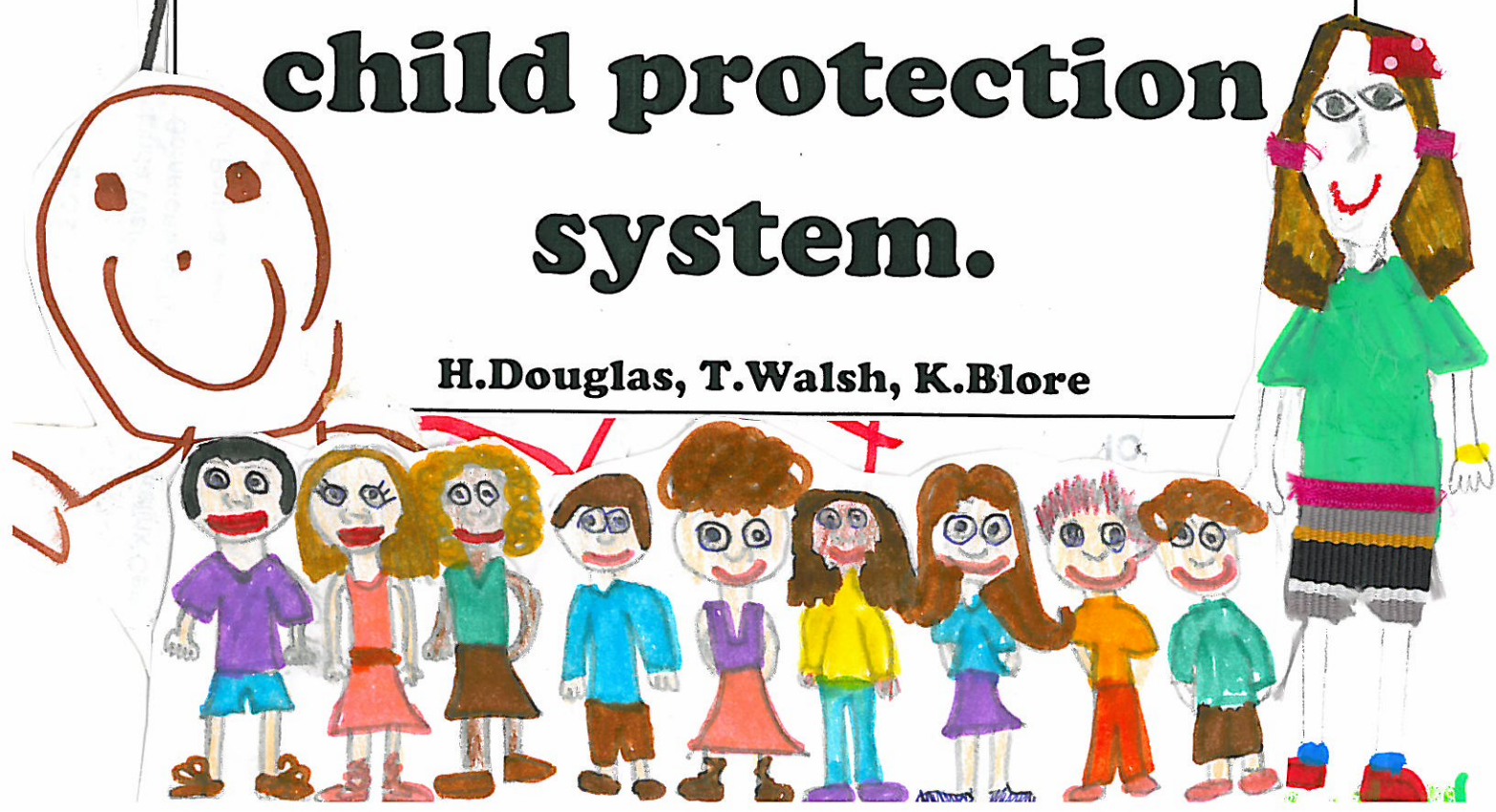




Mothers and the child protection system.

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AUTHORS' NOTE

The research presented in this report has previously been published in three journal articles, each focusing on one particular aspect of the findings. This report has consolidated the findings into one publication. The citations for the relevant journal articles are as follows:

- H Douglas and T Walsh, 'Mothers and the child protection system' (2009) 23 (2) *International Journal of Law Policy and the Family* 211.
- T Walsh and H Douglas, 'Legal Responses To Child Protection, Poverty and Homelessness' (2009) 31(2) *Journal of Social Welfare and Family Law* (forthcoming).
- H Douglas and T Walsh, 'Mothers, Domestic Violence and Child Protection' (2010) *Violence Against Women* (forthcoming).

The four main issues identified from the research are interrelated, and some participant comments are highly relevant to more than one area. Where this is the case the participant comments and relevant references have been repeated.

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EXECUTIVE SUMMARY

Removal of children from the care of their parents is one of the most fundamental forms of intrusion the state may have in the lives of families. Yet in recent years child protection intervention has increased dramatically in Australia.

This report explores the impact of child protection intervention on mothers, amid the apparent shift that has taken place within child protection departments from a family-centred focus to a child-centred focus. Focus group discussions were conducted in 2008-09 in Brisbane, Queensland. Focus group participants were community workers that assist mothers in their dealings with child safety authorities. Participants in the study were primarily concerned with:

1. information and advocacy gaps;
2. child protection workers;
3. the link between poverty and child protection intervention; and,
4. domestic violence issues.

Each identified issue and the solutions advanced are reinforced by other Australian research and research in similar jurisdictions.

The key findings were as follows:

1. a) For parents to meaningfully participate in the child protection intervention process, it is clear that they must be sufficiently informed as to the nature of the process, as well as their responsibilities and entitlements. Yet the focus group participants indicated that in some situations information is not given to parents, or that it is not given in a way that the relevant parent understands it. Formal information-giving

protocols are required to reduce the level of mistrust and uncertainty experienced by parents.

b) Most focus group participants also considered that parents' access to an advocate at all stages of the intervention process would help to reduce mistrust and halt the common experience of mothers being 'railroaded' and 'intimidated' by child protection workers.

2. Concerns about child protection workers pervaded all focus group discussions. The approach of child protection workers was seen to result in inadequate communication and a tendency to entrench adversarial interactions with parents. While institutional and systemic issues may underlie the lack of experience and understanding observed by the focus group participants, these perceptions of child safety workers have serious consequences. Lack of trust underscores the fear many mothers have of engaging with child protection authorities. Focus group participants expressed ambivalence about alerting child protection workers of child safety concerns. The result is a disconnect between some services that support mothers and child protection workers.
3. Those experiencing poverty are disproportionately targeted for intervention by child protection departments. Families that are in need of support and assistance are often considered to be 'at risk,' leading in many cases to unnecessary (and costly) removals. Participants in this research offered practical solutions, stressing the importance of building the capacity of families to care for their children by providing material aid and focusing on the existing strengths of parents.
4. Many of the focus group participants work with mothers simultaneously dealing with domestic violence and the threat of child safety intervention. Many raised concerns that child protection workers misunderstand the nature of domestic violence, often holding non-

violent mothers responsible for ending the violence. This may explain why some child protection workers present an ultimatum to mothers: leave and keep the children or stay and lose them. Such an approach runs contrary to research that demonstrates that women in situations of domestic violence seek the safety of their children and that a binary choice will rarely be a realistic choice for women. To properly protect children, it is critical that child protection workers have a clear understanding of the dynamics of, and issues related to domestic violence.

Children should and must be protected. However it must be acknowledged that removals of children may no longer be perceived to be necessary if families are appropriately resourced and their issues properly understood. Child protection workers and parents' advocates both have a crucial role in displacing the mistrust and uncertainty preventing more collaborative and open practices, otherwise it is the child's interests that ultimately suffer.

1 INTRODUCTION

Child protection intervention has increased dramatically in Australia and elsewhere in recent years. The number of child abuse notifications increased by more than 50% in the five years between 2002/03 and 2006/07 (Australian Institute of Health and Welfare 2008a). The number of children subject to child protection orders increased by 87% in the decade between 1996/97 and 2006/07, and the number of children in out of home care rose by 102% over the same period (Australian Institute of Health and Welfare 2008a). In Queensland, there was a 30% increase in the number of child protection orders issued between 2004 and 2006 (Queensland Department of Child Safety 2006).

Media and government-initiated inquiries around Australia have accused child safety departments of 'failing' children by allowing them to remain in abusive or neglectful homes (Cashmore and Ainsworth 2004). In response to such criticism, child welfare laws have been reviewed and reformed, child safety departments have increased staff numbers, and the powers of child protection workers to remove children from their homes in situations where they are judged to be 'at risk' have been expanded (Forster 2004). The result has been the creation of an atmosphere of heightened vigilance and risk avoidance (Harries et al. 2007). Parton has similarly argued in the UK context that we are seeing the emergence of 'the preventive-surveillance state' (Parton 2008).

Research suggests that increased intervention has left many parents, especially mothers, feeling bewildered, confused and distrustful of the very systems they should be able to turn to for assistance. Research also suggests that those experiencing poverty and domestic violence are disproportionately targeted for intervention by child protection departments. These issues are further confounded by the approach child protection workers take when dealing with parents.

This report presents the research findings of five focus groups convened in 2008-09 in Brisbane, Queensland. Community organisations that assist mothers in their interactions with the child protection system were invited to share their experiences. The research process and method is further discussed in Part 2. Four primary issues emerged from an analysis of the interview data:

1. client information and advocacy gaps (discussed in Part 3);
2. concerns about child protection workers (discussed in Part 4);
3. the link between poverty and child protection intervention (discussed in Part 5); and,
4. domestic violence issues (discussed in Part 6).

Overall conclusions are presented in Part 7. By way of introduction, the legislative and international law frameworks governing child protection are canvassed. This is followed by a brief discussion of the broad shift in approach from a family-centred to a child-centred focus that is occurring throughout much of the western world, and the (unintended) consequences of this.

1.1 Legislative Framework

All Australian jurisdictions have a legislative regime which provides for the protection of children.¹ In Queensland the relevant legislative instrument is the *Child Protection Act 1999* (Qld) (the Act). A number of overarching principles are set out in the Act which should inform the decisions made in relation to protecting children. The central principle is that the welfare and best interests of the child are of paramount consideration.² The Act supports

¹ *Children and Young People Act 1999* (ACT); *Community Welfare Act 1983* (NT); *Children and Young Persons (Care and Protection) Act 1998* (NSW); *Children's Protection Act 1993* (SA); *Children, Young Persons and Their Families Act 1997* (Tas); *Children, Youth and Families Act 2005* (Vic); *Children and Community Services Act 2004* (WA).

