

# **“Are stopping violence programmes worthwhile?”**

**Principal Family Court Judge Peter Boshier**

**Domestic Violence Hui,  
Awataha Marae  
58 Akoranga Drive  
Northcote, North Shore  
11.00 a.m.**

**16 February 2009**

## **Introduction**

Domestic violence is one of the most pernicious problems facing New Zealand.<sup>1</sup> It permeates all parts of society,<sup>2</sup> impacting on families from all cultures, backgrounds and circumstances.<sup>3</sup> In 2006 the New Zealand Family Court issued 2,993<sup>4</sup> temporary protection orders and 2,174<sup>5</sup> final protection orders<sup>6</sup> in response to some of the 71,044 family violence related occurrences that the New Zealand Police recorded in that year. In the same timeframe, 16 of the 49 murders were recorded as domestic violence related.<sup>7</sup>

Present law endeavours to deal with violence not only through protection orders but also by offering domestic violence programmes, pursuant to sections 29 through 44 of the Domestic Violence Act 1995. These sections provide mechanisms for both protected persons – be they an adult or a child – and perpetrators of violence to attend programmes. While these programmes are optional for protected persons, the legislation requires the Court to direct the respondent to attend a specified

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<sup>1</sup> Peter Hughes, Chair of the Taskforce for Action on Violence within Families, “Response to the Sunday Star Times: Ruth Herbert – Family Violence Research,” (11 July 2008)

<sup>2</sup> (1995) New Zealand Parliamentary Debates (12 October 1995) (D A M Graham)

<sup>3</sup> Ministry of Justice, A Review of the Domestic Violence Act 1995 and Related Legislation: A Discussion Document (December 2007), 5

<sup>4</sup> Pursuant to Domestic Violence Act 1995, s14

<sup>5</sup> Pursuant to Domestic Violence Act 1995, s14

<sup>6</sup> Statistics provided by the Ministry of Justice.

<sup>7</sup> Ministry of Justice, A Review of the Domestic Violence Act 1995 and Related Legislation: A Discussion Document (December 2007), 5

programme, unless the Court considers that there is good reason for not making such a direction.<sup>8</sup>

In the 2007-2008 financial year, these programmes cost the New Zealand taxpayer \$3,383,462.<sup>9</sup> Yet with nearly a quarter of respondents failing to complete their programmes<sup>10</sup> do our domestic violence programmes have value, and are they achieving their statutorily defined objective of “stopping or preventing violence?”<sup>11</sup>

In this paper I want to challenge us to consider whether the programmes really are value for money and whether they are actually protecting the victims of domestic violence.

### **Background: How programmes came about**

#### *Introduction of Programmes*

Although programmes have existed within the Court’s framework for over a decade, it is worth reflecting on why and how programmes first became part of domestic violence legislation. When the Bill was introduced on the 29th November 1994 the issue of programmes (or counselling, as it was then referred to) provoked much debate. The need for programmes was promoted by the then Minister for Justice, the Honourable Doug Graham, and was supported by many - including the Honourable Phil Goff, who sang the praises of trial programmes in Hamilton.<sup>12</sup> Programmes for protected persons were heralded as “a major advance”<sup>13</sup> and indeed some even commented at a later stage that these were “the guts of this Bill, the core of this Bill, the heart of this Bill”.<sup>14</sup>

As the Bill advanced through the House, changes were made to the parameters of programmes,<sup>15</sup> with programmes for protected persons<sup>16</sup> becoming optional for participants<sup>17</sup> and the emphasis being placed on achieving set objectives.

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<sup>8</sup> Domestic Violence Act 1995, s32(1)

<sup>9</sup> Statistics provided by the Ministry of Justice.

<sup>10</sup> Statistics provided by the Ministry of Justice

<sup>11</sup> Domestic Violence Act 1995, s(2)(d)

<sup>12</sup> (1994) New Zealand Parliamentary Debates (29 November 1994) (Phil Goff)

<sup>13</sup> (1994) New Zealand Parliamentary Debates (29 November 1994) (Katherine O’Regan)

<sup>14</sup> (1995) New Zealand Parliamentary Debates (12 October 1994) (Judith Tizard)

<sup>15</sup> A term that replaced “counselling” as it was felt the latter did not capture the wider educational functions of the courses which were to be made available. See the discussion in Department of Justice, The Domestic Protection Act 1982 A Discussion Paper (1993), 59

<sup>16</sup> The Domestic Violence Act 1995 provides for such programmes in s2.

