

# **Not Just Court**

## **Family violence in rural New South Wales**

### **Aboriginal women speak out**

#### **Executive summary**

In the mid 1980s justice responses to domestic violence were introduced in all Australian State and Territory jurisdictions. They were the outcome of the political influence of second wave feminism that challenged patriarchal social structures and the legitimacy they accorded inequality, discrimination, exploitation and abuse of women. During this time the extent, diversity and severity of violence perpetrated by men against women, both in public places and in the private domestic sphere received increased public exposure. Governments responded with the introduction of women's services, public education campaigns and legal reform.

During the 1970s measures were introduced in New South Wales that increased support to women who experienced sexual violence by men. They included public education campaigns, increased services and support to women victims and survivors and an improved justice response by police and courts to criminal violence against women. Improvements in the crisis response resulted in extended and improved health and accommodation services and an improved and more collaborative approach to police investigation and prosecution of criminal violence against women. There subsequently emerged increasing evidence that much violence against women occurred within the privacy of the domestic sphere and intimate relations. In the 1980s additional legal reforms were introduced that aimed to address violence against women in the private sphere.

Legislative reforms concerned with domestic violence have been described as having two key aims:

The first was to make the criminal law more effective in dealing with criminal assaults occurring within the privacy of the home. ... The second aim was to provide protection from future violence and harassment for victims through the creation of 'quasi-criminal' protection or restraining orders. (Laing 2000:4)

Reforms introduced in New South Wales in 1983 addressed the second aim of providing protection to women from future violence. Having strengthened the criminal justice response to violence against women, new legislative provisions extended the court's civil jurisdiction by enabling applications to be made for legal protection from violence. With the introduction of Apprehended Violence Orders (AVOs) women could now seek protection from violence through both the criminal and civil jurisdictions of the court. Subsequent reforms to the AVO scheme extended legal protection to a wider range of violent behaviours and to relationships beyond the domestic sphere. The AVO scheme now provides for people experiencing or threatened with violence in relationships outside

the domestic sphere to apply for a personal Apprehended Violence Order (APVO), and for those experiencing violence within domestic relations to seek a domestic violence order (ADVO). The focus of this research is ADVOs, the aims and intentions of which are described in Part 15A of the *Crimes Act 1900* as follows:

Section 562AC

- (2) This Division aims to achieve its objects by:
  - (a) empowering courts to make apprehended violence orders to protect people from domestic violence, and
  - (b) ensuring that access to courts is as speedy, inexpensive, safe and simple as is consistent with justice.
- (3) In enacting this Division the Parliament:
  - (a) recognises that domestic violence, in all its forms, is unacceptable behaviour, and
  - (b) recognises that domestic violence is predominantly perpetrated by men against women and children, and
  - (c) recognises that domestic violence occurs in all sectors of the community.

### **Not just court – exploratory research**

The impetus for the exploratory research described here came from a review of the Chamber Magistrate and other Local Courts' services undertaken by the Office of the Director of Local Courts of the New South Wales Attorney-General's Department. Participants in that review included individual and professional users of Local Courts' services from Aboriginal communities in inland rural towns. Aboriginal participants expressed concern about the limitations of existing measures for obtaining legal protection from family violence and a desire for additional protective measures (Moore 1999:30).

Basically we need to start putting the issue of violence against women - on a political agenda. And getting government to - not just spoon-feed it, but shovel-feed it. (Bourke participant P L1.2161-2168)

This research, entitled *Not Just Court*, provided the opportunity to revisit the towns of Wagga Wagga, Dubbo and Bourke to discuss ideas about strengthening legal protection for women experiencing family violence and other protective measures. Aboriginal women led the discussion and the research retained that cultural focus, while raising issues that have relevance for women of all cultures in rural, remote and metropolitan locations. The research objectives included documenting perceptions of Aboriginal people in inland rural and remote New South Wales towns about: family violence and protection available through the New South Wales AVO scheme administered by police and courts; the cultural appropriateness of existing measures, and; ideas about additional measures that might be effective in reducing levels of family violence in their communities. Documenting these experiences and ideas was intended to inform government policy makers and program administrators about particular rural and cultural concerns.

