

By email: kids@humanrights.gov.au

17 June 2015

Dear Commissioner,

Invited submission to the Australian Human Rights Commission National Children's Commissioner's *Examination of children affected by family and domestic violence*

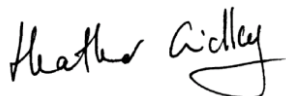
The Australian Psychological Society (APS) welcomes the opportunity to make a submission to your *Examination of children affected by family and domestic violence*.

The APS is well placed to contribute to this consultation by identifying psychological research and best practice as it relates to family violence, particularly in ensuring the protection of victims of family violence from further harm.

The APS hopes that as a result, policy and programs are strengthened to prevent violence and to ensure the safety of victims of family violence (predominantly women and children).

We would be pleased to assist you further, for further information please contact me on 03 8662 3327.

Yours sincerely,



Ms Heather Gridley FAPS
Manager, Public Interest
Australian Psychological Society

Invited submission to the Australian
Human Rights Commission National
Children's Commissioner's

*Examination of children affected by family
and domestic violence*

Australian Psychological Society

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June 2015

The Australian Psychological Society (APS) welcomes the opportunity to make a submission to the National Children's Commissioner's *Examination of children affected by family and domestic violence*. The APS is well placed to contribute to this consultation by identifying psychological research and best practice as it relates to family violence, particularly in ensuring the protection of victims, predominantly women and children, from further harm.

Psychologists often work as researchers and/or service providers with individuals and groups who experience or use violence, including children seeking to both prevent violent behaviour and address its impacts. This submission has been informed by consultation with APS members currently conducting research or working within the family violence system.

Domestic or family violence is one of the most significant health and human rights issues in our community, and often remains an invisible or hidden crime. The negative impact of violence on the health and wellbeing of individuals, groups and communities is of great concern to the APS.

Safety is a fundamental human need, essential for the wellbeing and healthy development of all children. The APS recognises every child's right to safety and wellbeing, and to live free from all forms of violence, and affirms that greater protection for children who are exposed to and witness family and domestic violence is required (United Nations Convention on the Rights of the Child).

We refer the commission to our recent submissions and statement into related matters including:

- the [Royal Commission into Family Violence \(Victoria\)](#),
- the Senate's Finance and Public Administration References Committee [Inquiry into Domestic Violence in Australia](#)
- the [Australian Government's Family Law Amendment \(Family Violence\) Bill 2010 - Exposure Draft](#)
- the [APS Parenting after separation Literature Review and Position Statement](#)

We also refer you to organisations that have developed extensive practice based experience locally with women and children who are victims of family violence, such as [Berry Street](#) and [Doncare](#).

Recommendations

Recommendation 1: It is important that any definition of family violence includes psychological abuse and an accompanying understanding of the dynamics of control frequently used as part of family violence which involve and impact directly on children. Violence and harm directed at children, either directly or indirectly, is best conceptualised and understood within a framework that recognises that violence against woman and children is interconnected and likely to co-occur.

Recommendation 2: The APS acknowledges the while the incidence and prevalence of family violence is widespread, it is also widely acknowledged that the current statistics underestimate what often remains an invisible or hidden crime, especially in relation to children. Family violence is also a gendered crime, with most perpetrators being men, and most victims being women and children.

Recommendation 3: The APS urges the AHRC and Government to work collaboratively with Aboriginal and Torres Strait Islander organisations including family violence services and child and family services as well as local communities to address family violence in a culturally appropriate way.

Recommendation 4: The APS recommends that there is a need to continue to work with children and young people placed in OoHC who have experienced family violence to support their recovery and prevent their involvement in family violence situations in the future.

Recommendation 5: The APS recognises the detrimental impact of family violence on the mental health, wellbeing, social, emotional, physical and development trajectory of infants and children. We recommend that awareness is raised about this harmful impact, along with a focus on protective factors that appear to mediate or minimise harm.

Recommendation 6: The APS recommends that family court processes and outcomes need strengthening to better incorporate the voices and experiences of children, and protect their safety. Children should not be required or permitted by the Court to be in the unsupervised care of parents who have exposed them to violence and/or continue to pose a safety risk.

Recommendation 7: The APS supports ensuring that all advisors in the justice system, including psychologists, are informed about the nature and consequences of family violence, and are sufficiently skilled at identifying family violence and working with parents to prioritise protecting children from harm.

Recommendation 8: The current family violence system needs urgent strengthening, both in terms of funding to meet the huge unmet demands for services, as well as ensuring that all responses are effective, high quality and result in safe pathways for all victims, especially children.

Recommendation 9: Developing expertise around domestic violence means that training should be mandatory and ongoing for maternal and child health nurses,

psychologists and other counsellors/allied health professionals, doctors, members of the legal profession, including magistrates and judges, and police.

Recommendation 10: While there is a recognised need to support the psychological and trauma needs of children exposed to family violence, counselling for children who have experienced or witnessed violence, especially where violence is an ongoing, issue is complex. It is essential that psychologists and other counsellors are adequately trained in family violence so that assessments and services provided are safe and non-judgemental for women and children.

Recommendation 11: It is recommended that specialist family violence services are resourced to increase their focus on children's therapeutic needs and aim particularly at assessing, keeping and supporting mothers and children together. There is a need for further therapeutic and culturally appropriate responses for children in OOH and in Aboriginal and Torres Strait Islander communities, to support young people to recover from their experiences and to make healthier choices to reduce the incidence of violence in the future.