With these changes the Honourable Doug Graham noted “The Bill places considerable emphasis on programmes for both respondents and victims...the objectives of the programmes have been refined in recognition that the Bill cannot hope to provide programmes that deal with all aspects of victims lives that are affected by the violence, or all problems that respondents may have. For adult victims the main objective is to promote protection from domestic violence, and for child victims it is to assist in dealing with the effects of such violence.”<sup>18</sup>

Finally, with the passing of the Domestic Violence Act 1995 Parliament signalled its commitment to “provide some programmes to assist the applicants for a protection order, when they wish it, and ... require programmes to be undertaken by the respondents, whether or not they like it.”<sup>19</sup> The hope was that through programmes where there was “some accountability, where there [was] some follow-up ... [there would be] some changes in behaviour”.<sup>20</sup>

#### *How Programmes Receive Approval*

With the legislation passed, attention turned to ensuring the programmes offered the best help we could provide. Stringent requirements were set regarding who could provide such programmes; leading to the highly prescriptive Domestic Violence (Programmes) Regulations 1996. Following these Regulations programmes must be provided by a ‘Programme Provider’, who in turn is a person approved in accordance with the regulations.<sup>21</sup> Approval of a person as an individual programme provider<sup>22</sup> or an organisation<sup>23</sup> as an approved agency is done by an Approval Panel. The Current Approval panel includes five members with expertise in programmes for respondents, two members with expertise in programmes for adult protected persons and three members with expertise in programmes for child protected programmes, as well as a Ministry of Justice Chair and Deputy Chair.<sup>24</sup> Approval of a programme will largely be determined by the knowledge, skill and expertise levels of the applicants<sup>25</sup> or their authorised staff,<sup>26</sup> the existence of a code of ethics or practice, a complaints

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<sup>17</sup> (1995) New Zealand Parliamentary Debates (10 October 1995) (Alec Neill)

<sup>18</sup> (1995) New Zealand Parliamentary Debates (12 October 1995) (D.A.M Graham)

<sup>19</sup> Ibid

<sup>20</sup> (1995) New Zealand Parliamentary Debates (12 October 1995) (Judith Tizard)

<sup>21</sup> Domestic Violence Act 1995, s2.

<sup>22</sup> Domestic Violence (Programmes) Regulations 1996, Regulation 14

<sup>23</sup> Domestic Violence (Programmes) Regulations 1996, Regulation 20

<sup>24</sup> For a list of members on the Current Panel see <http://www.justice.govt.nz/family/what-familycourt-does/relationships/domestic-violence-programme-approval-panel.asp>

<sup>25</sup> Domestic Violence (Programmes) Regulations 1996, Regulation 15-19

<sup>26</sup> Domestic Violence (Programmes) Regulations 1996, Regulation 21-25

procedure and commitment to continuing education. It is worth noting that the procedure for granting approval for programme providers is also subject to judicial review and must comply with the rules of natural justice.<sup>27</sup>

### *Nature of the Programmes*

In general terms there are three groups of people for whom the Family Court currently make referrals to programmes: respondents, adult applicants and children.

#### 1. Respondents

Programmes established for respondents must have the primary objective of stopping or preventing domestic violence by the respondent.<sup>28</sup> In addition the aim is to change the respondent's behaviour by increasing their understanding of domestic violence.<sup>29</sup> This includes increasing their understanding the operation of the Act,<sup>30</sup> the context in which violence occurs,<sup>31</sup> the impact of violence on the victim and children,<sup>32</sup> increasing the respondent's understanding about the effect that patterns of abusive behaviour have on the victim<sup>33</sup> and developing their skills to deal with conflicts in non-abusive ways.<sup>34</sup>

The number of sessions which a respondent must attend is determined in accordance with regulations. The regulations provide that group programmes must be between 30 and 50 hours, be up to three hours per session,<sup>35</sup> and have a maximum of 16 people. If at all possible there should be two presenters, preferably of different genders where there are more than eight people.<sup>36</sup> Individual programmes must last between nine and 12 hours.