² *Child Protection Act 1999* (Qld) s 5(1).

the intervention of child protection departments in the lives of families when a child is considered to be at 'risk of harm',³ and it defines 'harm' as 'any detrimental effect of a significant nature on the child's physical, psychological or emotional wellbeing.' The Act states that such harm can be caused by physical, psychological or emotional abuse or by neglect or by sexual abuse or exploitation.⁴ Furthermore the Act defines a 'child in need of protection' as a child who 'has suffered harm, is suffering harm, or is at unacceptable risk of suffering harm and does not have a parent able and willing to protect the child from the harm.'⁵

Despite this child-centred focus, child protection legislation around Australia recognises that the interests of children can rarely be viewed in isolation from their parents and family circumstances. Section 5(2) of the *Child Protection Act 1999* (Qld) relevantly states:

- (c) the preferred way of ensuring a child's wellbeing is through the support of the child's family;
- (d) powers conferred under this Act should be exercised in a way that is open, fair and respects the rights of people affected by their exercise, and, in particular, in a way that ensures--
 - (i) actions taken, while in the best interests of the child, maintain family relationships and are supportive of individual rights and ethnic, religious and cultural identity or values; and
 - (ii) the views of the child and the child's family are considered; and
 - (iii) the child and the child's parents have the opportunity to take part in making decisions affecting their lives...
- (f) if a child is removed from the child's family--
 - (i) the aim of authorised officers working with the child and the

³ *Child Protection Act 1999* (Qld) s 14(1). A child is defined as an individual under 18 years of age: *Child Protection Act 1999* (Qld) s 8.

⁴ *Child Protection Act 1999* (Qld) s 9.

⁵ *Child Protection Act 1999* (Qld) s 10.

child's family is to safely return the child to the family if possible; and

(ii) the child's need to maintain family and social contacts, and ethnic and cultural identity, must be taken into account;

Similar provisions exist in other jurisdictions (Forder 2006).⁶

1.2 International law framework

Legislative regimes providing for the protection of children are reflected in international human rights law. The United Nations Convention on the Rights of the Child (UNCROC) recognises at article 9.1 that a child should not be separated from his or her parents 'against their will,' except when it is determined, by proper processes subject to judicial review, that such separation is 'necessary for the best interests of the child.' Such proceedings, it is said, should provide all interested parties an opportunity to participate and make their views known. Further, article 9.3 states that if a child is separated from his or her parents, the right of the child to maintain personal relations and direct contact with parents shall be respected. The UNCROC also notes in its Preamble that the family is the 'fundamental group of society and the natural environment for growth and well-being of all its members,' and that it should, therefore, be afforded 'necessary protection and assistance.' This is similarly recognised in article 23 of the International Covenant on Civil and Political Rights (ICCPR). The ICCPR (article 17) and the European Convention for the Protection of Human Rights and Fundamental Freedoms (article 8) also recognise the right to freedom from arbitrary interference with family and the home.

⁶ See *Children and Young People Act 1999* (ACT) s 12(1)(b), (d), (e), (f); *Community Welfare Act 1983* (NT) s 9(b); *Children and Young Persons (Care and Protection) Act 1998* (NSW) s 9(d), (g) and see s 78(3); *Children's Protection Act 1993* (SA) s 4(4)(a), 4(6)(b); *Children, Young Persons and Their Families Act 1997* (Tas) s 8(1)(b), 8(2)(b)(i)-(iii); *Children, Youth and Families Act 2005* (Vic) s 10(3)(a), (b), (g), (h), (i), (k); *Children and Community Services Act 2004* (WA) s 8(1)(g), (h).

1.3 Shift in approach

In recent years there has been an apparent shift from a family-centred to a child-centred focus in child protection matters (McConnell and Llewellyn 2005, Department of Health 2000). It has been observed in a number of jurisdictions around the western world that a 'family preservation approach' has been replaced by a strongly interventionist approach (Tomison 2002). This has been associated with a significant increase in the number of child protection notifications being made to authorities, and in the number of children being removed from their families and placed in out of home care (Masson 2008, Australian Institute of Health and Welfare 2008a).

Despite the clear legislative emphasis on supporting the child's family, it has been reported throughout Australia, with the notable exception of Victoria (Scott 2007), that a 'child rescue' approach, characterised by risk assessment, surveillance and coercive intervention, is being taken at the expense of collaboration with parents and other family members (Hansen and Ainsworth 2007, McConnell and Llewellyn 2005), with no measurable benefits in terms of child safety outcomes (Munro 2005). Moreover, this trend is in contradistinction to research which has consistently shown that the best protective outcomes are achieved for children by early intervention initiatives that seek to support the family, both in a material and psychosocial sense (Cashmore et al. 2006, Tilbury 2005, Tilbury 2004, Victorian Department of Human Services 2002).

Research demonstrates that factors such as low income, homelessness, and domestic violence are associated with 'poor outcomes' for children. Yet, rather than looking to appropriately support and resource the family, the state is treating these children as 'at risk' (Parton 2008, McConnell and Llewellyn 2005, Tomison 2002) leading to a readiness to remove children, and a reluctance to reunite them with their parents, in situations of disadvantage.

The true motivation behind this move towards 'preventive-surveillance' is likely to be one of ideology, and associated with the findings of various inquiries that statutory authorities have 'failed' children by allowing them to remain in abusive homes (see New South Wales Standing Committee on Social Issues 2002, Commission of Inquiry into Abuse of Children in Queensland 1999, Queensland Crime and Misconduct Commission 2004, Australian Capital Territory Commissioner for Public Administration 2004a, Australian Capital Territory Commissioner for Public Administration 2004b, Layton 2003, Gordon et al. 2002, Jacob and Fanning 2006). Of course, the media's treatment of particularly troubling child abuse and neglect cases has also contributed to this shift in approach (Scott 1995, Cashmore and Ainsworth 2004, Harries et al. 2007).

2 RESEARCH PROCESS AND METHOD

Despite the statistics, and the plethora of major formal inquiries into child protection in Australia, there is to date a 'dearth of Australian research on parents with children in care' (Thomson and Thorpe 2003). More specifically there has been very little legally based research conducted about issues mothers face when interacting with the child protection system (see Walsh and Douglas 2008), and the work that has been done has concentrated primarily on children within the system (see for example Sheehan 2003, Cashmore and Bussey 1994, Hornor 2008, Litzelfelner 2008). Accordingly, the research discussed in this report attempts to go some way towards filling the gap. It was decided to explore the issues through a qualitative study aimed at ascertaining the views and experiences of community workers whose client base consists of mothers who are 'known' to child protection authorities.

2.1 Why focus on mothers?

The purpose of this study was to find out about the views and experiences of community workers who support mothers, as opposed to parents more generally, in their interactions with child safety officials. While it is acknowledged that in some cases, the issues pertaining to mothers raised in this research relate equally to fathers, the results of the qualitative research we undertook, combined with relevant literature, suggest that it is mothers who are most likely to interact with child protection systems (Ferguson 2004), and experience the information and advocacy gaps (Kaganas 1995) identified in this report. Furthermore they are more likely to be held responsible by child protection authorities when families are found to be struggling financially (Hansen et al. 2007), or where there is domestic violence (Powell and Murray 2008, Schneider 2000, Humphreys 2007). It is also mothers, rather than fathers, who are more likely to be the victims of domestic abuse (Cowan and Hodgson 2007). More generally, it is well established that mothers are more

likely to have care responsibilities for children regardless of whether they are sole parents or in relationships with men (Daniel and Taylor 2001, Lewis and Welsh 2005, Masson 2005).

2.2 Focus group interviews

The researchers invited community organisations that assist mothers in their dealings with child safety authorities to attend one of five focus groups in 2008-09. The focus groups comprised community based lawyers and community service workers whose clients include parents interacting with the child protection system in Brisbane, Queensland. Thirty-two people participated in the focus groups. Twenty-five participants worked for women's services, and seven worked for services directed at young people, predominantly young mothers. Two of the participants were community lawyers, and the remainder were 'community workers' (that is, social workers, youth workers, welfare workers or support workers).

Five women's services were approached and asked to participate in the study. Services were selected by the researchers on the basis that their client base included mothers 'known' to child protection, and because they were key services in the sector. All of these services have chosen to remain anonymous, in view of the fact that many of them receive at least some funding from the Queensland Government.

The focus group participants were asked general questions about their experiences with clients dealing with child protection officials and child protection processes. Detailed analysis of the interview data revealed that the concerns of community service workers crystallised around four main issues:

1. client information and advocacy gaps;
2. concerns about child protection workers;
3. the link between poverty and child protection intervention; and,
4. domestic violence issues.

Participants offered a number of potential solutions to identified problems within the system. Ultimately, the research highlighted the schism that continues to exist between documented best practice and actual child protection practice in Queensland, Australia.

Admittedly this study is limited in scope with a small sample. Ideally further research should be undertaken to broaden the scope of the findings presented in this report, perhaps by incorporating the views of child protection workers and of mothers directly. However, this study does underscore a number of ongoing dilemmas in interacting with child protection services and the need for various services to work together to support both women and children. Moreover the sample of participants is representative of community organisations that support mothers operating in Brisbane, Queensland. Given that similar concerns have been raised elsewhere, the results discussed here may be generalisable beyond this particular jurisdiction (Brophy 2008, Clarke 2006) and are likely to be relevant to most other Australian States and the United Kingdom (Department of Constitutional Affairs 2006).

3 INFORMATION AND ADVOCACY GAPS

It is essential that the child protection process is fair, not only for children, but also for parents involved in the child protection system. This part discusses two central issues that currently appear to negatively impact on parents (and more specifically mothers) who are involved in the child protection system: lack of information and lack of advocacy.

The participants in the focus groups frequently raised concerns that information is not provided to parents, or is provided in such a way that it is not properly understood. Most participants also agreed that parents should have an advocate to help them navigate the child protection system. The full provision of both information and advocacy was seen by many participants in our study as integral to reducing the level of mistrust and uncertainty that currently seems to plague mothers' interactions with child protection workers.

3.1 Information gaps

It is self-evident that for parents to meaningfully participate in the child protection process, they must be sufficiently informed as to the nature of the process, as well as their responsibilities and entitlements within that process. Indeed, the cornerstone requirement of any fair process is the openness of the process (Galligan 1996). This requires access to information about that process and having the tools available to be able to understand what is happening at each particular stage, and why.

The *Child Protection Act 1999* (Qld) requires that at least one of the child's parents be told about the reasons for any investigation and about any protective action being taken by the department or by a court. Yet, despite this requirement, our focus group participants reported that the mothers they dealt with frequently did not know about or did not understand what was

happening in relation to their children (including where their children were located at times), why certain things were taking place or what their rights as parents were. According to participants in this study, a lack of information was experienced in relation to all aspects of the child protection process from early interventions and interviews to family group meetings (Harris 2008) and court proceedings.

