

19<sup>th</sup> August 2002

The Committee Secretary  
House of Representatives Standing Committee  
on Legal and Constitutional Affairs  
Parliament House  
CANBERRA ACT 2600

Dear Sir/ Madam,

**RE: INQUIRY INTO CRIME IN THE COMMUNITY**

I write to you on behalf of the Federation of Community Legal Centres' (CLC) Violence Against Women and Children Working Group in response to the request for submissions regarding crime in the community: victims, offenders and fear of crime. The Federation of CLCs (Vic) is the peak body for 45 generalist and specialist CLCs throughout Victoria. Within the Federation there are a number of working groups that address specific areas of law and related issues, one such group being the Violence Against Women and Children Working Group. The aims of this Working Group include working towards the improvement of the legal system's response to violence against women and children so that they receive both equal access and just outcomes before the law.

CLCs provide not only free legal advice and casework to clients unable to afford a private solicitor and ineligible for legal aid assistance, but also take a preventative approach in solving client's problems by being actively involved in community development, legal education and law reform activities. These activities are informed by and complement the casework undertaken by CLCs.

In most generalist CLCs the casework undertaken includes victims of crime assistance applications and a high proportion of family law matters, and of those matters many would involve family violence. CLCs also assist clients seeking intervention orders by providing legal advice, support and in some cases representation, with some CLCs co-ordinating Intervention Order Court Support Schemes at their local Magistrate's Court. Such schemes operate at the Magistrates' Courts

in Melbourne, Broadmeadows, Dandenong, Frankston, Ringwood, Sunshine and Heidelberg.

Therefore, given the nature of the work that CLCs undertake through casework and representation in assisting victims of family violence, complemented by the community development, legal education and law reform activities and involvement in the family violence networks through out the State, the working group is well placed to contribute to this inquiry.

We refer specifically to the House of Representatives Standing Committee on Legal and Constitutional Affairs terms of reference:

**a) The types of crimes committed against Australians**

Although the background paper attempts to categorise the types of crime committed against Australians, including crimes against the person such as assault and sexual offences, there is no exploration of the context in which some criminal offences take place. The working group is surprised and disappointed that there is no mention or acknowledgement through out the background paper to this inquiry of violence within the home, namely family violence. Likewise the paper mentions that victims of crime may include family members but fails to mention family violence. The failure to mention family violence, let alone tackle issues related to family violence, in this inquiry is a major oversight.

**b) Perpetrators of crime and motives**

The focus in this section of the inquiry paper appears to be on crime committed by young people. Despite acknowledging that males overwhelmingly commit more crime than females, the paper then fails to examine crimes of violence committed by males against females, such as sexual assault and family violence.

**c) Fear of crime in the community**

The working group is perplexed by the following statement made in this section of the inquiry paper "Despite males experiencing higher levels of victimisation than females, research suggests that females continue to fear crime more than males." This statement suggests that females have an irrational and unreasonable fear of crime. Once again the paper fails to recognise that females are more likely to know the perpetrator and are often most vulnerable within the 'domestic sphere,' that is in their own homes, where they may justifiably fear acts of violence from a spouse or intimate partner. This is supported by a recent Australian study that found only 11% of adult male victims were killed by intimate partners, compared to 60% of women victims (Mouzos 1999, cited in Bagshaw and Chung 2000: 3, cited in Atmore 2001: 5 - see below). This notion of women having an irrational fear of

crime also fails to recognise “the extent to which women’s and others’ fear of ‘stranger danger’ may be, at least partly, a displaced anxiety about the intimate violence which crime records and surveys tend to underestimate” (Stanko 1988, 1990, cited in Atmore 2001- see below).

The Committee should also take into account in this inquiry the number of protection orders sought and granted to victims of family violence, which would not show up in statistics on the incidence of crime, given that the process of applying for a protection order is a civil process and only constitutes a crime if the order is breached (refer to Statistics of the Magistrates’ Court of Victoria – see below). For an intervention order to be granted in Victoria, a Magistrate needs to be satisfied on the balance of probabilities that the person has assaulted, damaged property, threatened, harassed, molested or behaved in an offensive manner and is likely to do so again [s4 Crimes (family Violence) Act 1987 Vic.] During 1999 – 2002 in Victoria approximately 80% of adult aggrieved family members at incidents of domestic violence recorded by police or who sought intervention orders were female, while approximately 80% of adult defendants of intervention orders were male (Victorian Family Violence Database: First Report, August 2002 – see below).