In all cases programmes must involve "the use of well-founded methodologies which have been shown to be effective in stopping or preventing domestic violence."<sup>37</sup>

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<sup>27</sup> Encapsulated within the New Zealand Bill of Rights Act, s27

<sup>28</sup> Domestic Violence (Programmes) Regulations 1996, Regulation 32(1)

<sup>29</sup> Domestic Violence (Programmes) Regulations 1996, Regulation 32(2)(a)

<sup>30</sup> Domestic Violence (Programmes) Regulations 1996, Regulation 32(2)(b)

<sup>31</sup> Domestic Violence (Programmes) Regulations 1996, Regulation 32(2)(c)

<sup>32</sup> Domestic Violence (Programmes) Regulations 1996, Regulation 32(2)(d)

<sup>33</sup> Domestic Violence (Programmes) Regulations 1996, Regulation 32(2)(e)

<sup>34</sup> Domestic Violence (Programmes) Regulations 1996, Regulation 32(2)(f)

<sup>35</sup> Domestic Violence (Programmes) Regulations 1996, Regulation 33(b)(ii)

<sup>36</sup> Domestic Violence (Programmes) Regulations 1996, Regulation 33

<sup>37</sup> Webb, PRH (ed), Adams, JG (ed) and Atkin WR (ed) "Family Law Service 7.622" p 8,604,303

## 2. Protected Persons - Adults

Programmes established for protected adults must have the primary objective of promoting the protection of that adult.<sup>38</sup> But there are also a number of important subsidiary goals. These include empowerment,<sup>39</sup> increasing the protected persons understanding of intergenerational violence,<sup>40</sup> increasing awareness of the context in which violence occurs,<sup>41</sup> assisting the assessment of safety,<sup>42</sup> providing information,<sup>43</sup> helping to develop expectations of change in the respondent<sup>44</sup> and identifying options for the future.<sup>45</sup> Where the programme is a group programme it must run for between 20 and 40 hours,<sup>46</sup> and, where the programme is of an individual nature, it must run for between nine and 12 hours.<sup>47</sup>

## 3. Children

Programmes for children must have the principal objective of assisting the child to deal with the effects of domestic violence.<sup>48</sup> However these, too, also have several subsidiary goals. They include assisting the child to express feelings,<sup>49</sup> to develop a sense of normality, healthy self-image and self esteem,<sup>50</sup> to deal with separation and loss,<sup>51</sup> gain a realistic perspective of the events leading to the protection order,<sup>52</sup> to understand subsequent events,<sup>53</sup> build a support network,<sup>54</sup> to assess safety,<sup>55</sup> strengthen the bond with the caregiver<sup>56</sup> and develop social skills and strategies for non-violent conflict resolution.<sup>57</sup>

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<sup>38</sup> Domestic Violence (Programmes) Regulations 1996, Regulation 28(1)

<sup>39</sup> Domestic Violence (Programmes) Regulations 1996, Regulation 28(2)(a)

<sup>40</sup> Domestic Violence (Programmes) Regulations 1996, Regulation 28(2)(b)

<sup>41</sup> Domestic Violence (Programmes) Regulations 1996, Regulation 28(2)(c)

<sup>42</sup> Domestic Violence (Programmes) Regulations 1996, Regulation 28(2)(d)

<sup>43</sup> Domestic Violence (Programmes) Regulations 1996, Regulation 28(2)(e)

<sup>44</sup> Domestic Violence (Programmes) Regulations 1996, Regulation 28(2)(f)

<sup>45</sup> Domestic Violence (Programmes) Regulations 1996, Regulation 28(2)(g)

<sup>46</sup> Domestic Violence (Programmes) Regulations 1996, Regulation 29(b)(i)

<sup>47</sup> Domestic Violence (Programmes) Regulations 1996, Regulation 29(c)

<sup>48</sup> Domestic Violence (Programmes) Regulations 1996, Regulation 30(1)

<sup>49</sup> Domestic Violence (Programmes) Regulations 1996, Regulation 30(2)(a)

<sup>50</sup> Domestic Violence (Programmes) Regulations 1996, Regulation 30(2)(b)