There seem to be two aspects to the problem of lack of information:

1. In some situations information is not being given to parents; and
2. Where information is given it is not given in a way that the relevant parent understands it.

While participants generally agreed that the more information mothers had the better, one participant claimed that child protection officials were very reluctant to share information with mothers. While part of the problem appears to rest with child protection workers, who were generally reported by our participants to have poor communication skills, in many cases it appears that there is a systematic failure to properly structure the type and way of communicating to concerned parents so that parents understand the information they are being given. Relevant comments included:

'... it's that [mothers] don't have any resources, they can't access [them]... they can't speak the language, you know they don't have that literacy and that way of manipulating the system that more educated people do...'

'... women aren't educated and often don't have a lot of self-confidence, or ... feel intimidated by the whole culture of the courts and the system that, ... sometimes they're pressured into signing things when it's not even a hearing...'

It is important that information-giving protocols be developed in consideration

of the particular needs of parents involved. One worker in this study suggested that child protection officials need to inform clients more formally 'step-by-step, these are our rights, these are your rights, not ... the usual, sit down, have a chat.' The development of more formal protocols for information-giving may encourage an adversarial approach, however many workers already take an adversarial approach in dealing with child protection officials, believing such an approach is in the best interests of their clients. Applying an adversarial approach in the child protection sphere has not generally been viewed as being in the child's best interests (Sheehan 2003); most experts in the field recommend more supportive and collaborative strategies be employed (Nixon and Clifford 2006, Guggisberg 2006). Yet, participants in our study reported that they advised their clients to say nothing to child protection officials until they speak to a solicitor. For example one worker explained, 'we've got to educate them so that [they say] "no, I'm not signing anything until I speak to my solicitor."' Another worker explained:

'I think you educate your clients to say that if the department knocks on your door and they want to question you, you say, look, don't say anything, just say that I need to consult my lawyer, my solicitor. It's about educating them. But they still get that pressure from the department anyway.'

Such advice suggests that workers do not have much faith in collaborating in an informal way with child protection authorities.

Communication problems are exacerbated for mothers who come from non-English speaking backgrounds. One worker explained:

'The women don't know about their rights, they don't know about the process, they don't even know that they can ask about the reason ... for child safety to contact them. They don't know about their rights to an interpreter, these are often not used so women are communicating

in broken English.'

It is clearly inappropriate for important information about child welfare to be conveyed between parties in broken English. This does not ensure that parents are able to have a real opportunity to take part in decisions that will potentially affect their children's lives as the legislation requires. A number of workers expressed concern that child safety workers often do not have the skills to engage with interpreters appropriately. For emerging refugee and immigrant communities the problem is exacerbated further; there are often limited written resources and there is even more limited access to interpreters in some of the more obscure dialects. Workers at one focus group explained that 'new arrivals' to Australia are often bombarded with information with a limited time available in which to process it. Although written information is very important, there needs to be some thinking about how information is delivered and supported. This worker emphasised the importance of discussions with the mother. Her comments were echoed by other participants who emphasised the importance of engagement:

'... women are totally in the dark. I think it's critical, the engagement, because it sets a pattern for how people are going to settle in this country. If you have a system where people feel let down because they don't understand – they are out of their depth, how will they build faith in existence here in Australia? The engagement is critical; it should be respectful and sound, and inclusive.'

Different parents will require different information to be delivered in different ways. For example 'new arrivals' to Australia may need explanations about the concept of child abuse and neglect. One worker explained that in some cultures physical discipline is regarded as appropriate and children may have more freedom and responsibility than is considered appropriate in Australia. Research conducted in the United Kingdom has also found that there are sometimes disputes between social workers and parents about whether

physical punishment is acceptable in some minority communities (Brophy 2008). While for some parents knowledge and understanding may be assumed, for others it may not be appropriate to make such assumptions.

For immigrant women, a lack of information may lead them to mistakenly believe that their alternatives are limited by their visa situation. One focus group participant explained that women are:

'... often fearful, and often directly misinformed by her partner that should she leave the relationship that she would be deported and the children would remain in Australia. ... not knowing what support services are available and definitions of domestic violence in Australia.'

Domestic violence in child protection matters is discussed in further detail in Part 6. However, for the purposes of this part, immigrant women in violent situations will need particular information about visas in order to make informed decisions.

Even where advocates are involved with parents, participants reported that it is still often difficult to obtain information from child protection authorities. Workers in one focus group emphasised these difficulties in one exchange; they noted:

- '-The only way you can get [access to a personal file] is through [Freedom of Information], and you need to show reasons for why you seek it...
- And it costs money...
- You have to be literate enough to write a letter, and organise the money so as to get freedom of information... about your own life!
- Yeah, your own records.'

The development of formal information-giving protocols may be beneficial to

many parents and workers and may indeed reduce the level of mistrust and uncertainty that seems to plague many child protection interactions. In other areas where the rights and responsibilities of vulnerable people are challenged, formal information-giving protocols have been developed. For example, when police are interviewing suspects they are required to caution the suspect about their right to remain silent and the fact that anything the suspect says during the interview may be used in evidence in later proceedings. Generally where understanding is a concern, suspects will be asked to repeat the caution using their own words. This requirement is supported by the further obligation that the interview, including the caution and warning, is recorded. These obligations are given force as a result of the high risk that unrecorded confessions will be excluded from evidence (Douglas and Harbidge 2008). Indeed, many confessions have been excluded from evidence, often in situations where it appears that the person did not understand the caution (Hunter et al. 2005).

It is not suggested that a failure to properly provide information to a parent or a failure to record that information-giving should lead, under this proposed model, to a reversal of a necessary child protection intervention. However, such a requirement may operate as an incentive to ensure that child protection workers do provide information that is capable of being understood by parents and to ensure that comments made by parents are not taken out of context. Copies of the recordings could also be provided to parents as a resource for them or any parent advocate who may later become involved in the case, and for the continuing education and training of child protection workers. At the point of contact with child protection workers it is likely that many parents will be distressed and may not remember what they were told (O'Neill 2005). A disjuncture appears to exist in Queensland with respect to the right to information under the legislation versus the delivery of information to parents in a practical sense.

Although the development of an appropriate protocol may assist in the

delivery of information, many workers stressed that what parents really needed were trained advocates to assist them in their engagement with child protection officials and associated processes.

3.2 Advocacy gaps

While most of the participants in this study agreed that it was important for parents involved in the child protection process to have an advocate, it was not always clear what they envisaged to be the appropriate role and training for such advocates. According to participants, the function of the parent advocate could potentially encompass a diverse range of roles including support, gathering, storing and finding out information, negotiating with child protection authorities and more formal legal representation. Clearly, depending on the role expected of the advocate, different skills may be necessary. Many of the workers who participated in this study emphasised that their clients often felt powerless when dealing with child protection authorities. Research has shown that parents dealing with child protection authorities are often stressed and thus may be ill-prepared for their contact with officials (O'Neill 2005). Parents often find it difficult to follow the progress of their case and to keep records. Record keeping will be particularly difficult for parents who are homeless or staying in temporary or refuge accommodation. One worker, who emphasised the importance of keeping records, noted that 'it's fairly easy for [workers] to keep a bit of a paper trail, but for the women it's not. I try to do a lot over the phone and by email and record everything.' Other workers said:

'If they have no legal representation, then they're railroaded. And the order's taken, and sometimes it's a permanent order, straight up.'

'And that's where you can advocate at family group meetings and actively ask "are you aware of the distinction between this and this?", when they usually would be too intimidated to speak up and ask.'

'... [child protection workers] weren't ensuring that information was regularly understood, the use of a very adversarial, intimidating way of interacting.'

One participant pointed out that mothers often feel that the claims made by police and child protection workers, especially when transformed to print, become fact. This participant noted:

'And when the police do the write up at the end of the day, they write it up like the factual evidence. ... but they'll write up all the notifications as factual evidence. So when family members get handed the affidavit ... how can they compete? Like, they feel that it is factual and that the courts will treat it as factual...'

In such situations parents would benefit from the support and assistance of advocates who would be able to help to challenge the material presented and to insert parents' stories into the formal narrative.

There were also some concerns expressed about the approach of advocates. Specifically there were concerns about whether advocates should promote an adversarial approach in their interactions with child protection authorities - that is 'put up a fight' on behalf of the mother - or whether advocates should be more focused on support, information-giving and negotiation. It is likely that the appropriate role and method of advocacy will depend on the history of the matter, the approach being taken by child protection officials and the family's individual circumstances. One of the Indigenous participants suggested that culturally appropriate support for Murri (or Queensland Aboriginal) women was central, she commented:

'Well, I'd like to talk on behalf of the Murri mob ... in case of something where they're going to intervene like that, they have to have a Murri

person with them ... prior to going to that family. ... they have to have a Murri person there.'

Some of the participants talked of advocates behaving in an adversarial way, as making 'demands' and 'challenging' child protection officials. For example one worker commented:

'We wrote to the manager of the department and the minister, with a demand that if you don't respond to this within two weeks you will leave us with no option but to take this matter to a higher level. But it's a lot of work and you really have to advocate for the client.'

Another worker noted:

'... but if you get that solicitor in they've got to challenge the whole affidavit, and then they've got a lot more work on their hands. So... they're [the child protection workers] gonna try and railroad – I don't care what you want to call it – the client into signing it so it saves them work.'

One worker explained that the approach of child protection officials changed perceptibly when the parent had a legal representative:

'... you can put in a child protection solicitor ... and then you'll find that the whole attitude of the department towards the women, knowing that they have legal representation – they'll back off a bit. Where before they're very dominating – always, saying "sign, sign, sign, sign, sign."

Thus, the presence of advocates may shift some power back to the parent, and if workers are open to change, positive results may flow. The participant of one focus group said:

'Sometimes it works out really well, particularly when you're really advocating for the rights of families, and for them, [child protection workers are] not used to this power being taken and given back to families. But sometimes the outcome can be a really good working relationship. From my perspective, they've got to be open to that change.'

While the adversarial approach taken by some advocates was perceived to have positive results on many occasions, there were alleged to be some potential risks if the advocate's approach was too aggressive. For example, workers in one focus group commented in the following exchange:

'-... when you don't really know where your client stands or what her options are, I mean, sometimes I think it comes down to a little bit of the expertise of the lawyer that you might have on the case, and someone who's prepared to bully the department a little.
- We've had a couple of bullies like that who are just great, but on the third time round, the woman was thinking that, well, maybe they were bullying too much and put them off side.'

