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**CHILD ABUSE PREVENTION IN NEW ZEALAND:**

**LEGISLATIVE AND POLICY RESPONSES  
WITHIN AN ECOLOGICAL FRAMEWORK**

A thesis  
submitted in fulfilment  
of the requirements for the Degree of  
Masters of Laws  
at the  
University of Waikato  
by  
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2006

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## **ABSTRACT**

The purpose of this paper is to demonstrate that one way New Zealand's high prevalence of child abuse can be reduced is by the government increasing the legislative and policy responses within an ecological framework, to child abuse prevention. This is because such responses would ensure a 'best practice' approach to child abuse prevention. This 'best-practice' approach is one where child abuse prevention measures are community-driven, child-centred, multi-disciplinary and inter-sectoral.

Section 1 of this thesis will provide a background on the different types of child abuse, why child abuse occurs and what the consequences of child abuse are. This section will also cover some current statistics on the incidences of child abuse in New Zealand. Additionally, there is a discussion on how child abuse is increasingly being minimised within a family violence paradigm – even though family violence is only one form of child abuse. New Zealand does not have a good track record when it comes to its rates of child abuse. Section 1 is intended to give the reader a very clear picture of how children in New Zealand are not currently being protected adequately enough from child abuse. This protection should be coming from the adults in their lives, in their community and in their nation.

Section 2 of this thesis outlines an ecological framework for child abuse prevention. More specifically the way in which such an ecological model is operating presently in New Zealand, at particularly an exosystem (community) and macrosystem (national) level. The second part of this section discusses factors which will ensure the 'success' of an ecological framework for child abuse prevention. By 'success' the author is referring to a framework in which the primary outcome is the prevalence of child abuse in New Zealand is reducing.

Section 3 of this thesis will contain the substantive arguments of this paper. New Zealand does currently have in place legislative and policy responses to child abuse prevention. However, the author maintains these responses to date have not been sufficient because New Zealand's rates of child abuse continue to escalate. This

section consists of 19 recommendations of legislative and policy responses that could be implemented at a macrosystem/national level.

At the conclusion of the recommendations contained in this thesis, it becomes clear that the government does need to respond urgently to New Zealand's growing child abuse rates. New Zealand can no longer afford to have a reactive, ad-hoc approach to child abuse. Nor can the response at a macro level continue to be one of rhetoric where there is more talk on child abuse prevention than there is on activating, monitoring and funding practical solutions. It is the author's contention that if the government considered the interests and welfare of children as paramount in legislative and policy decisions that relate to children, then this will send a strong and clear signal to the adults in childrens' lives that children are not to be abused. Instead, children are to be nurtured, respected and cherished in every way.

*A Heart for Children*

*One hundred years from now  
It will not matter  
What kind of car I drove  
What kind of house I lived in  
How much I had in the bank  
Nor what my clothes looked like*

*One hundred years from now  
It will not matter  
What kind of education I had  
What kind of computer I used  
How large or small my church or temple  
But the world may be  
.....a little different because.....  
I was important  
In the life of a CHILD*

(Margaret Fishback-Powers)

## **Acknowledgments**

This work has taken one entire year of not only my life but of all those around me who became my ‘cheering squad’ over that time. To those people I thank them for believing in me and encouraging me to research and write about my passion to see more legislative and policy solutions put in place at a government level to ensure children in this nation do not have to continue to suffer from child abuse.

In particular, I would like to thank Professor Ruth Busch, my supervisor. Ruth is a ‘legal legend’ in the field of the protection of woman and children from domestic violence and child abuse. Her energy, advice and wisdom have been invaluable. I feel privileged to have been able to have her as my supervisor for this thesis.

To my colleagues at Child Protection Studies (CPS) who have ‘championed’ me on in this research – thank you! Special thanks to CPS’s CEO, Anthea Simcock, whose passion and drive for the cause of protecting our nation’s children is inspirational.

Thank you to the wonderful people who allowed me to interview them for this research – your work in protecting and advocating for children is of credit to you and a legacy that you will leave for the next generation. Special thanks to Maxine Hodgson, founder of Parentline – a magnificent example of a person who truly is a Child Advocate in every way.

Vinaka vaka levu to my amazing husband Tevita who realised from the start how important this work was to me. He always challenged me to not give up and gave me his support in so many ways.

Most significantly to you the tamariki and children of Aotearoa New Zealand for whom this thesis was my purpose – may your lives come into full bloom as a result of adults around you that know how to cherish you in every way.

Above all to my Heavenly Father, who is the giver of all life, my eternal thanks for your incredible mercy, grace and faithfulness.

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## **SECTION ONE: BACKGROUND**

### **1.1 INTRODUCTION**

.....Mr Campbell was found guilty on two charges of assaulting a child. Two of his children misbehaved at the dinner table and he punched them in the stomach.....earlier in the week Mr Campbell was acquitted of other charges including assaulting his wife with a baling hook, assaulting his children using a studded leather belt and a cricket bat.....the Crown Prosecutor said the Campbell household existed in a climate of fear and violence<sup>1</sup>

.....Many Manukau City schoolchildren don't know when their birthday is, go hungry at school and have never travelled from their home, an Auckland City Mission Survey shows.<sup>2</sup>

..... [Parents] punched and kicked their 16 year old daughter (when she tried to leave home) in the stomach before whipping her with a belt and an electric cord.<sup>3</sup>

.....A caregiver abused his 10 year old charge and took indecent photos of her and her two siblings.....police uncovered more than 16000 images of child pornography on his computer. <sup>4</sup>

.....A Christchurch man bashed his former de-facto partner to death in a blind range over a stolen Nazi flag.....at one stage March got the couple's 12 year old son to help drag her unconscious, body back inside his flat. Ms Hackell's five year old son, from another relationship, witnessed much of the beating.<sup>5</sup>

.....A man who beat and force-fed faeces to a toddler was the product of an 'incredibly violent' gang environment police told Whakatane District Court. The Detective, who headed the investigation, said "it is an incredibly violent environment and members use violence to deal with situations that arise – that is all they know."<sup>6</sup>

.....Christchurch police said late on Friday night they had arrested and charged a man with the sexual violation and murder of Charlene Makaza, a 10 year old girl who was a Zimbabwean immigrant.....that man was Charlene's Uncle.....<sup>7</sup>

<sup>1</sup> NZPA "Man guilty of punching children" *Waikato Times*, 20 January 2006, 5.

<sup>2</sup> Gregory, A "Children who never have a birthday" *The NZ Herald*, 15 December 2005, A6.

<sup>3</sup> Reed, L "Parents sentenced for beating teen daughter" *Waikato Times*, 19 November 2005, 4.

<sup>4</sup> NZPA "CYF caregiver jailed for abuse" *Waikato Times*, 28 November 2005, 3.

<sup>5</sup> NZPA "Nazi flag row led to death" *Dominion Post*, 8 November 2005, 6.

<sup>6</sup> NZPA "Gang associate fed dog faeces to child" *Waikato Times*, 28 October 2005, 5.

<sup>7</sup> NZPA "Uncle charged with girl's murder" *Waikato Times*, 2 February 2007, 2.

*Today when there is least excuse for ignorance, overall availability of resource means, and supposedly a fairly universal standard of norms, child abuse and neglect are NOT decreasing.*<sup>8</sup>

This thesis is about child abuse prevention in New Zealand (NZ) and, in particular, the problem of NZ's escalating child abuse rates. This escalation has occurred despite the proliferation of prevention initiatives/strategies across government and non-government (NGOs) organisations/agencies/departments aimed at individuals, families and communities. Additionally, at a community and government level, the issue of child abuse is increasingly being subsumed (and minimised thereby) under family violence initiatives/strategies.

This thesis will emphasise that child abuse needs to be seen as more than just a 'disease' to be diagnosed and treated - a 'medico-social' discourse; child abuse needs also to be seen as a legal discourse. Throughout this thesis, the author will argue that there are legislative and policy responses that can be put in place within an ecological framework, which would reinforce and strengthen present and future community-driven, child-centred, multi-disciplinary child abuse prevention approaches. Such approaches would involve inter-sectoral co-ordination and collaboration to child abuse prevention. It will be proposed that viewing child abuse within a legal discourse will help lower the incidences of such abuse in NZ. If prioritising children's welfare and best interests were implemented at legislative and national policy levels, unequivocal messages that child abuse is unacceptable and perpetrators will be held accountable would be sent. This thesis will also show that until now, NZ's response to child abuse prevention has largely been reactive and ad-hoc. The author will argue that progress in reducing child abuse will only occur if pro-active, co-ordinated measures are implemented. These initiatives have only just begun to emerge.

Section One of this thesis will briefly review the definitions of child abuse and child abuse statistics in NZ, discuss reasons why child abuse occurs and analyse the human and economic consequences of child abuse are. In addition, Section One will outline

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<sup>8</sup>Anna Pinto, Secretary and Programme Director of Centre for Organisation, Research and Education, North East India, February 2006.

the methodology for the interviews which were conducted as part of this thesis research. Section Two will describe an overview of an ecological framework of child abuse prevention and provide an analysis of specific current NZ ecological initiatives, particularly those operating at a community and national level. Section Three involves a discussion of current legislation and suggests both legislative and policy reforms that could be enacted, within an ecological context, to enhance a community-driven, child-centred, multi-disciplinary, inter-sectoral response to child abuse prevention.

## 1.2 CHILD ABUSE STATISTICS IN NZ

New Zealand is a nation that has a high, and continually increasing, rate of child abuse. In the financial year to June 2005, Child, Youth and Family (CYF) received 53,000 notifications of child abuse and neglect.<sup>9</sup> This figure rose to 63,800 notifications to June 2006.<sup>10</sup> In their *Statement of Future Operation Intentions 2006 – 2009* CYF anticipates up to 72,000 notifications in the next financial year (to June 2007) and of these notifications it is expected about 13,000 children and young people, (approximately 20%), will have the abuse or neglect substantiated.<sup>11</sup>

During the two month period of December 2005 to January 2006, police attended nearly 11,000 family violence incidents which 6,000 children witnessed; that is, there was a family violence incident every eight minutes. In this same two month period, CYF received an estimated 10,000 reports of suspected child abuse.<sup>12</sup> On average, a child in NZ is abused to death/murdered every five weeks.<sup>13</sup> In the 2006 year alone, 250 babies were taken into CYF care, almost double the rate of two years ago.<sup>14</sup> Some of the conclusions in the Ministry of Social Development's (MSD) report on the *Indicators of Wellbeing for Children and Young People in New Zealand* (2004) were the rate at which children are dying from intentional injury in this country shows

<sup>9</sup> Chalmers, A "Child abuse figures rise" *Dominion Post*, 17 June 2006, A6.

<sup>10</sup> *Ibid.*

<sup>11</sup> Department of Child, Youth and Family Services – *Information on Future Operating Intentions, for the period 2006-2009* (June 2006)

<<http://www.msd.govt.nz/documents/publications/msd/statement-of-intent-2006-cyf.pdf>>.

<sup>12</sup> NZPA "Violence is blighting our image: judge" *Waikato Times*, 28 March 2006, 3.

<sup>13</sup> Chamberlain, N *Our Shame* North and South Magazine, May 2006, 46.

<sup>14</sup> Newman, M *Newman Weekly* New Zealand Centre for Political Debate, 23 September 2006 <<http://www.nzcpd.com/weekly50.htm>>.

no improvement; younger children and Maori children are at greatest risk; there has also been no change in rates of abuse and neglect of children over the last six years; and females aged 14-16 are more likely to be abused than males of the same age.<sup>15</sup>

The UNICEF report on *Child Maltreatment Deaths in Rich Countries* (2003) put NZ as the 'Bronze Medal' winner when it came to the rate of child abuse per head of population. Among the 27 countries that make up the OECD (Organisation for Economic Co-operation and Development), only Mexico (2<sup>nd</sup>) and United States (1<sup>st</sup>) are ahead of NZ in this 'race'. Moreover, in contrast to most countries, this report showed NZ had not shown any improvement in reducing its rate of child abuse, since the 1970s.<sup>16</sup>

The purpose of this thesis is not limited to a presentation of NZ's child abuse prevalence, this has been done in a number of recent reports that have detailed the incidence of child abuse; for example, the Families Commission *Beyond Zero Tolerance* report (June 2005).<sup>17</sup> In addition, despite these studies, there is an ongoing debate as to the accuracy of NZ's child abuse statistics. As stated by Inspector Ged Byers, National Family Violence Co-ordinator, NZ Police:<sup>18</sup>

Many experts believe that the actual rate of abuse is even higher because many cases still go unreported or cannot be proved. Pre school children are becoming increasingly targeted, as they are unlikely to disclose and make poor witnesses in court.

Further, the Children Issues Centre of the University of Otago is presently conducting a project with the Otago/Southland regional office of CYF. The aim of this project is to firstly develop valid and reliable indicators of child abuse and neglect in the

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<sup>15</sup> Ministry of Social Development *Children and Young People: Indicators of Wellbeing in New Zealand* 2004 < <http://www.msd.govt.nz/documents/work-areas/csre/children-young-people-indicators-wellbeing-nz.pdf> > 6.

<sup>16</sup> UNICEF *A Leagues Table of Child Maltreatment Deaths in Rich Nations* Innocenti Research Centre, Report Card 5 (Florence: Innocenti Research Centre, September 2003) <<http://www.unicef-icdc.org/publications/pdf/repcard5e.pdf>>.

<sup>17</sup> Fanslow, J *Beyond Zero Tolerance: Key issues and future directions for family violence work in New Zealand* Families Commission Research Report, No 3/05, August 2005 <<http://www.nzfamilies.org.nz/download/zero-tolerance.pdf>>.

<sup>18</sup> Byers G, Inspector *Police Response to Family Violence* (Wellington: LexisNexis Professional Development Child and Youth Welfare Advisers' Forum, Day 1, 9 October 2006, 1.50pm Session) Information Pack <<http://www.lexisnexis.co.nz>>.

Otago/Southland region and then to establish a template for other regions to use.<sup>19</sup> Nonetheless, regardless of the actual prevalence rate, what is known is that child abuse continues to occur in NZ and that it is a significant medical/social/legal issue that needs to be addressed, particularly the author will argue, from a preventative perspective at a community and national level.

### 1.3 DEFINITIONS OF CHILD ABUSE

According to the World Health Organisation ‘child abuse’ or ‘maltreatment’ constitutes:<sup>20</sup>

[A]ll forms of physical and/or emotional ill-treatment, sexual abuse, neglect or negligent treatment or commercial or other exploitation, resulting in actual or potential harm to the child’s health, survival, development or dignity in the context of a relationship of responsibility, trust or power.

The Children Young Persons and their Families (CYPF) Amendment (No 121) Act 1994 defines child abuse as “the harming (whether physically, emotionally or sexually), ill treatment, abuse, neglect or deprivation of any child or young person”.

Further, NZ is a signatory to the United Nations Convention on the Rights of the Child 1989 which has a definition of child abuse very much like Section 5(e) of the Care of Children Act 2004 (COCA) . Section 5(e) states, as its only mandatory ‘principles’ provision:

The child’s safety must be protected and, in particular, he or she must be protected from all forms of violence (whether by members of his or her family, family group, whanau, hapu, or iwi, or by another person).

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<sup>19</sup> Children Issues Centre, University of Otago, CIC Newsletter, Issue 11, October 2006 <<http://www.otago.ac.nz/cic>>.

<sup>20</sup> World Health Organisation (WHO) *Report of the Consultation on Child Abuse Prevention* WHO, Geneva, 29-31 March 1999 <[http://whqlibdoc.who.int/hq/1999/WHO\\_HSC\\_PVI\\_99.1.pdf](http://whqlibdoc.who.int/hq/1999/WHO_HSC_PVI_99.1.pdf)>.

### 1.3.1 Physical Abuse

Physical abuse involves any act or acts (whether deliberately inflicted or the unintentional result of anger) that causes physical injury to a child.<sup>21</sup> Physical abuse ranges from hitting, shaking, burning with cigarettes through to kicking and suffocation.<sup>22</sup> There can be a variety of signs and symptoms of physical abuse, from injuries to the face, head and neck of the child, unusual bruises (bruises of particular shapes, welts, or bruises in different stages of healing) through to behavioural indicators.<sup>23</sup> These indicators can include the child acting out aggressively or responding to other children with physical violence.<sup>24</sup> Of the types of child abuse, physical abuse is the one that is the most noticeable (as it is more difficult to hide), is notified more than the other types of abuse and is most sensationalised in media reports, especially when child death(s) result.

### 1.3.2 Emotional or Psychological Abuse

Emotional or psychological abuse is the persistent emotional ill treatment of a child such as to cause severe and persistent adverse effects to the child's emotional and psychological development.<sup>25</sup> It may involve, for instance, age or developmentally inappropriate expectations being imposed on a child, a parent/caregiver conveying to their child that they are worthless, unloved or inadequate, through to a parent threatening and humiliating their child.<sup>26</sup> Emotional abuse is most evident through the behaviours of the child. For example, the child may have poor concentration, or demonstrate anti-social and impulsive behaviour.<sup>27</sup> Some level of emotional abuse is involved in all forms of child abuse, but it may also occur in isolation.<sup>28</sup>

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<sup>21</sup> Child, Youth and Family (Ministry of Social Development) *An Interagency Guide to Breaking the Cycle – Lets Stop Child Abuse Together*, 2001 <<http://www.cyf.govt.nz>> 8.

<sup>22</sup> *Ibid*, 8.

<sup>23</sup> Beckett, C *Child Protection: An Introduction* (2003) 67.

<sup>24</sup> *Ibid*, 67.

<sup>25</sup> CYF Interagency Guide, *supra* n21 at 9.

<sup>26</sup> CYF Interagency Guide, *supra* n21 at 9.

<sup>27</sup> World Health Organisation, *supra* n20 at 64-65.

<sup>28</sup> Beckett, *supra* n23 at 77.

### 1.3.3 Child Sexual Abuse

Child sexual abuse is any act or acts that result in the sexual exploitation of a child or young person, whether apparently consensual or not.<sup>29</sup> Sexual abuse can range from forcing a child to take part in sexual activities, whether or not the child is aware of what is happening, through to sexual penetration. Sexual abuse may also involve non contact activities such as encouraging children to behave in sexually inappropriate ways.<sup>30</sup> Examples of signs that a child may have been sexually abused involve the child engaging in inappropriate sexual behaviour, sleep problems, problems at school or a fear a child may have of particular adults or certain places.<sup>31</sup>

### 1.3.4 Neglect

Neglect involves the persistent failure of a parent/caregiver to meet a child's basic physical and/or psychological needs. This is likely to result in the serious impairment of the child's health or development.<sup>32</sup> For example, neglect may involve a parent failing to provide adequate food, shelter or clothing (physical neglect) or a parent being unresponsive to a child's basic emotional needs (emotional neglect).<sup>33</sup> Signs that a child has been neglected can range from a failure of the child to thrive, developmental delays through to the child stealing food and/or having untreated medical conditions (medical neglect).<sup>34</sup>

It is important to note that certain signs and symptoms may be non-specific to child abuse. These signs and symptoms may also indicate other conditions, not only child abuse and neglect. It is imperative, therefore, that all signs and symptoms must be examined in the total context of the child's situation/environment.

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<sup>29</sup> CYF Interagency, supra n21 at 8-9.

<sup>30</sup> CYF Interagency, supra n21 at 8-9.

<sup>31</sup> Beckett, supra n23 at 71.

<sup>32</sup> CYF Interagency Guide, supra n21 at 9.

<sup>33</sup> Beckett, supra n23 at 79.

<sup>34</sup> World Health Organisation, supra n20 at 65.

### 1.3.5 Co-occurrence of Domestic Violence and Child Abuse

Arrests for domestic violence have almost trebled over the past decade from 9,311 arrests in 1996 to 18,305 arrests in 2005.<sup>35</sup> In 2005 alone, there were 63,685 police call-outs to family violence events and in 70% of these call-outs, children witnessed and/or heard the spousal violence.<sup>36</sup> Further, child abuse and intimate partner violence have been recognised as co-occurring in 30% to 60% of cases.<sup>37</sup>

Research indicates that children are negatively affected by spousal domestic violence even if they are not physically hurt themselves. Children are affected if they are present in the house, see/witness or hear the violence, or see other effects of the violence.<sup>38</sup> Children may also be unintentionally abused by their mother as a result of stress or transference. As an example, a child may copy his father's abusive behaviour towards his mother resulting in the mother's anger, at her partner, being transferred on to the child.<sup>39</sup>

Children's exposure to domestic violence has been associated with aggression, anxiety/depression, post-traumatic stress disorder, pro-violent attitudes, physical injury and long term adjustment problems.<sup>40</sup> Additionally, UNICEF's report *Behind Closed Doors: The Impact of Domestic Violence on Children* (2006) stated:<sup>41</sup>

The single best predictor of children continuing the cycle of domestic violence – either as perpetrators or victims – depends on whether or not they grow up in a home with domestic violence. Studies show that rates of abuse are higher among women whose husbands were abused as children or who saw their mothers being abused.

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<sup>35</sup> Byers, supra n18 at 4.

<sup>36</sup> Byers, supra n18 at 5.

<sup>37</sup> Elvidge, J and Tuohy, P Dr *Child Abuse in the Context of Intimate Partner Violence – An Integrated Intervention* Blossoming of Our Children 10<sup>th</sup> Australasian Conference on Child Abuse and Neglect, 14 to 16 February 2006 <<http://www.nzfvc.org.nz/accan/papers-presentations/abstact275v.shtml?>>.

<sup>38</sup> Summers, A *Children's Exposure to Domestic Violence: A Guide to Research and Resources* Permanency Planning for Children Department, National Council of Juvenile and Family Court Judges, Nevada, 2006 <<http://www.safestartcenter.org/pdf/childrensexpostoviolence.pdf>> 8-9.

<sup>39</sup> Kinley, L and Huirama, T *Care and Protection meets Family Violence: Building Best Practice at the Interface* Blossoming of Our Children 10<sup>th</sup> Australasian Conference on Child Abuse and Neglect, 14 to 16 February 2006 <<http://www.nzfvc.org.nz/accan/papers-presentations/abstact169v.shtml?>> 14.

<sup>40</sup> Ibid, 15.

<sup>41</sup> UNICEF *Behind Closed Doors: The Impact of Domestic Violence on Children* <<http://www.unicef.org/media/files/BehindClosedDoors.pdf>> 7.

### 1.3.6 Family Violence versus Child Abuse Per Se

Maxine Hodgson, founder of Parentline, has observed that over the last five years government funding, research/reports and programmes/initiatives are increasingly focussing on reducing family violence. She maintains that this concentration on family violence has meant that child abuse has become subsumed under the category of family violence. She also believes, and the author agrees, the current terminology for child abuse reinforces this perspective; ‘children at risk’ places an emphasis on the child’s violent home/family in which the risk is defined as the adult violence they are witnessing. Family violence, Hodgson advocates, is only one form of child abuse and therefore it is important that child abuse is not be ‘swallowed up’ within the family violence paradigm.<sup>42</sup> In Hodgson’s opinion, family violence and child abuse are first cousins (and child sexual abuse is a poor cousin of child abuse); they are not the same and should not be lumped into the same kete/basket as family violence. Thus, in her view, a long-term reduction in child abuse will only come from community and national initiatives that have the child at the centre of them, not simply as an ‘add on’ to something else such as family violence.<sup>43</sup>

An example of Hodgson’s concerns is found in the Ministry of Social Development’s (MSD) *Te Rito Strategy (Te Rito)*, released in 2002.<sup>44</sup> *Te Rito* sets out the government’s plan for preventing family violence in New Zealand. The strategy was developed by a National Executive made up of government and non-government representatives. *Te Rito* outlines principles and goals for reducing family violence, within eighteen areas of action over a five year plan. Four and a half years on some of the action areas have progressed faster than others, and some have been combined. The Taskforce for Action on Violence Within Families was established in 2005 to reinvigorate and progress *Te Rito*.<sup>45</sup>

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<sup>42</sup> Interview Notes, Maxine Hodgson, Founder of Parentline, October 2006.

<sup>43</sup> Ibid.

<sup>44</sup> Ministry of Social Development *Te Rito New Zealand Family Violence Prevention Strategy* February 2002 <<http://www.msd.govt.nz/work-areas/families-whanau/te-rito/index.html>>.

<sup>45</sup> Ministry of Social Development *Taskforce for Action on Violence Within Families: The First Report* July 2006 <<http://www.msd.govt.nz/work-areas/families-whanau/te-rito/family-violence-taskforce.html>>.

It is significant to note that *Te Rito* defines family violence as:<sup>46</sup>

[violence] that covers a broad range of controlling behaviours commonly of a physical, sexual, and/or psychological nature which typically involve fear, intimidation and emotional deprivation.....common forms of violence in families/whanau include spouse/partner abuse, child abuse and neglect, elder abuse and neglect, parental abuse and sibling abuse.

What can be seen here is a very broad definition of family violence which arguably is too generic in nature. For example, because the *Te Rito* definition is wide-ranging, this may minimise the specific prevention measures that are most effective for particular types of abuse, in this instance dealing with parents who abuse and neglect their children.

The author also notes that only one of each of the principles, goals and action areas of *Te Rito* specifically mention the word ‘children’ and that ‘child abuse and neglect prevention’ is not stated as a separate action area on it’s own. Principle 5 of *Te Rito* states:<sup>47</sup>

There must be a strong emphasis on prevention and early intervention with a specific focus on the needs children and young people.

Goal 3 of *Te Rito* states:<sup>48</sup>

To prevent violence in families/whanau by providing children, young people and their families/whanau with education and support and by identifying violence early.

Action Area 17 of *Te Rito* states:<sup>49</sup>

Promote and increase child advocacy services.

The key message that comes through the *Te Rito* principles, goals and action areas is ‘that violence in families/whanau is unacceptable’. Such a message is absolutely true. But the author will contend, throughout this thesis, that child abuse cannot simply be a subset of family violence prevention measures. Instead, child abuse prevention strategies must stand shoulder to shoulder, as an ‘equal partner’ with family violence strategies.

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<sup>46</sup> *Te Rito*, supra n44 at 8.

<sup>47</sup> *Te Rito*, supra n44 at 13.

<sup>48</sup> *Te Rito*, supra n44 at 15.

<sup>49</sup> *Te Rito*, supra n44 at 50.

The author also suggests, that the sole use of the generic term ‘family violence’ minimises to an extent the meaning of child neglect. Neglect is the failure of parents/caregivers to take active responsibility in their parental/caregiver role, such as supervise their children adequately. Children being left at home unattended and/or older children being left unsupervised to look after their younger siblings, is a rising problem in NZ’s rates of child abuse. For example, in February 2006, a 30 year old Hamilton woman was charged with neglect for leaving her 9 year daughter at home in charge of four other siblings - the youngest child was just 8 months old.<sup>50</sup> The author maintains that neglect is not an act of family violence per se, but it is a form of child abuse which needs addressing, in particular, at a community and national level.

#### 1.4 WHY DOES CHILD ABUSE OCCUR?

As succinctly stated by the Australian Childhood Foundation:<sup>51</sup>

There are many reasons as to why child abuse occurs and much research has been done on the reasons why children get abused. Child abuse is a complex problem and there is no single cause. Different forms of child abuse are caused by different factors or different combinations of factors. At the heart of all forms of child abuse, however, is a lack of basic respect and care for children.

Some researchers argue that child abuse occurs because of the psychological make-up of the perpetrator, the argument that the perpetrator has simply been ‘wired’ that way.<sup>52</sup> This view stems from a medical discourse in which abuse is seen as a psychodynamic disorder of the individual abuser or child.<sup>53</sup> For example, studies have shown that many child sex offenders hurt children because of a range of complex psychopathological and emotional problems.<sup>54</sup> As well, other studies have shown it is clear that the violence of an adult to a child may stem from individual psychological problems, low self esteem and/or a history of abuse and violence in their own childhood.<sup>55</sup>

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<sup>50</sup> Alkman, T “Nine-year-old was left to mind four children: police” *Waikato Times*, 1 February 2006, 8.

<sup>51</sup> Australian Childhood Foundation *Stop Child Abuse, Australia: Causes of Child Abuse* <<http://www.stopchildabuse.com.au/aware/causes.asp>>.

<sup>52</sup> Dartington Social Research Unit *Child Protection: Messages from Research* (1995) 21.

<sup>53</sup> Sidebotham, P “An ecological approach to child abuse: a creative use of scientific models in research and practice” *Child Abuse Review*, Volume 10, Number 2, March/April 2001, 102.

<sup>54</sup> Latta, N *Into the Darklands: unveiling the predators among us* (2003) 193.

<sup>55</sup> Dartington, supra n52 at 22.

In contrast to a psychodynamic paradigm, a sociological model of child abuse assumes that the causes are to be found in societal conditions.<sup>56</sup> Such conditions as poverty, unemployment, high drug and alcohol dependency, social isolation, lack of housing and the changing structure/composition of families/households increase an adult's likelihood of child abuse behaviours.<sup>57</sup> For instance, a study undertaken by the American Academy of Pediatrics (2005) concluded that children residing in households with unrelated adults, (for example a child living with their mother and their mother's partner), were nearly 50 times as likely to die of inflicted injuries than children residing with two biological parents. In such households, 83% of incidents of violence against the children were perpetrated by unrelated adults and only 2% by the biological parent to the child.<sup>58</sup>

Another sociological example is from the research on child abuse by Mike Doolan, former CYF Chief Social Worker. Doolan has concluded that drugs, and in particular methamphetamine, are a cause in many cases of extreme child abuse. He states:<sup>59</sup>

Drugs cause vicious attacks, they affect personal behaviour adversely, they also cause low educational attainment, lack of self-control, diminished conscience, poor moral fibre, low self-esteem and denial of personal responsibility – all these indicators are found in cases of extreme child abuse, so drugs are probably the common denominator.

Further, some see child abuse as an inevitable feature of human behaviour.<sup>60</sup> This paradigm suggests that because parents get stressed, lack parenting skills, and/or have health or mental health problems, then the possibility of them abusing their children is then naturally heightened. As a result,<sup>61</sup>

the inevitability and humanness of abuse and neglect is reflected in the sympathy that is often shown in public comment in the media and among juries for people who have abused and neglected their children. Adults find it easier to identify with the adult perpetrator than the child victim.

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<sup>56</sup> Sidebotham, *supra* n53 at 103.

<sup>57</sup> Dartington, *supra* n52 at 21.

<sup>58</sup> Schnitzer, P and Ewigman, G "Child Deaths Resulting From Inflicted Injuries: Household Risk Factors and Perpetrator Characteristics" *Pediatrics Official Journal of the American Academy of Pediatrics* Volume 116, Number 5, November 2005, 687-693  
<<http://www.pediatrics.aapublications.org/cgi/content/abstract/116/5/e687>>.

<sup>59</sup> NZPA "Drugs behind child abuse rates" *The Press*, 3 July 2006, A8.

<sup>60</sup> Chadwick, D "The Message" *Child Abuse and Neglect Journal* 23 (1999) 957-961.

<sup>61</sup> Hassall, I, *New Zealand's Child Protection System: Are we making progress?* (Wellington: LexisNexis Professional Development Child and Youth Welfare Advisers' Forum, Day 1, 9 October 2006, 9.10am Session) Information Pack <<http://www.lexisnexis.co.nz>>.

This perspective also perpetuates the stance that no matter what is done at a community or a national level, child abuse will inevitably occur. This is a crippling point of view. The author believes that the message instead needs to be that “child abuse occurs because of adult behaviours”.<sup>62</sup> Therefore, adults (parents, caregivers, guardians, whanau) need to take ownership of and responsibility for their behaviours.

## 1.5 CONSEQUENCES OF CHLD ABUSE

All forms of child abuse can have significant short-term and long-term consequences at an individual, family, community and national level. Child abuse affects child development, family and social development, social, health and welfare budgets, mental health services and prison populations.<sup>63</sup> Recent research has shown adults who were abused as children are at greater risk of experiencing problems in later life such as suicide, depression, drug and alcohol abuse, homelessness and/or involvement in criminal activities.<sup>64</sup> There is also now evidence that major forms of illness, including heart disease, cancer, chronic lung disease, irritable bowel syndrome and fibromyalgia are related to experiences of abuse during childhood.<sup>65</sup> However, not all abused and neglected children will experience long-term consequences. The outcomes of individual cases vary widely and are affected by a combination of factors including, the child’s age and developmental status when the abuse/neglect occurred, the type of abuse (physical abuse, sexual abuse or multiple forms of abuse), frequency, duration and severity of abuse, and the relationship between the victim and his or her abuser.<sup>66</sup>

A NZ study published in 2005 involved 962 26 year-olds, who were participants in the Dunedin Multidisciplinary Health and Development Study (Longitudinal Study).<sup>67</sup>

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<sup>62</sup> Brown, M *Care and Protection is about Adult Behaviour: The Report of the Ministerial Review Team to the Minister of Social Services and Employment Hon. Steve Maharey* Wellington, 2000 <[http://www.cyf.govt.nz/UploadLib/images/BrownReport\\_20010620\)172514.pdf](http://www.cyf.govt.nz/UploadLib/images/BrownReport_20010620)172514.pdf)>.

<sup>63</sup> Connolly, M *Child and Family Welfare: Statutory Responses to Children at Risk* (2004) 24-26.

<sup>64</sup> Krug, E, Dahlberg, L Mercy, J Zwi, A and Lozano, R *World Report on Violence and Health* World Health Organisation (WHO), Geneva, 2002 <<http://www/whqibdoc.who.int/hq/2002/92415456.15.pdf>> 69.

<sup>65</sup> Ibid, 69.

<sup>66</sup> Child Welfare Information Gateway *Long-term Consequences of Child Abuse and Neglect* 2006 <[http://www.childwelfare.govt/pubs/factsheets/long\\_term\\_consequences.cfm](http://www.childwelfare.govt/pubs/factsheets/long_term_consequences.cfm)>.

<sup>67</sup> Poland, M and Legge, J *Review of New Zealand Longitudinal Studies*,

These 26 year olds were interviewed about aspects of family violence in their lives and reported on events that had occurred to them in the 1970s and 1980s. The results showed that 80% had received some form of physical punishment during childhood, 29% were smacked, 45% got the wooden spoon or strap and 6% reported extreme physical punishment. The authors found that severe physical punishment could provoke strong emotional reactions 10 to 15 years on; many people who reported having been choked, sat on, thrown on the floor, sexually violated or “beaten up” became very upset when recalling these incidents.<sup>68</sup>

Dramatic examples of the consequences of child abuse are demonstrated in the research work of Dr Bruce Perry. Firstly, Perry’s research has shown that prolonged abuse not only scars a young child’s mind but literally alters the structure of the child’s brain. Abuse can keep the child in a constant state of alarm. If a child’s earliest experiences are of violence his or her brain becomes abnormally attuned to danger. The world for this child is chaotic and threatening and terrorising and so the child becomes hyper-vigilant, attuned to threat. Over time, the child develops a permanent state of anxiety.<sup>69</sup> Secondly, Perry’s research has concluded that abuse and neglect can negatively influence the ability of a child to form secure attachments to the adults in their life. The degree of attachment that is formed will depend on the nature, intensity, duration and timing of the neglect and abuse. Perry states:<sup>70</sup>

The most common effect observed in abusive and neglectful families is that maltreated children are essentially rejected. Children that are rejected by their parents will have a host of problems, including difficulty developing emotional intimacy. In abusive families, it is common for this rejection and abuse to be trans-generational; such as, the neglectful parent was neglected as a child, in this way they pass on how they were parented.

