people do not occur in isolation from the experiences of other family members.<sup>243</sup>*

A number of the submissions identified that frontline workers had a lack of knowledge of, and support for, managing cases of FV, particularly those relating to children and young people. They recommended that FV specialists be embedded in existing service organisations to fill this lack of expertise. Baptistcare in its submission stated that embedding FV practitioners in community organisations that provide family support services had seen positive results in other states and argued that:

*Resourcing Family Violence practitioners into the non government sector and universal services through co-locating practitioners into shelters, family support services and school would aid the long term recovery of children.<sup>244</sup>*

A submission from a worker with the Burnie Child and Family Centre stated that they are well placed to receive opportunistic and spontaneous engagement with adults and children experiencing FV through their centre but the lack of qualified FV specialists makes it difficult for their staff to engage:

*Staff at our centre develop relationships with community members over time which presents an opportunity to work more deeply with them. However, we are not trained counsellors or family violence support workers, our role is broader than this. Investing in more frontline, trained workers would be brilliant<sup>245</sup>*

A number of the submissions also identified the need for further training for professionals across all sectors on FV, including how to assess risk. The submission from the Law Society of Tasmania recommended:

*Extensive family violence training of all professionals involved with families, children and young people including magistrates, judges and court staff, teachers, social workers, community workers, health professionals and police.<sup>246</sup>*

The literature justifies this level of specialised training for all professionals as:

*The complexities of living with domestic violence require training and experience to understand, as well as particular treatment in law and policy, because women who are escaping abuse may not be able to conform to neat expectations... If we are going to move in this direction, the professionals concerned need awareness and intervention training so that they do not inadvertently increase the dangers through unsafe practices or breaches of confidentiality. At the same time, professionals need not to pathologise children but to recognise that they are resilient and that many recover from their problems as soon as they are away from the violence.<sup>247</sup>*

## 5.2 FAMILY VIOLENCE SPECIALIST SERVICES

Specialist FV services are designed to support victims of FV. The majority of these services work with women and children who are experiencing, or are at risk of experiencing, FV. Their focus is on

keeping victims safe and providing them with support to recover from the violence they have experienced.<sup>248</sup> Programs for the perpetrators of FV can also be classified as specialist FV services.

### 5.2.1 SHELTERS AND CRISIS HOUSING

It is acknowledged that not all shelters will be specialist FV services however statistics indicate the significance of FV as the reason or a reason for a child or young person accessing these services.

Nationally, 15% of young people (aged 15 to 24) presenting alone and seeking assistance from a homelessness service in 2014-15 identified FV as the main reason

for doing so, and a further 13% reported a relationship or family breakdown.<sup>249</sup>

The focus of shelters and women's refuges has typically been on the needs of women, with the needs of children seen as secondary or equated with those of the mother. Shelter Tasmania's submission echoed this issue and stated:

*Often funding driven, children and young people's needs take second place to those of their parents. Crisis accommodation services are not resourced to focus on the welfare of children. There is no extra funding available to work with the children, nor is there any follow-up on children once they leave the Shelter. There is a great concern that children are falling through the net in Tasmania's homelessness service system.<sup>250</sup>*

Their submission also recognised that shelters in Tasmania were not always able to cater for the needs of particular cohorts of children and young people, which led to families being turned away:

*Demand for Shelters exceeds supply and because Shelters are sometimes not able to appropriately accommodate families (because of age or size), families are often turned away. The greatest proportion of 'turnaways' are families with teenagers and families with 12 year old boys who can't be housed in the group housing typical of most Shelters.<sup>251</sup>*

Actions 10 and 11 of the Safe Homes, Safe Families commit the Tasmanian Government to increasing the availability of crisis accommodation for women and their children escaping FV when there are no other options available; and to providing 50 additional private rentals each year to provide safe and affordable accommodation for women, and women with children, to enable them to exit or avoid crisis accommodation when they cannot live safely at home.<sup>252</sup>

### **FINDING 23 – CRISIS ACCOMMODATION**

We also need to find ways to build capacity and support those working in crisis accommodation so that they can respond to the specific needs of children and young people affected by family violence.

