



# Newsletter

December 2003

## From the Director

### What's in a name?

Commencing on 5 January 2004, the Queensland Centre for the Prevention of Domestic and Family Violence will officially be re-named.

This decision has not been taken lightly and is the result of community and sector feedback, and experience over the past 18 months with the current name.

The name "Queensland Centre for the Prevention of Domestic and Family Violence" is long and difficult to say and the acronym, QCPDFV, is a long string of letters that cannot be said as a "word". Since its inception, stakeholders have called for the Centre to adopt a more appropriate name. The temptation to refer to "the Centre in Mackay" is strong and many in the sector have succumbed. The Centre was also being referred to in the media as the "Mackay Domestic Violence Service", confusing it with the Mackay Regional Domestic Violence Service.

Another major concern with the name "Queensland Centre for the Prevention of Domestic and Family Violence" is that it does not convey a strong sense of the Centre's key functions: research, education and evaluation. The Centre is frequently fielding requests for counselling and support, or posters, stickers, badges and balloons - services that it cannot provide. In light of these problems, and in consultation with members of the Queensland Domestic Violence Services Network, members of the Centre's Advisory Groups, and officers of the Department of Family Services, the Centre will adopt the name "Queensland Centre for Domestic and Family Violence Research".

**The Centre will adopt the name  
"Queensland Centre for Domestic & Family Violence Research"**

This name will signal much more clearly our primary purpose, avoiding confusion (and disappointment for people seeking counselling, stickers, posters and balloons). It does not change in anyway our functions, nor our commitment to ensuring gender, race and class analyses of domestic and family violence, and the production of educational materials based on the evidence of sound research.



### CHRISTMAS CLOSURE

Please note that the Centre will be closed from Monday 22 December 2003 to Friday 2 January 2004 for the Christmas break. We would like to wish everyone peaceful and safe celebrations, and thank you for your contributions during the last 12 months.

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# Human Rights and Domestic Violence – Recognising and Realising the Rights of Women

Dr Susan Rees, Post-Doctoral Research Fellow, QCPDFV

December 10 is Human Rights Day, and it is marked annually to commemorate the adoption of the Universal Declaration of Human Rights. Domestic violence is beginning to be viewed as an international human rights issue because women have worked hard to bring it into the public domain. Nevertheless, the private and gendered nature of domestic violence has until recently ensured its exclusion from consideration as a state responsibility (Rees, 2003).

The purpose of human rights is to define what rights are essential if all people are to live in a secure and healthy environment in whatever communities they belong (Bailey, 1993). Kofi Anan said human rights are intended to be the principles by which we create the sacred home for human dignity. In defence of the universality of human rights Anan said 'the universal declaration of human rights is a global bulwark against all systems and all ideologies that would suppress our distinctness and our humanity. Diversity no less than dignity is essential to the human condition' (Anan, 1997:np). Then consider Jane Connors' still pertinent comment that 'women... have been revealed as seriously deprived of basic human rights. Not only are women denied equality with the balance of the world's population, men, but also they are often denied liberty and dignity, and in many situations suffer direct violations of their physical and mental autonomy' (Connors, 1989:7).

Since 1945 a political commitment to human rights has been expressed in numerous Charters and Declarations of which the 1948 Universal Declaration of Human Rights and the European Convention for the Protection of Human Rights are the most familiar. The 1948 Declaration contains three forms of rights: civil and political; economic, cultural and social; and solidarity rights (Human Rights and Equal Opportunity Commission, 2000).

The following table shows some of the human rights guaranteed in the main treaties. Consider domestic violence in relation to each one of the rights:

- Right to self-determination	- Right to physical and moral integrity
- Nondiscrimination	- Right to liberty and security
- Prohibition of torture and of cruel, inhuman or degrading treatment or punishment	- Right to enjoy the highest standard of physical and mental health
- Right to effective remedy for violations	- Right to freedom of movement and residence
- Right to freedom of thought, conscience and religion	- Right to protection of motherhood and childhood
- Right to work	- Prohibition of slavery
- Right to procedural guarantees in criminal trials	- Right to privacy
- Right to seek asylum	- Right to social security
- Prohibition of apartheid	- Right to life
- Right to education	- Right to participation in cultural life
- Right to freedom of expression	- Right to nationality
- Right to freedom of peaceful assembly	- Right to freedom of association

(Source: Tomasevski 1993:47).

If you glance over the table the breaches of human rights are evident in our own country, a liberal western democracy. Consider for instance, the inhumane detention of asylum seekers, and policies and practices impacting negatively on Indigenous Australians including related poor health status and a mortality rate some 15-20 years lower than that of non Indigenous Australians. The fear, torture and discrimination inherent in the chronic plague of domestic violence perpetrated against women by men in this country is also a violation of various human rights. I will briefly apply some of my current work to highlight

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issues confronting women in the challenge to have domestic violence treated, not just articulated, as a human rights issue.

### **Domestic Violence – Common and Rarely Prosecuted**

State sponsored violence against women has been considered a public and therefore more acceptable example of breaching human rights, and violence occurring in the home has proven more difficult to bring into the public domain as a human rights issue. Nevertheless, the UN Declaration on the Elimination of All Forms of Discrimination Against Women (CEDAW), the formation of a related UN Committee charged with overseeing the implementation of CEDAW, and the Declaration on the Elimination of Violence against Women were significant milestones to counter the effects of public/private dichotomies and the perceived gender neutrality of traditional international human rights. These United Nations instruments, and the application of the United Nations Convention Against Torture, have paved the way for domestic violence to be viewed as a travesty of social and political rights, rather than as a private issue (Kozma and Dauer 2001).