Analogous to the serious psychological consequences of child abuse, already discussed, there are also high economic consequences of child abuse. For instance, Susan Snively’s 1994 report on *The New Zealand Economic Cost of Family Violence*

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Families Commission, May 2005 <<http://www.familiescommission.govt.nz/download/Longitudinal-studies.pdf>>.

<sup>68</sup> University of Otago *Physical Punishment of NZ Children ‘Common, Prolonged and Gender Specific’* Media Release, 26 January 2006 <[http://www.otago.ac.nz/news/news/2006/27v-01-06\\_press\\_release.html](http://www.otago.ac.nz/news/news/2006/27v-01-06_press_release.html)>.

<sup>69</sup> Perry, B Dr *Traumatized Children: How Childhood Trauma Influences Brain Development* 2000 <[http://www.childtrauma.org/ctamaterials/trau\\_CAMI.asp](http://www.childtrauma.org/ctamaterials/trau_CAMI.asp)>.

<sup>70</sup> Perry, B Dr *Bonding and Attachment in Maltreated Children* Consequences of Emotional Neglect in Childhood, 2001 <[http://www.childtrauma.org/CTAMATERIALS/AttCar4\\_03\\_v2.pdf](http://www.childtrauma.org/CTAMATERIALS/AttCar4_03_v2.pdf)>.

estimated that there was a \$5.32 billion in fiscal and economic costs to NZ arising out of the long-term effects of childhood abuse.<sup>71</sup> No similar study has been carried out since 1994; Snively's report still remains the NZ baseline indicator that child abuse is costly not only to individuals but also to the national economy. In addition, a 2001 study on child sexual abuse in NZ estimated that when health, mental health and legal costs were combined with losses in earnings and the loss of a person's life potential, the annual overall cost to NZ was \$2.4 billion per year.<sup>72</sup>

The high economic cost of child abuse is also evident in international research. A 2003 report on *The Cost of Child Abuse and Neglect in Australia* estimated the cost to Australia in the financial year 2001-2002 was \$A4.929 million, with the long term human cost and the cost of public intervention accounting for approximately three quarters of the total cost.<sup>73</sup> A 2000 report on the *Total Estimated Costs of Child Abuse and Neglect in the United States* estimated the United States spends \$US94 billion annually. The most costly long-term effects were those associated with responding to adults who, because of earlier abuse, were involved in criminal activity.<sup>74</sup>

The human and economic costs of child abuse strongly demonstrate that there is a need to activate approaches that aim to prevent child abuse before it occurs. Succinctly stated by Dr Anders Nordstrom, WHO Acting Director General (October 2006):<sup>75</sup>

For too long now the response to child maltreatment has been dominated by systems for reacting to cases once maltreatment has already started. The scientific evidence for preventing physical, sexual and psychological abuse from occurring in the first place is already quite strong and the time is ripe for a paradigm shift from reaction to prevention.

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<sup>71</sup> Snively, S *The New Zealand Economic Cost of Family Violence* (1994).

<sup>72</sup> Julich, S *Breaking the Silence: Restorative Justice and Child Sexual Abuse* A thesis presented in partial fulfilment of the requirements of a PHD in Social Policy, Massey University, Albany, Auckland <<http://www.nzfvc.org.nz/PublicationDetails.aspx?publication=13361>> 25.

<sup>73</sup> Keatsdale Pty Ltd Management Consultants *The Cost of Child Abuse and Neglect in Australia* Report prepared for the Kids First Foundation, 2003, 3 <[http://www.kidsfirst.com.au/uploads/files/1069451734264\\_0.3701907869736339.pdf](http://www.kidsfirst.com.au/uploads/files/1069451734264_0.3701907869736339.pdf)>.

<sup>74</sup> Fromm, S *Total Estimated Costs of Child Abuse and Neglect in the United States Statistical Evidence* Prevent Child Abuse America, USA, 2001 <[http://www.preventchildabuse.org/learn\\_more/research.html](http://www.preventchildabuse.org/learn_more/research.html)>.

<sup>75</sup> World Health Organisation (WHO) Media Centre *WHO says violence against children can and must be prevented* 16 October 2006 <<http://www.who.int/mediacentre/news/releases/2006/pr57/en/index.html>>.

## 1.6 RESEARCH METHODOLOGY

In order to gain a better understanding of why child abuse prevention initiatives/strategies in NZ to date have arguably only had a marginal effect on reducing child abuse, a series of interviews were carried out as part of this thesis. Twenty eight people, with extensive work experience in the field of child advocacy/child protection, (ranging from 10 years to 30 years of ‘at the coal face’ experience), were interviewed about what legislative and policy responses they believe would help reduce child abuse. The roles of the interviewee’s represented a wide range of practitioners.<sup>76</sup>

The interviews ranged in length from 30 minutes through to 2 hours. The interviewees were specifically asked to elaborate on child abuse prevention initiatives/strategies they had been involved in and to discuss whether they thought the outcomes of these projects had been ‘successful’. They were also asked to define what comprised a ‘successful’ outcome, what had worked well with the initiative and what specifically needed to be improved upon.

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<sup>76</sup> The professions of the interviewees were a Child Sexual Abuse Counsellor, Iwi Liaison Police Officer, Primary School Teacher, Family Safety Team Police Officer, Detective Sergeant Child Abuse Team (CAT), Child, Youth and Family Community Liaison Officer, HAIP (Hamilton Abuse Intervention Project) Project Co-ordinator, Parentline Child Advocate, HAIP Non-Maori Women’s Counsellor, Child Protection Studies CEO, Child Protection Studies Academic Services Manager, Marae Development Officer, Community Agency Social Worker, Resource Teacher Learning and Behaviour (RTLB), Founder of Parentline, Mokopuna Oranganui Project Team, Waikato Hospital Paediatrician and DSAC (Doctor of Sexual Abuse Care), Strengthening Families Co-ordinator, District Court Victim Advisor, Child Protection Nurse Specialist, CYF Care and Protection Resource Panel Member, After School Care Supervisor, CYF Practise Advisor, SWIS Worker (Social Worker in Schools) and a Family Court Co-ordinator. Some interviewees gave permission for their name to be used, while others gave permission only for their job title to be used.

## **SECTION TWO:**

### **AN ECOLOGICAL FRAMEWORK FOR CHILD ABUSE PREVENTION**

#### **2.1 WHAT IS AN ECOLOGICAL FRAMEWORK FOR CHILD ABUSE PREVENTION?**

An ecological framework takes the view that an individual's development is influenced by interaction with the environments in which they live.<sup>77</sup>

Bronfenbrenner's Ecological Systems Theory (1979) revolves around a model containing four systems/levels which portray the family as encompassed within other overarching systems of influence. Bronfenbrenner underscores that there are complex linkages between these systems/levels.<sup>78</sup> This ecological paradigm has become popular among child/family researchers because it reflects their understanding that development is a process involving transactions between the growing child and the social environment/ecology in which development takes place.<sup>79</sup> For instance, Dr James Garbarino emphasises that the child must be viewed within the context of the family and as well, the family must be viewed in the context of its wider surroundings.<sup>80</sup> In particular, the use of an ecological model as a framework for child abuse prevention is the most popular approach evident in the review of recent literature on child abuse prevention initiative/strategies.<sup>81</sup>

Bronfenbrenner's ecological model begins with the microsystem which refers to the family unit - the child/children and the parent/s/caregiver/s.<sup>82</sup> Within the microsystem biological and personal history factors, (for example, parents/caregivers with poor impulse control or low educational attainment or alcohol/substance abuse), can contribute to the likelihood that child abuse may occur. In the following example the

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<sup>77</sup> Stevens, K Dickson, M Poland, M and Prasad R *Focus on Families: Reinforcing the importance of families* Families Commission, October 2005  
<<http://www.nzfamilies.org.nz/research/focus-summary.php>> 22.

<sup>78</sup> Bronfenbrenner, U *The ecology of human development* (Cambridge, MA: Harvard University Press, 1979).

<sup>79</sup> National Research Council, United States *Understanding Child Abuse and Neglect* (Washington: National Academy Press, 1993) 4.

<sup>80</sup> Garbarino, J *Children and Families – Their Social Environment* (New York: Aldine Publishing Co, 1982) 5.

<sup>81</sup> Davies, E Hammerton, H Hassall, I Foturne, C and Moeller, I *How can the literature inform implementation of Action Area 13 of Te Rito Public Education and Awareness* (Wellington: Ministry of Health and Ministry of Social Development, 2003).

<sup>82</sup> Stevens, supra n77 at 22.

family unit consists of a mother, her partner and her two children. The mother's partner (K) has poor impulse control and is abusive of alcohol. These two factors in this instance lead to K violently lashing out at his partner. One of the children witnesses the domestic violence, a type of child abuse:<sup>83</sup>

*In August 2006, Kelsey Tunui was convicted of assaulting his partner. His partner had been at home with her one year old and two year old children. Tunui had been drinking bourbon and cola for much of the day. They had argued over a remote control and a t-shirt he wanted her to find. She was sitting on the couch, not long after 10pm, with her baby next to her; "I was sitting there, watching TV and he just suddenly attacked me."*

The mesosystem is the second system/level and it refers to the interrelationship between the settings in which families are active participants. For example, interactions between nuclear families and their extended family, friends, peers, church groups, neighbours, work colleagues.<sup>84</sup> In particular, if individuals are regularly interacting with and/or sharing the same house or regularly attending meetings with someone from their family/social network who is a child abuser, then this can increase the likelihood that child abuse may occur. This is evidenced in the following example:<sup>85</sup>

*In November 2005, serial paedophile Brian Avent was convicted of molesting 13 schoolboys. Depositions hearing evidence showed that Avent (40), met some of his victims, aged 10 to 16, through the Kelston Community Church and Karate Club he attended and others through his cut-price computer business, Net PC.*

The community level, the exosystem, is the third tier in an ecological model. The exosystem involves the context in which social relationships are entwined. It includes, inter alia, educational settings and health services.<sup>86</sup> These are environments over which families have less control.<sup>87</sup> An analysis of the exosystem seeks to identify the characteristics of environments that are associated with becoming victims or perpetrators of child abuse. Such characteristics include high population density,

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<sup>83</sup> NZPA "There's just one man grinning" *Hawkes Bay Today*, 4 August 2006, 5.

<sup>84</sup> Stevens, supra n77 at 22.

<sup>85</sup> Dann, J "Paedophile to police: It was my art" *Sunday Star Times*, 18 November 2005, A7.

<sup>86</sup> National Research Council, USA supra n79 at 5.

<sup>87</sup> Stevens, supra n77 at 22.

social isolation, poverty, high unemployment and lack of social services supports,<sup>88</sup>

For example:<sup>89</sup>

*In December 2003, a 4 month old baby died because his Northland parents did not get medical help for him. Part of their evidence was that they lived in rural Northland and so it was not easy to rush off to the doctor.*

The fourth system/level, the macrosystem, refers to the larger societal factors that can influence families, such as the norms and expectations of society, culture, and economic structures.<sup>90</sup> Social norms, for instance, may legitimate giving priority to parental rights over children's rights and parental responsibilities. For example:<sup>91</sup>

*Family Integrity has produced a controversial booklet on how to use physical punishment under the present law. Parents are told that smacking can be a "10 to 15 minute process" and that if a child reacts angrily, such as by slamming doors or pouting they should be smacked again.*

Larger societal factors also may include the impact of government policies, for example, those policies that bring about high levels of economic or social inequality between groups in society. Additionally, the impact of legislation is also significant. For instance, section 59 Crimes Act 1961 neither reinforces the concept of children's rights, nor affords adequate protection if children are at high risk of being, or have been, abused.

Each system/level within the ecological model contains roles, norms and rules that can shape the development of the child and the parent/child relationship. What happens in one environment influences and is, in turn, influenced by what happens in another.<sup>92</sup> An ecological framework demonstrates, in regards to child abuse, that there can be multiple causes of child abuse as well as multiple interactions of risk factors operating across and within each level. As stated by Peter Sidebotham, University of Bristol:<sup>93</sup>

*An ecological paradigm presents child abuse as occurring within the context of the child's environment at different, nested levels. This paradigm is currently the most comprehensive we have for understanding child abuse,*

<sup>88</sup> National Research Council, USA, supra n79 at 5.

<sup>89</sup> NZPA "Couple guilty of lesser charge" *Waikato Times*, 19 November 2005, A3.

<sup>90</sup> Stevens, supra n77 at 22.

<sup>91</sup> Chalmers, A and Torbit, M "Row over Christian Smacking Manual" *Dominion Post*, 19 August 2006, 1.

<sup>92</sup> Stevens, supra n77 at 23.

<sup>93</sup> Sidebotham, supra n53 at 97.

providing a systematic framework in which to conduct both research and child protection practice.

### 2.1.1 Working at the Microsystem Level

Child abuse prevention measures operating at the microsystem level are those which target the individual such as the ‘at-risk’ child and/or ‘at-risk’ parent. Measures can include strategies reducing unintended pregnancies, increasing access to prenatal and postnatal services and training children to recognise and avoid potentially abusive situations.

An example of a current child abuse prevention measure operating at the microsystem level is the Keeping Ourselves Safe (KOS) programme facilitated through the Police. KOS is an educational programme run at all school levels, though not every school chooses to run KOS programmes. The KOS programme shows that children are often disclosing abuse after attending the sessions; for example, in the Wellington district, from April to August 2006, (a 5 month period), a total of 21 child abuse disclosures were made as a result of KOS.<sup>94</sup>

In 2004, the Education Review Office evaluated the extent of the use of KOS in selected schools, the support given by Police Education Officers and the outcomes of the programme for children. A conclusion from the report was that “children know a range of safe practices and teachers are more skilled and confident in teaching the programme”.<sup>95</sup> However, one concern of the KOS programme was that children of all ages failed to identify the possibility that their parents or relations might harm them.<sup>96</sup> This needs to be addressed as police statistics demonstrate that 45% of child abuse offenders are family/friends while only 2% are loiterers/strangers.<sup>97</sup> Further, a January 2007 report from the Children’s Rights Director for England found that 82% of children believe their friends and family would keep them safe and 60% of children

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<sup>94</sup> Byers, *supra* n18 at 10.

<sup>95</sup> Education Review Office *Keeping Ourselves Safe* Report to the New Zealand Police (Wellington: Education Review Office, 2004), 18.

<sup>96</sup> Sanders, O *Evaluating the Keeping Ourselves Safe Programme Blossoming of Our Children* 10<sup>th</sup> Australasian Conference on Child Abuse and Neglect, 14 to 16 February 2006. <<http://www.nzfvc.org.nz/acan/papers-presentations/abstact11v.shtml>>.

<sup>97</sup> Child Protection Studies (CPS) 5 Day Programme Workshop (Day 4) – Allan Browne, Detective Sergeant, Child Abuse Team, Hamilton <<http://www.cps.org.nz>>.

said they would tell their families first if someone were abusing or harming them.<sup>98</sup> It is difficult to strike the balance, if indeed there is one, between telling children they can trust their family and friends, but at the same time they need to know not all family members and friends will necessarily keep them safe.

It is essential that programmes such as KOS, are accompanied by on-going information/advice to parents/caregivers about ‘normal’ child development. For instance, ‘normal’ sexual exploration by children continues to be poorly understood, as are the differences between sexual behaviours that are healthy and part of a child’s ‘normal’ development and child sexual behaviours that may reflect sexual abuse or may in themselves be abusive of other children.<sup>99</sup> A major strength of the KOS programme is that it has been evaluated on several occasions since its 1988 inception to identify what improvements should/could be made.<sup>100</sup> As modules are revised and republished, these improvements have been incorporated into new versions.<sup>101</sup>

From early 2007, a version of the KOS programme is being phased in to Early Childhood Centres. The programme is known as ‘All about Me’, and was piloted in Porirua and Dunedin in 2006. The ERO evaluated the pilot and recommended that a mandatory training programme be put in place before centres got the ‘All About Me’ kit. As a result, a training programme has been put in place and the parent material has also been developed further.<sup>102</sup> Nevertheless, it is the author’s contention that no matter how positive KOS outcomes may be working at the individual level, this will not in itself stop child abuse. The author maintains that it is society’s responsibility to make various changes that can help parents better support their children. As well, it is

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<sup>98</sup> Morgan, R Dr *Children and Safeguarding: Children’s Views for the DfES Priority Review*, January 2007, Commission for Social Care Inspection, England  
<[http://www.csci.org.uk/PDF/children\\_and\\_safeguarding.pdf](http://www.csci.org.uk/PDF/children_and_safeguarding.pdf)> 6.

This report gathered the views of 180 children on matters to do with how children can be protected and kept safe from child abuse.

<sup>99</sup> Child Protection Studies (CPS) Diploma Course, Week 1 Workshop: Eleanor Carmichael, Waikato Hospital Pediatrician and DSAC (Doctor of Sexual Abuse Care) <<http://www.cps.org.nz>>.

<sup>100</sup> Briggs, F and Hawkins, M *Keeping Ourselves Safe – Who Benefits?* University of South Australia, 1998 <<http://www.police.govt.nz/service/yes/resources/violence/kos5.html>>.

<sup>101</sup> Sanders, O *Evaluating the Keeping Ourselves Safe Programme*  
Blossoming of Our Children 10<sup>th</sup> Australasian Conference on Child Abuse and Neglect, 14 to 16 February 2006. <<http://www.nzfvc.org.nz/acan/papers-presentations/abstact11v.shtml>>.

<sup>102</sup> Byers, supra n18 at 10. Further, the training programme is to be run by Child Protection Studies (CPS), Hamilton, <<http://www.cps.org.nz>>.

a heavy burden to put the responsibility for identifying abuse on children. That is one result of presenting programmes such as ‘All About Me’ to pre-schoolers.

### 2.1.2 Working at the Mesosystem Level

Child abuse prevention measures operating at the mesosystem level include, inter alia home visitation programmes and parenting courses. *A Review of Parenting Programmes* report was released by the Families Commission in June 2005.<sup>103</sup> This report looked at a range of current parenting support and development programmes – both government funded programmes (for example, Family Start, Parents as First Teachers, Home Interaction Programme for Parents and Youngsters (HIPPY)) and non-government/partially government funded programmes (for example, Parents Inc., Parents Centre, Early Start). One of the report’s recommendations was:<sup>104</sup>

[t]here is a need to develop a broad strategy for supporting all parents in their parenting role but that this would require collaboration between government and the non-government sector with a careful analysis of the needs of families, communities and those working with parents and families.

In March 2006, the Families Commission followed up this report by developing an online survey about parenting skills. From a cross section of 2,100 people, feedback showed that parents consider that learning parenting skills is important, and over half of the respondents said they would attend a class to gain new or additional information.<sup>105</sup> However the barriers parents saw to attending parenting classes were time, cost and lack of childcare. Only a handful said they would not attend because they did not want people to think that they needed help. Moreover, half of the respondents said that if there was a parenting class in their neighbourhood they would be likely to attend.<sup>106</sup>

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<sup>103</sup> Kerslake Hendricks, A and Balakrishnan, R *Review of Parenting Programmes*, Families Commission Research Report No 2/05, June 2005 <<http://www.nzfamilies.org.nz/download/parenting-programmes.pdf>>.

<sup>104</sup> *Ibid*, 54.

<sup>105</sup> Families Commission *Newsletter – Family Voice* November 2006, Issue 5 <<http://www.nzfamilies.org.nz/download/family-voice-nov06.pdf>> 6.

<sup>106</sup> *Ibid*, 6.

### 2.1.3 Working at the Exosystem Level

Child abuse prevention measures operating at the exosystem level include social support services, family support services, initiatives and programmes that aim to engage the community collectively in order to reduce child abuse. As aptly put by Gaye Moriarty, NZ Child Development Foundation Director:<sup>107</sup>

[Reducing child abuse] needs to come down to a community level – communities have to take some sort of responsibility. Child abuse has to be broken down to a local issue and rather than looking at a big bureaucracy, we've got to look at setting up something in local areas that can work for children. If we moved away from a big government bureaucracy in favour of bringing local agencies together, we may be able to deliver more.

After the Kahui twins deaths, in June 2006, it was revealed that staff at KidzFirst Neonatal Unit had informally raised concerns with CYF about the twin's parents lack of involvement with their children's care. But these concerns were not put through as a formal notification to CYF.<sup>108</sup> CYF Chief Executive, Peter Hughes later stated:<sup>109</sup>

Where it's been brought to our attention we can act, but where it isn't we can't. Because of who we are there's an assumption that in every one of these cases we could have acted to stop these things from happening.

This raises the issue of who should be held accountable when child abuse occurs. Is it the Police and/or CYF for not doing something quickly enough or effective enough? One of the conclusions that Mike Doolan drew from his research on the 91 NZ children who died from abuse between 1991 and 2000, was that only 1 in 5 children were known to statutory authorities.<sup>110</sup> Who then, were the other 80% of the children known to? Who were the people in the children's community: friends, relatives, neighbours, schools, doctors? One complaint is that the responsibility for preventing or addressing the many causes and risk factors of child abuse is put solely on CYF and/or the Police. In relation to child abuse these statutory agencies are essentially there as the 'ambulance at the bottom of the cliff', as their primary role is not a

<sup>107</sup> Child Development Foundation of New Zealand *Latest News – Our Kinds Are in Crisis* 16 December 2005 <<http://www.reachingcdf.org.nz/main/news/crisis.htm>>.

<sup>108</sup> NZPA "Social agencies to meet daily" *Waikato Times*, 29 June 2006, 7.

<sup>109</sup> Ibid.

<sup>110</sup> Doolan, M *Child Death by Homicide: An examination of incidence in New Zealand* Te Awatea Review, Te Awatea Violence Research Centre's Newsletter, Volume 2, Number 1, August 2004, 7-10. The death of the 91 children involved 101 perpetrators.

preventative one. Instead, their role is a reactive one; it is initiated after the child has already been the target of the abuse and sustained at least some of its consequences.

Margaret Evelyn, CYF Community Liaison Officer, believes that “Communities must acknowledge that child abuse exists and thus be more willing to talk about it.”<sup>111</sup> For example, she cites, the Spring 2006 edition of the *Pavement* magazine which was a special teen edition celebrating “Lost Youth”. The magazine featured pre-teen and teenager models, some in various stages of undress. In one photo, a girl lying topless on her bed, talks about her “first feelings of lust”. Evelyn comments this “sexualisation of children is not harmless”.<sup>112</sup> She sees it as a form of manipulating children for adult gratification, a non-physical form of child sexual abuse.<sup>113</sup> Some would say this is a very conservative view, which Evelyn admits herself, but her twenty three years in CYF, (and before that her twenty year career as a primary school teacher), have shown her that “if we value children seriously, then we need to be doing some things differently”.<sup>114</sup>

The question then, at a community level, is what skills and supports are required to help parents/caregivers so they do not abuse their children? There needs to be an agreement about what is needed and subsequently the community needs to look at the parts/sectors of the community which are best positioned to achieve those goals. As the well known African Proverb states, “it takes a whole village [a whole community] to raise a child.” When a community collectively decides to take ownership of child abuse issues and works towards resolution and strategies, then child abuse, the author believes, will be reduced: this co-operative process will forge a path forward. It is not enough for CYF or community agencies to target ‘at-risk’ families and individuals within that community. What also needs to be taken on board at an exosystem level is that child abuse crosses economic, social, cultural and racial divisions. Child abuse, in all its forms, happens within every community. As Ian Hassall, former NZ Commissioner for Children has commented:<sup>115</sup>

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<sup>111</sup> Margaret Evelyn, CYF Community Liaison Officer, Interview Notes, October 2006.

<sup>112</sup> Ibid.

<sup>113</sup> Ibid.

<sup>114</sup> Ibid.

<sup>115</sup> Hassall, *supra* n61 at 2.

[a] commodity-orientated world (*microsystem and mesosystem strategies*) can be easily promoted and funded but its effect may be marginal when compared with whole-of-community interventions.

A great deal of research, both nationally and internationally, has focussed on individual treatment/rehabilitative programmes for perpetrators of child abuse.<sup>116</sup> Such programmes rest on the premise that child abuse is an individual's problem, and as such that individual must be held accountable for the consequences of their behaviour.<sup>117</sup> From this paradigm there is little sense in the community taking collective responsibility. However, a call for collective responsibility has recently been articulated by Judge Peter Boshier, the Principal Family Court Judge. Judge Boshier believes that in particular, family violence is damaging the country's image as a good place to raise children. At a March 2006 Auckland Hui, Boshier said:<sup>118</sup>

Domestic violence has reached a stage where the community must respond and act .....children experience violence in the home even when it is not directed at them. They are not passive bystanders when a parent is attacked or abuse. The emotional harm to children is considerable.

#### 2.1.3.1 Everyday Communities and Everyday Theatre

Everyday Communities (EDC) is a child abuse, neglect and family violence prevention programme that uses a whole-of-community engagement approach. The project aims to raise public awareness about child abuse issues as well as redistribute the responsibility for the prevention of child abuse throughout the Community.<sup>119</sup> Delivered in selected communities through a partnership between CYF and local community personnel/agencies, the programme includes a locally developed and delivered communications campaign and a calendar of local community events. A recent evaluation of EDC has stated, "EDC recognises that child abuse is a community concern that can be addressed locally with central government support".<sup>120</sup>

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<sup>116</sup> Dartington, supra n52 at 6.

<sup>117</sup> Dartington, supra n52 at 6.

<sup>118</sup> NZPA "Violence is blighting our image: judge" *Waikato Times*, 28 March 2006, 3.

<sup>119</sup> Child, Youth and Family *Everyday Community Fact Sheet* <<http://www.cyf.govt.nz>>.

<sup>120</sup> Welsh-Morris, M and Dowden, *A Strategic Contributions of the Everyday Communities Programme: A summarised selection of research and evaluation findings* (Wellington: Child, Youth and Family, November 2004) 4.

EDC was developed in 2001 to align with the recommendations of the Judge Michael Brown review of CYF Services.<sup>121</sup> The overarching goal of EDC is that New Zealanders act to achieve wellbeing and safety for the nation's children. The programme uses the concept that everyone has a responsibility for prevention of child abuse, neglect and family violence.<sup>122</sup> EDC was first delivered in Whakatane in 2001/02 and in 2003 was delivered in Wanganui, the Wairarapa and seven Pacific communities in South Auckland.<sup>123</sup>

The November 2004 evaluation report said the findings in the pilot communities indicated that the EDC programme had increased the knowledge of child abuse, neglect and family violence; had increased the willingness and ability of community members to act preventatively; and had led to an uptake of services promoting prevention behaviour offered by local helping agencies.<sup>124</sup> Further, one of the recommendations of the report was:<sup>125</sup>

[m]aintaining and expanding the impact of EDC is the main challenge ahead. This includes providing support for the factors that appear to be promoting EDC's success, such as strong local CYF co-ordination, while achieving a greater communications presence that reaches all parts of the community.

In particular, increased participation of the following groups was suggested by community personnel involved in EDC: those in outlying/rural areas; Maori service providers and community organisations; grandparents and the wider family who support families; health, professional and business sectors; non parents/caregivers and those who do not use local media (such as radio and newspapers).<sup>126</sup> To support this broader participation, community personnel suggested greater co-ordination was needed across community organisations (especially with Maori organisations) to strengthen participation and ownership of the EDC intent.<sup>127</sup>

Everyday Theatre (ET) was developed as a component of the EDC. Targeted at Year 7 and 8 students, ET was presented in more than 55 schools in Whakatane, the

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<sup>121</sup> Brown, supra n62.

<sup>122</sup> Welsh-Morris, supra n120 at 15.

<sup>123</sup> The 7 groups were: Samoan, Tongan, Cook Island, Nuiean, Tokelauan, Tuvaluan and Fijian

<sup>124</sup> Welsh-Morris, supra n120 at 16.

<sup>125</sup> Welsh-Morris, supra n120 at 21.

<sup>126</sup> Welsh-Morris, supra n120 at 25.

<sup>127</sup> Welsh Morris, supra n120 at 25.

Wairarapa and South Auckland between July and December 2004. In 2005 ET was presented in all CYF Care and Protection residences.<sup>128</sup> At different times during the 20 minute performance,<sup>129</sup> students are required to consider the feelings and thoughts of those who witness the abuse, the victims of abuse and the perpetrators of the abuse. ET is not intended to be a vehicle for a predetermined message to be given to the students.

Only a limited evaluation of ET has been done so far and this evaluation has shown ET to be ‘successful’ in that it has provided a forum for students to discuss their own thoughts and feelings about the issues of child abuse and family violence.<sup>130</sup>

The author maintains, however, such approaches as EDC and ET need to be on-going, rather than just one off projects/performances. Analogous to the drink-driving and anti-smoking campaigns, the message “Child Abuse and Neglect Is Unacceptable” continually needs to be reinforced. John Bowls, Executive Director of Save the Children Fund, Zealand has stated:<sup>131</sup>

The most vulnerable children in New Zealand should certainly benefit from increased support for programmes that address the issue of violence and abuse – especially those programmes run at a community level.

### 2.1.3.2 Examples of Current Community-Driven Abuse Intervention Projects

#### 2.1.3.2.1 Violence Free Wairarapa

The killing of young sisters Saliel Aplin and Olympia Jetson in December 2001 brought the number of children killed in the Wairarapa by family violence between 1990 to 2001, up to nine.<sup>132</sup> In retrospect, many of those deaths were seen as

<sup>128</sup> Child, Youth and Family *Everyday Theatre Factsheet* <<http://www.cyf.govt.nz>>.

<sup>129</sup> The performance involves an in role use of a video game about a dysfunctional family.

<sup>130</sup> O’Connor P, Dr *Everyday Theatre – A Theatre in Education Project to Prevent Child Abuse, Neglect and Family Violence Blossoming of Our Children 10<sup>th</sup> Australasian Conference on Child Abuse and Neglect*, 14 to 16 February 2006 <<http://www.nzfvc.org.nz/acan/papers-presentations/abstract251v.shtml>>.

<sup>131</sup> Te Awatea Review, Te Awatea Violence Research Centre’s Newsletter, Volume 4, Number 1, July 2006, at 5.

<sup>132</sup> Families Commission *Newsletter – Family Voice* August 2006, Issue 4 <<http://www.nzfamilies.org.nz/download/family-voice-aug06.pdf>> 3.

<sup>133</sup> *Ibid*, 3.

<sup>134</sup> *Ibid*, 3

preventable. Wairarapa's Mayor (Bob Francis) and MP (Georgina Beyer) decided that it was time the "community stepped up to the plate and took responsibility for what was happening".<sup>133</sup> Violence Free Wairarapa (VFW) was launched on 1 May 2002. Francis's and Beyer's plan was to bring together a large cross section of community leaders and organisations. VFW has 4 key parts: strong community partnerships; working with the community to change attitudes; improving the wellbeing of the community; and co-ordination and collaboration between agencies and community groups.<sup>134</sup> In June 2004, an evaluation report was released on *VFW May 2002 – May 2004*. The Executive Summary of the report stated:<sup>135</sup>

From the evidence obtained it is clear that the campaign has made a positive difference to this community. There has been an obvious change in attitude of the key organisations, particularly in the ways that they work together. It is also clear, however that there remain big challenges ahead before the general public will experience a comprehensive change in their lives.....to make this community violence free, change will take many years.

In November 2006, a resource kit was produced for people new to working at Wairarapa local agencies and community groups, to bring them up to speed on VFW and its importance to the region. This kit has been a proactive way of addressing staff changes that occur within agencies/organisations.<sup>136</sup> Significantly, two of the key outcomes of VFW have been firstly, a reduction in reported violence from families with a long history of violence and secondly, the increased co-ordination and collaboration between agencies and community groups. As Bob Francis stated:<sup>137</sup>

One of our key achievements has been to get different agencies working together and to get buy-in from vital organisations like the Police.

#### 2.1.3.2.2 Amokura Family Violence Prevention Programme (Northland Region)

The Amokura Family Violence Prevention strategy (AFVP) is an integrated community based initiative to address family violence in Taitokerau. The initiative is led by the Family Violence Prevention Consortium which is made up of the Chief

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<sup>135</sup> Knight, R and McNeur, P *An Evaluation of the Campaign for a Violence Free Wairarapa May 2002 to May 2004* Wairarapa Reap, June 2004  
<[www.vfw.org.nz/reports/Reports/Evaluation/20May/2022003-May2004.doc](http://www.vfw.org.nz/reports/Reports/Evaluation/20May/2022003-May2004.doc)>.

<sup>136</sup> Family Voice, supra n132 at 3.

<sup>137</sup> Family Voice, supra n132 at 3.

Executives of seven iwi authorities.<sup>138</sup> Amokura symbolises guardianship and safety, the carrying of that which is sacred; a sacred trust and responsibility.<sup>139</sup> The partnership of iwi authorities is a significant development as the Taitokerau region has a high Maori population, with up to 50% in some areas of the region. As well, the Maori population is a youthful one; 53% of the total Maori population is under 24 years old.<sup>140</sup>

‘Step Back’ is a violence prevention brand developed by the Consortium and communicated primarily through the medium of radio music and community events. For example, the ‘Step Back’ rap is a hard hitting and sophisticated analysis of the impact of violence as expressed by youth. An extract of the rap goes:<sup>141</sup>

You claim that you’re not violent,  
smack only if required,  
raising your hand don’t make you a man,  
you ain’t a man if you smack your love,  
you ain’t a man if you crack your sons,  
you ain’t a mom if you smack your girls,  
make up, then wake up,  
if that’s your world.

AFVP is an example of an integrated community approach that has engaged and targeted a specific population in the region, namely Maori youth. AFVP also convenes Kaumatua Kuia forums to discuss ways of supporting children and young people’s well being and preventing family violence. Kaumatua and Kuia are proving to be powerful advocates as they are well aware of the impact of violence and abuse in their communities and on their mokopuna. Di Grennell, Amokura Project Manager states:<sup>142</sup>

Amokura is uniquely positioned, combining iwi leadership and in-depth knowledge of the people and communities of Taitokerau with extensive networks with iwi and Maori social service providers. Amokura engages in research, education and advocacy activities at a range of levels to ensure the violence prevention message is consistently presented.