As noted previously, the literature around child protection emphasises a preference for interactional styles of intervention and suggests dealing with parents as partners in the child protection process (Dale 2004, Guggisberg 2006). In Queensland the legislation would appear to support this approach. Section 5 of the *Child Protection Act 1999* (Qld) mandates that the powers exercised under the Act be exercised in a way that is 'open, fair and respects the rights of people affected by their exercise,' and in a manner that ensures that the views of the child and the child's family are considered, and that the child and the child's parents have an opportunity to take part in the making of

decisions that affect their lives.⁷ However the participants in this study generally viewed child protection workers as adversarial. There may be a range of reasons why child protection workers take an adversarial approach; these are discussed in Part 4 of this report. The problem with an adversarial approach is that parents' rights become pitted against children's rights. Both sets of interests should be able to be accommodated without tending towards the binary opposition of rights talk.

The apparent entrenchment of adversarial approaches may mean that simply ensuring parents have advocates will not be sufficient. Deeper cultural changes are necessary. At present, it seems that even where advocates are available for parents they are not always listened to by child protection workers. One participant claimed that the child protection workers 'had no time for advocates, they're so busy following their rule books.' Although legal aid may be available for some parents involved in later stages of protective intervention processes such as family group meetings and court proceedings (Legal Aid Queensland 2008), some parents are not aware that they can apply for it. Even when legal aid is successfully obtained, the remuneration for lawyers involved often falls far short of the amount necessary. One participant encapsulated these concerns in the following comment:

'... you need a really good lawyer who's committed to staying there for four hours even though it's the same pay, and who's willing to advocate very difficult positions. You need a lawyer like that... And people don't know you're entitled to Legal Aid or that you can even apply for Legal Aid at the group meetings.'

Participants of one focus group said in the following exchange:

'-We encourage every woman to get legal aid or a good lawyer, simply because...

⁷ *Child Protection Act 1999* (Qld) s 5(2)(d)(ii), (iii).

- Legally, we don't have the expertise or experience in that area.
- And it's sometimes better for the lawyer to play the hardline approach.'

These comments are based on circumstances where the parent already had a support person who could play a negotiator role with child protection authorities while a lawyer could take on a more adversarial role. Indeed some participants suggested that both skill sets were necessary:

‘-(Researcher question) The more you learn the more you know it's not just about information, it's about support. It's about advocacy. Do you think that the advocate in these situations needs to be a lawyer? Or can you do it?

-(worker response) I think both. She needs specific specialist legal advice and representation in proceedings. But I also think there is a need for agencies like ours that offer advocacy and understanding.’

However, depending on the role of the advocate at any particular stage they may not need to be a formally legally trained person, although a good knowledge of the legal situation and relevant legislation appears to be very important. There have been community-based efforts to make relevant information accessible (for example Southwest Brisbane Community Legal Centre 2008), however more training, time and resources for community workers is needed.

Better support and information at the early stages of intervention may mean that court proceedings may be avoided and the presence of well-trained advocates for parents might help ensure that a parent's distress does not prejudice their interactions with the child protection personnel at the early stages of intervention. Where children are removed, child protection authorities should be ensuring that connections between children and parents are maintained with an expectation that most children will return to live with

parents at a later stage. For this reason there needs to be continuing and sensitive work with parents which involves acknowledging their grief and loss (O'Neill 2005, Burgheim 2002), and understanding that anger, hurt and frustration might be expressed, but which also assists them to ensure that ties are maintained and support and information is provided that assists the return of children.

3.3 Conclusion

The central issues discussed here are lack of information and lack of advocacy for mothers engaged in the child protection system. Often these matters will go hand in hand. A good advocate should be able to ensure that a parent has adequate information. However an advocate may not always be available and in such cases there should be appropriate protocols and training in place to ensure that the spirit of information-sharing embedded in the legislation is translated into practice. Any discussion between a parent and a child protection official, where there is no advocate present, should be recorded wherever practicable and a copy of the recording should be provided to the parent. Similarly, parents should have access to an advocate at all stages of the process. This reflects the fact that parents who are experiencing a child protection intervention are particularly vulnerable and disempowered. While advocates should have a good working knowledge of aspects of the child protection legislation, in the early stages of intervention they should assist and support parents and ensure they are informed about the process and understand the process. At later stages, when matters go to more formal procedures such as family group meetings and court proceedings, a properly trained legal advocate will be necessary.

4 CHILD PROTECTION WORKERS

Concerns about the approach of child protection workers permeated focus group discussions in this study. In analysing the interview data it became apparent that concerns about child protection workers constituted a specific issue. It is suggested that institutional and systemic issues, including the professional pressures child protection workers face, may underlie the lack of experience and understanding perceived by the focus group participants. Regardless, the approaches of child protection workers in the field have very real consequences for mothers attempting to navigate the child protection system. Depending on the approach of child protection workers, mothers may or may not receive important information or, where information is provided, it may not be provided in an accessible way. Participants also observed that adversarial approaches were often taken by child protection workers, at the expense of more collaborative styles where all parties work together to ensure the best outcome.

The perceived tendency to be adversarial is related to the second major issue surrounding child protection workers: lack of trust. Some participants said that many mothers are fearful of engaging with child protection authorities due to their perceived propensity to convert requests for help into 'risk' factors. This concern was further reflected in the fact that most participants were ambivalent about alerting child protection workers of child safety concerns. The result has been a disconnect between some services that support mothers and child protection workers. In this climate of disjuncture it is the best interests of the child that ultimately suffer.

It is important to note that not all comments about child protection workers were negative. For example participants noted:

'I think, the only one I come out of having a positive experience – and I don't remember any of the details – was when they'd worked in the system for quite some time and seemed to have a good understanding of this particular client. It was a male worker. And the client had, I think she had connected quite well with him.'

'It does depend so much on the individual worker in the department. Like I have had three or four good cases, you know, with good caseworkers, but I think as time goes on, they are fewer and farther between because the turnover in the Department doesn't get any better, it gets worse if anything.'

'Well, in all my thirty years, I've come across one – she was an elderly woman, her name was [x] – and she was from the Department in [x]. She'd been there for 20 years, and she actually retired, but um, she's the only woman. And I've done a *lot of* stuff.'

While some positive observations were made in focus groups, these usually related to the same group of workers, to the extent that participants could number their positive experiences and name the relevant workers. The generally negative view of child protection workers related by most participants may flow from the fact that they frequently have an adversarial relationship with child protection workers. Nonetheless, the majority of experiences informing these results were indeed negative. These concerns are discussed further below.

4.1 Institutional and systemic issues

The professional pressures on child protection officials are undeniable. Child safety officials shoulder the considerable personal and professional burden, on behalf of the state, of determining the degree of risk of harm to a child, and whether such risk warrants the removal of a child from his or her family.

The difficulties of attracting, supervising and retaining staff in the child protection sphere are well documented (AASW 2008, Goddard and Tucci 2008). These problems have often led to child protection workers being stressed and under-supervised (AASW 2008). Some participants also noted the high turnover of child safety officials, implying that this was the result of worker burnout due to high caseloads and inadequate, or ineffective, professional supervision. The incidence of worker burnout, and high staff turnover rates in child protection settings, are often mentioned in the literature (Gibbs 2001, Goddard et al. 1999).

One consequence of high turnover is the loss of experienced workers (Gill 2009). Participants consistently stated that departmental officials dealing with child protection matters were almost invariably young, inexperienced, new graduates. Further, a large number of participants in our study stated that child safety officials' educational credentials failed to equip them to undertake the tasks set for them. Participants made comments such as '[t]hey're so educated and yet they don't know anything.' While other participants observed:

'You can just go straight out of school, do a degree, and just go straight into Child Safety because it's a government job. Probably over half the people when I went through my degree have gone straight into Child Safety and have no experience of real women apart from what they've learnt at uni.'

'Some of the comments from women are like: "Who do they think they are, coming out of uni or something and then telling me what's best for my children?"'

'They're sending out first year university graduates with no kids and no experience, quite judgemental. I mean, if you've never had toddlers and you've never seen what a tantrum's like, you can be quite

judgemental... And a lot of women are quite resentful when there are these [young workers] making judgements about their supervised access.'

Child protection workers were generally reported by the participants to have poor communication skills. This may be due to their lack of experience and the 'fragmentation of accountability' which flows from an environment of stress and under-supervision. A recognised effect of such fragmentation is a failure to communicate important information (Kemshall 2007). Although stressed child protection workers may be well-intentioned, requisite information may not be provided, or provided in a way which parents do not understand (see further Part 3.1). In fact, one participant in this study claimed that child protection officials were very reluctant to share with mothers information regarding their children.

This lack of knowledge, and the sensitivity that is required when dealing with disadvantaged families, was seen by participants as contributing to a negatively judgemental approach. One worker said:

'I think middle class people or people who have no experience of poverty do not know what the degrees of difficulty are so, when they see a situation, they make an assumption about what's happening there, and they make a value judgement about the safety of the children. So someone might not be too bad – there might be a bit of stuff happening but they're coping quite well with the situation comparatively. But someone coming in from a white middle class family, who's never had to go hungry, might just go "oh my god, that's disgusting."'

Another worker in a separate focus group made a similar comment:

'They [child safety officers] make judgments coming from their own

values like “well, the house is dirty”... the house might be dirty, because she’s trying to survive alone. Young mothers are not meant to be alone – there’s supposed to be a community where you help people. But it’s like, don’t look at the dirty house, look at the beautiful photos of the grandma and mum and the babies. And the love.’

Culture, and lack of cultural sensitivity on the part of child safety officers, also plays a significant role in stereotypes associated with poverty and child protection. One worker in our research said:

‘I have heard of [child safety officers] going into the houses of [newly arrived immigrants] and opening the fridge and there’s no food, the house is dirty – but she’s got eight kids... The fridge is always empty because people come in and eat. Whoever comes by has something to eat and gets offered something. It might not appear to be enough but there is always enough.’

Brophy’s (2008) research has explored parents’ experiences of racism in child protection interventions. She suggests that there needs to be more examination about the cultural context of parenting in particular cases if workers are to be able to assist in achieving real change for the child (Brophy 2008). In relation to Indigenous families, one worker in our study said:

‘They send a white middle class person into the home and there’s definitely a judgement call. Take housing. I mean, they might have ten people living in a three bedroom house – that’s a reason to remove a child. But culturally that’s ok because everyone’s being taken care of. But they never take that into consideration.’

This lack of understanding poses a particular problem in the context of domestic violence. Some of the participants in the study suggested that child protection workers accepted dominant myths about domestic violence, for

example that domestic violence is just a relationship issue (Wangmann 2008, Hunter 2006). (See further Part 6.2.)