## **5.2.2 COUNSELLING SERVICES**

The majority of specialist FV services in Tasmania, both government and non-government, provide counselling and support for victims of FV.

### **a. Family Violence Counselling and Support Service and the Children and Young People Program**

The FVCSS is a government-run specialist FV service for both adults and children affected by FV, which was established as an integral part of the *Safe at Home* criminal justice response. The TFVCSS has its own stream dedicated to children and young people affected by FV called CHYPP.

The service, which has been operating since 2005, focuses on providing the child or young person with resources to enhance emotional regulation, assistance

with repairing the child or young person's negative core beliefs, and reintegrating their traumatic experiences into their own life narrative to contribute to a complete and stable sense of self.

An important aspect of the work CHYPP undertakes is the building of attachment between the non-violent parent and the child in the aftermath of FV, recognising that one of the main tactics of abuse and violence used against women is to undermine the relationship between mothers and their children.<sup>253</sup>

The service was noted in a number of submissions, including the Tasmanian Government submission, which stated that the following outcomes for children and young people accessing CHYPP have included:

- reduction in trauma symptoms;
- development of person [sic] resources through skills development, education on mental health and emotional regulation strategies;
- increased emotional regulation which assists the child or young person in forming and maintaining positive relationships at home, school and in the community;
- repairing a sense of self and self-agency;
- repairing and rebuilding attachment, creating and restoring relational templates;
- a substantial reduction in the likelihood of inter-generational transmission of family violence and the need for protection interventions;
- repairing and improving the parent/child relationship to enhance the ability to parent after violence in an attuned and responsive manner; and
- improved engagement for children with school learning and within social environments.<sup>254</sup>

Other submissions praised the work of CHYPP reporting that they:

*...offer outstanding support and assistance to families experiencing family violence...The staff working for FVCSS and CHYPP are highly trained and experience [sic], the service should remain preeminent, they need to be supported and enhanced to take advantage of the expertise held within them, rather than disbursing funding among other providers.<sup>255</sup>*

However the same submission by the Law Society of Tasmania also noted that 'CHYPP in particular needs much greater resources, at present children and young people who have experienced family violence are waiting many months to begin face to face counselling'.<sup>256</sup> This was echoed in a number of other submissions where long waiting lists and strict eligibility criteria were identified as limitations to children receiving a service from CHYPP.

CHYPP provides their services to a unique and complex caseload of children who have been exposed to FV and are at high risk.

In the most recent performance review of *Safe at Home*, CHYPP was criticised for 'not accepting children who have ongoing contact with FV offenders where risk and safety issues still exist'. The rationale for this determination is that the ability to engage in, and benefit from, counselling will be compromised where a child is still being exposed to the trauma of violence.<sup>257</sup>

There is a clear need for services for children who are still living in homes where FV is occurring, that are delivered in a way that is cognisant of the inherent risks to safety of the child or young person. This was apparent in the submission from SHE which stated:



*The safety of children and young people must remain paramount. Services need to be aware of safety risks if the child or young person is still living with abuse... Children who are currently experiencing abuse may require other support before a therapeutic approach can be used.<sup>258</sup>*

This recognises the need for services to be provided 'along a continuum in relation to those less affected and those highly affected by domestic abuse to ensure that there are options for support and counselling to address each child's individual needs'.<sup>259</sup> The 2009 review of *Safe at Home* stated in Recommendation 28 that:

*The integrated family support services are supported to provide services for children affected by family violence who are not able to access CHYPP because of the ongoing threat of violence in their families.<sup>260</sup>*

In the Tasmanian Government's submission it was also noted that:

*The CHYPP has over 10 years of data from providing trauma-based counselling specifically to children who experience family violence. There is an opportunity for further research in this area to better understand what interventions/ services work well for children, for whom (ages and comorbidities), and in what circumstances.<sup>261</sup>*

I support the view above expressed in the Tasmanian Government submission, noting the importance of ensuring that counselling and therapeutic services provided to children and young people in Tasmania continue to be evidence-based, and informed by best practice. The Tasmanian Government is a member of ANROWS which is building the evidence base to support better policy development and program and service delivery.