It is indeed an advancement that, where governments fail to outlaw acts of violence against women, or to establish adequate legal protections for women, they are technically violating international law. States

**It is not difficult to argue that domestic violence is in most cases  
torture according to definition.**

now have a responsibility to protect social and cultural rights and therefore to ensure that women have equal opportunities, including in education, to shelter, employment and to the highest attainable health status. States also have a responsibility to prohibit and prevent torture and to respond to torture regardless of whether it takes place in the home perpetrated by a regular citizen, or in a prison perpetrated by an agent of the state (see Kozma and Dauer, 2001). It is not difficult to argue that domestic violence is in most cases torture according to definition. For instance, 'the use of methods upon a person intended to obliterate the personality of the victim or to diminish (her) physical or mental capacities, even if they do not cause physical or mental anguish' (Inter-American Convention to Prevent and Punish Torture).

Despite the progress, the gender neutrality of human rights law (by application of the notion of equal rights) continues to require critique, particularly in the context of the state's protection of rights UN conventions. In practice, gender neutrality in international law interacts with gender-biased domestic laws, or less obvious social structures, that maintain inequality and consign women to the private sphere and men to the public (Thomas and Beasley, 1993). A gender analysis (including variables of ethnicity, culture, socio-economic status and religion) reveals that men usually enjoy access to the civil and political rights of their societies whereas women are disadvantaged in practice and often in law, reducing their equal participation in public life. Not surprisingly, violence against women remains a crime that is both widespread and rarely prosecuted (Thomas and Beasley, 1993).

So how do we protect the human rights of women, globally and here in our touted fair and democratic country? Some scholars argue that international socialization, that is the process by which states implement domestic policies because of the influence of international norms and pressures, can shape the way states will respond to protect rights in relation to domestic violence (Hawkins and Humes, 2002). Trans-national NGOs, particularly women's NGOs, have been instrumental and often effective in pressuring states to comply with the protection of women's rights. State conduct and interests will and do change according to international pressures and adaptations. Hawkins and Humes caution that this claim however, in relation to significantly reducing domestic violence, is rather optimistic. Whereas western democratic states, such as Australia, have passed legislation, introduced enforcement mechanisms, set up shelters and funded women's services, they still have not made substantial inroads to eliminating the endemic nature of violence against women (Hawkins and Humes, 2002).

For socialisation to work, governments must be aware of and concerned by international norms and their global image (Hawkins and Hume, 2002). Australia has recently been criticised by the United Nations for its unwillingness to cooperate with concerns in relation to human rights issues within Australia. In response to UN concerns about its human rights record, the Howard government instead criticised the United Nations and the effectiveness of the UN committee system (Rees, 2001).

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Hawkins and Hume argue that a state's commitment to reducing violence against women must be significant and stand the test of time. State involvement in reducing domestic violence might become more institutionalised, however at the moment their commitment, because of implications associated with 'challenging long-engrained and widespread social practices', is doubtful (2002:251). Certainly, critique of social practices requires an analysis of the root causes of violence against women, and the systematic and particular nature of domestic violence. Such analysis continues to be marginalised simply because a challenge of this magnitude would confront the foundations of the continued male hegemony (patriarchy).

Nevertheless, other human rights advocates maintain that as international responsibility in human rights law evolves, with the influence of grass-roots women's groups lobbying for protection of women from violence, human rights organisations will increasingly be more effective in holding governments accountable. The Convention on the Elimination of All Forms of Discrimination Against Women requires governments to take positive measures to end legal, social and economic gender inequality (Thomas and Beasley, 1993) and it does appear that as trans-national NGOs and human rights organisations gain momentum, along with grass roots organisations articulating their rights on their own terms (see Lambert and Pickering, 2000), some of those rights are being realised.

Domestic violence is a violation of human rights and I have only briefly covered some of the problems and capacities inherent in the application of human rights discourse to articulate and realise the protection of women from acts of violence perpetrated by male citizens. The state remains implicated in neglecting its international responsibility to significantly reduce the prevalence of violence against women. Australia's reluctance to embrace human rights, and its particularly patriarchal social structures, makes securing adherence to minimum standards of human rights more problematic. Understanding the strengths, limitations and possible applications of human rights, including viewing domestic violence as torture, is the key to using the mechanism effectively for better protection of women from systematic male violence. It is important to be aware that Australia is the only western democracy that has elected not to incorporate international human rights standards by reference to a specific domestic instrument designed for this purpose (Ward, 2003).

The state remains implicated in neglecting its international responsibility to significantly reduce the prevalence of violence against women.