<sup>51</sup> Domestic Violence (Programmes) Regulations 1996, Regulation 30(2)(c)

<sup>52</sup> Domestic Violence (Programmes) Regulations 1996, Regulation 30(2)(d)

<sup>53</sup> Domestic Violence (Programmes) Regulations 1996, Regulation 30(2)(e)

<sup>54</sup> Domestic Violence (Programmes) Regulations 1996, Regulation 30(2)(f)

<sup>55</sup> Domestic Violence (Programmes) Regulations 1996, Regulation 30(2)(g)

<sup>56</sup> Domestic Violence (Programmes) Regulations 1996, Regulation 30(2)(h)

<sup>57</sup> Domestic Violence (Programmes) Regulations 1996, Regulation 30(2)(i)

As with programmes for adult protected persons, the size of group programmes and the total length of the programme is expressly set<sup>58</sup> - 20 hours where there is a group programme and 10 hours where there is an individual programme.

Given the highly prescriptive nature of the legislation and regulations we can be relatively certain as to the nature of the programme that results. But are they successful in achieving their goals – do they prevent or stop violence?

### **Current Programme Uptake**

The cost of the court funded programmes is not small. In the last two financial years, the Ministry of Justice spent a total of \$7,549,125 on programmes. This can be broken down as follows:

<b>Programme Type</b>	<b>2006/07</b>	<b>2007/08</b>
Respondent	\$2,861,034	\$2,177,674
Adult Protected Person	\$645,366	\$538,870
Children	\$659,263	\$666,918

As programme attendance is not managed nationally we can not be certain as to the number of respondents who complete programmes, partially complete programmes or do not even attend. What we have instead is an incomplete picture. Last year the Ministry of Justice undertook a survey in the 20 busiest courts (in terms of numbers of protection orders made) to generate sample data on completion rates. After noting that 1697 temporary protection orders had been made between 1 July and 31 December 2007 in these courts, the Ministry randomly selected 100 court files, five from each of the sample courts. In each case a temporary protection order had been made and at least one respondent had been directed to attend a programme.

The results of the survey indicated that:

- 50% of all respondents had completed their court directed programme. Another 8% are still attending and are expected to finish soon.

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<sup>58</sup> Domestic Violence (Programmes) Regulations 1996, Regulation 31(2)

- In 8% of the cases the direction to attend a programme had been discharged and in 3% the direction had been suspended (due to imprisonment or where the respondent has left the country). Where the direction has been suspended the respondents' attendance will be monitored on release or return.
- 11% of respondents have been, or are being, prosecuted for breach of protection order, non-attendance at programme or are subject to the court processes set out in the Domestic Violence Act 1995 where there is a notice of absence received.
- 6% of respondents were unable to be prosecuted for breach of protection order for non-attendance. This was in cases where, for example, the respondents' whereabouts were unknown or the Crown considers the file inappropriate for prosecution.
- In 7% of cases the reason for failure to complete a programme was classified as "other". This is where there were factors such as poor health or imprisonment, or where the protection order was unable to be served. In the same way as when a programme direction is suspended, the respondent's attendance is monitored to ensure that the programme is completed at a later date.
- Finally in 7% of all cases there was no follow-up by the court concerned.

While we have the above survey we simply cannot be sure of the actual figures nationwide. The picture is woefully incomplete.

### **Do these programmes really work?**

#### *Respondents*

In the late 1990s, the Institute of Criminology at Victoria University of Wellington prepared an evaluation of respondent programmes for the Department of Corrections. The evaluation found a decrease in the frequency of violent and abusive behaviour perpetrated by men who attended respondent programmes.<sup>59</sup>

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<sup>59</sup> Ken McMaster, Gabrielle Maxwell and Tracy Anderson *Evaluation of community based stopping violence prevention programmes* (Research Report prepared for the Department of Corrections, by the Institute of Criminology, Victoria, University of Wellington, 2000), xv

