

Safe at Home

An Integrated Response to Family Violence

Review (Phase 2) - Draft Terms of Reference

Background

An Options Paper *Safe at Home: A Criminal Justice Framework for Responding to Family Violence in Tasmania* was released by the Premier and the Attorney-General on 19th August 2003 as a vehicle to consult with key government and non-government stakeholders about new family violence legislation and the integration of justice response systems in order to develop an agreed whole-of-government framework and priorities for implementation.

Community forums about the Options Paper were held in each region of the state (Hobart, Launceston, Devonport) in August involving a panel made up of representatives from the Departments of Justice and Industrial Relations; Police and Public Safety; Premier and Cabinet; and, Health and Human Services. Written submissions were invited.

Participants in the consultation process agreed that the safety and protection of victims and their children was of primary concern in any reform process. The overwhelming majority of submissions were supportive the proposed pro-arrest, pro-charge, pro-prosecution framework and integrated response to family violence. Nearly all respondents indicated that it would be appropriate to expand the definition of 'relationship' in order to encompass the diverse range of relationships. There was also strong support for an expansion of the definition of 'violence' to acknowledge that verbal, psychological, emotional, social and economic abuse are forms of violence.

The extension of Police powers in family violence cases was strongly supported including the proposed power to issue family violence orders for the safety and protection of victims in order to send a clear message that family violence is a serious crime. Presumption against bail and the risk assessment of perpetrators was also supported, especially in relation to repeat offenders.

The proposed exclusion provisions that would allow the victim to remain in the family home while the perpetrator is removed were seen as a positive move towards establishing the rights of victims. The introduction of mandated perpetrator intervention programs was viewed as an important element in forcing perpetrators to review and take responsibility for their own behavior.

Prior to the introduction of Safe at Home, low reporting rates and a lack of consistent statistics across agencies hampered the estimation of accurate figures for the incidence of family violence in Tasmania. However, data from Police incident reports indicated that they had around 2,800 visits to family violence incidents per annum. Further examination of the data showed that about one third of those were repeat visits. This indicates that there were about 2,000 families annually who reported family violence to the Police.

For the purpose of planning *Safe at Home* service levels and determining costs, an underlying assumption was made that the number of new households affected by family violence in Tasmania each year would be around 1,800. This figure was derived from a variety of indicators including international benchmarks and locally collected data. However, it was noted at the time that the estimate was considered conservative.

Funding and resources were made available in 2004-05 budget for the following Safe at Home services to be established. It should be noted that the ongoing service improvement that underpins Safe at Home means that a number of these services have subsequently refocused or redeveloped their models of service from the original descriptions listed below.

1. **Department of Police and Emergency Management** (\$1,888,000 recurrent; \$106,000 one -off)

i. *24/7 Phone line for the reporting of family violence incidents.*

All family violence incidents are reported through the 24/7 telephone line operated by Police. Police are automatically dispatched to incidents where

- the victim or person reporting the incident requests assistance;
- there is the use or the threat of use of a weapon;
- sexual violence has occurred or has been threatened;
- there are children present; or,
- the nature of the reported incident suggests that it is appropriate for Police to attend.

ii. *District Victim Safety Response Teams*

Four specialist Police response teams each comprised of one sergeant and 4 constables that:

- Conduct investigations of the crime scene when the offender is removed from the home;
- Gather evidence and supporting information for prosecution and a Family Violence Order if appropriate;
- Assist in the preparation of the Family Violence Order;
- Complete a safety assessment for risk to the victim and initiate support action or relocation to a place of safety if appropriate;
- Notify the Child Protection Agency of any children present or at risk;
- ⊖ Undertake a safety audit of the home and arrange any necessary security upgrades;
- Provide a safety plan to the victim;
- Advise the victim on the options to be considered, including referral to support and counseling services;
- Investigate breaches of Family Violence Orders; and
- Organize additional security patrols as necessary.

The operational Police officers who remove the offender undertake a risk assessment of the offender and follow agreed procedures to implement criminal prosecution and or institute civil protection remedies.

- iii. *Police Prosecutions*

The pro-arrest policy and increased utilization of Family Violence Orders increases the demand on Police prosecutions in relation to disputes of Orders and prosecution of breaches of Orders. Six additional Police Prosecutor positions were funded.
 - iv. *Police Training (one-off)*

The combination of new legislation and a pro-arrest, pro-prosecution policy introduced a new model of response to family violence incidents by Police. Training was required for the introduction of the new legislation, the new intervention processes, and use of family violence kits.
2. **Department of Justice** (\$1,338,000 recurrent; \$34,000 one -off)
- i. *Additional Court Activity*

The implementation of a pro-arrest, pro-prosecution policy has resulted in a relative (cf Restraint Orders) increase in the number of Police Family Violence Orders (PFVOs) issued by the Police and a reduction in the number of Family Violence Orders (FVO's) issued by the Court. The reduced number of FVOs issued by the Court has been off-set by the number of variation applications appearing at Court and an increased number of breaches of FVO matters.
 - ii. *Court Support Liaison Service*

This service provides a pathway for victims to access the criminal justice system by assisting them through legal and court processes and providing information about, and referral to, services including Legal Aid. The program includes a designated statewide support worker for Aboriginal victims of family violence.