A useful site to explore more about human rights and women is: <http://www.law-lib.utoronto.ca/Diana/>

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# Some of the first pieces of the picture: Highlights from the October Domestic and Family Violence Data Collection

Associate Professor Helen Waite and Sharon Conway

The first two months of data on new clients has been forwarded to the Centre from over 23 services across Queensland. The implementation of the new legislation in March this year led to new funding arrangements with these services. The primary purpose of the data collection is to contribute to an evaluation of the impact of the changes to this legislation. There are many aspects and different questions that can be asked of this statewide data. This report will concentrate on the October data and look in a little more detail, at the results for just three questions:

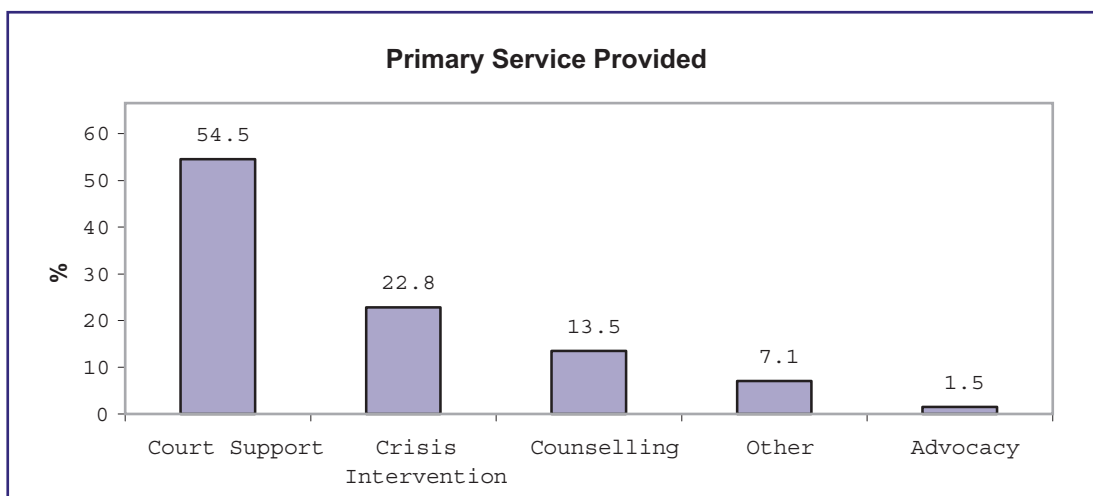
1. The primary service provided,
2. The nature of the client's situation leading to contact with the service, and
3. Reporting violence to police.

Future newsletters will focus on other questions and variables, such as protection orders, children and cultural background. The complete set of summarised data can found on the Centre's website under the publications page.

In October data was collected on 1576 new clients or new client matters, of these 85.5% were identified as female and 13.8% as male. The following results are based on exploring some of the relationships between the above three questions and other questions in the data collection.

## The primary service provided to new clients

The most frequently provided service was for **court support**, with 54% of services being of this type. **Crisis intervention** was the next most frequently provided service with 22.8% of clients receiving assistance in this area as the primary service. **Counselling** was the primary service provided for 13.5% of clients.



**FIGURE 1**  
Primary Service  
Provided

This data can be considered in relation to the more detailed information about the nature of the client's situation when they contacted the particular service. Those clients provided with advocacy services were the most likely to have reported the violence to the police (79.2%) whilst those who were provided with counselling as the primary service were the least likely to have reported the violence (54.2%).

For clients provided with **court support**:

- 51.5% were experiencing violence in their current relationship; for a further 32% the violence related to a past relationship
- 21.3% of these clients had a current order while a further 20.1% had a temporary order
- 75.6% of these clients were in a spousal relationship
- 8.3% were in an intimate personal relationship

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Both women and men were more likely to have been provided with court support than any other service, with 52.2% (703) of female clients and 67.4% (147) of male clients having court support as their primary service.

In terms of clients provided with **counselling services**,

- 48% were experiencing violence in a current relationship while for a further
- 20.8% the violence related to a past relationship
- 42% of these clients did not have a court order
- 26% had a current order

In terms of the type of relationship, 80.2% of these clients were in a spousal relationship and 9.4% were in a family relationship involving a parent or step-parent and child. Women comprised 90.6% of the clients being provided with counselling services.

In relation to clients provided with **crisis intervention** services,

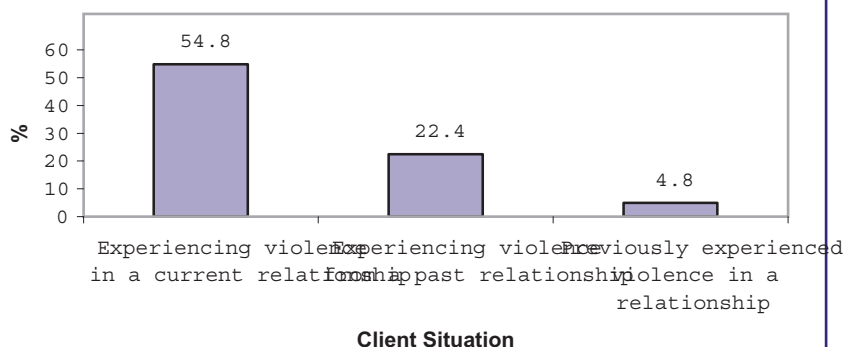
- 40.6% of these clients **did not** have a court order
- 23.7% have a current order
- 61.9% were experiencing violence in their current relationship
- 25.3% were provided with crisis intervention services in relation to violence from a *past relationship*

This is a strong indication of significant levels of continuing violence, even when a relationship has ended, since the *primary service* for these clients was crisis intervention. Given the overall composition of the clients of the services in Queensland, it is not surprising that 75.8% provided with crisis intervention, were in spousal relationships, with 9.7% in a family relationship involving parent and child. Overall there was a higher percentage of women (24.9%) than men (10.6%) provided with this service.

