



**Department of
Justice**

**Review of the
Integrated Response
to Family Violence:
Final Report**

June 2009



SuccessWorks

Executive Summary

Safe At Home is the Tasmanian Government's integrated whole-of-Government response to family violence. Success Works has conducted this review of Safe At Home based on:

- A review of the best practice literature
- An analysis of Safe At Home data
- A review of the findings from the *Report on the Family Violence Act 2004* by Urbis (2008)
- Three rounds of consultations involving 258 individuals in 15 consultation workshops and 18 written submissions.

The combined outcomes of this review and the 2008 review of the Family Violence Act 2004 by Urbis will be used to revise and improve the legislative framework and the integrated response to family violence in Tasmania.

Safe At Home comprises 16 separate funded initiatives across four government departments (Departments of Justice, Police and Public Safety, Health and Human Services and Premier and Cabinet) as well as the reforms contained within the Family Violence Act 2004.

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 of family violence
- Change the offending behaviour of those responsible for the violence.

There is evidence to suggest that these objectives are being achieved, at least in part, but further improvements are possible and are recommended by this review.

Safe At Home was a ground breaking and paradigm shifting reform when it commenced in 2004 and this review finds that it retains its cutting edge with capacity for further improvement. Thirty-seven recommendations are included in Chapter 6. In summary, the most significant of these are as follows:

- The adoption of *family safety* as a unifying paradigm
- A strengthened risk management approach by Safe At Home
- A Victims Rights Charter for Tasmania

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- Education programs in Tasmania's schools to assist children and young people to develop healthy and respectful relationships
 - Support and training to achieve cultural competence by Safe At Home service providers
 - Improved understanding and recognition of violence against people with disabilities
 - Case management for victims and offenders in high risk situations
 - Research into the makeup and needs of male victims and female offenders
 - Establishment of a Specialist Family Violence Court
 - Improved support for children appearing in court
 - Use of specialist family violence prosecutors in family violence matters in the Supreme Court

The recommendations are based on the best practice literature and on the practice wisdom and experience of those involved in the delivery of Safe At Home. Success Works would like to acknowledge and thank all of those that gave considerable time and effort to support and participate in the consultation process.

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1. Introduction

Success Works was commissioned by the Department of Justice to review Safe At Home, the Tasmanian Government's integrated whole-of-Government response to family violence.

This report constitutes the final report from this review.

The purpose of the review has been to examine:

- The achievements or otherwise of Safe At Home to date, including the strengths of the approaches used by Safe At Home
- Whether the available resources are being appropriately aligned to achieve the objectives of the response to family violence
- Whether the current programs and activities provided under Safe At Home are delivering the intended results
- Whether there are any gaps in services or inefficiencies in the current system
- How effective is the current state-wide, regional and local governance structure in the delivery and coordination of services and in addressing ongoing service delivery issues and improvements
- Opportunities for the further integration and better coordination of Safe At Home and other services
- Relationships which should be developed between Safe At Home and other service providers to assist in the development of the response.

This report is based on the following processes that have been undertaken by Success Works as part of this review:

- A review of national and international literature relating to best practice approaches to family violence
- Analysis of Safe At Home data collated by the Department of Justice
- A review of the findings from the *Report on the Family Violence Act 2004* by Urbis (2008)
- An initial round of consultations in November and December 2008 to identify practice issues and experiences in relation to the operation of Safe At Home

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- Acceptance of written submissions from Safe At Home stakeholders (advertised in the local media)
 - Preparation of a Discussion Paper (March 2009) which set out a number of ideas and questions based on the literature review and first round of consultations
 - A second round of consultations in three regions (April 2009) to discuss the questions raised in the discussion paper and develop ideas to improve the response to family violence in Tasmania
 - Acceptance of written submissions from stakeholders in response to the Discussion Paper
 - A third round of consultations (May 2009) in relation to three specific priority areas (children, offenders and police and court processes) to consider the ideas identified during the second round workshops.

In total there have been:

- 15 consultation workshops (9 in Round One, three in Round Two and three in Round Three)
- 18 written submissions (14 in Round One and four in Round Two)
- 258 individuals involved in consultations (114 in Round One, 86 in Round Two, and 58 in Round Three).

It is understood that the combined outcomes of this review and the 2008 review of the Family Violence Act 2004 by Urbis will be used to revise and improve the legislative framework and the integrated response to family violence in Tasmania where necessary¹.

This report comprises the following sections:

Chapter Two - Background: An overview of Safe At Home and its various components.

Chapter Three - Implementation: A brief description of the major implementation and governance arrangements in place for Safe At Home

Chapter Four - Best Practice: A summary of the international literature in relation to best practice in family violence interventions

¹ Urbis undertook the first stage of the review of Safe At Home in 2008 examining the impact and effectiveness of the Family Violence Act 2004.

Chapter Five - Findings: The findings from the review based on the consultations, written submissions and literature review.

Chapter Six - Recommendations: What Success Works recommends based on the findings from the review.

Results from the analysis of Safe At Home data are included at **Appendix A**.

It should be noted that in this report, people who have experienced family violence are called *victims* and people who have, or are alleged to have, committed family violence are called *offenders*. Success Works accepts in many cases the person we are calling the *offender* has not, and may not ever, be convicted of an offence. By 'offender' we mean a person who has been accused or is suspected of committing a family violence offence as well as a person who has been convicted of a family violence offence. An alternative term would be family violence *perpetrator*.

2. Background

This section briefly describes the principles and key components of Safe At Home.

2.1 Objectives and Principles of Safe At Home

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 of family violence
- Change the offending behaviour of those responsible for the violence.

Safe At Home is based on the following principles:

- Family violence is a crime and where evidence exists that it has been committed arrest and prosecution will occur
- 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
- Wherever possible, victims should be able to choose to remain in or return (as soon as possible) to their own homes
- The criminal justice response to family violence should be seamless and the roles and responsibilities of each participating agency and service should be clear.

2.2 Integrated Service Response

Safe At Home is an integrated criminal justice response to family violence where the safety of the victim is considered paramount. The first point of contact is through the Police.

The following services were established or extended under the Safe At Home integrated response in order to meet the identified needs of adult and child victims and offenders or create critical systems linkages.

2.2.1 Department of Police and Public Safety

2.2.1.1 Family Violence Response and Referral Line

Tasmania Police operate the Family Violence Response and Referral Line 24 hours per day 7 days per week. The line offers an information and referral service to Safe At Home service providers. It is staffed by operators who have been trained to respond appropriately to victims and others affected by family violence. If staff believe the victim is at immediate risk, the call is transferred directly to police radio despatch for an immediate police response.

If there are no immediate concerns about the safety of the victim, during business hours the caller is actively transferred to the Family Violence Counselling and Support Service (FVCSS) or the Court Support and Liaison Service for further assistance. If a victim requires immediate counselling after hours, the call is actively transferred to the Lifeline Counselling service, if the victim requires counselling but is not distressed an email referral is provided to the FVCSS.

2.2.1.2 Victim Safety Response Teams

Tasmania Police has established Victim Safety and Response Teams (VSRTs) in each of its four districts (South, East, North and North West).

The primary focus of the VSRTs is to enhance the safety of victims by:

- Implementing strategies to minimise risk and maximise safety for victims and affected children
- Providing quality assurance and review mechanisms in relation to the actions of operational police (see below)
- Providing case coordination of families where there a significant ongoing risk of violence
- Liaising with other Safe At Home partners
- Attending the Integrated Case Coordination (ICC) meetings
- Assessing applications to vary Police Family Violence Orders (PFVOs)
- Conducting safety audits, preparing safety plans and implementing security upgrades where appropriate

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- Managing offenders at large (ensuring enquiries are conducted to locate offenders and ensure the safety of the victim until this is achieved)
 - Investigating breaches of protective orders
 - Oversighting the use and application of the initial risk assessment process (using the *Risk Assessment Screening Tool* or RAST²)
 - Ensuring the development of a safety plan which may include strategies to enable the victim to remain in their own home
 - Gathering evidence to support the prosecution of offenders.

2.2.1.3 Operational Police

Operational police are the first response to family violence incidents. They assess whether an incident is a 'family argument' or a 'family violence' matter; investigate criminal offences; administer the *Risk Assessment Screening Tool*; and enter a Family Violence Management System (FVMS) report which is then quality assured by either the VSRT or a supervising Sergeant. Operational police determine the appropriate response in each circumstance to enhance the safety of the victim and affected children and ensure the offender is held criminally responsible for their behaviour where evidence exists that an offence has occurred. Operational police determine the appropriate charges, issue PFVOs, make applications for Family Violence Orders (FVOs)³, determine bail and prepare bail oppositions where not satisfied of the safety of the victim if the offender is released from custody. Operational police are responsible for notifications to Children and Family Services where a child is affected by family violence.

2.2.1.4 Police Prosecutions

Six specialist police prosecutors were funded under Safe At Home to provide better quality information to the Courts, including information that would enable the Courts to assess the risk and safety aspects of family violence matters and the patterns of violence that exist in certain families. It was expected that these specialist prosecutors would be more effective in supporting the victims of family violence and managing their presentation of evidence to the Courts. Police prosecutors attend the ICC meetings.

This aspect of Safe At Home has not been implemented as intended. Police report that difficulties have arisen with the allocation of family violence clients to specialist

² The Risk Assessment Screening Tool (RAST) has been developed by Police to assess the risk that an offender will re-offend. The University of Tasmania is currently conducting research to validate the RAST.

³ FVOs are issued by the court and are sought in cases which police assess as high risk.

prosecutors because of the limited capacity of the Courts to cluster family violence matters into specialist family violence listings. This issue is discussed further below along with recommendations about ways in which the specialist prosecutors may be more effectively utilised in the future.

2.2.2 Department of Justice

2.2.2.1 Integrated Case Coordination

ICC under Safe At Home involves weekly meetings in each of the four police districts attended by all relevant government Safe At Home services including the Victim Safety Response Team, Police Prosecutions, Family Violence Counselling and Support Service, Court Support and Liaison Service, Child Protection and Special Needs Liaison Service. The meeting considers all new and 'active' family violence 'cases' in the district⁴. The servicing of these meetings is undertaken by the Strategic Policy and Projects Branch of the Department of Justice.

ICCs are supported by the Safe At Home ICC database which links data from the Police Family Violence Management System (FVMS) with data from the Department of Justice databases CRIMES and CIS. The ICC database builds on police family violence incident reports (in FVMS) by undertaking a relational search for victims and offenders in the other databases in order to link incidents into a case record. This process is also undertaken by the Strategic Policy and Projects Branch of the Department of Justice⁵. Funds have been provided to the Department of Justice to develop the next stage of electronic case management support, the Integrated Case Coordination Management System (ICCMS).

ICCs determine an appropriate course of action for each case and assign a Case Coordinator. Generally the Case Coordinator is the service provider who is most likely to have ongoing contact with the victim. Where the level of risk to the victim remains high, case coordination remains with the VSRT.

ICCs can close cases if all matters associated with the case have been finalised and there has been no reported family violence related activity for a period of three months. The unanimous agreement by all ICC members is required before a case can be closed. The operation of the ICC process is supported by a Case Coordination Manual.

⁴ Combining individual incidents of family violence into 'cases' enables a response based on the history of the offender and victim rather than just focusing on the latest incident. The case record also includes the history of violence with other partners.

⁵ In December 2008 the ICC database held records pertaining to 11,182 cases (families) involving 17,878 incidents of family violence.

2.2.2.2 Family Violence Offender Intervention Program

The Family Violence Offender Intervention Program (FVOIP) is currently provided by Community Corrections within the Department of Justice. Eligible offenders are directed to attend this program via a court order. The program aims to change their family violence offending behaviour. Changes are already planned in relation to this program which are discussed further below.

2.2.2.3 Court Support and Liaison Service

The Court Support and Liaison Service is provided by Victims Support Services in the Department of Justice. The service provides support to the victims of family violence through the court process. A Court Support and Liaison Service provides victims with information about how to apply for a FVO and assists them to understand the way the court system operates and what is expected in court hearings. The service also provides personal and practical support to the victim during the court hearing and offers referrals to specialist support services as required.

2.2.2.4 Child Witness Service

The Child Witness Service is also provided by the Court Support and Liaison Service. One staff member in each region is trained specifically to deal with children and children's issues. The Child Witness Service supports children to be able to give evidence and participate in the court process.

2.2.2.5 Legal Aid

Funding has been provided to Legal Aid to provide legal advice to victims of family violence as well as assistance with court processes such as applications for FVOs. Legal aid also assists in cross linking Safe At Home processes with Family Court matters.

2.2.2.6 Tasmanian Magistrates Court

Funding was provided to the Tasmanian Magistrates Court in anticipation of the higher number of family violence orders and breaches the Court would need to manage.

2.2.3 Department of Health and Human Services

2.2.3.1 Children and Young Persons Program

The Department of Health and Human Services provides the Children and Young Person's Program (CHYPP). CHYPP provides a free and confidential (within child

protection legislative limits) counselling and support service for children and young people who have witnessed or experienced family violence. CHYPP is available for children and young people up to 18 years whose families are part of Safe At Home. Services include: psychometric assessment; short and medium-term therapeutic counselling; work with the caregiver and/or non-offending parent; group work; case conferencing; support and information; referral; advocacy; and liaison. It is a requirement of the program that the young people are no longer living in a situation of violence or risk of violence. There is a perceived gap in service provision for children who remain in families where there is an ongoing potential for violence.

2.2.3.2 Family Violence Counselling and Support Service

The Family Violence Counselling and Support Service (FVCSS) is provided by the Department of Health and Human Services to assist adult victims recover from the family violence. Services include counselling, group work, referral and support.

2.2.3.3 Offender Accommodation Brokerage

Safe At Home has provided funding for the Department of Health and Human Services to be able to pay for alternative accommodation for offenders who are removed from the family home and are not able to find accommodation elsewhere. This funding was initially provided to a non government agency who were contracted to provide an offender accommodation service. The service was unsuccessful, however, and the funding returned to DHHS as brokerage funds.

2.2.3.4 Special Needs Liaison Service

Safe At Home has also provided funding to establish the Special Needs Liaison Service to work with offenders who have drug and alcohol or mental health or other specialist concerns.

2.2.3.5 Funding to Child Protection

Additional funding was provided to the Department of Health and Human Services in anticipation of the impact of Safe At Home on the Child Protection system.

2.2.4 Department of Premier and Cabinet

2.2.4.1 Ya Pulingina Kani Aboriginal Advisory Group

Funding was provided to the Department of Premier and Cabinet to establish the Ya Pulingina Kani Aboriginal Advisory Group. The aim of the group is to provide ongoing advice to Safe At Home service providers in the most culturally appropriate ways to manage Aboriginal offenders and provide support to Aboriginal adult and child

victims. The working party is made up of representatives from the Aboriginal community throughout Tasmania. Funding is provided for up to 6 meetings per year.

2.3 Family Violence Orders

The following section briefly overviews the orders in place within Safe At Home: the FVO and the PFVO.

2.3.1 Police Family Violence Orders

Tasmania Police are able to issue Police Family Violence Orders (PFVOs) if they are satisfied that a person has committed, or is likely to commit, a family violence offence. A PFVO operates for the time specified in the order. Current Police policy is that orders are issued for 12 months. A PFVO contains conditions designed to prevent further acts of family violence. These conditions limit the offender's behaviour and may specify that the offender not reside or return to the victims residence.

A PFVO may be varied by police if the victim and the offender consent and the police are satisfied the variation will not adversely affect the safety and interests of the victim or affected child. A court may also vary a PFVO. A PFVO is revoked if a FVO or interim FVO is made in respect of the same parties. A court may revoke a PFVO on the application of the Police, a victim, an offender, or any other person the court may grant leave to, at any time during its operation. A PFVO operates subject to any Family Court Order.

A PFVO can be issued by a Sergeant or authorised Constable following a family violence incident where the risk assessment (using the *Risk Assessment Screening Tool* or RAST) indicates a low or medium risk of a further family violence incident, and where such an order is necessary to protect the safety, wellbeing and interests of adult and child victims. If the RAST indicates a high risk of a further incident of family violence, police policy requires that police must apply for a FVO in the Magistrates' Court.

PFVOS are designed to provide police with the flexibility to make orders to suit the circumstances of each family violence incident. For the period it is in force, a PFVO suspends permits and licences for firearms held by the offender, and prohibits them from applying for, or being granted, any firearms licences or permits.

PFVOs cannot be revoked by police. An application for revocation must be made to the court.

2.3.2 Family Violence Orders

An application for an FVO may be made to a magistrate by a victim or a police officer, a lawyer or a third party given leave by the Court. Police should make an application for an FVO where they have identified a high risk of further family violence following a family violence incident. The court may make the FVO if it is satisfied the offender has committed family violence and may commit it again. An FVO may include conditions considered necessary to prevent family violence or protect the victim and affected children named in the order. An FVO remains in force for the period specified in the order. Applications may be made to the court to vary, extend or revoke an FVO. Similar orders made in other states may be registered in Tasmania.