## **Rural town profiles**

Rural town profiles were constructed to provide a broader context in which to understand the experiences and ideas of the total 37 focus group participants from the three towns. Participants included Aboriginal women with experience of family violence and practitioners who regularly provide services to Aboriginal women seeking safety from family violence. Opportunities were provided for individuals and practitioners to participate in separate discussion groups. In view of individual women wanting support from practitioners during group participation, and many practitioners having personal experience of family violence and the AVO scheme, the groups were mixed. Facilitated discussion addressed women's experiences of family violence, of seeking safety using services and social supports, and of applying for legal protection through the justice system. It also canvassed their ideas about additional anti-violence measures. In preparing for discussions and writing the report, a search of the literature on domestic and family violence provided information, concepts and exemplary programs used to guide discussion and report the findings.

The towns of Wagga Wagga, Bourke and Dubbo were established during 19<sup>th</sup> century colonisation. Their agricultural economies were founded on the dispossession of Aboriginal people from their land and resulted in their exploitation, geographic dislocation, loss of traditional cultures and marginalisation in the emergent mainstream society. Statistics obtained for each town describe the socio-economic make up, officially recorded violent crime and applications and outcomes of ADVOs, and allow comparisons with New South Wales.

Australian census data (Australian Bureau of Statistics Data 2000 & 2002) reveals that compared with the total New South Wales population, these town populations are less culturally diverse, having far smaller proportions of overseas born people. They also have substantially higher representations of people who are Aboriginal, under 14 years of age, unemployed and economically dependent on government welfare payments. The data suggests that like Indigenous Australians generally, these Aboriginal populations are socio-economically disadvantaged. New South Wales crime data for these towns shows comparatively higher levels of officially recorded crimes of assault, sexual assault and weapons offences (NSW Bureau of Crime Statistics and Research 2002b). In keeping with these higher rates of violence, the rates of ADVO applications in the towns are also higher than for New South Wales (NSW Bureau of Crime Statistics and Research 2001a). Statistics used by Local Courts for management purposes indicate that the higher rate of ADVO applications in these towns is not consistently matched by higher rates of orders being granted through the courts (NSW Attorney General's Department 2000). This raises questions about the effectiveness of the legal response to the safety needs of women in these rural towns who are experiencing family violence. It might also be indicative of the unevenness in the provision of support services and the positive impact of the Women's Domestic Violence Court Assistance Scheme (CAS). The New South Wales government first funded CAS in 1996 through the Legal Aid Commission after the Department for Women released a report that found women needed assistance to participate in the legal process (Bradfield & Nyland 1998:14). At Wagga Wagga, where

CAS was well established before 1998, the percentage of applications that resulted in final orders was higher than for New South Wales in both 1998 and 1999. At Bourke, where CAS was an emerging service in 1999, the percentage of orders granted increased from 35% in 1998 to 43% in 1999 (NSW Attorney General's Department).

Since the commencement of the AVO legislation in 1983, there has been no comprehensive evaluation of the New South Wales AVO scheme. A limited scope evaluation of the AVO scheme published by the Bureau of Crime Statistics and Research focused on orders granted in selected metropolitan courts, and did not address the experiences of applicants who were not granted a final order or of applicants in rural or remote locations (Trimboli & Bonney 1997:20).

### **Family violence – experiences and contributing factors**

The term 'family violence', is used by Indigenous people to describe interpersonal violence that occurs within the privacy of the domestic sphere and intimate and extended family relationships. The preference for the term 'family violence' rather than 'domestic violence' reflects the extended nature of the family structure in modern Indigenous communities, and the fact that the violence might be perpetrated by or against a family member other than an intimate partner. The following Aboriginal and Torres Strait Islander Commission (ATSIC) definition is adopted here:

'... the beating of a wife or family members, homicide, suicide and other self-inflicted injury, rape, child abuse, child sexual abuse, incest... (more than) serious physical injury but also verbal harassment, psychological and emotional abuse and economic deprivation, which although as devastating are even more difficult to quantify than physical abuse.' (Atkinson 1996:5)

Aboriginal women in this study expressed grave concern about the high incidence of all types of violence covered by this definition including physical, sexual, verbal, mental, social and financial.

...there is family violence here, and it takes all forms of partner domestic violence, verbal abuse – really severe violence. ... I don't know what the statistics are, but every week we're hearing of a stabbing. It is extreme physical violence. With weapons - bottles, a lot of ... people are slashed with bottles or hit on the head with bottles. Between partners, but also within families, like just alcohol-induced - - (Bourke participant P L1.29-45)

In all three towns participants could recall a recent instance in which women died as a result of family violence by a male partner.