### The nature of the clients situation leading to contact with the service

Just over half (54.8%) of the clients were experiencing violence in their present relationship. However a further 22.4% were seeking assistance in relation to **currently** experiencing violence from a **past** relationship. It is not possible with this data set to determine how long ago the relationship ended. This particular finding is a strong indicator of the stark reality for many (353 clients), that ending the relationship does not end the violence. The extent of continuing violence is also apparent when the situation of the client is considered in relation to the *status* of court orders, outlined below.

**Percentage of clients who experienced violence by situation leading to service contact**



**FIGURE 2**

Percentage of clients who experienced violence by situation leading to service contact.

The picture for those clients **currently experiencing violence** in relation to the status of any **court order** shows:

- 19.4% had a current order
- 26.5% had **no** current court order
- 40.7% were making an application
- 12.2% had a temporary order

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In terms of the **types of relationships** these clients were in when they accessed the service,

- 72.3% were spousal
- 7.3% were intimate personal ones
- 12.6% were a parent and child
- 3.8% were relationships between siblings

For those clients currently **experiencing violence from a past relationship**,

- 83% had a court order of some kind
- 36.8% had a current application
- 28.3% had a current order
- 15.6% were receiving assistance to make an application
- 16.1% had a temporary order

The most common type of relationship of those experiencing violence from a **past relationship**, was spousal, with 85.8% of clients in this situation. This is a somewhat higher percentage than for those experiencing violence in a current relationship (72.3%). The next most common type was an intimate personal relationship with 7.6% of clients in this situation.

### Reporting violence to the police

In terms of the violence, 60.7% of the clients had reported it to the police. This is likely to be related to the finding that overall the major service provided was court support (55% of services provided). There was only a slightly higher percentage of women (61.1%) than men (57.8%) who had reported the violence to the police.

At this very early stage of the data collection, it appears that support for negotiating the law and legal system is an area of high demand and that the police were involved in a majority of cases before help from a specialist domestic and family violence service was sought. Those whose cases had been reported to the police seemed more likely to use court support than those whose cases had not.

It is worth noting that in relation to the **status of protection orders**, cases for clients with a current order (77.7%) were most likely to have been reported to the police. In addition:

- 38.9% **did not** have a current protection order
- 67.9% of cases for people with a temporary protection order had been reported to police
- 65.2% of cases for clients with a current application for a protection order had been reported
- 59.1% of cases for clients receiving help from the service with making an application, had been reported to the police

In terms of the most frequently reported types of abusive relationships that clients were dealing with, people in *intimate personal relationships* were the most likely (66.7%) to have reported the violence to the police. Reporting violence to the police was least likely when the violence involved family, namely *a parent or stepparent and a child* (50.7%). The percentage of clients reporting to the police was very similar where the violence was in spousal relationships and between *siblings*, 61% and 61.5% respectively.

It needs to be noted that of those clients **not reporting** to the police:

- the main service they used was still court support (46.6%) followed by crisis intervention (20%), and
- they were more likely (17.3%) to have counselling as their main service than those who had reported the violence (12%).

At this point after a preliminary consideration of several questions, there is a very clear indication of the extent of the ongoing nature of domestic and family violence, even after a relationship ends. It is also cause for reflection about how the ending of relationships is and can be managed by services, family, friends and the partners themselves. It is also apparent that the majority of women accessing services turn to the legal system for help in ending the violence. It will be interesting to track some of the factors surrounding these, and other issues, over the coming months, such as the services used, status of protection orders, the exposure of children and reports to the police.

The building of a more comprehensive picture is only possible with the enormous amount of assistance and commitment from domestic and family violence services across Queensland and the Centre thanks everyone involved in bringing the picture to life.

# Making Links: Domestic Violence, Child Abuse and Harm to Companion Animals

Dr Nik Taylor, School of Psychology & Sociology, Central Queensland University

It is becoming increasingly apparent that there exists a web of violence which includes not only domestic violence and child abuse but which also includes the abuse of the family pet. Studies have repeatedly shown that those who are cruel to animals are often cruel to humans so this should not come as a great surprise to us.<sup>12</sup> Yet, despite this, until recently there has been a great deal of resistance from all sides in accepting the idea that when addressing family violence we also have to address violence done to the family's companion animal.

Companion animals may be used in a number of ways in the tangled web of family violence. Recent research has shown numerous links between interpersonal violence and animal cruelty.<sup>3</sup> The links are not always clear cut and are often complex, for example, a child exhibiting cruel behaviour toward an animal may well abuse humans in adulthood.<sup>4</sup> Additionally, children who abuse animals are often victims of sexual abuse themselves and it has also been shown that juveniles who admit to having had sex with nonhuman animals report more sex offences against humans than other sex offenders their same age and race.<sup>5</sup>

More specifically research has shown that there is a link between domestic violence and companion animal cruelty where companion animals may be used to ensure the silence of the victim, to maintain power over the victim, to coerce the victim to do something against her will and/or to punish the victim.<sup>6</sup> Furthermore it has also been shown that companion animals provide emotional comfort to both women and children during psychologically traumatic times and that women will often remain in violent and dangerous situations rather than leave their pet behind with their abuser.<sup>7</sup>