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<sup>138</sup> Pivac, A and Gennell, D *Amokura- Indigenous Innovation Blossoming of Our Children* 10<sup>th</sup> Australasian Conference on Child Abuse and Neglect, 14 to 16 February 2006  
<[<sup>139</sup> Ibid, 2.](http://www.nzfvc.org.nz/acan/papers-presentations/abstact258v.shtml?> 2.</a></p>
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<sup>140</sup> Ibid, 3.

<sup>141</sup> Ibid, 3.

<sup>142</sup> Ibid, 4.

### 2.1.3.3 Mokopuna Oranganui Project: Huntly

What can be noted from these two examples of whole-of-community responses to abuse intervention is that the initiatives include child abuse prevention as a component of family violence prevention. As stated previously, the author argues that children need to be at the centre of community development approaches to preventing and reducing child abuse, not just encompassed within family violence intervention strategies. An example of a programme in which the focus has been specifically on child abuse prevention is the current Mokopuna Oranganui Project running in Huntly. The government embarked on a key strategic re-focus of reducing inequalities for Maori in February 2000.<sup>143</sup> The strategy is characterised by two main concepts: capacity building (strengthening the ability of Maoris in communities to build their own systems, structures and strategies) and innovative mainstream responses (a whole of government approach to re-shape interactions between government agencies and Maori communities). For Huntly, this strategy resulted in the formation of a project group called Tiaki Tangata.<sup>144</sup>

The 2001 Tiaki Tangata report described Huntly as “a community with a high Maori population, relatively young age structure, low income and high unemployment”.<sup>145</sup> Tiaki Tangata identified key priorities that needed improvement across the Huntly community. The priority areas were youth development, parenting and family skills, training and employment, health and housing and education. It is under the umbrella of these priorities that the Mokopuna Oranganui Project was born.<sup>146</sup> The Mokopuna Oranganui project was named by respected Kuia, Koha Whitaker. The aim of the project was to take knowledge about child protection knowledge into the wider Huntly community.

Mokopuna Oranganui was established by a partnership between local community groups, Child Protection Studies (CPS) and Tiaki Tangata.<sup>147</sup> The kaupapa of the

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<sup>143</sup> Tiaki Tangata – Huntly *Maori Community Report – Reducing Inequalities* June 2001 Final Report, Number One. A Report to the Government Agency Tumuaki Forum.

<sup>144</sup> Tiaki Tangata – *Huntly Key Priorities Report – Reducing Inequalities and Improving Outcomes for Maori of the Huntly Community* July 2003, 2.

<sup>145</sup> Tiaki Tangata, supra n143 at 12.

<sup>146</sup> There are 46 projects under the Tiaki Tangata umbrella.

<sup>147</sup> Child Protection Studies (CPS) Final Report 2006 <<http://www.cps.org.nz>> 8.

Mokopuna Oranganui Project is to enable and attract the community as a whole to participate together to form a 'child cherishing' culture; a culture which acknowledges the need for children to be nurtured and respected.<sup>148</sup> Through the hui which were held among Huntly stakeholders (both of NGOs and those in the government sector) and Huntly community members it was concluded that a whole-of-communality approach was a vital pre-requisite for bringing about the changes needed to reduce the high incidences of child abuse in Huntly. The first step was to train a core group of local people in the Child Protection Studies Programme out of which a reference group was established.<sup>149</sup> The initiative was made possible by funding provided by The Tindell Foundation and also support funding from both local and government organisations, such as Te Puni Kokiri (Ministry of Maori Affairs) and the Huntly Police.<sup>150</sup>

The first training was run in December 2005 and the second training took place in April 2006. The 26 participants who finished the programme came from a diverse range of roles within the Huntly Community and included a Kaumatua, Kohanga Reo Tutor, Youth Development Police Officer, a marae representative through to representatives from social services and community agencies. A Mokopuna Oranganui Expo was held in November 2006 to showcase the services and supports available to children, parents and their families in Huntly. Along with this training and the expo, the participants representing their maraes on the course will raise awareness about protecting tamariki and mokopuna to their marae.

As part of the CPS Programme requirements, participants had to complete a post course report two months after finishing the course. The purpose of this report is for the participants to reflect on how they have taken the learning from the course and applied it in their own ecological settings – their workplace, neighbourhood, family, and friends. Below are some extracts from four of the post course reports. These extracts strongly demonstrate that children are more likely to be protected from abuse

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<sup>148</sup> Ibid.

<sup>149</sup> The CPS Programme is a 5 day programme which focuses on recognising and responding to child abuse. This course is accredited with NZQA. Refer further to further details on the CPS website <<http://www.cps.org.nz>>.

<sup>150</sup> CPS Report, supra n147 at 8.

if they are surrounded by adults who are able to recognise and respond appropriately to child abuse:<sup>151</sup>

At a personal level there are people in my wider family and group of friends who I believe I will be able to assist now, even if it's just by pointing out the most appropriate service for them. The training also has increased my confidence to act on feelings or even 'hunches' that I have sometimes experienced about students with whom I work and have felt powerless to assist (RTL: Resource Teacher Learning and Behaviour).

I believe this course has raised my level of awareness of the impact of child abuse, as well as the range/types of abuse. As a teacher, I find this can often account for many of the behavioural issues I deal with on a daily basis at school. Cycles of abuse will continue unless we try to identify the exact issue or are able to notify the appropriate social service (Primary School Teacher).

I have made a point of letting members in my community and networks know that I have completed basic training in the area of child protection so that my community and family will know that if I am required I can hopefully assist them. In my community we have had our fair share of child abuse cases and I felt this training has now given me the correct information and facts to support me and has given me confidence to address the issue of child abuse (Police Youth Development Officer).

This Programme should be made available to everyone and should be part of our High School NZQA standards so that our future parents are taught about 'child abuse' before they start their own families and become parents themselves. The knowledge and information that I gained from the Programme and the reality of child abuse made me take a good look at myself and how I treat my own children (Marae Development Officer).

Johnine Davis, Mokopuna Oranganui Project Co-ordinator, reported that one of the key outcomes of the project has been the collaboration that has taken place between government, NGO's organisations/agencies and the maraes in Huntly. The links and connections/networks that have been formed have become strong, especially between those who participated in the CPS Training. Davis said:<sup>152</sup>

Huntly does have high child abuse and domestic violence rates but there is a community answer. There is not a magical answer, nor is there a 'one size fits all communities' answer, but a community in itself knows best how it can work together and who the 'key players' are within that community. What has to be put at the centre of a project such as this are our mokopuna, our tamariki, and the benefits this will have long term to their health and well-being. Such a project can be hindered by contestable rounds of government funding where the sole focus can be seen as one where the government is wanting to get 'the

<sup>151</sup> Child Protection Studies (CPS) Post-Course Reports from Huntly 5 Day Programme, received in June 2006. Permission granted from participants to include the extract from their report in the thesis.

<sup>152</sup> Johnine Davis, Mokopuna Oranganui Project Co-ordinator, Interview Notes, October 2006.

best bang for its dollars’ and this leads to agencies competing against one another and not wanting to co-ordinate and collaborate together.

#### 2.1.3.4 Changing Attitudes and Behaviours Community Prevention Campaign

In a recent paper presented by Adam Tomison the point was made that:<sup>153</sup>

There is a problem with getting communities to focus on child maltreatment. Most people still don’t want to know about child abuse, they find it too confronting. When they do think about it, it’s still the sexual abuse of children by the stranger in a dirty raincoat that they worry about – it’s typically not their own family or the young mum struggling to raise three kids without family support, or the wife beater who lives around the corner, or the family where Mum’s an alcoholic and Dad’s hooked on dope and the kids are left to fend for themselves.

This is a very poignant statement, given the recent death of 10 year old, Zimbabwean immigrant Charlene Makaza on January 7, 2007. She was sexually assaulted and then suffocated to death. Charlene had been living in NZ, under the care of her uncle and aunt for about two years. She was brought to NZ for a better life several years after the death of her parents through illness. On February 2, 2007, police charged George Gwaze, 54, Charlene’s uncle, with her death.<sup>154</sup>

Mike Doolan’s research into child deaths has demonstrated that the children most at risk of being abused to death in New Zealand are Maori, male and under one year old and such children are most likely to die from sustaining head injuries.<sup>155</sup> These factors were evident with the death of the Kahui twins in June 2006. They were Maori, male, under one and sustained head injuries. The death of these babies caused a public outcry, albeit, for a somewhat short period of time. A news report stated that social workers felt child abuse was entrenched:<sup>156</sup>

.....*The murder of the Kahui twins is unlikely to change New Zealand’s attitude to child abuse Hamilton social workers say..... Waikato Social Services Chief Executive Andrea Goble said “family violence programmes or*

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<sup>153</sup> Tomison, A *Child Friendly Communities – tailoring a ‘whole of community’ message* May 2005 <<http://www.napcan.org.au/documents/AdamTMinisters2005.pdf>>.

NAPCAN (National Association for the Prevention of Child Abuse and Neglect), Australia. Speech presented to government ministers in National Child Protection Week 2005.

<sup>154</sup> NZPA “Uncle charged with girl’s murder” *Waikato Times*, 2 February 2007, 2.

<sup>155</sup> Doolan, M *Child Death By Homicide: An examination of child protection actions 1996-2000* Te Awatea Review, Te Awatea Violence Research Centre’s Newsletter, Volume 3, Number. 1, July 2005, 4-6.

<sup>156</sup> Tahana, Y “Child abuse entrenched: social workers” *Waikato Times*, 3 July 2006, 5.

*community service groups would become 'flavour of the month' for a short while but making inroads into the problem was another story".....  
 Woman's Refuge Service Manager Ruahine Albert said New Zealand was still slack at protecting those who were most vulnerable. Ms Albert wanted compulsory anti-violence education in schools, advertising campaigns and a stricter enforcement of laws.*

On the whole in New Zealand, there is a lack of community understanding about the types of, prevalence of, and consequences of the various forms of child abuse. As a result, child abuse does not commonly register as an issue of community concern thereby allowing it to occur undetected. For example, a School Principal was contacted (September 2006) by CPS as part of its regular marketing campaign to inform people about their workshops and programmes on recognising and responding to child abuse. The Principal's reply to the CPS staff member was "child abuse is not a problem in our school, so we don't need to be sending any of our staff on such courses." Many people, including professionals working with children/young people and/or families, simply do not have the awareness/knowledge of child abuse, nor the confidence to know what to do to prevent child abuse in their environments. Neither do they recognise child abuse, nor know what actions to take if they are worried about the safety of a specific child.

In the 2006 Budget, \$11 million of funding, over a four year period, was given for the Changing Attitudes and Behaviours Community Prevention Campaign (CABCPC), an initiative of ACC and the Family and Community Services (FACS - MSD). The purpose of the campaign is to work with communities to change attitudes and behaviours around the concept of family violence. The initial activities will focus on changing the attitudes and behaviours of men who are violent towards their partners. Future activities will focus on parents who abuse and neglect their children and also on families who abuse and neglect older members.<sup>157</sup>

Under the community-owned and driven initiatives of the CABCPC, there is a Community Action Toolkit available for communities to adapt and develop projects within their community that will prevent family violence. However, just one of the information sheets, out of the 40 sheets that are provided, in the kit specifically details

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<sup>157</sup> Taskforce for Action on Violence Within Families, supra n45 at 14.

information on 'Preventing Child Abuse' per se. Information Sheet 10 encourages communities to be aware of how to identify and report child abuse and to provide information, such as positive parenting, for prevention.<sup>158</sup> However, there are no details given on the signs and symptoms of each type of child abuse. Also, at the beginning of the information sheet it states, "Preventing child abuse is a complex and lengthy societal goal – it is closely tied to the prevention of family violence".<sup>159</sup> Upon perusing the information sheet it becomes clear it has not been comprehensively prepared from a child advocacy point of view, nor does it contain sufficient information about the specific signs and symptoms of child abuse. What is needed are more answers and descriptions of child abuse scenarios, not simply a re-statement of the theme of family violence.

As part of this campaign, on 1 December 2006, there was launch of a Community Action Fund. This fund will provide resources for community groups or networks to undertake their own community education and violence prevention initiatives. This is a fund that enables programmes to be community-driven and as such community sectors can work together to find ideas that suit the racial, economic, and social mix within their own area. The Mokopuna Oranganui Project (Huntly) is such an example.<sup>160</sup>

Under the National Actions for the CABPCPC, there are a variety of projects that are going to be implemented. For example, a mass media campaign will start in 2007 as well as the running of seminars and resources for journalists on reporting family violence.<sup>161</sup> This is an excellent idea as articles on child abuse/family violence are often sensationalised or written with a paucity of factual information. A similar point is also made in Fanslow's *Beyond Zero Tolerance* report where she states that "the media do not have a well developed understanding of how they might work to address family violence".<sup>162</sup>

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<sup>158</sup> Community Action Toolkit, Ministry of Social Development *Community Action to Prevent Family Violence* 2006 <<http://www.msd.govt.nz>> Information Sheet 10.

<sup>159</sup> Ibid.

<sup>160</sup> The Mokopuna Oranganui Project (Huntly) was discussed in section, 2.1.3.3.

<sup>161</sup> Taskforce for Action on Violence Within Families, *supra* n45 at 15.

<sup>162</sup> Fanslow, *supra* n17 at 34.

### 2.1.4 Working at the Macrosystem Level

Child abuse prevention measures operating at the macrosystem level are those policies and legislative initiatives that seek to address child abuse at a national level. These approaches in turn impact on communities, families and individuals. Legislation, for example, outlines what is outside the bounds of acceptable behaviour. In this way legislation is crucial to define what constitutes child abuse and to provide consequences to hold child abuse perpetrators accountable.

Legislation tells people what behaviour is unacceptable. For example, pursuant to section 152 of the Crimes Act 1961, it is an offence for parents/caregivers to fail to provide their children with the basic necessities of life. Legislation reflects, shapes and legitimises certain social norms, such as the balance of parental rights over children's rights as evidenced currently by section 59, Crimes Act 1961. The author advocates it is a change in social and cultural norms around child abuse that is needed and then that change needs to be reflected in legislation. However, legislative responses have to occur in tandem with public awareness, education and media campaigns in order to help change social and cultural norms.

The ability of public policy to influence the prevalence and severity of child abuse can be correlated with by the extent to which provisions/prohibitions are effectively and consistently implemented. That is, a legislative change (at a national level) will only have an impact if practice changes reflecting these legislative provisions/prohibitions are also implemented. For instance, MSD published an *Agenda For Children* (2002),<sup>163</sup> but the government failed to highlight in its plans and funding priorities, the Agenda's development into an integrated policy for children.<sup>164</sup> Further, the UNICEF's report on *Promoting a National Plan of Action for NZ Children (Violence, Exploitation and Abuse Section)* stated:<sup>165</sup>

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<sup>163</sup>Ministry of Social Development *New Zealand's Agenda for Children Summary – Making life better for children* June 2002

< <http://www.msd.govt.nz/documents/publications/sector-policy/agendaforchildren.pdf>>.

<sup>164</sup> Hassall, supra n61 at 5.

<sup>165</sup> Wood, E Kunze, K *Making New Zealand Fit for Children: Promoting a National Plan of Action for New Zealand Children (Violence, Exploitation and Abuse Section)* UNICEF New Zealand, Wellington, June 2004 <<http://www.unicef.org.nz/advocacy/publications/>> 38.

Policy development in this area (*child abuse/violence/exploitation*) is often reactive in nature, in response to a ‘bad report’, for example, and that there is not enough good research available on which to base policy and programmes. There is a worrying record of high-level policy development that is not fully implemented or evaluated for impact. Sometimes initiatives are replaced with something new before significant changes in operation or funding have secured for previous initiatives.

In July 2006, CYF released their *Children at Increased Risk of Death from Maltreatment and Strategies for Prevention* report.<sup>166</sup> This report, which took two years to complete, was based on a government probe into infant murders. The report appeared to have slipped off the radar until a newspaper investigation in June 2006 drew attention to the fact it had never been released.<sup>167</sup> The report had recommended “Government agencies and communities work together to reduce child abuse statistics.”<sup>168</sup> Additionally, the report highlighted that Maori, the poor, people abused as children, and those with drug and alcohol problems and criminal histories were more likely to fatally injure an infant. A combination of these factors also raised people’s likelihood of killing a child. The report went on to conclude “because the number of children who die is small and situations varied it is difficult to draw conclusions from the data”.<sup>169</sup> One might have hoped for more guidance from such a long awaited national report.

Politically correct dialogue or talking about child abuse prevention measures does nothing at a practical level to protect children. Indeed, the author believes, that practical legislative and policy solutions must be implemented to encourage community-driven, child-centred, multi-disciplinary, inter-sectoral approaches, so that the prevalence of child abuse in NZ can be reduced. Such responses need to have a focus on what a child needs to have in order to grow up healthy and whole. As well, dissemination of information about child abuse is needed. For instance, how many parents/caregivers have access to information about how a child’s brain is structurally affected by violence? In addition, there needs to be an emphasis on the benefits that go along with reducing child abuse, not only for victims and perpetrators, but for the

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<sup>166</sup> Child, Youth and Family (Ministry of Social Development) *Children at increased risk of death from maltreatment and strategies for prevention*, July 2006  
<[http://www.cyf.govt.nz/documents/Child\\_death\\_from\\_maltreatment.pdf](http://www.cyf.govt.nz/documents/Child_death_from_maltreatment.pdf)>.

<sup>167</sup> NZPA “CYF report slated after two years in making” *Waikato Times*, 28 July 2006, 8.

<sup>168</sup> CYF Maltreatment report, supra n166 at 35.

<sup>169</sup> CYF Maltreatment report, supra n166 at 36.

community at large. Suggestions of legislative and policy responses to child abuse prevention, that might be put in place, within an ecological framework, will be discussed fully in Section 3 of this paper.

### 2.1.5 What Ecological System is most effective?

Each of the ecological systems/levels are important, but the greatest impact on child abuse prevention occurs when bridges are built between and across each of the ecological levels. The author argues that it is the links between each ecological level which are vital for the long term reduction of the incidence of child abuse.

A key finding from ISPCAN's<sup>170</sup> 2006 report on *World Perspectives on Child Abuse*<sup>171</sup> was that the results<sup>172</sup> indicated developed countries use both individual-level strategies<sup>173</sup> and community or systems-level strategies<sup>174</sup> to address child abuse. Respondents were then asked about what they saw as barriers to expanding prevention efforts. Of interest, is that on average, normative barriers, as opposed to resource/funding barriers, were viewed by developed countries as more limiting to expanding child abuse prevention efforts. Thus, conclusions that can be drawn from this report are firstly, effective child abuse prevention requires multi-disciplinary approaches across the different ecological levels. This message is one that is echoed in *Te Rito* (2002) which states that:<sup>175</sup>

An integrated, multi-faced, whole of government and community approach to prevent the occurrence and reoccurrence of violence in families/whanau is required.

Secondly, there needs to be a focus on changing normative barriers which are currently limiting the expansion of NZ's child abuse prevention efforts. There has to be an emphasise that child abuse in all its forms is not acceptable, (this is what section

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<sup>170</sup> ISPCAN: International Society for the Prevention of Child Abuse and Neglect.

<sup>171</sup> Daro, Deborah (ed) *World Perspectives on Child Abuse: An International Resource Book*, (7<sup>th</sup> edition) (International Society for the Prevention of Child Abuse and Neglect (ISPCAN), September 2006) Executive Summary available at <<http://www.ispcan.org/wp/index.html>>.

<sup>172</sup> Results were taken from 72 countries.

<sup>173</sup> Strategies that target individuals and families. For example, risk assessments, home-based services for 'at-risk' parents, or home visitation for new parents.

<sup>174</sup> Strategies that target a policy, system or a population. For example, media campaigns, improving living conditions of families, increasing local services.

<sup>175</sup> *Te Rito*, supra n44 at 15.

5 objects of the Domestic Violence Act 1995 states as well), and a change in culture so that it becomes the norm for parents/caregivers/whanau to seek help with parenting. Arguably, this where the law can be most effective – given that the law, as the author has already advocated, not only reflects social norms but shapes and legitimises them.

At the core of an ecological model is the belief that prevention and early intervention are critical first steps on a continuum of levels of response to child abuse. Preventing child abuse before it happens involves social and systems changes so that child abuse is no longer tolerated. Such an approach, the author argues, is the most effective strategy for achieving long term change. This argument is backed by the conclusions of Fanslow's report *Beyond Zero Tolerance*.<sup>176</sup> In that report, Fanslow evaluated, inter alia, the responses to child abuse which have been developed and trialled in NZ. Her research identified that it was only home visitation programmes which showed strong empirical support for preventing child abuse among 'at-risk' families. Further, in her summary remarks Fanslow said that she was critical of the preponderance of interventions which have been directed at individuals and families. Fanslow also concluded that more work needed to be done on identifying community or societal level protective factors and interventions.<sup>177</sup>

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<sup>176</sup> Fanslow, supra n17.

<sup>177</sup> Fanslow, supra n17 at 33.

## 2.2 WHAT WILL ENSURE THE SUCCESS OF AN ECOLOGICAL FRAMEWORK FOR CHILD ABUSE PREVENTION?

### 2.2.1 Continuation of Microsystem and Mesosystem Level Prevention Measures

Part of ISPCAN's 2006 report, examined those factors that best explained variation in each country's Under 5 Mortality Rate (U5MR). Arguably, not all early deaths of young children reflect abusive and neglectful situations but many do result from an unwillingness or inability of parents to adequately meet their children's basic needs. The findings concluded:<sup>178</sup>

- countries which reported high levels of service availability have significantly lower child mortality rates;
- significant correlations were observed between U5MR rates and the number of parent services, child services and general services offered in a country.

Further, from the cases she has been involved with, Jo Linton (Detective, Hamilton Family Safety Team (FST)) sees positive role models lacking for children. Moreover, it is the simple things that she feels need addressing. She commented:<sup>179</sup>

[I]f children have enough food to eat, then they are better able to learn and that learning needs to include anti-violence education to children when they are young, so that they can see that there are proactive (and not reactive) ways of dealing with conflict and difficult situations.

The ISPCAN finding and Linton's comment demonstrate that NZ does need to continue to fund services and programmes, such as anti-violence education in schools, which support parents and children who have experienced, or at risk of, child abuse. These services and programmes can help to reduce, albeit in a small way, child abuse rates in NZ.

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<sup>178</sup> ISPCAN 2006, *supra* n171 at 6.

<sup>179</sup> Jo Linton, Detective Hamilton Family Safety Team (FST) Interview Notes, October 2006. Detective Linton was a member of the Hamilton Child Abuse Team before she moved on to the Hamilton FST.

### 2.2.2 Ongoing Evaluation and Monitoring of Prevention Measures

Equally important to the continuation of individual and family level prevention measures, is the need for the ongoing evaluation and monitoring of these strategies to determine whether they are effectively and consistently being implemented. For example, the Families Commission 2005 *Review of Parenting Programmes* report indicated that the research literature does show that parenting programmes can make a positive difference in reducing child abuse. However, it is not clear what the long term outcomes of these programmes are for parents and children. It is also not clear how well the programmes meet families' needs.<sup>180</sup>

The Department of Community Health, University of Auckland, released a comprehensive report on the *Research into Programmes to Prevent Intentional Injury and Violence to Children* (2000). This report recommended that all programmes should have some level of evaluation:<sup>181</sup>

At the most basic level, this (evaluation) should involve systematic means of collecting information from programme participants in order to provide on-going programme improvements. Also, dedicated funding for evaluation should be provided, over and above funding for programme implementation.

Further, Daro and Donnelly advocate that evaluation and monitoring is crucial so that the most common mistakes made in earlier measures/initiatives are avoided.<sup>182</sup> Daro and Donnelly see these mistakes/pitfalls including oversimplifying the problem of child abuse; overstating preventions' potential and appropriate target populations; failing to establish a significant partnership with child protective services; compromising depth or quality in an effort to maximise breadth or coverage; and failing to full engage the public.<sup>183</sup>

The author maintains an effective child abuse prevention programme is one that will reduce the rate of child abuse in the intervention population or at least lower the likelihood of abuse occurring in the intervention population. The World Health

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<sup>180</sup> Kerslake, supra n103 at 7.

<sup>181</sup> Fanslow, J Dr McGregor, K Coggan, C Dr, Bennett, S and McKenzie, D *Research into Programmes to Prevent Intentional Injury and Violence to Children* (Auckland: Injury Prevention Research Centre, Department of Community Health, University of Auckland, Centre Report Series No. 52, 2000, 4.

<sup>182</sup> Daro, D and Donnelly, A "Charting the waves of prevention: two steps forward, one step back" *Child Abuse and Neglect* 26 (2002) 733.

<sup>183</sup> *Ibid*, 734.

Organisation's (WHO) *Preventing Child Maltreatment* report (2006) proposes the following criteria to measure the effectiveness of prevention programmes:<sup>184</sup>

- a. An evaluation of a programme – using a strong research design
- b. Evidence of significant preventive effects
- c. Evidence of sustained effects
- d. Replication of the programme with demonstrated preventive effects

There is also the need to consider what outcomes will be used to evaluate whether there has been an effect on reducing the rates of child abuse. The author suggests that possible evaluation outcomes could be:

- A bi-annual survey on the belief that physical punishment of children is acceptable – is the belief that physical punishment is acceptable decreasing?
- The availability of, and quality of, services within a community which address the consequences of child abuse – are there sufficient quality culturally appropriate services to support the size and diversity of the community?
- Ongoing interviewing of adults in specified age ranges reporting on adverse childhood experiences of being abused – is the number of adults who are reporting that they had abusive childhoods decreasing?
- Deaths from child abuse in children under 5 years – is this mortality rate decreasing?

### **2.2.3 Access to Non-Contestable Funding at an Exosystem Level**

Ongoing evaluation of child abuse prevention measures are more often than not limited by funding issues, especially where service providers end up competing for a limited pool of funding. This particular issue was also one raised in the ISPCAN's 2006 report where it was concluded that much of the world's response to child abuse and neglect, is inextricably linked to funding.<sup>185</sup> Lila Jones, Project Coordinator, Hamilton Abuse Intervention Project (HAIP), comments that the funding process purports to be a 'financial marriage' between the MSD and the community

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<sup>184</sup> Butchart, A Phinney-Harvey, A and Furniss T *Preventing child maltreatment: a guide to taking action and generating evidence*, World Health Organisation (WHO) and International Society for Prevention of Child Abuse and Neglect, 2006

<[http://whqlibdoc.who.int/publications/2006/9241594365\\_eng.pdf](http://whqlibdoc.who.int/publications/2006/9241594365_eng.pdf)> 32.

<sup>185</sup> ISPCAN Report, supra n171 at 33.

organisations/agencies. However, she states, it can become like ‘financial abuse’ because so much time has to be spent on fiscal management such as applying for grants and completing the reporting and audit process.<sup>186</sup>

Additionally, founder of Parentline, Maxine Hodgson, states that a lot of allocated government money for family violence and child abuse is actually spent on funding policy analysts in Wellington. These consultants prepare reviews and reports about family violence and child protection but the money spent on them is diverted from service provision.<sup>187</sup> For instance, during 2004 MSD allocated \$30 million funding for Family Violence. Hodgson commented that a lot of this funding went back into MSD per se and very little of it was seen to come back into the community sector. She discussed how “frustrating” this can be for NGOs.<sup>188</sup> In Hodgson’s view, it is absolutely critical that a larger percentage of the funding/ ‘dollars pool’ flows through to the ‘grass roots’ exosystem/community level to organisations working at the front line with abused children and their families. Also, Hodgson argues, there needs to be specific funding around child abuse prevention, not just a generic pool under the ‘family violence prevention’ category.<sup>189</sup>

The Te Rito Collaborative Fund (Family and Community Services (FACS - MSD) was approved in the 2003 Budget. It provided for a contestable fund of \$5.84 million (over four years) to establish community based collaborative initiatives to prevent family violence.<sup>190</sup> Thirty collaborative networks around New Zealand have been funded to date. Their aims are to undertake projects on collaboration, education, awareness and training. Arguably, this fund does demonstrate that the government is committed to family violence prevention and is focussed on strategies that will facilitate a collaborative process. However, this commitment and focus is minimised because the fund is contestable and, as Hodgson’s comments reinforce, child abuse prevention has been subsumed under family violence prevention.

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<sup>186</sup> Lila Jones, Project Co-ordinator HAIP, Interview Notes, October 2006.

<sup>187</sup> Maxine Hodgson, Founder of Parentline, Interview Notes, October 2006.

<sup>188</sup> Ibid.

<sup>189</sup> Ibid.

<sup>190</sup> *Te Rito News*, Family and Community Services, Ministry of Social Development, Issue 1, Jun/July 2005 <<http://www.familyservices.govt.nz/documents/publications/te-rito-news/te-rito-news-june-july-2005.doc>>.

Community service providers contracted by several governmental agencies to deliver services often have to deal with a maze of reporting requirements and multiple processes and systems. The Integrated Contract Framework - Funding for Outcomes (FfO) (provided through FACS - MSD), introduced in 2005, allows government agencies to work with the service provider to develop one contract that integrates the services funded by Government for each set of clients.<sup>191</sup> FfO means providers can deliver and report on their services without having to negotiate multiple contracts, or break down information into separate reports for each agency or provide the same data for separate audits. Further FfO shifts the focus of contracting from outputs to outcomes - with the emphasis on improving client wellbeing.<sup>192</sup> Since the project began, the FfO team has worked with 76 providers and 47 government agencies and has currently reduced 228 individual contracts to 38 integrated ones.<sup>193</sup>

Nonetheless, although there is now this streamlined funding application and reporting process being actively pursued with service providers nationally, there still lies the issues of service providers having to 'win contracts' for their community agency/organisation. Moreover, it is arguable as to the extent to which the 'budget-allocated dollars' are actually flowing into community organisation as opposed to being directed to a national policy and analysis level. For example HAIP maintains it has a very comprehensive response to family violence, but its funding is low.

Government analysts and the present CEO of MSD (Peter Hughes) spoke to HAIP (August 2006) about rolling out the HAIP model throughout the country. However, what the government finds difficult, Jones comments, is being able to understand the large amount of funding that is needed because there is such an ongoing demand for family violence prevention services.<sup>194</sup> Jones argues, that having funding as a central focus in helping to build and create well families/children does not work. She maintains, what needs to be at the centre are the well families/children. In addition, as an NGO, HAIP do believe accountability is important, but with so much government

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<sup>191</sup> Ministry of Social Development – Family and Community Services  
*Funding for Outcomes November 2006 Update – Integrated Contracts*  
<<http://www.familyservices.govt.nz/our-work/community-development/funding-for-outcomes.html>>.

<sup>192</sup> Ibid.

<sup>193</sup> Ibid.

<sup>194</sup> Ibid.

required reporting, staff say there is often the feeling that there is little trust placed in the organisation/agency for the work they are contracted to perform.<sup>195</sup>

#### 2.2.4 Universal versus Targeted Systems of Support/Assistance

The author argues that child abuse prevention measures need to reach all parents/caregivers. There needs to be a greater prevalence of universal, rather than targeted, systems of support and assistance in place. The data gathered from the ISPCAN 2006 report suggested that well-defined and broadly available parenting assistance and other supportive services can provide protection for children from child abuse, even where there may be economic hardship and/or social disruption.<sup>196</sup>

In 2003, the Australian Child Foundation, in conjunction with the National Research Centre for the Prevention of Child Abuse carried out a comprehensive national attitudinal survey about issues of concern for parents in their efforts to raise their children, whilst responding to the pressures and demands of modern living. One of the conclusions from the report was:<sup>197</sup>

All levels of government should actively support the implementation of universal parenting education and community awareness programmes. These programmes should promote the idea that all parents need access to support and information and strengthen acceptance for the legitimisation of the help seeking behaviour by parents.

An example of a current targeted parenting programme is Family Start. Family Start was established in 1998 as part of a wider strategy by the government to strengthen 'at risk' families. Family Start provides intensive, home-based support services for families with high needs. The programme is aimed at the 15% of the population most at risk of poor life outcomes. In each location/community the aim is to ensure that at least 5% at highest risk participate in the programme.<sup>198</sup> A primary principle of the

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<sup>195</sup> Ibid.

<sup>196</sup> ISPCAN Report, supra n171 at 6.

<sup>197</sup> Tucci, J Goddard, C and Mitchell, J *The concerns of Australian parents* Australian Child Foundation and the National Research Centre for the Prevention of Child Abuse, Monash University, Victoria, Australia, March 2004  
<[http://www.childhood.org.au/downloads/The\\_concerns\\_Australian\\_parents\\_March\\_2004.pdf](http://www.childhood.org.au/downloads/The_concerns_Australian_parents_March_2004.pdf)>.

<sup>198</sup> Family and Community Services (FACS) *About Family Start*  
<<http://www.familyservices.govt.nz/our-work/strong-families/family-start/about.html>>.

Family Start programme is that it operates from a strengths-based approach<sup>199</sup> In the summary of the *Outcome/Impact Evaluation of Family Start* final report (March 2005) it was noted that the average length of participation in the programme is about 13 to 15 months, even though an expectation of the programme is that families will stay in the programme for up to 5 years. The report concluded that there are relatively high mobility levels of the ‘at-risk’ families participating in Family Start.<sup>200</sup> Additionally, the report concluded that measures be taken to ensure the considered application of a strengths-based approach, incorporating policy and practice, to effectively challenge domestic violence and child abuse.<sup>201</sup>

The author argues that the Family Start programme could have a greater impact if it was broadly available to all parents. In this way, there would be an acceptance that being part of a parenting training/resources programme is not just seen as something ‘those at-risk families do’. Instead, no matter what community you are living in (and this could overcome the ‘high mobility’ limitation) it is a ‘community norm’ that parents (particularly of new-borns) attend parenting classes and access information and/or access a home-visitation programme. Secondly, child abuse must be stated for what it is and for the effect it can have on children. Child abuse must be addressed in an up-front proactive manner. Otherwise, what a strengths-based approach such as Family Start could result in is an unintentional colluding by the agency working with the family over the acceptance of child abuse.

An example of a current targeted system of financial assistance is the In Work Families Package (IWFP).<sup>202</sup> The Child Action Poverty Group (CPAG) is currently taking court action against the Government in regards to parents/caregivers who are not eligible to receive the IWFP.<sup>203</sup> CPAG maintains some of the children in the families who miss out on the IWFP are the most vulnerable children in NZ’s

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<sup>199</sup> Family and Community Services (FACS) *About Family Start*

<<http://www.familyservices.govt.nz/our-work/strong-families/family-start/about.html>>.

<sup>200</sup> Centre for Child and Family Policy Research, Auckland UniServices Limited *Outcome/Impact Evaluation of Family Start Final Report* March 2005 (Prepared for Ministry of Social Development: Centre for Social Research and Evaluation) <<http://www.msd.govt.nz/documents/work-areas/csre/report-family-start.doc>>.

<sup>201</sup> *Ibid*, 100.

<sup>202</sup> Work and Income *Working for Families* <<http://www.workingforfamilies.govt.nz/>>.