...growing up an Aboriginal person in the community where I come from, I hardly ever saw violence. But when I came to (this town) I got a really big shock at the amount of violence. ... I mean, a case recently where a young girl (in one part of town) was belted to death – Yes. That affected a lot of people. She was 23. ... People are trying to avoid even talking about it - - for the fear. (Dubbo participant P L1. 87-103)

Aboriginal men were identified as the most frequent perpetrators of family violence. Concerns about family violence include the extreme and immediate harm caused to

individual women, children and elders, and extend to the harm caused to the wider community and culture, both in the present and future.

I believe that the people who are committing the violence against each other really have no idea what effect it's having on their children. - I don't think anybody has got through to them that, "If you could stop the violence then your children don't have to become violent when they grow up." (Bourke participant P Ll. 1171-1181)

Identified contributors to family violence fall within Memmott et. al.'s typology (2001:11) that includes 'underlying factors' such as arise from colonisation processes, 'situational' factors connected for instance with unemployment and alcohol abuse, and 'precipitating' factors that can arise in the stress and conflict of daily life.

### **Seeking help – inhibitors, services and supports**

Rural Aboriginal women are inhibited from seeking help from family violence by the same factors that confront other Australian and rural women. Women generally confront fear, isolation, shame, commitment to family relationships, fear of being negatively judged and a lack of confidence that services and supports can help (Keys Young 1998:23-24). Rural women also confront conservative attitudes about women's role that contribute to community tolerance of violence against women, differing conceptions of what constitutes family violence, lack of confidentiality, lack of access to services and supports, and fear of exclusion from the community and town (Alston 1997).

Focus group participants in this study identified additional culturally specific inhibitors, including a comparatively higher level of tolerance of violence within Aboriginal communities, fear and mistrust of government officials in general, and fear of police and justice officials in particular. They reported that so widely held is the fear of government intervention that a member of their community who reports an incident of family violence to public officials risks reprisal from others in their extended family and community.

Participants in all three towns reported that women who decide to seek safety for themselves from family violence, and those who seek safety for their children, lack adequate access to services, information and the informal and formal social supports they need.

I had to wait in the park one night and it was in the middle of winter. I had this big leather coat. I put it on my little son and I sat there and I prayed because I didn't know where to go - up in that park and it was freezing. I just didn't know where to go, and I had to sit in the park. (I had) no money and the phone wasn't working and it was 2, maybe close to 3 o'clock, in the night. I can't go knocking on people's doors at that time. I was too scared to move. We just sat in a tiny little spot and we hid. I didn't even want to light up a smoke because I thought he'd see the smoke. (Wagga Wagga participant I Ll. 268-291)

They reported that improved access is needed to mainstream services including telephones, transport, financial assistance and housing. Also, that women experiencing family violence, and their most accessible informal supports of neighbours, friends and

extended family, commonly lack the awareness and information essential to validate the wrongfulness of the violent conduct and identify potential sources of help. The most helpful formal supports were identified as specialist social service agencies that provide services to women and/or to Aboriginal people. They identified a need for new strategies to improve Aboriginal access to a wider range of formal support services. Discussion about culturally relevant strategies included publicising the services in media that is accessed by Aboriginal people, employing cultural specialists, and adopting outreach and home visiting models of service provision.

### **Legal protection and formal justice**

The New South Wales justice system can provide legal protection from interpersonal, domestic and family violence through criminal and/or civil proceedings. The criminal justice response can be invoked when police intervention in a violent incident results in their decision to charge and prosecute the alleged perpetrator. Police rely on information provided by witnesses to the incident and evidence gathered at the scene. Civil proceedings are initiated when an individual or a police officer applies to the court for a personal or domestic AVO, as described here previously. A breach of the conditions of an AVO constitutes a criminal offence, an offence against justice that is subject to criminal process and sanctions, including the potential for a sentence of imprisonment.