When considering an application for making an FVO, the court must consider:

- the safety and interests of the applicant and any 'affected child' (a child whose safety, psychological wellbeing or interests are affected or likely to be affected by family violence);
- whether contact between the victim and the offender and any child who is a member of the family is relevant to the making of the FVO; or
- whether there is any relevant Family Court order in place.

An FVO contains conditions aimed at preventing any further family violence against the victim or affected child named in the order. The FVO may include conditions that require the offender to leave the family home, not enter the family home or only enter the family home on certain conditions, and may require the offender to not possess any firearms or hand in any firearms in their possession.

2.3.3 Breaches of PFVOs or FVOs

Serious penalties such as imprisonment and fines can apply to breaches of PFVOs and FVOs. This reflects the understanding that breaching protective orders undermines the actions taken by the police and courts to ensure the safety of the victim.

If their conditions are breached an offender can be arrested and charged for a breach of a PFVO or an FVO, despite having the consent of the victim. For example, if a victim protected by a PFVO or FVO asks the offender to move back in at a time when a PFVO or FVO forbids this, then:

- The offender can be charged with breaching the Order
- The victim can be charged with instigating a breach of an Order.

It is important to note that police state that cases of this type usually come to their notice following a further instance of violence by the offender against the victim and/or affected children. While the police may charge a victim with instigating a breach of a family violence order this is carefully considered with the primary purpose being the ongoing protection of the victim and children. In the majority of cases the victim is not complicit in the breach and the breach is by the offender committing an act of physical violence.

3. Implementation

Implementation of Safe At Home has been the responsibility of the Department of Justice. Implementation has been managed by the Principal Consultant, Strategic Policy and Projects, supported by a central team comprising two (now one) Senior Consultant(s) and the Coordinator of Special Programs. The team is also responsible for the statewide Court Mandated Drug Diversion Program and a number of other areas.

Implementation of Safe At Home has been driven by collaborative service system planning and supported by the legislation and changes to Police Standing Orders (issued in September 2004). Like many other significant reforms, the legislation was cutting edge when it was enacted, and remains in many ways ahead of public knowledge about family violence. Safe At Home has been recognised nationally and internationally as a 'benchmark' in integrated responses to family violence and received an Australian Crime & Violence Prevention Award in 2008 in recognition of its approach to "uniting police, prosecutors, counsellors, legal aid, court support and child protection workers in a collaboration that has led to increased community confidence" .

Governance for Safe At Home is provided by the Statewide Steering Committee chaired by the Department of Premier and Cabinet and involving relevant government departments. The Steering Committee has responsibility for high level issues including overall resource distribution and resolves operational matters that cannot be agreed at the Inter-departmental Committee (IDC) level. The Steering Committee met quarterly for the first year of the operation of Safe At Home but has met infrequently since then. The Steering Committee overseeing the Safe At Home review is a sub-committee of this body.

The operational planning and development of Safe At Home has been undertaken by an IDC which is chaired by the Department of Justice. The IDC has a broad based membership including representation from the Departments of Health and Human Services, Justice, Police and Emergency Services, Premier and Cabinet, Education, the Courts and the Legal Aid Commission. The IDC has been responsible for service system design and ongoing system monitoring and improvement.

The IDC is supported by Regional Coordinating Committees who have a role in coordinating activities in each region and reporting any unresolved policy or system design matters to the IDC. The RCC's include similar membership as the IDC with the addition of other agencies such as those responsible for housing or mental health. The RCC's also have a charter to develop and foster ongoing relationships with relevant non-government services in their region in order to achieve improved information flow and better coordinated services for victims and offenders at the local level.

While they exist in each of the regions, the ICC meetings are part of the operational system rather than the governance structure of Safe At Home. They were not formally established or funded as part of Safe At Home. They have evolved as a result of the necessity for organisations working with family violence to share information. Their ongoing lack of formalised status has been identified by this review as an issue that needs to be resolved.

The initial planning and implementation of Safe At Home was a 'top down' exercise. However, once the framework was in place, there was an extensive process to establish detailed understanding of the reforms amongst relevant service delivery agencies. As well as specialised training for VSRTs and operational police members, there was a general training program conducted in all regions over a twelve month period⁶. The priorities for the initial training program were to ensure that key personnel and stakeholders who would be either directly or indirectly involved in Safe At Home had detailed knowledge of the initiative and its aims and objectives as well as an understanding of the research and priorities underpinning the approach. The training also aimed to ensure that stakeholders understood the integrated intervention response strategy, the new protocols and referral processes, and the new legislation and policy and related products or documents.

While the implementation process for Safe At Home has been successful to date, this review recommends that it is now timely to move to a broader and more strategic perspective at the Statewide level (focusing beyond Safe At Home and the criminal justice response to encompass prevention and early intervention and a range of other strategies and stakeholders who also deal with the actuality and consequences of family violence). Responsibility for this level of action should rest with the Statewide Steering Committee.

⁶ Success Works was involved in the delivery of this training in 2004-2005.

4. Best Practice

As part of our review, Success Works has examined the international literature in relation to best practice responses to family violence. This chapter provides a summary of what the literature says about best practice in family violence policy frameworks, integrated approaches and how this is demonstrated in other jurisdictions.

4.1 Best Practice in Family Violence Policy Frameworks

The literature identifies the following key principles of best practice in family violence policy frameworks:

- Agencies (including police, courts, services for victims, health services etc) should collaborate to ensure an integrated response to family violence
- The system should acknowledge and treat family violence as a criminal act
- The safety of victims and children must be the primary consideration of everyone concerned
- Service should seek to empower the victim
- Services should be responsive to the experiences and needs of children
- Services should demonstrate cultural competence when dealing with individuals from Indigenous and culturally and linguistically diverse backgrounds
- Offenders should be held responsible for their violence
- Prevention and early intervention strategies should be part of the response
- Service providers should be committed to ongoing family violence training and education of their staff.

Each of these factors is discussed briefly below.

4.1.1 Integrated response

Family violence is the responsibility of many agencies in government and many non government agencies across multiple sectors. Victims of family violence often need services from a number of agencies simultaneously. Services need to operate from a basis of co-operation and collaboration so that victims and offenders needing support can easily access the range of services they need.

Interagency cooperation is often achieved through interagency protocols. Such protocols define the way in which agencies will work together, guide the extent of collaborative action and the manner in which that collaborative action takes place and guide how referrals are carried out. Respectful and cooperative personal and professional relationships between managers and workers in agencies are also important in terms of achieving integrated effort.

Where family violence offender intervention programs are being offered it is critical for professional liaison to occur between service providers working with the offenders and services working with victims and children.

4.1.2 Family violence as a criminal act

Services working with people affected by family violence must acknowledge and accept that such behaviour constitutes a criminal offence and should be treated as such. Offenders often reject the notion that their behaviour is criminal particularly in respect to offences that involve causing fear, isolating their partner or damaging property. It is therefore important that all people working with people affected by family violence maintain an understanding that such behaviour constitutes criminal offences in order to be able to inform and protect their clients. Victims also need to understand what constitutes violence and that family violence is against the law.

4.1.3 The safety of victims and children

The personal safety for victims and children should be the most critical concern for everyone involved in the response to family violence. Safety includes the physical, mental and social well-being of the person. The impact of abuse and violence needs to be understood not only in terms of physical safety but also in terms of the infringement of the victim's rights and freedoms.

The primary objective of all services involved in responding to family violence should be to promote the safety of victims and children. Services should have clearly prescribed boundaries on confidentiality for the client-worker relationship and make those known from the beginning. Workers should be skilled in identifying the indicators of violence and in identifying potential risks of harm to the victim and/or

children. Workers should also have skills in alerting victims who may not perceive that they may be at risk.

4.1.4 Empowerment of victims

Empowerment is associated with encouraging victims to make their own choices and identify their own goals. This way of working is important because:

- Victims should not feel further disempowered or abused by the legal process
- Different victims may have different support needs.

Services working with adults who are victims of family violence should operate from a position of listening and believing and, drawing on the strengths and resources of the victim in a non-judgmental manner, support them to make their own choices from an informed position.

4.1.5 Responsive to children

Children can be direct or indirect victims of family violence. They may be the victim's own children, step children or part of the extended family such as grandchildren, nieces and nephews.

Children should have access to child focused services with specific skills in dealing with family violence. All services responding the family violence should ensure that their staff are aware of the potential impact of family violence on children.

Children suffer both short and long term ill effects from living in homes where there is family violence. However, for many children there is no long-term effect because of factors that increase their resilience.

Services providing intervention with children should:

- Emphasise that violence is not acceptable
- Assign responsibility for the violence to the offender
- Address children's fears realistically
- Facilitate children's expression of feelings
- Provide information and explanations on what is happening
- Assist children to develop their own individual safety plans
- Assist children to learn effective ways of dealing with trauma
- Assist children to identify appropriate support persons outside of the immediate family

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- Work to reduce children's isolation.

4.1.6 Culturally competent services

Agencies should have an understanding of different cultural perspectives on family violence and a commitment to *cultural competence* in their delivery of services. This includes offering support from workers who are familiar with the victim's customs, religious influences and family structures. Services should also have direct service delivery and strategic connections to relevant culturally specific agencies. Interpreters (including the Telephone Interpreting Service) should be used when communicating with people who are not proficient in English. Children must never be used to interpret sensitive information about family violence.

In considering the response to violence in Aboriginal families and communities, it is important for agencies and individual staff members to understand the impact of colonisation on these families and communities and the fear that many Aboriginal people have of the involvement of statutory bodies in their lives given high levels of incarceration for Aboriginal men, deaths in custody and the history of the removal of children.

Concepts of safety for Aboriginal victims should also extend beyond physical safety and physical location, to incorporate concepts of cultural safety, threats to cultural identity, cultural appropriateness and cultural relevance.

4.1.7 Offenders held responsible

People who commit acts of family violence must be held responsible for their actions and not allowed to 'blame' the victim or anything else for their use of violence (including blaming their anger, use of alcohol or drugs, stress levels, arguments at work). While some or all of these factors may have been present, it is the offender who chose to use violence. Many offenders try to minimise their violence or deny it altogether.

However, while offenders must be held responsible, many also need (and want) assistance to change their behaviour. Resources should be available for behaviour change programs within an overall response to family violence which maintains priority for the safety of victims and children. Such programs and interventions should assist the offender to gain insight into their use of violence and develop strategies to avoid such use of violence in the future.

4.1.8 Prevention and early intervention

To be effective, systemic responses to family violence should include approaches which seek to prevent family violence and reach out to those who may be at risk of,

or experiencing, family violence who are outside the current service system. This requires targeted and general community education and awareness raising.

VicHealth (2007) have identified three themes that should underlie the prevention of family violence:

- Promoting equal and respectful relationships between men and women
- Promoting non-violent social norms and reducing the effects of prior exposure to violence (especially in children)
- Improving access to resources and systems of support.

Early intervention capacity is increased through the involvement and education of mainstream services and universal service providers (schools, hospitals, general practitioners).

4.1.9 Ongoing Education and Training

Family violence is a complex issue that crosses many sectors (legal, health, welfare, family support, alcohol and drugs, mental health). Ongoing education and training is required within relevant organisations and for individual staff to ensure up-to-date cross sectoral knowledge of family violence and the systemic response. Without ongoing education and training there is a risk that individual biases and judgements will dominate the response and undermine the collaborative effort.

4.2 Best Practice in Integrated Responses

As indicated above, integrated approaches involving government and non-government service providers represents best practice in response to family violence. There is now a new body of evidence in relation to what constitutes best practice within an integrated response. This includes:

- Risk assessment
- Risk management
- Case conferencing
- Case management.

These are described below.

4.2.1 Risk Assessment

Risk assessment is identified as a critical aspect in ensuring an integrated response. A shared understanding of risk enables service providers to plan their response and use their resources more effectively (Richards 2003).

Risk assessment can be undertaken by any agency involved with the family. Ideally risk assessment is a shared process with all relevant agencies contributing their knowledge and understanding of the case to the risk assessment process.

The benefits of a risk assessment process are said to be three-fold:

- To assist victims and family violence workers to develop more realistic safety plans
- To assist offender treatment programs to determine the amount and types of treatment
- To help the criminal justice system identify which offenders need closer supervision (Laing 2004).

The risk assessment can also form part of the 'paper trail' for use by the prosecution, particularly if they have to proceed with a case without the victim's cooperation (Robinson 2006). In addition, risk assessments are necessary to help protect people working in the family violence or related fields who might be coming into daily contact with violent offenders without being aware of it (Robinson 2006).

A risk assessment can also serve the purpose for communicating the exact level of risk the victim faces thus allowing the victim to make informed decisions about ending the violence and protecting themselves (Martin et al 2000).

4.2.2 Risk Management

Risk assessment is not an end in itself but the beginning of a process of risk management: "It is important to remember that the true goal ... is to prevent violence, not predict it..." (Laing 2004: 15). To do this, risk assessment should not be a single, static event and instead should be an ongoing process done at every point of contact with the victim and/or the perpetrator (Abrams, Belknap and Melton 2000: 46).

In focusing on risk management within integrated responses, high risk cases receive priority. The rationale for prioritising high risk cases is not only to address immediate threats to safety for individuals but also to embed integrated processes between agencies at a level where the priority is clear with a view to mainstreaming those processes in the longer term across all levels of risk (Richards 2003). Focusing on high risk also overcomes issues about sharing of information as privacy legislation allows

information to be shared without consent 'when there is a reasonable likelihood of a serious and imminent threat to and individual's life, health, safety or welfare' (Victorian Department of Planning and Community Development, 2009).

Supporting victims to achieve recovery⁷ is an important component of risk management.

4.2.3 Case Conferencing

Multi-agency case conferencing is now accepted as best practice in the provision of integrated responses to family violence. Safe At Home has the capacity for case conferencing but the process has been underutilised to date.

The benefits of case conferencing have been identified as:

- Facilitating ongoing and meaningful communication between all parties
- Allowing information sharing between agencies ensuring that all agencies have the information they need to manage risk and reduce duplication
- Consistent risk assessment informing the work and priorities of all of the participating agencies
- Clear advocacy for the victim in the process who can otherwise be relegated to the sidelines when prosecution is done on behalf of the state
- Holding offenders to account (Robinson and Tregidga 2007).

Best practice examples of case conferencing involve family violence victim support services, police, child protection, health (representing hospitals), education

⁷ Herman's 1992 model follows three distinct stages of recovery:

- *Safety* is the absolute bare minimum basis from which recovery can begin. Safety is achieved through accurate *risk assessment* followed by action to ensure safety and restore the victim's sense of power and control. During this stage the victim should be supported to make their own decisions in the light of accurate advice about the level of risk they face.
- *Remembrance and mourning* is the second stage. During this stage the victim is supported through counselling to transition into a new lifestyle, while fully reconstructing the abuse and grieving for the lost relationship. The purpose is for the victim to integrate the trauma into the past.
- *Reconnection* is the third stage. This focus here is on building a new life and new relationships. Survivors may continue to be involved with services as they build confidence in the next phase of their life (Hertz et al 2005).

(representing schools), mental health services, drug and alcohol services, CALD and/or Indigenous services.

The literature notes that to be effective case conferencing must involve staff members from each agency who are senior enough to effect change and make strategic as well as practical decisions to address risk.

4.2.4 Case Management

Case management is also strongly advocated in the literature as an appropriate approach for both victims and offenders.

Access to case management should be based on the risk assessment and again be focused (at first) on those victims and offenders who are at the highest risk. Sharing of information on case management plans should take place via the case conferencing meetings. Case management should be focused on recovery, for the victim, and on risk management for the offender.

4.3 Best Practice in Other Jurisdictions

While Tasmania is itself representative of best practice in a number of ways, there are several other approaches which are also considered to represent best practice. The most acknowledged of these is the Multi Agency Risk Assessment Conference from the UK.

4.3.1 The Multi-Agency Risk Assessment Conference (MARAC)

MARAC is a form of integrated response to family violence used in parts of the UK. The first MARAC was held in Cardiff, Wales in April 2003 and was attended by 16 agencies, including Police, Probation, Local Government, Health, Housing, Women's Aid, the NSPCC (Child protection charity), and the Women's Safety Unit (WSU). Although attendance can vary, consistent attendees are police, probation, social services, the WSU, health and housing (Robinson 2006).

MARACs involve fortnightly meetings where representatives from criminal justice and local agencies discuss the high-risk cases that have been referred, averaging 15 – 20 cases per meeting. To be referred to a MARAC, the police identify high risk victims through analysing their risk indicator forms and applying professional judgement.