Recommendation 12: The APS supports a public health approach to preventing family violence and recommends further funding for prevention efforts such as awareness campaigns, bystander intervention and respectful relationship education. At the same time, service integration and funding for the system to better protect women and children from violence is urgently required.

Recommendation 13: The APS recommends further data collection and evaluation of existing programs which show promise at protecting children from violence, to better inform policy and practice around children who are impacted upon by family violence.

RESPONDING TO THE INQUIRY

1. What are the definitional issues in relation to family and domestic violence affecting children?

Family violence typically consists of behaviours which are intended by the perpetrator to control the actions of the victim, usually women and children, including their resistance to the violence, and results in varying degrees of fear and intimidation. Family violence is a gendered crime, with most perpetrators being men, and most victims being women and children.

Along with the more widespread acknowledgement of physical and sexual violence, it is imperative for any definition of family violence, particularly as it affects children to also include emotional, psychological and economic abuse, as well as threatening or coercive behaviour that results in fear for safety of victims. An aspect of this control particularly concerning is isolating the victim from potential sources of psychosocial support, both informal from friends and family and formal victim services.

It is important that the dynamics of control involved in family violence are fully understood for the impact on children to be revealed. For example, part of the control used by perpetrators frequently involves harm, abuse, neglect and 'using' children as a way of punishing and harming the primary victim (woman/mother) further. Another significant aspect of family violence that impacts directly on children is the systematic attack on the mother-child relationship by the perpetrator. This may be a direct attack, coercing children to insult their mothers, undermining the woman's mothering through criticism and actions which make it difficult for her to parent, or ensuring that women are punished for spending time with children (Humphries, 2007).

The Family Violence Protection Act (Vic) 2008, (FVPA), The Children Youth & Families (Vic) Act 2005 (CYFA) and Family Law (Cth) Act 1974 (FLA) all enshrine the principle that the safety of children is paramount and that family violence is a form of child abuse.

Since children have been subjects of research about their experiences of family violence, they have also begun to be recognised more as victims in their own right, requiring services that attend to their own experiences of trauma (Morris et al, 2011). As such, definitions of family violence now include behaviour by a person that causes a child to hear or witness, or otherwise be exposed to the effects of violence directed at the woman/mother, as recognised in the Family Violence Protection Act 2008 (Victoria).

Family violence has also been recognised as a form of child abuse that impacts on children and young people's development, safety and well-being. This impact occurs when children and young people witness violence against mothers and other family members, when direct attacks are made on children and young people, and when children act to protect mothers.

There has been an increasing focus on the exposure of children to family violence, and on the effects that this exposure can have (Humphries, 2008). The ABS Safety

Survey 2012, has confirmed that most mothers who have experienced violence (61%) had children at home. Witnessing family violence involves a range of incidents ranging from the child hearing or seeing the violence, to being forced to participate in the violence or being used as part of a violent incident (Richards, 2011). Children continue to be impacted upon by their exposure in the aftermath of a violent incident, having to seek help, coping with injuries or seeing the consequences to a parent after the violence (being regretful, being arrested).

While a focus on 'witnessing' family violence has drawn attention to the impact violence has on children, it has been argued that it fails to capture the extent to which children may be involved in domestic violence, with terms such as being exposed, living with violence and being affected now in use (Richards, 2011). Others have highlighted difficulties associated with assessing the extent of children's exposure to domestic violence, as Richards (2011) states 'distinguishing children who suffer abuse in the home from those who are 'only' exposed to domestic violence presents a considerable methodological and conceptual challenge, as these two phenomena are rarely discrete' (p.2).

It is widely understood that direct violence toward children including physical and sexual assault frequently occurs in the context of family violence, usually perpetrated by fathers or male partners towards the children's mothers (Berry Street, 2015; Laing 2000). This co-occurrence of both intimate partner violence and child abuse among 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).

In an examination of the prevalence of allegations of family violence and child abuse raised in family law children's proceedings, a review of case files found that allegations of child abuse were almost always accompanied by allegations of family violence which is consistent with the complex dynamics and range of issues that exist in cases in which violence is alleged (Moloney et al, 2007). Research cited by Humphreys (2007) suggests that where weekly violence is perpetrated, the probability of child abuse by the male perpetrator was a virtual certainty (see also Humphreys 2007).

While there is a lack of data exist on the proportion of child abuse notifications and/or substantiations that relate to exposure to domestic violence, compared with other forms of child abuse and neglect (Richards, 2011), the above-mentioned research points to co-occurrence representing a significant proportion of those in which either is present (Bedi & Goddard, 2007). This highlights that children's exposure to domestic violence may frequently be one feature of families in which other types of violence are also present and underscores the importance of considering children's exposure to domestic violence in a holistic way.

As a cautionary note, any definition of exposure to family violence by children or of child abuse within family violence contexts, needs to place responsibility for violence with the perpetrator of family violence and ensures that adult victims are not held responsible for their own victimisation and that of their children. Policy responses

that treat women victims as 'perpetrators' of child abuse on these grounds are misdirected at best and counter-productive at worst.

Recommendation 1: It is important that any definition of family violence includes psychological abuse and an accompanying understanding of the dynamics of control frequently used as part of family violence which involve and impact directly on children. Violence and harm directed at children, either directly or indirectly, is best conceptualised and understood within a framework that recognises that violence against woman and children is interconnected and likely to co-occur.

2. What do we know about the prevalence and incidence of family and domestic violence affecting children, including who is involved in family and domestic violence events?