Colonisation experiences of Aboriginal people operate as both an underlying factor in family violence and an inhibitor to women's use of the formal justice system in seeking protection for themselves and their children. Under assimilation policies governments have used the justice system, police and courts, to remove children from families. The operation of the criminal justice system has resulted in the substantial overrepresentation of Aboriginal people in law and justice processes, prisons and deaths in custody (Australian Bureau of Statistics 1997). This contributes to a reported ambivalence by Aboriginal women about seeking help through the police and courts. The need for help is countered by an unwillingness to contribute to the criminalisation of a male partner.

...usually, when you talk to an Aboriginal woman who's been pretty well assaulted by their man, they won't lay charges because they say, "We just want him to stop. We don't want him to go to gaol. We just want him to stop." And you can explain the process to them, "Okay, an AVO doesn't mean a criminal offence unless he breaches that AVO," and you do explain it to them but still - the thought of gaol - -(Dubbo participant P Ll. 395-405)

Victims often experience contact with police and the court as further victimising. Participants in this and other research studies report that the police crisis response to family violence can be marked by misunderstanding, discrimination and mutual hostility (Kelly 1999:4-7). Court experiences are often marked by high levels of public scrutiny and shame, lack of access to information, lack of opportunity to participate fully in processes and decision making, lack of cultural understanding and risk of subjection to blame, discrimination and reprisal.

Despite the disincentives for using the formal justice system, there was agreement amongst practitioners and victims who participated in these discussions that legal

responses offer important protection to Aboriginal women seeking safety from family violence. Justifications for this view were publicly known local incidents of family violence of an extreme nature, involving sexual violation, extreme physical injury and death. It was held that prosecution of criminal violence could sometimes be the only appropriate way to respond. The value of a legal response to criminal and non-criminal acts of family violence was considered to be in publicly demonstrating a lack of social tolerance for family violence and enabling the court to make orders that limit the future conduct of perpetrators. However, significant limitations in justice responses present rural Aboriginal women with barriers to legal protection.

Two main limitations of the criminal justice response were identified. Firstly, the substitution by police of criminal investigation and prosecution with civil ADVO proceedings can leave criminal violence unaddressed. Secondly, reluctance by victims of criminal violence to provide evidence to support criminal proceedings, due to the impact on the perpetrator and/or fear of reprisal, also limits the protective potential of the criminal jurisdiction.

So, (a) the police won't listen, and if they do get an AVO the police won't act on breaches, and (b) very often they don't report breaches anyway because, again, they don't want their blokes to go to gaol. (Dubbo participant P LI. 1366-1372)

Suggestions for addressing these limitations were systemic reforms that improve the police response to criminal acts of violence, and remove the reliance on the victim for providing criminal evidence and decision-making relating to the laying of criminal charges.

Perceptions of the value of ADVOs are based in their potential to order legal limits on the perpetrator's future contact with, and conduct towards, protected persons. There is also a perception that this potential is not adequately realised due to limitations in the operation of the scheme that pose barriers or disincentives to its use. These limitations place Aboriginal women at risk of not initiating protective action, or of not pursuing the application.

One identified limitation of the AVO scheme is the lack of wide social consensus on the definition of family violence. The broad definitions adopted by feminists, policy makers and social service practitioners are not shared throughout the communities, including the media and justice personnel.

Well, the women are downplaying the violence so much. Unless they've got a black eye or cut or stabbed to pieces, they're not seeing any of these other forms of abuse as - being a victim of domestic violence. (Dubbo participant P LI. 1613-1617)

... the long term perpetrators. ... I'm quite convinced, just from talking to them, that they've got no idea what domestic violence is, for starters. They know to hit is domestic violence, but they've got no idea about the social isolation, the name-calling, the swearing and all of that, and the accusations and the jealousy, and they need to know that all of that is DV as well. (Bourke participant I LI. 1853-1861)

Yes, you're actually better off if you've got an injury, a physical injury, because none of this other stuff is ever acknowledged. (Dubbo participant P LI. 1628-1629)

Police (are obliged to) take out an apprehended violence order if they're of the opinion that an offence has occurred or is likely to occur. ...but they don't do it. (Wagga Wagga participant P Ll. I445-1465)

This presents a barrier to obtaining protection through both informal supports and the formal justice system. Despite distinctions in criminal and civil laws and policies, police and legal personnel often apply the narrow definition of physical injury to both, and may require evidence of physical injury that is not in fact legally required to support an ADVO application. The need for more public education and increased guidance and training of justice personnel was identified.