<sup>203</sup> Prior to 1 January 2006, IWF was called the Child Tax Credit. The Court action commenced in December 2006.

society.<sup>204</sup> A parent/s who cannot work for reasons including sickness, redundancy, lack of jobs, unsuitable child care, they have young or special needs children, they are supporting elderly parents, or they are facing mental illness, are not entitled to receive a tax credit/family support from the Government.<sup>205</sup> This targeted system means that approximately 23,000 children in families are ineligible to receive the IWFP because such families receive income by way of income tested benefits. It is the needs of the children that should be the basis of the level of support, not the work status of parents. Professor Jane Kesley believes the IWFP is fundamentally flawed. She states:<sup>206</sup>

[This policy] will exclude 45.9% of all Maori children, 29.6% of Pasifika children and 12.3% of Pakeha children, .....abandoning so many of today's children will deprive the country of the healthy, educated and socially stable adult generation we will need tomorrow.....[the policy] will also obscure the single parents who choose to be caregivers for their pre-school children and mothers who have fled with their children from violent relationships.

Another example of a targeted system of support and financial assistance is the government's recent initiative (October 2006) to target the 50 most vulnerable families in NZ and to provide them with the resources and help that they need. The Vulnerable Families Initiative (VFI) aims to make sure the neediest are getting the support services they are entitled to. Families with 'multiple risk factors' would be the targets. The Minister of MSD, David Benson-Pope said:<sup>207</sup>

[F]amilies could not be forced on to the programme. We can however, reinforce expectations, and if we have concerns about the welfare or behaviour of any family member we can bring in the police or CYF Any particular family's details would remain confidential.

The author argues the VFI is a targeted approach that arguably will not go towards strengthening the relationships between those families and the communities in which they live. The 'targeted' family already knows what everyone thinks of them and how people view them (as such confidentiality is unlikely to be a practical reality) and now the police and CYF are possibly going to be 'monitoring them' too, if they are not already. As a result, this initiative could lead to the targeted families becoming

<sup>204</sup> CPAG Newsletter, August 2006

<<http://www.cpag.org.nz/news/newsletters/cpag/nr1156983823.pdf>>.

<sup>205</sup> Ibid.

<sup>206</sup> Kesley, J Professor *Working for Families fundamentally flawed*. Article written for CPAG (Child Poverty Action Group), 25 April 2006,

<<http://www.cpag.org.nz/resources/articles/res1146635900.pdf>>.

<sup>207</sup> NZPA "Govt plan to help needy" *Waikato Times*, 22 September 2006.

even more marginalised/isolated by their community which in turn means the children may be at greater risk of being abused.<sup>208</sup>

### **2.2.5 A Commitment to Addressing Inter-Generational Child Abuse/Violence**

Allan Browne, Detective Sergeant, Hamilton Child Abuse Team (CAT),<sup>209</sup> feels that when it comes to reducing child abuse “doing something is better than doing nothing.” He maintains that with child abuse prevention it is not a case of a ‘one size fits all’ remedy.<sup>210</sup> More importantly a link that he has observed is the need to address inter-generational violence. “We see it time and time again, a large pool of victims who are victims for a lot of things – same names, same families”.<sup>211</sup> In a lot of the child abuse trials Browne has attended the perpetrator/offender was once a victim themselves, in having been brought up in a violent/abusive environment. Browne’s comments can also be backed by international research which shows that a proportion of child abuse victims do go on to become adult perpetrators of child abuse.<sup>212</sup> Thus it is important that those working with victims of child abuse recognise this evidence and provide appropriate multi-disciplinary therapeutic services to help break the cycle of abuse. Arguably, breaking the cycle of abuse/violence will help reduce the numbers of new child abuse cases long term.

### **2.2.6 A Commitment to a Child Advocacy Model**

Parentline define a child advocate as:<sup>213</sup>

[A] person who is specifically trained to advocate on behalf of children where decisions need to be made for the well –being and safety of the child. The child’s developmental needs of understanding issues, and the child’s emotional needs are expressed to adults via the child advocate so that the child’s voice is heard.

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<sup>208</sup> Ibid.

<sup>209</sup> Prior to being on the Hamilton CAT, Allan Browne was part of the CIB team in Huntly and one of his roles was as the Sexual Abuse Officer for children and adults.

<sup>210</sup> Allan Browne, Detective Sergeant Hamilton Child Abuse Team, Interview Notes, October 2006.

<sup>211</sup> Ibid.

<sup>212</sup> Butchart, *supra* n184 at 10.

<sup>213</sup> Dawson, N *Parentline: Child Advocacy Model Operationalised: celebrating 25 years of growing potential: 1978 to 2003* <<http://www.parentline.org.nz/files/Parentline%20Model.pdf>> 3.

Parentline is an example of a sole child advocacy service. Parentline has been operating in Hamilton since 1978 and is a specifically focussed service that works for the prevention of child abuse and neglect. Parentline offers a comprehensive multi-level service with experienced well trained staff.<sup>214</sup> Parentline's *Celebrating 25 Years of Growing Potential* report (2004) described what Parentline see as a child advocacy model. Namely a model that is multi-faceted, multi-agency focussed, multi-connected, multi-ethnic and multi-skilled. The heart of this model places the needs of the child and family at the core of all assessments, interventions, evaluations and outcomes.<sup>215</sup>

What can be gleaned from the prevailing ethos of Parentline is that a child advocacy model is one that needs to be wrapped tightly inside the vision and goals of governmental and non-governmental agencies/organisations that work with children and families in any way. Such a model can only enhance and progress an ecological approach to child abuse prevention. It is about taking policies and practices and entwining a child-advocacy focus within them. As evidenced, for instance, by the current Child and Young People Witnesses of Family Violence government initiative. This 2005 initiative is providing funding of \$12 million over 4 years for 45 full time equivalent child advocates to support children who witness violence in their families.<sup>216</sup> The child advocates are based within a local NGO and part of their role is to be a community-wide resource for people working with children and young people in family violence situations.<sup>217</sup>

A further example of a child advocacy focus is the Parenting Hearings Programme which has recently been initiated in the Family Court.<sup>218</sup> Children can be deeply emotionally affected through marriage break-ups and in particular, day to day care (custody) and contact (access) battles which are often 'fought' between their parents at a Court level. On 1 November 2006 a two year trial Parenting Hearings

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<sup>214</sup> Parentline Brochure, <[www.parentline.org.nz](http://www.parentline.org.nz)>.

<sup>215</sup> Dawson, supra n213 at 3 and 4.

<sup>216</sup> Ministry of Social Development, Family and Community Services *Children and Young People Who Witness Family Violence* <<http://www.facs.govt.nz/our-work/preventing-violence/children-witness.html>>

<sup>217</sup> Ibid.

<sup>218</sup> Boshier, P Judge *Parenting Hearings Programme: Less Adversarial Children's Hearings* 14 September 2006, Auckland Family Courts Association, Auckland <<http://www.justice.govt.nz/family/publications/speeches-papers>>.

Programme pilot was launched in six family courts.<sup>219</sup> Juge Peter Boshier, Principal Family Court Judge, states:<sup>220</sup>

The aim of this new process will be to introduce a less adversarial system for resolving conflict, a system that is properly managed by the Court rather than be driven by the parties and that keeps as its overriding objectives the need to resolve difficult cases speedily and putting the needs of the children first and foremost.....it may appear that parents' rights are being reduced because the Court is assuming greater control, but I suggest that parental rights are secondary when children are being sacrificed to the parents' wish to injure each other through the Court process.

The Parenting Hearings Programme is an example of a national initiative that has been built from a child advocacy perspective. Parents at the time of separation will be in a very difficult space, especially where there has also been domestic violence involved. Arguably, it is tough call on parents to have to 'speed up' the legal aspects of the 'break-up' process – but for the sake of the children, and of the emotional turmoil that they can be spared, the author believes such a strategy is warranted.

Nonetheless, the author acknowledges that particularly in situations where there has been domestic violence it may mean that a child gets unsupervised contact with their, perhaps, violent father. This is because a quick court decision may be made without the mother necessarily being able to (and understandably so) 'face/stand up to' her partner/spouse in court to argue for supervised contact or no contact. Therefore, it needs to be noted that it is not necessarily the delay that is the problem, but instead it is the enforcement of section 60 Care of Children Act 2004 (COCA). Section 60 provides that where there has been violence inflicted on one parent by another or where the child has witnessed/heard the domestic violence, then unsupervised contact or day-to-day care should not be ordered. A more extensive analysis of section 60 COCA 2004 will follow in section 3.3 of this thesis.

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<sup>219</sup> The six family courts are Auckland, Tauranga, Rotorua, Palmerston North, Wellington and Dunedin.

<sup>220</sup> Boshier, *supra* n218.

### 2.2.7 A Multi-Disciplinary, Inter-Sectoral Response to Child Abuse Prevention

The effectiveness and consistency of child abuse prevention and intervention measures rely heavily on the personnel in agencies administering the measures alongside the commitment (or lack of commitment) of the agencies /organisations, both at a community and national level, to co-ordinate and collaborate with each other. As stated by Dr Robertson, Community Psychologist:<sup>221</sup>

Collaboration works best when there is a shared vision and analysis. Too often, collaborations fail to invest the time and energy needed to work through the different philosophies and values of the participating agencies. These will later be exposed as significant gaps and inconsistencies.

A vital key to a successful ecological framework is the co-ordination and collaboration that needs to take place between community and national stakeholders. The emphasis needs to be on widening the net of safety for the community's/nation's children, not on closing it in. All sectors need to collaborate to establish priorities for responding to child abuse. Additionally, there needs to be a focus on co-ordinating services for all abused children – not necessarily separating them into categories. This is because a child may have experienced more than one form of abuse and the combinations/complexities will be unique to each child.

A multi-disciplinary, inter-sectoral approach is best outworked at the exosystem/community level, as will be demonstrated by the examples which follow in section 2.2.8 of this paper. This is an approach where community-based services partner with national stakeholders within their locality, such as CYF, Police and Education services. This paradigm is also one advocated by Fanslow's in the *Beyond Zero Tolerance* report. Fanslow states:<sup>222</sup>

.....complicating the picture is that interventions are not only targeted at different ecological levels but also scattered across different sectors, with some administered through justice, others in health, still others in social services. This makes it harder to get an overarching picture of the interventions that have been attempted, and the gaps that remain. Yet it has been recognised for some time that co-ordinated community responses to

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<sup>221</sup> Robertson, N *There are No Magic Bullets: The Case for Coordinated Community Interventions* Te Awatea Review, Te Awatea Violence Research Centre's Newsletter, Volume 3, Number 2, December 2005, 9-10.

<sup>222</sup> Fanslow, supra n17 at 76.

violence require input from all sectors, and that each sector has unique contributions to make.

Strategic communication at all ecological levels is necessary to ensure effective co-ordination and collaboration can occur. Each sector needs to know what their role is, what action they need to take and what resources they need to do their part.

Otherwise, it can end up with children falling through the gaps. As poignantly put by Karen Dawson:<sup>223</sup>

Social service co-ordination requires a unity of purpose to address a common problem. The co-ordination of child protection services is hugely complex and involves uniting professionals from the different disciplines and services, with different training and priorities, different values and beliefs, and thereby different analyses and approaches to the problem.

What also needs to be acknowledged is that co-ordination and collaboration is an ongoing process. Changes of staff, funding issues, service mandates, service provider philosophy/vision are examples of factors which result in co-ordination and collaboration being a cyclical process that has to be revisited on a regular basis. Thus, there needs to be the commitment of governmental and non-governmental agencies/organisations to review their practices regularly in regards to collaboration with other agencies. Agencies/organisations need to ensure that effective practices are being employed to establish, build and maintain communication and collaborative relationships with other agencies, so that that no one agency becomes insular and exclusive in their approach. In turn this will mean that individuals, families and communities will be able to access the expertise available that may best assist them in preventing child abuse.

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<sup>223</sup> Dawson, K *Co-ordination of Services for Sexually Abused Children: Why do we keep trying?* Te Awatea Review, Te Awatea Violence Research Centre's Newsletter, Volume 4, Number 1, July 2006, 3-6.

## 2.2.8 Examples of Current Multi-Disciplinary, Inter-Sectoral Responses to Child Abuse Prevention

### 2.2.8.1 Hamilton Abuse Intervention Project – HAIP

HAIP (Hamilton Abuse Intervention Project) is an example of a collaborative project at a community level that has been forged through time, hard work and commitment to the cause of advocating for women and children. Fifteen years on, the HAIP project is still going strong. Collaboration is vital to the ongoing positive outcomes that HAIP is achieving. HAIP originally started as a national pilot project in 1990/1991 and became independently established in 1995. HAIP is New Zealand's longest running cross-agency family violence intervention project and has become a model for many recent initiatives in violence intervention.<sup>224</sup>

The HAIP model is based on the Duluth Domestic Abuse Intervention Project (DAIP), USA which works alongside victim advocates and perpetrator programme providers to develop ways to make community and government responses to violence more accountable to victims.<sup>225</sup> HAIP aims to create a cultural shift from a community colluding with violence, to a community confronting violence. Staff began with identifying each agency's role in family violence intervention, developing and providing staff training, negotiating internal and across agency protocols and organising a community family violence network. Women's Refuges, Men's Groups, Family Court, District Court, New Zealand Police and Probation Services came together around the project.<sup>226</sup>

HAIP developed a system to track every family violence incident that was known to police and courts. In order to improve the systematic response HAIP also collected,<sup>227</sup> collated and then disseminated information on every domestic violence case/callout attended by Police.<sup>228</sup> Through the tracking system HAIP identified 3,546

<sup>224</sup> New Zealand Family Violence Clearinghouse Newsletter *HAIP: A Criminal Justice Response to Violence Against Women and Children – 15 Years On* Volume 2, Issue 2, June 2006.

<sup>225</sup> Domestic Abuse Intervention Project – Community Based Intervention, <<http://www.duuth-model.org/diapooverview.html>>.

<sup>226</sup> Family Violence Clearinghouse, supra n224 at 3.

<sup>227</sup> From the POL400 forms filled out by the Police at Domestic Violence incidences.

<sup>228</sup> Trust Waikato *HAIP* 31 May 2004 <<http://www.trustwaikato.co.nz/articler.page?id=62>>.

‘at-risk’ children between 2001 and 2004. HAIP’s caseload has rocketed by more than 230% in the past year.<sup>229</sup> Parentline, Womens’ Refuges, Family Start, as well as a representative from the Hamilton Police and CYF, meet each week to discuss the incidences of domestic violence in the city. At each meeting appropriate responses are planned among the agencies represented. This daily co-ordination meeting has been in place since 2001.<sup>230</sup>

The key with the success of HAIP has been the willingness, on the part of all those involved, to commit to the co-ordination and collaboration process and to initiative changes and recommendations as the project has progressed. For example in 2001, HAIP recognised that children, who were frequently witnesses or victims of domestic violence, were not being recorded or tracked by Police. Paul Carpenter, Area Police Commander, Hamilton (at the time) was approached and a new POL400B was initiated. The police fill out this form in addition to the POL400. The POL400B is used to fill out information about children that are present at the domestic violence callouts.

The HAIP Model is now being used by Police, CYF and Women’s Refuge at a national level as an example of how agencies can work together to develop new and enhanced collaborative processes.<sup>231</sup> The model of inter-agency intervention being developed for this project, called Local Case Co-ordination, is based on the need to have good quality information as soon as possible after the family violence incidence occurs. The proposal is that all involved parties will share information and then collectively arriving at a decision about what is the best immediate response to the family violence incidence.

#### 2.2.8.2 Jigsaw

Jigsaw, a national NGO, was formally known as CAPS – Child Abuse Prevention Service. Jigsaw see their name change as a means of reaching the widest possible

<sup>229</sup> NZPA “Social agencies to meet daily” *Waikato Times*, 29 June 2006, 7.

<sup>230</sup> Lila Jones, Project Co-ordinator, HAIP, Interview Notes, October 2006.

<sup>231</sup> New Zealand Family Violence Clearinghouse Current Initiatives in the field of family violence prevention and intervention within Aotearoa, New Zealand, December 2006 <<http://www.nzfvc.org.nz/Initiatives.aspx>>.

audience and as a tool to more effectively spread the message that “all children should be nurtured and loved and live in safe families – and that this is achievable for all families”<sup>232</sup> In July 2006 Jigsaw, combined with community NGO’s and teamed with the private sector business ‘The Body Shop, for a ‘Kids are Unbeatable’ Campaign. The campaign focuses on children as the forgotten victims of domestic violence. Project and Funding Manager Janet Bagshaw said:<sup>233</sup>

Jigsaw and The Body Shop believe in collaboration. We believe that the more voices speaking out for children, the more likely we are to be heard. What we hope to achieve is an increased awareness throughout NZ of the issues of child abuse.

Additionally, Jigsaw offers confidential advice and support on a 0800 Child Abuse Prevention line, with the aim of linking children and families to local community based services that match their needs.<sup>234</sup> Jigsaw acknowledges that although collaboration is essential, it is often not easy and it does take time, perseverance and commitment. Jigsaw’s approach demonstrates that for:<sup>235</sup>

societal and systems change to happen successfully all parts of society and of the system and everyone who can have positive influence must be involved.

### 2.2.8.3 Child Abuse Notifications

The Police Child Abuse Team (CAT), CYF Care and Protection Services, along with community organisations provide collaborative responses to child abuse notifications. Notifications of child abuse can be made either to CYF or the Police CAT. CYF make a decision as to the degree of care and involvement needed from Care and Protection Services and whether to provide immediate services and/or refer the case to other agencies. If such things as medical care, therapeutic intervention, or a psychological assessment are needed, children are referred to community-based social services, some of which are partially funded by CYF.<sup>236</sup>

<sup>232</sup> NZ Lawyer “Kids are Unbeatable campaign kicks off in Wellington” Issue 42, July 2006 (Auckland: LexisNexis Professional Development) <<http://www.lexisnexus.co.nz>>.

<sup>233</sup> Ibid.

<sup>234</sup> Kinley, L Huirama, T and Arahi, P *Building Capability and Evaluating Success in the NGO Sector: What works?* (Wellington: LexisNexis Professional Development Child and Youth Welfare Advisers’ Forum, Day 1, 9 October 2006, 9.50am Session, Information Pack <<http://www.lexisnexus.co.nz>>.

<sup>235</sup> Ibid.

<sup>236</sup> CYF Interagency Guide, supra n21 at 29-30.

CYF is responsible for ensuring the child is safe and receives the care he/she requires, through community organisations if necessary. CYF work in tandem with the CAT who investigate child physical abuse and neglect and child sexual abuse where the offence amounts to a criminal charge.<sup>237</sup> For example, since the early 1990's the Police and CYF have operated a joint investigation model in regards to the forensic interview that takes place for children who have been sexually abused.<sup>238</sup> The Police and CYF each know what their defined role is and although they have different mandates, philosophies and training, they demonstrate a co-ordinated and collaborative response for the purpose of child protection.

#### 2.2.8.3.1 Differential Response Model

In 2006 there were pilots started at two CYF sites (Taranaki and Royal Oak, Auckland) of the Differential Response Model (DRM). This model acknowledges that there is no single prescribed response that will be appropriate to all notifications of child abuse and neglect. The DRM is due to be rolled out through the country in early 2007. CYF propose that this model will enable closer collaboration with community service providers to ensure the most appropriate response in each case.<sup>239</sup> The DRM focuses on good practice with the following aims incorporated into the model: to enhance family engagement across the spectrum of interventions; to enable understanding of the whole family situation instead of concentrating only on proving the incident of notification or establishing blame; to target service provision to a family's needs; and to use expertise across the sector to assess family need or to provide services directly to the family.<sup>240</sup>

A CYF investigation is often carried out with a family fearful that the social worker could remove the child. In such a case, an open relationship cannot always be developed with the family and as a result the family's needs may be understated or the

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<sup>237</sup> CYF Interagency Guide, supra n21 at 29-30.

<sup>238</sup> Margaret Evelyn, CYF Community Liaison Officer, Interview Notes, October 2006.

<sup>239</sup> Sturmfels D Kennard J *Time for a Change and a Change in Time: The Development of a Differential Response Model in Aotearoa* Blossoming of Our Children 10<sup>th</sup> Australasian Conference on Child Abuse and Neglect, 14 to 16 February 2006 <<http://www.nzfvc.org.nz/acan/papers-presentations/abstract288v.html>>.

<sup>240</sup> Lafferty, P "A personal view on a Child, Youth and Family initiative" *Social Work Now*, December 2005, 19-22.

family may not allow their needs to be fully assessed. Pam Lafferty, CYF Manager, on secondment to the DRM Team, believes a DRM:<sup>241</sup>

[w]ould provide an opportunity for assessment without the threat of the child being removed because the social worker is not focussed on proving culpability. Families would also have the choice about who they engage with for the assessment proves. The DRM provides an opportunity to improve our responsiveness to the adult behaviour, which underpins notifications of abuse and family violence. DRM is about having a collective response to vulnerable families.

Under the proposed DRM, CYF undertakes a preliminary assessment of every notification. This preliminary assessment will determine the most appropriate response according to a menu of available options including a care and protection investigation or a child and family assessment. Debbie Sturmfels, Project Leader for DRM states:<sup>242</sup>

The purpose of the DRM is to create more flexibility in the way that CYF responds to care and protection concerns utilising and encouraging participation of the wider care and protection community. In this way, DRM is built solidly on principles of engagement with children, families, communities and the NGO sector.

As yet, there is no formal evaluation available on the DRM. There will need to be continued monitoring of the tools, processes and systems which form the DRM. As well as further learning and development, in order that this model doesn't spread itself so wide within each community, that an ad-hoc approach arises in regards to child protection. It seems that NZ is very good at starting new initiatives and changes around child abuse prevention/child protection, such as DRM, both at a statutory and non-statutory level. But these initiatives/changes are not always followed through on, due to unresolved matters such as lack of funding, personnel changes and constant change in management strategies. For example, due to funding and personnel constraints the roll out of the DRM to Christchurch and Hamilton, which was to go ahead in July 2006, was put on hold, as have the progressive roll-outs through the country that were to occur in early 2007.

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<sup>241</sup> Ibid, 22.

<sup>242</sup> Sturmfels, supra n239 at 6.

#### 2.2.8.4 Family Safety Teams

Another example of a developing inter-sectoral collaboration is the present Family Safety Team pilot (FST). Pilots are currently running (as at January 2007) in Auckland/Hamilton City, Wairarapa/Hutt Valley, Christchurch and Counties Manukau. Family Violence is an issue in New Zealand. Between 2000 to 2004 there were 121 domestic-violence related murders, 39 were children.<sup>243</sup> There has been a shift to an increasing emphasis at police level on the need to understand the dynamics of family violence and that children are part of family violence.<sup>244</sup>

Family Safety Teams were established in October 2005 as a joint initiative between the New Zealand Police, Ministry of Justice, Child, Youth and Family and the community sector to promote a co-ordination of effort in addressing family violence. The aim was to have collaborative proactive input into families.<sup>245</sup> Each FST runs differently, to tailor to the community in which the FST is based. As a part of the FST pilot there is also provided, through ACC, a pilot project involving funding advocates to work with children who witness family violence in the same areas as the FST are being implemented.<sup>246</sup>

The Hamilton FST (which is only half a team as it shares the pilot with Auckland) has three police members, a representative from CYF, an adult advocate, a child advocate and a Case Monitor. The Hamilton FST started in April 2006 and it is co-located with HAIP. In the period January to December 2005 there were 1,700 reported domestic violence incidences in Hamilton. From January to August 2006 alone there have been 2,700 reported domestic violence incidences. This is an increase of a 1,000 incidences and that only covers an 8 month period (versus the 2005, 12 month period).<sup>247</sup>

Detective Sergeant Alan McGlade, who heads up the Hamilton FST, said that what has been a big part of the work for his team has been educating 'front line police' on the dynamics of family violence. More often than not, he has found that the POL400's come back in, but with little or no information in regards to the children

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<sup>243</sup> Byers. supra n18 at 3.

<sup>244</sup> Detective Sergeant Alan McGlade, Hamilton Family Safety Team, Seminar Notes, 14 July 2006.

<sup>245</sup> Byers, supra n18 at 4.

<sup>246</sup> Family Violence Clearinghouse, supra n231.

<sup>247</sup> McGlade, supra at n244.

being filled in on the POL400B's. McGlade, or a member of his team, follow through with the 'front-line' officer/s if further information needs to be obtained.<sup>248</sup>

Detective Jo Linton, one of the other police members on the Hamilton team, said the FST model works well in Hamilton because there is already significant interagency collaboration that has come about as the result of the HAIP. She believes the effectiveness of the FST is underpinned by the quality of relationships the team has with government and non-government agencies/organisations within Hamilton that have a family violence/child abuse focus as part of their mandate. Linton maintains this central link, based on trust, from the police to the community and from the community back to the police has been instrumental in Hamilton in increasing the awareness of the dynamics around family violence.<sup>249</sup>

In February 2006, the Office of the Police Commissioner reported that the benefits which are evident to date of FSTs are the voices of victims and children are being injected into the systems; there is a bringing together of the strengths of each discipline and timely; and relevant information sharing is taking place which is ensuring greater safety for the victim and children involved in family violence incidences.<sup>250</sup> However, FSTs see the challenges of this collaboration being competitive funding models; lack of time/resources; differences in philosophy and role; perceptions around the Privacy Act; and the need for rigorous research into how information sharing impacts on reporting rates.<sup>251</sup>

#### 2.2.8.5 New Zealand Standard 8006:2006

On 31 March 2006, the Standards Council approved NZS (New Zealand Standard) 8006: 2006 to be a New Zealand Standard, pursuant to the provisions of section 10 of the Standards Act 1988.<sup>252</sup> The purpose of Standard 8006:2006 (Screening, Risk

<sup>248</sup> McGlade, supra at n244.

<sup>249</sup> Detective Jo Linton, Hamilton Family Safety Team, Interview Notes, October 2006.

<sup>250</sup> Lee, J Roberts, S and Drew, J *Inter-agency collaboration and information sharing to improve outcomes for families and children* Blossoming of Our Children 10<sup>th</sup> Australasian Conference on Child Abuse and Neglect, 14 to 16 February 2006 <<http://www.nzfvc.org.nz/acan/papers-presentations/abstract205v.shtml>>.

<sup>251</sup> Ibid.

<sup>252</sup> NZ Standards Council , *NZ Standard 8006:2006* <<http://www.police.govt.nz/resources/2006/nzs-8006-2006/>>.

Assessment and Intervention for Family Violence including Child Abuse and Neglect) was to establish the minimum requirements that should be met by individuals and agencies/services involved in working with families living with family violence, child abuse or neglect. The Committee who prepared the Standard consisted of representatives from, inter alia, Barnardos NZ, CYF, Department of Correction, Ministry of Health, Ministry of Justice, NZ Police and the Paediatric Society of NZ.<sup>253</sup>

Standard 8006:2006 was released in May 2006. Howard Broad, Commissioner of Police said:<sup>254</sup>

It is vital to support and co-ordinate the efforts of those agencies and services working to help people affected by family violence, abuse and neglect within the family. This Standard aims to provide a consistent set of guidelines for those at the forefront of dealing with the results of family violence, abuse and neglect including teachers, police, medical personnel, midwives, social workers and others.

The case of *W v W*<sup>255</sup> involved E W who was subject to domestic violence (both physical and psychological abuse) throughout her marriage of 21 years to R W. The children (2 sons, 9 years old and 5 years old) had also been exposed to that violence. E W stated in her affidavit:<sup>256</sup>

[t]he children have witnessed most of the violence on me (pushing, spitting, pulling hair, kicking, smashing things, verbal and psychological abuse) and on one occasion the children and I jumped out the window to escape the respondent. The children have also been verbally abused and had their toys broken.

With the support of Women's Refuge and the local police E W moved to Christchurch, from Central Otago on 28 January 2006. E W kept her address and any identifying details confidential from R W. R W remained unaware of their location until E W obtained a 'without notice interim parenting order' on 17 March 2006. E W alleged R W was violent and she and the boys were unsafe. An order was made granting R W supervised contact with the children. R W denied the allegations and sought unsupervised contact.<sup>257</sup>

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<sup>253</sup> Ibid, 1 (Preface).

<sup>254</sup> Ibid, 1, (Preface).

<sup>255</sup> *W v W*, unreported, Family Court Christchurch (FAM-1998-012-971), 8 September 2006.

<sup>256</sup> Ibid, paragraph 17.

<sup>257</sup> Ibid, paragraphs 1 to 7.

The Cromwell Police assisted E W in her move to Christchurch and undertook a Family Violence Risk and Lethality Assessment, per Standard 8006:2006. The assessment is scored on an ascending scale ranging from -15 to +24 and is categorised under five headings – no apparent risk through to extreme risk. R W’s score of 18 placed him at the lower end of the high end scale.<sup>258</sup> In February 2006, the Christchurch Police undertook a further assessment and this time R W’s score was 23, placing him at the top end of the high end scale.<sup>259</sup> Consequently, the FST implemented a safety plan for E W and the children and mapped E W’s property and dwelling for armed offenders squad purposes.<sup>260</sup> Constable Murray co-ordinates the agencies working with families in Canterbury who are seen as being at high risk of harm or death. She too carried out a NZS 8006:2006 assessment of R W and scored R W at 26 – the extreme risk category.<sup>261</sup>

In the court case Judge Moran said:<sup>262</sup>

R’s scores show, on the face of it, that he is a danger to his estranged family. However, a degree of caution must be exercised when considering the weight to be attributed to this assessment. While recognising its importance in the battle against family violence, it is nevertheless a crude tool. It is based largely on information provided by the victim and relies not only on her veracity but also her perception of her former partner. It also relies heavily on the knowledge held by the police of an alleged offender, including his criminal history. This too has a strongly subjective element and has potential for misinterpretation or distortion. For obvious reasons no opportunity is afforded to the alleged offender to either contribute to the assessment or challenge the accuracy of the information relied upon.

Subsequently, Judge Moran made orders that R W was to have supervised contact with his two sons. Judge Moran was satisfied R W would not physically abuse the children, but he was not satisfied that he was able to keep them emotionally safe at this time:<sup>263</sup>

Although R’s commitment to his children is undeniable, he has from time to time demonstrated an alarming lack of insight into their emotional needs and an inability to exercise self control.

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<sup>258</sup> Ibid, paragraph 8.

<sup>259</sup> Ibid, paragraph 9.

<sup>260</sup> Ibid, paragraph 9.

<sup>261</sup> Ibid, paragraph 9.

<sup>262</sup> Ibid, paragraph 10.

<sup>263</sup> Ibid, paragraphs 61 to 64.

Arguably, as pointed out by Judge Moran, Standard 8006:2006 does have an important place in child abuse and family violence prevention. However, the concern is the differences that are going to occur depending on who is using the tool to assess the risk situation. Howard Broad, Police Commissioner stated:<sup>264</sup>

It [the tool] provides a common language for these agencies/services to screen for this (violent) behaviour, assess risk in relation to these situations, and provide for safety planning interventions.

Nevertheless, as the above case clearly demonstrates that although professionals may be on the same page ('the Standard'), they are reading the assessment tool in different ways. It is this subjectivity that may lead to over-reaction or it may lead to the situation not being assessed for the high/extreme risk that it is. Thus, it is important that professionals/workers in agencies/organisations/services must be adequately trained and have ongoing professional development in the use of this Standard.

More significantly, this development/training needs to take place at a collaborative level. For example, representatives from police, schools, social service agencies and so on, sitting around a table and discussing various family violence scenarios and applying Standard 8006:2006 in order to see each other's perspectives. The Local Case Co-ordination Model (referred to in section 2.2.8.1) being currently developed by the Police, CYF and Womens' Refuge should help progress collaboration to the level that it is required so that Standard 8006:2006 can become more than just a 'crude tool' in reducing child abuse and family violence.

#### 2.2.8.6 Strengthening Families

Strengthening Families (SF), which began in 1997, is an example of a formalised expectation that collaboration will take place. SF operates on several levels but at its core is the local co-ordination initiative whereby local management groups educate both community and government social service providers about the SF case management model.<sup>265</sup> The local management groups (LMG) are made up of a wide variety of representatives from Community Groups, Statutory Agencies and Local

<sup>264</sup> Broad, supra n252 at the Preface to the Standard.

<sup>265</sup> Strengthening Families Information Pack, obtained from <<http://www.strengtheningfamilies.govt.nz>>.

Government, plus Iwi Health and Social Services, who have the goal of improving services to at risk families through collaboration.<sup>266</sup> SF is aimed at helping families who have a number of agencies (at least two or more) that are working with them by using an inter-agency case management model. This model focuses on agencies working together at the front line to deliver a total service solution to those families 'at risk' by using a 'wrap around' approach to strengthening families.<sup>267</sup> The other goals of SF involve the LMG identifying gaps in services, providing advice on ways to fill the service gaps and also to mobilise local joint preventative and community initiatives.<sup>268</sup>

Any agency, representative or person who is prepared to work with the family can initiate a meeting. This agency/person are responsible for contacting the SF Co-ordinator and ensuring full family participation in deciding on the details of the meeting (time, place, what agencies are to be there, what the key concerns are). They also need to ensure the family is fully informed of their rights, such as families can withdraw consent at any time and families can request that an agency withholds information. The purpose at the meeting is that everyone will work together to develop a single plan, according to the priorities of the family. An agency will become the lead agency<sup>269</sup> on behalf of the family with the family's consent.<sup>270</sup> In this way, the family has access to combined resources. For agencies the benefits are that it enables all information to be accessed and verified and avoids duplication of resources.

Rei Meihere, SF Co-ordinator Hamilton/Cambridge/Te Awamutu, advocates that SF is not an agency. He states "SF is an empowering process that families consent to and it holds agencies accountable".<sup>271</sup> However, Meihere comments that some of the agencies find the SF model a 'soft option'. That is such agencies see SF as "a sitting around and discussing the issues" process rather than seeing it as an empowering process for families. As such there is not always the commitment by agencies to want

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<sup>266</sup> Ibid.

<sup>267</sup> Ibid.

<sup>268</sup> Ibid.

<sup>269</sup> Ibid. The initiating agency does not necessarily become the lead agency; this is for the client to choose.

<sup>270</sup> Ibid.

<sup>271</sup> Rei Meihere, Strengthening Families Coordinator, Interview Notes, October 2006.

to follow through or take up the ‘baton’ of being the lead agency.<sup>272</sup> The agencies do have to attend if they are invited and there is a procedure whereby their funding/contracts may be affected if they are an agency that, although invited, do not turn up to the meetings. In this way, the accountability required can be a means of bringing ‘buy in’ from agencies.