Although Police involvement is a primary component in any MARAC, the MARAC is not described as a criminal justice response. Its key goal is "the survival of the adult survivor and their children" (Barran 2008). The WSU participates in every MARAC as the woman's advocate, and acts as her first point of contact in a quasi case

management role. MARACs have a focus on accountability/treatment/punishment of the offender and meeting the needs of the victim (Robinson and Tregidga 2007). In doing so, the WSU keeps the victim informed about the progress of criminal action and what other action is being taken on their behalf (Robinson and Tregidga 2007).

An evaluation of the MARAC program conducted between 2004 and 2006 assessed the degree to which victims who had participated in MARAC were able to live free of violence following the intervention. The evaluation found MARAC to be successful in addressing the needs of victims and also assisting police in prioritising their own workloads (SAFER 2009a).

Others have found that the multi-agency approach of MARAC is the most effective approach if also one of the most complex to negotiate (Jordan 2004; Steinman 1991).

4.3.2 Domestic Abuse Intervention Project, Duluth Minnesota.

The Domestic Abuse Intervention Project in Duluth, Minnesota has become the “model for intervention programmes across the world” (Pence and Shepard 1999). The Duluth Model, as it is known, was founded in 1980 by Minnesota Program Development Inc and was the first to outline a multi-disciplinary response to victims of family violence.

The Duluth Model combines a justice and human services response within local communities to protect victims from abuse. The model is characterised by:

- Clearly identifiable and largely shared assumptions and theories about the source of violence and the effective means to deter it
- Empirically tested intervention strategies that build safety and accountability into all elements of the infrastructure of processing cases of violence
- Well-defined methods of inter-agency cooperation guided by advocacy programs (<http://www.theduluthmodel.org/duluthmodelonpublic.php>).

The response is built around four principles of inter-agency intervention:

- First, ensuring that the changes necessary to facilitate interagency work and incorporate a shared understanding of risk are made.
- Second, the needs of the victim direct and define the whole strategy. The organisations that represent the victim are central to the intervention and lead the research agenda that is associated with the model, including periodic evaluations.

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- Third, agencies must participate as collaborating partners and commit to ensuring their own internal processes are consistent with the larger aims of the model.
 - Fourth, a strong police and justice response holds offenders accountable for their violence, which includes mandatory arrest and compulsory offender programs (<http://www.theduluthmodel.org/duluthmodelonpublic.php>).

The official website for the Duluth model credits its success to the combination of skills, leadership, and commitment by all the various agencies to work on behalf of the victim.

4.3.3 New Zealand

In New Zealand, the Family Violence Interagency Response System (FVIARS) has been operating since 2006. Initially developed by the Taskforce for Action on Violence Within Families, the response involves Police, Child Youth and Family, and National Collective of Independent Women's Refuges and is designed to ensure a shared response to all Police family violence reports through improved information sharing between agencies. Similar to other models, its purpose is to protect victims of family violence, improve offender accountability, enhance risk assessment and decision making at the time of attendance at the event and to ensure a "nationally consistent and collaborative response to family violence events" (New Zealand Family Violence Clearinghouse 2008). The central focus for the interagency response is on repeat victimisation and situations where there is a high risk of serious violence or death. As the Project Team puts it, the initiative will ideally "interrupt the cycle of violence and create an environment for sustainable change towards safe and violence-free families" (New Zealand Family Violence Clearinghouse 2007).

The FVIARS places strong emphasis on needing "good quality" information to inform the risk assessment soon after the incident occurs, and then sharing the information to agree on the best response. The model is also concerned with ensuring children are protected. The agencies meet regularly to discuss the cases that have been referred to the Committee, and a designated agency maintains regular contact with the victim and children.

The FVIARS is currently being evaluated, however preliminary observations are that it is very similar in format to MARAC. The response has been introduced into every district in the country, however each district has considerable autonomy over which agencies they involve and how they use their resources (Taskforce for Action on Family Violence 2007).

5. Findings

The following sections detail the findings generated from the consultations, public submissions and literature review conducted by Success Works over the entire review period. Material from the interviews, focus groups, review and submissions are divided into:

- What is working well with Safe At Home from the perspective of those involved in the consultations
- The six questions formulated for the public submission process, namely:
 1. What are the most important principles that should underlie Tasmania's approach to family violence?
 2. What would achieve a reduction in the level of family violence in the medium to longer term?
 3. What would improve the level of safety for adult victims?
 4. What would improve the level of safety for child victims?
 5. What would reduce the offending behaviour of those responsible for the violence?
 6. What other policies or practices would make Tasmania's approach family violence more effective?

5.1 What is Working Well?

Based on the consultations and written submissions, four key points emerge as the main strengths of Safe At Home:

- **Increased public awareness of family violence.** Family violence is now considered to be clearly on the public agenda in Tasmania compared to the period prior to Safe At Home.
- **Improved legal recognition for family violence.** Before Safe At Home family violence was 'lumped in' with neighbourhood disputes where the issues were seen to relate to 'disputes' or disagreements between individuals. With Safe

At Home, there is an improved recognition of the seriousness and criminal nature of family violence.

- **Victim is not the driver of the response.** The fact that victims are no longer the determinants of the legal response is considered to be a major achievement of Safe At Home. Now the police take responsibility for pressing charges and victims have the prospect of respite from the offender at home and the chance to experience a new phase of their life without the stress and pressure of living with potential and actual violence.
- **Improved police response to family violence.** Police are said to be taking their responsibilities under Safe At Home very seriously. The clarity of the police procedures has led to increasing confidence within police in relation to their role and their responsibilities in family violence situations.

Other areas noted as working well were:

- **Integrated Case Coordination meetings.** ICCs are considered to be a particularly effective part of Safe At Home because they bring together previously separate government organisations and allow effective information sharing and case management. This review finds that ICC should be formally recognised as a fundamental component of Safe At Home and should be supported to undertake their role through the provision of dedicated regional staff who can also be responsible for organising 'case conferences' as and when they are required.
- **Court Support Liaison Officers.** CSLOs act as a conduit to the legal process for victims and are trusted by victims because they are 'not in uniform'. Support from CSLOs means that victims are more likely to remain involved with the court system and be willing to give evidence in court hearings which results in more cases being heard and more orders being granted.
- **Family Violence Counselling and Support Service.** It was said that, as a result of the support from FVCSS, victims are more able to participate in the process.
- **ICC database.** While it still requires further development, the ICC case based database manually collated and maintained by the Department of Justice is considered to be a vast improvement on previous data systems by allowing data from multiple agencies to be linked.

The remainder of this Chapter sets out the findings from the consultations in relation to each of the questions that framed the consultation processes. Please note that the order of the questions has changed since the Discussion Paper to reflect the need to focus on the underlying principles first before moving to the more practical considerations.

5.2 What are the most important principles that should underlie Tasmania's approach to family violence?

Safe At Home has ushered in a new paradigm in the reduction, prevention and response to family violence. There has been a changed role of the state in relation to violence in the home from the role of 'umpire' within the civil justice system, to 'active participant' in the criminal justice system.

Success Works believes that it is important in any consideration about the future of Safe At Home to clearly identify the underlying frameworks that establish the role and purpose of Safe At Home in a broader context.

5.2.1 Human Rights

Family violence and violence against women have been clearly placed on the international human rights agenda. Family violence has been equated to torture and cruelty requiring similar standards of judgments and actions on the part of states (Copelon 1994:14). The actions of states to protect the human rights of those affected by family violence are subject to oversight by the United Nations under their due diligence obligation. All states have a duty to take positive action.

The original options paper for Safe At Home (August 2003) acknowledged family violence as a violation of human rights and it is important that the everyone concerned with Safe At Home understands that the rights of victims and children affected by family violence are fundamental human rights that they have an obligation and responsibility to uphold and fulfil. This understanding allows the importance of the task of providing safety and managing risk to be understood by all of those responsible. It also allows those seeking the protection of the state to understand that it is their right to do so and allows offenders, and those that condone them, to understand that they are denying someone their human rights when they inflict family violence upon them.

5.2.1 Family Safety

The Safe At Home Review Discussion Paper (March 2008) suggested that there were at least two paradigms in operation within Safe At Home. On the one hand, Safe At Home has adopted a paradigm in which family violence is seen as a criminal act deserving of a criminal justice response the same as any other act of violence (reflecting the best practice literature summarised above). This paradigm understands that family violence is a crime and that the state has a role in the prosecution of crimes in the interest of specific and general deterrence. This

paradigm is gender neutral. On the other hand, service providers such as the FVCSS operate according to a paradigm that understands family violence to be a gendered crime and the result of unequal power and control within the family supported by an unequal and patriarchal society, that requires responses to empower and build the capacities of women (who are the majority of victims) while ensuring that men (the majority of offenders) are required to take responsibility for their violence (also reflecting the best practice literature).

During the second round of consultations there was general agreement that while these two paradigms exist, they are not in conflict and are both reflected in the Safe At Home approach.

In the third round, however, a further potentially unifying paradigm of 'family safety' emerged. The concept of 'family safety' allows all of the relevant agencies to be able to discuss what they are endeavouring to achieve in family violence situations in a more holistic and cohesive way. It also allows the rights and needs of children to be more effectively represented in the consideration of family violence and facilitates the involvement of Child Protection and Child Welfare Services.

It is therefore recommended that the concept of *family safety* be adopted as a unifying paradigm underlying Safe At Home.

It is also recommended that the responsibility for the achievement of *family safety* rest with the Statewide Steering Committee (headed by the Department of Premier and Cabinet) and that the Committee also consider its role in relation to the related reforms in Disability, Child and Family Welfare Services being pursued in the Department of Health and Human Services.

5.3 What would achieve a reduction in the level of family violence in the medium to longer term?

This review has identified the following main areas of focus that would contribute towards a reduction in the level of family violence in the medium to long term:

- Prevention
- Early intervention
- Risk management
- Integrated effort
- Integrated data systems

Each of these issues is addressed below.

5.3.1 Prevention

Stopping the violence before it starts is the goal of prevention. VicHealth (2007) has developed a framework for the prevention of family violence that clearly discriminates between 'intervention' (or tertiary prevention) which occurs after a family violence incident has occurred (i.e. Safe At Home); early intervention (or secondary prevention) that occurs when there are early signs that family violence may occur and (primary) prevention, which seeks to prevent the violence from ever occurring. Primary prevention can be directed towards the whole population (as in general awareness campaigns) or towards groups who may be at higher risk of violence in the future (such as adolescent young men). Primary prevention can also tackle the 'structural, cultural and societal contexts' in which family violence occurs.

There was strong support in all consultation rounds for prevention programs. In particular there was a call for schools to provide programs focused on the development of healthy and respectful relationships at primary and secondary levels. While it is recognised that schools also have a number of other demands, they do offer a critical opportunity for young people to learn about family violence and to gain age-appropriate skills in dealing with difference and conflict in a non violent manner.

There was also support for ongoing community awareness campaigns, including campaigns targeted towards specific groups such as newly arrived communities who may have less understanding of the law in relation to family violence. It was reported that awareness raising strategies had been developed for implementation but that these required specific funding to be implemented.

A focus on prevention is recommended by this review to achieve the goal of reducing family violence in the longer term. Responsibility for prevention programs rests with agencies who are currently outside, or on the periphery of, Safe At Home and should be part of a broader focus on family violence. Prevention should therefore be a responsibility of the Statewide Steering Committee.

5.3.2 Early Intervention

Early intervention involves working with those who are at risk of family violence but where the violence has not yet occurred or has only just commenced.

The consultations provided support for early intervention with suggestions ranging from programs in antenatal clinics (targeting pregnant women who the research shows may be at increased risk of family violence during and after pregnancy) through to education on 'signs' and appropriate responses to family violence for

various 'front-line' practitioners such as General Practitioners, teachers, nurses and the like.

There was also a suggestion that the new Gateway Services and Family Support Service structure being developed by the Department of Health and Human Services (DHHS) offers a platform for early intervention for 'at risk' families. For this to occur however, there will need to be family violence expertise present in the Gateway Service.

This service model is recommended for consideration by DHHS and the Statewide Steering Committee. Early intervention approaches are outside the current role for Safe At Home.

5.3.3 Risk Management

As indicated in Chapter Four, best practice in integrated responses focus beyond risk assessment to the concept of risk management. Risk management involves taking action to reduce the risk faced by the victim through strategies that build their safety and reduce the risk of the offender. Risk management is therefore a tertiary level prevention strategy aimed at preventing further violence after it has occurred.

Risk management is achieved through:

- Effective and comprehensive risk assessment
- Focusing resources on high risk cases (at least in the first instance)
- Case management for victims and offenders at the highest risk.

These strategies are already in place or have commenced in Tasmania but require additional attention to be in place more consistently across the state. All of these approaches are strongly recommended by this Review and all are the responsibility of Safe At Home.

5.3.4 Integrated effort

The first round of consultations suggested that there were inconsistencies within government in the way in which family violence was understood and dealt with. It was suggested, for instance, that Housing Tasmania did not always understand the need to provide secure accommodation for victims and children and that Child Protection staff sometimes 'blamed' victims of family violence for not providing adequate protection for their children.

The literature reinforces the need for effective integrated effort to address family violence. Many agencies deal with people affected by family violence as part of their daily work. Efforts to address or prevent family violence are undermined by

agencies or individuals applying different understandings of family violence and different policies. Services should operate from a basis of co-operation and collaboration so that victims and offenders needing support can easily access the range of services they need. They should also share a common understanding of 'risk' and 'safety' and how these are achieved.

The best practice literature suggests that a range of agencies need to be involved in the case conferencing process. While it has been little used, there is capacity already within Safe At Home for case conferencing to take place involving a range of agencies. These case conferences may be initiated by the ICC, or any ICC member, and involve a range of agencies involved with the family concerned. It is recommended that consideration be given to ways in which the ICC can increase its use of case conferencing for families who are deemed to be at high risk. The paradigm of *family safety* provides a new way of understanding who needs to be present in the case conferencing process. It is also recommended that the role and place of case conferences be formally recognised and established within Safe At Home and that participating agencies give priority to the participation of relevant staff in the case conferences.

5.3.5 Integrated data systems

While the manually collated Safe At Home ICC case-based database was praised as a significant achievement by those in government who have access to it, there was strong support for the development of an integrated Safe At Home data system which links data electronically. Funding for this database is available within the Department of Justice and it is recommended that this project go ahead.

It was suggested during the consultations that access to the ICC database should be extended to include non government agencies working with the same families. The Department of Justice noted that individuals currently accessing this information require specific security clearance and designated computer terminals to access the information and warned that any consideration of extending current access to information and data systems would need to take into account a range of safety and security issues.

The sharing of information outside government is able to take place when the focus is on high risk cases – it is generally permissible under Privacy laws to share information without specific consent when “disclosure is related to the primary purpose for which it was collected” (i.e. the assessment of risk) and/or when there “is a reasonable likelihood of a serious and imminent threat to and individual’s life, health, safety or welfare” (Victorian Department of Planning and Community Development, 2009).

It is recommended that members of the ICCs and participants in case conferences have access to the same data in relation to high risk cases and that all members of the ICC and participants in case conferences have the opportunity to contribute data of their own. The best practice literature suggests that risk assessment requires the input of a range of agencies and perspectives in order to accurately identify the level of risk and instigate the required risk management strategies (which may rely on the victim having trust in the process and believing the information they are given about the level of risk they face).

5.4 What would improve the level of safety for adult victims?

Key points to emerge from the first round of consultations concerning improvements to the safety of adult victims included:

- A victim's rights charter
- After hours access to family violence counselling
- Cultural competence
- Further examination of male victims and their needs
- Mandatory reporting of family violence
- More attention to the needs of people with disabilities
- Targeted education to improve understanding of family violence orders
- Increasing material and practical support for victims.

Each issue is addressed below.

5.4.1 Victim's Rights Charter

Presently, Tasmania does not have a Victim's Rights Charter. It is understood that the Victims Support Service is currently drafting a charter based on international best practice to protect victims, including family violence victims from being re-traumatised through their dealings with the justice system. It was suggested during the first round of consultations that a Victim's Rights Charter could provide a positive strategy to address victim safety issues while also providing mechanisms that hold the state accountable.

The Victims Charter in Victoria is contained in legislation. It sets out 12 principles which criminal justice agencies must follow in their dealings with victims of crime and establishes a formal complaints process. Principles include: treatment of victims of

crime; entitlements and services; investigation of the crime; prosecution of the accused person; applications for bail; the trial process and the role of the witness; protection from the accused in court; Victim Impact Statements; privacy; storage and return of property; Victims Register and compensation. The fact that the charter is in legislation means that all criminal justice agencies must comply.

The NSW Charter of Victims Rights contains 17 principles relating to: courtesy, compassion and respect; information about services and remedies; access to services; information about investigation of the crime; information about prosecution of the accused; information about trial process and role as witness; protection from contact with accused; protection of identity of victim; attendance at preliminary hearings; return of property; protection from the accused; information about special bail conditions; information about outcome of bail applications; victim impact statements; information about impending release, escape or eligibility for absence from custody; submissions on parole and eligibility for absence from custody of serious offenders; and compensation for victims of personal violence.