**...research has shown that there is a link between domestic violence and companion animal cruelty...**

Children are often caught up in this conundrum too, with threats to their pets being used to maintain their silence. In a 1999 study in the UK 50 women entering a refuge (after experiencing violence) were asked about their experiences of harm to their companion animals. The results included the following: 46% indicated that their partners had threatened to harm their pets, 29% indicated that their partners had harmed their pets, 81% of the respondents had children and 41% of the children had witnessed threats to, or actual harm to, their pets. In addition 88% of women said they had problems sorting out their pet(s) when they were going into the refuge, 58% of women said that they had had to give up a pet in the past when entering a refuge and

**48% (of women entering a refuge) said that worry over the fate of their pet was a significant factor in delaying their taking up a refuge place.**

41% of women said that they had stayed in a violent relationship because they did not want to leave their pet.<sup>7</sup> These findings in the UK mirror those in the USA, for example Ascione & Weber<sup>8</sup> surveyed 38 women entering a refuge to escape violence and found that of the 74% who had pets, 71% had experienced their partner either threatening to harm or actually harming their pet, and Ascione<sup>3</sup> and Flynn<sup>6</sup> found that approximately one fifth of women significantly delayed leaving

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their relationship and seeking a place in a shelter because of concern for their companion animal's health and welfare.

In Australia studies show similar patterns. Twenty eight women entering a refuge on the outskirts of Melbourne were surveyed and 44% of them indicated that their abuser had harmed and/or threatened to harm their pet and 48% said that worry over the fate of their pet was a significant factor in delaying their taking up a refuge place.<sup>9</sup>

With results like this we should not be ignoring such significant links. There are lessons here for those who work in the field of animal welfare, family welfare and child welfare. Surely we should be working towards a collaborative paradigm like the one in California where there are a number of cross-training and cross-referral programmes in operation. Animal control officers are forced by law to report any suspicions of child abuse.<sup>10</sup> If we recognise the links between animal abuse, domestic violence and child abuse then we can work towards such a combined framework where animal protection officers, including veterinarians, report suspicions of child abuse and where child abuse investigators report suspicions of animal abuse. Such a collaborative framework and multi-agency response and co-operation would go a long way towards early detection, intervention and prevention of the cycles of family abuse that we see and hear about daily.

**If we recognise  
the links  
between animal  
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violence and  
child abuse then  
we can work  
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combined  
framework...**

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The Queensland Centre for the Prevention of Domestic and Family Violence ('the Centre') welcomes articles from guest contributors. Publication of the articles will be at the discretion of the Director of the Centre. Views expressed in published guest contributions are not necessarily the views of the Centre.

## Aboriginal and Torres Strait Islander Reference Group Meeting

Members of the Centre's Aboriginal and Torres Strait Islander Reference Group met on 18 and 19 November, the second face-to-face meeting of the Group this year. In attendance were Jackie Huggins (Brisbane); Shirley Slann (Mt Isa); Mal Walker (Mackay/Townsville); and Harold Fatnowna (Brisbane/Mackay).

Key areas of discussion at the meeting included:

- The implications of Kathy Daly's recent research on domestic and family violence and restorative justice;
- The draft family violence agreement, 'Safe and Strong Families', produced by the Department of Aboriginal and Torres Strait Islander Policy (DATSIP);
- Planning for Domestic and Family Violence Prevention Week 2004; and
- The new name for the Centre.

The meeting resolved to make a strong and succinct submission to DATSIP on the draft family violence agreement. In particular, it was resolved that the submission would address the following issues:

- Inclusion of ATSIC as a partner to the Agreement;
- The inclusion of an evaluation framework that provides for qualitative data collection, to supplement the quantitative measures identified in the Agreement;
- The need to focus on the specific strategies to support violence prevention (rather than just saying that government will 'support' community initiatives);
- The need to identify specific resources and programs to support violence prevention strategies, (eg the provision of detox units to complement the alcohol management plans; removal of existing barriers to accessing traditional lands and undertaking traditional ceremonies etc to enable healthy, constructive alternatives to drinking etc); and
- The need for strategies to focus more on changing attitudes to drinking/violence, as well as the focus on changing behaviour.

Members of the Aboriginal and Torres Strait Islander Reference Group also participated in the Education Advisory Group's telelink discussions, which focussed on the development of the factsheet for rural and remote women.

### A Coming Together.....

In the new year it is planned to combine the Research and Evaluation Advisory Groups into one research group. After a full year of operation it is clear that the majority of the issues raised in the evaluation group overlapped with those of the research group, due to the focus on evidence based work for evaluation. The Centre warmly thanks the members of the evaluation group for their time, support and contributions over the past 18 months.

The term of the current members of the Education and Research Advisory Groups will come to an end in the new year. The Centre will be asking for expressions of interest from people interested in joining either of these two groups for the next 18 months.

### APOLOGY

In the last issue of the Newsletter (September 2003) we incorrectly identified Michelle Moss, who contributed the article '*Caregiver Abuse: Power and Control of People with Intellectual Disabilities*'. Michelle Moss is the Specialist Services Advisor at Endeavour Foundation, and not the Department of Families as stated. Our apologies for this error.