Further, Meihere believes SF is under-utilised across the board because of the perception that it is an extra workload for the caseworkers working with the family. Also, the clients need to consent to the process and often they find it difficult that they have had to ask for so much help. Meihere states “for families pride is a huge barrier and they don’t want others to find out”.<sup>273</sup>

The *Review of Strengthening Families Local Collaboration* report (April 2005) recommended a transition to more professional and consistent arrangements for the co-ordination of the SF process, along with having more government agencies involved.<sup>274</sup> One of the major outcomes from this report has been the provision of government funding to compensate community organisations for carrying out the lead agency role. The lead agency role had not been previously funded for.<sup>275</sup> Other recommendations that came out of the review were stronger monitoring and feedback loops are needed, the effectiveness of LMGs is variable and more consistent and stable arrangements are required for the provision of co-ordination services.<sup>276</sup>

The particular recommendations above are highlighted because the author believes they reflect the ‘themes’ that have emerged from the initiatives and projects discussed in section 2.2.8. The initiatives and projects discussed are seeking to implement a multi-disciplinary, inter-sectoral approach at a national and community level, but:

- initiatives/projects are often implemented on an ad-hoc basis, rather than a concerted effort to research and implement sound processes, tools and systems before the initiative gets underway;

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<sup>272</sup> Ibid.

<sup>273</sup> Ibid.

<sup>274</sup> Ministry of Social Development *Review of Strengthening Families Local Collaboration* April 2005, <<http://www.strengtheningfamilies.govt.nz/reports/review.html>>> 15.

<sup>275</sup> Ibid, 2.

<sup>276</sup> Ibid, 16 to 25.

- the government is keen to fund a plethora of approaches to, in this case, child abuse prevention. But often that plethora can cover up the need to ensure there is regular and informed monitoring and evaluation of measures already in place, before new measures are introduced; and
- funding is always limited and, more often than not, is a reason a prevention measure may flounder. This is where a child-centred focus has to be advocated. Funding should not be the central reason for whether a child abuse prevention strategy continues to go ahead but the focus should be has this measure resulted in reducing the rates of child abuse in NZ. If so, then it is an effective strategy that needs to continue.

### **2.2.9 Collaborative Research on Child Abuse Prevention**

The author argues that NZ would benefit from the establishment of a specific child abuse prevention collaborative research forum. The forum would include a variety of disciplines, across the ecological levels, and would engage in dialogue and research that could lead to recommendations across the disciplines for policy, practice and further research. An international example of this is the National Research Centre for the Prevention of Child Abuse in Australia where collaborative research is used to inform the policies and practice for child abuse intervention and prevention initiatives.<sup>277</sup> Further, in the United Kingdom a ‘What Works for Children Strategy’, started in 2001, established a dedicated website for practitioners working with children in child public health and social care, who were interested about finding out evidence from research which they could apply to their practices.<sup>278</sup>

There is a need for both access to and the application of research for the purpose of reducing NZ’s child abuse rates. As an example, Maxine Hodgson, founder of Parentline, proposes that there needs to be some change in mental health assessments with children.<sup>279</sup> As discussed in section 1.5 of this paper, a known effect of child abuse is that it can cause long term psychological damage and also how it, more often than not, leads to adult mental health illnesses, such as depression. Hodgson has

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<sup>277</sup> Refer to <<http://www.nrcpca.monash.org>>.

<sup>278</sup> Refer to <<http://www.whatworksforchildren.org.uk>>.

<sup>279</sup> Maxine Hodgson, founder of Parentline, Interview Notes, October. 2006.

observed that the mental health needs of children are not something that is often talked about when considering child abuse prevention/intervention measures. With the research out now, for example, around the brain development of children,<sup>280</sup> Hodgson believes that any agency dealing with abused children should not function without doing a mental health assessment as part of the overall plan of recovery for the child. A mental health focus in regards to child abuse is also one advocated by Dr Kimberley Powell, Early Childhood Lecturer, Massey University.<sup>281</sup> Powell states:<sup>282</sup>

It [the Infant Mental Health Association] would aim to link organisations – as well as doctors and researchers and people working at the coalface with families.....we have identified a need for professionals and academics to have more support and access to research.....our shocking rates of child abuse and neglect are inexcusable and it is our hope the formation of the association would facilitate the cross-disciplinary study of infant mental health involving psychologists, psychiatrists, educators and medical experts.

A recent community research initiative is the Hamilton Family Violence Technical Assistance Unit (FVTAU).<sup>283</sup> This is a team which provides assistance to communities, employers, local refuges and stopping violence agencies, as well as undertaking contracts for research and training. One of the projects the FVTAU undertook in 2006 was ‘Silent Witness Aotearoa’ in which posters have been produced listing all the names of the women, young people and children who have been killed by family violence since 1980 through to June 2006.<sup>284</sup> The posters are a very sobering, impacting and effective visual that are an excellent community resource and a poignant reminder that domestic violence and child abuse must be stopped.

At a national level, in 2006, the Families Commission set up an Innovative Practice Fund.<sup>285</sup> The purpose of this fund is to research new ways to improve the

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<sup>280</sup> An example is the research work of Dr Bruce Perry, refer to <<http://www.childtrauma.org>>.

<sup>281</sup> Dr Powell is at the forefront of establishing The Infant Mental Health Association Aotearoa New Zealand, which is on track to be accredited, to the World Infants’ Mental Health Association, by early 2007.

<sup>282</sup> NZPA “Linking child health services” *Dominion Post*, 9 November 2005, 8.

<sup>283</sup> Family Violence Technical Assistance Unit, Hamilton, co-located with HAIP.

<sup>284</sup> ‘Remembering the names of our sisters and children who were murdered or killed by someone they knew’ is the statement with each poster. The posters were developed by not only going through case and court files, but also by reading through back issues of newspapers, where often only very scant information was given.

<sup>285</sup> Families Commission *Newsletter – Family Voice* Issue 5, November 2006

effectiveness of family-based services. The emphasis is on projects that have a strong rationale and are designed to produce measurable improvement in at least one important aspect of family functioning. The first study (released in December 2006) to be supported by this fund was conducted by researcher, Jill Goldson (Centre of Child and Family Policy Research, Auckland University). Goldson researched 'Child-Inclusive Mediation in Family Separation'<sup>286</sup> Her study showed clear benefits to including children in the counselling provided to parents who are separating and going through a Family Court mediation process. At present only parents are offered counselling and it is assumed children will benefit indirectly from this. Comments from children involved in the study showed they found the counselling relieved anxieties, helped them take part in the restructuring of relationships and improved communication within the family.<sup>287</sup> It is this type of research that can inform child abuse prevention initiatives. As poignantly put by Rajen Prasad, Chief Commissioner, Families Commission:<sup>288</sup>

Innovative ideas among people working with families are sometimes not translated into practice and policy. Our new Innovative Practice Fund has been set up to encourage practitioners to complete and publish work that will be useful to others.

A further national level example is the Family Violence Prevention Research Strategy launched in October 2006. This is a strategy that will be developed jointly by the Families Commission and the Ministry of Social Development. The goals are to set strategic direction for research into family violence, to co-ordinate research and evaluation activities and to address the gaps in local knowledge about family violence.<sup>289</sup> However, this research strategy is a project that emphasises collaborative research on family violence, but not on child abuse per se. This yet again illustrates how child abuse is increasingly being subsumed under family violence.

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<<http://www.nzfamilies.org.nz/download/family-voice-aug06.pdf>>.

<sup>286</sup> Ibid.

<sup>287</sup> Goldson, J *Hello I'm a voice, let me talk: Child-Inclusive Mediation in Family Separation*, Centre for Child and Family Policy Research, Auckland University, Innovative Practice Report No 1/06, December 2006. <<http://www.nzfamilies.org.nz/download/innovativepractive-goldson-pdf>>.

<sup>288</sup> Family Voice, supra n285.

<sup>289</sup> Family Violence Clearinghouse, supra n231 at 2.

### 2.2.10 A Response at Government Level: Legislation and Policy

What has been demonstrated in Section 2 of this thesis is that NZ has a range of child abuse prevention measures that are in place, across the ecological levels. In particular, what is evident from the analysis is that it is those prevention measures which weave a community driven, child-centred, multi-disciplinary, inter-sectoral approach into their principles, goals and actions, which are more likely to have a greater impact on reducing child abuse long-term.

Further, the responses from the 28 participants interviewed as part of this thesis indicate that it is time for the government to stop the bureaucratic rhetoric around child abuse and instead focus on pragmatic solutions which foster an ongoing commitment to child protection. These practical solutions need to be initiated, acknowledged and strengthened at a national level by legislative and public policy responses. As stated by Judge Michael Brown, in his review of CYF (2000):<sup>290</sup>

- I would hope that our current concerns about the welfare and safety of children would stimulate the whole community to consider such issues as –
- (1) What is the role and responsibility of the State in this whole area of ‘Child Welfare’?
  - (2) What is the competency and efficiency of the State in this area?
  - (3) What are the alternatives?
  - (4) What are the responsibilities of families to their children?
  - (5) What are the responsibilities of the community to all children in this country?

This message of the need for greater community and government/state action around child abuse prevention is one that is also being increasingly sounded at an international level. For instance, Prevent Child Abuse America sent a petition to Congress on 4 January 2007, on the importance of turning the conversation on the prevention of child abuse and neglect towards more comprehensive and effective ways for communities and systems to provide and care for children and families – “we believe that the prevention of child abuse and neglect is a national priority.”<sup>291</sup> Additionally, as succinctly put by Ian Hassall, *Every Child Counts*.<sup>292</sup>

<sup>290</sup> Brown, *supra* n62 at 99-100.

<sup>291</sup> Prevent Child Abuse America Newsletter, Volume 6, Number 1, January 2007 <<http://www.preventchildabuse.org>>.

<sup>292</sup> Hassall, I *What Every Child Counts Is All About* Presentation to the Parentline Charitable Trust’s Child Summit, Hamilton, 29 June 2005

Children need to be placed centrally in our public policy-making, not so that they might be indulged and grow up to destroy their world even more quickly than our generation has managed, but so that they inherit a society which itself takes a long view as a matter of course and enables its children to develop accordingly.....The government's approach to children and families to date has been sporadic, unfocused and too easily diverted into side issues .....if a child-focussed government is a pressing need how can it be brought about into being?

In the following section, the author provides recommendations as to what legislative and policy responses could be put in place, within an ecological framework.

Responses that would arguably bring a child-focussed government into being, whose legislation and policies would enhance and fortify the aforementioned 'best practice' approach to child abuse prevention – a community driven, child-centred, multi-disciplinary, inter-sectoral approach.

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<<http://www.everychildcounts.org.nz/resources.php?rid+33>> 2.

Every Child Counts is a coalition of NZ organisations who are asking the government to place children first in government planning <<http://www.everychildcounts.org.nz>>.

**SECTION THREE: LEGISLATIVE AND POLICY RESPONSES TO CHILD  
ABUSE PREVENTION WITHIN AN ECOLOGICAL FRAMEWORK**

**3.1 Recommendation 1:**

**Progress further NZ's Commitment to the United Nations Convention on  
the Rights of the Child 1989 (CRC)**

Article 19 of the CRC 1989 provides:

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.
2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have care of the child as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate for judicial involvement.

The CRC, which NZ ratified in 1993, commits NZ to take all appropriate legislative, administrative, social and educational measures to prevent violence against children and to protect them from it. The first report made by NZ, pursuant to Article 44 of the CRC, was in 1997. The UN Committee acknowledged the compliance of NZ in some parts, but in others were concerned and critical. The criticism ranged from that NZ had no global policy or plan of action incorporating and promoting all principles of the Convention, the high level of single parent families with a lack of supports through to the high suicide toll among children and young persons.<sup>293</sup> One of the 33 recommendations the Committee suggested was that the government pursue the process of bringing existing legislation into line with the principles and provisions of the Convention.<sup>294</sup>

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<sup>293</sup> United Nations *CRC Concluding Observations CRC/c/15/Add.71*  
24 January 1997

<[http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/dee3759cb02513328025644b005b6320?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/dee3759cb02513328025644b005b6320?Opendocument)>.

<sup>294</sup> United Nations *CRC Concluding Observations CRC/c/15/Add.71*

24 January 1997

<[http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/dee3759cb02513328025644b005b6320?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/dee3759cb02513328025644b005b6320?Opendocument)>.

The government developed *New Zealand's Agenda for Children* and the *Youth Development Strategy Aotearoa*,<sup>295</sup> as a response to the UN Committee's recommendation in 1997 that NZ needed to adopt a comprehensive policy statement with respect to the rights of the child. Together the purpose of these statements was to provide a framework to inform policy development and research relating to children and young people, between the ages of 0 to 24 years old.<sup>296</sup> The Ministry of Social Development launched NZ's Agenda for Children (the Agenda) in June 2002. The Agenda was developed through a consultative process by talking to New Zealanders, including children and young people and people working with the government.<sup>297</sup>

The Agenda raises children's status in society and promotes a 'whole-child' approach to developing government policy and services affecting children. A 'whole-child' approach recognises that children: need to develop skills to be able to look after themselves and to be able to make responsible decisions; that children are citizens in their own right but they also need to be seen within their environment (family, communities, social and cultural settings); and that children are growing up in increasingly diverse ethnic and cultural settings.<sup>298</sup> At the heart of the Agenda are ten principles. The principles reinforce that government policies and services affecting children will be:<sup>299</sup>

consistent with the United Nations CRC; child focused, family or whanau orientated; inclusive; evidence based; preventative; well-co-ordinated; collaborative; community focussed; and culturally affirming.

The 10 key action areas that form part of the Agenda are:<sup>300</sup>

promoting a whole-child approach; increasing children's legislation; an end to child poverty; addressing violence in children's lives with a particular emphasis on reducing bullying; improving central government structures and processes to enhance policy and service effectiveness for children and young people; improving local government and community planning for children; and enhancing information research collaboration relating to children.

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<sup>295</sup> Ministry of Social Development *New Zealand's Agenda for Children Summary – Making life better for children* June 2002

< <http://www.msd.govt.nz/documents/publications/sector-policy/agendaforchildren.pdf>>.

<sup>296</sup> Ministry of Youth Development *Second Periodic Report of NZ to the UN Committee on the Rights of the Child* August 2003 <<http://www.myd.govt.nz/Rights/secondperiodicreportofnz.aspx>>

<sup>297</sup> MSD Agenda for Children, supra n295 at 12.

<sup>298</sup> MSD Agenda for Children, supra n295 at 12.

<sup>299</sup> MSD Agenda for Children, supra n295 at 3.

<sup>300</sup> MSD Agenda for Children, supra n295 at 4.

In NZ's next report to the UN on the CRC (August 2003),<sup>301</sup> the UN Committee said they welcomed the adoption of *NZ's Agenda for Children* and the *Youth Development Strategy Aotearoa*. However, the Committee said it was concerned that the co-ordination of policies and services for children was still insufficient.<sup>302</sup> The Committee recommended:<sup>303</sup>

That the State party establish a permanent mechanism to co-ordinate activities by all actors and stakeholders implementing the Convention, the Agenda for Children and the Youth Development Strategy. Sufficient financial and human resources should be allocated to ensure that they are fully implemented and effectively co-ordinated.

The UN Committee also made 45 other recommendations or steps to be taken by NZ to bring NZ into full compliance with the Convention. The UN Committee shared NZ's concerns about the prevalence of child abuse and noted with regret that services aimed at preventing abuse and providing assistance with recovery did not have the sufficient resources and were insufficiently co-ordinated.<sup>304</sup> The Committee, in particular, recommended that NZ:<sup>305</sup>

- a. initiate a comprehensive review of all legislation affecting children and take all necessary measures to harmonise its legislation with the principles and provisions of the Convention.<sup>306</sup>
- b. increase programmes and services which are aimed at the prevention of child abuse in the home, schools and institutions and ensure there are sufficient numbers of adequately qualified and trained staff to provide these services.
- c. amend legislation to prohibit corporal punishment in the home.

What can be seen from the UN's recommendations is that NZ has not actively sought legislative and policy responses to child abuse prevention. Secondly, although there has been the *Agenda for Children* developed this policy at best has become rhetoric. The policy has not been advanced to provide practical solutions outworked at an exosystem/community level. The author argues that all the Agenda has done is to

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<sup>301</sup> United Nations *CRC Concluding Observations CRC/c/15/Add.216*  
27 October 2003

<[http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/73f172e77b12c842c1256df20033829f?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/73f172e77b12c842c1256df20033829f?Opendocument)>.

<sup>302</sup> Ibid, paragraph 10.

<sup>303</sup> Ibid, paragraph 11.

<sup>304</sup> Committee on the Rights of the Child, Thirty-Fourth session, "Consideration of Reports Submitted by State Parties under Article 44 of the Convention – Concluding Observations: New Zealand" *CRC/c/15/Add.216*, 3 October 2003 at paragraph 24

<<http://www.myd.govt.nz/uploads/docs/1.5.3closing-obs-optprotocol.pdf>>.

<sup>305</sup> Ibid, paragraphs 9, 28 and 30 respectively.

<sup>306</sup> This was, as cited earlier, a recommendation given in the first report in 1997 and the UN still considered this had not been followed through on.

create more reviews, reports and case studies. This is illustrated, for example, by the minimal amount that has been done so far in regard to action area 4 (addressing violence in children's lives, with a particular focus on bullying) of the *Agenda for Children*.

All that has been done so far is:<sup>307</sup>

Work undertaken to identify ways of advancing anti-bullying initiatives within the work programmes of broader violence prevention strategies and to strengthen links between work to address bullying and the Health and Physical Education in New Zealand Curriculum and case studies to examine the different approaches taken by three primary schools to creating positive school cultures and environments and reduce bullying.

Reducing child abuse in NZ needs to go beyond what is seemingly a continuous analysis of why child abuse occurs and what the consequences of child abuse are. Instead, there needs to be a significant increase in the implementation of pro-active well-resourced, pragmatic measures of child abuse prevention. Indeed, NZ's lack of commitment to progress the CRC is an indictment on the nation. As poignantly stated by Paul Treadwell, OBE, Barrister:<sup>308</sup>

Our scientists, jurists, aid workers, medical specialist, explorers, sailors, mountaineers and sportsmen and women are ranked at the highest levels in the world. Yet why can we not, as a nation look inwards and somehow become fiercely protective of our children's safety? Seminars, actions plans, enquiries, bureaucratic schemes and ideals are all ineffective to stop the violence and cruelty still being visited on our children and young persons. A first step would be to make mandatory reporting of abuse apply to all persons in all circumstances. A second would be to axe s59 of the Crimes Act 1961.

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<sup>307</sup> Ministry of Youth Development, *supra* n296.

<sup>308</sup> Treadwell, P "UNCROC revisited: shame on us" 5 NZFLJ (2005) 1.

### 3.2 **Recommendation 2:**

#### **Repeal Section 59 Crimes Act 1961**

Currently NZ legislation permits the use of ‘reasonable force’ to discipline a child, Section 59, Crimes Act 1961 (CA) states:

Every parent is justified in using force by way of correction towards the child, if the force used is reasonable in the circumstances. The reasonableness of the force used is a question of fact.

Smacking is a form of child physical abuse and should be repealed. There has been a lot of research carried out on the effects of physical punishment. At the 10<sup>th</sup> Australasian Child Abuse and Neglect Conference 2006, Anne Smith,<sup>309</sup> presented a paper on the current state of knowledge about the outcomes of physical punishment. One of her conclusions was:<sup>310</sup>

Ten of the 11 meta-analyses indicate parental corporal punishment is associated with the following undesirable behaviours and experiences: decreased moral internalisation, increased child aggression, decreased quality of relationship between child and parent, decreased child and adult mental health, increased risk of being a victim of physical abuse, increased adult aggression, increased adult criminal and antisocial behaviour, decreased adult mental health, and increased risk of abusing own child or spouse. Parental corporal punishment was associated with only one desirable behaviour, namely, increased immediate compliance (Gershoff 2002).

Researcher, Nicola Taylor (Children Issues Centre, University of Otago), carried out extensive research on the international legal developments on the physical punishment of children. Her conclusions found that international law regards the physical punishment of children as a breach of their human dignity, their right to physical integrity and their right to equality of protection under the law. Further, she concluded:<sup>311</sup>

Thirteen Nordic and European nations have now prohibited all use of physical punishment with children. All other recent reforms have adopted the conditional corporal punishment approach of clarifying the law to provide parents with guidance as to how they should administer physical force to their child’s body. England, Scotland, Wales and Canada (interestingly all with Commonwealth connections) have, in various ways, clarified the limits of

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<sup>309</sup> Children’s Issues Centre, University of Otago.

<sup>310</sup> Smith, A and Durrant, J *Physical Punishment: The State of Research and the State of Law Blossoming of Our Children* 10<sup>th</sup> Australasian Conference on Child Abuse and Neglect, 14 to 16 February 2006. <<http://www.nzfvc.org.nz/acan/spekaers/smith.shtml>>.

<sup>311</sup> Taylor, N “Physical punishment of children: international legal developments” (2005) 5 NZFLJ 14.

their particular chastisement defence by defining the bodily locations, ages and means by which a child can or cannot be physically punished.

In effect, Section 59 CA 1961 protects adults more than children and it arguably, helps to keep child abuse going from one generation to the next. There is no law that permits an adult to assault another adult. Nor is there a law that permits an adult to assault a dog or cat. Nor is there instructions on if you do hit an animal, then these are the parts of the animal you can hit using the following means and this is age the animal is allowed to be. Yet section 59 CA 1961 permits adults to assault a child in their care. Thus, children are singled out as a class of people that are allowed to be hit by adults/parents. As aptly put by Dame Sylvia Cartwright:<sup>312</sup>

We must ask ourselves whether the right to smack children is so precious a right, so necessary to parenting, that we are willing to sacrifice the James Whakarurus, the Lillybings and the many, many children who are assaulted in the name of using the excuse of discipline and who survive.

Without section 59 CA 1961 any smacking would technically be an assault, but it is not something likely to interest the police. It is analogous to the shoving and jostling that can go at a rugby match or the pub. Technically that ‘shove/jostling’ is assault but no Police Officer is going to take action unless it goes too far according to generally accepted standards. People need to get use to the idea that they can go without a special law allowing their child/children to get smacked/hit. Instead, the focus needs to be on non-hitting discipline techniques. One of the conclusions drawn in the research literature review, carried out by the Children’s Issue Centre, University of Otago, on *The Discipline and Guidance of Children* (2005) was:<sup>313</sup>

[p]hysically punishing children should be avoided, because it is difficult to determine where to draw a line between moderate and severe punishment, which has been shown to have very harmful effects on long-term outcomes.

In 2004 John Hancock reviewed the case law on section 59 CA 1961 and found it was inconsistently applied in court cases (particularly jury trials) relating to parental violence against children. Hancock found the section 59 defence has been successfully raised in jury trials where parents had been prosecuted for hitting their

<sup>312</sup> Dame Sylvia Cartwright speech to Save the Children AGM, 16 February 2002.

<sup>313</sup> Smith, A Gollop M Taylor, N and Marshall, K *The Discipline and Guidance of Children: Messages from Research* A Review of the Research Literature for the Office of the Children’s Commissioner by the Children’s Issues Centre, University of Otago (Wellington: Office of the Children’s Commissioner, August 2005), page xvii.

child with a belt, hitting their child with a hosepipe, hitting their child with a piece of wood and chaining their child in metal chains to prevent them leaving the house. Yet, similar instances of corporal punishment have been found unreasonable by the Court of Appeal, High Court and Family Court judges, as evidenced in the following three examples.<sup>314</sup>

*S v B* (1996) 15 FRNZ 286 was a case in regard to the application of a protection order by the respondent's 14 year old daughter. The respondent, in the course of disciplining his 14 year daughter, slapped her with an open hand once on the legs and once on the cheek. The daughter (applicant) said in her affidavit:<sup>315</sup>

Although he used a closed fist it was a very hard hit – he had to swing his arm right around to me. It really hurt. This is the first time that he has ever assaulted me very badly like this, although I have seen him assault Mum really badly.

Despite this assault, Judge Grace (District Court, Nelson) considered that in the circumstances of the case the force used in disciplining the daughter did not amount to physical abuse.

*Ausage v Ausage* (1997) 17 FRNZ 13 was a case in regard to the application for a permanent protection order (from a temporary one) by the respondent's oldest daughter (age 18). The daughter claimed she had been consistently punished for misdemeanours by being hit on her arms and legs with various objects (a belt, a boot, a jandal, a mop handle, a vacuum cleaner hose) and the respondent's fist, resulting in bruises and broken skin. She said similar punishment was applied to her sisters (of which there were 5). The applicant sought the permanent protection order, claiming that his use of force when disciplining her had been excessive and amounted to domestic violence.

The *Ausage* case involved an in- depth discussion relating to section 59 CA 1961. Judge Somerville (Family Court, Christchurch) said:<sup>316</sup>

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<sup>314</sup> Hancock, J *The Application of Section 59 of the Crimes Act in the New Zealand Courts Blossoming of Our Children* 10<sup>th</sup> Australasian Conference on Child Abuse and Neglect, 14 to 16 February 2006 <http://www.nzfvc.org.nz/acan/papers-presentations/abstact198v.shtml?>>

<sup>315</sup> *S v B* [1997] 15 FRNZ 286.

<sup>316</sup> *Ausage v Ausage* (1997) 27 FRNZ 13, 22.

Having regard to the importance which society places upon the upbringing of children it was clearly intended by Parliament that any parent able to claim the benefit of s59 of the Crimes Act 1961 would be immune from suit, whether criminal or not.....but in inflicting punishment the parent must act in good faith, having a reasonable belief in a state of facts which would justify the application of force.....(that is) the purpose of the punishment must therefore be subjectively and objectively reasonable.....Further, in regards to the factors determining “reasonableness” of force the Court will have regard to: the age and maturity of the child; other characteristics of the child, such as physique, sex and state of health; the type of offence; and the circumstances of the punishment.

In this instance, the Court held that the respondent was not entitled to the protection of section 59 CA 1961. Thus the physical force amounted to an assault and was clearly physical abuse within the terms of the Domestic Violence Act 1995 (DVA).

A third example is the case of *Sharma v Police* [2003] NZFLR 852 (HC). Mrs Sharma lived with Mr Sharma, the stepson and their baby. When she separated she obtained a temporary protection order against Mr Sharma – both Mrs Sharma and the stepson (age 9) were protected. Mrs Sharma sent her son to the house where Mr Sharma was living. She wanted the son to collect baby clothes and a portable stereo belonging to Mrs Sharma. Mr Sharma let the stepson proceed as he understood only the baby clothes were required. He then discovered the stepson had taken the stereo and when he asked him to put it back, the stepson pulled a face at him. Mr Sharma slapped the stepson once on the head and twice on the legs. Mr Sharma appealed against conviction in respect of assault of a child and breach of a protection order.

The Court held that section 59 CA 1991 was available to a defendant in a prosecution under ss19 (1)(a) and 49(1)(a) of the DVA 1995. Section 19(1)(a) provides that it is a condition of every protection order that the respondent must not physically or sexually abuse the protected person. Section 49(1)(a) provides every person commits an offence who, without reasonable excuse, does any act in contravention of a protection order. Judge Fisher (High Court, Auckland) said:<sup>317</sup>

The onus was on the prosecution to exclude it (s59 CA 1961). It could be excluded in 2 ways – one would be to show that Mr Sharma did not have the actual purpose of correcting the boy when he struck him. The other would be to show that, whatever his actual purpose, he used more force than was reasonable in the circumstances.

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<sup>317</sup> *Sharma v Police* [2003] NZFLR 852, 855.

The above three examples show that the application of section 59 CA 1961 in family law is problematic. Further, this law is in direct conflict with the paramountcy of the welfare of the child, the most fundamental consideration in NZ's family law jurisdiction. Section 59 CA 1961 is also in contravention of the CRC 1989 which NZ is a party to. Arguably, section 59 CA 1961 needs to be repealed to send a clear message that 'reasonable force' cannot be a defence in disciplining your child. James Whakaruru received 'normal discipline'; discipline which included a jug cord and vacuum cleaner pipe, discipline which led to his death.<sup>318</sup>

Moreover, the author believes that the repeal of section 59 CA 1961 should have been removed a long while ago. It is time NZ moved on. How many more studies and how many more court cases does there have to be in order to make the repeal? These comments are also reinforced by Jane and James Ritchie who have campaigned for a repeal of section 59 CA 1961 for over 25 years. The Ritchie's first studied the use of physical punishment in families in the early 1960's and repeated the same study 14 years later. The Ritchie's found:<sup>319</sup>

Despite positive changes in family structures and relationships and despite evidence that this practice could have harmful consequences to children, the majority of our research participants continued to believe in its desirability and necessity.

Further the Ritchie's contend:<sup>320</sup>

The government's reaction has been to simply ignore the recommendation for legislative change and to focus on public education instead.....we had no idea when we began to advocate for the deletion of section 59, that this practice was so deeply entrenched in NZ culture and popular conceptions of parental rights, and that 26 years six years later, there would still be controversy when the question of the deletion of s59 from our Crimes Act was discussed.

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<sup>318</sup> Office of the Commissioner for Children *Executive Summary of the Final Report on the investigation into the death of James Whakaruru* (Wellington: 2000)  
<<http://www.occ.org.nz/pdf/ExecSmJames.pdf>>.

<sup>319</sup> Ritchie, J *Legal Change as a Means of Child Protection: The Story of a Campaign Blossoming of Our Children* 10<sup>th</sup> Australasian Conference on Child Abuse and Neglect, 14 to 16 February 2006. <<http://www.nzfvc.org.nz/acan/papers-presentations/abstact197v.shtml>>.

<sup>320</sup> *Ibid*, 8.

### 3.3 **Recommendation 3:**

#### **Progress further the Legislative Acknowledgment of the Co-occurrence of Domestic Violence and Child Abuse**

.....[In 2006]more than 24,000 battered women and children have fled abuse to one of the country's 50 safe houses, in a year that saw a record number of victims needing emergency help.<sup>321</sup>

As noted in Section 1.3.5 of this paper, research has shown that children exposed to adult spousal domestic violence are often at risk for developing a series of behavioural, emotional, cognitive, and attitudinal problems that may persist into adulthood.<sup>322</sup> Additionally, the research has also shown that boys from homes where their mother is being abused are at a greater risk for being abusers themselves.<sup>323</sup> Liz Kinley (Chief Executive, Jigsaw) advocates that children don't differentiate between child abuse and domestic violence. Kinley states:<sup>324</sup>

They (*child abuse and domestic violence*) are one inter-connected 360 degree experience, which hurts and frightens them (*children*). They want to be safe and loved. They want the violence and fear to stop. To make sure that happens we need to take a 360 degree approach ourselves, intervening in a fully informed way which addresses both sets of abusive behaviour and the way they interconnect.

The author argues that legislation and policy responses to child abuse and domestic violence should not be treated as separate, unrelated issues. Under current NZ legislation, the author maintains, the Domestic Violence Act 1995 does acknowledge the co-occurrence of domestic violence and child abuse, but in contrast the Care of Children Act 2004 (COCA) needs to acknowledge, in a greater way than it does now, this co-occurrence

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<sup>321</sup> NZPA "Demand soars for refuge" *Waikato Times*, 31 January 2007, 10.

<sup>322</sup> Summers, A *Children's Exposure to Domestic Violence: A Guide to Research and Resources* Permanency Planning for Children Department, National Council of Juvenile and Family Court Judges, 2006 <<http://www.safestartcenter.org/pdf/childrensexpostoviolence.pdf>> 15.

<sup>323</sup> Jaffe, P Baker, L and Cunningham, A (eds) *Protecting Children from Domestic Violence: Strategies for Community Intervention* (2004) 17.

<sup>324</sup> Kinsley, L and Hiram, T *Care and Protection meets Family Violence: Building Best Practice at the Interface* Blossoming of Our Children 10<sup>th</sup> Australasian Conference on Child Abuse and Neglect, 14 to 16 February 2006 <<http://www.nzfvc.org.nz/acan/papers-presentations/abstact169v.shtml>> 5.

Pursuant to section 3(3) the Domestic Violence Act 1995 (DVA), a person psychologically abuses a child if that person:

- (a) Causes or allows the child to see or hear the physical, sexual or psychological abuse of a person with whom the child has a domestic relationship; or
- (b) Puts the child or allows the child to be put, at real risk of seeing or hearing the abuse occurring.

Further, under section 14(1) of the DVA 1995, the Court may make a protection order if it is satisfied that –

- (a) The respondent is using, or has used, domestic violence against the applicant, or a child of the applicant's family or both; and
- (b) The making of an order is necessary for the protection of the applicant, or a child of the applicant's family, or both.

Additionally, section 16 of the DVA 1995 provides:

- (1) Where the Court makes a protection order, the order applies for the benefit of any child of the applicant's family.

That is, a child/children will come within the ambit of their non-violent parent's (usually the mother) protection order. In this way, a protection order is an acknowledgement of the co-occurrence of domestic violence and child abuse. However, whether protection orders do actually protect is also another question that has to be raised.<sup>325</sup> In 2005, the Ministry of Women's Affairs commissioned Professor Busch and Dr Robertson to conduct a year long study on protection orders. This report is due for release early 2007. Dr Robertson states:<sup>326</sup>

There is a reasonably widespread belief that the orders are not necessarily providing protection. That is, they are being breached and the enforcement of them is not effective.

Pursuant to section 60 of the Care of Children Act 2004 (COCA), the Court cannot order day to day care or unsupervised contact if there are allegations of, or there has been, the occurrence of violence against the child or a child of the family, or against the other party (such as the mother) to the proceedings, unless the Court is satisfied as to the child's safety. Violence is defined in section 58 COCA 2004 as 'physical or sexual abuse'. However, in *Fielder v Hubbard* [1996] NZFLR 769 the Court held that psychological abuse can be read into the meaning of section 58 COCA 2004. But

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<sup>325</sup>Collins, S "Faith in Protection Orders wane" *The NZ Herald*, 20 October 2005, A5.

<sup>326</sup>Ibid.

for those judges who arguably, want to have abusive fathers see their children (in the children's best interests of course), they tend not to follow *Fielder v Hubbard* and stick to a far more literal reading of section 58 COCA 2004. This seems to be a real narrowing of Principle 5(e) of COCA 2004 which states "the child's safety must be protected, and in particular, he or she must be protected from all forms of violence (whether by members of his or her family, family group, whanau, hapu, or iwi or by other persons)".

Matters relevant to a child's safety are set out in section 61 COCA 2004. These matters include the nature and seriousness of the violence, how recent and how frequent the violence was, the likelihood that further violence will occur, the physical or emotional harm caused to the child by the violence, and any views the child expresses on the matter.

Section 6 COCA 2004 further provides that in matters of guardianship, day to day care or contact a child must be given reasonable opportunities to express views on matters affecting them and those views must be taken into account.

To progress further the legislative acknowledgment of the co-occurrence of domestic violence and child abuse the author contends that section 58 COCA 2004 needs to include psychological abuse, as a form of violence, to bring it in line with the DVA 1995 provisions of section 3. This is because if the mother is beaten up, that violence works – but if the child witnesses the threatening of the mother or the denigrating of the mother, then that violence, in a literal reading of section 58 COCA 2004, would be irrelevant. In this way, it is a much narrower provision than section 3 of the DVA 1995.