A second set of limitations arises from ADVO applicants' negative experiences of formal justice processes, including the initial police response, the time before court and the court proceedings. Applicants with no formal support services, or whose only contact is the police, lack the information and emotional support needed to be confident about their decision to pursue the matter and to participate in the process. The highly visible and often intimidating architecture of the court buildings, together with the openness of proceedings to the public, leaves applicants exposed to public scrutiny and intimidation by perpetrators. There is no certainty that an applicant will be legally advised or represented. Aboriginal Legal Services (ALS) are provided at the three towns in this study. In order to avoid a conflict of interests, the service has a practice of representing only one party to a legal proceeding. While ALS does not represent defendants over applicants, the service is widely perceived to act for defendants more frequently than for applicants.

... Aboriginal Legal Aid, they won't fight ...Aboriginal on Aboriginal... this might happen, say, in the night and the woman wants to go and see the Legal Aid in the morning, it's too late because the guy is picked up by the police (and) they have already rang the Aboriginal Legal Aid and they are going to represent the guy, and there's no-one ...to represent the woman. I think it's unfair ... because the guy gets in first ...they get all the help and the woman is sort of left out (Wagga Wagga participant I Ll. 800-922)

The experience of being unrepresented in a situation in which a male defendant has a strong legal advocate can be perceived by an ADVO applicant as the ALS condoning community tolerance for family violence.

Lack of legal assistance in the face of strong legal advocacy on behalf of a perpetrator can result in an applicant withdrawing their application or agreeing to an undertaking by the perpetrator that is not legally enforceable. Suggestions for improving applicants' experiences of the formal justice system include increasing pre-court support by strengthening support from within Aboriginal communities and expanding CAS services. CAS coverage is needed at locations that at present are unserved and to make the service available before the day of court. Central to improving applicants' experiences of court was the proposal that applicants also be provided with an independent legal advocate in order that they can comprehend and participate in the legal proceedings:

The (legal professionals) even go like, "Section such-and-such," and you don't know what the hell it is. He probably knows what it all means, but we're left here in the dark. We just don't know. ... I actually found that more horrific, walking in there and having these guys in suits sitting there talking between each other. They'd glance over at you ... I had my daughter with me as well, because she was a victim, and she's sitting there going, "What are they saying, mum? What's going on? Are they talking about me? What do they know?" And that was really horrific; not the action that had taken place to get us there. That went right out the door. .... It was the fact of being in there. You've got huge ceilings, you've got darkness ... so many nooks and crannies ... you don't know who's there, you don't know what's being spoken. Then you've got this other person that sort of sits up there, all high and mighty, not even at your level; wouldn't even talk to you - they're talking about you. Everybody ... talks about you but nothing is ever said to you. .... We would have walked out if it hadn't been for (the Court Assistance Scheme Worker) saying, "It's okay, it's okay." ... "they're just doing their own thing". Otherwise we would have walked, definitely. (Wagga Wagga participant P LI. 850-887)

Other ideas for improving the court process focused on increasing safety and privacy of participants. It was widely held that the court should be closed to the public and that provisions should be made for evidence to be given by way of closed circuit television (CCTV).

A third set of perceived limitations lies in the enforcement of ADVOs. The previously cited report of the evaluation of the AVO scheme states that "police allegedly did nothing in response to 30 (73.2%) of the 41 breaches reported to them" (Trimboli & Bonney 1997:68). The reports' authors observed that the police failure to enforce breaches could damage both the integrity and credibility of the justice response to domestic and family violence and undermine the system's deterrent potential (op. cit.:69). A frequent refrain by participants of this study, that an ADVO is 'just a piece of paper', reflects a widely held perception that orders are seldom breached and do not provide adequate protection from harmful conduct. Another factor that undermines the enforcement of ADVOs by Aboriginal applicants was identified as the potential for civil protection orders, when breached, to escalate into the court's criminal jurisdiction. Aboriginal women applicants are reluctant to participate in a process through which they contribute, even indirectly, to the criminalisation of a violent partner.

The identified limitations of the AVO scheme in delivering protection from family violence for many Aboriginal women in these rural towns motivate the search for more effective measures. Discussions about additional measures were about augmenting, not replacing the AVO response. Augmentation could involve the introduction of decision-making processes and services that could increase access to participatory decision-making and anti-violence programs. For example, adjournments could serve a constructive purpose of requiring the parties to participate in facilitated discussion and report the outcome of that discussion to the court.