Qualitative data indicated that positive gains had resulted from the programme.<sup>60</sup> 98% of men reported that others were very or completely safe with them after completing the programme<sup>61</sup> and an identical percentage reported that they now had a good understanding of the effects of violence on their partner/ex-partner.<sup>62</sup> Furthermore, 65% felt they were a lot better able to control their behaviour, communicate with others, manage strong emotions and stress, deal with conflict and anger in non-abusive ways and manage high-risk situations.<sup>63</sup> Finally, 77% said they were very confident about staying non-violent in the future.<sup>64</sup>

Interestingly the evaluation also found that once men attend the programmes the completion rate is likely to be greater for Family Court clients than clients from other sources. 81% of Family Court clients, compared with about 50% on average for Community Probation Service and self-referred clients, completed the Living without Violence Programmes.<sup>65</sup>

Additional research (conducted by Andrews in 1999) similarly states that recidivism in the rates of offending (of which family violence can be included), can be reduced by 10-50% through offence specific programmes that meet particular criteria.<sup>66</sup>

However, we need to treat evaluations with a degree of caution. As others have sensibly noted,<sup>67</sup> evaluations tend to overestimate the effectiveness of stopping violence programmes for a number of reasons. These include:

- Ignoring the men who drop out.
- Relying on self reporting, arrests or partner reports.
- Focusing on anger or jealousy levels.
- Measuring physical violence but not threats, so that it is possible to find a so-called successful man not hitting but threatening to hit.

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<sup>60</sup> Ibid, xvi

<sup>61</sup> Ibid, 77

<sup>62</sup> Ibid, 77

<sup>63</sup> Ibid, 78

<sup>64</sup> Ibid, 78

<sup>65</sup> Ibid, 128

<sup>66</sup> Ken McMaster and Daryl Gregory "Current Approaches to Working with Family Violence" in Ken McMaster and Arthur Wells (eds) in *Innovative Approaches to Stopping Family Violence* (Steele Roberts in NZ) 18

<sup>67</sup> Neville Robertson in Te Kupenga Issue No 1, 2007 National Network of Stopping Violence Services page 7

- Utilising a very short follow up period, such as the end of the programme or just three months later – the longer the follow-up the less positive the results look.<sup>68</sup>

Furthermore, with the recent Ministry of Justice survey (discussed on pages 6 and 7) showing that 24% of respondents have no good reason for not having completed their programmes we should be concerned. Why are nearly a quarter of respondents not completing the programmes?

One suggestion I have is that we are not yet taking full advantage of our knowledge of the context of violence when directing people to programmes. If we accept that family violence - always a choice on the part of the perpetrator - is enormously broad and complex in nature, then consideration of the causes for the violence must surely be relevant to determining how to stop it. Numerous experts have noted that our efforts to eliminate family violence must go to the roots of the problem.<sup>69</sup> One way we can start to address this is through screening in order to determine the nature and type of family violence in question. There is significant research available which supports the identification of factors related to risk that may be helpful in differentiating families.<sup>70</sup> One of the most advocated screening initiatives that has been tested and validated as a screening instrument is DOVE, which groups significant predictors of male partner violence into seven categories: past violence, past abuse, emotional dependency, relationship problems, mental health problems and substance abuse.<sup>71</sup>

This ties into differentiating amongst types of domestic violence, allowing for the development of more appropriate screening instruments and processes that would more accurately describe the central dynamics of the partner violence, its context, and consequences.<sup>72</sup> This in turn could lead to better decision-making, appropriate

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<sup>68</sup> Neville Robertson in Te Kupenga Issue No 1, 2007 National Network of Stopping Violence Services page 7

<sup>69</sup> Ibid, 6.

<sup>70</sup> Nancy Ver Steegh and Clare Dalton, *Report from the Wingspread Conference on Domestic Violence and Family Courts*, Family Courts Review, Vol 46, no 3 (July 2008), 457.

<sup>71</sup> Nancy Ver Steegh and Clare Dalton, *Report from the Wingspread Conference on Domestic Violence and Family Courts*, Family Courts Review, Vol 46, no 3 (July 2008), 457.