It is reported in Victoria that the Victims Charter has provided a common framework of victim empowerment that can be used by various services and departments who are working to improve the treatment of victims of crime.

Whilst it was not overwhelming, discussions through the second and third round of consultations indicated support for a Victims Charter in Tasmania. It is certainly the view of this review that a Charter would add considerable value to those organisations with a responsibility for keeping victims informed of the criminal justice and court process (including the requirement to notify victims if an offender is bailed or otherwise released from custody). It would also assist courts to understand the need for victims to be protected through the court process. The work of the Victims Support Service to establish a Victims Charter is therefore supported by this review.

5.4.2 After-hours access to family violence counselling

The Family Violence Counselling and Support Service provide access to counselling support from 9 am to 12 midnight on weekdays and 4 pm to 12 midnight on weekends and public holidays. Outside of these times, victims who are experiencing crisis who contact the Police Family Violence Response and Referral Line (FVRRL) are referred to Lifeline for counselling and support.

When Safe At Home was initially established an after-hours telephone crisis support service was set up through a contract with a specialist victims of crime telephone support service. It is understood that these telephone workers were based in Tasmania and were provided with training so that they understood Safe At Home and were able to refer callers back into the Safe At Home system. Success Works

understands that the after hours telephone crisis support service is now provided by Lifeline and that changes within Lifeline mean that calls from Tasmania can be directed to Lifeline volunteers anywhere in Australia which means that the referral back into Safe At Home is not possible. It also means that Safe At Home related calls are not receiving priority.

The staff from the FVRRL indicate that, while not large, the complexity and distress of after hours callers seeking counselling support for family violence matters (as opposed to an immediate police response) is problematic for them as they do not have the professional skills or experience to deal with such matters.

As a result of these concerns the FVCSS have sought additional funding as part of this review to extend their service to provide a 24 hour 7 days per week crisis response.

The FVRRL have provided data which indicates that over the four years since the commencement of Safe At Home, late night calls have been a very small percentage of the calls they receive:

Figure 1: Family Violence Response Line Data:

	2006	2007	2008	2009 ⁸	TOTAL
8.01am to 5pm	594	636	346	96	1672
5.01pm to 12am	317	190	176	31	714
12.01am to 8am	43	39	21	4	107
% of total between 12.01 and 8 am	4.5%	4.5%	3.9%	3.0%	4.3%

While accepting that there are some valid concerns about the current service, the cost of establishing the FVCSS as a 24 hour service are not warranted by this low level of demand. As an alternative, it is recommended that Safe At Home examine the possibility of contracting a specialist after hours service to manage the after hours demand for counselling support that until now has been referred to Lifeline. Success Works is aware that the Women’s Domestic Violence Crisis Service in Melbourne offers a similar service to that proposed by the FVCSS and are currently in the process of co-locating with the Sexual Assault Crisis Line who, in addition to providing after hours crisis support to sexual assault victims across Victoria, also offer after hours support to crisis services dealing with sexual assault in South Australia under a contract from the South Australian government. Contracting to a specialist after hours service would overcome the lack of priority offered to family violence matters by Lifeline under the current arrangements and would allow important specialist back-up support to the FVRRL staff. Such an arrangement would also allow the specialist service to be

⁸ Refers to the first four months of 2009 only

trained in the Safe At Home arrangements and therefore create direct links for callers back into the Safe At Home support structures.

5.4.3 Cultural competence

Different cultures and language groups present different needs both in relation to prevention and early intervention strategies addressing family violence and in relation to the level of risk posed by offenders and the potential for victims to achieve safety and recovery. In some communities, for instance, victims and offenders may not understand that family violence is illegal and may not recognise women's and children's human rights. In others, significantly the Aboriginal community, the past history of abuses by the state may prevent individuals from seeking protection from the violence.

The literature identifies the need for *cultural competence* in the response to family violence. Cultural competence is considerably higher than cultural awareness on the continuum of cultural understanding. Culturally competent organisations are ones which:

- Demonstrate an understanding of their own dominant culture, including its implicit biases and assumptions
- Show a positive commitment towards the inclusion of individuals and communities from different cultural backgrounds
- Have knowledge of different cultural practices and cultural experiences and the influence of these on individual and group worldviews
- Are skilled and effective in cross cultural communication.

There was general agreement that most organisations involved in Safe At Home do not currently meet this level of cultural sensitivity.

Aboriginal Family Violence

Several consultations raised concerns about the capacity for Safe At Home to provide a culturally appropriate response to family violence in Aboriginal communities. There was a feeling that police required additional cultural awareness training and support to understand the impact of culture on the perceptions and actuality of violence in Aboriginal communities. It was also suggested that Police Aboriginal Liaison Officers could be more proactive in building strong links between Safe At Home and Indigenous groups and Indigenous service providers dealing with families affected by family violence.

While cultural competence may take some years to achieve, it is recommended that all primary service delivery agencies (i.e. Police, Court Support and Liaison Service

and FVCCS) be supported to examine their cultural skills and take steps to achieve cultural competence in dealing with Aboriginal family violence.

There have been ongoing calls for a dedicated safe house for Indigenous women as a “culturally appropriate” response to family violence in Aboriginal communities. Such a response runs contrary to the stated aims of Safe At Home (which aims to provide the means for victims of family violence and children to remain safely in their own home). Safe houses are a common feature of family violence responses in Aboriginal communities across more remote parts of Australia and are aimed at providing immediate safety for women in a communal and supported space. To be ‘safe’, however, all community members need to understand and respect the space as a women’s only space. Without this agreement, the security of the ‘safe house’ is soon compromised as its location becomes widely known within the community.

While the calls have been for a safe house, it is understood that the initial discussions between Safe At Home and the Ya Pulingina Kani Aboriginal Advisory Group were more focused on a ‘healing place’. A healing place is fundamentally different to a safe house as it is not focussed on dealing with *risk* but on the *recovery* of those who have experienced violence. A healing place could provide short, medium and long-term practical and emotional support. This review recommends that further discussions take place in relation to this option.

Also of relevance in relation to the relationship between Safe At Home and the Aboriginal community is the Aboriginal Family Violence Rehabilitation Project undertaken by Safe At Home in 2007 (Department of Justice, 2007). This project developed a culturally appropriate framework for the delivery of rehabilitation programs for Aboriginal family violence offenders. While it has not been implemented due to lack of funding, the framework recommended the establishment of a three tiered intervention approach for Aboriginal family violence offenders ranging from early intervention as the first level of intervention, through voluntary treatment programs to the Family Violence Offender Intervention Program (FVOIP) for high risk offenders. While this framework is not inconsistent with the current review, Success Works would also recommend case management as an appropriate strategy for high risk Aboriginal offenders.

Success Works also suggests that the adoption of the *family safety* paradigm may be a useful way to discuss family violence in Aboriginal communities.

Culturally and Linguistically Diverse Communities

It was suggested throughout the first round of consultations that little use is made of interpreters within Safe At Home at any stage in the process and that there is a danger that people who do not understand English are not receiving the same level of information or support as other victims and families. It was suggested that lack of

interpreters had lead to specific misunderstandings and confusion on some occasions.

Safe At Home undertook a study in 2006 in relation to the best ways to communicate information about Safe At Home to culturally and linguistically diverse communities (Department of Justice, 2006). This review recommended targeted communication strategies to refugee and migrant communities, including explanations of what constitutes family violence; the rights of victims and children; the use of ethnic specific services and religious leaders as key distributors of information and the use of visual and oral communication methods (radio, DVDs). The review also found limited use of interpreters in Safe At Home; difficulties in accessing interpreters with sufficient language skills for some newly arrived communities and the need for Safe At Home service providers to receive training in the use of interpreters.

The recommendations from the 2006 review remain valid. It is recommended that Safe At Home agencies take steps to ensure that interpreters are used to communicate with people who are not competent in English and that key information is translated into relevant community languages and developed into visual and oral communication materials. It is also recommended that Safe At Home agencies receive training in the use of interpreters.

5.4.4 Male victims

Since the commencement of Safe At Home a significant proportion of family violence victims have been men (around 28%). While there is some evidence that dual arrest occurs on occasion (that is the arrest of both partners involved in a family violence incident), it is also clear that in well over half of the cases involving women offenders and male victims there is no evidence of the woman having been a victim of family violence in the current or a past relationship.

Understanding male victims of family violence is complex. As reported in Mulroney and Chan (2005) it can be difficult to differentiate men who are offenders from male victims. They report on Scottish research (Gadd et al, 2002) which categorised a group of male victims into four groups following in depth interview: primary instigators, equal combatants, retaliators and non-retaliatory victims. Bagshaw and Chung (2000) found key differences between men's and women's experience of family violence:

- Men were less likely to be living in an ongoing state of fear from the offender
- Men who were victims did not have experiences of being a victim in prior relationships
- Men rarely experienced post-separation violence.

They found that men reported a range of physical abuse including 'direct assaults, being spat at, scratched, hair pulled, pots thrown, being rushed at, kicked, choked and threatened with a knife' and verbal and emotional abuse such as 'putdowns, accusations of infidelity, 'bitchy' comments, and name-calling' (Bagshaw and Chung (2000) as quoted in Mulronev and Chan, 2005).

Mulronev and Chan (2005) suggest that consideration needs to be given to the following issues in order to deal effectively with male victims of family violence:

- Data collection – accurate data needs to be collected in relation to the gender of victim and offender and the nature of the offence. Additional data about the level of fear of the offender is also relevant
- Research methods – research examining men as victims of family violence should employ tools that recognise the context in which family violence occurs (i.e. an unequal access to power by men and women in society)
- Theoretical models – while the feminist model has been criticised for its inability to explain women's violence towards male partners, there is also an argument for retaining the feminist analysis which sees violence as occurring in the context of 'perceived entitlement and institutionalised power' (Mulronev and Chan, 2005). They also advocate for the development of new conceptual frameworks that broaden knowledge about men and women's violence.
- Implications for service providers – Agencies responding to family violence need to publicise their availability for men and consider ways in which they can effectively support men (recognising that men are socialised to be 'invulnerable' and can be reluctant to seek any form of help). It is suggested that consideration needs to be given to the provision of information directly targeting men as victims; creating links with men's help lines (and giving consideration as to whether such phone lines are able to deal with men as victims as well as men offenders); the resources necessary to ensure that men receive responses that meet their immediate needs and the services or resources needed for gay men.

The consultations noted that male victims were not well catered for within Safe At Home currently.

It is recommended that Safe At Home be cognisant of the recommendations from Mulronev and Chan (2005) and undertake more detailed research into the make up and needs of male victims in Safe At Home. Discussions should also take place with Men's Help Lines to determine their capacity to deal with men who have been victims. It is noted that an individualised case management approach for high risk victims (recommended below) should overcome some of the gender based barriers for men who are in the high risk category.

5.4.5 Mandatory reporting

In the first round of consultations it was reported that hospital emergency departments, in particular, were dealing with large numbers of family violence matters but that there were no effective links between hospitals and Safe At Home. It was identified that this could lead to a cycle of under-reporting that would be likely to be maintained unless hospital staff were supported and encouraged to understand and be part of Safe At Home.

Currently it is at the discretion and capacity of hospital staff as to whether family violence is identified and appropriate referrals made. However, Section 38 of the Family Violence Act 2004 remains unproclaimed at this time. Section 38 requires mandatory reporting by 'prescribed persons' of family violence matters to the police where they involve weapons, sexual assault, physical violence or when children are affected. Prescribed persons include doctors, nurses, dentists, psychologists, police, corrections officers, teachers and child care staff.

There are strong arguments for and against the mandatory reporting provision being enacted. Against are arguments about the potential for mandatory reporting to create a disincentive for victims to present for needed care and treatment and therefore drive the problem underground and increase the potential for harm.

For mandatory reporting is the argument that unless victims are identified and safety plans developed for them they remain at risk of harm at the hands of the offender and the offender is not held accountable.

As well there were views expressed during the consultations that while the problem of 'professionals' not reporting incidents of family violence should be addressed, the mechanism proposed in Section 38 was inappropriate as it was likely to swamp police with reports of historical or unsubstantiated cases of violence that would 'waste their time' and pull their resources away from responding to actual incidents of family violence and managing risk and safety in relation to known cases.

The Department of Justice recently conducted further research in this area and discovered that within the targeted professional groups there is a:

- General lack of knowledge about family violence
- Lack of understanding of the dynamics of family violence
- Fear of reprisal if they report a family violence matter to police.

Since the beginning of this year (2009) it has been mandatory in the Northern Territory for all adults to report domestic violence if they believe another person's life is in danger and to contact police they believe a person has caused, or is about to cause, serious harm to another in a domestic relationship.

There has been strong opposition to this requirement from a range of professional groups including the Australian Association of Social Workers and the Australian Domestic and Family Violence Clearinghouse. The Clearinghouse has presented the following arguments against mandatory reporting:

- “There is no evidence that mandatory reporting improves safety for victims
- There is evidence that a significant number of abused women are opposed to mandatory reporting
- There is potential for victims to be deterred from seeking medical treatment because of fears of reports to police and retribution from perpetrators
- There is potential for victims to lie about their injuries to avoid detection, and for perpetrators to prevent victims from attending health services to avoid being reported
- Health professionals may wish to avoid making a report to police against his or her patient's wishes, and may avoid inquiring about the cause of injuries
- Health professionals may feel that making a report to the police concludes his or her responsibility to the patient, and thereby fail to provide the appropriate support, referrals and information to victims
- Deterrence would be more likely through strong and consistent police and justice responses to domestic and family violence incidents” (ADFVC, 2008)

The Clearinghouse suggests that as an alternative to mandatory reporting, there should be increased training to health professionals and workers, routine screening for family violence in hospital emergency departments and a “comprehensive and coordinated referral network” (ADFVC, 2008)

This approach is supported by Success Works. We do not recommend that Section 38 be proclaimed. Rather we recommend that efforts be made to support and educate health and other relevant professionals so that they understand and recognise family violence and, within the bounds of their duty of care to their clients, are supported to make reports of family violence to police where they consider the victim faces an ongoing risk of serious harm. It is also recommended that Safe At Home seek to involve relevant representatives from hospitals and health agencies in the Safe At Home RCC and case conferencing processes. This would reflect the best practice approach being pursued in the UK (MARAC).

5.4.6 People with Disabilities

The first round of consultations identified the need for specific supports for people with disabilities affected by family violence, including people who are victims of violence from their carers.

A recent study (Healey et al, 2008) found that woman with disabilities are at much greater risk of family violence and sexual assault than other women, and are more vulnerable to institutionalised forms of violence, including violence inflicted by carers and others charged with responsibility for them. Disability can increase vulnerability to violence consistent with the nature of the functional impairment.

The study found that family violence sector standards and codes and guidelines say little about how to support women with disabilities, that most services do not routinely collect data on disability and family violence, that most family violence workers have minimal or no training in supporting women with disabilities and that very little is known about the help-seeking experiences of women with disabilities experiencing violence. They suggested that family violence and disability services need:

- Sustained collaboration with each other that includes specialist advice, secondary consultation and education about women with disabilities experiencing violence
- Education from women with disabilities
- To undertake risk assessment and to respond appropriately.

They also recommended that family violence services:

- Improve physical access
- Provide information in accessible formats
- Provide access to secure, affordable crisis, supported and permanent accommodation
- Provide more intensive case management and post crisis care.

It is recommended that Safe At Home actively seek the involvement of Disability Services in local level service planning (through RCCs) and that an appropriate senior Disability Manager from DHHS is included on the IDC. Strategies to develop the skills and knowledge of Safe At Home practitioners should include specific training on the impact and prevalence of family violence for people with disabilities and on ways to communicate effectively with people with cognitive impairments and/or impaired communication skills. Family violence services also require support to ensure their services are accessible and relevant to people with a range of disabilities.

It should be noted, however, that the way in which family violence is currently defined in the Family Violence Act 2004 (as an act against one's "spouse or partner") excludes the consideration of violence by a carer who is not the spouse or partner of the person with a disability. This issue has been addressed in Victoria through the inclusion of the concept of 'family-like relationships' which specifically includes "any other person whom the relevant person regards or is regarded as being like a family member" and which may include someone who is involved in "the provision of any responsibility or care, whether paid or unpaid" (Section 8(3)(h) of the Victorian Family Violence Protection Act 2008). It is suggested that consideration be given by the Tasmanian government to a similar provision to ensure the protection of people with disabilities under Safe At Home.

5.4.7 Targeted Education

According to several stakeholders, specific information on Safe At Home and its implications does not always reach those affected by family violence in an appropriate and systematic way. While CSLOs are highly regarded as effective in helping victims navigate the court system, their capacity to provide ongoing education and support for victims is limited by resources (notwithstanding the data quoted in Appendix A which indicates an increasing number of longer-term clients being supported by Court Support and Liaison Services).

