

## Domestic & Family Violence proposals Issues Paper – Nov 2015

### Proposal 2 - Clare's Law

- 1) **Do you think that the introduction of a law similar to Clare's Law in the Northern Territory would succeed in its aim of protecting people who are at risk of domestic and family violence from someone with a history of violent behaviour?**

The Introduction of this would provide some further protection for those at risk in this area. The guidelines for release of information, to which etc. would need to be well considered and monitored.

- 2) **Do you think that there are any specific factors that should be considered or modifications to Clare's Law that would be required in the Northern Territory context?**
- 3) **Do you consider that there are other alternatives which would better achieve the aim of protecting people at risk of domestic and family violence from someone with a history of violent behaviour?**

A register could be introduced for those with continuing offences; reoffend or breach on an ongoing basis. For example to be included on the register if they have three or more convictions; with removal from the list after a 5 year clear history from violent offending.

### Proposal 3 - Domestic violence offender programs and parole

- 4) **Do you think that the ability of the Parole Board to consider rehabilitation measures as well as conditions that should be attached to the parole order provides appropriately for consideration of the completion, or non-completion, of domestic violence offender programs by prisoners?**

The increased commitment by government to ensuring appropriate priority, attention, services and responses to domestic and family violence is positive. In keeping with this it will be essential that there be an adequate availability of relevant services and referral points for suitable programs. Offenders are a product of our society and engagement in rehabilitation should be standard; and from societies perspective its obligation. Clear rehabilitation parameters should be established on an individual needs basis early in the term of the sentence and the legislation guiding the Parole Board should support this process with direct links.

There is a definite need in the NT for programs which focus on the rehabilitation of DV offenders. However, such programs need to be supplemented by programs which have more of a preventive focus. Preventive programs target men who are starting to acknowledge that they sometimes behave in violent or abusive ways towards partners and/or children, and are starting to take some responsibility for this.

#### DARWIN

Address Level 2, 43 Cavenagh Street Darwin NT 0800  
Post GPO Box 4193 Darwin NT 0801

Ph 61-8-8923-4999  
Fax 61-8-8981-6190  
1300-364-277

Relationships Australia Inc  
ABN: 61 874 389 726

#### ALICE SPRINGS

Address 4/11 Railway Terrace Alice Springs NT 0870  
Post PO Box 8367 Alice Springs NT 0871

Ph 61-8-8950-4100  
Fax 61-8-8952-5878  
1800-634-405

Men who are the subject of existing or past Domestic Violence Orders, but may not have been imprisoned as a result of this, are also part of the target group. Relationships Australia and others; deliver these programs that invite men to increase their sense of responsibility taking, and to move towards more respectful ways of behaving.

When such programs are successful, they contribute to the overall safety of women and children in the NT, and reduce the need for a criminal justice response and its associated expense. They also serve to highlight for the wider community the range of behaviours which constitute domestic violence (e.g. verbal and emotional abuse, financial control), in addition to the emphasis on physical or sexual violence which characterises a criminal justice response (note Appendix C does not make mention of any preventive programs, even though Relationships Australia NT has conducted such a 12-week program (In Pursuit of Respectful Relationships) in Darwin for almost ten years and Alice Springs for the last five years.

This program received additional funding through NT Dept. of Health and Community Services during the period 2010-2013, and was independently evaluated during this time (Report dated 16 October 2012)

- 5) **If you think a more direct link should be made between the completion of Domestic violence programs and parole; what methods do you think Would best achieve this? For example, some jurisdictions include a statutory test to capture the key aspects of the parole decision, such as a 'public interest' or 'safety of the community' test and/or list matters to be considered.**

List matters to be considered, i.e. for domestic and family violence

- Nature of Violence
- Number of offences
- Escalation or de-escalation in level of offending
- Whether offending witnessed by a person under 16
- Whether stalking was involved
- Returning to relationship

#### Proposal 4 - Serious sex Offenders Act for violent offenders

- 6) **Do you think that the Sentencing, Act provides adequately for the continuing detention of serious violent offenders by providing the Supreme Court with the ability to sentence an offender convicted of a violent offence to an indefinite term of imprisonment?**

Yes

- 7) **Do you think a similar scheme to the serious sex offenders' scheme providing for continued detention or supervision of violent offenders should be implemented in the NT? Why / why not?**

No, the existing legislation provides sufficiently for this.