In their submission the Catholic Education Office stated that a challenge for many therapeutic services for children is that they 'do not have longevity to see the treatment through the various stages required. Young children process events as their maturity grows and they are able to look at instances of violence with greater clarity and wisdom.'<sup>262</sup>

*'We need more therapy for kids who go through it, it's really expensive and not a lot of kids get it, but it's so important. If they don't talk about it, then they grow up and the cycle continues, or they just feel powerless.'*

(YOUNG WOMAN INVOLVED IN PROJECT O, WYNYARD)<sup>263</sup>

It is important to recognise initiatives under Safe Homes, Safe Families which have the potential to increase our capacity to support children and young people. These include:

## b. Australian Childhood Foundation

Under Action 8 the Tasmanian Government has committed to expanding counselling services for children and young people experiencing FV. In June 2016, the Australian Childhood Foundation was announced as the

organisation to provide these additional counselling services for children and young people. This will provide an alternate for those who may prefer a non-government counselling service.

## c. Safe Choices

Under Action 1 a statewide service called *Safe Choices*, delivered by CatholicCare, was established 'to deliver early intervention and prevention support to anyone affected by family violence, including those who want to exit violent relationships'.<sup>264</sup>

CatholicCare support workers provide case coordination, advice, information and referrals via an interactive website, email, phone, or face-to-face support.<sup>265</sup> A trial of the service has been rolled out in southern Tasmania in June 2016 as a precursor to the staged state-wide rollout of the service.

## 5.2.3 INFORMAL SUPPORT

Research with children and young people who have experienced FV has found that children and young people are in need of someone to talk to and share their thoughts and feelings with, who is outside of the family.<sup>266</sup>

*I always felt like I wanted somebody to speak to because I was feeling like I was just piling and piling it all on myself... I always felt that I wanted somebody to speak to, to help me unload some of the things off myself. I couldn't really talk to my mum about things, no matter how close we were, because it was her that I was trying to protect, it was all to do with her that I was wanting to talk to somebody about.<sup>267</sup>*

The role of informal support networks has also been neglected by research and public policy, which has tended to overemphasise the importance of formal interventions. Children and young people prefer to use informal networks of support for a range of reasons, in particular 'because they don't want to lose control of the situation


through the notification or reporting of their circumstances to other agencies, particularly statutory organisations'.<sup>268</sup>

*'There are lots of people who are afraid to talk about family violence. It happens to a lot of people, a lot of people don't talk about their own experiences, then they grow up and the cycle continues, or they feel powerless.'*

(YOUNG WOMAN INVOLVED IN PROJECT O, WYNYARD)<sup>269</sup>


Children and young people can also gain support from meeting and talking with other children and young people who have experienced FV. This can encourage children to speak about their experiences and develop peer relationships, for example through group work programs.<sup>270</sup>

it made me sceerd  
 When dad cept herking  
 Mum onece I tried to stop  
 it and dad punched me  
 school was Really hard to  
 and it still happen's we  
 had to Live at my gran's  
 it was horrible still  
 is



On Safari with Moxie  
 JUNE 2011

Dear famaly Vilents,  
 The Last fweu Days  
 for me have been very  
 hard. I'v been trow lots  
 of things. Mums been  
 going to court and  
 bringing back leters which  
 are not/ trow. I: fill Like saying  
 something to him



On Safari with Moxie, September 20-21<sup>st</sup> 2006

## 5.2.4 WEBSITES AND HELPLINES

I note with interest that Recommendation 3.2 of the COAG Advisory Panel stated that more should be done to 'support children and young people to report violence and access services, including through the use of innovative technologies'.<sup>271</sup>

Websites and helplines make up an important aspect of services for children and young people and provide an opportunity for children and young people to access information and support 24/7.<sup>272</sup> Websites can provide a range of services for children and young people including advice and information, online counselling, message boards, and opportunities to interact with other children and young people who may be experiencing similar issues.