Domestic or family violence is one of the most significant health and human rights issues in our community. While there is clear evidence about the widespread nature and prevalence of family violence, it is also widely acknowledged that the current statistics underestimate what often remains an invisible or hidden crime, especially in relation to children. We refer to the widely cited statistics which state:

- One in three women aged 15 years and over have experienced physical violence, one in five sexual violence and one in four have been emotionally abused by a partner (ABS, 2013)
- About 60-70 women are killed each year in Australia by a current or former partner (domestic homicide) (Chan & Payne, 2013; Mouzos & Segrave, 2004). So that while males continue to be overrepresented both as homicide victims and offenders, females remain overrepresented as victims of intimate partner homicide (Chan & Payne, 2013). Children are also more likely to be killed by their fathers in family violence situations.

Family violence is a gendered crime, with most perpetrators being men, and most victims being women and children. It is widely understood to be related to unequal power relations between men and women, and therefore is at higher rates in unequal societies.

Prevalence estimates from the 2012 Personal Safety Survey by the Australian Bureau of Statistics show that children's exposure to family and domestic violence is widespread and is predominantly associated with violence against women. Much of this violence was seen or heard by children in their care.

The Australian Institute of Health and Welfare reported during 2013–2014 there were 40,844 substantiated child protection notifications in Australia, with 40% for emotional abuse, 19% for physical abuse and 14% for sexual abuse.

While there is no national data on the proportion of child protection notifications that relate to family and domestic violence, it is estimated that family and domestic violence is present in 55% of physical abuses and 40% of sexual abuses against children.

Another area that is often overlooked is the impact on children of their siblings who may be violent towards one or both parents or step parents. The complex aetiology

of such violence is embedded in family violence research, with power differentials operating often during the younger years of the violent adolescents, and the change with growth and impulse control evident, even with the filicide data mentioned above. This area of violence towards parents and younger siblings is an emerging area of research that needs attention.

Recommendation 2: The APS acknowledges the while the incidence and prevalence of family violence is widespread, it is also widely acknowledged that the current statistics underestimate what often remains an invisible or hidden crime, especially in relation to children. Family violence is also a gendered crime, with most perpetrators being men, and most victims being women and children.

Family violence in Aboriginal and Torres Strait Islander communities

While domestic violence affects women of all backgrounds, *Aboriginal and Torres Strait Islander women* are up to 40 times more likely to experience it (AIHW, 2006). A Secretariat of National Aboriginal and Islander Child Care study (cited in Flood & Fergus 2008) found that Indigenous children were significantly more likely to have witnessed physical violence against their mother or stepmother than the 'average' child respondent (i.e., compared with all child respondents). Forty-two percent of Indigenous young people reported witnessing violence against their mother or stepmother, compared with 23 percent of all children, according to the study.

While the reasons for this are complex and linked to the impacts of colonisation, dispossession, family removal policies and ongoing racism and discrimination, the impact on the social and emotional wellbeing of affected individuals and communities is enormous. Violence has been used as an instrument of colonisation, with aboriginal children being removed from their families. It is important that future efforts acknowledge the United Nations Declaration on the Rights of Indigenous Peoples, to which Australia is a signatory, and that aboriginal, community-controlled organisations and families have authority and agency within child welfare and protection, police, family violence and law and justice systems (Berry Street, 2015).

Respect for diversity is sometimes misinterpreted as cultural relativism, justifying a failure to intervene in the affairs of groups defined as 'other.' But violence is unacceptable in any form, and attention to diversity means working from within the perspectives of minority group women experiencing violence (Gridley & Turner, 2010). Thus Aboriginal women in outback communities may prefer to tackle alcohol profiteers to reduce levels of violence associated with substance abuse (Anderson & Wild, 2007).

Recommendation 3: The APS urges the AHRC and Government to work collaboratively with Aboriginal and Torres Strait Islander organisations including family violence services and child and family services as well as local communities to address family violence in a culturally appropriate way.

Children and young people in Out of Home Care (OOHC)

Family violence is one of the predominant contributing factors driving statutory child protection intervention, and the removal of children from family and placement in OOHC (Berry Street, 2015). According to Berry

Street (2015), an independent non-government, not-for-profit agency providing a range of services to children and families:

- Children and young people's experiences of family violence prior to entering OOHC extend across the spectrum of family violence and through all stages of child and adolescent development – from pregnancy.
- Typically, too little is known about the presence of family violence or how this has impacted children and young people
- Child protection risk assessment focuses predominantly on parental capacity and deficits, and less on the assessment of children's needs arising from the cumulative impact of family violence or other causes of harm.

Despite the high prevalence of family violence experience co-occurring with abuse and neglect that leads to removal from family, there are currently inadequate responses to identify harm and assist children to recover and ensure they are not at risk of repeating patterns of relating into adulthood (Berry Street, 2015).

Recommendation 4: The APS recommends that there is a need to continue to work with children and young people placed in OoHC who have experienced family violence to support their recovery and prevent their involvement in family violence situations in the future.

3. What are the impacts on children of family and domestic violence?

Violence has a significant impact on the mental health and wellbeing of victims (predominantly women and children). According to the American Psychological Association (APA) Resolution on Male Violence against Women (1999):

- violence against women is a major cause of reduced quality of life among women and children, and of distress, injury and death for women, and has serious secondary effects for families, communities, and the economy
- being assaulted by or witnessing assaults toward family members in childhood or adolescence increases the likelihood of mental health problems, substance abuse, and involvement in abusive relationships for both women and men.

Recognition of the impact of family violence on children and an accompanying focus on their needs has only recently occurred, however evidence is quickly mounting to demonstrate the harmful impacts, including physical, sexual, psychological, social and in terms of children's developmental trajectory. This harm has been associated with both direct abuse and exposure to family violence (Sternberg et al, 2006).