Moreover, a judgemental approach at the assessment stage was seen to lead into 'the use of a very adversarial, intimidating way of interacting.' Some participants felt that it was workers' sense of being overwhelmed that led them to rely heavily on structured tasks, such as meetings and documentation, at the expense of providing one-on-one support to children and their families according to their needs. This approach may lead to a failure to properly engage and an appearance of being adversarial (Lynch 2000, Saytayamurti 1981). Relatedly, many participants said that child safety officials seemed preoccupied with 'winning the case,' and 'building evidence' to justify their actions. This is consistent with the 'science of risk' which has been adopted by child protection agencies, whereby risk is considered to be quantifiable, and thus capable of being 'proven' (see Stanley 2007, McCallum and Eades 2001).

4.2 Trust issues

Davies and Krane have found that women are often anxious and fearful of engaging with child protection authorities as they fear that they will not receive support and that their children will be removed. Other research suggests that these fears may be well-founded (Davies and Krane 2006). A number of focus group participants in our study commented on the dangers of failing to assist women who seek help. For example one participant noted: 'the Department has done so much damage, people are petrified with them.' Other participants observed:

'...[many of my clients are] very fearful in terms of engaging with authorities, which might be based on past experience with authorities in her country of origin or here in Australia. Women may have had very poor responses from police when police have been involved so are

reluctant to engage with police again and fearful that police will simply get [child safety] to intervene.'

'...they're very fearful that the Department will take their children. That's the number one fear.'

Many workers claimed that the fears of the mothers they supported were reasonable. In the view of a number of participants in our study, mothers' help-seeking often led to child removal. For example participants observed:

'I've known some people who have rung the Department looking for help – people who've actually thought that the Department would give them some help with their situation – and instead they find their kids being removed.'

'I mean, the woman might report these more subtle forms of DV [domestic violence], but what might trigger is that allegation of sexual abuse. And the woman might not want the children to be taken away, but she might want the Department to do something.'

This fear is particularly strong for Aboriginal women. For many Aboriginal people the intervention of child protection services is an experience frequently endured, and one that goes back several generations (see generally Human Rights and Equal Opportunity Commission 1997). Further, Aboriginal children continue to be disproportionately placed in out of home care (Australian Institute of Health and Welfare 2009). One participant said:

'Especially with Murri [Indigenous] kids. If they have a negative experience when they were children then they're very scared that even being seen as pregnant will be a black mark. There again, you get three or four generations of this kind of thing.'

The dangers of perceptions such as those conveyed by the participants in this study are clear. If mothers do not believe that services such as police and child protection services will provide them with the help they need, they will be reluctant to call on them for support. For example, women who are living, or who have recently lived, in the midst of domestic violence may need care themselves, however this does not necessarily mean that they are unable to act as effective care-givers to their children. Wilcox has described this as a 'tightrope' women walk; to admit to needing care 'may be seen as jeopardising their ability' to care for their children (Wilcox 2000). The concern is that a decision to avoid police and child protection authorities may leave both mothers and children in great danger. To ensure the safety of children at risk, both mothers and their support workers must be convinced that child protection officials will not take hasty punitive action (i.e. remove children) before attempting to support mothers to continue to care for their children.

The relationship between women's services and child protection authorities is complex, and there have been a number of philosophical collisions between approaches to intervention by women's service providers and child protection authorities. It has been shown that the way mothers' needs are approached differs markedly depending on the sector (Humphreys 2007). Davies and Krane (2006) suggest that women's support agencies have engaged with women, and child protection agencies have engaged with mothers, but neither agency has engaged with women as mothers. The participants of our study were similarly distrustful and generally reflected an ambivalent view about when or even whether to initiate engagement with child protection services. While none of the workers in our study were subject to mandatory reporting laws around child protection concerns,⁸ they had complex and

⁸ Some professionals are required to report reasonable suspicions that a child has been, is being or is likely to be harmed. They are: authorised officers, employees of the department and persons employed in a departmental care services or licensed care services (*Child Protection Act 1999* (Qld) s148); staff of the Commission for Children and Young people and Child Guardian (*Commission for Children and Young People and Child Guardian Act 2000*

variable responses to this issue. Those organisations that had on-going relationships with clients seemed to be less willing to report child safety concerns than organisations that tended to offer one-off advice and referral. This was related to the fact that participants with on-going contact with the mother and her children often felt that they were best placed to deal with the issues some of their clients face such as domestic violence and homelessness, which would in turn ensure children's safety. For example workers from services where client contact is on-going observed:

'We don't readily notify [child safety concerns], we don't take it lightly and we have significant discussion with the people we work with. Most of the time if we are concerned with child safety, where there are high levels of DV [domestic violence], there is often a lot of information-sharing in relation to the impact on children and issues in relation to safety and protection, particularly recognising the capacity for women to protect their children from violence where she is exposed to violence. So we look at providing support to women and recognising the challenges of living in a violent or abusive situation and the effect on children.'

'...we don't generally report. Our bottom line is that we wouldn't report unless we absolutely had to. But there have been these three cases where we've had to almost have a mini case to really talk about those issues.'

On the other hand, a participant who worked in advice and referral and had no on-going contact with clients had a different approach to those quoted above. She commented:

'The dilemma for me is, she's told me these kids are actually at risk, right. I have to move, I'm sorry, I have to move. I discuss it with

(Qld) s20); doctors and registered nurses (*Public Health Act 2005* (Qld) ss191 & 192); family court personnel and counsellors (*Family Law Act 1975* (Cth) s67ZA).

someone else. We do it very very gently. We know ... that women have a terrible history – especially Murri women – it's really tough, but you have to think, "crikey, how am I helping, what am I doing here? I have to act on behalf of the child."

The results of this study do not support the introduction of mandatory reporting for those supporting women dealing with child protection services. We believe that there is a significant risk that introducing mandatory reporting requirements for such workers would discourage women in need from seeking assistance. It would also confuse the roles of different service providers.

Our research suggests that there is a substantial disconnect between parents and the department, and between child protection services and women's services. This disconnect has serious implications for ensuring the safety of mothers and children (Humphreys 2007). A holistic approach to service delivery must be taken to ensure that mothers who require assistance receive it. For example, service providers must work together to ensure that women who are victims of domestic violence, and their children, are safely housed so that the threat of unnecessary child removal is reduced. Women who require practical assistance including housing and income support, emotional support, and other forms of specialised assistance such as immigration advice, should receive it if their children are to be protected from harm.

4.3 Conclusion

The apparent deficiencies within child protection departments must be addressed. It is repeatedly stated in the literature that while the personal and professional pressures on front-line child protection officers are widely acknowledged, little is being done to address the problems (Gibbs 2001). Many have postulated that the answer lies in more effective supervision, rather than accountability measures (Gibbs 2001, Bingley Miller and Fisher

1992). A focus on accountability promotes hostility, while encouraging contemplation and reflection may encourage 'meaningful' and empathic interactions with children and families (Darlington et al. 2002).

It seems logical that such an important role should only be undertaken by the most experienced and skilled of workers. Yet, on the contrary, in the Queensland context, these workers are most commonly new graduates of tertiary institutions. They generally hold social work degrees, although this is not mandatory, and they are generally very young. Reforms need to be focused on ensuring that front-line child protection workers are skilled and supported, and incentives must be provided to keep experienced and skilled workers on the ground doing case-work. Perhaps Child Safety employees should be required to maintain a casework load even as they progress through the department hierarchy. Either way, these issues must be addressed if the safety of children is to be assured.

5 POVERTY AND HOMELESSNESS

This part of the report is focused on the interactions between child protection services and families coping with poverty. It draws on the reflections of community workers supporting such parents about the distinct challenges they face. Participants in the research also offered practical suggestions, emphasising the importance of providing material assistance and support in building the capacity of families to adequately provide for, and protect, their children. This part is also informed by the viewpoints of parents experiencing poverty who participated in Walsh's 2007 study (Walsh 2007). Despite that study's focus on the criminalisation of poverty, many of the participants raised issues related to child protection in their responses (Walsh 2007).

It is well-established that families experiencing poverty and homelessness are more likely to be subjected to interventions by child safety departments (Thomson 2003, McConnell and Llewellyn 2005, Broadhurst et al. 2007). Generally, statutory frameworks within Australia do not overtly encourage or support the disproportionate amount of attention paid to families living in poverty by child protection authorities, in fact some explicitly mandate against it. However, in certain jurisdictions, policies and practices have developed in a manner which clearly allows, and in some cases requires, greater attention to be paid to families living in poverty. The result is that resources may be diverted from more serious cases of abuse where decisive action is necessary to protect children, to cases where families may be 'at risk,' but in need of support and assistance only. 'Neglect' is thereby subsumed into a general category of 'abuse' (see Penn and Gough 2002).

This part of the report offers suggestions for changes to policies and practices

to ensure that families living in poverty receive the support they need to avoid risks to child safety, and to ensure that the children living in such families are not removed from their parents, siblings and communities unnecessarily.

There is extensive discussion of 'early intervention' and 'prevention' in the literature, however the very notion of early intervention carries with it assumptions regarding the nature of the family judged to be 'at risk.' In instances of poverty, the notion of early intervention is problematic because 'early intervention' in such families must necessarily mean intervention *before* disadvantage occurs (Simpson 2008). Yet, this is not what 'early intervention' programs envisage.

It cannot be denied that there are situations in which children should be removed from their homes for their protection. However, since the impact of removal on children and families is so significant, authorities must proceed with caution when deciding whether or not to place a child in alternative care. Obviously, if supporting the family can have a protective effect, then there may be no need to remove the child.

5.1 Link between poverty and intervention

Despite 150 years of research and experience, the line between children who are poor and children who are 'abused' remains blurred. This is in part a result of the conflation of neglect with abuse. Of those cases of child abuse substantiated by child protection authorities in Queensland, around one quarter are cases of neglect as opposed to other forms of abuse; for Indigenous children, the proportion rises to one third (Australian Institute of Health and Welfare 2008a). Those investigated for child abuse in Australia are mostly reliant on government benefits, and many are single mothers (Hansen et al. 2007, Victorian Department of Human Services 2002, Scourfield and Drakeford 2002). The main reasons given by children and young people for

seeking support from homelessness services in Australia are family breakdown and domestic violence (Australian Institute of Health and Welfare 2008b). For those experiencing homelessness, child protection issues are reported to be one of the most prevalent legal difficulties they encounter (Walsh 2005, Walsh and Douglas 2008).