<sup>72</sup> Joan B. Kelly and Michael P. Johnson, *Differentiation among types of intimate partner violence: research update and implications for interventions*, Family Courts Review, Vol 46, no 3 (July 2008), 477.

sanctions and more effective treatment programmes tailored to the different characteristics of partner violence, as has been seen overseas.<sup>73</sup>

I believe that we should screen in order to determine whether attendance is likely to be effective. Joan Kelly's work identifies different types of violence and suggests that we respond specifically to the type of violence. If there is a one-off act of violence, which is limited to and caused by a certain context, should we really be requiring offenders to attend a programme that assumes the violence is a continuous or systematic feature of the respondent's relationships? The programme would not be addressing the nature of the violence that has occurred. In that sense, 'one size does not fit all'.

To this end the work of Ken McMaster should be considered further, recognising that the motivation behind perpetrating violence can be very different for different people. Increasingly, research is suggesting that the pathway to violence can vary considerably and that while the violence (abusive practices directed towards another person) may appear the same behaviourally, understanding the different pathways can assist in matching respondents to the right programmes at an early stage.<sup>74</sup>

There is a consensus amongst experts that additional research is needed to refine this identification and investigation of the characteristics and variables relevant to screening.<sup>75</sup> However, significant steps have been made and as differentiation through context could be the most effective tool for courts to determine the track on which a case should be placed as it moves through the courts,<sup>76</sup> we should strongly advocate for its extended use.

Following along this theme of 'one size does not fit all', we need to increase the number of culturally appropriate programmes that are available. The importance of Māori focused programmes is expressly provided for in the Domestic Violence (Programmes) Regulations 1996<sup>77</sup>. In terms of respondents to population size this cultural group is hugely over-represented. In 2007 24.4% of respondents in respect

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<sup>73</sup> Lorri Mackness "Improving treatment paradigms for multi-abuse domestic violence clients" (2008) 6 no.2 Te Awatea Review 4

<sup>74</sup> "New Approach to Domestic Violence Intervention" <http://www.hma.co.nz/Programme-Design-And-Development/New-Approach-to-DV-Intervention.asp>

<sup>75</sup> Nancy Ver Steegh and Clare Dalton, *Report from the Wingspread Conference on Domestic Violence and Family Courts*, Family Courts Review, Vol 46, no 3 (July 2008), 458

<sup>76</sup> Loretta Frederick, *Questions about Family Court Domestic Violence Screening and Assessment*, Family Courts Review, Vol 46, no 3 (July 2008), 527

<sup>77</sup> Domestic Violence (Programmes) Regulations 1996, Regulations 26(c) and 27

of protection order applications were Māori, whereas only 14.6% of the general population identified as such.<sup>78</sup>

Similarly, the last census<sup>79</sup> indicated that the Asian population within New Zealand had increased nearly 50% since 2001, now making up 9.18% of our population. 4.7% of the 2007 respondents to protection orders identified as Asian (and quite possibly a great deal more, given that 19.3% of the respondents' ethnicities were unknown).

Programme content needs to reflect this. At present, staff are sensitive to issues of culture and provide the best service possible within the boundaries of organisational structure, resource and staffing.<sup>80</sup> However, increased resources and different service provision strategies may have to be developed if the cultural needs of men from a diversity of cultures are to be met.<sup>81</sup>

Contextual consideration is important. The above highlights this. But I would make a further suggestion, even when all that is taken into account. Evaluations have noted that the increased wellbeing experienced by programme participants during and immediately after the programme declined significantly within a few months of the end of the programme. The evaluations proposed that this may well be due to respondents having lost the ongoing support of peers once the programme had concluded, as well as the opportunity to discuss their feelings with others with similar problems.<sup>82</sup> If we are serious about meeting our objectives respondents need to have the opportunity to return and attend more programmes after they have completed the first programme. At present they can not do this unless they fund their own attendance – for many, an absolute bar to further assistance.

Yet giving respondents the opportunity to attend further free programmes would be highly beneficial.<sup>83</sup> In my office we receive critical incident forms which disclose the circumstance of death in cases where there have been Family Court proceedings. I

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<sup>78</sup> Statistics provided by the Ministry of Justice.

<sup>79</sup> Undertaken in 2006

<sup>80</sup> Ken McMaster, Gabrielle Maxwell and Tracy Anderson *Evaluation of community based stopping violence prevention programmes* (Research Report prepared for the Department of Corrections, by the Institute of Criminology, Victoria, University of Wellington, 2000), xix

<sup>81</sup> Ibid.