Victims and offenders were said to need more information about what family violence orders mean and ways in which they can apply for variations. Victims also need to be aware of their capacity to receive legal advice through the Legal Aid Commission of Tasmania.

It was suggested that Safe At Home would be more effective and achieve better outcomes in terms of preventing and reducing family violence if victims were better informed, more supported, and appropriately engaged in the system in positive and cooperative ways.

The Safe At Home website (www.safeathome.tas.gov.au) provides six fact sheets targeted towards members of the public:

- About Family Violence
- The Law Relating to Family Violence
- Controlling Family Violence: Police Family Violence Orders and Family Violence Orders
- Family Violence - Children and Young People
- Family Violence - Offenders

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- Family Violence - Adult Victims

It is recommended that these fact sheets be updated (in the light of the changes to be made to Safe At Home following this and the Urbis [2008] review)) and that their availability be publicised to relevant agencies (perhaps through the provision of an e-bulletin or poster). It may also be appropriate to produce a smaller version to be handed to victims and offenders at the scene by police. This information should include information about the services provided by the Legal Aid Commission of Tasmania.

5.4.8 Adequate practical support

The need for services working with victims of family violence to have improved access to material and practical aid in order to support victims was raised in all rounds of the consultations. Practical support is required to assist victims with day to day living expenses, transport costs, babysitting, boarding for family pets etc. The same need is also present for offenders who may require access to small amounts of funding to buy clothes, pay for accommodation, obtain transport etc

It is recommended that consideration be given to the provision of flexible funding to allow case managers (see below) working with victims and offenders to be able to offer material aid and assistance as required.

5.5 What would improve the level of safety for child victims?

The key concerns raised during the consultations in relation to children experiencing family violence were:

- Relationship to the Family Court
- Supporting and protecting children through the legal process
- Links between Safe At Home and the Department of Education
- Links with child protection and the new child and family support system in Tasmania.

5.5.1 Relationship to the Family Court

Consultations identified considerable conflict between State laws and the operations and orders of the Family Court in relation to the parent's access to children when there has been family violence. It was suggested that the State's laws and the Family Court offer two very different understandings of what is in the best interests of the child. State laws emphasise a child's rights to safety and the impact of accumulated

harm and specifically seek to protect children who have experienced family violence in the understanding that, even if they are not directly victims themselves, the trauma of living in a home where violence takes place is in itself potentially harmful. The Family Court, on the other hand, is required to understand that the best interests of the child are met by “ensuring that children have the benefit of both of their parents having a meaningful involvement in their lives...” (Section 7, *Family Law Amendment (Shared Parental Responsibility) Act 2006*).

In protecting a child’s best interests the Family Court must make orders that are consistent with any family violence orders “to the extent that it is possible to do so consistently with the child’s best interests” (Section 9 *Family Law Amendment (Shared Parental Responsibility) Act 2006*).

It has been suggested that these provisions in the Family Law Act effectively give precedence to parent’s rights over children’s rights or wishes (Busch and Robertson 2000; Hart 2006)⁹.

While there is a *Memorandum of Understanding* between Safe At Home and the Family Court, there is potential for ongoing tension between Safe At Home and the Family Court in relation to children who have experienced family violence and the orders of the Family Court. It is also significant that as Commonwealth Orders, Family Court Orders override State Orders.

The Legal Aid Commission confirmed that the Family Court has a different approach to family violence and a very different approach to what happens ‘after’ violence. It was reported by a number of stakeholders that the Family Court has tended to take a very literal approach to their role in “protecting children” from violence. It was suggested that the Court assumes that since there is no current violence or potential that children will be “subjected to, or exposed to, abuse, neglect or family violence” because the parents’ relationship has ceased, that it is therefore appropriate that children maintain contact with both parents. It was reported that this does not take into account the fear and trauma that children may carry with them from their past experiences.

⁹ This does not apply to Family Court cases involving allegations of child abuse. The Family Court operates the ‘Magellan Project’ in all States as a means of fast-tracking cases involving allegations of serious physical and sexual child abuse. The Magellan Project involves active judicial management from an early stage, strict time lines, early appointment of a child representative, provision of information from child protection agencies, and active case management led by court staff and involving a range of external agencies. The Magellan Project has been evaluated (twice) and found to be effective in achieving faster court outcomes and more consistency in decision making.

The Court is also prepared to draw adverse inferences in relation to parents who deny the other parent access to the child or make 'derogatory' statements about the other parent in the presence of the child. Parents who have experienced family violence have therefore needed to be careful not to allow their experience of violence (or their fear of the offender) to be known by the child, lest the other parent use this information to claim that they are being 'unreasonable' or 'unfriendly'. In the consultations several examples were provided where the care of children had been transferred to an offender following "unfriendly" behaviour by the victim, presumably in an effort to protect their child and themselves from further trauma.

There is therefore a major disconnect between Safe At Home (and other family violence policy frameworks in other jurisdictions) and the Family Court that requires urgent rectification. This will not be resolved by Safe At Home alone but needs to be achieved through amendment to the Family Law Act at Commonwealth level. There is a current evaluation underway by the Australian Institute of Family Studies (<http://www.aifs.gov.au/familylawevaluation/>) on behalf of the Commonwealth Attorney-General's Department and the Department of Families, Housing, Community Services and Indigenous Affairs. It is recommended that the Statewide Steering Committee consider making a submission to the AIFS Evaluation that the Tasmanian Government raise concerns about the operation and impact of the Family Law Act through the Standing Committee of Attorney's General.

5.5.2 Supporting and protecting children through the legal process

It was reported during the first round of consultations that relatively little is done in the courts to support and protect the needs of children. Children are frequently present in court when distressing matters are discussed and are increasingly expected by one or other of their parents to give evidence on their behalf. At the same time, courts are said to disregard or discount children's evidence because of their beliefs about children's lack of knowledge and understanding of such complex matters and/or the likelihood that they will not be truthful.

It was reported that children had been subject to cross examination; including by the opposing parent and that Magistrates frequently lack skills in managing the cross examination process to ensure that children are able to understand and answer questions and were not intimidated while giving evidence. While children are able to give evidence from a remote or protected facility, an application needs to be made in advance to the Court by police prosecutions for this to happen. It was reported that there is a perceived reluctance on behalf of prosecutions to make such applications and a reluctance by Magistrates to insist that such facilities are used when children are giving evidence. It was also reported that, while in Family Court

and Child Protection cases there are mechanisms for children to have individual representation; these are not available in family violence cases leaving children unrepresented and unprotected in matters where both prosecutors and defence counsel have others interests at heart.

Consultations also indicated that police do not generally obtain witness statements from children (except in indictable contexts) and that child-focused risk assessments do not occur (which makes it difficult, if not impossible, to objectively address risks to children).

As a consequence children's perspectives on the family violence and the impact it has on them are almost completely absent from the legal decision-making processes following family violence. This contravenes the intention of the Family Violence Act 2004 which grants a number of rights and entitlements directly to the "affected child". Children are also potentially traumatised by the experience of appearing in court as a witness without due regard to their vulnerable status, or by their very presence when the conflict between their parents is discussed. It is notable that this is expressly forbidden in the Family Court.

In their consideration of sexual assault law reform in Victoria, the Victorian Law Reform Commission (VLRC, 2004) gave detailed consideration to the place of children in the legal system. They found that historically the legal system regarded children as "unreliable witnesses" and that this view was "reflected in rules of evidence that limited children's competence to give evidence and required corroboration and judicial warning in relation to children's evidence" (VLRC, 2004: 260). They found that within the court room, children were often subject to "harassing, intimidating, confusing and misleading questioning" and that they were frequently traumatised by their court appearance. They noted that the "the abuse many children suffer is compounded by the abuse perpetrated by the legal system itself". They further noted that "the structures, procedures and attitudes to child witnesses within legal processes frequently discount, inhibit and silence children as witnesses".

The VLRC recommended the establishment of a child witness service and a range of other reforms to support child witnesses in sexual assault matters including:

- The use of alternative arrangements for children to give evidence (e.g. video audio taped evidence (VATE)¹⁰, special hearings, remote witness facilities)

¹⁰ VATE is used to obtain the child's formal statement of their evidence for use in a criminal prosecution. VATE is in the form of an audio or video recording of the child answering questions put to them by a trained police member. It is conducted as soon as possible after the offence is reported. The VATE can be used as the evidence in chief without the necessity for the child to have to repeat the story over and over.

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- Changes to the rules of evidence to make it easier for children to give evidence and to allow admission of children's hearsay evidence
 - Better judicial control of cross-examination
 - Preventing the accused person from directly cross examining children
 - Imposition of a duty on lawyers in relation to the questioning of children.

Child Witness Services operating in WA and Victoria provide support to children giving evidence in court. Support includes the provision of remote witness facilities as well as emotional support from qualified social workers and psychologists. It was reported while a Child Witness Service was established in Tasmania as part of Safe At Home this service is severely under-utilised; at least in part because access to the supports provided by the service are based on an application from prosecutors, defence counsel or an order from the Magistrates themselves.

The current state of affairs requires urgent action to ensure the protection and care of children through the court process. In the first instance it is recommended that information be provided to Magistrates and prosecutors so they understand the requirements, impacts and options available to them when faced with a child witness. Secondly, it is recommended that urgent steps be taken to extend the appointment of Independent Children's Counsel to family violence cases and that all children who are called as witnesses have access to an independent counsel to protect their interests through the evidence and cross examination process. Thirdly, it is also recommended that the shift to hearing family violence cases in closed court (see below) occur as quickly as possible and that children be expressly prevented from being in court unless and until they are giving evidence. Fourth, it is recommended that Tasmania develop and use adequate remote witness facilities for children (and other people requiring protection).

5.5.3 Links with Child and Family Welfare

Police are currently required to report children affected by family violence to the child protection service operated by the DHHS¹¹. Some consultations claimed, however, that mandatory reporting may be acting as a disincentive for parents seeking support in family violence situations.

The literature points to a strong link between family violence and child abuse. A recent report (Banks et al, 2008) reporting on a meta-analysis of the empirical literature found that child abuse occurs in 30-60% of families who experience family

¹¹ *The Children Young Persons and their Families Act 1997*, identifies children affected by family violence as 'children at risk' requiring mandatory reporting to Child Protection by police, teachers, medical practitioners, child care workers and others.

violence and that family violence occurs in 30-40% of families involved in the child protection system (Banks et al, 2008: 904). Humphreys et al (2008) report little difference between outcomes for children who have been directly abused and children who have witnessed family violence with both groups showing poorer outcomes on a range of developmental and behavioural dimensions than children who do not experience violence. There is even some evidence that for children under 8 witnessing violence against their parent can be more distressing than experiencing the violence directly (Runyan, 2006 quoted in Humphreys, 2008).

Conversely, however, there is also literature that indicates that not all children experiencing family violence will be directly affected. In any sample of children affected by family violence or child abuse there are generally about 50% who will do as well as the control group (Magen, 1999 and Edleson, 2004 quoted in Humphreys et al, 2008). It is therefore important not to 'over-pathologise' children living with family violence recognising that a substantial proportion (half) will have sufficient resilience to be managing the situation. Whilst this does not mean that children don't have 'a right to live free from violence', it does raise questions about whether mandatory reporting to child protection is required in all cases (Humphreys et al, 2008).

Banks et al (2008) note that the presence of family violence is not always identified by child protection workers, particularly when there were other factors such as alcohol or drug use, a history of contact with the child protection system or a childhood history of abuse and neglect of the mother.

They also identify a range of strategies to improve connections between family violence services and child protection including:

- Co-location of child protection and family violence offices
- Screening and assessment practices and tools by child protection to identify family violence
- Collaborative relationships between child protection services, family violence agencies and the courts
- A focus on 'family safety' for those experiencing both child abuse and family violence
- Developing service plans and referrals that focus on safety, stability and the wellbeing of victims of family violence
- Holding family violence offenders accountable for their actions.

Major changes are currently taking place in Tasmania that will shift the entry point for child and family support services from the tertiary sector (child protection) to the secondary service sector (family support services) through the establishment of

specific regional “Gateway” services and associated Integrated Family Support Services.

These reforms are being implemented by DHHS with the aim of achieving in each of the four regions:

- A single community-based access and assessment service for both Disability and Family Support services known as the ‘Gateway Services’. Gateway Services will provide a single point of entry for the community, self and other professionals to refer vulnerable children and families into family support services. From 2010 the Gateway Services will also provide people with disabilities access to community and specialist services. A co-located Child Protection Worker will be based in each Gateway Service to provide secondary consultation, advice, support and effective referral arrangements between child protection and Integrated Family Support Services
- An integrated family support service with community based organisations delivering a continuum of services from prevention/early intervention to tertiary level services. The services will provide a range of support services to vulnerable children and families ranging from information, advice and referral to medium and long term intensive family support
- A community-based model for provision of out of home care services for children who are removed from the care of their families
- A community-based model for the provision of specialist or targeted disability support services by community organisations.

Governance will be achieved through a Statewide Advisory Group overseeing quality assurance, action research and cross sector training initiatives. Area Advisory Groups will also be established in each region to bring together relevant local and regional services.

As discussed above, it is recommended that the Statewide Steering Committee take a broader focus on *family safety* and therefore take an interest in the intersection of the DHHS reforms with Safe At Home. In addition, it is recommended that links are created between the Safe At Home RCCs and the DHHS Area Advisory Groups to ensure coordinated action at the regional level. It is also recommended that a representative of the Gateway Service in each region join the ICC in order to create a case specific link between the Disability, Child and Family services and Safe At Home.

It is also recommended that the integrated family support services are supported to fill the gap for children affected by family violence who are not able to access

CHYPP because the ongoing threat of violence in their families. This group was identified as a significant gap in the current service system.

There was considerable discussion during the consultations in relation to the way in which notifications of “affected children” should be made in the new service system. DHHS is aiming to ensure that all or nearly all notifications of vulnerable children and families take place via the Gateway Service. Police, on the other hand, are currently required by the Family Violence Act 2004 to report “affected children” directly to Child Protection and would prefer to retain this process as it avoids police members having to make judgements about the level of impact of the abuse on the child.

Similar reforms have also taken place in Victoria where the following guidelines for deciding where to refer children at risk have been put in place:

- A referral to Child FIRST (the equivalent to the Gateway Service) should be made where families exhibit any of the following factors that may impact upon a child’s safety, stability or development:
 - a. significant parenting problems that may be affecting the child’s development
 - b. family conflict, including family breakdown
 - c. families under pressure due to a family member’s physical or mental illness, substance abuse, disability or bereavement
 - d. young, isolated and/or unsupported families
 - e. significant social or economic disadvantage that may adversely impact on a child’s care or development
- A report to Child Protection should be made in any of the following circumstances:
 - a. Physical abuse of, or non-accidental or unexplained injury to, a child
 - b. A disclosure of sexual abuse by a child or witness, or a combination of factors suggesting the likelihood of sexual abuse
 - c. Emotional abuse and ill treatment of a child impacting on the child’s stability and healthy development
 - d. Persistent neglect, poor care or lack of appropriate supervision, where there is a likelihood of significant harm to the child, or the child’s stability and development
 - e. *Persistent family violence* (Success Works emphasis) or parental substance misuse, psychiatric illness or intellectual disability - where

there is a likelihood of significant harm to the child or the child's stability and development.

- f. Where a child's actions or behaviour may place them at risk of significant harm and the parents are unwilling or unable to protect the child.
- g. Where a child appears to have been abandoned, or where the child's parents are dead or incapacitated, and no other person is caring properly for the child.

The guidelines note that many cases will not neatly fit into these categories, and provides the following factors for consideration:

- What specifically has happened to the child that has caused concerns and what is the impact on their safety, stability, health, wellbeing and development?
 - a. How vulnerable is the child?
 - b. Is there a history or pattern of significant concerns with this child or other children in the family?
 - c. Are the parents aware of the concerns, capable and willing to take action to ensure the child's safety and stability, and promote their health, wellbeing, and development?
 - d. Are the parents able and willing to use support services to promote the child's safety, stability, wellbeing and development?
- A referral to Child FIRST (Gateway) should be considered if, after consideration of the available information, on balance, the referrer is more inclined to form a view that the concerns currently have a low to moderate impact on the child, where the immediate safety of the child is not compromised
- A report to Child Protection should be considered if, after consideration of the available information, on balance, the referrer is more inclined toward a view that the concerns currently have a serious impact on the child's immediate safety, stability or development, or the concerns are persistent and entrenched and likely to have a serious impact on the child's development.

Based on the same reforms in Victoria, it is therefore recommended that referral of children affected by family violence should be straight to Child Protection where there is evidence that the family violence is:

- Persistent

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- Likely (on balance of probabilities) to be having a serious impact on the child's safety, stability or development.

In other cases (where the incident is determined to be 'one-off' and not serious or not likely to be having a serious impact on the child) the referral of the matter can be made to the Gateway Service (noting that there is a co-located Child Protection worker at each service).