## Workshops, Conferences and Date Claimers

14-17 January 2004

### **9th World Infant Mental Health Congress**

Melbourne, Vic

*Further details:* ICMS Pty Ltd

Tel: (03) 9682 0244

Email: [waimh2004@icms.com.au](mailto:waimh2004@icms.com.au)

Web: [http://www.waimh.org/Information\\_2004.htm](http://www.waimh.org/Information_2004.htm)

26-30 January 2004

### **San Diego Conference on Child and Family Maltreatment**

San Diego, USA

Email: [sdconference@chsd.org](mailto:sdconference@chsd.org)

7 February - 6 March 2004

### **Same-Sex Domestic Violence - Community Awareness Campaign**

Sydney, NSW

*Further details:* Brad Gray, AIDS Council on NSW (ACON)

Tel: (02) 9206 2082

10-12 February 2004

### **Family Law Masterclass - Queensland: Practical Applications and Essential Legal Updates to Overcome New Challenges in Superannuation Splitting, Property Rights, Child Law and the New Rules**

Brisbane, Qld

*Further details:* Lexis Nexis

Tel: 1800 772 772

Email: [registration@lexisnexis.com.au](mailto:registration@lexisnexis.com.au)

11-13 February 2004

### **8th Annual Conference on Child Abuse Issues**

Niagara Falls, Canada

Web: <http://209.5.212.237/cau/caucon.asp>

12 February 2004

### **'I Call It Symptoms of Abuse' – Exploring the Links Between Domestic Violence and Mental Health**

Sydney, NSW

*Further details:* Jan Breckenridge, Centre for Gender Related Violence Studies, UNSW

Tel: 02 9385 1863

Email: [J.Breckenridge@unsw.edu.au](mailto:J.Breckenridge@unsw.edu.au)

18-19 February 2004

### **Australian Police Summit**

Melbourne, Vic

*Further details:* Robbie Williams, Project Manager

Tel: (02) 9439 4566

Email: [Robbie.Williams@kmimail.com](mailto:Robbie.Williams@kmimail.com)

Web: <http://www.policessummit.com.au>

## **INNOVATION: Promising Practices for Victims and Witnesses in the Criminal Justice System**

**Associate Professor Helen Waite, Senior Research Fellow, QCPDFV**

This conference was held in Canberra on 23-24 October and attended by two of the Centre's staff. The purpose of the conference was to explore the ways victims of crime and witnesses were, and could be, involved in the criminal justice system. The emphasis in the presentations was therefore on initiatives developed to date, with some prominence given to those incorporating elements of restorative justice. It was well structured with a balance of keynote speakers and a variety of concurrent workshops.

Brian Deegan, a Magistrate from South Australia whose son was killed in the bombing in Bali, gave a moving presentation that highlighted many of the issues faced by most victims of crime. In particular he spoke of the insensitivities of police and governmental procedures, disrespect for his son's body, the confusion, the red tape, the irrelevance of public anniversaries of tragedies (such as Bali) to those close to the victim, the significant influence of politics on how some crimes are managed, and the ongoing struggle for meaningful justice and compensation for all the victims of the Bali bombing.

The major initiatives discussed included: therapeutic jurisprudence and problem solving courts, circle sentencing of Aboriginal offenders, restorative justice for victims of sexual assault, and a more general consideration of the strengths and limitations of restorative justice from the victims' perspectives.

Professor Jane Ursel, from Manitoba University's Centre for Research and Education for Solutions to Violence and Abuse, presented results from the specialist Manitoba family violence court. What was significant about her work is that it is longitudinal, with data collected continuously for over 13 years.

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This work is the only research of its kind in Canada. Manitoba was the first jurisdiction in Canada to establish specialised criminal courts for family violence cases, and considers all cases of partner abuse, child abuse and elder abuse. Her results showed significant shifts in sentencing over time with family violence being treated more seriously in recent times. An invitation has been extended to Professor Ursel to visit the Centre in February/March 2004 and present some of her work on family violence and women who have been abused.

The most valuable workshops that the staff attended were those that discussed and reported on the results of the ACT initiative FVIP- all the key stakeholders, from police, magistrates, prosecutors, defence lawyers, victim supporters, women's services to statisticians provided feedback on the processes and outcomes. There was very positive feedback and outcomes reported for the various aspects of the ACT initiative, including: pro-arrest policies, application for protection orders, victim follow up, police bail, victim liaison officers, communication and recoding systems.

Overall this was a thought provoking conference with many ideas, challenges and insights relevant to the victims and witnesses of domestic and family violence.

## For the Record

Media outlet: Cairns Post

Date: 29 November 2003

Journalist: Ms Margo Zlotkowski

Article: Violence reputation may be unjustified

**Ms Zlotkowski's article makes false claims and perpetuates myths about legal responses to domestic violence. She states:**

*"Cairns' ranking as the state's worst domestic violence hotspot could be in for a shake-up under a plan for the courts to investigate trumped-up claims" and "the region also has the highest domestic violence rate in the state, at more than three times the state average".*

There is no prevalence data available for Queensland, nor is there regional or local level prevalence rates, so the notion of a ranking as the state's hotspot for domestic violence is nonsense. There is data available from Queensland courts (for the period August 1989 - February 2003) that identifies the number of applications by court and the number of orders made, by court. The data for this period of time for Cairns, Beenleigh and Southport courts (as comparative illustrations only) are as follows:

- **Cairns: 7,553 applications and 5,705 orders made.** Other outcomes for the applications included; application dismissed/struck out (**1078**); protection order varied (**757**); applications withdrawn (**360**).
- **Beenleigh: 13,720 applications and 9,581 protection orders made;** application dismissed/struck out (**2,570**); protection order varied (**670**); applications withdrawn (**1,088**); and
- **Southport: 12,827 applications and 9,008 protection orders made;** application dismissed/struck out (**2,446**); protection order varied (**189**); applications withdrawn (**951**).