<sup>82</sup> Ibid, xvi

<sup>83</sup> Ministry of Justice, *A Review of the Domestic Violence Act 1995 and Related Legislation: A Discussion Document* (December 2007), and Ken McMaster, Gabrielle Maxwell and Tracy Anderson *Evaluation of community based stopping violence prevention programmes* (Research Report prepared

have noted that in some instances where victims of violence have been killed both victim and perpetrator had previously attended programmes. An inevitable question is whether in some cases merely one programme for each is enough? In some of our high risk cases we may need to go further and offer additional programmes. People absorb the value of programmes at different rates and we must be sensitive to this. This issue is of course one of funding and I do not attempt to minimise the problems associated with that, especially in our current fiscal climate. But if we wish to stop violence we must ensure respondents have ongoing access to these programmes.

The Domestic Violence Reform Bill, which was introduced on the 30<sup>th</sup> September 2008, proposes to insert a new section 40A into the Domestic Violence Act 1995<sup>84</sup> that will allow a respondent or associated respondent who has completed a court-ordered programme to request a further programme.<sup>85</sup> This Bill has a long way to go before becoming law, and protracted funding debates would undoubtedly precede any amendment, but the inclusion of such a section is extremely encouraging.

While this new Bill intends to improve our response to the needs of those already on the Court's radar, we must also, as a society, move forward to recognise the need to stop "first" violence, rather than just prevent repeat violence. During the initial stages of the Domestic Violence Bill politicians talked of the need for early intervention programmes and the issue remains just as pertinent today.<sup>86</sup> If a person is aware they have triggers that could lead them to violence and they request assistance, why are we not providing the means to assist them before their actions result in Court attention?

s9 of the Family Proceedings Act 1980 allows parties to request counselling without needing to file a formal court application. Should victims and perpetrators of domestic violence be able to similarly apply for a stop violence programme without having to obtain a protection order?

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for the Department of Corrections, by the Institute of Criminology, Victoria, University of Wellington, 2000), xviii

<sup>84</sup> Domestic Violence Reform Bill, Clause 19

<sup>85</sup> This section will only apply if the protection order remains in force

## *Adult Protected Persons*

The second group of people to whom we offer programmes are the adult victims of domestic violence. Such programmes are of huge importance and it is vital that we get them right. So are our current programmes for adult protected persons of value? In 1998 the Ministry of Justice commissioned an evaluation into whether programmes for adult protected persons contributed to the protection of victims of family violence. The analysis showed that 94% of the women attending programmes had learnt (either partially or completely) how to keep themselves safe,<sup>87</sup> 96% of women said they had (either partially or completely) learnt how to keep their children safe,<sup>88</sup> and 94% said they had (either partially or completely) developed a safety plan for themselves and their children.<sup>89</sup> While these are outstanding statistics in their own right, the value of programmes for protected persons becomes even more evident when we note that the percentages reporting gains from the programme are higher than the percentage who had acquired the same skills without attending a programme.<sup>90</sup> However there is more we must do.

I would suggest that one of the core problems in these situations is uptake rates. In the evaluation discussed above, a third of those who did not attend programmes reported that they did not yet feel ready to attend a programme.<sup>91</sup> In that study a quarter of the women who had not attended a programme said they would have found it helpful to have received a letter reminding them of the availability of a programme after three months. We therefore need to move to working towards effective follow up of protected persons so that we can ensure they receive the benefit of a programme in a timely fashion.

As with the moves to add value to respondent programmes, clause 13 of the Domestic Violence Reform Bill proposes (amongst other things) to insert a new section 28F into the Domestic Violence Act 1995. One of the most important things this will do is require a Registrar to repeat the offer of an information session to the protected person after six months has elapsed from the making of the order, if the

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<sup>86</sup> (1995) New Zealand Parliamentary Debates (10 October 1995) (Phil Goff)

<sup>87</sup> Gabrielle Maxwell, Tracy Anderson and Teresa Olsen, *Evaluation of Programmes for Adult Protected Persons under the Domestic Violence Act 1995* (Research Report prepared for the Ministry of Justice by the Institute of Criminology, Victoria, University of Wellington, 2001)

<sup>88</sup> *Ibid*

<sup>89</sup> *Ibid*

<sup>90</sup> *Ibid*

<sup>91</sup> *Ibid*

applicant has not yet attended an information session during that time and the order remains in force<sup>92</sup>. This will allow the offer of a programme to be revisited.