5.5.4 Links with Department of Education

While police are part of Interagency Support Teams with the Department of Education that address youth offenders, there are no similar arrangements under Safe At Home to deal specifically with children experiencing family violence. It was suggested during the consultations that the existing strong links between police and school principals could provide an opportunity for attention to the needs of children in family violence contexts more specifically. An example was given of a pilot initiative (now ceased) where a Department of Education social worker attended the North-West ICC meetings. While this was felt to be a potentially good model, it was reported that the social worker had no mechanisms for collecting information about relevant children and families across schools or for sharing information with other agencies. The pilot was therefore of limited success.

The literature suggests that schools not only deal with children affected by family violence but are also potential sites where violence or intimidation can occur and so need to have an understanding of the children who may be at risk and the opportunity to feed in their own knowledge of high risk situations. Mechanisms for sharing information in high risk situations are required so that schools can understand the risk and trauma faced by children in their care and so that they and their parents can be protected from further violence.

For this reason, it is recommended that the Education Department consider their confidentiality requirements in the light of their duty of care in high risk situations and that they be supported to participate effectively in relevant case conferences for high risk families. It is also recommended that the Department of Education take an active role in the Statewide Steering Committee and the Safe At Home IDC and the RCCs.

It was also suggested during the consultations that stronger links between Safe At Home and the Department of Education could result in the provision of education programs for children about safe and respectful relationships. The literature supports the development of these programs. VicHealth (2008) note that school based programs 'target a population [that is] understood to be at a stage of the life cycle

when the risk of perpetrating violence or being subject to violence is high and when there are strong prospects for prevention” (VicHealth, 2008: 18).

5.6 What would reduce the offending behaviour of those responsible for the violence?

The area of programs for family violence offenders was considered to be one of the least effective parts of Safe At Home to date.

Some may perceive that there is a contradiction between the pro-arrest and pro-prosecution approach of Safe At Home and the need to offer family violence offenders access to services and programs. However, many stakeholders felt that, on its own, a pro-arrest/pro-prosecution approach to offenders will not break the cycle of violence. They identified the need for offenders to access services and programs to be able to develop new non-violent ways of relating to family members and others.

Issues raised in consultations in relation to offender services and programs were as follows:

- The need for offender support services and programs
- Access to Family Violence Offender Intervention Programs
- The response to women offenders.

5.6.1 Offender support services and programs

There has been a general lack of post-conviction and post-release support for offenders. Only a handful of Family Violence Offender Intervention Programs have been provided and offenders are not being adequately supported to learn about their violence or to change their behaviour. Many felt that this would ultimately undermine the efforts of Safe At Home. Several stakeholders also indicated that the lack of programs and support services had resulted in continued family violence as well as self harm and suicide by offenders (noting that the literature suggests that at least some self-harm and suicide attempts by offenders can be manipulative).

Police said that they were often required to make emergency accommodation arrangements for offenders once they were served with a PFVO. Often these temporary accommodation arrangements were inappropriate (motels, caravan parks and the like) and potentially increased the potential for repeat offending as offenders feel their only real option is to return to the family home. It was confirmed in the consultations that family violence offenders are generally not welcome in most

temporary accommodation settings because of their level of aggression and the potential for further violent behaviour.

It was also reported that many offenders do not know what they have to do to comply with their family violence order. One stakeholder described a 'cycle of stupidity' with offenders re-offending without understanding how and then feeling aggrieved at the perceived injustice, getting angry, seeking revenge and then reoffending in increasingly serious ways.

The literature shows that offenders are not homogenous. In fact several typologies of family violence offenders have been posited. The most commonly used developed by Holtzworth-Munroe and Stuart (1994) identifies three types of offender:

- Family only offenders, who engage in the least severe domestic violence, the least violence outside the family and are engaged in less criminal behaviour
- Borderline-dysphoric offenders, whose abuse of their partners is moderate to severe, who may exhibit some violence outside the family and who 'would be psychologically distressed, evidencing borderline personality characteristics and some problems with substance abuse'
- Generally violent antisocial offenders, whose abuse of partners would be moderate to severe and who would engage in the most extra-familial violence and criminal behaviour. This last group would have antisocial personality disorders and problems with substance abuse.

Interestingly, other than offering typologies, most of the literature on family violence offenders concentrates on the efficacy or otherwise of family violence behaviour change (or intervention) programs. There is little about the other supports required by offenders to re-establish their lives in non violent ways.

The reality of the experience of Safe At Home practitioners is that offenders present with a wide variety of needs and contexts, which, unless addressed effectively, present a risk of continued violence. As a result the Department of Justice established a pilot Defendant Services Worker at St Helens in January 2009 for a trial period of 6 months. This model is using a case management approach to address the multiple needs of offenders with the aim of reducing the risk of further violence.

This approach is recommended for further development by this review. It has been acknowledged in the literature that the safety of victims and children can only be achieved within an overall risk management approach which aims to prevent further violence from occurring. Case management for offenders is one strategy for achieving this.

5.6.2 Family Violence Offender Intervention Programs

The Family Violence Offender Intervention Program has been provided by Community Corrections for the last two years. Very few programs have been provided due to a lack of numbers referred to the program by the Courts and a lack of programs being offered by Community Corrections because of the need to build up a reasonably sized group in an area prior to commencement of the program (in anticipation of drop-outs) and the length and intensity of the FVOIP program. As a result the Department of Justice is considering the reallocation of the funds for this program towards the defendant services worker program described above.

Consultations suggested that magistrates may have been unaware of the program and/or not seeing it as a relevant program for offenders, hence the low levels of referrals. It was also suggested that prosecutors have not recommended the program as they have not considered it their role to do so.

The following suggestions were made in relation to family violence offender intervention programs:

- Provide programs for family violence offenders in prison, including on remand
- Provide access to less intensive programs for less high risk and medium risk offenders (including 'open group' programs that are more educationally based and more accessible)
- Provide access to programs for high risk offenders who are not being dealt with within the criminal justice system (owing to a lack of evidence to bring charges or secure a conviction).

The literature suggests that any family violence intervention program must be linked into an overall systems approach to family violence (such as Safe At Home) and must continue to hold the offender accountable for the violence (Laing, 2002).

The different typologies of offenders (see above) could also be used to inform a range of different intervention approaches based on the assessment of the offender's type rather than their offence.

There was general agreement in the final round of consultations what while behaviour change programs have an important place in the response to family violence the priority should be for the individualised case management approach at this stage, particularly for high risk offenders.

Best practice would suggest however that the need for access to behaviour change programs is not lost within Safe At Home and that efforts be made to provide access to such programs, perhaps applying a user pays system in order to ameliorate the

costs. Programs for offenders in prison are also recommended as a means of engaging with offenders at a time of potential remorse and contemplation.

5.6.3 Women Offenders

Data provided on the gender of offenders¹² showed that whilst the majority of family violence incidents involve male offenders, more than one quarter of Safe At Home cases (28%) over the past four years involved female offenders.

It is notable that the ABS has produced similar data (2006) which also suggested a higher level of violence committed by women than expected. The ABS found in response to its national Personal Safety Survey¹³ that in the 12 months prior to the survey, 22.3% of victims of recent (last 12 months) physical violence committed by a partner of the opposite sex were male¹⁴ and that 28.0% of victims of partner (physical) violence within heterosexual relationships over their lifetime were male¹⁵.

Success Works undertook a more detailed exploration of the Safe At Home data in relation to women offenders. The first issue considered was whether women offenders had also been classified as victims within the same incident or in another incident with the same partner.

Analysis of the data indicates that dual arrest (the arrest of both parties) accounted for around 25% of cases (N = 740) in which women were offenders (and around 8% of cases in which men were offenders). Another 15% (N= 444) of women offenders had been registered as a victim on at least one occasion during the four years of Safe At Home with another partner.

¹² Inclusive of the period June 2005 to September 2008.

¹³ The Personal Safety Survey is considered to be the most reliable population-based survey providing information on physical and sexual violence and abuse in Australia. Interviewers are trained to ask questions in a sensitive manner, only female interviews conduct the survey (although respondents do have an option of requesting a male interviewer) and the surveys are conducted face-to-face (although respondents do have the option of answering the survey over the phone).

¹⁴ Data concerning same sex partner violence was not available (due very low numbers in cells).

¹⁵ The ABS published data does not consider the seriousness of the physical violence nor the frequency of the violence for each individual. It does however record whether respondents perceived the most recent incident of physical assault as a crime. Approximately half (45.2%) of female victims considered the assault a crime when the act was committed by a male while less than one quarter (21.4%) of males considered the assault a crime when the act was committed by a female. This may be an indication of the perceived seriousness of the assault.

Although not the majority, the fact that dual arrest is occurring in over one third of cases is a concern. The literature indicates that the consequence of the arrest of victims can include:

- Distrust of the police to provide protection
- Increased vulnerability to manipulation and violence by the offender
- Loss of confidence in capacity to protect themselves or their children
- Loss of rights and freedoms through the acquisition of a criminal record.

There is a suggestion in the literature (eg Braaf and Sneddon, 2007) that the incidence of dual arrest increases in jurisdictions adopting a pro-arrest policy (such as Tasmania). It is not possible to know if this finding is true in Tasmania given the lack of similar data from before the Safe At Home reforms commenced.

The remaining 60% of women offenders (N = 1616) had not been recorded as victims of family violence by police at any time during Safe at Home. The largest majority of these had male victims (95%).

Women therefore make up almost one third of Tasmania's family violence offenders which, even putting aside the consideration of dual arrest, presents a range of complex considerations for Safe At Home.

Research on women family violence offenders is scarce and polarised. There are a number of studies which rely on counts of aggressive acts (slaps, kicks and punches) and find that women are as violent towards their partners as men. However, such studies fail to consider the degree of force inflicted, disparity in size, and the psychological and emotional power wielded by those who have control of income and resources and the level of fear experienced by the victim.

Women offenders may have primary or sole care of their children. This raises immediate concerns about the operation of Safe At Home when the offender is expected to leave the family home. If the woman is both the offender and the primary carer, this approach could result in the children also being evicted from the home or being placed in non-family based care as a result.

It was reported that women offenders may also be more likely than male offenders to have added complexities such as mental health or alcohol and drug issues that require specific attention and support.

This is a complex area about which there is an inadequate amount of reliable research. While case management is an appropriate approach to dealing with the individual needs presented by different offenders, it is likely to be reserved for the highest risk offenders only: this may exclude all, or the largest proportion, of women

offenders given what is already known about the type of offending perpetrated by women (less likely to cause fear, less likely to be continued post separation etc).

It is therefore recommended that the Department of Justice undertake further research on the offending needs and risks presented by women offenders. This research should also consider the implications of the evidence of dual arrest and the strategies that should be put in place to prevent it in the first instance and respond to the needs of victims when it does occur.

5.7 What other policies or practices would make Tasmania's approach to family violence more effective?

A number of suggestions were made to generally improve the operations of the Safe At Home system. In summary these are as follows:

- A Specialist Family Violence Court
- Specialist prosecutors pursuing prosecutions through the Magistrates and Supreme courts
- Research into sentencing outcomes
- Removal of the Statute of Limitations in relation to certain forms of family violence.

These issues are discussed below.

5.7.1 Specialist Family Violence Court

At present there is no specialised Family Violence Court in Tasmania and limited access to Specialist Court lists, particularly in the North and North-West of the state. It was suggested that having a specialist Family Violence Court or list would address a number of issues that have been raised through this review, namely:

- Improved protection for witnesses, including children
- The effective use of specialist prosecutors
- The provision of better quality information to the courts
- Ensuring privacy for family violence matters
- Facilitating the review of orders.

A Specialist Court could also facilitate the use of a 'problem solving' or therapeutic jurisprudence approach to family violence. FVOs could be actively 'supervised' by

the court with orders being reviewed at regular periods during the time they are in force and automatically reviewed at least two months prior to their expiry date in order to determine whether they should be extended or allowed to lapse.

A Specialist Family Violence Court could also receive reports from the defendant services workers working with the offenders to determine their progress and ongoing risk.

While there are some potential drawbacks to a specialist court approach (such as possible delays in accessing needed court support [because the court is not available on a daily basis at every court location] and potential deskilling of Magistrates and lawyers who are not required to deal with family violence on a regular basis), there was also strong support for this approach from a range of stakeholders. It is the view of this review that such an approach should be considered by the Tasmanian Government and Magistrates Court. A pilot program may be a suitable starting point in order to test its efficacy.

5.7.2 Role of Specialist Prosecutors

As mentioned in Chapter Two, there are six specialist police prosecutors funded by Safe At Home working for the Tasmanian Police. The aim of these positions was to facilitate the provision of better quality information to the Courts in relation to risk and safety and the nature and impact of family violence generally and for the individuals concerned. Whilst it was expected that these specialist prosecutors would spend most or all of their time prosecuting family violence matters, this has generally not been the case because of the inability of courts to cluster family violence matters together. This difficulty should be overcome by the recommendation above relating to a specialist family violence court.

It has been further suggested that as barristers and solicitors admitted to practice by the Supreme Court of Tasmania in accordance with Part 5 of the *Legal Profession Act 1993*, the specialist Safe At Home prosecutors should be able to take family violence prosecutions into the higher court. This opportunity would overcome a further difficulty that was reported in relation to Safe At Home: that poor communication between the Director of Public Prosecutions (DPP) and the police had, at times, resulted in situations when offenders had been granted bail or released from custody with no information provided to the police or the victim.

It is recommended that consideration be given by the Police to the use of the specialist prosecutors in family violence matters going before Supreme Court as an alternative to handing up briefs to the DPP. This could particularly apply to bail hearings in the Supreme Court in which Judges should be properly apprised of the risk and safety issues relevant to the case.

5.7.3 Sentencing

There were some concerns expressed during the consultation process in relation to the perceived failure on the part of the Tasmanian courts to 'take family violence seriously' as evidenced by the length of sentences that had been handed out in criminal matters.

Success Works was unable to obtain evidence of the level of sentences given in family violence matters and it is recommended that this research take place in order to determine the length and characteristic of sentences prior to considering any further action.

5.7.4 Statute of Limitations

Criminal matters in Tasmania are subject to a statute of limitations contained within the *Justices Act 1959* (Section 26). This provision requires that in the case of non-indictable offence, the complaint must be made within 6 months from the time when the matter of complaint arose. It was noted in several consultations that this provision is directly contrary to the provisions relating to economic and emotional abuse contained within the *Family Violence Act 2004* which refer to a 'course of conduct' which one would assume would need to be established over a period of time – most likely considerably longer than six months.

It is therefore recommended that amendments be made to the Family Violence Act 2004 to make it clear that the provisions of Section 26 of the Justices Act 1959 do not apply in the cases of economic and emotional abuse.

6. Recommendations

Safe At Home was a ground breaking and paradigm shifting reform when it commenced in 2004. While it retains its world-leading status, a number of improvements are possible and recommended by this review.

Most significantly, Success Works believes that the shift to an understanding of *family safety* will not only provide a unifying framework in which to understand and respond to family violence and child abuse, but also a means of engaging a broader range of stakeholders (through the Statewide Steering Committee) and a wider range of prevention and early intervention strategies.

Ownership of the goal of '*family safety*' should extend beyond the Department of Justice and the Department of Police and Public Safety. While Safe At Home should remain their priority, it should be seen as just one component in a whole of government approach to family safety. This approach will reinforce Tasmania's place at the forefront of worldwide reform in relation to family violence.

Other recommendations made in this review are based on the best practice literature and on the practice wisdom and experience of those involved in the delivery of Safe At Home. Success Works would like to acknowledge and thank all of those that gave considerable time and effort to support and participate in the consultation process.