Family violence affects children's physical, social, emotional and psychological wellbeing. It has been shown to lead to higher rates of depression, anxiety, behavioural issues and developmental delay. Longer term impacts include heightened risk of exposure to, or perpetration of violence in adolescence and adulthood, leaving children vulnerable to intergenerational violence.¹

1 Edleson, J.L., Children's witnessing of adult domestic violence. *Journal of Interpersonal Violence*, 1999a. 14(8): p. 839–870. 4. Fantuzzo, J.W. & W.K. Mohr, Prevalence and Effects of Child Exposure to Domestic Violence. *The Future of Children*, 1999. 9(3): p. 21–32. 5. Ehrensaft, M.K., et al., Intergenerational transmission of partner violence: A 20-year prospective study. *Journal of Consulting and Clinical Psychology*, 2003. 71(4): p. 741.

There is no doubt that growing up with domestic violence, either as a witness or as a child experiencing violence, is a significant predictor of future problems. The single biggest predictor for becoming a perpetrator is being a male who has grown up with violence. Psychologists in counselling practices see many men whose lives are blighted by these experiences. Girls growing up with violence are more likely to become victims. Men and women in the prison population have an enormously high incidence of growing up with violence at home.

However not all children are equally affected by the violence they witness or live with, with some at serious risk of harm, even death, others are not as impacted due to specific protective factors (Humphries,). It is also important to recognise that a growing body of research indicates that many children from violent homes do not exhibit any signs of traumatisation—'in any sample of children who are affected by domestic violence, there are generally about 50% who do as well as the control group' (Humphreys 2007: 10). A meta-analysis of 118 studies of childhood exposure to domestic violence by Kitzmann et al. (cited in Humphreys 2007) found that over one-third of children exposed to domestic violence demonstrated wellbeing comparable with, or better than, children from non-violent homes. Many factors are likely to mediate the impact of exposure to violence, including age, gender, coping ability, social support, and other life experiences.

Research has also indicated that mothers play a 'compensatory' role, supporting and assisting children to cope with trauma they had experienced and ongoing unsatisfactory relationships with fathers/perpetrators (Laing, 2010). Mothers' ability to maintain mothering functions, to model assertive and non-violent responses to abuse and to maintain positive mental health has also been associated with children's ability to cope with the adversity of living in a violent home' (Humphreys 2007).

As Humphreys (2007:10) stresses, children from violent homes are a heterogeneous group, who live in 'different contexts of both severity and protection'. It is important to note, however, that children who do not display overt signs of traumatisation may still be traumatised by exposure to domestic violence (Richards, 2011).

Babies, infants and young children are particularly vulnerable to the impacts of family violence, with the importance of forming secure attachment relationships in infancy (e.g., Bowlby, 1969) together with neurobiological and neuropsychological evidence about child wellbeing and the importance of continuity of carer for optimal development (Bretherton et al, 2011) well known. It is believed that enduring parental conflict (and violence) can disrupt vital attachment processes in infancy and toddlerhood, with high intensity conflict and disrupted care each separately and together linked to the development of insecure and disorganized attachment styles (McIntosh, 2003). Extended overnight time away from the primary caregiver is likely to erode the security of the attachment to that parent (George & Solomon, 1999), whereas there is no reliable data to suggest that attachment with a non-resident parent is disrupted by similar absences. The primary care relationship therefore is fundamental to continuity of care for children and care for a child post-

separation should be based on established patterns of parenting (pre-separation), focusing on strengthening the attachment between the child and primary caregiver.

While family violence obviously has detrimental effects on the immediate victims (usually women and children), it is an issue which impacts more broadly on families and communities. Family violence has been linked to unemployment, homelessness and significant costs to the Australian economy. KPMG, for example have forecast that the cost of family violence to the economy will be \$15.6 billion in 2021 if action is not taken to prevent and address its harmful impacts.

Recommendation 5: The APS recognises the detrimental impact of family violence on the mental health, wellbeing, social, emotional, physical and development trajectory of infants and children. We recommend that awareness is raised about this harmful impact, along with a focus on protective factors that appear to mediate or minimise harm.

4. What are the outcomes for children engaging with services, programs and support?

The Family law system and outcomes for children

Engagement with services, programs and support often happens at the point of parental separation, where violence often escalates and decisions about care of the children are required.

The Australian Institute of Family Studies evaluation of the 2006 Family Law reforms by Kaspiw et al (2009) confirmed that the majority of contested Family Court matters involve allegations of violence and/or child abuse. While recent changes to the law have meant family violence should be taken more seriously, including its impact on children, there remains a tension between the two 'primary' considerations (that children have 'meaningful involvement' with each parent and also need to be protected from exposure to harm from violence). . A child cannot have a positive meaningful relationship with a violent and abusive parent and yet family Court decisions seem to have put both women and children at risk of further harm, and even loss of life.

There is a tendency within the family law system, as well as society more generally, to see the protective behaviours of a parent as alienating and vindictive behaviour. Where this happens, a common recommendation is to restrict the child's access to this protective parent even when they have no other concerning parenting behaviours, or to remove them altogether. This leaves a child without their primary attachment figure and exposed potentially to further abuse.

Contact with parents who use violence towards the primary caregiver and/or the child compromises the child's safety and contributes to poorer wellbeing and developmental outcomes. Evidence suggests the encouragement of shared care exposes mothers and children to a greater risk of violence, abuse and continuing control by former partners than if there was no such encouragement towards shared care (Cashmore et al, 2010).