Online counselling or e-therapy has been found to be a highly accessible (particularly for those located in regional and remote areas) and effective method of counselling with children and young people, who report that it is easier to use than other forms of counselling due to the anonymity of the service and the increased control that the client has over when counselling begins and ends.<sup>273</sup> As a result, online counselling is becoming a common tool for organisations to reach young people who are experiencing difficulties, and has been implemented by organisations such as Headspace, Beyond Blue, the Kids' Helpline and Lifeline.

Notably there isn't a specific and targeted website for children and young people who are experiencing FV in Australia. FV websites tend to have separate sections for children and young people, but these may be difficult to find and/or are not designed to be child-friendly. Moreover, generalist websites aimed at children and young people, such as Kids Helpline and Headspace do not provide specific services, support and information for children and young people experiencing FV. For example in Tasmania, only four (0.3%) of 1,217 counselling contacts made to the Kids Helpline in 2015 were related

to exposure to FV.<sup>274</sup> This could be for a number of reasons but it is clear that for children experiencing FV, it may not be a popular avenue for accessing support.

One international example of a targeted website for children and young people experiencing FV is HideOut<sup>275</sup> which is designed to assist children and young people to understand domestic abuse and how to take positive action if it's happening to them.

Generalist websites for children and young people can also provide specific resources and guidance on FV, as a part of a broader service response. Childline is an example of a generalist website for children and young people which provides extensive information on FV in a child-friendly and interactive manner.<sup>276</sup>

Children and young people who have experienced FV have noted in one evaluation of a UK-based website, that it provided a way of 'communicating hard stuff without having to speak; anonymity and complete confidentiality; named 1:1 counsellors for live chat and/or private email and support and also message boards for peer support'.<sup>277</sup> For some children, accessing web-based support was the first time they had spoken to an adult about FV, and in some cases it was a first step in speaking to other support services.<sup>278</sup>

### FINDING 24 - INNOVATIVE SERVICE DELIVERY RESPONSES

Children and young people access support in different ways – there is value in investigating innovative technologies such as interactive websites.

## 5.2.5 PERPETRATOR PROGRAMS

A particular source of criticism of FV services, and in particular child protection interventions, is the tendency to focus on the non-violent parent (usually the mother) and her ability to protect her children, rather than focusing interventions on effectively targeting the perpetrator of the abuse who is the source of the inherent risk.<sup>279</sup>

As part of *Safe at Home*, the Tasmanian Government operates the Family Violence Offender Intervention Program (FVOIP) which is delivered by Community Corrections.<sup>280</sup> The program receives referrals through the courts and for those deemed eligible, perpetrators may be sentenced to attend the program as part of a community based order.<sup>281</sup> In 2014/2015 the program commenced with 37 participants with a completion rate of 75.68% (28 participants).<sup>282</sup>

Under Safe Homes, Safe Families, Relationships Australia will deliver a community based Men's Behaviour Change Program to assist men who have used violence and abuse towards their partners and a specialist FV education and training program for workers in mainstream services who may come into contact with low to medium risk FV perpetrators.

*"He just wanted quiet and order and neatness and .....none of that is consistent with having kids. You know, don't disrupt me. I want this. Don't get in the way of that. Don't touch my things. Don't move them. Don't!"*

ANNA (SURVIVOR OF CHILDHOOD FAMILY VIOLENCE)<sup>283</sup>

There is a growing body of knowledge regarding good practice in work with perpetrators of FV. It is generally accepted however that perpetrator programs need to encompass both formal (criminal justice, civil justice and child protection systems)

and informal accountability processes (support services for perpetrators), which when they interact, provide a holistic approach to addressing violent behaviour.<sup>284</sup> It has been recommended by No To Violence (the Male Family Violence Prevention Association in Victoria) that each perpetrator of FV has an individualised case plan which provides the basis for interventions across the formal and informal accountability areas. This approach is supported by the assumption that:

*...while men's gender-based power to entrap and coercively control an (ex)partner based on male entitlement and privilege is at the heart of their choice to use violence, other factors can contribute to making these choices 'easier', and to the severity of the tactics they choose. These factors – AOD abuse, mental health issues, problem gambling or homelessness for example – do not cause domestic and family violence, but if they are part of a perpetrator's context, they make his task of choosing non-violence more difficult. A focus on these contributing factors – or criminogenic needs in corrections terminology – is by no means sufficient to address the man's use of violence and coercive control, but can help make the pathway easier for the man to choose non-violence.<sup>285</sup>*

This recognises that general group work programs for men may not be enough to encourage long-term behaviour change as they are predicated on a one-size-fits-all model. This does not mean that the program provider needs to address all of the contributing factors themselves but may refer the perpetrator to other appropriate services with 'strong

communication between all service providers involved to ensure consistent approaches and messages', noting that:

*The importance of inter-agency clarity around approach and message consistency cannot be over-emphasised. Case management work to address the man's criminogenic needs should not be about not naming the violence. It is not an approach of "let's work with him on these other issues first and talk about the violence later". Allied sector agencies working with FV perpetrators on particular issues related to risk, need to be trained and supported on how to name the violence when working with the man, how to work within a framework that does not blame alcohol or mental health issues for his behaviour, and how to work in alliance with the coordinated community response that's holding him accountable for his behaviour.<sup>286</sup>*

A number of the submissions recognised a need for more support programs for perpetrators in Tasmania including on parenting, relationship support and behaviour change. A worker with the Burnie Child and Family Centre in their submission stated:

*We desperately need long term consistent support for perpetrators. Not an 8 week program, not a slap on the wrist, not a revolving door to court, and not an inevitable slide into prison. We need well-trained support workers who can work with perpetrators in an environment which encourages positive outcomes. We work with partners and fathers who struggle with their relationships and all we can do is suggest counselling which they inevitably refuse. Once they are known to police as a violent offender (or well before if possible), there needs to be a program which can take these perpetrators out of their toxic environment while they are in recovery.<sup>287</sup>*

*"He was crying over the tub and I said, so, 'It's okay dad', like but part of it wasn't okay...but I kind of saw that he was really sorry for what he did and so, I just sort of chose in that moment to forgive him and go, 'No, it's okay, don't worry' and probably I did what mum did, does and turned it round and blamed myself for it."*

SAM (SURVIVOR OF CHILDHOOD FAMILY VIOLENCE)<sup>288</sup>

The Law Society of Tasmania in their submission recommended that more resources be committed by the Tasmanian government to supervision services (number and diversity) for children and young people to spend time with a perpetrator of FV. They recommended that:

*When supervised time with the perpetrator of FDV is considered emotionally and physically safe for children and young people, it should be made available in predictable and protective environments for these children and young people. Older children and young people typically are resistant to utilising traditional children's contact services as they have the feel of a child care centre about them.<sup>289</sup>*

### **FINDING 25 – PERPETRATOR PROGRAMS**

There may be value in introducing individualised case plans for those persons attending perpetrator programs; these plans would provide the basis for interventions across the system.

## **5.3 LEGAL AND STATUTORY SERVICES**

Under this part of the Report I have limited my discussion to the intersection between the various legal systems that deal with family violence issues.

I have discussed the role of child protection and the redesign of child protection services in Tasmania in general terms earlier in this Report. An issue that does need to be acknowledged is the intersection between the child protection system, family violence system and family law system.