In summary, it is recommended that:

1. Family violence is recognised and treated as an infringement of human rights
2. *Family safety* is adopted as a unifying paradigm that underlies Safe At Home and a range of other approaches
3. The Statewide Steering Committee become the overseeing body for a whole of government approach to family safety encompassing Safe At Home and the Disability, Child and Family Welfare reforms in DHHS, including prevention and early intervention strategies
4. The current membership of the Statewide Steering Committee and the IDC and RCCs is re-examined in the light of this review and all agencies with a stake in family safety represented on the Statewide Steering Committee and all agencies with a stake in family violence and its consequences on the IDC and RCCs

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5. The role and place of ICCs is recognised within Safe At Home. ICC membership is extended to include representatives from the Gateway Services.
 6. Case conferencing is recognised as an important part of the process for managing high risk cases (in the first instance) and all relevant agencies supported to participate in case conferences
 7. ICCs and case conferencing are adequately resourced at the regional level
 8. An electronic Safe At Home integrated data base is developed and that data sharing arrangements are made for the collation of relevant information from all agencies in relation to high risk cases
 9. Safe At Home strengthen its risk management approach based on:
 - a. Effective and comprehensive risk assessment
 - b. Oversight of cases by the ICC
 - c. Case conferencing for high risk cases
 - d. Case management for victims and offenders at the highest risk
 10. A Victims Rights Charter is developed for Tasmania
 11. The work of the RCCs and the Legal Aid Commission of Tasmania to deliver family violence training is actively supported
 12. Education programs are provided in Tasmania's schools to assist children and young people to develop healthy and respectful relationships
 13. The Safe At Home fact sheets are updated and advice provided about their availability to all relevant agencies
 14. Safe At Home agencies (such as Police, Court Support and Liaison Service and FVCCS) are supported to examine their cultural skills and to take steps to ensure cultural competence in dealing with Aboriginal family violence and culturally and linguistically diverse communities
 15. Further discussions take place between the Department of Justice and the Ya Pulingina Kani Aboriginal Advisory Group in relation to the development of a healing centre to support recovery from family violence
 16. Safe At Home agencies are supported to implement culturally appropriate intervention approaches for Aboriginal family violence offenders, including case management for high risk offenders

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17. Safe At Home agencies receive training in the use of interpreters and ensure that interpreters are used to communicate with people who are not competent in English and that key information is translated into relevant community languages and developed into visual and oral communication materials
 18. Efforts are made to support and educate health and other professionals so that they understand and recognise family violence and can make reports of family violence to police where they consider the victim faces an ongoing risk of serious harm
 19. Training is provided to Safe At Home practitioners on the impact and prevalence of family violence for people with disabilities and on ways to communicate effectively with people with cognitive impairments and/or impaired communication skills
 20. Family violence services are supported to ensure their services are accessible and relevant to people with a range of disabilities.
 21. Consideration is given to amending the Family Violence Act 2004 to recognise 'family-like' relationships such as paid or unpaid carers
 22. An after-hours crisis support service is contracted to provide specialist counselling and support and link callers back into the Safe At Home system
 23. Safe At Home undertake detailed research into the make up and needs of male victims and female offenders
 24. Discussions take place with Men's Help Lines to determine their capacity to offer services to men who have been victims of family violence and support provided to allow them to extend their services accordingly
 25. Flexible funding is provided to allow case managers working with victims and defendant services workers working with offenders to be able to offer material aid and practical assistance as required
 26. The Statewide Steering Committee consider making a submission to the AIFS Evaluation of the Family Court Act and express their concerns about the operation and impact of the Family Law Act through the Standing Committee of Attorneys General.
 27. Links are created between the Safe At Home RCCs and the DHHS Area Advisory Groups to ensure coordinated action at the regional level
 28. 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

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29. Referral of children affected by family violence is straight to Child Protection where there is evidence that the family violence is:
 - a. Persistent
 - b. Likely (on balance of probabilities) to be having a serious impact on the child's safety, stability or development
 30. The defendant services worker model is adopted across the State to provide case management to high risk offenders with the aim of reducing the risk of further violence
 31. Efforts are made to provide access to offender behaviour change programs for high risk and other offenders (including in prisons), perhaps applying a user pays model (for community based programs)
 32. A Specialist Family Violence Court is piloted as a precursor to the establishment of a Specialist Family Violence Court across the State
 33. Magistrates and prosecutors are provided with additional information and support to respond to the needs of child witnesses
 34. Urgent steps are taken to extend the appointment of Independent Children's Counsel to family violence cases and to ensure that children called as witnesses have access to an independent counsel to protect their interests through the evidence and cross examination process
 35. The use of the specialist prosecutors is extended to include family violence matters being considered by the Supreme Court
 36. Research is undertaken in relation to the sentencing of family violence offenders and the findings communicated to Magistrates
 37. The Family Violence Act 2004 is amended to remove the application of the statute of limitations from the offences of economic and emotional abuse.

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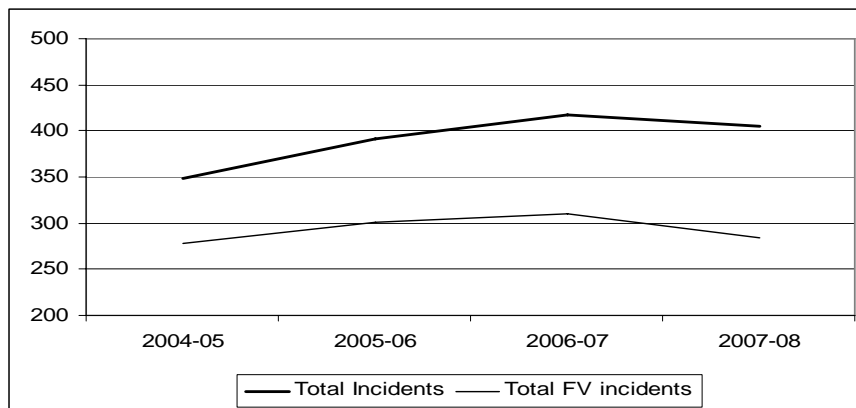
APPENDIX A – SAFE AT HOME DATA

Success Works conducted an analysis of Safe At Home data collected by the Department of Justice from 2004 to 2008. We were advised that the data is of high quality in terms of its accuracy, interpretability and coherence¹⁶. It should be noted that aggregate data across different time periods are not directly comparable due to 2004-05 data only covering the period Oct 2004 to June 2005, and the 2007-08 data covering different periods of the financial year, depending on the source under consideration. Consequently, where possible, monthly averages, rather than yearly aggregates, are presented in order to improve comparability of data across time periods.

Police activity

The following chart shows the average monthly number of incidents attended by police over the past four financial years.

Figure 2: Average number of incidents per month attended by police by year



During the first three years of Safe at Home the total incidents attended by police increased, before declining marginally in 2007/08. Specifically, the average number of family violence incidents per month increased from 279 to 310 (11%) between 2004/05 and 2006/07, and then decreased to 284 in 2007/08. Interestingly, the

¹⁶ See Australian Bureau of Statistics Data Quality Framework (e.g. ABS (2005), Information Paper: External Causes of Death, Data Quality, (cat. no. 3317.0.55.001)

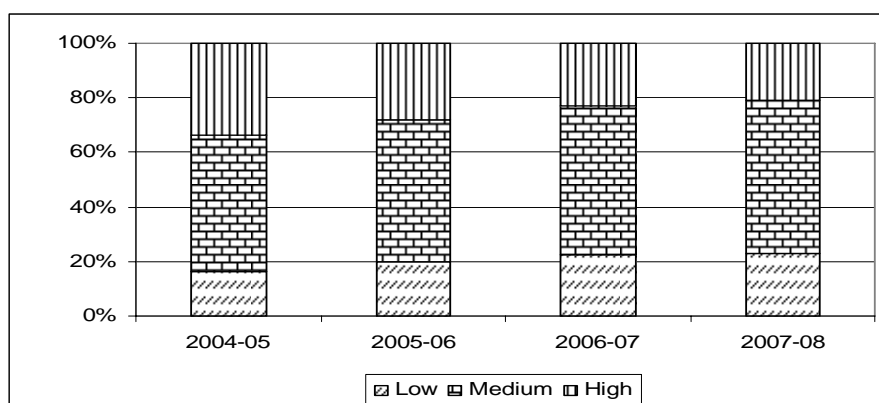
number of 'family arguments'¹⁷ increased steadily across the four year period (70 to 89 to 108 to 121), somewhat negating the decline in family violence incidents.

When police attend a family violence incident, they administer the RAST (Risk Assessment Screening Tool). The RAST indicates the likelihood of the offender repeating or escalating their violence. The likelihood of violence is determined as low, medium or high risk. It is important to note that the RAST relates to the likelihood of further family violence occurring, rather than providing an estimate of the likely 'seriousness' of any further incident.

Since March 2006, risk assessments have been completed by police attending at least 90% of all family violence incidents. Before this period, risk assessments were only completed where the attending officer had completed training in completion of the process. Consequently, care should be taken when comparing the 2004/05 financial year data with data from subsequent years.

The following chart demonstrates how the assessed level of offender risk has changed over the life of the program.

Figure 3: Assessed level of risk of offenders as a proportion of all risk assessments



There has been a notable reduction in the proportion of incidents assessed as involving high risk offenders, from 34% in 2004/05 to 21% in 2007/08. Correspondingly, the proportion of medium level risk offenders has increased from 50% to 56%, whilst the proportion of low level risk offenders has increased from 16% to 23%.

Given the increase in the likelihood of a risk assessment being administered in response to a family violence incident across the four years (and, in particular, the

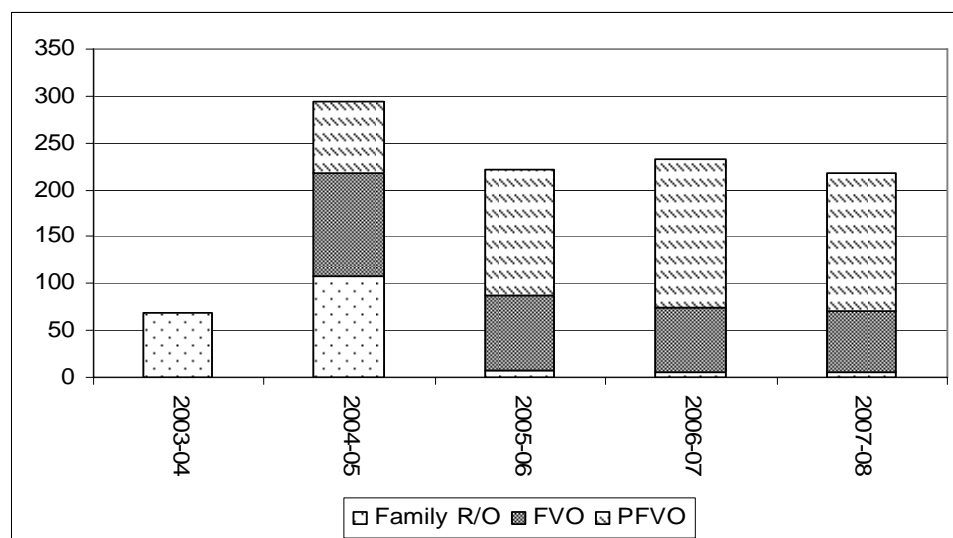
¹⁷ Described by Tasmania Police as a dispute between persons in a family relationship where violence as defined by Section 7 of the *Family Violence Act 2004*, has not and is not likely to be committed.

lower likelihood of a risk assessment being undertaken in 2004/05 and 2005/06 compared with 2006/07 and 2007/08), it is possible that the apparent decrease in the level of risk of a typical incident reflects changing police practices and skills levels, rather than a change in the characteristics of the offender group.

Court Activity

The following charts demonstrate the change in the nature of the work undertaken by the courts (and police) since before Safe at Home and across the life of the program.

Figure 4: Average number of new applications for family violence related orders per month by year



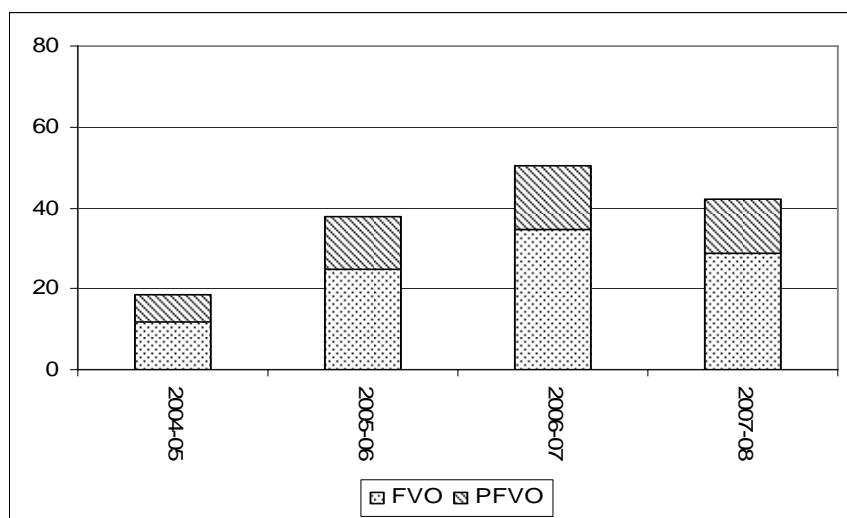
There was an approximate four-fold increase in the total number of new applications for orders between 2003/04 and 2004/05 (69 orders to 294 orders). The number of new applications then declined in 2005/06 (to 222 orders), and has been relatively steady across the last two financial years.

In 2003-2004, the only order available to the courts was a Restraining Order (R/O). FVOs and PFVOs became available in 2005 with the introduction of the *Family Violence Act 2004*. The number of R/Os increased by 58% between 2003/04 and 2004/05 (69 to 109). Since 2005/06, however, R/Os have dramatically declined, and now comprise around 3% of all applications for new orders, compared with 37% of new orders in 2004/05.

The number of new applications for FVOs has followed a similar trend to the overall pattern of new applications. Specifically, the number of FVOs declined between

2004/05 and 2005/06 and has been relatively steady since. By contrast, the number of new applications for PFVOs increased substantially between 2004/05 and 2005/06 even though the numbers of PFVOs have also been steady across the last two financial years. For each financial year since 2005/06, PVFOs have comprised at least 60% of all new orders, meaning that police now issue the majority of all new orders (rather than the courts).

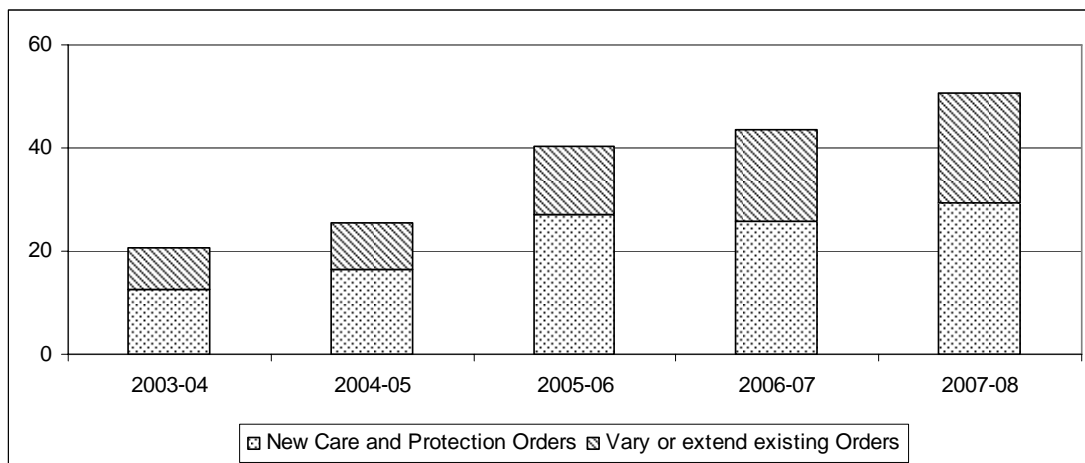
Figure 5: Average number of applications to vary and revoke existing orders per month by year



The number of applications to vary and revoke existing orders increased steadily between 2004/05 and 2006/07, before declining somewhat between 2006/07 and 2007/08. Applications to vary and revoke both FVOs and PFVOs have followed similar patterns of movement across this four year period, with there being approximately twice as many applications to vary FVO as PFVO in each of the four years.

Safe At Home has had a significant impact in relation to child protection matters in the courts. While the absolute numbers may not appear to be particularly high, the percentage increase in these matters across the life of Safe At Home is significant, as is the body of work for the courts associated with these matters. The following chart shows the average number of applications received each month.

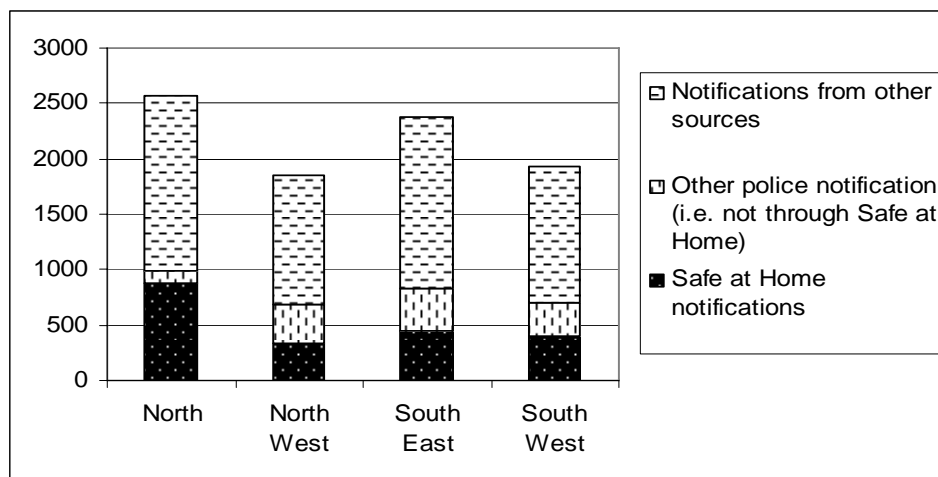
Figure 6: Average number of applications for new care and protection orders and applications to vary or extend existing care and protection orders per month by year



Prior to Safe At Home, in 2003/04 there were an average of about 20 applications per month for either new Care and Protection Orders or to vary or extend existing Care and Protection orders. By 2005-06 and 2006-07, this number had doubled to around 40 applications per month, and increased by a further 10 orders per month in 2007-08. Unfortunately, it is not possible to identify which of these child protection matters have resulted from a family violence incident.