Improving the responsiveness of the family courts by addressing long waiting periods, following up on relevant evidence of allegations of abuse, increasing the expertise in domestic violence support and recovery at all stages of the legal process (including expertise in child development), and developing procedures for child victims of domestic violence to feel safe while going through legal processes is needed.

In particular, family court processes and outcomes need strengthening. – failure to protect children has long-term, and often life-long consequences. Children should not be required or permitted by the Court to be in the unsupervised care of parents who have exposed them to violence, for example, by being violent to the child’s mother, and their views need to be taken into account when deciding contact arrangements.

Allegations of domestic violence in Family Court contexts should be investigated by those who understand the dynamics of domestic violence and the ways that perpetrators can manipulate professionals at all levels, including in the Child Protection system and the courts. While there is mounting evidence of the negative impacts of domestic violence on children’s mental health and wellbeing, policy responses that treat women victims as ‘perpetrators’ of child abuse on these grounds are misdirected at best and counter-productive (and potentially dangerous) at worst.

Courts should ask about any risk issues and about past and current abuse. Police and Child Protection Files should be made available to the court where they exist. This should include Intervention Order files as well as matters relating to any charges laid. Victims own assessment of risk should be taken into consideration, as this has been found to be a strong indicator of future incidents/harm (Hanson et al., 2007).

Children should be routinely protected by policy, courts and the justice system more generally where their mother has been deemed to be at likely ongoing risk (e.g., Family Violence Intervention Orders could include children).

Recommendation 6: The APS recommends that family court processes and outcomes need strengthening to better incorporate the voices and experiences of children, and protect their safety. Children should not be required or permitted by the Court to be in the unsupervised care of parents who have exposed them to violence and/or continue to pose a safety risk.

Recommendation 7: The APS supports ensuring that all advisors in the justice system, including psychologists, are informed about the nature and consequences of family violence, and are sufficiently skilled at identifying family violence and working with parents to prioritise protecting children from harm.

The capacity of the family violence service system to keep children safe

The current family violence system needs urgent strengthening, both in terms of funding to meet the huge unmet demands for services, as well as ensuring that all responses are effective, high quality and result in safe pathways for all victims, especially children.

While there have been many positive developments taking place in Victoria to prevent and respond to family violence (such as increasing reporting of family violence, increasing safety through improved policy response and intervention order systems) police data has indicated that reporting of family violence incidents to police has increased by 83% from 2009-10 to 2013-14 without any adequate (or in many cases any) increases to funding for service provision. Urgent funding is needed across the system to meet the safety needs of all victims, especially children.

APS members with years of experience working in this field report the following as either contributing to the violence, or impeding recovery of women and children:

- **Lack of alternatives for women wishing to exit an unsafe relationship with their children.** There is a serious and chronic shortage of affordable housing, and women exiting such relationships are typically under 40 and have dependent children; this reduces their capacity to access paid work or private rental. Refuge housing is a last resort and more women than not are turned away due to shortages.
- **The cyclic nature of domestic abuse** means that women are often ambivalent about whether they wish to continue in the relationship. The psychological impact of living with abuse, and the inherent difficulties in leaving, make women very susceptible to temporary promises of change. This often exposes them to further abuse.
- **The difficulty in making perpetrators accountable for domestic violence and abuse** is a major impediment to recovery for women and children, and a major cause of repeated abuse. There are low rates of charges being laid in the context of domestic assaults, and there is evidence that penalties for abusing a partner are less than if the man had similarly assaulted a stranger. Men often breach Court Orders with little or no consequence; Family Court judgements may minimise or ignore reports of abusive behaviour, and shared care arrangements may expose both abused women and their children to frequent distress, especially when more subtle forms of abuse and harassment are difficult to verify
- **Ignorance about the frequency and nature of abusive relationships** Psychological evidence indicates that a past history of violence is the best predictor of future violent behaviour, and this must be considered when assessing the safety of women and children who are potential victims of this violence. Where victims do not feel safe, even after they have left the relationships, the community has a responsibility to try to ensure this safety. At the personal level, a woman's subjective fear can be the best indicator of the dangerousness of her violent partner, regardless of any informal or professional risk assessment – yet her voice is often ignored, sometimes with fatal consequences.

- Lack of supportive responses when women seek help**

Women report very mixed responses from all types of professionals, including the police, the courts, medical and legal personnel, and even, though less often, from workers in designated domestic violence support roles. There is also a lack of alternatives for women wishing to exit an unsafe relationship, with a serious and chronic shortage of affordable housing in particular. Women exiting such relationships often have dependent children; this reduces their capacity to access paid work or private rental. Refuge housing is a last resort and more women than not are turned away due to shortages, often meaning they have nowhere safe to be. This situation, combined with the knowledge that the majority of women murdered by their partners are killed when preparing to leave or leaving, or after they have left, can make women feel that perhaps it is safer for them, and possibly their children, to remain with an abusive partner.
- Lack of consideration of context of family violence**

Allegations of domestic violence in Family Court contexts should be investigated by those who understand the dynamics of domestic violence and the ways that perpetrators can manipulate professionals at all levels, including in the Child Protection system and the courts. While there is mounting evidence of the negative impacts of domestic violence on children's mental health and wellbeing, policy responses that treat women victims as 'perpetrators' of child abuse on these grounds are misdirected at best and counter-productive (and potentially dangerous) at worst.
- Developing expertise** - domestic violence training should be mandatory and ongoing for maternal and child health nurses, psychologists and other counsellors/allied health professionals, doctors, members of the legal profession, including magistrates and judges, and police. There have been unfortunate reports that some members of the judiciary see experts in domestic violence as being biased in favour of the woman rather than as experts in their field.