In her well-regarded paper, Monica Campo says:

*The complexity of the relationship between the different policy responses of family law, child protection, and domestic and family violence, and their respective effects on children, has been widely examined in the literature (e.g., Hester, 2011; Humphreys, 2008; Powell & Murray, 2008). Hester referred to the fraught relationship between these sectors as the “three planet model”, with each sector having their own histories, philosophies, laws and sets of professionals, which makes responses to domestic and family violence involving children difficult, contradictory and, at times, leading to unsafe situations for the children.<sup>290</sup>*

She goes on to say that ‘[t]he interface between the child protection system and the adult service system is a maze of differing eligibility thresholds, knowledge bases, service types, funding and contract requirements, and ethical and legal considerations’.<sup>291</sup>

In its submission, the Law Society of Tasmania observed as follows:

*Most of our members' family violence clients do not understand the distinction between the state acts : the Family Violence Act and the Children, Young Persons and Their Families Act 1997 (Tas) and the Commonwealth's Family Law Act 1975. They do not understand how identical circumstances are responded to under three separate acts, with resultant delay, duplication and the drain on the adult victim and her children's financial resources and emotions; it presents a distinct barrier to healing. Commonwealth and state governments need to work together to devise ways to reduce duplication and simplify the pathway to remedies for these families... it is not at all unusual at this time for two separate trials to be held in the Magistrates Court, under the Family Violence Act and the Federal Circuit Court or Family Court under the Family Law Act or for proceedings to be commenced under the Family Law Act, only to have child protection proceedings subsequently commenced. This results in the victims, including children, having to twice relive their trauma and retell their experiences. <sup>292</sup>*

In its submission, the AASW said:

*2.1. The AASW has particular concerns regarding the intersection between child protection services and family violence. When family violence issues are referred to the child protection system the mother is often made responsible for protecting the children. Child protection systems often emphasise the behaviour of the mother as the issue that puts children at risk, rather than the abusive behaviour of the perpetrator, which places the children at further risk.*

*2.2. Central to improving child protection services is the better incorporation of a professional social work workforce who has the skills necessary to better understand the complexities of family violence. Particularly AASW Accredited Social Workers who can demonstrate advanced training and knowledge in child protection interventions. <sup>293</sup>*

The FVRC also stated that:

*Encouraging collaboration between Child Protection and family violence service providers, requires cultural change in both the child protection and family violence systems... Family violence training for child protection practitioners should include embedding an understanding of the relationship between Child Protection and other service systems, including the Magistrates' Court and the federal family law system. <sup>294</sup>*



These issues have been comprehensively examined in the Australian Law Reform / NSW Law Reform Commissions' *Report on Family Violence* and in the Family Law Council's *Interim Report to the Attorney-General on Families with Complex Needs and the Intersection of the Family Law and Child Protection Systems* (June 2015) which dealt with the first two Terms of Reference provided to the Council.<sup>295</sup> The Family Law Council's Final Report is due in the near future.

The COAG Advisory Panel considered these issues, leading to Recommendation 6.7:

*Commonwealth, state and territory governments should agree to work together to improve the intersections between family law, child protection, and family violence legal systems by implementing the respective elements of the Family Law Council's interim report on families with complex needs.*

*Increased collaboration and integration should be achieved by focusing on:*

- Measures that increase information sharing between family courts and other agencies, through approaches including stakeholder meetings, memoranda of understanding, removing legislative and other barriers, and colocation of agencies.
- Developing a national database of court orders, which could include examining the feasibility and cost of extending the national domestic violence order information sharing system [to include family court orders] once it is implemented and fully operational.<sup>296</sup>

It is my view that achieving better collaboration at the intersections of family law, child protection and family violence legal systems is extremely important to improving the experience of children and young people caught up in legal processes.

#### **FINDING 26 – INTERSECTING LEGAL SYSTEMS**

There is a need for greater integration between the family violence system, the child protection system and the family law system to overcome well understood issues of concern.

# 6. CONCLUSION

In conclusion, I wish to convey my thanks to the 19 organisations and individuals who made submissions on matters covered in this Report. A list of the submissions is at Appendix B.

It is my firm belief that those working in the Tasmanian service system and who support children and young people affected by family violence are genuinely committed to promoting their safety and wellbeing. I hope this Report assists in progressing the important work currently being undertaken in Tasmania to improve our response to family violence.