It has been noted that the connection between poverty and child abuse is associative not causal (Thomson 2003). It has also been noted that child protection intervention in the lives of poor families may stem from prejudices and discrimination against disadvantaged parents (Gilles 2008). Child protection workers may attribute the causes of abuse to parental behaviour, when it is actually structural and environmental factors that have brought the family to authorities' attention (McConnell and Llewellyn 2005, Hansen et al. 2007, Broadhurst et al. 2007, Tomison 1996). Many studies have demonstrated that financial and housing difficulties are often overlooked in child protection investigations (see Fernandez 1996, Buckley 1999), and that children may be removed without any real attempt to resource the family to ensure the children are adequately provided for (Eamon and Kopels 2004, Hansen et al. 2007). Moreover, child protection authorities may be called upon to intervene in situations where parents cannot afford medical treatment that their child requires (Commonwealth Senate and Community Affairs References Committee 2004). In short, 'risk' may be being overestimated in situations where poverty is present (Scott 1995).

In some jurisdictions in Australia, child protection legislation attempts to ensure that children are not removed from their families for reasons of poverty. In Victoria, the *Children, Youth and Families Act 2005* states that before making a protection order which has the effect of removing a child from the custody of a parent, the court must satisfy itself that all reasonable steps have been taken by the Secretary (that is, the most senior public servant in the relevant government department) to provide the services necessary to enable the child to remain in the custody of a parent. Further,

when determining where to place a child who is under the care of the Department, the Secretary must have regard to the fact that the child's lack of adequate accommodation is not by itself a sufficient reason for placing the child in a secure welfare service. In New South Wales, the *Children and Young Persons (Care and Protection) Act 1998* states that although parents' failure to meet the child's basic needs constitutes grounds for a care order to be made, the court may not conclude that the basic needs of the child have not been met only because of poverty.

In Queensland, such protections do not exist. The risk assessment tool used by child safety officers to determine whether or not a child is in 'immediate harm' is heavily biased against poorer parents. Of the thirteen 'immediate harm indicators,' two focus specifically on whether the physical needs of the child are being met by parents (Queensland Department of Child Safety 2007). Workers are directed to consider whether the child's nutritional requirements are being adequately met, whether the parent is able to obtain treatment for the child's medical condition, whether there is a 'lack of services (water, sanitation, electricity),' and whether there are any 'open, broken or missing windows' at the child's home. This assessment tool has the effect of transforming 'need' into 'risks' (see further Henricson 2008, Krane and Davies 2000). As a result, many children are removed, or are prevented from reuniting with their parents, for reasons of poverty or homelessness. As one worker who participated in our research said:

'Initially, we had a couple of cases where they [the Department of Child Safety] considered a shelter "home"... But other workers have considered a refuge "homeless," and they will absolutely not give their children back when they're at a refuge until they find something permanent.'

Removal in situations where this is unnecessary clearly has significant resource implications for child protection departments. The cost of placing

children in alternative care is significant (Victorian Department of Human Services 2002). Assisting in a practical way is likely to be more cost-effective for child protection agencies in the longer term because the need for child removal may be prevented, or reunification may occur more quickly (Eamon and Kopels 2004). One worker who participated in our research said:

‘Our concern was that the system, by not providing adequate support systems, had supported the breakdown of this family. That constant talk of “we don’t have enough resources” actually puts it back to the mother to facilitate the process... the department was actually colluding in dividing the family.’

5.2 Preventing child abuse amongst poor families

There is formal recognition within legislation of the importance of ‘prevention’ and ‘early intervention’ in ‘at risk’ families to prevent child abuse (Commonwealth Senate and Community Affairs References Committee 2004). However, many of the policies and practices based on an early intervention philosophy have failed to provide the kind of support that is needed to build the capacity of families living in poverty to care for and protect their children.

Early intervention strategies to protect children living in poverty have generally been characterised by parental education, surveillance and supervision (see Glass 1999).⁹ The central goal of such approaches is essentially to teach disadvantaged parents how to raise children ‘capable of becoming middle class citizens’ (Gillies 2008, Clarke 2006). Parents are targeted for intervention through such measures as parenting classes and enforced school attendance, where a punitive response is leveled at parents for any unexplained absence of their children from school.

⁹ This is exemplified by the Northern Territory Emergency Response.

This is based upon the assumption or belief that disadvantaged parents are 'uncaring, irresponsible and out of control' and are 'failing to impart the necessary skills and traits that are needed to propel their children up the social ranks' (Gilles 2008). Yet, disadvantaged parents work hard to inculcate their children with values and skills more relevant to their situation, such as resilience and coping skills (Gilles 2008). And a child's failure to attend school may be the result of any number of factors linked to disadvantage, including lack of money for educational expenses and transport costs, or an inability to engage effectively with the kind of education and institutions on offer (Commonwealth Senate and Community Affairs References Committee 2004, Gilles 2008, Goddard 2000). As one young person who participated in Walsh's 2007 study said:

'You have to go to school – it is illegal not to. But if you haven't got the money to go to school, how can you go to school? And not having enough money to go to school is pretty bad... I am getting in trouble at school and I am bailing because I don't have textbooks.'

Families in need of support should not have to go through child protection services to access the assistance they require (Scott 2007). If a protective strategy relies on a family being 'made known' to child protection authorities first, it may be ineffective in its preventative goals. The Queensland Crime and Misconduct Commission (2004) recommended that Family Support Officers be employed by the Department of Child Safety to work exclusively with parents whose children have been the subject of a low-level notification but continue to live in the family home. Yet it has been found that disadvantaged parents targeted for family intervention may not engage well with professionals or take up referrals (Tomison 2002, Marneffe 1992, Garbarino and Sherman 1980, Clarke 2006). Our research suggests that this is likely to be a result of parents' fear of judgment and the gravity of the consequences if they are perceived by officials to be failing to provide for their children: sending in 'support officers' that are associated or aligned with

the same agency that is threatening to remove their children is unlikely to generate a sense of collaboration within parents. As one worker in our study said of the young mothers she worked with:

'Even if they'd like to ask for help, they won't because it will make them seem to be poor parents. They can't say "look, I need a course, I don't know how to deal with my child," because they're scared the Department will come in. Yesterday one of the young mothers came to me and I said I would get her into one of those parenting programs, and she said "no, I don't want to be enrolled in anything.'"

Another worker in another focus group remarked:

'I've known some people who have rung the Department looking for help – people who've actually thought that the Department would give them some help with their situation – and instead they find their kids being removed.'

Disadvantage tends to be framed by child protection workers as a personal issue within the family unit, rather than a consequence of structural inequality (Gilles 2008). One worker in our research stated:

'There's nothing practical they can do. And yet, they'll give [the children] to foster carers. If you gave women the house, and the money, and the pram that you gave the foster carers, she'd actually be able to do a lot better, and be able to look after her children.'

If the real problem is material in nature, then parenting classes or counseling referrals do not represent effective responses (Gilles 2008).

5.3 Building the capacity of families to care for their children

The respondents to our research put forward a number of practical suggestions as to how disadvantaged families could be assisted to prevent the need for child protection intervention or removal of the child from the home. One key theme which emerged from the focus groups with workers was the need to take a strengths-focused approach when working with disadvantaged families. As one worker in our study said:

'You look for potential, you look for things that are ok, but you don't go and make a judgement. You sort of see things that you could possibly help her with. Like, possibly, organising someone just to come and help mow the grass... You need to ask "well, how can we help you?"'

A worker in another focus group made a similar comment:

'In my mind, it's about "wow, these people look like they're having a hard time – how can we *help* them?" And that's never asked. It's about supporting people who are going through a hard time. And if they could put their energy into that, things could potentially be quite different.'

A mother and father who participated in Walsh's 2007 study related a conversation they had with a Departmental representative in relation to their daughter who was being investigated as an 'at risk' child. They said:

'One guy gave us – there's a list – he goes "here's your daughter's rights." And then he turned it over to a blank piece of paper: "There's your rights."'

Many of the workers who participated in our research were working in

organisations that were implementing highly successful intervention strategies on extremely low budgets. The key characteristic of these programs was that they offered intensive one-on-one support of a practical nature which focused on the parent's strengths and meeting their needs, as identified by the parent. One worker said:

'She gets behind with the housework, she can't buy groceries – they don't have a car – so all these sort of simple things – buying groceries, helping with the housework – these are all really practical things which can help make them feel better.'

Another said:

'There was a mother I helped the other day. Now she is a capable girl, but her mattresses the kids slept on were all yucky, and she has no sheets. So we sent over some mattresses with mattress protectors and brought sheets and things... Just those basic things make the person feel better, that they are able to cope.'

One worker compared her organisation's approach to a mother whose child was at risk of being removed to that of the child safety officer:

'- She needed housing for her and her child and eventually it took us getting her whitegoods, us getting her house clean, us taking the Domestos around and scrubbing the fridge. All the time her CSO [child safety officer] would sort of pop in now and again saying, "oh, that's good, everything's going well."

- But if you hadn't been doing that the child would have been taken away.'

Many parents targeted for 'intervention' have the skills they require to

appropriately and lovingly parent their children, they just lack material and economic resources. As one parent from Walsh's 2007 study said of child safety officers:

'They don't want to help you get your kids back from them. They just seem more against you with their reports... instead of working with you to help you get your kids back. We're not saying we're perfect parents. Just need a little bit of support. They make you feel like you're scum of the earth. They should make you feel like you're worth living, that you're worth it and that you're a good parent. It brings you down and it brings your partner down and you get down on the whole world.'

These parents are forced to do much with little, and the result is a family situation that may not resemble the relatively privileged upbringing that those casting judgement upon them may have had, but is nevertheless functional. One worker said:

'I think middle class people or people who have no experience of poverty do not know what the degrees of difficulty are so, when they see a situation, they make an assumption about what's happening there, and they make a value judgement about the safety of the children. So someone might not be too bad – there might be a bit of stuff happening but they're coping quite well with the situation comparatively. But someone coming in from a white middle class family, who's never had to go hungry, might just go "oh my god, that's disgusting."'

Another worker in a separate focus group made a similar comment:

'They [child safety officers] make judgements coming from their own values like "well, the house is dirty"... the house might be dirty,

because she's trying to survive alone. Young mothers are not meant to be alone – there's supposed to be a community where you help people. But it's like, don't look at the dirty house, look at the beautiful photos of the grandma and mum and the babies. And the love.'

Culture, and lack of cultural sensitivity on the part of departmental officers, also plays a significant role in stereotypes associated with poverty and child protection. One worker in our research said:

'I have heard of [child safety officers] going into the houses of [newly arrived immigrants] and opening the fridge and there's no food, the house is dirty – but she's got eight kids... The fridge is always empty because people come in and eat. Whoever comes by has something to eat and gets offered something. It might not appear to be enough but there is always enough.'

In relation to Indigenous families, one worker in our study said:

'They send a white middle class person into the home and there's definitely a judgement call. Take housing. I mean, they might have ten people living in a three bedroom house – that's a reason to remove a child. But culturally that's ok because everyone's being taken care of. But they never take that into consideration.'