Recommendation 8: The current family violence system needs urgent strengthening, both in terms of funding to meet the huge unmet demands for services, as well as ensuring that all responses are effective, high quality and result in safe pathways for all victims, especially children.

Recommendation 9: Developing expertise around domestic violence means that training should be mandatory and ongoing for maternal and child health nurses, psychologists and other counsellors/allied health professionals, doctors, members of the legal profession, including magistrates and judges, and police.

Mental health and counselling services

While there is a recognised need to support the psychological and trauma needs of children exposed to family violence, the need for, access to and effectiveness of counselling children, especially where violence is an ongoing issue is complex.

Despite the high levels of distress children experience, accessing counselling and mental health services is often not possible or recommended for many victims (Laing, 2010). Practice experience of our members indicates:

- the family law system discourages women from accessing mental health help as it is seen to jeopardise the legal position of women and children, and lack of access to appropriate, sensitive services is also an issue.
- perpetrators do not want/will not give permission for the child to have therapy as they do not want the abuse disclosed
- protective parents who seek help for the children are sometimes seen as trying to 'make a case' about abuse, which is then not believed
- counsellors who see children living with domestic violence know that while the child continues to live with domestic violence (even on access, or through witnessing DV against a parent) the presenting issues are unlikely to change much. People cannot recover from trauma while they are still experiencing it.
- children's counselling files can be subpoenaed, and can then be used as a weapon in court. This undermines the child's sense of safety, and breaks their confidentiality (they usually do not understand the court's right to know what they have told the counsellor). A case could be made that children's files be protected from being subpoenaed.
- children commonly blame themselves when things in their family do not go well, even for the abuse and for not being able to protect a parent or prevent the violence.

Where counselling is deemed to be safe and in the best interest of children, services for children need to be more readily available, with many mental health services for children regularly having long waiting lists.

Persons charged with the authority to conduct family assessments for legal purposes (usually psychologists) should have significant training in and understanding of the dynamics of family violence. This training needs to include, for example, an understanding of the variety of abuses of power and control, many of which are evident throughout the court process and beyond. This also needs to include sensitive and safe responses to disclosures, careful screening of risk and access to support services. Adequate screening tools need to be adopted and applied universally. It is vital that such assessors apply principles and practices which reflect current legislation and research, such as treating domestic violence as a crime, the perpetration of violence as a deliberate choice, appreciate the low rate of false allegations of violence and abuse and demonstrate an awareness of known evidence based risk factors. Such practitioners should be trained to complete a risk assessment tool such as the Common Risk Assessment Framework where abuse is alleged.

In terms of mothers access to mental health support, a frequent concern is the misunderstanding and misuse of mental health diagnosis in subsequent follow up action. For example, women may be penalised for seeking help if they are diagnosed with a mental health issue and their help-seeking is seen as evidence of pathology rather than as appropriate self-care. Symptoms and aftermath reactions should be normalised rather than pathologised. Another dimension of this problem relates to medical or psychological evidence that may be called upon in custody disputes. It is imperative that where, for example a woman is depressed or anxious as a result of intimate partner violence, this connection is properly documented in

the patient's/client's history. If it is not, the presence of depression could be used as grounds to argue that a woman was psychologically unfit to have custody of her child/children. Recognition that women have psychological distress as a result of being victimised must be balanced by an understanding that they can and will recover once they are safe and not being routinely abused. This psychological recovery is an important consideration when decisions are being made based on current psychological functioning and have a direct impact on children's wellbeing, safety and ongoing relationship with their parents.

Recommendation 10: While there is a recognised need to support the psychological and trauma needs of children exposed to family violence, counselling for children who have experienced or witnessed violence, especially where violence is an ongoing, issue is complex. It is essential that psychologists and other counsellors are adequately trained in family violence so that assessments and services provided are safe and non-judgemental for women and children.

Family sensitive, therapeutic responses

While acknowledging that family violence services have not always been effective at attending to the needs of children, there is emerging evidence that family sensitive, therapeutic practice that assesses and addresses mothers and their children together represents a promising approach.

Integrating family violence risk assessment within the context of the parent/child relationships and at key points within the life cycle of violence in families, and for three groups of families in particular is recommended (Berry Street, 2015). Three groups of children affected by violence include;

1. Infants and children residing in two-parent families in the perinatal period, where there is substantial risk of intimate partner violence occurring for the first time or escalating (e.g. during pregnancy).
2. Infants and children residing in recently separated families, with one residential parent, where there is immediate high risk of lethality from the non-residential parent toward the other parent and child (e.g. recent L17 assessed as high risk). This group are often in acute circumstances of changes in housing, schools, and as yet family law arrangements may not have been instigated.
3. Infants and children residing in post-separation families, having contact with a non-residential parent with a history of using violence and who are below the threshold for statutory intervention.

In particular, strengthening the mother-child relationship in the aftermath of family violence is a key point of intervention (Humphreys et al 2011). This directly responds to the systematic attacks to the mother-child relationship which is a widespread tactic by perpetrators of family violence.

In Victoria, a number of promising programs exist that have adopted this model, including the Royal Children's Hospital, Doncare and Berry Street's Turtle program, which include therapeutic programs situated within a larger family violence service offering assessment and treatment for children and their mothers after family

violence, and services for mothers and children which are co-located and work collaboratively with families. The Turtle program in particular, supports the relationship between mother and child as the central developmental resource for the child, takes a long term therapeutic approach and is based on evidenced but presents challenges to policy makers, sector organisations and funders (Berry Street, 2015).