# 7. APPENDIX A

## VICTORIA

- Introduced in 2007, Victoria's Family Violence Risk Assessment and Risk Management Framework, known as the Common Risk Assessment Framework (CRAF), provides overarching policy guidance in relation to risk assessment and response across Victoria's integrated FV system.<sup>297</sup> The CRAF promotes a shared understanding of FV and provides a standardised approach for identifying, assessing and responding to FV across the integrated service system.
- The CRAF is underpinned by a set of six key principles and is supported by three practice guides to assist a diverse range of professionals in both mainstream and specialised FV services to identify and manage risk.
- The CRAF is currently the subject of a comprehensive review by the

Victorian Government following a recommendation of the FVRC.

- The FVRC urged a common and consistent approach to identifying and assessing risks to children and recommended that the CRAF be maintained but that it be strengthened to, among other things, include specific evidence-based risk indicators for children.<sup>298</sup> The FVRC has also recommended legislative amendment to require prescribed agencies to align their risk assessment policies and practices with the CRAF.<sup>299</sup>
- In response to the findings of the Luke Batty inquest,<sup>300</sup> the Victorian Government committed to building the CRAF into service agreements as a condition of funding.<sup>301</sup>

## WESTERN AUSTRALIA

- WA's Common Risk Assessment and Risk Management Framework<sup>302</sup> is used across the service system to promote a collaborative and seamless approach to identifying and responding to FV. This framework was adapted from Victoria's CRAF. It is intended for use by mainstream services as well as legal/statutory bodies and specialist FV services. This framework includes a set of eight underpinning principles.
- The WA framework conceptualises screening, risk assessment, risk management and risk monitoring on a response continuum and acknowledges that victims of FV enter the FV service system at multiple access points. It requires all agencies (whether mainstream or specialist) to comply with minimum standards.

- The framework acknowledges that many agencies and services already have their own service specific risk assessment and management or response frameworks in place. A Practice Guide is included to support agencies to adapt their existing risk assessment and risk management arrangements to incorporate the common approach to FV screening, risk assessment and risk management.
- The RCFV commented that the Western Australian framework appears to be an effective example of how to highlight FV-related risks to children and to incorporate evidence-based risk indicators specific to children.<sup>303</sup>

## QUEENSLAND

The Special Taskforce on Domestic and Family Violence in Queensland (the Taskforce) considered the development of a common risk assessment framework and recommended that a best practice common risk assessment framework be designed to support generalist and specialist FV service provision within an integrated response.<sup>304</sup> The Taskforce found that:

*An integrated response that successfully engages mainstream service providers and provides clear frameworks for assessing risk and taking action, will assist in intervening early. As will training for mainstream service providers in order to increase understanding of the dynamics and risks of domestic and family violence.<sup>305</sup>*

As part of the Queensland Integrated Service Responses to Domestic and Family Violence Project, the Queensland Government has engaged ANROWS to work with key stakeholders to co-design a Common Risk Assessment and Risk Management Framework, a high risk intervention model, information sharing guidelines, and an accompanying suite of statewide tools for practitioners.<sup>306</sup>

## ACT

A recent report of a review of domestic and FV deaths in the ACT also acknowledged the importance of FV risk assessment and management when working with perpetrators of FV.<sup>307</sup> The review found that services such as mental health and alcohol and drug services were often aware of risk factors which would indicate their client posed a FV risk, but that risk was rarely assessed.

Responses tended to focus on the needs of the client and their violence was often conceived as the result of drug and alcohol or mental health issues. In this context, the ongoing needs of victims were rarely given priority in case management or service responses.<sup>308</sup>

Priority recommendation 4 of that report is that:

*The ACT Government fund an independent academic, supervised by the DVPC, to develop a Risk Framework for the ACT. In developing a framework, consideration must be given to:*

- who is screened for family violence (victims and perpetrators); who screens for family violence; when they screen for family violence; and a standardised set of screening questions;
- what risk is assessed (risk of further assault or lethality); and validated risk assessment tools for intimate partner violence as well as violence against children, siblings and parents;
- appropriate risk management for all levels of risk;
- ensuring the recognition of the vulnerable groups identified in this report; and
- developing an implementation strategy, including training and evaluation.<sup>309</sup>

## **SOUTH AUSTRALIA**

The South Australian Government implements the Family Safety Framework (FSF) as part of its Women's Safety Strategy (A Right to Safety) and Child Protection Agenda (Keeping Them Safe).