#### Proposal 5 - Flash incarceration

- 8) **Do you think that Community Custody Orders would be more effective if there were clear and predictable sanctions for breaching them?**

Yes but the breach needs to be determined and the penalty applied by the courts as many factors impact and need full consideration to protect all parties.

- 9) **Do you think that 'flash incarceration' would provide an effective deterrent to breaching court orders?**

Only if determined by the courts.

- 10) **Do you think that there are particular modifications to the HOPE model that would be required for the NT context in order for it to be effective?**

No

Proposal 6 - Electronic Monitoring

- 11) **Do you have any comments about the use of electronic monitoring?**

In general the initiative can be an effective, more humane and less disruptive intervention on the lives of children and families than incarceration. It is suited in the areas of family and domestic violence in cases where couples are separated and there is a AVO or DVO. It can be useful in monitoring the perpetrator of violence and assuring that the orders are not broken by the perpetrator in approaching the victim or the victim's home or other named areas.

Proposal 7 - Proximity Alarms

- 12) **Do you think that the use of alarms would achieve the aim of protecting victims of domestic and family violence and deterring perpetrators from attempting to interact with them?**

The provision of personal safety alarms is more likely to be an effective measure in the context of family & domestic violence; however it needs to be provided along with a range of safety planning strategies. There is experience of this in other Jurisdictions; and provided the police response is immediate they work well.

- 13) **Do you think that a proximity alarm or a personal safety device would be a more effective tool?**

A personal safety device would be a more effective tool.

- 14) **Are there other methods that you consider would be more effective in achieving the aim of protecting victims of domestic and family violence and deterring perpetrators?**

Within the Territory and in particular Alice Springs there is a need for case management and support for men. The issues that are impacting in their lives such as poverty, mental health, homelessness, substance abuse and disadvantage are such that intervention needs to be a "whole Person" approach. The provision of this support will offer a "circuit breaker" or safety mechanism at times and allow ongoing assessment of risk to all parties.

Proposal 8 - Additional counselling services to be provided in domestic violence matters

- 15) **Do you have any comments on the proposal to broaden the scope of the Witness Assistance Service to encompass a greater number of victims of domestic violence? In particular, how might this be achieved?**

Any such proposal needs to be considered in the context of the NT Safety is Everybody's business strategy; under the integrated response in Alice Springs for example, a worker is already provided in the courts to support victims of family and domestic violence. Is the intent to replace this role and incorporate it into WAS?

Services such as these can be a very important contributor to the safety of women and children subjected to domestic violence.

Domestic violence counselling services associated with women's refuges are a key provider of such a service. There is also value in providing additional funding to other community organisations with a history of providing counselling support to women and children subjected to domestic violence. Thus, women and children seeking support are offered the choice of a range of service providers

There is also scope for supplementation of these services. In certain circumstances, a woman subjected to domestic violence wants her partner to cease his violent behaviour but does not necessarily want to end the relationship.

In these situations, there is a need for a counselling service (e.g. Relationships Australia NT) with experience and expertise in working with both the man who has been using violence and the woman who is subjected to the violence. Such work is usually done separately and individually for a period of time, with movement to couple counselling only if it is assessed that it is safe to do so. There is also an understanding that separation may still be the safest option, depending upon the particular situation.

