Submission No 58

INQUIRY INTO DOMESTIC VIOLENCE TRENDS AND ISSUES IN NSW

Organisation: Green Valley Liverpool Domestic Violence Service

Date received: 28/09/2011

Appendix B

NSW GOVERNMENT Health
South Western Sydney
Local Health District

Submission to the NSW Legislative Council Standing Committee on Social Issues

Inquiry into DV Trends and issues in NSW

Introduction

The Green Valley Liverpool Domestic Violence Service (GVLDVS) is a specialist Domestic Violence Service operating under the South Western Sydney Local Health District. Funding for the service came from the Integrated Domestic and Family Violence Services Program managed by the NSW Department of Community Services. GVLDVS provides casework, counselling and specialised therapeutic counselling to victims of domestic violence. GVLDVS covers the Liverpool Local Government area and works in close partnership with Liverpool and Green Valley Police and other non government organisations. It is a voluntary service and consent has to be received from the victim before a referral is received from an agency.

We are submitting this as a specialist domestic violence service.

Overview of the Liverpool Local Government Area population

Information gathered by the 2006 Census reports that Liverpool has experienced the largest population growth in NSW in the ten years to 2006. 38% of the population were born overseas from 157 birthplaces, of these Vietnam, Iraq and Lebanon are proportionally more prevalent. Over half of the population speak a language other than English in the home. The population is also much younger when compared to the rest of Sydney, and 72% of the population live in a family with children. The income and educational qualifications are also less when compared to the rest of Sydney and the unemployment rate is substantially higher with the population being employed in trades rather than professionals. (www.liverpool.nsw.gov.)

Given this information was collected five years ago and with the further influx of refugees into the community, we would suggest that these figures have increased and will be substantiated by the census currently being collated.

Terms of Reference

Item 1: Strategies to reduce breaches and improve compliance with ADVO's including:

Use of GPS bracelets: The use of GPS bracelets for tracking was initially floated for violent offenders. We know that ankle monitors and GPS trackers have been used overseas for quite awhile and it would definitely be a deterrent to an offender if he knows that his movements are being monitored. Numerous women report breaches of their Apprehended Domestic Violence Orders (ADVO) to us and anecdotal evidence from women confirm that if the offender is allowed to breach once without any penalties he will breach again.

The importance of appropriate enforcement of breaches of an ADVO cannot be overstated. If there are no consequences attached to the ADVO then the ADVO becomes obsolete. Hence it is more likely the offender will re-offend. The victims of domestic violence we see continually report that the police take no action to most breaches of ADVOs. It is imperative that the Police attend to all breaches regardless of what constraints they operate under. However, if this is not possible, we recommend the following.

Recommendation 1: We suggest that a Risk Assessment be identified for every offender and tagged on the COPS database. If the offender is considered dangerous the Police will have to act quickly on it. Standard Operating Procedures should be written to assist the Police to make that assessment.

Recommendation 2: Decisions have to be made around what type of offence would warrant the use of a GPS bracelet to deter breaches, its proper enforcement and adequate penalties applied.

Are existing penalties for domestic violence adequate?

From our viewpoint, the penalties for breaching ADVOs, which is two years imprisonment or a fine of $5,500, or both, are inadequate. Breaches of ADVOs may differ in seriousness and a full range of penalties and sentencing options should be made available. We know that Magistrates tend not to impose the legislated penalties most of the time and it would be difficult to change behaviours if penalties are inconsistently applied. Fines should only be applied to non-serious cases, which raises the issue of how offending behaviours are interpreted.

Case Study Example 1: A client had a 12 month ADVO. 9 months into the AVO the offender breached the ADVO by assaulting our client who was holding her 14 months old son. The offender punched our client in the face causing her to fall to the floor with the child. When our client contacted police the offender fled the scene. We are appending a copy of what our client experienced in her own writing. What transpired is that the assault happened in April 2010 and it took till September before she was able to obtain a variation to the ADVO. This left our client extremely distressed as she did not know if she and her son were safe in her own home. Even with the changes to the ADVO she continues to receive harassing text messages and emails by the offender or his family members.

Case study Example 2: A client who has an ADVO and is a child care worker had an ex husband who constantly harassed and stalked her. He followed her to her workplace, harassed the work place staff to the extent that she and her colleagues did not feel safe at work. The client ended up resigning from the workplace because of this. When the client's ex husband appeared at court he stated that he has a Mental Health issue and claimed no responsibility for his actions. The case was dismissed because of this. However he continues to reoffend and continues to use his mental state as an excuse and penalties are not imposed.

Recommendation 3:

When an offender has a diagnosed mental health issue, the court needs to implement different strategies to establish the protection of victims and their children's safety. If the offender uses his mental health state to excuse any breaches of the ADVO the court should call for a full independent mental health assessment before passing any judgement. With that information the court would be better placed to make decisions around the safety of women and children.

Culturally and Linguistically Diverse (CALD) Clients

Clients who do not speak English or are not fluent in English tend to be disadvantaged. When police attend an incident they question the offender first. If he speaks English and he tells the police that there are no problems, the Police tend not to investigate further especially if there are no obvious physical injuries. The victim's views are not heard. Access to interpreters can be problematic and the fact that most women victims will have children to care for complicates the situation when awaiting a service.

Case study Example 3: A CALD client of our service went into a police station to make a statement about partner abuse. She was told to wait whilst they obtained an Arabic interpreter. She waited for 4 hours at police station and then because she had to return home for her children she left the police station which meant she was unable to apply for an ADVO. It was difficult for her to approach the police and when she felt that they did not seem concerned about her situation, she did not feel that she could return. One must also keep in mind that for some CALD groups, authority figures like the police, can take on different meanings.