- Risk assessment is an important element of the FSF. All agencies use a common risk assessment tool to ensure consistency in identifying the level of risk to an individual and to determine whether a case should be referred to a Family Safety Meeting.
- The Domestic Violence Risk Assessment Form is based on an actuarial assessment and involves the use of risk factors to compute the probability of harm occurring. Professional judgement may override a score where appropriate.<sup>310</sup>

I got scared every  
time I got home  
from school because  
dad and mum would  
usually be fighting but  
now dad has gone  
everything is a bit better  
by [redacted]

On Safari with Moxie



Dear Family Violence

When your parents fight you feel like your the  
only person in the world and its only your parents that fight,  
but it's not. Dad used to get really drunk and bash into Mum  
Then we went to Nans for a few days. When we came  
back Dad made Mum feel like it was all her fault  
but it wasn't. Now that Dad lives somewhere else  
I feel safe and happy.

On Safari with Moxie, September 20-21<sup>st</sup> 2006



## 8. APPENDIX B

In May 2016 I made a call for submissions from individuals, organisations and agencies with knowledge of the impact of family violence upon children and young people in Tasmania.

I received 19 written submissions:

- Big hART, Project O
- Worker with the Burnie Child and Family Centre
- School Social Worker (a)
- Baptcare
- Women's Health Tasmania
- Tasmanian Catholic Education Office
- CREATE Foundation (Tasmania)
- Australian Red Cross - South
- Australian Red Cross – North-West
- Law Society of Tasmania
- Equal Opportunity Tasmania
- Family Planning Tasmania
- Anglicare Tasmania Inc.
- Shelter Tasmania
- Australian Association of Social Workers
- Tasmanian Government
- School Social Worker (b)
- Migrant Resource Centre/  
Phoenix Centre
- Support Help and Empowerment (SHE) Inc.



# 9. ENDNOTES

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14. Victoria, Royal Commission into Family Violence, *Report and Recommendations* (2014-16) vol 2, Parl Paper No 132, 142.
15. Ibid 117.
16. Monica Campo, 'Children's exposure to domestic and family violence: Key issues and responses' (CFCA Paper No. 36, Australian Institute of Family Studies, 2015), 3.
17. Helene Shin, Helen Rogers and Vincci Law, 'Domestic violence in the Longitudinal Study of Australian Children' (LSAC) (2015), *National Centre for Longitudinal Data Research*, Summary: No.2, 11.
18. Monica Campo, 'Children's exposure to domestic and family violence: Key issues and responses' (CFCA Paper No. 36, Australian Institute of Family Studies, 2015), 6; Lesley Laing and Cathy Humphreys, *Social Work and Domestic Violence Developing Critical and Reflective Practices* (2013).
19. Project O Submission to Commissioner for Children Tasmania, *Family and Domestic Violence – Its Impact upon Children and Young People in Tasmania*, June 2016. Designed by Big hART, Project O is currently being piloted in Wynyard, Tasmania. Through this project young women develop new skills and learn how to create change in their community. The project aims to prevent FV by shifting culture in communities which have been designated by the Commonwealth Government as FV "hotspots", <<http://projecto.bighart.org/about/>>.
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21. Ibid.
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23. Daryl Higgins, 'Differentiating between child maltreatment experiences' (2004) 69 *Family Matters*, 50.
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26. Australian Association of Social Workers Submission to Commissioner for Children Tasmania, *Family and Domestic Violence – Its Impact upon Children and Young People in Tasmania*, June 2016, para 1.3.
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