The author also contends that neglect to a child also needs to be read into the section 58 COCA 2004 definition of violence. That is, the Court would not be able to order day to day care or unsupervised contact if there were allegations of violence and/or neglect, or there has been the occurrence of violence and/or neglect against the child/children. Neglect is the failure/omission of the parent/caregiver to provide adequately for their child/children. At present neglect would only be considered by the Court if they felt the neglect was such that it was satisfied there was a real risk to

the child's safety (per section 60(6) COCA 2004). However, for neglect to be considered a real risk the Court would want solid evidence, versus just differences in standards of living between the separated parents.

Yet, neglect, as pointed out in section 1.3.4 of this paper, can have a detrimental impact on children. Further, neglect can take many forms, such as emotional neglect. Emotional neglect is often very evident where there has been the co-occurrence of domestic violence and child abuse. For instance, children may be left to their own devices because mum is too unwell (if partner has beaten her up) to look after them/spend time with them. A mum may not be able to provide the children satisfactory nourishment because the mum may turn to alcohol and drugs to dull her emotional pain, turmoil and hurt. Thus there may not be enough money to spend on kids clothing, schooling and food. Also, mum may be emotionally needy so she can become reliant on her children for that emotional fill. This can lead to the situation where children may take up responsibility beyond their natural years (a form of emotional abuse in itself).

Lila Jones, HAIP, reports that the above scenarios are ones that the women who attend the programmes at HAIP often talk about.<sup>327</sup> In addition, Jones has observed that women who are abused over a long period of time can (and perhaps justifiably) become angry about their situation. This then can lead to a mum lashing out at her children unintentionally, a form of misdirected anger against a safe target (especially given section 59 Crimes Act 1961, as discussed in section 3.2). Thus, the author contends do children actually end up being in a safer and more stable environment, than before their father/mum's partner left? Perhaps the children are no longer having to see their mum being hit by their dad/mum's partner, but now they may suffer other forms of abuse – neglect, and possible physical abuse, if mum takes her anger out, albeit unintentionally, on them. Nonetheless, some women do really well when the abusing partner is out of their lives. For instance, Lenore Walker's research showed that mothering, more often than not, got much better when the abuser was removed.<sup>328</sup>

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<sup>327</sup> Lila Jones, Project Coordinator, HAIP, Interview Notes, October 2006.

<sup>328</sup> Walker, L E *The Battered Woman Syndrome* (1984).

*P C N v J C F* (2005) 24 FRNZ 660 was a case which involved section 16B of the Guardianship Act 1968 (allegations of violence made in custody or access proceedings). Section 16B is now sections 60 and 61 of the COCA 2004. The two children, at the time of this case, were 10 years old (M) and 6 years old (P). Judge Johnstone stated:<sup>329</sup>

Without going into every incidence of violence between the parties the evidence is overwhelming that the violence used by Mr N against Ms F was serious. It was cruel, harsh and brutal without regard to the consequences for Ms F..... The assault using the car as a weapon was potentially lethal.....on that occasion Mr N had punched Ms F in the face and pushed her over and kicked her in the leg 3 times. To escape him she crawled under a van. Mr N reversed his car in an attempt to run Ms F over.....the children, were in the car when Mr N ran Ms F down with it.

In her affidavit Ms F stated:<sup>330</sup>

I don't think it is right that the kids should miss out on a relationship with me because of the terrible relationship between [P] and me. The things that they have witnessed and the picture they have of me as a victim and a battered woman are terrible. I hope that they can have the opportunity to see me now and see what a difference it makes not living with [P]. I want to be part of their lives and for it be a positive thing for them.

The children had been in Mr N's actual care since July 2003, even though Ms F had obtained a custody order in March 2000. In her affidavit Ms F said:<sup>331</sup>

I was so stressed, and I had started to lose my hair and got shingles. Mr N had threatened in the past that if I every left I would never get the children. I took time wandering what to do. I was scared of [P] that it has taken me a long time to be strong enough to get my children back. I am afraid for their safety while they are with him....he made an application for the custody of the kids in July 2003, I started to defend it but I didn't have the strength or ability to see it through.

Mr N's evidence for this case included that having the children had given him the strength to remain non-violent and sober. Mr N had completed three living without violence programmes – but he said he found it difficult in the group programmes to relate to other persons attending the programme or to be open during any of the sessions.<sup>332</sup>

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<sup>329</sup> *P C N v J C F* (2005) 24 FRNZ 660 at paragraphs 19 and 40.

<sup>330</sup> *Ibid*, paragraph 40.

<sup>331</sup> *Ibid*, paragraph 49.

<sup>332</sup> *Ibid*, paragraph 61.

The children's lawyer in her report stated:<sup>333</sup>

M and P present as polite, well-behaved children. What is immediately obvious is that M is holding something in. He has witnessed horrific violence in his home and now lives in fear that it may happen to him or it may occur with someone else. P presents as much more open and confident than M and she expressed the wish to stay with her father in both interviews. That appears to be based partly on her affection for her father and her feeling that he loves and cares for her.

The Courts decision was that Ms F was granted interim custody orders and Mr N was granted interim access, that is, unsupervised contact.<sup>334</sup> Specialist counselling was ordered for the parties and for the children. For Mr N the counselling was ordered to assist him to remain violence-free and to gain insight into the effects of his past violence on the children and his role in now making the children feel safe in his care. The Court also noted Ms F continued to have a protection order and the children were included in that order.<sup>335</sup>

The author has used this case to demonstrate the complexities the Judiciary has to deal with in their decisions regarding the safety and welfare of children in day to day care and contact matters. This case is certainly not unique in nature and is of the kind that the Courts are increasingly finding that they have to address. Families are complicated and there is a balancing act that the Court has to juggle with in order that justice is evident for all the parties in the proceedings. The author does not agree with Judge Johnston's decision in regards to the day to day care and contact arrangements. Arguably, the focus of the decision should have been more weighted towards the children. The author maintains the father's contact should have been supervised and that the day to day care awarded to the mother needed to be wrapped around with support services and some form of 'home visitation' monitoring/oversight. That is, the 'support services' ordered needed to go beyond just 'counselling'.

The National Council of Juvenile and Family Court Judges (NCJFCJ), United States, suggested that the child protection service, domestic violence agencies, juvenile courts and community-based services should design inter-agency or collaborative interventions to achieve three outcomes for women and their children. These

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<sup>333</sup> Ibid, paragraphs 54 and 55.

<sup>334</sup> Ibid, paragraph 88.

<sup>335</sup> Ibid, paragraph 88.

outcomes are to create safety for the women and children, to enhance the well-being of the women and children, and to provide stability for children and families. In particular, the Judges recommended that the courts try and keep children affected by maltreatment and domestic violence in the care of their non-offending parent (usually the mother) wherever possible.<sup>336</sup>

Like the NCJFCJ, United States, Jones (HAIP) believes you can't separate mothers (who have been abused by their partner/spouse) from the children. Jones maintains that removing children from the home is not the answer.<sup>337</sup> She argues "Mum then has to 'jump through hoops' to get the children back (from CYF) when she has already gone through enough with the violence, so she can end up being re-victimised."<sup>338</sup> Yet, the author contends, what about the children? Arguably, it is much better for the child/children that they no longer have to witness the spousal domestic violence. But what also needs to be taken into consideration is the possibility of neglect, which as earlier outlined may occur and/or the possibility of the child/children living in fear of the violence eventually happening to them, as evidenced by M's fears in the above case.

Further, in *Williams v Scoppette*, United States (2002)<sup>339</sup> the Supreme Court held that it could not be a prima facie practice that Child Protection Services remove a child/children from women who were being abused. Instead, Child Protection Services had to show that the child was actually being abused/neglected by the mother.<sup>340</sup>

The author concludes that the section 58 COCA 2004 definition of violence should be extended to psychological abuse (so that it includes child witnesses) and that the Judiciary should, in considering section 60 and 61 matters, take in an acknowledgement of neglect. But this acknowledgment should not be such that the non-abusing parent becomes viewed by the court as a perpetrator, as opposed to the

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<sup>336</sup> Schechter, S and Edieson, J *Effective Intervention in Domestic Violence and Child Maltreatment Cases: Guidelines for Policy and Practice* 1998 Recommendations from The National Council of Juvenile and Family Court Judges, Family Violence Department, Nevada  
<<http://www.mincava.umn.edu/documents/wingsp/wingsp.html>> 8 and 9.

<sup>337</sup> Lila Jones, Project Coordinator, HAIP, Interview Notes, October 2006.

<sup>338</sup> Ibid.

<sup>339</sup> *Nat Williams et al. against Nicholas Scoppette et al.* 2002 (United States)

<<http://www.gate.net/~liz/liz/order-020301.pdf>>.

<sup>340</sup> Ibid.

victim. It is simply the author's contention that if the children are to be placed with their mum, where there has been spousal domestic violence in the household, then there needs to be mandated, or the assurance of, wrap-around support services being put in place around the children so that the possibility that neglect, and in some instances physical abuse, may occur is significantly reduced.

Section 29 DVA 1995 mandates that when a protection order is issued, the applicant may request a Registrar to authorise the provision of a programme to the applicant and/or child of the applicant. The author believes that such programmes should be mandatory for the applicant and her children to attend, as they are for the respondent to attend (per section 32 DVA 1995). Additionally, it needs to be mandated that the applicant be able to access support services, such as respite care, as they work through the emotional issues of the separation/situation. Such provisions as suggested would show a greater legislative acknowledgment of the co-occurrence of domestic violence and child abuse.

However, it is important to note that the distinction between the respondent and protected person is that he (which usually it is) is an abuser. Thus, the focus needs to be on empowering the woman, not forcing her to do things, which mandatory provisions may end up doing. One of the domestic violence programme facilitators at HAIP, interviewed for this thesis, affirms that the journey out of violence for a woman has to be an empowering process. What the facilitator has observed, more often than not, is it is the woman's desire of not wanting her children to "travel the road she has" which gives her the motivation to find a place of recovery and healing for herself and her children – but that journey takes time.<sup>341</sup> It is in this 'time' particularly, the author moots, that the children's needs must be at the forefront because the child/children may feel that they have to suffer the emotional weight of their mother going through this journey. This is evidenced by the story of a 12 year USA young woman:<sup>342</sup>

When I was eight I hated my Mom. She made us leave our house, my friends, my school and move to a dumb apartment. I couldn't see my Dad for a few months either. My Mom kept saying "I want you and your brother to be safe.

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<sup>341</sup> Non-Maori Women's Counsellor, HAIP, Interview Notes, October 2006.

<sup>342</sup> Schechter, *supra* n336 at 8.

It's my responsibility to keep us safe. Your Dad has a problem. I need to be safe." Boy was I mad at her, I hated her for months. I'm a lot older now. I think my Mom did the right thing when she left. My Dad was pretty scary for a while. Not many people understand my Mom and it hurts her. Sometimes she seems really lonely. But I think I understand. Last month in school I wrote a paper about my Mom. I called her a brave lady. I wish other people would.

### **3.4 Recommendation 4:**

#### **Legislate for a Stronger Interventionist Approach to Child Protection, but outworked at an Exosystem Level**

Arguably, the Children Young Persons and Their Families Act 1989 (CYPF Act) and the Domestic Violence Act 1995 (DVA) have taken two contrasting approaches to care and protection issues affecting children and as such this means there is a challenge facing the courts to balance these conflicting expectations.

The objects of the CYPF Act 1989 (section 4) strongly emphasise parents, families, whanau, hapu, iwi (the 'family') should be assisted to discharge their responsibilities to prevent children suffering harm, ill treatment, abuse, neglect or deprivation and to provide direct assistance to children towards those needs. The general principles of the CYPF Act 1989 (section 5) require that wherever possible a child's 'family' should participate in the making of decisions affecting that child and wherever possible regard must be had to their views. Essentially, the ethos of the CYPF Act 1989 is that the well-being of children, except in exceptional circumstances, lies with their families and that when intervention is required it is the family itself who are best placed to make decisions about children.

There is a further principle in section 5 CYPF Act 1989 that states wherever possible the relationship between a child and their 'family' should be maintained and strengthened, but this has to be considered in relation to the welfare of the child and the stability of the child's 'family'. Section 6 CYPF Act provides that "the welfare and interests of the child/young person should be the first and paramount consideration". Section 14 CYPF Act 1989, which sets out the definitions of when a child is in need of care and protection, includes when a child has been, or is likely to be abuse or neglected. It is noteworthy that the definitions under section 14 are not

limited to situations conventionally categorised as “child abuse.” The definitions also refer to the developmental wellbeing of a child (physical, mental and emotional wellbeing) as a defining characteristic of a child in need of the CYPF Act’s protection. The author moots this definition suggests therefore that the role of a Care and Protection Service is suppose to be more than a reactive one on behalf of the child who presents with obvious symptoms of abuse.

Under sections 28 to 34 of the CYPF Act 1989, the Family Group Conference (FGC) is an essential part of the aforementioned decision making process. In Family Court cases the FGC is an essential statutory step to be taken before the Family Court has jurisdiction to intervene at all, save in an emergency situation where a child must be uplifted urgently. The purpose of the FGC is to consider whether or not the child is in need of care and protection, pursuant to section 14 of the CYPF Act, and if so to make decisions and recommendations and formulate plans (a family/whanau agreement) as to what should be done

In contrast to the CYPF Act 1989 which has an empowered family-centred approach, the DVA 1995 is strongly interventionist. For example, as discussed in section 3.3 of this paper, under the DVA 1995, a protection order in favour of a parent extends to children in the household. In effect, this can sever a parent’s contact with a child until, and if, matters, in regard to day to day care and contact are decided pursuant to the Care of Children Act 2004 (COCA). The DVA 1995 clearly places the safety of the child ahead of maintaining family relationships and the author argues that this is the more correct approach.

However, in regards to care and protection issues which involve child abuse and neglect the author maintains such issues cannot always be adequately addressed by a FGC. The law needs to actively promote that the right of a child not to be abused and neglected is paramount. If that means some family connections may be severed or damaged as a result, then so be it. For example, the review of the involvement of

CYF into the death of Kelly Gush (age 12), who was murdered by her mother's partner Darren Mackness in August 2002, found:<sup>343</sup>

A striking feature of this case is the loss of child focus. Some of the focus appears to have been lost because of the behaviours firstly from the father and then from Darren Mackness. The children's needs were initially considered and the Family/Whanau Agreement reflected this but predominately the focus was on the adults' needs.....In cases like this, where adults are being supported to care for their children, adult issues and deflective behaviour can cloud the focus on children.

Thus, the author argues a strong interventionist approach is necessary because child abuse has significant and lasting consequences, as outlined in section 1.5 of this thesis. Additionally, NZ's record of child abuse and neglect is not improving which is an indicator that FGC's are not necessarily stopping the likelihood that a child is going to be placed back in an environment where they will face the risk of abuse and neglect again. Charles Waldergrave<sup>344</sup> maintains that NZ's Anglo-American model of child protection is based on the adversarial legal approach, where the social worker's focus is on removing the child from potentially harmful family situations and gathering evidence for legal proceedings.<sup>345</sup> Instead, Waldergrave advocates the Continental European model of family services which is focussed on maintaining the family unit wherever possible, and the social workers work with families to sort out the problems.<sup>346</sup> This model uses the inquisitorial legal approach, where specially trained judges lead teams of social workers to help the child/children by enabling changes in family circumstances to equip parents to meet their obligations to children.<sup>347</sup>

The introduction of the Differential Response Model (DRM), as discussed in section 2.2.8.3, is arguably a first step in separating out the 'heavy hand' of the state from the support and help people need in raising their children. Differential Response Models (sometimes referred to as Alternative Response Models or Multi-Track Systems) have been implemented in jurisdictions in the United States, Australia and Alberta,

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<sup>343</sup> Office of the Chief Social Worker, Child, Youth and Family *Review of the Involvement of the Department of Child, Youth and Family Services with Kelly Paula Gush* (December 2003).

<sup>344</sup> Social Policy Research Unit, The Family Centre, Lower Hutt.

<sup>345</sup> Waldergrave, C "Contrasting National Jurisdictional and Welfare Responses of Violence to Children" Social Policy Research Unit, Family Centre, Lower Hutt (March 2006) *Social Policy Journal of New Zealand*, Issue 27, 57.

<sup>346</sup> *Ibid*, 58.

<sup>347</sup> *Ibid*, 60.

Canada.<sup>348</sup> These models include a range of potential response options customised to suit the diverse needs of families who are reported to the statutory child protection agency. There is usually an investigative track for high risk cases and an alternative “assessment” or “community” track for less urgent cases. For less urgent cases the focus of intervention is on brokering and co-ordinating other community services to address the short and long term needs of children and their families.<sup>349</sup> Thus, the author moots, a DRM is an example of an interventionist approach into families which has an empowering rather than obtrusive focus. However, a DRM depends on having accessible and effective resources that can meet the needs of the families and their children that will be referred to them.

The author acknowledges, that there is such a fine line between keeping an abused child in their family/extended family, with a family agreement in place and social workers support, versus the coercive power of the state removing the child from the family and in doing so, arguably hindering, rather than helping families to find solutions. A recent newspaper article about a British Social Worker who came to work for CYF and has since resigned, illustrates this point. The social worker said:<sup>350</sup>

On my first day, the service manager informed me the job was more like being in the police than being a social worker.....I did an uplift last week with a social worker who tried to push away the mother cuddling her child where the child was having to be removed.....Yet regardless of what the parents might have done, you to need to work with them and not against them.....we are creating an underclass because we are letting these children down. When we do intervene we are not providing a better alternative.

In conclusion, the author recommends that a strong interventionist approach is vital but that such an approach is best outworked at an exosystem level. That is, a multi-disciplinary, inter-sectoral community-based response through an ‘interventionist’ community-based care and protection agency such as Parentline. Maxine Hodgson, founder of Parentline states:<sup>351</sup>

If only government paid attention to well run centres at neighbourhood level and made them more available in more places. How different our shameful statistics might be.

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<sup>348</sup> Trome, N Knoke, D and Roy, C (eds) *Community Collaboration and Differential Response: Canadian and international research and emerging models of practice* Summary of the Book <<http://www.cecw-cepb.ca/Pubs/PubsPolicy.shtml>>.

<sup>349</sup> *Ibid*, vii.

<sup>350</sup> Collins, S “Understanding the underclass” *The NZ Herald*, 3 February 2007, B5.

<sup>351</sup> Chamberlain, *supra* n13 at 47.

Also, the introduction of a Children's Centre in every community (as will be discussed in section 3.16 of this thesis) is another example of where parents/caregivers who have abused, or who are at risk of abusing their children, can be mandated to attend in order to learn how to better support and nurture their children. Rather than the alternative of having the children removed by the statutory protection agency to another home. Further, Louise Belcher (Papakura East Family Service Centre, Auckland) is in the process of devising a new scheme which she sees has the potential to stop abused children being further destabilised by being taken from their homes. Belcher believes.<sup>352</sup>

It is parents that should be removed to retreat centres where they can learn about good parenting, while their children are cared for at home.

### **3.5 Recommendation 5:**

#### **NZ's Statutory Protection Agency: Child Youth and Family – Address Investigation Processes and Pressures**

Pursuant to section 17 of the Children Young Persons and Their Families Act 1989 (CYPF Act):

where any Social Worker or member of the Police receives a report pursuant to section 15 of this Act relating to a child or young person, that Social Worker or member of the Police shall, as soon as practicable after receiving the report, undertake or arrange for the undertaking of such investigation as may be necessary or desirable into the matters contained in the report and shall, as soon as practicable after the investigation has commenced, consult with a Care and Protection Resource Panel in relation to the investigation.

Section 17 CYPF Act 1989 means that CYF Social Workers and the Police must 'as soon as practicable after receiving the child abuse notification' start the investigation process. CYF protocols rate notifications as critical (same day, immediate protection required), very urgent (day of notification + 1 day, immediate investigation required), urgent (with 7 days, investigation required) and low urgency (within 28 days, exploratory interview required).<sup>353</sup> In particular, the 28 days for non-urgent cases are those situations where the child or young person has not been abused or neglected but the reported situation may impact on the well-being of the child or young person.

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<sup>352</sup> Chamberlain, *supra* n13 at 48.

<sup>353</sup> CYF Protocols obtained from Margaret Evelyn, CYF Community Liaison Officer, Interview Notes, October 2006.

This includes such matters as behaviour problems or relationship difficulties which do not constitute abuse, neglect or self harm.

Figures released at the end of December 2006 show dozens of children who are suspected of being abused have waited far longer than the 7 days that CYF say is acceptable, per their protocols, for urgent cases.<sup>354</sup> Urgent cases refer to children who are alleged to have been abuse or neglected, but who are considered safe from further harm because they are in the care of a protective adult. As at the end of October 2006, there were 419 urgent cases notified that month that remained unallocated. In addition, another 146 cases from September, 68 from August, 26 from July and one from June had also not been assigned to social workers as at the end of October 2006.<sup>355</sup> Further, as at April 2006, the national average for a notified case to be activated was 16.4 days, but in sites where there was a lack of personnel, such as Nelson, the average was up to 23.3 days.<sup>356</sup>

In 2006, James Mansell, Senior Analyst CYF, researched the surge in rates of notification to CYF and looked into the underlying dynamics driving the surge. His research showed that the CYF system is unstable because of the conflicting demands of the tasks that are being undertaken. Mansell reported:<sup>357</sup>

High-stakes, risk-screening decisions are made under conditions of uncertainty. This is exacerbated when the pressures to improve performances (“avoid critical incidents”, “manage demand”, “avoid hurting innocent families”) place conflicting demands on all stakeholders within the child protection system.....most of the departmental performance indicators understandably (given the public pressure about missed cases) tend to focus only on response times to notifications and the number of unallocated notifications awaiting a social worker. This is unbalanced as it manages only one side of the risk equation.

The author purports that there is much national angst against Child, Youth and Family, as New Zealand’s statutory protection agency. This angst is evident from

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<sup>354</sup> NZPA “National accuses Government over backlog of child abuse cases” *The NZ Herald*, 4 January 2007, A6.

<sup>355</sup> Ibid.

<sup>356</sup> Murdoch, H “Nelson office slowest in NZ to respond to child abuse reports” *The Press*, 18 April 2006, A5.

<sup>357</sup> Mansell, J “Stabilisation of the Statutory Child Protection Response: Managing to a Specified Level of Risk Assurance” *Social Policy Journal of New Zealand*, Issue 28, July 2006 <<http://www.msd.govt.nz/publications/journal/28-july-2006/28-pages77-93.html>>.

both the public and from those working at the ‘coalface’ within child abuse prevention/ child protection agencies/organisations. A current example of the public dismay at CYF’s poor response times and notification outcomes can be seen by the ‘hall of shame’ web log that has recently gone on line. This web log gives the personal details of some CYF social workers who people felt have treated them unfairly, resulting in poor outcomes for the children involved.<sup>358</sup> Subsequently, CYF Chief Executive Peter Hughes responded to this web log by saying:<sup>359</sup>

Our social workers deal daily with danger, violence, emotion, anger, substance abuse and poverty. They make critical life decisions in high-risk situations, often under extreme time pressure. CYF is working with the Police and we instructed lawyers to do whatever is necessary to get rid of the website.

The author contends that a web log is not necessarily an appropriate forum for the public to put forward their views on CYF response times and notification outcomes. In particular, that it is inappropriate to reveal the personal details of the social workers. However, the author argues, the current frustration level nationally with CYF is rising to a head and those who have contributed to the web log feel that it is the only way that their concerns can be voiced.<sup>360</sup>

In addition, the response above from the Chief Executive CYF, citing time pressures and risk thresholds as conditions under which CYF Social Workers function, raises the question of what is being done at a legislative/policy to address those conditions? Conditions which arguably have shown only minimal improvement over the years, as evidenced by the late Laurie O’Reilly’s (former NZ Children’s Commissioner) comments, 10 years ago, to a Family Courts Association Conference in 1997. O’Reilly said:<sup>361</sup>

Last week I was described by the General Manager of CYF as naïve and discourteous for suggesting that frontline social workers were angry and frustrated because of the under-funding of the Service. I suggested that we needed to ask the question “Are social workers able to practise their social work profession?” I said the Service was now largely an assessment and referral service with a crisis intervention approach. I suggested that we get back to early identification and intervention, that we should resource and empower social workers to work with children and families to effect change.

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<sup>358</sup> NZPA “CYF Bashing Website still online” *Waikato Times*, 24 January 2007, A6.

<sup>359</sup> *Ibid.*

<sup>360</sup> *Ibid.*

<sup>361</sup> O’Reilly L “Look Back – Step forward: everyone an advocate for children” (1998) 2 BFLJ 213.

Indeed, has much changed at all over the 10 years? Judge Brown's Report on CYF (2000) also drew the conclusions that O'Reilly did. Namely that CYF was seriously under-resourced and demoralised, it had difficulties with recruitment and retention, staff had varied social work skills and there was inadequate supervision of staff.<sup>362</sup>

A CYF *First Principles Baseline Review* was carried out in 2003 and drew (again) the same results as previous reports:<sup>363</sup>

The Department has been under pressure to minimise the number of unallocated cases and improve the timeliness of investigations. In response, practice tends to focus more on managing critical incidents than on ongoing case management.

As a result, children are not only at risk of being abused by parents/caregivers but also are at risk of suffering institutional abuse because of the deficiencies in the current statutory protection system. As poignantly stated by Dorothy Scott:<sup>364</sup>

Most child protection services, in countries such as Australia and New Zealand, have become demoralised, investigation-driven, bureaucracies which trawl through an escalating numbers of low income families to find a small minority of cases in which statutory intervention is necessary and justifiable, leaving enormous damage in their wake. The point has been reached in many places where we are exceeding the use of the State's coercive powers to protect children without causing them further harm.

Of mention, is also the fact that the majority of the interviewees for this thesis spoke at one point (and in some cases various points) during their interview about the frustrations they have encountered with CYF. In particular, the concerns stated were that there are inconsistencies in decisions across CYF sites, there is a lack of experienced and knowledgeable statutory social workers and there are long waits experienced when a notification of alleged child abuse has been made to CYF. Interestingly, the author did not have a specific question in the interview that related to CYF - interviewees raised this matter themselves. Further the author, as a national

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<sup>362</sup> Brown, supra n62 at 5.

<sup>363</sup> Department of Child, Youth and Family Services *First Principles Baseline Review* A report to the Minister of Finance, Minister of Social Development and Employment, and Associate Minister of Social Development and Employment, 5 September 2003, Wellington, 2.

<sup>364</sup> Scott, D *Sowing the Seeds of Innovation in Child Protection* Blossoming of Our Children 10<sup>th</sup> Australasian Conference on Child Abuse and Neglect, 14 to 16 February 2006. <<http://www.nzfvc.org.nz/acan/spekaers/smith.shtml>>.

child protection trainer with Children Protection Studies (CPS), has also time and time again encountered this said criticism of and frustration with CYF from course participants and course guest speakers.

It is not the purpose of this thesis to expand further on the seemingly growing loss of confidence, both from the public and professionals, in NZ's statutory protection system. Nevertheless, it is a concern that the criticism and frustration is not being addressed pro-actively at a Government level. The use of the Differential Response Model is a promising tool to address the timeframes in which child abuse is being responded. However, like the United Kingdom has pursuant to their Children Act 2004, the author also advocates that the CYPF Act 1989 (and not just the CYF protocols) should specify timeframes for actions to be taken by the various professionals involved in statutory child protection cases.

CYF Community Liaison Officer, Margaret Evelyn, who was interviewed for this thesis, commented that people often forget that CYF just deals with sexual abuse and extreme physical abuse and neglect – “that is what the personnel and funding can cover”. Thus, what can be concluded here is that, more often than not, it is the absence of sufficient resources that can hinder the most appropriate and timely interventions that a child's situation may demand. This can then lead to a reactive approach being implemented, as opposed to a pro-active one. This point is also reinforced by Marie Connolly in her research on *Statutory Responses to Children at Risk*. Connolly states:<sup>365</sup>

Research consistently identifies a number of factors that have the potential to compromise good child welfare practice and outcomes for children within systems of statutory care. These include the high demand for services, heavy caseload, low levels of staff training and support and lack of resources.

Interestingly, Connolly was the Director of the Te Awatea Violence Research Centre, University of Canterbury when her research was done. Connolly is now the Chief Social Worker for CYF. So significantly, as Evelyn's comment and Connolly's research implies, there needs to be a government commitment to providing the funding and personnel to be able to adhere to mooted mandatory timeframes and to

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<sup>365</sup> Connolly, supra n63 at 73.

improve the consistency and reliability of the nation's statutory child protection agency.

### **3.6 Recommendation 6:**

#### **Make the Office for the Commissioner for Children an Independent Body**

One of the purposes of the Children's Commissioner Act 2003 was to confer additional functions and powers on the Commissioner to give better effect in New Zealand to the United Nations Convention on the Rights of the Child 1989 (CRC).

In Sweden, the first Children's Ombudsman was appointed in 1993. The main duty of the Ombudsman is to promote the rights and interests of children and young people as set forth in the CRC. The Ombudsman's Office monitors and promotes the implementation of the Convention by all levels of government, and is advised by several childrens' councils and youth council, among a wide range of advisors.<sup>366</sup>

In the United Kingdom, the Children Act 2004 provided for a Children's Commissioner. In March 2005, the first Children's Commissioner was appointed, to give children and young people a voice in government and in public life. The primary task of the Commissioner is to represent the views and interests of children, rather than safeguard their rights. Carolyn Willow, co-ordinator of the Children's Rights Alliance for England said:<sup>367</sup>

We're extremely depressed that in 2004 we have a government that cannot bear to have legislation for a children's commissioner that has any reference to safeguarding childrens' rights.

Drawing from these two international examples, the author believes that the NZ Commissioner for Children is not a strong enough position. Instead the NZ Commissioner for Children should be an independent body, similar to the Banking Ombudsman. In this way, the Commissioner would not be 'censored' as they are arguably at present, because they are under the umbrella/ambit of the Ministry of

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<sup>366</sup> Durrant, J *From Mopping Up The Damage to Preventing The Flood: The Role of Social Policy in Preventing Violence Against Children* Blossoming of Our Children 10<sup>th</sup> Australasian Conference on Child Abuse and Neglect, 14 to 16 February 2006 <<http://www.nzfvc.org.nz/accan/papers-presentations/abstact117v.shtml?>> 6.

<sup>367</sup> Mensaid, Review of the Children Act 2004, <[www.mensaid.com/fl-childrenact2004.html](http://www.mensaid.com/fl-childrenact2004.html)>.

Social Development. The role of the NZ Commissioner for Children would be to ensure the rights of children are safeguarded. In particular, like the Swedish Children's Ombudsman does, one of the tasks of the NZ Commissioner for Children would be to monitor and promote the implementation of the CRC 1989 by all levels of government. This delegated authority the author contends would provide more accountability that the government will turn its talk on child abuse prevention into action. Something the government is failing to do at this time.

### **3.7 Recommendation 7: Progress further the Acknowledgement of Childrens' Rights in Legislation and Policy**

In New Zealand, it is arguable whether current legislation and public policy adequately protects and fulfils children's rights including a right to an adequate standard of living, a right to education and a right to safety. But more than this, the author believes a childrens' rights paradigm is one which advocates the right of children to be asked about their experiences, to be listened and responded to, to be protected from violence (especially from those closest to them), and to be provided with good quality services.

The Treaty of Waitangi Act 1975 provides for the observance, and confirmation, of the principles of the Treaty of Waitangi by establishing a Tribunal to make recommendations on claims relating to the practical application of the Treaty and to determine whether certain matters are inconsistent with the principles of the Treaty. As a result of this Act, 22 years later, the principles of the Treaty of Waitangi – participation, partnership and protection – are now firmly embedded within a large amount of NZ legislation and also public policy documents and guidelines. For example, Action Area 5 of *Te Rito* involves the development and implementation of a specific plan of action for preventing violence in Maori communities, based on consultation with whanau, hapu and iwi.<sup>368</sup>

Drawing on the Treaty of Waitangi as an analogy, the author moots that within the ambit of the purposes of the Children's Commissioner Act 2003 (CCA) there should

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<sup>368</sup> *Te Rito*, supra n44 at 26.

be a provision for the Office of the Children's Commissioner to be able to make recommendations on matters relating to the practical (and not just theoretical) application of the principles of the CRC 1989. The Commissioner also needs to monitor whether legislation and public policy is inconsistent with the principles of the Convention.

Section 12 CCA 2003 outlines the general functions of the Commissioner which do include the function of the Commissioner to raise awareness and understanding of children's interests, rights and welfare. Nonetheless, the author contends that such a provision is not sufficient enough to progress childrens' rights being more firmly embedded in NZ legislation and public policy, analogous to how the Treaty of Waitangi principles are now within legislation/policy.

An example of where childrens' rights are embedded is the Care of Children Act 2004 (COCA). The COCA 2004 makes provisions for day to day care and contact matters when parents separate. The wording from the previous Act, which was the Guardianship Act 1968, has been changed from parental rights to childrens' rights and parental responsibilities. As stated by Ian Hassall,<sup>369</sup>

the provisions (*of the COCA 2004*) were more child-centred and more humane. They moved in the direction of an ecological view in that arrangements could take into account a greater range of family circumstances and possibilities for the child.

The COCA 2004 illustrates a commitment to the rights and well-being of the child being promoted in legislation. Such changes need to be further progressed in other NZ legislation and policy.

An international example of where children's rights are cemented within the country's legislative and social policy framework is in Sweden. In Sweden child poverty is considered unacceptable, violence against children is not tolerated and a single child's death is too many. Extensive family support is woven into the fabric of the society.<sup>370</sup> Joan Durrant, who has studied the case example of Sweden, reported:<sup>371</sup>

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<sup>369</sup> Hassall, *supra* n61 at 3.

<sup>370</sup> Durrant, *supra* n366 at 3.

<sup>371</sup> Durrant, *supra* n366 at 3. Joan Durrant is an Associate Professor of Family Social Sciences, University of Manitoba, Canada.

Child Policy is an explicitly identified area of Swedish government policy – the objective of child policy is that children and young people are to be respected and that policy is specifically based on the CRC. Further, children's rights to protection are also recognised in an array of Swedish laws and regulations that optimise their safety..... Sweden has also developed a 'Child Impact Assessment Tool' which must be conducted in the case of any government decision affecting children. The rationales, inter alia, for the assessment tool are to place the burden of proof on those who propose policies contrary to the child's best interests and to encourage decision makers to consider the child perspective seriously before a decisions are made.