Of specific concern is that there are no specific therapeutic responses for children and young people in out of home care who have experienced family violence. Child protection has limited capacity to undertake risk assessment and safety planning in a family violence context. When young people have been removed, the risk can often remain quite high and children and young people fret about their parents and/or siblings left behind. It is the experience of Berry Street that children and young people have very strong and often confused feelings about the family violence they have experienced because of their relationships and alliances within their family. Whilst the immediacy of risk for an individual child might be managed by removing that child, the follow-up work with the parents, and other or subsequent children is limited, and the ongoing work required to break ingrained patterns of violent behaviour is not addressed.

This is a significant gap in the system that needs urgent attention (please see attached submission from Berry Street for a more detailed discussion of this issue and associated recommendations).

Recommendation 11: It is recommended that specialist family violence services are resourced to increase their focus on children's therapeutic needs and aim particularly at assessing, keeping and supporting mothers and children together. There is a need for further therapeutic and culturally appropriate responses for children in OOHC and in Aboriginal and Torres Strait Islander communities, to support young people to recover from their experiences and to make healthier choices to reduce the incidence of violence in the future.

5. What are the outcomes for children of public policy approaches and educational campaigns targeting family and domestic violence?

The APS believes a range of prevention, early intervention and tertiary level responses are needed to prevent and address family violence. We also acknowledge that policy and service responses across a range of sectors can impact upon and potentially support victims of family violence, including children, such as legal, housing, health, mental health and welfare responses.

Current public policy approaches to family violence

Both locally (Vichealth) and internationally (World Health Organisation) a public health approach to violence, where violence and its consequences are seen as a prevalent, serious and preventable issue is advocated.

Generally speaking, (traditionally) the response of the health sector to violence is largely reactive and therapeutic. Because that response tends to be fragmented into

areas of special interest and expertise, the wider picture and the connections between different forms of violence are often ignored. Violence, however, is a complex phenomenon and needs to be addressed in a more comprehensive and holistic manner (WHO, 2002).

A public health approach:

- by definition, does not focus solely on individual patients, but rather on the health of communities and populations as a whole
- focuses wherever possible, on populations at greatest risk of disease or injury
- has as fundamental goals the preservation, promotion and improvement of health
- emphasises prevention over treatment of the health consequences.
- is evidence based.
- is also multidisciplinary, where diverse professions work in partnership to make use of a wide range of professional expertise, from medicine, epidemiology and psychology to sociology, criminology, education and economics.

A number of National frameworks that aim to coordinate and commit to addressing the impact of family violence on women and children , including the *National Framework for Protecting Australia's Children* (COAG 2009) and the *National Council's Plan for Australia to Reduce Violence against Women and their Children* (NCRVWC 2009) identify the impact of violence on children, and contain recommendations to address this impact.

While these statements are to be supported, there is scope for further focus on child-focused services that can address children's particular needs and support their recovery and development, in the context of the mother and child relationship. Furthermore, those practice aspects of the system that do support children remain underfunded and lack robust evaluation.

The APS acknowledges the positive developments that have taken place to prevent and respond to family violence in Victoria. These reforms include increasing awareness and reporting of family violence, increasing safety for victims of family violence (through improved police response and intervention order systems) and prevention programs (such as bystander intervention and respectful relationship education).

These reforms, which have resulted in increased referrals and service access, coupled with recent funding cuts however, have meant that the family violence response system does not have the capacity to meet demands. This places women and children at increased risk of harm. Services need to be more accessible for those experience family violence, and be integrated with other areas of service delivery such as mental health, alcohol and other drug, and child protection services. Urgent funding across the system is required for this to be achieved.

Recommendation 12: The APS supports a public health approach to preventing family violence and recommends further funding for prevention efforts such as awareness campaigns, bystander intervention and respectful relationship education.

At the same time, service integration and funding for the system to better protect women and children from violence is urgently required.

Child protection & mandatory reporting

While in some situations there is a clear case for referral to child protection for children directly harmed by family violence, developing policy or legislative responses which mandate referral for all children who experience or witness violence is unlikely to be in the best interests of the child, or the child and protective parent relationship. A range of concerns have been outlined by the Australian Institute of Criminology (Richards, 2011) in relation to mandatory reporting including:

- as domestic violence and child abuse are addressed by legislation and/or policy relating to various domains mandatory reporting requirements may relate only to particular groups of professionals, while others are not mandated to report
- a lack of awareness among professionals about the potential impacts of children's exposure to domestic violence, combined with the sometimes haphazard nature of mandatory reporting requirements, may therefore result in large numbers of children from violent homes being excluded from child protection interventions
- although the under-reporting of children's exposure to domestic violence may be a valid concern, increased awareness of and willingness to report child abuse, as well as expanding definitions of child abuse and mandatory reporting requirements are likely to contribute towards the flooding of resource-limited child protection departments and consequently make it difficult for child protection workers to identify the most serious cases of child abuse (Humphreys 2008, 2007).

Furthermore, mandatory reporting requirements in relation to childhood exposure to domestic violence have also been criticised for their capacity to blame adult female victims of domestic violence for 'allowing' their children to witness violence in the home (Humphreys 2008). In the United States, a number of jurisdictions have, in recent years, passed legislation that defines domestic violence in the presence of a child as a form of child abuse (see Kaufman Kantor & Little 2003 for a discussion of these laws) and a number of child protection departments have redefined exposure to domestic violence as a type of child maltreatment (Edleson 1999). Such legislation and policy has been criticised for placing an unfair burden on female victims of violence and casting battered women as perpetrators of child abuse (Edleson 1999; Flood & Fergus 2008; Kaufman Kantor & Little 2003).