Recommendation 4: The use of the Telephone Interpreter Service (TIS) should always be the first port of call when a CALD victim presents. Not all officers use this option so a monitoring system may indicate how many officers access the TIS.

Item 2: Early intervention strategies to prevent domestic violence

Few would argue that the education around violence should commence early. There are clear links between bullying and other violent behaviours as both involve an abuse of power by one individual against another (See www.nicbd.nih.gov) website. A new study by Harvard College researchers found a disturbing link between childhood bullies and perpetrators of domestic violence (see Archives of Pediatrics & Adolescent Medicine).

Recommendation 5: Ensure that Healthy Relationships programs and Protective Behaviours which cover domestic violence and sexual assault are included in the school curricula from Year 6 onwards.

General Practitioners

Clients have told us that they, on many occasions, have tried or told their General Practitioner (GP) about the abuse. The reactions of the GP have huge impacts on our client's ability to make changes or to validate their self worth. Clients have informed us that their GPs dismissed their disclosure with comments like "It can't be that bad", "He seems like a good father to me", "He says you nag him". It minimises and is dismissive of their experiences. Most GPs would 'treat the symptoms' not the cause – that is, a women may be treated for depression and anxiety and be prescribed medication. The doctors do not explore why this is and miss the opportunity to assist the client.

Recommendation 6: Domestic Violence training be included in their University degree as 1 in 3 female patients they see would have experienced domestic violence. For CALD clients in particular, if the doctor does not speak the language, another family member will do the interpreting for her thereby not allowing her to speak freely.

Recommendation 7: That the interpreter services be expanded on and the National Accreditation Authority for Translators and Interpreters (NAATI) courses to be funded.

Item 3: The increase in women being proceeded against by police for domestic violence related assault

Women in general are reluctant to disclose domestic violence and tolerate it for a very long period of time. Studies indicate that women return home 7-8 times before making a final decision that the offender is incapable of changing. What we have found is that women will reach a point where she may retaliate or use any means possible to escape the abuse. Most offenders are familiar with the system, particularly if they are serial offenders, and are quick to take opportunities to blame the woman for their assault. Any marks or bruising left by a woman trying to defend herself will be used against her and the woman will end up being charged by the police who are not astute at making a judgement around who the instigator of the abuse is. It is our experience that women will put up with extraordinary amounts of violence before they will lash out. We often find that they will do this if their children or a family member is threatened.

Recommendation 8: That the courts assess each case carefully before a decision is made on who to protect.

Item 4: Any other relevant matters

Funding

Many domestic violence services, including our own, receive funds for a limited period of time. It is difficult to have a clear vision of how domestic violence should be managed in the community if funding stops within a 4 years period. What tends to happen is that agencies deal with the "symptoms" and can't deal with the "cause" which is the more challenging aspect.

Statistics

Since the term "Family Violence" became the more accepted terminology to use the difficulties of collecting statistics on women who have reported domestic violence is lost. Domestic violence has a different set of dynamics to family violence and it is essential that this be acknowledged.

The investigation into deaths of women killed by their partners is also another area that has to be re-categorised. Listing it as a 'homicide' does not tell us anything about the reasons behind the killing. We know that it is men who kill women overwhelmingly and that it is more likely that a woman will be killed by an intimate partner rather than a male stranger. (Ref: Australian Institute of Criminology-Trends and Issues, August 1999: www.aic.gov.au)

Recommendation 9: That Governments reinstate the term Domestic Violence as separate to Family Violence and to include a new category called "domestic partner homicide" in their statistical collection.

LIST OF RECOMMENDATIONS

Recommendation 1: A Risk Assessment be identified for every offender and tagged on the COPS database. If the offender is considered dangerous the Police will have to act quickly. Standard Operating Procedures should be written to assist the Police to make that assessment.

Recommendation 2: Decisions have to be made around what type of offence would warrant the use of a GPS bracelet to deter breaches, its proper enforcement, and adequate penalties applied.

Recommendation 3: When an offender has a diagnosed mental health issue, the court needs to implement different strategies to establish the protection of victims and their children's safety. If the offender uses his mental health state to excuse any breaches of the ADVO the court should call for a full independent mental health assessment before passing

any judgement. With that information the court would be better placed to make decisions around the safety of women and children.

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Appendix C

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Terms of reference

Item 2: Early intervention strategies to prevent domestic violence

- In the case of refugees and humanitarian entrants, it is vital to consider the pre-arrival experiences and the challenges of resettlement faced by new and emerging communities as contextual and exacerbating factors in the development of prevention strategies.

  Recommendations:

  - Improve national data collection and reporting capacity to adequately capture the dynamics and patterns of violence against women, including high risk groups such as women from refugee communities;
  - Strengthen the focus on refugee men and boys, targeting them through male leadership programs;
  - Form mutually respectful partnerships between community leaders, community members and legal services;
  - Enhance the capacity of the legal system to provide culturally responsive and appropriate services;
  - Develop contextual and effective community legal education programs for newly arrived refugee communities that will maximise learning.

- In 2003, NSW Health introduced routine screening for domestic violence for women in key program areas as a prevention and early intervention strategy. The current response for management of women who are positively screened assists in both appropriate intervention and referral but does not encourage coordinated collaborative care with other agencies or stakeholders.

  Recommendations:

  - NSW Health enhances its framework for domestic violence by incorporating case planning and case coordination processes, as seen in child protection matters.