***"...courts had little choice but to rubber-stamp... domestic violence orders because there (is) no process of validating the claims".***

While the court data cannot be interpreted as incidence data, it emphasises the flaws in Ms Zlotkowski's article. The "plan" she refers to is a plan by Ms Jenny Sackley, who has set herself up as a private investigator

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to have police and courts refer 'suspicious' claims of domestic violence to her for 'validation'. This is necessary, Ms Sackley is reported as saying, because *"...courts had little choice but to rubber-stamp...domestic violence orders because there (is) no process of validating the claims"*.

This, also, is not true. The process for investigating and determining applications for domestic violence protection orders is very clearly set out in the *Domestic and Family Violence Protection Act 1989*. For example, section 67 of the Act imposes a duty on a police officer, who reasonably suspects a person is aggrieved, to investigate a complaint, report or circumstance, on which the officer's suspicion is based, *"until the officer is satisfied the suspicion is unfounded"*. If, after the investigation, the officer reasonably believes the person is aggrieved and there is sufficient reason for the officer to take action, the officer may apply for a protection order.

Further, a Magistrate must be satisfied that domestic violence has occurred **and** is likely to occur again before a protection order can be made. Validating claims of domestic violence is the role of the Magistrate (and the police to the point of making and/or presenting protection order applications to the Magistrate). The Act also provides for Magistrates to dismiss applications considered to be malicious, deliberately false, frivolous or vexatious and to award costs against the applicant in such circumstances.

*Ms Sackley is also quoted as saying "You can order them (DVOs) over the phone, and you don't have to give any proof. The court then just writes it out and it is served on the so-called violent male"*.

Only Police can apply for a temporary protection order over the phone, and then only in cases where it is unlikely the matter can be considered in an appropriate timeframe, leaving the aggrieved at risk and without protection. This provision is designed for situations, for example, where there is a circuit Magistrate convening the court only once a month. The police making the application must investigate and complete an application form as per usual and the Magistrate must consider the application as per usual. The only difference (in terms of hearing a temporary order application) is that the Magistrate hears the application over the phone, or considers the evidence provided in a fax, rather than hearing the application in the court. Temporary orders must be returned to the court on a given date with the opportunity for both parties to present further evidence.

Ms Zlotkowski also states, *"Ms Sackley, a private investigator and trained counsellor, said women were lodging false claims of domestic violence against ex-partners as a way to win child custody and property battles"*.

Generally, the Family Court requires its own assessments of claims of domestic violence, even where a protection order exists. Nevertheless, the *Domestic and Family Violence Protection Act 1989* requires the Magistrate to be satisfied that domestic violence has occurred **and** is likely to occur again, before a protection order can be lawfully made. If such threat of violence exists, it would seem negligent of a protective parent not to seek protection and raise this threat with the Family Court in a 'custody' dispute.

Ms Sackley appears not to know or understand the domestic violence legislation (or perhaps it's not in her pecuniary interests to know or understand it) and Ms Zlotkowski has failed to properly research her articles and present the facts. The 'trumped-up' claims are those made by Ms Zlotkowski and Ms Sackley.

The article also states that *the State and Federal Governments are considering Ms Sackley's proposal*. Ms Sackley told me she provided a submission to State Member for Mulgrave (Warren Pitt), to Federal Member Warren Entsch and Senator Harris (one Nation) about three months ago. She has also spoken with the Police Minister's (Tony McGrady) Policy Advisor. Ms Sackley says the policy advisor indicated support for her proposition orally, but said he would not put it in writing. The Queensland Centre for Prevention of Domestic and Family Violence has written to the Members of Parliament, above, to enlighten them about the myths perpetuated by the Cairns Post.

**Heather Nancarrow**  
**Director**

***"For the Record" will be a regular feature of the Newsletter to highlight inappropriate and inaccurate reporting or, conversely, excellent reporting of domestic and family violence in the media. Your assistance in sending relevant details from your regional media would be appreciated.***

# Restorative Justice and Gendered Violence

## Visiting Scholar: Associate Professor Kathy Daly PhD

The Centre was delighted to host a three-day visit from Associate Professor Kathy Daly from 10 – 12 November, where she presented two seminars. The Centre also extends its gratitude to the Faculty of Arts, Health and Sciences for making Kathy's visit possible through the Visiting Scholars Program.

Kathy is an Associate Professor in the School of Criminology and Criminal Justice, Griffith University in Brisbane, and a Director of a Program on Restorative Justice. She is an international expert in intersectional analyses of gender/race in the field of criminology. Her research experience and areas of expertise is of particular interest to those interested in: gendered crimes; the relationship between race, crime and justice responses; and the emergence of new justice processes as an alternative to the formal criminal justice system.