Policy and legislative approaches that mandate the reporting of children's exposure to domestic violence may also discourage women from reporting their own victimisation for fear of losing their children (Edleson 1999; Flood & Fergus 2008). This is particularly concerning for Indigenous women, given past government practices of removing children from Indigenous families (Adams & Hunter 2007; Humphreys 2008, 2007) and given the current over-representation of Indigenous children in out-of-home care (Humphreys 2010, 2008; for a detailed discussion of the reasons for under-reporting of violence in Indigenous communities see Willis 2011). Recent research has shown, conversely, that having children who are

exposed to violence in the home is a significant predictor of woman's decision to seek formal support following intimate partner violence (Meyer 2010).

Education and attitude change

As a primary prevention strategy, there is a need for education in schools for boys and girls about the warning signs of abusive and controlling behaviour (beyond education on healthy relationships). Consequences for antisocial behaviour such as bullying must be readily available and enforced. Collaboration with women's health and family violence services to provide public health and education campaigns designed to raise awareness and prevent family violence in all its forms is also important.

As discussed above, addressing family violence involves addressing gender inequality - a range of strategies is required to address gender equity, and gender stereotypes specifically, in both the media and society more broadly. A range of prevention, early intervention and tertiary level responses are needed to prevent and address family violence and some excellent programs already exist. Policy and service responses across a range of sectors can impact upon and potentially support victims of family violence, including legal, housing, health, mental health and welfare responses.

Attitudes that hold women victims accountable for the harm inflicted upon them and their children by perpetrators need to be addressed. The reasons why women do not leave are complex but yet well documented. The fact that abusive partners might not be abusive all the time, and can be loving at other times, that couples often have a long and valued history together, and that being a partner or wife and sharing a house and possibly children with someone is a very significant or central part of many women's lives and identities, means that they can often be ambivalent about whether they wish to continue in the relationship. This ambivalence is compounded by serious practical and material constraints on any 'choice' to leave. The psychological impacts of living with abuse, and the inherent difficulties in leaving, can thus make women very susceptible to temporary promises of change, which often exposes them to further abuse. Leaving a violent relationship is also the most dangerous time for women and children, so women may be in fact keeping children safe by staying. The most common reason for staying is fear of what will happen to them and to their children when they leave.

Although psychological research indicates that being exposed to or witnessing violence and/or strong conflict and tension is detrimental to a child, and that this is the key source of detriment to children whose parents separate, rather than the separation itself, the commonly held, but not strictly accurate, view that children are better off living with both of their parents can exert additional pressures on women to stay with abusive partners.

6. What are the surveillance and data gaps/needs in relation to children affected by family and domestic violence?

There is significant scope for further data collection and evaluation to inform better policy and practice around children who are impacted upon by family violence. This includes:

- A more detailed collection and analysis of the incidence of exposure to, direct experience of abuse and co-occurrence rates of family violence and child abuse
- Long term follow-up of court cases where significant abuse is alleged or has occurred to the other parent or to that child or others, and the child is ordered to have contact with the perpetrator.
- Tracking of outcomes for children ordered to have contact with a perpetrator of family violence by the Court. Denying children a meaningful relationship with a protective or benign parent just to punish the parent is dangerous on many fronts (immediate risk from perpetrator, and of further psychological harm, long term risk of suicide, and negative health outcomes)
- programs that address the needs of children from violent homes are under-researched. There needs to be significant investment to evaluate the effectiveness of strategies designed to address children's exposure to domestic violence could lead to more effective evidence-based practice in this area.

Recommendation 13: The APS recommends further data collection and evaluation of existing programs which show promise at protecting children from violence, to better inform policy and practice around children who are impacted upon by family violence.

Conclusion

The APS is committed to preventing violence and ensuring the safety of victims of family violence, predominantly women and children, and hopes that as a result of this inquiry policy and programs are strengthened to support women and children who are victims of violence, and that attitudes about the causes and consequences of violence begin to change.

The APS specifically emphasises the need for fundamental social change to remove the cultural and material supports of violence against women and children. Addressing gender inequality and raising the status of women is essential, in terms of working towards a more equal distribution of resources and power between men and women, changing attitudes that permit or encourage men to assume dominance and control over women and children and encouraging family violence to be seen as a community responsibility are essential prevention responses.

Understanding and responding to women and children together represents a promising way forward as it recognises the interconnected nature of family violence and promotes child safety as well as supports recovery from past harm.

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About the APS

The Australian Psychological Society (APS) is the national professional organisation for psychologists with over 22,000 members across Australia. Psychologists are experts in human behaviour and bring experience in understanding crucial components necessary to support people to optimise their function in the community.

A key goal of the APS is to actively contribute psychological knowledge for the promotion and enhancement of community wellbeing. Psychology in the Public Interest is the section of the APS dedicated to the communication and application of psychological knowledge to enhance community wellbeing and promote equitable and just treatment of all segments of society.

Psychologists regard people as intrinsically valuable and respect their rights, including the right to autonomy and justice. Psychologists engage in conduct which promotes equity and the protection of people's human rights, legal rights, and moral rights (APS, 2007). The APS continues to raise concerns and contribute to debates around human rights, including the rights of clients receiving psychological services, and of marginalised groups in society (such as Aboriginal and Torres Strait Islander people, asylum seekers and LGBTI individuals and groups)

(<http://www.psychology.org.au/community/public-interest/human-rights/>).

Underpinning this contribution is the strong evidence linking human rights, material circumstances and psychological health.