Of course, for disadvantaged families who are dependent on welfare for survival, the impact of a child's unnecessary removal is particularly serious as parents will have their welfare benefits reduced. This in turn impacts on their ability to retain housing. As one worker who participated in our research stated:

'We had one client whose children were removed only for a few months, but in that time, she lost her income support which she

needed to pay for her housing. The Department of Child Safety were saying you need to maintain housing if you want the children returned.'

This mother, and others like her, becomes caught in an impossible situation. Once her public housing is lost it is very difficult to obtain another house and without appropriate housing her child cannot be returned. One mother who participated in Walsh's 2007 study commented that no matter how hard she tried to get her life back on track, her past was a constant barrier to her being reunited with her daughter, and to freedom from departmental interference regarding her unborn twins:

'They're bringing up everything just to hold everything against me so I don't get my two year old back. Your past should be your past. They're even looking at taking these two. This is just wrong. They're not even out of my stomach yet and they're still looking and pushing.'

Clearly, those making critical decisions relating to the protection of children need to demonstrate a higher level of understanding of the distinct challenges facing disadvantaged parents. Child safety authorities must appreciate that parenting is situational, and that parenting must be assessed in context, with due consideration given to the constraints under which different parents live (McConnell and Llewellyn 1998, Brophy 2008). Need should not automatically be assessed as 'risk,' and parents should not be characterised as 'abusers' in situations where the barrier to appropriate care is simply a lack of material resources. As one worker said in our research:

'In the end it's about families and communities and until they get their head around the idea that the interests of the child is actually in the family, you've got a really big problem. It's quite incredible how they've created divisions and segregations. It's like they've put it all into little boxes, but it only exists with all of it.'

5.4 Conclusion

Where families are considered 'at risk' as a result of their poverty the focus of child protection departments must be on resourcing parents. Parenting classes, counseling referrals, and withholding welfare payments are not effective responses to a situation where the provision of material assistance and practical support could avert the 'risk' posed to the child. Rather, the strengths within a family unit must be identified and built upon. Parents, and children, must be *asked* what may be done to assist them, and *listened to* so that their capacity to function as a family unit may be enhanced. The distinction between poverty related neglect and other forms of abuse may be a difficult one to identify, but unless this distinction is properly explored in each situation, unnecessarily coercive strategies may be employed by child protection authorities. Interventions that splinter the family may be inappropriate and more expensive in the longer term, whereas a focus on capacity-building through the provision of material and financial support would have provided better long term outcomes for the child and their family.

6 DOMESTIC VIOLENCE

This part of the report explores the relationship between understandings of domestic violence and the child protection response. Domestic violence is now recognised as a risk factor in child protection matters. Many workers interviewed suggested that the misunderstanding of domestic violence often leads child protection officials to hold non-violent mothers responsible for ending the violence. Many study participants claimed that child protection officials may present an ultimatum to women in situations of domestic violence: that they leave and keep the children or stay and lose them. While the accuracy of these perceptions might be challenged, they have ramifications for the kind of advice support workers give to their clients and their own willingness to report to or engage with child protection services. This part concludes that to properly protect children, it is critical that child protection workers have a clear understanding of the dynamics of, and issues related to domestic violence (Kantor and Little 2003). This report also argues that mothers experiencing domestic violence, and the workers who support them, must be able to trust and engage with child protection authorities if children are to be kept safe.

6.1 Background

Research has demonstrated that children in households where there is domestic violence may be harmed as a result of witnessing the violence (Choudhry and Herring 2006, Wangmann 2008) and children are more likely to be physically assaulted at home if their mother is being physically assaulted (Harwin 2006). The definitions of 'harm' and a 'child in need of protection' in the *Child Protection Act 1999* (Qld) are wide enough to include children living in households where there is domestic violence (see part 1.1). Domestic violence is a factor to be considered pursuant to risk assessment tools used by child protection workers (Davies and Krane 2006). In Queensland,

domestic violence is defined in state domestic violence protection legislation and includes personal injury, harassment, intimidation, indecency and damage to property and threats of any of these behaviours.¹⁰ A further requirement of the definition is that the behaviour must occur in the context of an intimate, spousal, family or care relationship.¹¹

Domestic violence is understood to have complex power dynamics whereby the abuser seeks to control the victim (Easteal 2001). Research has shown that domestic violence often continues after the parties separate (Cowan and Hodgson 2007) and that violence and danger may become heightened after separation (Mahoney 1991). Research has also consistently confirmed that domestic violence is gendered and women suffer disproportionately to men (Graycar and Morgan 2002).

6.2 Misunderstandings about the nature of domestic violence

Some of the participants in our study suggested that child protection workers accepted dominant myths about domestic violence, for example that domestic violence is just a relationship issue (Wangmann 2008, Hunter 2006). Participants said:

'... there's a problem of understanding the dynamic of domestic violence ... in [the Department of Child Safety]. It's seen as more of an interpersonal conflict situation. Women participate in this. And so there's not, there doesn't seem to be much understanding of the actual power dynamic, and so... you get these very... strange kind of perspective[s] and strange responses.'

'There's definitely that absolute approach that it's between the parents,

¹⁰ *Domestic and Family Protection Act 1989* (Qld), s 11.

¹¹ *Domestic and Family Protection Act 1989* (Qld), s 11A.

that it's something about their relationship, it's something about the parties.'

The failure to recognise and identify the particular dynamics associated with domestic violence is likely to have ramifications for the way in which child protection workers respond to abused mothers and their children. Studies have demonstrated that notwithstanding circumstances of domestic violence women actively seek safety for both themselves and their children (e.g. Wilcox 2006). Yet our participants suggested that many child protection workers saw the parties to domestic violence as failing equally to be protective. One participant observed:

'I think Child Safety don't see that there is a protective parent when there's violence, there's this assumption that both parents are problematic if there is any violence. Rather than, that violence is gendered, and that women actually do... or that there is often a protective parent. And it's better to have a system that works with the protective parent.'

If a mother is perceived to be acting protectively, presumably the child protection worker may be more willing to provide assistance and support. In the alternative where a mother is seen to be part of the reason for the dangerous environment, removal from the mother's care may be much more likely.

While some child protection workers may not understand the dynamics of domestic violence, they are likely to recognise it is unacceptable. Yet, participants in one focus group in our study observed that mothers who are new arrivals to Australia may not even understand that domestic violence is not acceptable in Australian society. In such cases women need information about their legal rights and about available supports such as domestic violence protection orders and refuge accommodation so that they can make

informed decisions about what to do and child protection workers need to be able to explain the concept of domestic violence to mothers. This is problematic if child protection workers misunderstand the dynamics of domestic violence in the first place.

6.3 The mother is to blame

Many of the participants in our focus groups claimed that child protection workers appeared to, first, construct women as the one with the responsibility to care for children, and then to blame women for the domestic violence in the home and the consequent failure to protect their children. Where this is occurring, mothers may experience a much higher degree of scrutiny than their male batterers. The central concern here is that such constructions and blaming also have practical ramifications for how child protection workers respond to situations of domestic violence. Participants commented:

'...[these mothers] are fine and decent women but they're just being blamed for the domestic violence, and they're actually being blamed for his violence, because they're not being protective enough. And the [Child Safety] Department is quite punitive in the measures that need to be in place for them to get their children back...'

'What concerns me is the framework of [the Child Safety Department] in dealing with domestic and family violence...even where there is recognition of the violence that a male might be using in a relationship; their focus is on the woman and her capacity to protect the children. Not about his capacity to cease using violent or abusive behaviour, the emphasis is on her capacity. The focus is on her and the level of misplaced and transferred responsibility onto the women is quite dangerous and has significant implications for women.'

If mothers are perceived as unprotective, they may not receive appropriate

support. Further, an approach that blames a mother's failure to protect her child from domestic violence is unlikely to address the perpetrator's violence, meaning that a violent cycle of domestic abuse is more likely to continue.

A related matter identified by participants was that child safety officials appear to have double standards for abused women as compared to male perpetrators of abuse. Some of the participants in our study reported that while women were burdened with responsibility to remove children from abusive situations, male perpetrators of violence were sometimes judged to be satisfactory fathers, just not good husbands. Participants said:

'It's like, how can you say that you're violent but still a fine father?'

'I think the critical thing for me is that it's the concept that ... while he beats the shit out of the wife, but he's a good dad because he takes 'em to soccer. You know, children inhale what they've observed.'

'[Child Safety] workers were saying that they believed that a man can be violent to the mother but still be a good father.'

According to several of the participants in our study, these assessments can lead to children being removed from the mother (who is judged as failing to protect the children), and placed in the care of the father (the perpetrator of the violence against the mother). Participants said:

'Our experience is that Child Protection will give the children to them... who have long histories of violence.'

'... I remember one case where there was obvious domestic violence. The police came and the police put in a [protection order]. And he said something as the police were there that she was crazy, and as soon as he said that the children were taken off her.'

Workers identified a specific situation where the mother claimed there had been significant domestic violence. The mother was in hospital birthing a child and thus was willing but not able to care for her other children. In the circumstances the participant in our study commented that the Child Safety Department:

'...played down the violence. They located a relative, related to the father. The mother refused [the placement] because she was concerned about the children's safety with this relative. ...But they had found someone who could provide care and even without the mother's consent they were going to go down the path of placing the children with this relative... really not hearing the concerns of this woman.'

The mother referred to in the extract above had real concerns for her children if the children were in contact with their father. This possibility was obviously increased when the children were placed with the father's relative. It is common for women caught up in domestic violence to become isolated and for her family and social networks to break down (Easteal 2001) which may result in women being unable to identify safe people in their own networks to care for children. This was the case for the woman in the above example. Workers in our study also claimed that some violent men were more adept at harnessing the child protection system and family law system for their own interests. Participants said:

'...it's really prevalent. And women are just incredibly disempowered in this day and age with children, especially with men who are really violent, and like I said, use the family law against them, and present as this big yogi bear of a man, but in reality...'

'I think guys will just be like, "I'm doing this; I'm getting the kids."'

'And also perpetrators use the family law against women. They might have had nothing to do with the children, but that's like using family law against the women is just another way of putting them under. And they are using the child protection system as a way of getting what they want.'

It has been suggested that the father's violence may become invisible as child protection agencies focus on change of the mother in order to improve her capacity (Schneider 2000, Humphreys 2007, Powell and Murray 2008). However, holding men accountable for their violence may often ensure better outcomes for mothers and their children (Fleming 2007). A participant said:

'If you're gonna work with women and you don't work with men you're wasting your money and you're wasting your time. If you're just going to resource women and don't change the male, it's gotta change, and there's many many ways of doing it. Programs are just one way. The whole culture of the thing – we need sporting icons to come out and say [something].'