In her innovative and interesting seminar about research processes, Kathy used an analogy of building a house to discuss the process of designing and implementing a research project. This presentation was made to Central Queensland University students and academic staff and video-linked to four other CQU campuses.

Kathy's other presentation titled, 'Restorative Justice and Gendered and Sexualised Violence' was attended by a broader audience of academics, policy-makers and practitioners and was broadcast via video-link to nine sites around the state from Cairns to the Gold Coast and out to Alice Springs. In this presentation, Kathy presented an overview of restorative justice, her research findings from the South Australia Juvenile Justice Research on Conferencing Project (SAJJ) and possible applications of restorative justice to gendered and sexualised violence.

Many will be familiar with the Restorative Justice practice of community conferencing now frequently used in Queensland with juvenile offenders as a means of diverting young people from the court system. Other practices that fly under the Restorative Justice banner are circles, sentencing circles, and victim-offender mediation.

Aims of Restorative Justice practices include: "reducing victim fear and anger toward the offender; the offender apologising and making up for what he or she did (undertakings or penalties are agreed to); and the offender recognising the harm s/he caused to a victim (perhaps to remember in the future that crimes have negative consequences on victims and 'the community')" (Daly 2003)

The SAJJ project involved observation of "89 conferences that dealt with particular offence categories (all cases of violence, and only those property offences having personal or community victims)"; interviews in 1998, and again in 1999 with all the offenders and the primary victims associated with each conference; and an archival analysis of nearly 400 sexual offence cases finalised in court or by conference and formal police caution.

Some key findings of the research indicate:

- "From the point of view of victims, conferences are better than court, and certainly not a 'soft option'
- Conferences outperform court on measures that matter to victims, ie:
  - acknowledgement of the harm (rather than offender denial or court dismissal)
  - timely disposition
  - undertakings that are meaningful and reduce the chances of re-offending, especially when tied to a therapeutic intervention
- When the young people/offenders were remorseful in conferences and when the conference agreement was reached by genuine consensus, young people were less likely to reoffend" (Daly 2003).

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The evidence indicates that Restorative Justice practices offer positive potential for delivering advantageous outcomes to the community and to some victims of some offences. Enquiry into the potential benefits and limitations of Restorative Justice practices, and more particularly its application

in the area of gendered and sexualised violence remains in the research spotlight and continues to provoke a great deal of debate.



**Above and left: Kathy's Restorative Justice presentation**

**Kathy Daly's paper presented during this seminar, together with a link to her research and other publications may be viewed at the Centre's website: [www.noviolence.com.au](http://www.noviolence.com.au).**

Reference: Daly, K. (2003) *Restorative Justice Presentation* paper delivered at Central Queensland University, Mackay Campus, 10 November 2003.

## Updates on some current research

**Who can you call? A health promotion strategy for women experiencing domestic violence in rural and remote areas.**

This research project is providing an evidence base for the production of a 'fact sheet' for women in rural and remote areas, as well as an evaluation of the reach, awareness and effectiveness of the final materials and method of distribution. It uses a health promotion framework and social marketing design and therefore has a mixture of data collection techniques.

In November, we conducted the first phase of focus group testing with women in 3 different age groups: 16-25, 26-50 and over 50. There has been a total of 10 focus groups held in the towns of Emerald, Mackay and Longreach. Each session involved promoting discussion about the concepts, content and image of a range of initial ideas and materials. The tape recorded discussions from all of these groups is currently being transcribed and analysed to inform the final ideas that will again be focus group tested with a number of groups of women in rural and remote areas.

The final draft will also be placed on the Centre's website so there will be an opportunity for all visitors to provide specific feedback before the full production phase and piloting of a less common delivery method for such materials. It is anticipated that initially 22,000 fact sheets will be produced. These will be distributed primarily via newspapers throughout several rural regions of the state, for which there is already detailed demographic data about the women residents.



**Longreach from the air**

**In what ways do domestic violence protection orders affect women's sense of safety and well-being?**

This project was initiated by Magani Malu Kes and the North Queensland Domestic Violence Resource Service. Both services are located in Townsville and are working with staff of the Centre on this project. The project team has been developing the questions and issues for the women participants who will be interviewed. The interviews will now begin as ethical clearance has been given by Central Queensland University. In January, some of the project team from Townsville and the Centre will be attending workshops on computer-assisted analysis of interview data to make the reporting easier for this comprehensive and comparative study of women's experience of protection orders.

## About this Newsletter

In our quarterly newsletter we will be encouraging you to participate by contributing to it. If you have any information that our statewide readers may want/need to know (eg events, upcoming projects, comments) please contact us at the Centre.

If you would like to be included on our mailing list for this newsletter, please email Aithne Archibald or email [a.archibald@cqu.edu.au](mailto:a.archibald@cqu.edu.au). Also let us know the most convenient way (email or print) to receive the Queensland Centre for the Prevention of Domestic and Family Violence Newsletter. Please encourage others to receive the newsletter and invite them to subscribe. We are happy for you to reproduce and distribute the newsletter.

*Staff of the Centre, from left to right:*

*Michelle Bradford, Aithne Archibald,  
Clinton Rawsthorne, Dr Susan Rees,  
Sharon Conway, Heather Nancarrow  
and Associate Professor Helen Waite.*



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