Conditions attached to an ADVO could serve the existing function of setting limits on the perpetrator's conduct and the additional function of requiring their participation in an anti-violence program, as is possible when the violence results in criminal conviction. Successful implementation of such legal processes would require a commitment of additional resources.

## **Additional violence prevention measures**

Formal justice interventions, through which identified offenders are subject to court orders that restrict their activity or impose criminal sanctions, are tertiary level measures in that they respond to identified incidents and individuals. Other suggestions for increasing protection from family violence in these communities extended beyond the tertiary level to the primary and secondary preventive levels.

The term ‘primary intervention’ is used here to describe an approach that aims to prevent family violence before it occurs. It does not have as its focus particular incidents or individuals, but the conditions identified as conducive to family violence. For example, addressing the underlying factors of socio-economic disadvantage and cultural loss were regarded as essential foci for primary prevention that are beyond the scope of targeted family violence strategies. A primary level focus that participants identified as directly related and within the communities’ control was public education. Participants believed that education initiatives should aim to change community attitudes and provide information that could empower those experiencing or witnessing family violence to confront it. While children in these communities often have access to information about the nature and impacts of family violence and available protections through school, there is concern about the lack of access for members of the wider Aboriginal communities. Culturally appropriate and accessible public education strategies discussed included outreach and group discussion, the inclusion of men, women, children and elders, and the adoption of positive terminology that reflects mutual support and cultural healing.

Secondary level interventions focus on those experiencing, or likely to experience family violence, and aim to divert or deter them from further intervention. One focus is the previously discussed need to increase the level of protection to identified at risk groups. This could be by way of improving informal support, including family, neighbours and others who are well placed to help, and formal support, through both mainstream and specialist services. Another focus of secondary interventions is the establishment of informal justice processes that divert identified cases from formal justice. An argument for the augmentation of formal justice was regarded as their potential to provide a less formal response to non-criminal forms of family violence. For instance, harmful conduct that, while not repeated or entrenched, gives the victim cause to fear that if unaddressed, the conduct could escalate into more serious and criminal acts of harm.

Participants’ concerns about the potential for informal justice processes to leave victims of family violence without adequate legal protection lay behind the majority view that they should be court-connected. Thus, as adjuncts to formal justice, they are regarded here as tertiary level interventions. Discussion focused on facilitated decision making processes of mediation and restorative conferencing (NADRAC 1997). Mediation was described as a process in which the parties to the conflict are assisted by a neutral facilitator to discuss the conflict and devise a mutually agreeable resolution. Participants considered this to be appropriate only in relation to family conflicts that do not involve criminal violence, and only when the victim requests it, having full knowledge of all options, including their processes and possible outcomes. It was also specified that the process would require an inbuilt mechanism to overcome the power imbalance between

the parties. An underlying concern was the mistrust of the motivation of perpetrators, who might be motivated to participate in what they perceive to be a 'soft option'. This could result in their making an agreement without any intention of adhering to it. This concern lay behind the desire for both the mediation process and outcome to be endorsed and monitored by the court. The discussion on restorative conferences was too limited to properly canvas participants' ideas. However, it can be assumed that the issues raised in relation to mediation would also apply. Two features of restorative conferencing were identified as an improvement on mediation. One was identified its potential for more people to participate in discussion, including informal support people for the parties and a wider group of affected community members and cultural leaders. This was regarded as providing a mechanism to overcome the power imbalance between the parties. Another concerned the added preventive potential that might result from the involvement of members of the wider community in acknowledging the harm and deciding the outcome of identified incidents of family violence.

Participants expressed cautious optimism about facilitated decision making forums. One attraction lies in their potential to provide an alternative to the criminalisation of non-criminal forms of family violence, and for negotiated outcomes that might include referral to counselling or rehabilitative anti-violence interventions. In ADVO matters court referrals could aim for negotiated anti-violence agreements that can be registered, monitored and breached through the court. The ideas discussed here were not about rejecting formal justice responses to family violence, but adding informal justice processes to existing responses. In this sense they accorded with the similarly cautious views of restorative justice proponents and academics:

...it might be a better world if we could have enough impact on the conditions of domination to make both the healing of the circle and the justice of the courthouse choices family violence victims are realistically able to make more often than now. (Strang & Braithwaite 2002:22)

Perpetrators of family violence were another key focus of discussion about tertiary intervention. Participants identified the need for a range of anti-violence perpetrator programs. A child focus was considered an essential program element, as was the aim of changing attitudes as well as behaviours conducive to family violence. In view of the contribution of cultural loss and substance abuse to family violence, cultural healing and breaking dependency were also identified as important components of anti-violence programming.