#### Proposal 9 - Streamlining the process for seeking protection

#### **16) Should there be a separate specialised list for criminal prosecutions involving domestic violence in the Court of Summary Jurisdictions?**

Combining proceedings: The experience of the Family Relationship Centre in particular; is that the separate hearings of the DV application and the criminal proceedings (with the criminal proceedings always taking much longer) means our work in assessing a case for suitability to mediate usually has to wait until the outcome of the criminal proceedings (often many months). Having said that, it is most unusual to assess a case as suitable for mediation where behaviour is of such a nature that criminal charges have been laid. The FRC staff have observed that there is a great deal of stress and suspense experienced by the victim of the violence while they wait for the criminal case to be finalised, even with a DVO in place. If the two processes were to be combined it would be important that cases still get listed quickly.

#### **17) Do you think it would be preferable for a group of specialist prosecutors to conduct criminal prosecutions involving domestic violence and to appear for Police in applications for domestic violence orders?**

In terms of specialist prosecutors: This is highly desirable for a host of reasons. The FRC is aware of cases of domestic violence which are not characterised by physical violence but by coercive and controlling behaviour. There are gaps in the way that this type of domestic violence is dealt with by police, domestic violence legal services and courts – there seems to be less action taken to assist victims in these cases. Specialist court officers may assist in putting together the evidence required to successfully prosecute cases of this nature. The FRC is aware of cases where there are no criminal charges but a DVO has been applied for and the respondent has consented to the orders because they could not afford to pay legal fees to defend the matter which they otherwise had wished to do. This is of concern – if a party is self-represented it would be ideal if the court

and other parties act in such a way as to allow the party to present their case – this may be more likely to occur where court personnel are specialists.

Proposal 10 - Increasing bail programs for domestic violence Offenders.

**18) Do you think that expanding behavioural change programs that target domestic and family violence would be beneficial in helping reduce domestic and family violence?**

Yes it would help but development of a wraparound case management service that addresses the other issues faced on an individually assessed basis is needed to effect longer term change. In addition these programs need to incorporate support services to partners and children.

**19) Do you think the expansion of these programs to prisoners on remand would be likely to achieve the aim of reducing domestic and family violence?**

Yes we need to ensure that a strong message is sent that "violence is not okay!" Rehabilitation should be available for all inmates on a needs assessed basis.

**20) Are there any particular programs that you consider are particularly effective in changing violent behaviour?**

It is about what needs to be in a program to effect change. Building the ability to reflect on one's behaviour and learning to take responsibility for one's behaviour is a process of gradual change as is the mastery of one's reactive and often less conscious reactions and behaviours. In communities where Violence has become a norm, you are looking to change belief and values that are often not conscious which makes for a need for societal change to support and encourage individual change. When the realisation that change is not about being different but about being more, having more personal power and more choice and experiencing oneself and others in a more respectful way the motivation and will to change becomes engaged and change happens.

Proposal 11 - Mutual recognition of domestic violence orders

**21) Do you have any comments on the mutual recognition of domestic violence orders?**

In Alice Springs the FRC occasionally deals with clients with DVOs from SA. Mutual recognition of cross border DVOs assists victims. The current process is cumbersome and confusing. However DVOs are not from identical legislation across the country and some consistency is required – e.g. SA DVOs are apparently indefinite and NT DVOs tend to be for one year only with a requirement to reapply at the end of that time. A much needed change.

Proposal 12 - Amendments to the Criminal Code to prescribe offending that occurs 'in the presence of a child' or 'in a domestic or family relationship' as a circumstance of aggravation for assault

**22) Do you have any comments on the proposed amendments to the Criminal Code to prescribe offending that that occurs' in the presence of a child' or 'in a domestic or family relationship' as a circumstance of aggravation for assault?**

This is an essential change. The underlying public policy considerations of this proposal are in line with recent changes to the Family Law Act on family and domestic violence. The FRC is aware however that the public understands of the psychological harm which is done to children who witness domestic violence is patchy and some more community education on this topic would be helpful.