The service also provides information to the victim on the offenders' progress through the criminal justice system, including the offenders' entry into and progress through a perpetrator program.
 - iii. *Legal Aid*

A number of family violence victims have difficulty in obtaining legal representation, and on occasion have represented themselves. To overcome this problem additional resources will be allocated to the Legal Aid Commission of Tasmania to provide legal assistance and representation to a larger number of family violence victims.
 - iv. *Child Witness Program*

The increased use of the justice system to manage family violence will result in more children being required to provide evidence and/or be parties to FVOs. Research from Western Australia has shown that children's needs involve being kept informed of the process and progress of the case. They also need emotional and practical preparation and support prior to, during, and following their court appearance. The number of child witnesses who will be involved in family violence court cases is extremely difficult to estimate. Consequently it has been

decided to start the program with 2 Fte professional officers who would be located in the Magistrates Courts of Hobart, Launceston and Devonport.

v. *Perpetrator Programs*

Recent national research has shown that ‘best practice’ integrated criminal justice responses to family violence in other states of Australia include court mandated perpetrator programs. Perpetrators deemed by Police screening to be at risk of committing further or more severe violence will be risk assessed by the Department of Justice in order to identify the most appropriate intervention and management strategy for them within the criminal justice system. Assessment of perpetrator suitability for rehabilitation programs will ensure that only those offenders likely to benefit from these programs participate in the programs. The perpetrator program will be delivered statewide to between 120 and 150 mandated family violence offenders per annum. Referral to the program would occur as follows:

- as a requirement of a Family Violence Order or bail if the offender is assessed as suitable for the program;
- for offenders who have been charged and found guilty of a family violence offence and have been assessed as suitable for the program; and,
- for offenders in Prison and Community Corrections who are known to have been perpetrators of family violence and who have been assessed as suitable for the program.

vi. *Detention Costs*

Rural Police stations with limited staffing may require assistance in holding and safely securing family violence offenders during the 6-hour mandatory detention period. A register of appropriately qualified officers will be maintained and utilized on an ‘as need’ basis.

3. Department of Health and Human Services (\$1,519,000 recurrent; \$123,000 one -off)

i. *Family Violence Victim Support Service*

The Family Violence Victim Support Service will be a gateway into the service system for self-referring victims who do not require a crisis response. It will provide a service response to victims who may not wish to involve the Police in the first instance. This service will provide counseling and support to family violence victims. The service response will be culturally appropriate to the needs of diverse groups including Aboriginal victims.

It is proposed that a statewide family violence counseling help-line be established as part of this service. This service would operate during standard business hours and provide information, advice, support and counseling to victims of family violence. Out of hours, callers would have the option of automatic routing to the Police line or to the Victims of Crime telephone service.

- ii. *Services for Children*
Contemporary research indicates that early intervention with children living with violence is effective and can have positive outcomes for the target group. To date children in Tasmania have not received a direct service in response to family violence. It is proposed that a Statewide brief therapy and early intervention service be established for children who have experienced or witnessed family violence. This may include individual counseling sessions or participation in group work programs. The service response will be culturally appropriate to the needs of diverse groups including Aboriginal children.
- iii. *Reporting of all Children Living with Family Violence to CPAARS*
Under the proposed *Safe at Home* legislation the Police and others will be mandated to report to CPAARS children exposed to family violence. As a consequence it is estimated that 1,500 additional notifications of children at risk will be made to CPAARS in 2004-05. Additional funds will be required by the care and protection system to deal with these additional notifications. It is well established in current literature that there is a strong correlation between family violence and child abuse.
- iv. *Accommodation Brokerage for Perpetrators of Family Violence*
The proposed *Safe at Home* legislation includes provision for the exclusion of perpetrators from the family home. A small number of perpetrators will not have the capacity to self-house. The ability to provide Aboriginal perpetrators with culturally appropriate accommodation and follow up assistance is also viewed as a priority in the Aboriginal community. This service may be brokered to an appropriate non-Government organization.
- v. *Support for "Special Needs" cases*
DHHS expect that a high proportion (about 50%) of people arrested will have a significant drug and alcohol problems and between 15%-25% of them will have mental health problems. In addition it is expected that many people arrested for family violence will have significant suicidal ideation and will be at a high risk of reactive, impulse behaviour. They propose to employ an additional three Court Liaison Officers state-wide to meet expected demand.