Participants identified some key principles they believed should underpin the introduction of any reforms or new initiatives for preventing and responding to family violence within their communities. These included whole of community approaches, involving potential perpetrators and victims of violence, including men and women, children and elders. Such approaches were favoured for their potential to empower the communities and to be community owned and driven. Because the social problems within the problems have emerged in the two hundred years of colonisation, participants argued for a long-term commitment from governments, with responses decided through a process of local consultation. This is in contrast to many past government efforts that have been marked

by token consultation, if any, and by short-term political imperatives and pilot program funding.

Participants' ideas about the approach to providing their communities with increased protection from family violence are in keeping with principles identified by Indigenous policy makers and advocates. The New South Wales Aboriginal Justice Advisory Council (AJAC) supports the principles of the Ministerial Council on Aboriginal and Torres Strait Islander Affairs (MCATSI). Rather than decriminalising violence or decreasing the level of responsibility (and criminal prosecutions) for offenders of violence, AJAC argues for a framework in which family violence can be holistically dealt with. It is argued that family violence responses should be guided by:

- Leadership provided by local Aboriginal communities;
- Victims and their families rights and safety are paramount;
- That offenders accept full responsibility for their violence;
- That communities unique and diverse needs are respected and that responses are flexible enough to deal with local and emerging needs of communities; and
- That responses are holistic and uphold spirituality and cultural application.

(Aboriginal Justice Advisory Council undated:4)

In an evaluation of crime prevention programs implemented in Indigenous communities elsewhere, in Australia, New Zealand and Canada, Cunneen found:

The common themes in evaluations of family violence programs include the need for holistic approaches, the utilisation of community development models which emphasise self-determination and community ownership, the provision of culturally sensitive treatment which respects traditional law and customs and involves existing structures of authority such as elders, including women.

(Cunneen 2001:9)

## Conclusion

Improvements in the access to and use of the AVO scheme by Aboriginal women in these inland rural remote towns require systemic reform and the development of a continuum of culturally relevant initiatives and services. Violence prevention programs will focus on education, cultural healing and leadership. An improved and extended range of geographically and culturally relevant services and supports is needed for women seeking safety from family violence for themselves and their children. Services are needed that support early intervention and resolution of family conflict, and provide opportunities for perpetrators to reduce harmful behaviours. Within this framework provisions could be made within the AVO scheme for access to court-connected facilitated decision making processes and anti-violence agreements that are supported by perpetrator programs.

## References

Aboriginal Justice Advisory Council (AJAC). Undated, *Holistic community justice: a proposed response to Aboriginal family violence* (online).

<http://www.lawlink.nsw.gov.au/ajac> [Accessed 17 June 2002].

Alston, M. 1997, Violence against women in a rural context. *Australian Social Work*,

50(1), pp.15-22.