What is clear from the Swedish example, which is one that New Zealand can learn from, is that Sweden have taken a proactive and supportive approach to children's rights in their legislation and policy, rather than a punitive or neglectful approach, to children/families facing challenges. It is not enough to just know that children's rights are important and that they are acknowledged in legislation/policy but that there also needs to be practical outcomes in extending and promoting children's rights. As poignantly stated by Gillian Calvert, NSW Commissioner for Children and Young People:<sup>372</sup>

Legislation, public policy and professional practice have many disparate drivers, and a UN Convention can seem a low priority in comparison. Therefore simply asserting children's rights is not enough. Genuine change in children's lives is more likely when advocates are strategic about the opportunities and methods they use to promote children's rights, such as involving children in shaping and implementing solutions. Thus, legislative change is not an end in itself, but it is an enabling tool.

### **3.8 Recommendation 8:**

#### **Establish a National Research Centre for the Prevention of Child Abuse and Establish a Child Abuse Registry**

##### 3.8.1 Collate, Evaluate and Monitor Child Abuse Prevention Measures

The author proposes that the establishment of a specialist National Research Centre for the Prevention of Child Abuse would progress NZ's commitment to reducing its child abuse rates. The Research Centre could develop and maintain a central register of the programmes available for the prevention of child abuse. This was a

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<sup>372</sup> Calvert, G *Using Children's Rights to Advocate for Strategic Change for Children and Young People Blossoming of Our Children* 10<sup>th</sup> Australasian Conference on Child Abuse and Neglect, 14 to 16 February 2006 <<http://www.nzfvc.org.nz/acan/speakers/calvert.shtml>>.

recommendation that was also stated in the Department of Community Health's report on *Research into Programmes to Prevent Intentional Injury and Violence to Children* (University of Auckland, 2000).<sup>373</sup> This report identified that there exists already a variety of programmes for the prevention of violence against children, but that the children and/or parents/caregivers that could benefit from such programmes were not always aware they were available and if available, then what was the purpose and outcomes for the programmes.<sup>374</sup> Further, the report recommended that:<sup>375</sup>

[t]here be more comprehensive evaluations of larger programmes, undertaken in partnership with experienced evaluators, to document changes on key outcomes of interest (ie reduction of violence against children, improving parenting skills etc).

The author moots that the Research Centre could be involved in an on-going evaluation and monitoring process/review of child abuse prevention initiatives, strategies, projects, measures and programmes. In this way, best practices could be established and rolled out in other areas of the country, rather than the 'wheel' being re-invented all the time and/or the same mistakes experienced by earlier efforts being made again. This need for the ongoing evaluation and monitoring of child abuse prevention measures and for collaborative research on child abuse and neglect were also conclusions drawn in 2.2.2 and 2.2.9 respectively of this paper as ways which would ensure the success of an ecological framework for child abuse prevention.

Additionally, Daro and Donnelly advocate that a new paradigm is needed for child abuse prevention research:<sup>376</sup>

We cannot rely simply on randomised trials. Those seeking to develop effective interventions desperately need to know a wide range of information – how families view the service they are being offered, why they accept a given service, why they do not, what other options do they see in their community to support them and how do they view their relationship with the service provider.....evaluation data needs to provide guidance as to the specific change mechanisms operating with specific families, under specific conditions. Such information can only be achieved through the careful application of differential assessment methods, including, but not limited to, randomised trials.

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<sup>373</sup> Fanslow, supra n181 at 3.

<sup>374</sup> Fanslow, supra n181 at 3.

<sup>375</sup> Fanslow, supra n181 at 3.

<sup>376</sup> Daro, D and Donnelly, A *Child Abuse Prevention: Accomplishments and Challenges* October 2003, <<http://www.mincava.umn.edu/library/articles/>> 16.

### 3.8.2 Establish a Child Protection Resources/Best Practice Website/Database

In October 2006, the New Zealand Family Violence Clearinghouse (NZFVC) launched on its website an online Good Practice Database. This database is designed to be a repository for examples of good practice documents and programmes relevant to family violence prevention in New Zealand.<sup>377</sup> The Good Practice Database is searchable by topic areas, such as 'child abuse and neglect', which makes it an excellent tool for the use of researchers and practitioners etc alike. However, the author argues, a dedicated website/database on child abuse and neglect/child protection would also be of benefit to counter the growing trend of child abuse being subsumed under family violence initiatives/strategies. An example of such a database is 'Inform'. 'Inform' is a UK free, online, specialised child protection resource website for practitioners, researchers, trainers, policy-makers and other professionals working towards protecting children.<sup>378</sup> This website is a service of The National Society of Prevention of Cruelty of Children (NSPCC).

### 3.8.3 Establish a Child Abuse 'Deaths and Intentional Injuries' Register and a Child Abuse Registry

Another role of this proposed Research Centre could be to develop and maintain a Child Abuse 'Deaths and Intentional Injuries' Register. This Register would provide a more accurate picture, than is known now, in regards to child abuse rates, particularly of child physical abuse rates. This information could then be used to enable better co-ordination of protection and intervention measures for children who are physically abused.

Further, in the ISPCAN 2006 report it was concluded that specific child abuse policies were not always highly correlated with U5MR rates (Under 5 Mortality Rates). However, the maintenance of a child abuse registry and having a policy that established specific time frames for responding to child abuse (as discussed in section 3.5) were two policy options that did correlate significantly with lower child mortality

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<sup>377</sup> NZFVC Newsletter Volume 2, Issue 4, December 2006.

<sup>378</sup> Refer to <<http://www.nspcc.org.uk/inform>>.

rates.<sup>379</sup> Therefore, a further task of the mooted Research Centre could be to develop and maintain a Child Abuse Registry.

A number of overseas jurisdictions, such as Manitoba (Canada,) have a Child Abuse Registry (CAR). The purpose of the CAR is to help child and family services agencies protect children. Access to the registry is restricted and all names and information are confidential. However, under the Child and Family Services Act 1990 (Canada) a person may apply to see if their name is listed on the Registry.<sup>380</sup>

There are three ways a name may be listed on the Registry:<sup>381</sup>

a person found guilty or pleaded guilty to an offence involving the abuse of a child in a court either inside or outside of Manitoba; a family court has found a child to be “in need of protection” due to abuse; a child and family service agency’s Child Abuse Committee has reviewed the case and formed an opinion that a person has abused a child.

Inclusion in the CAR based on court decisions is final. But, where there has not been a court decision and a child abuse committee is considering that situation, the committee has a process to hear information from the alleged abuser. If the committee concludes the person has abused a child, it is required to notify the person of the intent to put them on the CAR. This notification period is followed by a 60 day waiting period in which the person may apply for a court hearing before his or her name may be entered in the Registry.<sup>382</sup>

CAR checks are also required for anyone who wants to provide work or services to children and families, from an adoption agency through to someone who wants to foster a child.<sup>383</sup> The author agrees with this approach that Canada has taken because it enables children to be protected from people who are child abusers. This measure is one that NZ could adopt because it strongly demonstrates the right of the child to be protected from abuse and neglect.

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<sup>379</sup> ISPCAN 2006 report, supra n171 at 8.

<sup>380</sup> Child Welfare in Canada 2000, refer to <[http:// www.hrsdc.gc.ca](http://www.hrsdc.gc.ca)>.

<sup>381</sup> Ibid.

<sup>382</sup> Ibid.

<sup>383</sup> Ibid.

### 3.9 **Recommendation 9:**

#### **Legislate for a Mandatory ‘Duty to Co-operate and Collaborate’**

Evident from the discussion and analysis in sections 2.2.7 and 2.2.8 of this thesis, is that multi-disciplinary approaches, in tandem with inter-sectoral co-ordination and collaboration, are a vital component of successful child abuse prevention initiatives/projects in NZ. Further, research conducted by Karen Dawson, about the co-ordination of services for sexually abused children, confirmed international findings that co-ordination leads to greater satisfaction with service delivery, improved quality of service, and increased effectiveness of intervention.<sup>384</sup>

Additionally, a mandated ‘duty to co-operate and collaborate’ across the ecological levels is one that is increasingly being seen in many countries as indispensable to the goal of reducing the incidences of child abuse. As stated in the recent report on the *Inspection of Child Protection Services in Northern Ireland* (December 2006):<sup>385</sup>

A multi-disciplinary, interagency approach to child protection work is essential. It is a difficult and complex area of work which requires a shared commitment, effective communication and a focus on achieving the best outcomes for children.

*Te Rito* was developed by a large group of government and non-government agencies working together in a partnership.<sup>386</sup> The collaborative working relationship that was established from the outset was seen as vital to the strategy’s successful development.<sup>387</sup> However four and half years on, there are constraints and challenges that the parties are seeking to overcome. Challenges for the government sector are identified as resource and time constraints; political dynamics; overcoming a history of distrust; identifying when and how to involve communities in policy development; and reconciling diverse perspectives.<sup>388</sup> Whereas the two key challenges to collaboration facing the NGO sector are viewed as how to ensure adequate representation (of both location and focus) and how to promote understanding and

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<sup>384</sup> Dawson, supra n223 at 5.

<sup>385</sup> Social Services Inspectorate *Our Children and Young People – Our Shared Responsibility* Inspection of Child Protection Services in Northern Ireland, Overview Report, December 2006 <<http://www.dhspni.gov.uk/oss-child-protection-overview.pdf>>.

<sup>386</sup> *Te Rito*, supra n44 at 3

<sup>387</sup> Maynard, K Wood, B “Tatou Tatou – Working Together: A Model for Government /Non-Government Collaboration” *Social Policy Journal of NZ*, Issue 18, June 2002, 79.

<sup>388</sup> *Ibid*, 84.

agreement between the various interest groups within the NGO sector.<sup>389</sup> As outlined in section 1.3.6, *Te Rito* has progressed well in some, but not in all, of the action areas, particularly those action areas related to child abuse per se. Thus, the author argues that the ability for government and non-government agencies to collaborate around child abuse prevention issues is lacking at this current time, though showing some improvement. Therefore a concerted effort from all parties needs to be continued.

A current example of a mandatory ‘duty to collaborate’ is demonstrated by the CYPF Act’s provisions on Care and Protection Resource Panels. Pursuant to Sections 428 to 432 of the CYPF Act, Care and Protection Resource Panels (CPRPs) are mandated to provide advice to CYF Social Workers, Care and Protection Co-ordinators (CPC) and members of the Police on the exercise or performance by such persons of the duties and powers imposed on them under Parts 2 and 3 of the CYPF Act. These powers and duties are that said persons have to investigate reports, made under section 15 of the CYPF Act, of ill-treatment or neglect of child or young person. The CPRPs consist of members from occupations and organisations (including voluntary and statutory organisations, cultural and community groups, government departments and government agencies) that are concerned with the care and protection of child and young persons. Thus, the panel is made up of members from different disciplines and different sectors of the ecological framework and as such this demonstrate a collaborative approach to child protection.

However, it must be noted that CPRPs are only mandated as an advisory committee. That is, CYF Social Workers, CPC’s and the Police do not have to follow the advice given as CPRPs do not have decision-making responsibilities. Secondly, each CPRP can regulate its own procedure. In 2003, a study was conducted with Care and Protection Co-ordinators across NZ as to their perspective of Care and Protection Resource Panels.<sup>390</sup> Some of the findings that are relevant to this present analysis are:<sup>391</sup>

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<sup>389</sup> Ibid, 88.

<sup>390</sup> Connolly, M *Consulting with Care and Protection Resource Panels: Co-ordinators’ Perspective* Te Awatea Review, Volume 3, No. 1, July 2005, 9.

<sup>391</sup> Ibid, 10-11.

Regionally the constituency and size of panels vary from one panel to another. Some panels are very large with a good range of professional representation, others struggle to reach a quorum and have limited professional and community representation. While some panels have a stable membership, others have a series of people moving through.....Some panels put a lot more into it than others, some have more resources than others, some give advice, some don't.....In the absence of meaningful dialogues, the consultation has the potential to become a “rubber stamping” exercise.

Thus, the author proposes that CPRPs should be uniformly regulated so that no matter what area of the country that a CPRP is meeting they follow the same procedures/guidelines. Further, given that this panel (normally of 8 to 10 people) is made up of specialists and experts in their fields who also have extensive knowledge and experience of child abuse prevention and child protection matters, then, CYF Social Workers, CRC's and the Police should have to follow the advice of the panel. As such, the author believes CPRPs should have statutory power or authority in decision-making.

Nevertheless, an obstacle to making such advice mandatory is that there may not then be the resources (funding and personnel) to carry out the suggested plan/advice put forward by the Panel. This is evidenced by the following comments of the current Chairperson of one of the Hamilton CPRPs. The Chairperson has been on the panel for 8 years and she believes the greatest challenge lies not in the decisions themselves, but in resources/funding issues. She states:<sup>392</sup>

[w]e may recommend that a child to be sent to, for example, a Parentline programme, but the difficulty is whether there is funding available to put the child on the programme and the answer can often be a 'no' or there is only enough dollars to send the child on a programme for a short amount of time, such as 6 sessions, - for some children, this would not be long enough. This results in children and families not necessarily being seen in a timely manner, plus it also takes time to get such things as psychological reports and parenting assessments done - again this is because there is not sufficient funding and personnel available. What tends to happen therefore is that the outcomes/decisions made for child in need of care and protection may get made in the best interests of funding, rather than in the best interests of child.

What can be also noted from the above comments is that the same message is coming through as discussed in section 2.2.3 of this thesis. Namely, there needs to be a legislative/policy commitment to a pool of non-contestable funding at an exosystem/

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<sup>392</sup> Chairperson, Hamilton Care and Protection Resource Panel, Interview Notes, January 2007.

community level. This is so that the collaboration and co-ordination of care and protection matters can be made in the best interests of the child, instead of based on what amount of funding is available. This issue in regards to funding is one that all countries have to grapple with. For example, the American Public Human Services Association report on *Funding Community Efforts to End Domestic Violence and Child Abuse* stated:<sup>393</sup>

With deficit spending on the rise and more budget cuts looming in our future, it is more important than ever to be creative in the way we work. By pooling resources and working in collaboration, we may accomplish more for the women and children you serve.

Further, in Australia in 2002, a review was carried out of service delivery to children/families by large multi service non-governmental providers (NGOs). The conclusions around funding issues were:<sup>394</sup>

some NGOs are actively promoting co-location of services because of savings in infrastructure and benefits for service integration (costs, however, are preventing many from co-locating and they are continuing to operate as sole entities); partnerships with other NGOs are also important, but can be problematic in the context of competitive funding and the key accountability issue for most of the NGOs is the burden of prescribed reporting to government and other funders.

An international example of a mandatory ‘Duty to Co-operate and Collaborate’ is found in section 10 of the United Kingdom’s Children Act 2004. Pursuant to the earlier Children Act 1989, Area Child Protection Committees (ACPCs) were established in each local Authority (District) to ensure co-ordination of services for children at risk of harm. However, the performances of these ACPCs tended to vary, in part due to resource issues – funding and personnel. The Children Act 2004 built on the earlier legislation and in section 10 requires Local Authorities (Councils) to promote co-operation among agencies and to develop partnerships with key organisations; a form of mandatory co-operation. Further, ACPCs have now been replaced by Local Safeguarding Children Boards which are required to safeguard and promote the welfare of children. This legislation means that there is an expectation

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<sup>393</sup>Trujillo, O and Test, G *Funding the Work: Community Efforts to End Domestic Violence and Child Abuse* American Public Health Services Association, 2001 <<http://www.thegreenbook.info>>.

<sup>394</sup>Barber, J *NGO Partnership Research Project: Integration of Service Delivery by Large Multi Service Non-Governmental Providers* Social Policy Research Centre, University of New South Wales, SPRC Report 4/02, Revised February 2002 <[http://www.sprc.unsw.edu.au/newreports/Report4\\_02.pdf](http://www.sprc.unsw.edu.au/newreports/Report4_02.pdf)> viii.

that government and non-government organisations will have funding and staff in place to participate in collaborative service delivery.

In Maxine Hodgson's<sup>395</sup> opinion, another way in which co-operation and collaboration could be progressed is that organisations which receive some form of government funding (whether that be NGOs, Doctors, Schools) should have in their contract that proof is required annually to show that they are liaising constantly with all associated groups around child protection (whether that be with a local NGO, such as Parentline, or a referral process through to say Catholic Social Services or a District Health Board's Child Development Centre). As such, what Hodgson is contending is that there should be legislative accountability/backing for co-ordination and collaboration.<sup>396</sup> The author agrees with this proposal.

### **3.10 Recommendation 10:**

#### **Legislate for Mandatory Child Protection Training**

On 12 January 2007 the New Zealand Teachers Council released its disciplinary decisions for 2006. The decisions were released exclusively to the Sunday Star Times and were from cases which have been determined by the disciplinary tribunal since its formation 14 months ago.<sup>397</sup> One of the decisions was in relation to a boss at a childcare centre where young children were force-fed, smacked and ignored for long periods when they cried. The Teachers Council decision was that this person could continue to teach. Chairperson of the Council, Joanne Beresford, said the tribunal heard all the facts, cross-examinations and responses so they could make fully informed judgments.<sup>398</sup>

Further, Auckland University Programme Leader in Teacher Education, Barbara Backshall, supported the childcare teacher's second change. The teacher was referred to one of Backshall's 50 hour course on infants and toddlers.<sup>399</sup> Backshall who was on the Council when the case was heard, agreed the incidents sounded extreme, but

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<sup>395</sup> Founder of Parentline.

<sup>396</sup> Maxine Hodgson, Founder of Parentline, Interview Notes, October 2006.

<sup>397</sup> Grunwell, R "Toddlers slapped, force fed" *Sunday Star Times*, 14 January 2007  
<<http://www.stuff.co.nz/392817a19.html>>.

<sup>398</sup> Ibid.

<sup>399</sup> Ibid.

were rare and the woman had support from parents at the centre. The woman agreed she smacked children, left them to scream and was in a workplace where children were force-fed when they refused food.<sup>400</sup> The Early Childhood/Primary Teachers Union backed the Council's decision as well as the NZ Educational Institute President who said:<sup>401</sup>

The Council was doing exactly what it was supposed to. It is looking at each case and making a decision based on its merits. There are 86,000 registered teachers in NZ and only 17 decisions have gone through the council in the last 14 months so the percentage we're talking about here is extremely small to begin with.

This decision simply leaves the author speechless, excuses indeed..... – “t was rare.....she had parental support.....she was going to do some more training.....only a part of a very small amount of decisions.” What about the small children, what about how they felt as they were smacked, force-fed and left to cry? Does the fact it didn't happen too many times mean it is not as abusive as if it happened many times? Moreover, these are supposedly professionals working in the field, supposedly trained. How many have had specific child abuse protection/child advocacy training? What will the extra 50 hours of training be about – perhaps non-violent means of feeding a child? What's more important here? Is it the welfare of the children or is it that NZ can show only have a very few disciplinary decisions occur amongst its registered teachers?

The author feels the above decision totally minimises the non-violent culture to child rearing that NZ is attempting, though at best it seems very feebly, to adopt. Secondly, this decision also totally shows the need for, and arguably shows the current lack of, education around the dynamics of child abuse - such dynamics as the fact that most children do not disclose abuse. Therefore there is a need to observe the child's behaviour, to identify signs and symptoms in the child and also to look at the behaviour of the parent or caregiver.

Another example of relevant information is that in regards to child sexual abuse, most victims do not disclose to generally 15 to 25 years on. For instance, an October 2006

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<sup>400</sup> Ibid.

<sup>401</sup> Ibid.

Hamilton case involved a woman who was sexually assaulted as a child. The woman was indecently assaulted when she was 10 and the perpetrator was 19. At the time of the trial the perpetrator was now 45 and the victim was 36.<sup>402</sup> Further, Allan Browne (Hamilton Child Abuse Team Supervisor) believes you can't ultimately change the sexual offender. He purports they rarely think of the effects their action may have on the child. Instead their focus is on 'me', their own 'self gratification'. Browne maintains:<sup>403</sup>

[I]t is not always the case with sexual offenders that they planned the offence, it often has been the offender 'just wanted to get it off' and (regrettably) a child was available for that purpose.

It is the awareness of factual and relevant information, such as that outlined above, that will help get child abuse 'out of the closet' and people committed to child protection/child advocacy training. As stated, in the *UN Global Study on Violence Against Children* report (2006);<sup>404</sup>

States should invest in systematic education and training programmes both for professionals and non-professionals who work with or for children and families to prevent, detect and respond to violence against children. Codes of conduct and clear standards of practice, incorporating the prohibition and rejection of all forms of violence should be formulated and implemented.

Additionally, Lila Jones (HAIP) maintains that when there comes a greater understanding of the effects of family violence (and for Jones child abuse is encompassed within this sphere) then that is when there will be a louder community voice against such violence. Jones believes in regards to child abuse, people need to imagine being in the children's space, being in their shoes and seeing what is happening through their eyes. That is, people need insight and knowledge of how to advocate from the child's standpoint.

The author strongly believes any person working with children in any capacity needs to be professionally trained in child protection/child advocacy/child abuse/family violence dynamics/issues. Also, that said persons should receive ongoing professional development and professional supervision, alongside a regular competency assessment of their ability to be able to work with children and to be able

<sup>402</sup> NZPA "Victim is happy with sentence" *Waikato Times*, 28 October 2006.

<sup>403</sup> Detective Sergeant Allan Browne, Child Abuse Team Supervisor, Interview notes, October 2006.

<sup>404</sup> Pinheiro, Paulo Sergio, United Nations *UN Global Study of Violence Against Children* August 2006, <[http://www.unicef.org/violencestudy/reports/SG\\_violencestudy\\_en.pdf](http://www.unicef.org/violencestudy/reports/SG_violencestudy_en.pdf)>.

to keep children safe. Additionally, training needs to extend to professions such as judges who are involved in Family Court decisions. As stated by Lord Justice of Appeal, Nicholas Wall (London):<sup>405</sup>

I am the first to accept that contact cases involving domestic violence need the most rigorous examination by judges and magistrates who are properly trained in and alert to the risk factors posed by domestic violence. I am equally the first to accept that judges who prove themselves incapable of trying such cases appropriately, or who deliberately ignore good practice, should lose their family ticket – the pre-requisite to the right to hear such cases.

Further, in the author's current work role as a child protection trainer, she has observed from the participants attending the Child Protection Studies (CPS) courses/workshops that the participants have, more often than not, come from a background of personal experience of child abuse. There is nothing wrong with this. However, as professionals working in the child protection field it is imperative that a person's own personal journey, and in some cases still ongoing 'baggage', does not limit their effectiveness and objectivity as child protection/child advocacy worker.

There needs to be a challenge across all sectors of the ecological framework to participate in child protection/child advocacy training. In particular, training that also includes the systems and processes of effective multi-disciplinary and interagency interaction. Sandra Porteous, a legal advisor with CYF states:<sup>406</sup>

How each profession chooses to take up the challenge so that they stop talking past one another is a question for each profession.....it is crucial to draw on the skills and expertise of lawyers and social workers to develop training that meets the needs of those who are practising in a multi-disciplinary environment. Collaboration can only occur within the limits of each profession's roles and responsibilities, but to be effective, both lawyers and social workers need to understand and respect each other's viewpoints and differences.

The importance of multidisciplinary and interagency training for all staff with a role in child protection is often underestimated and under-resourced. One of the comments that regularly appears on the evaluation forms of participants who attend

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<sup>405</sup> Wall, N Lord Justice of Appeal Royal Courts of Justice, London *A Report to the President of the Family Division on the Publication by the Women's Aid Federation of England entitled Twenty-Nine Child Homicides Lessons Still to be Learnt on Domestic Violence and Child Protection with particular reference to the five cases in which there was judicial involvement* March 2006  
<[http://www.judiciary.gov.uk/docs/report\\_childhomicides.pdf](http://www.judiciary.gov.uk/docs/report_childhomicides.pdf)> at paragraphs 8 and 10.

<sup>406</sup>Porteous, S "Communication issues in care and protection cases" *Social Work Now*, August 2004, 23-28.

CPS course/workshops, is the value of being able to form networking and collaborative links with other participants on the course. Also, to have the opportunity to listen to, and gain understanding of, how child abuse can be viewed differently depending on which discipline a participant is trained/experienced in. For many participants, this type of course is the first time they have literally ‘rubbed shoulders’ with child protection/child advocacy ‘colleagues’ from other agencies and organisations within their very own local community/region.

Key ‘front line’ workers with children, such as teachers, health workers, dentists, day care workers, police, need to have specific based training at a minimum on the signs and symptoms of child abuse and how to respond when a child/another party has disclosed to them and/or they suspect there may be child abuse happening. An example of such mandatory training is in Texas, who have various state laws/administrative codes in regards to child protection training. For instance, as at 1 June 2006, a Youth Camp Licensee cannot employ (either paid or voluntary) an individual who cannot produce a certificate showing that within the preceding two years they have successfully completed a sexual abuse and child molestation awareness training and examination programme (which has been approved by the Department of State Health Services). This new law is in addition to the annual criminal background check and sex offender registration record check that has to be carried out on any adult working with children.<sup>407</sup> The Texan requirements can be seen as analogous to how you need to get a Passport to get through Customs. The author contends, that to work with children in any capacity you need to have gained a ‘Child Protection Passport’ which has to be updated on a bi-annual basis, similar to how a First Aid Certificate has to be regularly renewed.

### **3.11 Recommendation 11:**

#### **Legislate for Mandatory Reporting of Child Abuse**

Section 15 of the CYPF Act 1989 states that child abuse can be reported. Additionally, if that abuse is reported in good faith then the notifier, pursuant to section 16 CYPF Act 1989, will not face criminal or civil charges if the abuse is not

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<sup>407</sup> Refer to <<http://www.info.sos.state.tx.us>> Texas Administrative Code.

substantiated. As such, in NZ a person may report child abuse, but it is not mandatory to do so. Parliament rejected mandatory reporting in a conscience vote in 1994 and instead emphasised public education and voluntary reporting protocols. The emphasis in NZ has been on family-focussed consensual agreements (family/whanau agreements) on how to deal with care and protection issues, rather than litigation through the courts.<sup>408</sup> As an international comparison, New Zealand, United Kingdom, Ireland, and the Netherlands are countries that don't have mandatory reporting whereas in the USA, Australian, Canada, Denmark and Sweden there is mandatory reporting.<sup>409</sup>

In a recent statement (November 2006), Peter Hughes, Chief Executive of MSD said:<sup>410</sup>

It is time that New Zealanders took responsibility for child abuse and stop blaming Government departments for events like the death of the Kahui twins. The responsibility for child abuse belongs to the nation's parents and families. Those children (*the Kahui twins*) were killed by an adult New Zealander; they were not murdered by a government department. Some adults in the media, have repeatedly expressed deep and profound understanding of the Kahui family's situation – yet not one of those adults acted to intervene in that situation that enabled us to help. Social workers do not cause or perpetrate abuse itself; they are not the ones who protect and hide the abusers.

The author agrees with this strong statement from the MSD Chief Executive. That is, New Zealanders do need to take up both personal and collective responsibility for protecting the nation's children. If mandatory reporting can be a tool that progresses this responsibility, then the author is mooting that it should be legislated for. However, as the discussion in section 3.5 of this thesis acknowledges, there will need to be a robust statutory protection system operating that has adequate resources in place to cope with the increase in notifications that is likely to happen from mandatory reporting. Otherwise, mandatory reporting will defeat the purpose of keeping more children safe. That is, an inadequacy of resources will mean the standard of practice declines, the provision of service declines and thus the risks to

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<sup>408</sup> O'Reilly, *supra* n361.

<sup>409</sup> Harries, M Dr and Clare, M *Mandatory Reporting of Child Abuse: Evidence and Options* Report by the Discipline of Social Work and Social Policy, University of Western Australia, July 2002 <[http://web.archive.org/web/20030406062544/http://fcs.wa.gov.au/\\_content/miscellaneous/mandatory\\_reporting.pdf](http://web.archive.org/web/20030406062544/http://fcs.wa.gov.au/_content/miscellaneous/mandatory_reporting.pdf)> 73.

<sup>410</sup> NZPA "Child Abuse is your fault, public told" *The NZ Herald*, 16 November 2006, A3.

children and young people will increase even more so than it was before mandatory reporting.

In the United States, mandatory reporting has been in place since 1988. Every State has statutes identifying mandatory reporters of child maltreatment and the circumstances under which they are required to report. In approximately 18 States, any person who suspects child abuse or neglect is required to report. Most States, however limit mandatory reporting to professionals working with children such as social workers, school personnel, nurses and so on. In addition, any person in any State may report incidents of suspected abuse or neglect.<sup>411</sup>

In Australia, the groups of people mandated to notify their concerns, suspicions, or reasonable grounds to the statutory child protection authority (Family and Youth Services – FAY) range from a limited number of specified persons in specified contexts, such as doctors and teachers (Western Australia, Queensland) through to every adult (Northern Territory, Tasmania).<sup>412</sup> Dr Maria Harries and Professor Mike Clare, who undertook an extensive study on the mandatory reporting of child abuse in Australia and internationally (2002) found:<sup>413</sup>

It is very evident from the international literature that child welfare is in a state of confusion. A child protection focussed system has evolved – with or without mandatory reporting – that is based on investigating increasing numbers of parents living in poverty for alleged wrong doing with few alternative responses to removal of the child. Overwhelmed by the number of reports of child maltreatment, the problem is aggravated by the exiguity of preventative and family support services and the absence of long term placement solutions.

There are a number of arguments for mandatory reporting. Some examples are mandatory reporting protects children at risk, it facilitates early notification and this leads to successful intervention, it educates the population about the appropriate processes for reporting child abuse and it is the only way that the legal (privacy) and

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<sup>411</sup> Golman, J Salus, M Wolcott, D and Kennedy, K A *Coordinated Response to Child Abuse and Neglect: The Foundation for Practice* US Department of Health and Human Services, Office on Child Abuse and Neglect, November 2003

<<http://www.childwelfare.gov/pubs/usermanuals/foundation/foundationd.cfm>>.

<sup>412</sup> Higgins, D Bromfield, L and Richardson, N *Mandatory Reporting of Child Abuse – Resource Sheet*, National Child Protection Clearinghouse, Australian Institute of Family Studies, September 2005

<<http://www.aifs.gov.au/nch/sheets/rs3.html>> 1.

<sup>413</sup> Harries, supra n409 at 47.

ethical (confidentiality) obstacles to reporting can be addressed without compromising the integrity of professionals.<sup>414</sup> Conversely, there are also a number of arguments against mandatory reporting. Some examples are mandatory reporting does more harm than good and may result in further abuse, it intrudes the sanctity of the family, it is reactive rather than proactive, it works counter to contemporary understanding of the need to develop healthy and trusting communities that care for children and it discriminates against vulnerable populations.<sup>415</sup>

The majority of submissions received for the *Review of Child Protection in South Australia* (2003) gave strong support for the continuation of the mandatory reporting systems and there were no submissions received expressing the view that mandatory reporting should be abolished.<sup>416</sup> As noted in one submission:<sup>417</sup>

Anglicare welcomes mandatory notification as it provides a legislative imperative to respond to child abuse ensuring that it does not become an individual decision. This protects those legally required to notify as well as sending a clear message to the community that the State is committed to the protection of children.

Further, one of the recommendations from this review was that mandatory reporting should be retained in child protection legislation:<sup>418</sup>

The statutory requirement to report is seen as an obligation that should be upheld in law as part of broader social and community responsibility and is an effective means of ensuring that vulnerable children and young people are assessed, protected and supported.

What has to be noted is that mandatory reporting is just that – a reporting system. Thus, if there is an obligation to report then there needs to be an associated obligation to provide services. The author advocates, there is a need to go beyond just doing an ‘investigation’. Instead, there has to be an addressing of the needs, such as what support services etc are required for the child/parent/family of whom the notification has been made. And further, another level up from this again, what support services could be provided in a community context so that families that find themselves in a

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<sup>414</sup> Harries, supra n409 at 48.

<sup>415</sup> Harries, supra n409 at 48.

<sup>416</sup> Layton, R QC, *Our Best Investment: A State Plan to protect and advance the interests of children*, Review of Child Protection in South Australia, March 2003  
<http://www.library.health.sa.gov.au/Prtals/0/our-best-invesment-2003.pdf>> 10.4.

<sup>417</sup> Ibid, 10.4.

<sup>418</sup> Ibid, 10.6.

similar situation have support that they can access. For example, if there is a high rate of notifications in regards to neglect (say, for instance children not receiving adequate food) in a particular area then at a community and national level what could be done. What is a pro-active, versus a reactive, response to nurture and support the families in need? This could be something as simple as a community setting up a food co-operative which would enable families in the community to access fresh fruit/vegetables at prices within the income constraints of the community members – a community-driven approach.

Mandatory reporting, the author maintains, will increase a community's awareness of child abuse but then it is the response to the notification that is just as, if not more, important. What will be the point of entry for the notification? Will the notification lead to an investigation through CYF or will the notification be passed to a community services agencies? The proposed introduction of the DRM, as discussed in section 2.2.8.3, would help facilitate this response process.

Maxine Hodgson, founder of Parentline, believes the reporting of child abuse needs to be “convenient” for people. For instance, one barrier is that people find it difficult to ring the CYF notification line for various reasons such as lack of knowledge and/or not wanting to be seen to poke their nose into other people's business. Additionally, although the caller may ask to remain anonymous this is not always so, particularly in smaller community areas where the perpetrator can often work out who reported. Also, if the notifier is asked to come to court to be a witness, then this in itself can be an intimidating process. Hodgson maintains that if reporting child abuse is not “convenient” for people then they will not follow through on doing something about it. Hodgson says the presumption becomes “someone else will pick it up”.<sup>419</sup> Therefore, what needs to be ensured is that there is less negative connotations around reporting child abuse which is what mandatory reporting arguably could help overcome. Secondly, there needs to be a consistent and convenient process for not only reporting, but also a consistency in the advice that can be received when people phone the CYF notification line.<sup>420</sup>

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<sup>419</sup> Maxine Hodgson, Founder of Parentline, Interview Notes October 2006.

<sup>420</sup> Ibid.

### **3.12 Recommendation 12:** **Make Legislative Changes in the Court System for** **Child Abuse Cases**

#### 3.12.1 Amend Court System Processes and Timeframes

Certain Court system processes and the time those processes can take, in child abuse cases, need to be addressed at a legislative level. In particular, the author contends the criminal justice system for child abuse cases needs to show a greater commitment, than is arguably shown now, to a Child Advocacy Model. This model, as discussed in Section 2.2.6 of this thesis, places the needs of the child at the core of all assessments, interventions, evaluations and outcomes.<sup>421</sup>

This Child Advocacy Model is one the Judiciary is striving to ensure happens in Family Court system processes and timeframes. For instance, in regards to obtaining the child's views, a multi-disciplinary team approach is used. Judge Doogue states:<sup>422</sup>

The multi-disciplinary approach is a combination of consultation with, and representation by, the lawyer for the child and expert evaluation of the child. In some cases it also involves the appointment of counsel to assist when the child's views diverge from what is perceived by their lawyer to be the child's best interests and, in some other cases it also involves judicial interviewing of the child. This approach was established because the welfare of each and every child requires that the Court receive all information (including the child's views) which impinges on the child's positive development in a process which is most likely to facilitate parental acceptance of any decision.