4. Department of Premier and Cabinet (\$20,000 recurrent)

Aboriginal Family Violence Working Party

A 12 member Aboriginal Family Violence Working Party has been established to follow up the recommendations of the *ya pulingina kani* report on Aboriginal family violence in Tasmania. This Working Group will operate as a Reference Group to support the implementation of culturally appropriate responses to the needs of Aboriginal people through the *Safe at Home* strategy.

5. Whole-of Government (\$200,000 once-off)

Data and information sharing systems

It is essential for the operation of this joint program between agencies to enable information to be exchanged and be readily available to agencies involved. The amount of \$200,000 has been identified as an indicative cost at this stage. The interaction between information systems and their ability to restrict access to

inappropriate information for confidentiality issues is yet to be determined and therefore the extent of the work needed is uncertain at present.

6. The Family Violence Act

The *Family Violence Act 2004* (the Act) was proclaimed in March 2005. It states that it is “An Act to provide for an integrated criminal justice response to family violence which promotes the safety of people affected by family violence.”

The Act was introduced to enable the delivery of the integrated ‘Safe at Home’ response to family violence. The objectives of Safe at Home are to:

- Achieve a reduction in the level of family violence in the medium to long term,
- Improve safety for adult and child victims, and
- Change the offending behavior of those responsible for the violence.

Safe At Home is based on the following principles:

- The safety of victims is paramount,
- Police are responsible for providing immediate intervention to secure victim safety and manage the risk that the offender might repeat or escalate the violence,
- The victim does not determine the response of the justice system,
- Family violence is a crime and arrest and prosecution will occur wherever evidence of an offence exists,
- Wherever possible victims should be able to choose to remain in or return (as soon as possible) to their own homes, and
- The criminal justice response to family violence should be seamless and the roles and responsibilities of each participating agency and service should be clear.

The Review of Safe at Home

In accordance with Section 43 of the *Family Violence Act 2004* an independent evaluation of the Act was undertaken in order to identify the degree to which it has successfully supported the implementation of an integrated response to family violence and promoted improved safety for both adults and children affected by family violence. This Review, which constituted Stage one of the Safe at Home Review, was undertaken between November 07 and March 08. The report was tabled in Parliament by the Minister for Justice on March 13th 2008.

The report of the findings of the Stage one Review indicated that “...the legislation does not operate in splendid isolation, and its effectiveness is necessarily linked with other factors. The key issues which were raised in the review which are beyond the scope of this phase have been provided to the Department.” These issues included:

1. the interplay between the Safe at Home response /Family Violence Act and the Child Protection response/Children, Young persons and Their Families Act in effectively meeting the protective, therapeutic and early intervention needs of children who are present at family violence incidents;

2. the availability and effectiveness of the current family violence offender rehabilitation program;
3. the robustness of the Risk Assessment Screening Tool (RAST) and its administration by Police as a valid means of identifying offender risk levels;
4. whether a broader range of sentencing options in line with therapeutic jurisprudence should be made available to the Courts;
5. whether Police Family Violence Orders and Family Violence Orders could be better tailored to the identified risk and safety issues at the time of issuing and over the course of the order;
6. whether more could be done to assist victims and perpetrators/offenders to understand and comply with the provisions of these orders;
7. whether police could be more proactive in using the provisions of the legislation and their other powers to facilitate the capacity of victims to remain in the family home;
8. the capacity for a more seamless interface between State child protection/family violence legislation and programs and Federal family law legislation and programs;
9. the capacity for case based information exchange between government and non-government services in order to enhance the management of risk and safety;
10. whether there are alternative mechanisms to mandatory reporting that would engage key professional groups in the more active management of risk and safety issues for adult family violence victims.

With due consideration to these issues this Review will consider the effectiveness of the integrated criminal justice response to family violence (Safe at Home) in promoting the safety of people affected by family violence, in particular the:

- operation and outcomes of the district Integrated Case Coordination process; and,
- various programs for adult and child victims and family violence perpetrators/offenders funded under Safe at Home.

The Review will determine:

1. What have been the achievements of Safe at Home to date including the strengths of the approaches used by the Safe at Home system?
2. Whether the available resources are being appropriately aligned to achieve the stated objectives of Safe at Home?
3. Whether the current programs and activities funded under Safe at Home are delivering the intended results?
4. Whether there are the gaps or inefficiencies in the current approach?
5. How effectively the existing central, regional and local governance structure addresses ongoing service improvement?
6. Whether there are opportunities for the further integration and better coordination of Safe at Home services?
7. What relationship between Safe at Home and other government and non-government agencies should be developed to ensure their ongoing input into strategic directions?