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NAPCAN
PREVENT CHILD ABUSE & NEGLECT

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13/07/15

Dear Director

Re: Review of the Domestic and Family Violence Act (The Act)

NAPCAN (National Association for Prevention of Child Abuse and Neglect) welcomes the opportunity to participate in the review of The Act.

We commend the Department of the Attorney General and Justice on prioritising the safety and wellbeing of children by continuing its commitment to improve legislation that directly affects the lives of children living with domestic and family violence.

NAPCAN is a national not for profit organisation that advocates on behalf of children and young people to promote positive change in attitudes, behaviour, policies, practices and the law to prevent abuse and neglect, and ensure the safety and wellbeing of all Australian children.

NAPCAN's strategy is to bring about the changes necessary in individual and community behaviour to stop child abuse and neglect before it starts.

This submission is informed by NAPCAN's work with communities across Australia and the knowledge and expertise of staff. It also draws on NAPCAN's work with children and young people through a series of projects conducted throughout the Northern Territory working with children accessing Safe Houses and Crisis Accommodation Services.

This response does not cover all aspects of the review of The Act put forward by the

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Department of the Attorney General and Justice, but only those for which NAPCAN can provide specific advice based on our expertise.

Suggestion One:

Children's experience in the cycle of domestic and family violence needs further depiction and clarification in domestic and family violence legislation. According to the Australian Institute of Criminology report Children's Exposure to Domestic Violence in Australia, June 2011 research literature (Edleson 1999; Humphreys 2007) indicates that children are exposed to and involved in a wide range of events and incidents when domestic and family violence is present in the home, including the child:

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

In addition research literature (e.g. Bedi & Goddard 2007; Edelson 1999; Gewirtz & Medhanie 2008; Kaufman Kantor & Little 2003; Tomison 2000) shows that in the aftermath of a violent incident, children's exposure to domestic violence can involve:

- having to telephone for emergency assistance;

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

(Richards, 2011, p.1)

The above indicates the need to strengthen the language used, possibly in relation to Section 5. A common Interpretive Framework - Definitions in Family Violence Legislation, Recommendation 5-1 of the Review of the Domestic and Family Violence Act Issues Paper April 2015. Terminology that sufficiently captures the lived experience of children implicated by the perpetrator in domestic and family violence, is crucial in obtaining rights and protection for children under domestic and family violence legislation.

Recommendation 5-1 has put forward (i) behaviour by the person using violence that causes a child to be exposed to the effects of behaviour referred to in (a) - (h) above.

While this terminology goes a long way in defining a child's experience of witnessing, or being exposed to domestic and family violence NAPCAN does not believe it goes far enough in outlining the way children can be used as part of the violent acts undertaken by the perpetrator towards the victim of domestic violence. Suggested terminology could read similar to the following:

(j) behaviour by the person using violence that causes a child to be implicated in the violent acts. A child can be used as part of the violent behaviour of the perpetrator directed towards the victim of domestic violence in multiple ways. For example, as a hostage, used to spy on a

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parent, encouraged to assault/degrade the victim of the violence, being used as a physical weapon etc.

Terminology that captures this important distinction between the child being a passive witness or observer of the violence and the child being actively engaged in the violent acts directed towards the victim by the perpetrator would go a long way in affording children and their caregivers protections under the law.

In addition under Recommendation 5 - 2 of the Review of The Act NAPCAN suggests that children be listed as a certain vulnerable group. Children are widely acknowledged as the most vulnerable people in our society, relying solely on the care and protection of their parents/caregivers.

Suggestion Two

Children living in a home where domestic and family violence is occurring are often experiencing co-occurring forms of abuse. As stated in the Australian Institute of Criminology report Children's Exposure to Domestic Violence in Australia, June 2011:

“the rate of co-occurrence of Australian children experiencing physical abuse and being exposed to domestic violence and experiencing sexual abuse and being exposed to domestic violence have been estimated at 55 percent and 40 percent respectively (Bedi & Goddard 2007)” (Richards, 2011).

Relating to Section 23. Intersection and Inconsistencies, Recommendation 23-10 of the Review of The Act, NAPCAN suggests that more work be done to better equip child protection agency staff when assisting women and children experiencing domestic and family violence. Based on practice experience and research evidence, women and in particular

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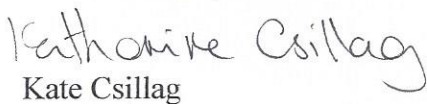
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Indigenous women are less likely to report the presence or involvement of their child/ren in domestic and family violence as they fear statutory involvement and/or family separation (Richards, 2011). This puts the child at increased risk, and minimises the range of supports that could be offered to both mother and child, because a disclosure of the type of harm the child is experiencing is not forthcoming, due to the mothers fear of prosecution.

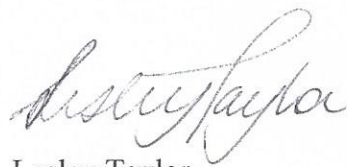
NAPCAN advocates for greater coordination between the Care and Protection of Children Act (2007) and the Domestic and Family Violence Act (2007) and greater training opportunities for child protection staff and police to ensure the often primary carer of children living with domestic and family violence is supported to disclose the realities her child/ren are experiencing, instead of, as is sometimes the case, being re-victimised by the state system if she does disclose.

NAPCAN appreciates the opportunity to contribute our knowledge and expertise in this consultation process. We would be pleased to provide more information should you require it, and to participate in any further discussions on the development of the Review of the Domestic and Family Violence Act. If you have any specific questions regarding this submission please don't hesitate to contact me on 0409 099 581 or lesley.taylor@napcan.org.au

Yours Sincerely,


Katherine Csillag

Senior Project Officer/Trainer



Lesley Taylor

NT Manager