Data from the Department of Health and Human Services (below) compares the number of child protection notifications initiated since February 2008 across each region in Tasmania.

Figure 7: Impact of Safe at Home Program on Child Protection Notifications



It is apparent that the Safe at Home Program has had an impact on the number of Child Protection Notifications. Across the state, notifications initiated through Safe At Home comprise almost one-quarter (23.6%) of all child protection notifications. Moreover, notifications through Safe At Home now account for the majority of all police child protection notifications (63.9%).

It is also apparent that the impact of the Safe At Home Program on the number of child protection notifications varies between regions. Specifically, in the Northern region (the region with the highest number of notifications), notifications through the Safe At Home program comprise more than one-third (34.1%) of all notifications; and almost nine in ten (88.4%) notifications initiated by police. By contrast, in the three other regions, notifications through Safe At Home comprise around one-fifth of all notifications and around half of the notifications initiated by police.

It has been suggested that the increase in child protection applications may be partly ascribed to Safe at Home identifying families who are at risk. Rarely is any child protection application brought solely because of family violence. There are almost always issues of mental health, neglect, substance abuse and/or school non-attendance.

Adult Counselling

The Family Violence Counselling and Support Service (FVCSS) offers assistance to adult victims of family violence. The following chart shows the growth in the number of people contacting the adult counselling service.

Figure 8: Average number of new and existing clients per month accessing adult counselling services



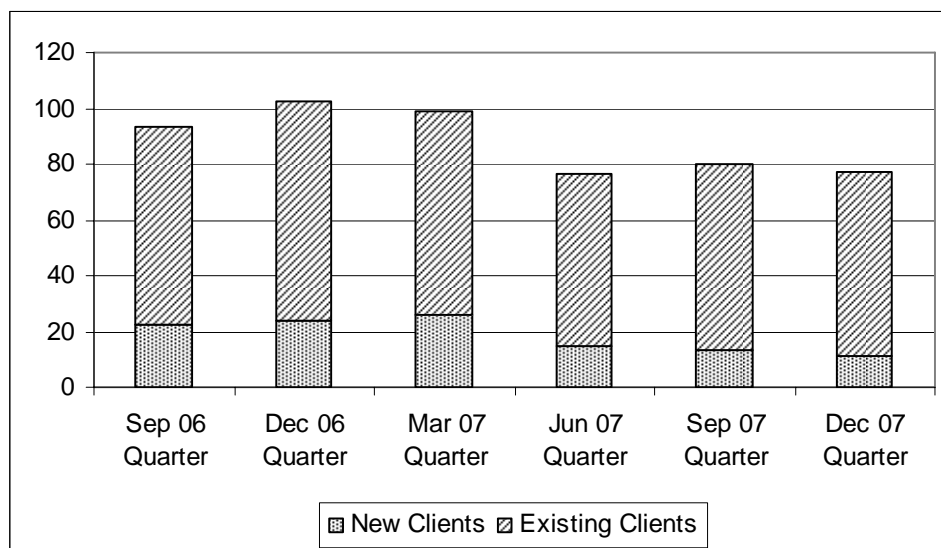
The average number of clients accessing adult counselling services increased by approximately 25% between 2004/05 and 2005/06 indicating the impact of Safe At Home on the utilisation of adult counselling services. Although the number of existing counselling clients remained relatively steady between 2005/06 and 2006/07, the number of new clients continued to grow, increasing the total number of clients. The total number of clients declined marginally in 2007/08.

It should be noted that the growth in the number of clients between 2005/06 and 2006/07 can be particularly attributed to increased activity in the North West region. At present, reported activity in the North-West is similar to that of the (much larger) South region. This is inconsistent with family violence activity in general, which is similar per capita in each region. Consequently, the high rate of counselling in the North West region may imply a 'counting' or 'administrative' difference between regions, rather than a higher (and increased) level of demand for adult counselling in the North West.

Child Counselling

The Children and Young Person's Program (CHYPP) provides support service for children who are 'affected' by family violence and who are living in families where violence is no longer occurring. CHYPP does not accept referrals of children who are currently living in violent homes. Data for CHYPP has only recently been collated and the following chart shows activity on a quarterly basis for 2006-07 and 2007-08.

Figure 9: Average number of new and existing clients per month accessing children counselling services

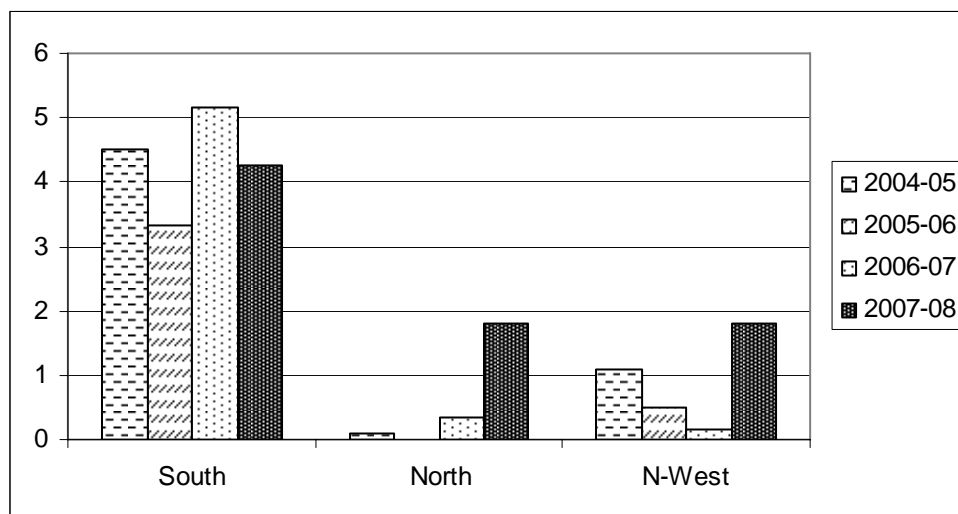


From viewing the above chart, it is apparent that the number of children receiving counselling declined between the March 2007 and June 2007 quarters, and remained at the lower level through to December 2007. The CHYPP program have indicated that they have a significant waiting list of children waiting for access to their services.

Offender Program

The following chart shows the average number of referrals per month for assessment onto the family violence offender intervention program.

Figure 10: Average number of referrals for offender program assessments per month by region by year

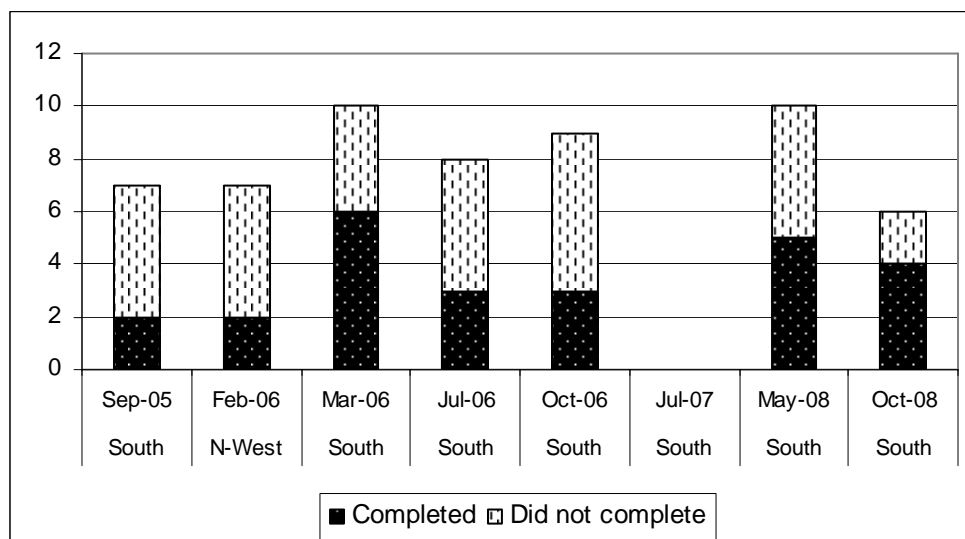


It is apparent that the average number of offender program referrals has been significantly greater in the South region, compared with North and North-West between 2004/05 and 2006/07. However, this pattern changed somewhat in 2007/08, with a notable decline in the number of assessments in the South region, and notable increases in the number of assessment in the North and North West regions.

The above chart pertains to the average number of offenders *referred* for assessment only, and does not indicate offenders subsequent *suitability* for participation in the Offender Program following the assessment. Although program suitability data is only available for a two year period (October 2004 to October 2006), during this period, 58 of the 130 individuals (45%) assessed for the offender program were deemed suitable for participation in the program.

Having established that an individual is suitable for the offender program, the final step would be for the offender to actually undertake the program. Consequently, the chart below considers the number of actual participants in the Offender Program by region.

Figure 11: Description of each Offender Program iteration and the number of participants in each program iteration by program completion



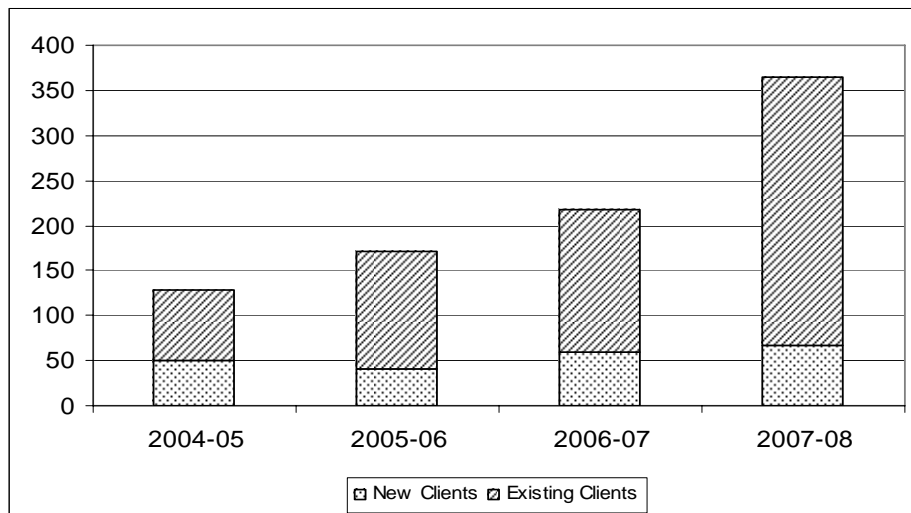
Viewing the above chart, it is apparent that eight Offender Programs were provided between September 2005 and October 2008. All but one of these programs took place in the Southern region (with the exception being the program undertaken in February 2006 in the North West region). Four of the eight programs occurred in 2006 with only 3 occurring in the following two years.

In total, across the three year period, 57 participants began the Offender Intervention Program, and 25 (44%) completed the program. Note that data around program numbers and number of participants completing the program was not available for the Offender Intervention Program in the Southern region in July 2007.

Court Support

The following chart shows the average number of court support clients per month for each year.

Figure 12: Average number of court support clients per month by year

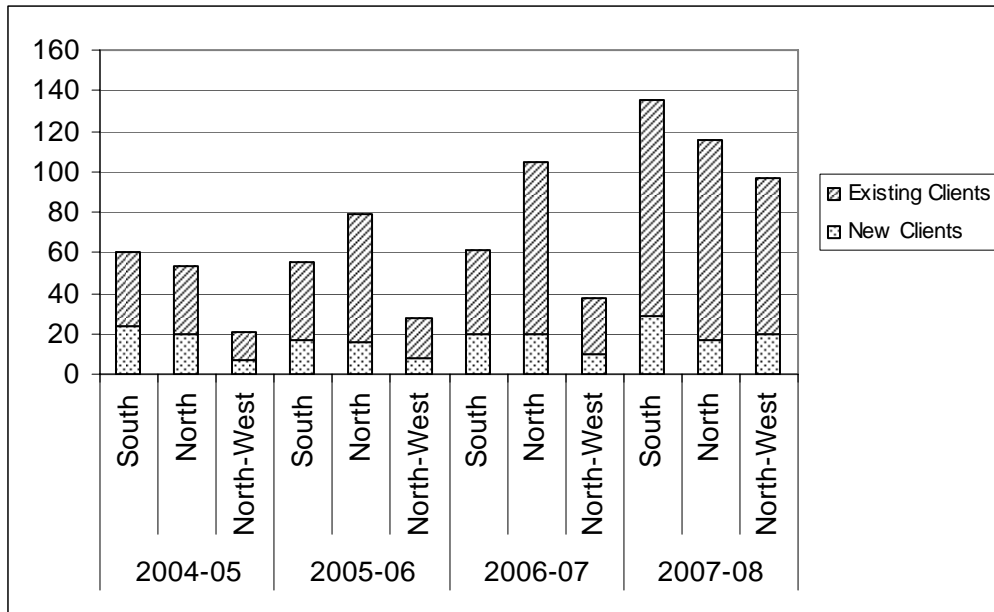


The chart shows that the average number of court support clients grew steadily between 2004/05 and 2006/07, before increasing substantially in 2007/08. Although there has only been a moderate increase in the average number of new clients using the service each month across the four year period (49 to 67, 37%), there has been an almost four-fold increase in the average number of existing clients per month (79 to 299, 278%). From this data, it would appear that a number of clients that engage with court support services continue to engage such services (or, at least, continue to be identified by court support services as clients) for an extended period of time.

In terms of how clients come into contact with court support services, 90% of clients 'phone-in', whereas 10% of clients 'walk-in'.

With regards to the Indigenous status of court support services clients, across the four year time period, 3.5% of new clients and 5.4% of existing clients identified as being Aboriginal and/or Torres Strait Islander.

Figure 13: Average number of court support clients per month by region by year

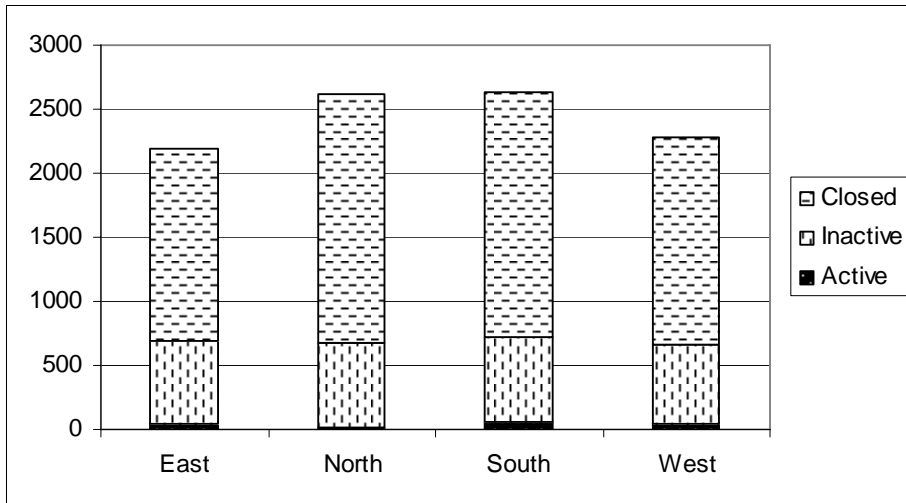


The above chart reconfigures the court support services data by region. It is apparent that the North region had the highest number of clients in the middle years (i.e. 2005/06 and 2006/07), whilst the South region had the highest number of clients in the first and last year (i.e. 2004/05 and 2007/08). Whilst the total number of clients in the North region has grown steadily across the four year period, this pattern of growth in client numbers is far more sporadic in the other two regions. Specifically, client numbers in the South region were almost completely static between 2004/05 and 2006/07, however more than doubled in the 2007/08 financial year, mainly as a consequence of a substantial increase in the number of existing clients. Similarly, for the North-West region there was steady growth in the number of court support service clients between 2004/05 and 2006/07; however client numbers in this region increased dramatically in 2007/08, by as much as 162%. Although the average number of new clients each month doubled between 2006/07 and 2007/08 in the North-West region, again most of this increase was driven by an increase in the number of existing clients.

Case Coordination

The following chart shows the number of family violence 'cases' and their status by each district as at June 2008.

Figure 14: Number of family violence cases by status for each ICC



It is apparent from the above chart that the numbers do not differ significantly by district. Across the state, only 2% of cases are classified as 'active' (meaning that they are reviewed weekly). About 72% of cases across the state have been closed with approximately one quarter of cases being classified as 'inactive' meaning that they remain on the case list for case coordination to review on a 'less than weekly' basis.