#### **f) Apprehension rates – reporting crime to police**

The reasons outlined in this section of the inquiry paper as to why victims may choose not to report crime to the police, particularly a lack of confidence in police be responsive and sensitive to the issues faced by victims of these crimes, apply to victims of family violence and sexual assault. In addition to these reasons there are also other barriers to reporting such as language, where a victims is from a culturally and linguistically diverse background or sometimes a feeling of blame by victims due to the nature of these offences.

The Committee should also note that a breach of a protection order is a criminal offence, yet aggrieved family members protected by the order may not report breaches or be willing to give evidence to enable police to prosecute breaches for the above reasons. Therefore the Committee should also consider police statistics on incidents recorded, as opposed to relying solely on apprehension rates of arrests made. In 1999 –2000 there were 19,597 incidents of domestic violence recorded by Victoria Police, with a 10% increase to 21,618 incidents in 2000 - 2001 (Victorian Family Violence Database: First Report, August 2002 – see below).

#### **h) Community Safety and Policing**

Policing and a visible police presence should be considered as just one strategy to enhance community safety. Community education around attitudes and awareness of family violence and sexual assault within

the community should not be overlooked as an effective strategy to also enhance community safety. Many community legal centres actively participate in their local family violence networks, supported by the Family Violence Prevention and Support Program. Each year these networks attempt to raise community awareness about family violence through various activities organised at the end of October during the Week Without Violence. However, the networks are limited by resources as to the community education projects that they can initiate.

The working group suggests that the Committee refer to existing research, studies, reports and publications in the area of family violence and sexual assault to better inform this inquiry, such as the following:

- Atmore, Chris (2001) Men as Victims of Domestic Violence – some issues to consider (DVIRC Discussion Paper No 2)
- Bagshaw, Dale and Chung, Donna (2000), Women, Men and Domestic Violence, University of South Australia, Adelaide
- Stanko, Elizabeth, 1988 'Fear of crime and the myth of the safe home: A feminist critique of criminology'. In Yllo, Kersti and Bograd, Michele (eds), *Feminist perspectives on wife abuse*. Newbury Park, CA: Sage, pp75 –78.
- Stanko, Elizabeth, 1990 *Everyday violence: How women and men experience sexual and physical danger*. London: Pandora Press.
- Victorian Family Violence Database: First Report (August 2002), Victorian Community Council Against Violence on their website at: [www.vccav.vic.gov.au](http://www.vccav.vic.gov.au)
- Domestic Violence Incest and Resource Centre online library on their website at: [www.dvirc.org.au](http://www.dvirc.org.au)
- Statistics of the Magistrates' Court of Victoria – Crimes (Family Violence) Act 1987 on the Victorian Department of Justice website at: [www.justice.vic.gov.au](http://www.justice.vic.gov.au)
- Key Directions in Women's Safety, a Victorian Government Publication prepared by the Office of Women's Policy (December 2001), available on their website at: [www.women.vic.gov.au](http://www.women.vic.gov.au)
- Statistics on domestic violence, child sexual assault and the Family Court, compiled by the Women's Legal Resources Centre, NSW.

In Victoria the issue of violence against women is currently the subject of review, at a state level, through the following projects:

- Victorian Women's Safety Strategy (Office of Women's Policy);
- Victoria Police Violence Against Women Project;
- Safer Streets & Home: A crime and violence prevention strategy of Victoria (Crime Prevention Victoria, Department of Justice);

- Inventory Research Project, a project aiming to develop a strategic plan on women's issues including family violence (Department of Justice).

The working group would welcome the opportunity to contribute to any future consultations on this issue. Should you have any queries please contact Jacinta Maloney at St. Kilda Legal Service on 9534 0777 or Allyson Foster at Women's Legal Service on 9642 0877.