The Domestic Violence Reform Bill also addresses the reality that for some women even six months will be too early. It therefore proposes that instead of placing a three year limit on the protected person being able to attend the programme (as currently exists under s29(4)(d) of the Domestic Violence Act) the protected person may request attendance at a programme at any time when the protection order is still in force.<sup>93</sup>

A second issue which arises is the need for refresher programmes. As with respondents, many protected persons feel they would benefit from being able to ask for help in the future. The Bill addresses this through clause 14 allowing, just like for respondents, the opportunity to attend further programmes while the protection order is in force.

### *Children*

Often the need for children to attend programmes is overlooked; however they can be the most vulnerable group of all. Not only do recent statistics suggest that 4-10% of New Zealand children experience physical abuse and 24% of girls and 11% of boys experience sexual abuse<sup>94</sup>, but that children are also harmed by seeing, hearing, or living with violence in the home. In 2005, there were 7,924 children involved in the 4,545 applications for protection orders and in the financial year 2005-2006, Women's Refuge provided services and programmes to 12,161 children.<sup>95</sup>

The effects on children who have endured and/or observed violence include increased anxiety, fear, depression, aggression, emotional and behavioural problems and impaired social skills.<sup>96</sup> There are also subtle symptoms associated with witnessing violence that can adversely impact on a child's future relationships, such as seeing violence as an effective means of getting what he or she wants.<sup>97</sup>

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<sup>92</sup> Domestic Violence Reform Bill, Clause 13.

<sup>93</sup> Domestic Violence Reform Bill, Clause 14.

<sup>94</sup> Ministry of Justice, A Review of the Domestic Violence Act 1995 and Related Legislation: A Discussion Document (December 2007), 38

<sup>95</sup> Ibid.

<sup>96</sup> Ibid.

<sup>97</sup> Ibid.

Programmes for children are therefore as important as programmes for respondents and applicants and deserve our attention. An evaluation akin to that conducted on respondents and adult protected persons' programmes is long overdue if an informed analysis is to be undertaken. It is disconcerting that we have no reasonably attainable information on children sent to programmes or whether they satisfactorily complete those programmes. However two very important observations can still be made.

Firstly, at present children who are protected by a protection order but are no longer living with the primary caregiver are not eligible to attend a programme. If we are serious about aiding our most vulnerable then this must be rectified. Clause 15 of the Domestic Violence Reform Bill proposes doing precisely that, making it a vital part of the proposed legislation.

A second and very important concern acknowledges that because children are growing and developing, their educational needs around safety therefore change. Children might benefit from attending a programme some time after they experienced or witnessed the violence, either because they are older, or because they are no longer experiencing the events as a crisis situation. While the protection order may by that stage have been discharged, the need to resolve the issues and learn about safety planning may remain.<sup>98</sup>

## **Conclusion**

I think the research shows that Protection orders alone will not satisfactorily protect victims of violence. The programmes for perpetrators and protected persons may be just as important, if not more so.

In the last two financial years, the Ministry of Justice spent a total of \$7,549,125 on programmes. But is this money providing good, tangible results? We must be committed to requiring perpetrators to attend programmes and to offer good programmes to victims. But equally importantly, we must know just how productive our programmes are and be willing to change our approach to be more flexible than we previously have about who should be required to attend a programme, what the particular programme should be and what further programmes might be appropriate.

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<sup>98</sup> Ministry of Justice, A Review of the Domestic Violence Act 1995 and Related Legislation: A Discussion Document (December 2007), 52

The causes of violence are complex. While it is always unacceptable we can only hope to reduce its incidence by understanding its causes and focussing better than we are currently doing on changing the circumstances and attitudes of those caught up in its cycles. The ultimate measure is a far healthier society, where violence is no longer seen as an option in people's lives. For the sake of the victims of violence, the price of achieving that must be worth paying. I believe a clearer focus on how we can achieve that is the path ahead of us.

[Ends]