- Atkinson, J. 1996, A nation is not conquered. *Aboriginal Law Bulletin*, 3(80), pp.4-9.
- Australian Bureau of Statistics. 2001 *Census of population and housing - basic community profiles state of New South Wales* (online).  
<http://www.abs.gov.au/websitedbs/d3310108.nsf> [Accessed 17 June 2002].
- Australian Bureau of Statistics. 1997, *Population: Special article - A profile of Australia's Indigenous people (Year Book Australia 1996)* (online).  
<http://www.abs.gov.au/ausstats/abs@.nsf/94713ad445ff1425ca25682000192af2/3689...> [Accessed 17 Jan. 2002].
- Australian Bureau of Statistics. 2000, *Themes - regional statistics data - NSW 2000 SLA* (online).  
<http://www.abs.gov.au/websitedbs/c311215.nsf/20564c23183fdaca25672100813ef1...> [Accessed 17 Jan. 2002].
- Bradfield, J. & Nyland, J. 1998, *Evaluation of the NSW Women's Domestic Violence Court Assistance Scheme: a Report to the NSW Legal Aid Commission*. Bradfield Nyland Group.
- Cunneen, C. 2001, *The impact of crime prevention on Aboriginal communities* (online).  
<http://www.lawlink.nsw.gov.au/ajac> [Accessed 12 June 2002].
- Kelly, L. 1999, Indigenous Women's Stories Speak for Themselves. *Indigenous Law Bulletin*, 4(25), pp.4-7.
- Keys Young 1998, *Against the Odds: How Women Survive Domestic Violence*. Office of the Status of Women, Commonwealth of Australia, ACT.
- Laing, L. 2000, *Progress, Trends and Challenges in Australian Responses to Domestic Violence: a Background Paper to the Issues Paper Series*. Issues Paper 1, Australian Domestic & Family Violence Clearinghouse, UNSW, Sydney.
- Memmott, P., Stacy, R., Chambers, C. & Keys, C. 2001, *Violence in Indigenous Communities*. National Crime Prevention, Commonwealth of Australia, ACT.
- Moore, E. 1999, *Users' Views: a Review of the Chamber Magistrate and Local Courts Services*. Centre for Rural Social Research & NSW Attorney General's Department, Wagga Wagga, NSW.
- National Alternative Dispute Resolution Advisory Council (NADRAC) 1997, *Alternative Dispute Resolution Definitions*. Commonwealth Attorney General's Department, Canberra, ACT.
- NSW Attorney-Generals Department, 2000, *Apprehended Violence Statistics - Years 1998 & 1999*. Director's Office, Local Courts Statistics Office, Sydney, NSW.
- NSW Bureau of Crime Statistics and Research. 2001, *New South Wales criminal court statistics - apprehended violence orders granted 1996-1999* (online).  
<http://www.lawlink.nsw.gov.au/bocsar1.nsf/pages/courstatsindex> [Accessed 17 Jan. 2002].
- NSW Bureau of Crime Statistics and Research. 2001, *NSW recorded crime statistics by area 1995-2000* (online). <http://www.lawlink.nsw.gov.au/bocsar1.nsf/pages/crimestatsindex> [Accessed 17 Jan. 2002].
- Strang, H. & Braithwaite, J. (Editors). 2002, *Restorative justice and family violence*. Cambridge University Press, UK.
- Trimboli, L. & Bonney, R. 1997, *An Evaluation of the NSW Apprehended Violence Order Scheme*. NSW Bureau of Crime Statistics and Research, Sydney, NSW.

## List of tables

Table 1: Populations – indicators of cultural mix, age and income sources

Table 2: Selected officially recorded violent crimes in 1999-2001

Table 3: Local Court statistics of AVOs for domestic violence granted in 1998-2000

## List of diagrams

Figure 1: New South Wales Statistical Divisions of the Australian Bureau of Statistics

Figure 2: Outcomes of domestic AVO applications in 1998-1999

Figure 3: Definition of family violence

## List of abbreviations

ABS	Australian Bureau of Statistics
ACLO	Aboriginal Court Liaison Officer
ADVO	Domestic apprehended violence order
AJAC	Aboriginal Justice Advisory Council
ALS	Aboriginal Legal Service
APVO	Personal apprehended violence order
ATSIC	Aboriginal and Torres Strait Islander Commission
AVO	Apprehended violence order
BOCSAR	Bureau of Crime Statistics and Research
CAS	Court Assistance Scheme
CCTV	Closed circuit television
DOCS	Department of Community Legal Services
LAC	Local Area Command of the NSW Police Service
Local Courts	Office of the Director of Local Courts
VAW	Violence Against Women Unit

## Glossary

### Aboriginal

Used here to refer to Australian Indigenous people in the towns studied. This is the term predominantly used by these people, a reflection of the absence of Torres Strait Islander people living in these towns.

### Indigenous

Used here to refer to Indigenous Australians who occupied the land prior to 18<sup>th</sup> century colonisation, and includes Aboriginal and Torres Strait Islander people.

### Victim

This term is used in reference to people against whom violence has been perpetrated. It is acknowledged that the term 'survivor' is preferable in that it reflects positive agency by those who have been targeted by violence. The term victim is used here because it is the most concise and accurate term to convey the meaning in the law and justice context.