However, work with men who engage in domestic violence remains unusual, especially in the child protection context.

6.4 The 'leave' ultimatum.

In circumstances where domestic violence is the identified risk, focus group participants claimed that it was common for child protection workers to issue an ultimatum to mothers. Participants claimed that women were often given a choice to either move to accommodation away from the domestic violence perpetrator and continue to care for the children, or stay with their abuser and lose the children. Participants in our study were asked whether it was the case that child protection workers give such ultimatums to mothers. Study participants in one focus group said:

Participant 1: 'Yep, that happens as well. That's the ultimatum that some of the women get.'

Participant 2: 'But sometimes they do that [comply with the order] but still won't get their kids back. So it's like shifting them...'

Participant 1: 'And instead of working with both, the whole family support is divided and conquered.'

Another participant said:

'I think some of the women who have had just a peripheral involvement with [Child Safety] is where they've been told "if you don't leave your partner," the threat of removal of children hangs over them.'

Such a binary choice offered in the context of domestic abuse will rarely be either a realistic one for women or an appropriate approach for child protection workers (Terrance et al. 2008). To begin with, some women may have false information about their options which have been provided by the perpetrator of abuse. For example, women who are new arrivals to Australia may not believe that they are legally allowed to leave their partner. One participant in our study commented that women who came to the service where she worked were:

'Often fearful, and often directly misinformed by her partner that should she leave the relationship that she would be deported and the children would remain in Australia. ...not knowing what support services are available and definitions of domestic violence in Australia.'

The pressure is placed on the woman to take the necessary steps, including leaving, in order to find safety for the children (Terrance et al. 2008). In Australia it is possible to obtain an 'ouster order' as a condition in a domestic

violence protection order.¹² Such a condition ensures that men are not legally allowed to enter the family home. The Australian Federal Government has recently publicly supported the availability of ouster orders, and has announced an initiative to support women and their children to stay safely in their homes while the perpetrator of the violence is removed (Commonwealth of Australia 2008). Yet, magistrates are uncomfortable with excluding male perpetrators from their home, primarily due to the legal focus on property rights (Choudhry and Herring 2006), especially where perpetrators of violence have legal title (Field et al. 2000, Wilcox 2000). The magistrates in Field et al.'s (2000) study suggested that they would be more prepared to grant an ouster order in more severe situations of violence. However, it is actually in these situations that such an order would be most dangerous for women; at this point of violence escalation, secure accommodation, such as refuge, may be more appropriate (Field et al. 2000). Thus, ouster orders are most appropriately granted in the early stages of domestic violence, and probably before child protection becomes an issue. The development of safe refuge accommodation for women has also limited the focus on ouster orders (Field et al. 2000), especially as the availability of men's crisis accommodation remains very inadequate. One participant in our study noted that women's refuge was the best approach 'in the absence of anything better, you know – in a fair world, *he'd be off, he'd be sent off to a refuge.*'

Even where there is suitable refuge accommodation available, the world view of some women, especially those from different cultural backgrounds, may not include the possibility of leaving. While participants in our study often accepted that in many situations the only realistic option was that women should leave the violent situation, workers emphasised the myriad practical issues that confronted mothers if they did make this decision. For example one participant commented:

¹² See for example *Restraining Orders Act 1997* (WA), s 13(4); *Domestic Violence Act 1994* (SA), s 5(3).

'Very often the women who are here, even though they are with the violent partner, this violent partner is the only support that is there. It is the only family. So perpetrator and supporter at the same time. Leaving, thinking about leaving, not even knowing the system: that is an issue. And not knowing, just information, one off information, doesn't cut. It's a lot of information, it means for many women to change their world view. To really digest it, think about it and make a choice.'

Wilcox (2000) research shows that women who leave with children face increased debt and living expenses, the possibility of accruing rent arrears and increased medical expenses and legal expenses. Wilcox also observes that the damage to self-confidence and self-esteem incurred after years of abuse may also make dealing with various support agencies more difficult (2000). Accommodation may be unavailable or available only for a short period. One of the participants in our study noted: '... in many of the cases homelessness is a big thing.' Even though women's refuges prioritise women with families, there is still large pressure on availability (Terrance et al. 2008, Moe 2007). In any event, some participants suggested that even if refuge accommodation was found it may not be considered safe for children. One participant commented:

'Initially we had a couple of cases where [child safety] considered a shelter a "home." Partly because they'd been there three months. And also we guaranteed to house them, as well. We had cases where it was like – well, they're safe and they're being supported ... But other [child safety] workers have considered a refuge "homeless," and they will absolutely not give [mothers'] children back when they're at refuge until they find something permanent.'

Further, given the priority on placing women with children in refuge accommodation, it may be very difficult for a lone mother to find accommodation and getting her children back may rely on her obtaining

accommodation. One of the study participants commented:

'There's a lot of single women who come to us who have lost their children due to domestic violence. It's critical... then they get homeless. And it's very hard to place a single woman.'

The private rental market may also be difficult to access, both because of high demand and limited resources, but also because many women experience active discrimination by landlords and real estate agents (Chung et al. 2000). Even when women do find housing, it may be difficult to convince child safety workers that the situation will be safe. For example one participant explained:

'One of my clients actually left the relationship, we went through all the safety plans, security plans, we talked about a shelter but she said "no I will not live my life in fear. I have a [protection order]. It's my life." She was that strong. Then somebody made a notification to [child safety] saying she wasn't a fit mother... [child safety] intervened and said if she doesn't go into refuge they would take her child.'

The ultimatum approach demonstrates a failure to understand how domestic violence works. In many cases women make an assessment that it is safer for both themselves and their children to stay in a violent situation rather than leave (Davies and Krane 2006, Schneider 2000). Research has shown that one of the most dangerous times for an abused woman is in the months after separation (Humphreys 2007, Mahoney 1991). While in many cases protection orders may contribute to a woman's safety (Connelly and Cavanagh 2007), orders are frequently breached thus limiting the protection afforded (Douglas 2008). Frequently, women will have previously experienced agency failure (Moe 2007). Research suggests that women continue to experience difficulty in getting police to respond to help-seeking requests in the context of domestic violence and that sometimes women fear that

obtaining a protection order will exacerbate the violence (Connelly and Cavanagh 2007). Another complication identified by participants in our study was that even if the mother does obtain a protection order, child protection services will often require children to be listed as persons to be protected under the order. Sometimes magistrates may be reluctant to include them. Participants in one focus group observed:

Participant: 'Even where women have chosen to leave the relationship to protect the children and thinking about getting a protection order, the pressure from [child safety] to have children named in the order, listed on the application...yet it's the magistrate's decision about whether to name the children and very often they are not named. There's continued pressure for the women to negotiate in these systems.'

Facilitator question: 'So if children are not named on the order, is that seen as a failure to protect?'

Participants: 'Yes (General agreement in the group).'

Clearly there is a long list of concerns and complications associated with leaving a violent relationship. In some situations staying may be a rational option rather than symptomatic of an inability to care (Terrance et al. 2008).

These matters appear to contribute to a climate of mistrust between mothers and their support workers in relation to child protection agencies, leading both mothers and their supporters to fail to both report child protection issues and seek help. Many focus group participants emphasised that many mothers are anxious about reporting domestic violence to child protection authorities for fear of having their children removed. Other research suggests that often their fears are well-founded (Davies and Krane 2006). A reluctance to call on services for support will leave battered mothers in great danger and ultimately negatively impact on the welfare of their children.

6.5 Conclusion

While children who experience domestic violence, whether physically or as observers, are at risk, this report supports the view that children are sometimes better protected where the battered woman is properly supported and protected (Hornor 2008). In order to better support and protect battered women, criminal justice interventions in relation to domestic violence must be enhanced. Cowan and Hodgson (2007) have suggested that police failure to respond to domestic violence at an early stage has ramifications for children as early police intervention may help to ensure that appropriate protection orders are made. Evidence gathering and associated charging practices should also be improved (Choudry and Herring 2006). Once domestic violence matters reach court, sentencing outcomes should be used as an opportunity to focus on protection of women and behaviour change in violent men (Douglas 2007).

As has been noted elsewhere the disconnect between various services has serious implications for ensuring the safety of mothers and children (Humphreys 2007). A holistic approach to service delivery remains the best way to ensure safety.

7 CONCLUSION

This study involved focus group discussions with 32 workers who interact with the Queensland child protection system with, and for, mothers. It is limited in scope, but it raises a number of important issues that should be addressed as a matter of urgency. If the work of child protection authorities is to have any protective effect, child safety officers must work collaboratively with parents and children. Much more asking, rather than telling, needs to occur.

There is a dire need for further review and research of child protection law and the impact it has on the workings of the child protection system. This research provides merely a starting point. However some matters should be dealt with immediately.

7.1 List of Recommendations

- Appropriate protocols and training for child protection workers should be in place to ensure that information is shared with parents (3.1).
- Information-giving protocols should include appropriate guidelines for dealing with immigrant parents, including provision of an interpreter where necessary and the effective communication of particular information such as the acceptability of violence and information regarding visas (3.1, 6.2).
- Any discussion between a parent and a child protection official, where there is no advocate present, should be recorded wherever practicable and a copy of the recording should be provided to the parent (3.1).
- Parents should have access to an advocate at all stages of child protection intervention. Such advocates should have a good knowledge of the law surrounding parent advocacy (3.2).
- More training and access to resources should be provided to community organisations providing parent advocates (3.2).

- Indigenous parents should be provided with culturally appropriate support. This entails access to an Indigenous advocate or support person (3.2).
- Parents should be made aware that they can access Legal Aid to act as an advocate. Legal Aid funding of parent advocates should be increased to cover their remuneration (3.2).
- The *Child Protection Act 1999* (Qld) should be amended in line with Victorian and New South Wales child protection legislation to explicitly state that children should not be removed from their families for reasons of poverty alone (5.1).
- The concept of 'neglect' should be more clearly defined in legislation and procedures documents, and should be clearly distinguished from situations where parents are struggling financially and/or homeless but are otherwise able to care for the child (5.2).
- The *Child Protection Act 1999* (Qld) should be amended to provide child protection workers with the power to provide, or arrange for the provision of, material support to families where this would have a protective effect and prevent the need to remove the child (5.3).
- Improved training should be provided to child protection workers about the dynamics of domestic violence (6.2)
- Child protection services should ensure that violent fathers are held accountable and responsible for their violence (6.3)
- Magistrates should be provided with clear information about when ouster orders in domestic violence protection order applications may be appropriate (6.4)
- Child protection workers should not present a leave ultimatum to mothers in circumstances where there is domestic violence and a refusal to leave should not be assumed to be an obstruction to child safety (6.4).
- Work should be done to improve relationships between child protection workers and those workers who work with mothers (6.5).

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