However, the author contends, that unlike the Family Court system processes and timeframes, the needs of the child in cases which involve them, are not necessarily at the core of the Criminal Court system processes and timeframes. For example, research conducted by Gill Basher, who has been a Child Forensic Interviewer for 16 years with CYF, has shown the importance of child abuse investigators gathering as much information as possible from the child victim themselves.<sup>423</sup> When an assault is committed against an adult the police and judiciary system do not just rely on the

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<sup>421</sup> Dawson, supra n213 at 3 and 4.

<sup>422</sup> Doogue, J Judge "A seismic shift or a minor realignment? A view from the bench ascertaining children's views" (2006) 5 NZFLJ 198

<sup>423</sup> Gill Basher, who has been a Child Forensic Interviewer for Child, Youth and Family for 15 years, collates and analyses statistical data on all child forensic interviews conducted in New Zealand.

alleged offenders 'take on the events' but they also take a statement/evidence from the victim themselves. So this should be the same, Bashier maintains, for the child victim. However, understandably for children, the process of going through a forensic interview to tell 'their story' can be very traumatic. For an adult, let alone a child, to tell someone who they have just met for the first time about how X sexually assaulted/violated them is a very difficult thing to do. Bashier stresses that:<sup>424</sup>

[w]e must take our time to listen to what the children are saying. It takes children 1.9 times longer than adults to process a question and if a child is bilingual it will take even longer.

In addition Bashier states:<sup>425</sup>

The forensic interview, which provides the videotape for the Evidence-in-Chief, is so vital but then children can still be cross-examined in person. Even though they are allowed the use of closed circuit television (CCTV) or the use of screens, this can still be a very frightening and stressful process for the child. When under stress, for instance, inter alia, children's language can regress 12 to 18 months below their chronological age and they also can get confused by times and dates, even more so under the cross-examination process. Then what needs to be added to this, is the time it takes a child abuse case to get to court, which on average nationally, at the moment, is around 9 to 15 months, if not longer.

The experienced Victim Court Advisor (VCA) interviewed for this thesis agrees with the comments of Bashier and strongly advocates that the court processes need to be changed even to the extent that a child does not have to come to court.<sup>426</sup> Last year there were 2,500 children (and their families) who went through the criminal courts and the average age of the children was 6 to 10 years old.<sup>427</sup> The VCA's experience has highlighted to her the need for a more child-friendly environment when it comes to court processes. For example, when a child is brought to court to testify at a trial they come early on the day and stay in a 'safe room' for the first 2 to 3 hours while the beginning stages of the trial are run, such as the jury being picked. The child is then brought into the court room (for screens, ages 11 to 17 – unless CCTV is ordered by the Judge) or taken to the CCTV room (if under age 11). Their video tape is played first (which can be a tape of up an hour to an hour and a half) and then the

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<sup>424</sup> Gill Basher, Forensic Interviewer, Interview Notes, January 2007.

<sup>425</sup> Ibid.

<sup>426</sup> District Court Victim Advisor, Interview Notes, January 2007.

<sup>427</sup> Ibid.

child gets asked questions from the Crown lawyer, followed by a cross-examination of their evidence by the defence lawyer.

It should also be noted that the screens are such that if a child looks down they can see the feet of the perpetrator. How frightening that can be for the child. Further, the defendant can make himself known in small subtle ways, such as, the VCA states, “as suddenly having a coughing fit while the tape is on, or bringing their hand around the screen to pass a note message to their lawyer.”<sup>428</sup> The VCA believes the cross-examination process is very traumatic for children. In particular, she has observed, defence lawyers do not, on the whole, ask children simple questions. Instead, the questions tend to be multiple sentences which confuse and can upset the child even more. The VCA comments:<sup>429</sup>

We have to remember that children don't have a good memory for times and dates plus they have an inbuilt desire to please adults, so often they agree with what is being asked by the defence lawyer which may end up contradicting what they said on the tape. On top of this the child has already waited 9 to 15 months before their case comes to Court. I think the Criminal Court system just ends up re-victimising children and we need to be talking more about what is best for the child. I believe that there should independent Criminal Court child advocates appointed, as there are in South America, where the lawyer puts the question to the child advocate and the child advocate then repeats in simpler language the question to the child. Or even have a separate child –friendly place/building away from the Court House, such as they have in Perth. In Perth, the child does not have to go to Court as the judge and lawyers see the child for short periods over the course of a few days prior to the trial, to gather their evidence. The judge/lawyers are dressed in non-court clothes and even get down on the floor (for young children) to play with them as the evidence-gathering process is carried out

The comments from a Victim Court Advisor and a Child Forensic Interviewer reflect that legislation/policy guidelines around court processes, particularly in the Criminal Courts, in which children are involved as witnesses, have to be more child-centred. For instance, recognising that cross-examining a child is not always appropriate, nor necessary. For the child to have told their story even just once is enough and to then be cross-examined in an adult environment, as to whether they are telling the truth is difficult to expect from children. Further, even considering such practical measures as making the screens big enough so the child does not have to see the perpetrators

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<sup>428</sup> Ibid.

<sup>429</sup> Ibid.

feet, or providing a facility/building separate from the Court (as they do in Perth), are solutions which would ensure the best interests of the child are considered.

Another example in regards to court system processes and the time those processes can take is demonstrated by the comments of Inspector Ged Byers, National Family Violence Co-ordinator, NZ Police. He reported at a national Child and Youth Welfare Advisers Forum (October 2006) that when it came to family violence prosecutions police have found:<sup>430</sup>

[t]he criminal justice system can be slow and fragmented, despite ‘fast-tracking’, that despite family violence often being a series of events, the Court usually hears about one isolated event, not the overall pattern, and that the low prosecution rate is not caused by victims who withdraw, but by the system.

The author argues, that it seems ironic that a child/victim can be questioned in court about their story and about their past history but an offender/perpetrator cannot be asked about past events or his/her past convictions cannot be brought into the case. Byers also said:<sup>431</sup>

[h]istorically the Police have focused on the victim, often forcing the victim to push through the case. Recently, Police have focused on arrest but the system must be refocused on the offender.

Family Violence does affect children, as discussed in section 1.3.5 of this thesis, whether the child witnesses that violence or becomes a direct target when they abuse is occurring. If family violence prosecutions are slow and fragmented, as suggested by Byers, along with the overall pattern of violence not always being established, nor the perpetrator being called to account for his actions, this can mean that children are at a greater risk of continuing to remain in households where that violence will continue. This was evident in the deaths of Saliel and Olympia Aplin who were killed by Bruce Howse, their stepfather, in December 2001:<sup>432</sup>

The volatile relationship between the adults erupted into violence regularly and on numerous occasions; the children were witness to verbal and physical assault requiring the intervention of the police, neighbours and extended family members.

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<sup>430</sup> Byers, *supra* n18 at 8 and 9.

<sup>431</sup> Byers, *supra* n18 at 9.

<sup>432</sup> Office of the Commissioner for Children *Report of the Investigation into the Deaths of Saliel Aplin and Olympia Aplin (Jetson)* (Wellington: Office of the Children’s Commissioner, November 2003).

In their short lives Saliel (age 12) and Olympia (age 11) were exposed not only to 12 recorded incidents of violence but at least 35 incidents not reported.<sup>433</sup> The 12 family violence reports (POL400s) were completed by the police over a timeframe of seven years, but still the children remained in the household and Howse was not convicted of any assault charges.<sup>434</sup>

A third example showing the need for some court system processes and timeframes to change is the current situation in regards to Jayden Headley, a six year old Hamilton boy, who is entwined in his parent's bitter custody battle over him. Jayden is arguably being emotionally/psychologically abused as this custody dispute continues which has gone on since his parents separated when he was 7 months old. On 18 August 2006, Jayden was kidnapped by a friend of his mother and taken into hiding by his maternal grandfather. The grandfather returned the child to the Hamilton Police Station on the morning of 23 January 2007. That afternoon, Kathy Orr, a psychologist, conducted an interview with Jayden. Orr said "he showed clear signs of being schooled into believing who was best to care for him."<sup>435</sup> There are a number of issues and complexities that are yet to be revealed publicly in this case. However, this situation does illustrate that children can be traumatised/emotionally abused further by a judicial system that does not give greater weight to compelling parents to make a decision sooner for the 'sake of the child' instead of letting the matter drag on through the Family Court, in this instance for just over 6 years, and still continuing.

What the above three examples show is that, more often than not, court system processes and the timeframes of those processes, in which children are involved, leads to children having to face a huge burden of responsibility. A responsibility to see the alleged offender is prosecuted or the custodial parental decisions are such that they are viewed as 'just and fair' in the eyes of adults involved in the case/s, the public and the media. It is arguable whether the outcomes are those which the child necessarily views themselves as 'just and fair' at that point of time?

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<sup>433</sup> Ibid, 6.

<sup>434</sup> Ibid, 2.

<sup>435</sup> NZPA "Home at last" *Waikato Times*, 24 January 2007, 1.

### 3.12.2 Establish 'Stonewalling' as a Criminal Offence

The author argues that a person's/group's decision to 'stonewall' a police investigation, in regards to child abuse cases, should be made a criminal offence. For example, seven months on from the deaths of twin babies Chris and Cru Kahui, it is still not clear as to who did abuse them to death. The police investigation has been hampered by the decision of 12 family members (who became known as the 'tight 12') who made a pact to stall the probe into the children's deaths. As succinctly put by QC Peter Williams:<sup>436</sup>

Lawyers acting for family members have courageously insisted on proper recognition of their clients' rights, particularly the rules against self-incrimination. The Police have publicly protested that their inquiries are frustrated by family 'lack of co-operation' .....But perhaps it is time to review our adversarial judicial system and adopt a structure more directed to exposing the underlying reasons for offending, such as gross child abuse. In Germany, for instance, the Kahui case would be dealt with by a judge empowered to compel witnesses, including the suspects to be interviewed.

Another example is that of a Hamilton case in October 2006, which, like the Kahui case, involved 'stonewalling', but this time of the court system. The father had been charged for allegedly throwing his 17 month old baby against a hard surface which caused a skull fracture. Paediatrician Eleanor Carmichael said the fracture extended over two parts of the skull with a pitted piece indicating a point of impact above and behind the baby's left ear. The father ended up being acquitted of the charge of injuring the children. Judge Phil Connell said family members had been unco-operative during the trial.<sup>437</sup> Further, Detective Constable Will Cassidy, the officer in charge of the case, said he was disappointed with the case and that:<sup>438</sup>

[t]his case highlights the difficulties the police have in prosecuting child abuse cases. Very rarely do you have someone see the offender admit the offence.

The author agrees with the comments of Williams and in particular the way that such a case as the Kahui twins would have been handled in Germany. The Court would have ordered/compelled the 'tight 12' to be interviewed right at the start of this investigation and this would have arguably brought the case to a closer finish than it is at this present time. Such a criminal charge, as the author is advocating, rests on the

<sup>436</sup> Williams, P QC "Kahui boys' deaths raise many issues" *The NZ Herald*, 2 July 2006, A6.

<sup>437</sup> NZPA "Injured babe safe now, say police" *Waikato Times*, 28 October 2006.

<sup>438</sup> Ibid.

premise that children's rights, as opposed to adult rights, need to be at the fore of child abuse police investigations and the subsequent judicial processes. This change would show greater legislative and judicial commitment to minimising all forms of child abuse in New Zealand.

### 3.12.3 Minimise and Specify Mitigating Factors for Child Abuse Perpetrators

In June 2001, Rachealle Namana, the step aunt of Hinewaoriki Karaitiana-Matiaha (nicknamed Lillybing) was sentenced to 6 years for the causing the manslaughter of her niece, cruelty to a child, failure to provide necessities of life and assault on a child.<sup>439</sup> On the morning of her trial, in a letter to her lawyer, Ms Namana described her terror-ridden childhood (physical and sexual abuse until age 12), an attempt at suicide at the age of nine, the impossible demands of her extended family and her tireless work for the kohanga reo and her remorse. Rachealle was expected to care for up to 10 children for periods that could last up to 10 days and at the time of Lillybing's death Rachealle had four of her own children and was pregnant with the fifth. There were also 13 people living in her 2 bedroom house at the time.<sup>440</sup> The Court responded that the factors in Namana's letter did not count for much. However, in mitigation the Judge did note Mrs Namana's remorse and the limited period in which the abuse occurred. Judge Durie held:<sup>441</sup>

[n]o matter the stress, no matter the burdens placed upon you and no matter your concerns for what might have happened, had Lillybing's injuries be known to others, none of it could possibly excuse the failure to get medical help when medical help was so patently required. There can be no compromise in my view of that which society expects that its most vulnerable members, its children, will not be denied medical assistance, when medical assistance is required.

As shown by the example above and by the discussion in sections 1.4 and 2.2.5 of this thesis, child abuse victims often go on to be adult child abuse perpetrators.

Nevertheless the generational cycle of child abuse must simply stop. As such, the author believes, it is important to acknowledge the abusive childhood of the perpetrator and their remorse but those factors should not be allowed to solely act as a

<sup>439</sup> *R v Paewai and Namana*, unreported, Wellington High Court, 15 June 2001 (T.No.5/01). Durie J at 4.

<sup>440</sup> Stirling, P "Lillybing's Story" *Listener*, 16 June 2001, 18-24

<sup>441</sup> Durie, *supra* n439 at 6.

reason to minimise, trivialise or excuse their actions. That is, mitigating factors in child abuse cases should be viewed from a minimalist perspective and, additionally, such mitigating factors should be spelt out in legislation or by way of other formal guidance, rather than just left to the courts to determine by way of case law. For instance, the author maintains for child abuse cases mitigating factors should be exclusive of a guilty plea but could include the offender's situation and past, and the likelihood that they will not be dangerous in term of re-offending. But the circumstances should only be relevant to the point where they do not overwhelm the public's rejection of this type of offending and secondly, where such circumstances do not outweigh the aggravating factors of the offence and the offender.

Arguably, this type of legislative response would result in a greater consistency of approach in the courts to child abuse perpetrators so that harsher sentences are imposed on parent/s/caregivers who abuse their children. Thus, this would send a message not merely to the public of justice being seen to be done, but to child abuse perpetrators per se. The message that no matter the weight and burden of their past, child abuse perpetrators must make a choice to stand up and stop the cycle of abuse for successive generations.

### 3.12.4 Appropriate Sentencing Lengths

.....*Demis Paul, convicted of the murder of a 14 month old Palmerston Toddler Mereana Clements-Matere, was sentenced yesterday to a minimum of 17 years in prison.....Paul originally blamed the child's death on two year old Caleb, a cousin of the victim, before admitting to police that he struck the infant, saying it was to keep her quiet but denying he intended to kill her. At the time Paul had been given home detention at the house of his partner Kim Matere, Mereana's mother.....*<sup>442</sup>

The Sentencing Act 2002 gives judges sentencing guidelines and states in section 8 that serious offences should attract close to the maximum penalty available for a crime. In NZ, the standard position in regard to violent offences is that custodial sentences are imposed to reflect:<sup>443</sup>

<sup>442</sup> NZPA "17 years' jail for man who killed toddler" *Waikato Times*, 28 April 2005, 3.

<sup>443</sup> Ministry of Justice *The Use of Imprisonment in New Zealand* Criminal Justice Policy Group, June 1998 <<http://www.justice.govt.nz/pubs/reports/1998/imprisonment.html>>.

How seriously the public views certain criminal behaviours (retribution and denunciation); to ensure the offender does not commit offences for a specified period (incapacitation); to deter the offender from committing further offences after release (individual deterrence); and to deter other potential offenders (general deterrence).

The purpose of this thesis is not to expand extensively on the philosophy of sentencing, except to surmise that sentencing at present for serious violence is one in which the circumstances of each case creates its own matrix of preferences. This matrix depends on the sentencing philosophies emphasised and the weighting given to mitigating and aggravating factors. The author argues that any abuse to children must be considered a serious offence and as such any sentencing response to violence against children cannot be a lenient one. As aptly put by Justice Callender,<sup>444</sup>

[c]hild abuse is one of the horror stories of human patterns, but the Courts have to denounce any behaviour that affects our little ones. The jail sentence should be a warning to others who violated society's standards of behaviour towards defenceless children.

Further, in *R v Leuta* (2001),<sup>445</sup> a case involving the mother of 5 year old Liotta Leuta. Liotta's mother thrashed him to his death with a vehicle fanbelt and aerial wire. Judge Elias, Court of Appeal held:<sup>446</sup>

[w]here the victim is a child and the offender has parental responsibility the culpability will often be greater.....in the absence of mitigating factors a sentence of 10 years would be entirely appropriate. We are satisfied the sentence of 6 years (which was the High Court decision)<sup>447</sup> is too low for a serious case with concerning aspects of deliberation, prolonged violence and failure to provide care. The sentencing Judge would have been justified in imposing a sentence of 8 years imprisonment. But since this a Crown appeal, involving in effect a re-sentencing, in accordance with normal practice no greater increase than the minimum necessary to overcome the inadequacy in the present sentence should be imposed.

Violence inflicted on a child is more heinous than others types of crimes such as pre-meditated robbery. Children cannot fight back; they have no means to defend themselves. As stated by the Court of Appeal in *Leuta*, "those that endanger lives of children by resorting to violence will have attributed to them the level of criminality

<sup>444</sup> NZPA "Man jailed for injuring baby son" *Waikato Times*, 4 August 2001, 3.

<sup>445</sup> *R v Leuta and Rauf*, unreported Court of Appeal, 19 September 2001 (CA 79/01 CA96/01 CA9/01).

<sup>446</sup> *Ibid.*

<sup>447</sup> Durie, *supra* n439.

that civilised society demands.”<sup>448</sup> Children are the responsibility of society and so, even though the victim’s death might result from the accident of circumstances, rather than additional culpability, this should not be an excuse. For example, it is arguable Liotta Leuta may not have died had he been given prompt and appropriate medical treatment. His mother did not set out to kill him and did not mean for him to die, but she should have thought this through well before she went off the garage to fashion the ‘weapons of discipline’.

Therefore, sentencing guidelines/policy should reflect that sentencing levels be substantially higher (than other forms of crime) for child abuse perpetrators. In particular the author maintains that there should be a mandatory minimum of least two years that an offender has to serve in regards to any form of child abuse. Also, that the child abuse perpetrator must serve the full sentence and not be eligible for home detention or a reduction in their sentence for ‘good behaviour’. Such sentencing lengths as mooted would mirror the public condemnation of violent acts against children. They would also be a deterrent to others who think that they will be able to get away with abusing children. That is, as communities and as a nation a very loud and strong message would be sent that children should not be abused. As such these policy/legislative sentencing guidelines would strengthen this message which is one that is beginning to be heard across communities in New Zealand, as illustrated in section 2.1.3 of this thesis.

### **3.13 Recommendation 13:**

#### **Establish a Legislative Framework for Information Sharing Between Agencies/Courts/Service Providers**

.....*Crucial information that might have prevented the rape of an eight year Christchurch girl was excluded from a report on her teenage attacker.....the 17 year old youth had befriended the girl while doing community work at a school as part of a sentence.....The internal report by the Community Probation Service shows a probation officer excluded information about the youth’s previous sexual behaviour from a sentencing planning indicator document. When the school principal was informed of the teenager’s past he was told only about historic incidents and not of more recent concerns raised while in was in CYF care.....*<sup>449</sup>

<sup>448</sup> Durie, supra n439.

<sup>449</sup> NZPA “Info on rapist left out of report” *Waikato Times*, 22 September 2005, 8.

Current Children's Commissioner, Dr Cindy Kiro, has recently mooted the initiative of an ID number for each child. Under the initiative a single identification number would be issued for each child, enabling authorities to be alerted to potential problems.<sup>450</sup> Judge Andrew Becroft (Principle Youth Court Judge) is supporting this proposal to have children tagged in a central database to stem abuse and failure at school.<sup>451</sup> The central database would mean that educational, health and safety information would be shared and assessed in a consistent way. A consistent finding of investigations of child homicides by the Office of the Children's Commissioner (OCC) has been the need for interagency sharing and accessing of information in order to ensure the safety of children, particularly those engaged with multiple agencies.<sup>452</sup> Dr Kiro believes a key benefit of an integrated shared assessment framework is that:<sup>453</sup>

All professionals will be working to the same frame of reference and will be required in their assessments to take account of the child's life in the context of the families and communities in which they live. This is in stark contrast to the silo effect often observed between, and even within, agencies who may be engaged with families but not co-ordinate their work.

An overseas example of a tagging system is in the United Kingdom. Section 12 of the Children Act 2004 provides for an electronic tracking system for England's children, a 'Children's Index'. The changes in this Act (previously the Children Act 1989) were prompted by the inquiry into the death of Victor Climbie in 2000. The inquiry found that health, police and social services missed 12 opportunities to save the child from abuse at the hands of her great aunt and the great aunt's boyfriend. Victoria died from hyperthermia. At her death there were 128 separate injuries on her body.

The national database will keep track of England's 11 million children. A file is to be kept on every child with contact details including any care agency, such as a doctor or school nurse, working with that child (section 12(4)(f)) and information as to the existence of any cause for concern in relation to the child (section 12(4)(g)). The system is suppose to note (flag) any warning signs such as domestic violence or

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<sup>450</sup> Chalmers, A "Tagging Plan to keep track of Child Abuse" *The Dominion Post*, 29 May 2006, A6.

<sup>451</sup> Ibid.

<sup>452</sup> Dr Kiro's comments reported in Taylor, supra n311.

<sup>453</sup> Kiro, C *Getting it right for every child: Scottish Policy for children and youth* Scotland Example of an Integrated Framework, December 2006  
<<http://www.occ.org.nz>> 2.

imprisonment of a parent/caregiver, allowing authorities to override the parent's rights if there was any cause for concern for the child's welfare. And further, if a child is known to more than one agency, a care worker is assigned to co-ordinate the child's care.<sup>454</sup> The database will enable local authorities, the NHS (National Health Service) and other agencies to share information on suspected abuse or neglect in a family. At the heart of this information database is the belief that such a system will identify vulnerable children more easily, than has been done in the past, by using multi-agency, community-based teams, consisting of teachers, social workers and other child experts. The creation of this electronic safety net also shifts the focus from reaction when things have gone wrong to prevention and early intervention.

There has been a controversial response in England to the electronic tracking system – the Children's Index - and as such it has not yet been started. For example, human rights campaigners have expressed concern over the impact of the database of children on the right to privacy.<sup>455</sup> Other critics have described it as a 'Big Brother' for children and have also expressed concern over the operational problems that may be encountered with the database.<sup>456</sup> In particular, Eileen Munro, a reader in Social Policy, London School of Economics, believes child's welfare is best protected by having competent and well-resourced professionals, not with "computer wizardry".<sup>457</sup> Munro maintains that Victoria Climbié's case was mishandled because staff misunderstood the information they had, not because they could not share information. Further, Munro notes, examples of concerns that would be flagged are such things as a GP concerned about a child's low weight, or a nursery nurse that that would note a child looked miserable.<sup>458</sup> Munro states:<sup>459</sup>

There are numerous explanations for signs like these, parental abuse being only one of them, and most parents would be anxious for a doctor or nurse to tell them, not other professionals about their worries.....Far from being a child protection measure, the national database will increase the risk to children like Victoria, as warnings about their plight are hidden in the mass of

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<sup>454</sup> Children Act 2004 (United Kingdom), <<http://www.opsi.gov.uk/acts/acts2004/40031--c.htm#12>>.

<sup>455</sup> Mensaid, supra n367.

<sup>456</sup> Ward, L "Flags of concern' on child database" *The Guardian* 28 October 2004 <<http://society.guardian.co.uk/children/story/0,,13377631,00.html>>.

<sup>457</sup> Munro, E "National child database will increase risk" *The Guardian*, 6 April 2004 <<http://society.guardian.co.uk/children/story/0,,1186315,00.html>>

<sup>458</sup> Ibid.

<sup>459</sup> Morgan, R Dr *Children's Consultation on the Children's Index*, Commission for Social Care Inspection, England, January 2007 <[http://www.csci.org.uk/PDF/childrens\\_index\\_consultation.pdf](http://www.csci.org.uk/PDF/childrens_index_consultation.pdf)> 7.

minor concerns. Encouraging professionals to record “any cause for concern” is going to lead to an avalanche of reports, with devastating effects on services.

Additionally, the Children’s Rights Director, England released a report recently (January 2007) on 180 children’s views on the Children’s Index. The children said only people who work with them should have access to the Index (such as teachers, doctors and social workers). Children do not want their privacy put at risk because the wrong person has access to their details. They think the Index would need a chip and pin type password, to allow people access, but some were unsure about the security of the system.<sup>460</sup> One child said:<sup>461</sup>

It would be the simplest option to use a password and chip and pin, but this data is easily copyable, so if someone got hold of it, it would be easy to pass on the information.

The author advocates an electronic tagging system for NZ’s children would be a proactive strategy for tracking the health and well-being of the nation’s children. NZ has just over one million children,<sup>462</sup> compared to England’s 11 million children. Thus, there is arguably going to be less likelihood of operational problems being encountered. Nonetheless, the author maintains that there would have to be clear guidelines and specific training on the signs and symptoms of child abuse put around this electronic safety net to avoid the scenario of just ‘any old concern’ being registered on the database by professionals. This strategy is not a draconian one, especially when it is viewed within the context of NZ’s poor ability to date of protecting its children from abuse and neglect.

An electronic tagging system is also one that is increasingly beginning to be used or proposed internationally. For instance in Scotland, the Scottish Executive is currently developing the eCare Framework to enable the electronic multi-agency information exchange for a number of client groups, including vulnerable children and adults. In

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<sup>460</sup> Ibid, 7 to 10.

<sup>461</sup> Ibid, 11.

<sup>462</sup> Department of Statistics, Census Information 2006 <<http://www/stats.govt.nz>>.

conjunction with partners in Lanarkshire, a pilot has been run on delivering a child protection messaging system using the Framework:<sup>463</sup>

Pre-determined messages are automatically generated whenever a formal child protection activity is recorded on the Social Work IT application. The messages are viewed and acknowledged on the Social Work application, sent to the local eCare Multi-Agency Store (MAS), then viewed and acknowledged by partner agency practitioners with agreed permissions.

The Ministry of Justice and Ministry of Social Development are also currently underway with a project to investigate the legal parameters for sharing information related to family violence cases between government agencies, courts and service providers. This initiative will connect with the review of the Privacy Act 1993, also being undertaken currently by the Ministry of Justice, who are investigating ways to effectively exchange information between the District and Family Court within existing legislation.<sup>464</sup>

One example of where this exchange of information is already occurring is in the Family Violence Courts (Criminal Courts) in Manukau (2005) and Waitakere (2001), Auckland.<sup>465</sup> The Family Violence Court (FVC) marries some information from the Family Court to the Criminal Court. The FVC deals with charges against defendants such as assaults, threatening to kill etc.<sup>466</sup> Information about whether there are protection orders between the parties, and whether the defendant has attended the programme to which he (she) was directed are available to the FVC Judge. Further, the Police are obliged to provide a disclosure package when the charge is laid. This means that there is no delay in dealing with the cases on account of lawyers saying that they had not received all the relevant information.<sup>467</sup>

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<sup>463</sup> Scottish Executive *Draft Summary of the Scottish Executive' Contribution to the 2007 UK Report to the UN Committee on the Rights of the Child* December 2006, <<http://www.scotland.gov.uk/Publications2006/12/19105047/4>> 13.

<sup>464</sup> Family Violence Clearinghouse, supra n231.

<sup>465</sup> Johnson, R Judge *The Evolution of Family Violence Criminal Courts in New Zealand* Police Executive Conference, 8 November 2005 <<http://www.police.govt.nz/events/2005/ngakia-kia-puawai/johnson-on-evolution-of-family-violence-courts-in-nz.pdf>>.

<sup>466</sup> Adams, J Judge *Family Violence and the Courts – Changing attitudes: the role of the Court* Speech to “Rise above it” conference, Masterton, 2 May 2005 <<http://www.justice.govt.nz/family/publications/speeches-papers>>.

<sup>467</sup> *Ibid*, 3.

The author agrees that this sharing of information, as proposed by the central database initiative, and evidenced in the Family Violence Court, should be put within a legislated framework for the sake of protecting that children that are involved in these matters. For instance, if a defendant continues to come up on charges of escalating violence in the FVC, and the Family Court information shows that there is protection order by his partner, under which his 3 children come, then the Judge would need to take this into account when sentencing. This is because repeated escalating violence indicates a real concern for not only the victim's safety but also for other potential victim's safety, such as the children.

But more importantly, it is essential that this information sharing between agencies/courts/service providers goes in tandem with, as Munro's comment above reflects, the ability of the professionals involved (such as judges, police, social workers, nurses) to know how to competently handle and use the information that they have can have access to. As poignantly stated by Dr Robertson:<sup>468</sup>

Privacy is the enemy of collaboration. Collaboration will not gain traction unless agencies are prepared to share case-specific information. However, such sharing needs to be done according to carefully thought-through protocols. Careless disclosure or mis-use of information can be as dangerous as privacy.

### **3.14 Recommendation 14:**

#### **Reduce Risk Factors: Poverty and Drug/Alcohol Abuse**

Risk factors are those factors which increase the likelihood that a child may be abused. The more risk factors there are present in a family, the greater is the probability that the child/children may be abused by their parent/s/caregiver/s. Risk factors can range from a parent who is in a violent relationship, a parent who themselves were abused as children, a parent who has a psychiatric history through to families that are socially isolated, parental alcohol and drug dependency and multiple crises or stresses occurring in the family. Examples of crises/stresses are relationship difficulties, financial problems, employment instability, crowded accommodation and/or frequent moves.<sup>469</sup> The UNICEF report on *Child Maltreatment Deaths in Rich*

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<sup>468</sup> Robertson, supra n221 at 10.

<sup>469</sup> Henry Kempe Risk Factors – Warning Signs for High Risk Families, <<http://www.kempcenter.org>>.

*Nations* (2003) found poverty and stress – along with drug and alcohol abuse – appeared to be the factors most closely and consistently associated with child abuse and neglect.<sup>470</sup>

The author proposes that public policy needs to in particular address the risk factors of poverty and drug/alcohol abuse. Numerous studies across many countries have shown a strong association between poverty and child abuse. Rates of abuse are higher in communities with high levels of unemployment and concentrated poverty.<sup>471</sup> The UNICEF report on *Measuring Child Poverty for the Rich Nations* described New Zealand as being one of the five countries that have exceptionally high levels of child poverty. Amongst 26 OECD countries NZ ranked 4<sup>th</sup> worse in terms of children's poverty.<sup>472</sup> The Ministry of Social Development's Living Standards Report 2004, released in July 2006<sup>473</sup>, shows more than ever why NZ needs to invest more in children – especially our poorest children. The proportion of children living in families in the “severe” and “significant” hardship categories increased from 18% in 2000 to 26% in 2004.<sup>474</sup> Further, while the standard of living for those in the lowest categories fell, everyone else's improved or stayed constant, widening the gap between the poorest and the rest even further.<sup>475</sup> Additionally, the *Review of Parenting Programmes* report' (Families Commission, June 2005) pointed out that parents who are stressed and struggling to meet basic needs can find it challenging to focus on supporting their children's learning and development.<sup>476</sup> This data shows measures/public policies to reduce the risk factor of poverty are a key in considering strategies to prevent child abuse.

As mentioned above, the abuse of drugs and alcohol is another factor strongly associated with an increased risk of child abuse. Massey University researcher, Jill Worrall, surveyed 323 families in CYFS-sanctioned kin care. Worrall found drug

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<sup>470</sup> UNICEF, *supra* n16 at 2.

<sup>471</sup> Krug, *supra* 64 at 68.

<sup>472</sup> Corak, M UNICEF/Innocenti Research Centre *Principles and Practicalities in Measuring Child Poverty for the Rich Countries* February 2005, <[http://www.unicef-icdc.org/publications/pdf/iwp\\_2005\\_01.pdf](http://www.unicef-icdc.org/publications/pdf/iwp_2005_01.pdf)>

<sup>473</sup> Ministry of Social Development *Living Standards Report 2004*, July 2006 <<http://www.msdc.govt.nz/work-areas/social-research/living-standards/living-standards-2004.html>>.

<sup>474</sup> *Ibid.*

<sup>475</sup> *Ibid.*

<sup>476</sup> Kerslake, *supra* n180.

abuse featured in 40% of cases, second only to neglect (46%). Other common elements were alcohol abuse (29%), child abuse (28%), mental illness and domestic violence (both 27%).<sup>477</sup> Another example is the decision at a December 2006 hearing in the Invercargill District Court. At this hearing, Judge Flatley asked CYF to step in to protect 17 year old Rhiannon Kahotea-Jones's unborn baby amid concerns for the welfare of both the child and the mother because of continuing drug abuse.<sup>478</sup>

In the United States more than 20 states now define drug use by an expectant mother as child abuse, neglect or even torture. This legislation was first mooted after a case in South Carolina (United States) in 1999 – where a woman who had been smoking crack during her pregnancy gave birth to a stillborn baby. Despite medically disputed evidence about the role cocaine had played in the tragedy, the woman went on to become the first woman in US history to be convicted of foetal homicide by child abuse. An appeal to the US Supreme Court failed and she is serving a 12 year jail term.<sup>479</sup> The Unborn Victims of Violence Act, passed by Congress in 2004, argues that foetuses are separate persons under the law, with rights independent of the pregnant woman.<sup>480</sup> A violent attack on a pregnant woman is now treated as two district crimes: one against the mother herself and the other against her foetus. Any aspect of a pregnant woman's behaviour that might risk foetal health – except abortion – is therefore open to punishment in the Courts.

Further, federal guidelines (2005) in the state of Arkansas ask any woman capable of conceiving to treat themselves – and to be treated by their health care provider – as pre-pregnant- woman. Women are told to take folic acid supplements, stop smoking, stop drinking regularly, maintain a healthy weight and keep chronic conditions such as asthma and diabetes under control. There has been an outcry in some quarters about these measures, though at this point there is no criminal sanctions against women who fail to comply with the pre-pregnancy guidelines.<sup>481</sup> Lynn Paltrow

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<sup>477</sup> Worrall, J *Grandparents Raising Grandchildren Charitable Trust Research Report: Grandparents and other relatives raising kin children in Aotearoa/New Zealand* March 2005  
<<http://www.raisinggrandchildren.org.nz/research.htm>>.

<sup>478</sup> Morgan, J “Teen addict embroiled in action to protect unborn child” *The Southland Times*, 1 December 2006, 6.

<sup>479</sup> The Guardian “The pregnancy police are watching” *The NZ Herald*, 28 September 2006, A8.

<sup>480</sup> Unborn Victims of Violence Act 2004 (United States)  
<<http://news.findlaw.com/hdocs/docs/abortion/unbornbill32504.html>>.

<sup>481</sup> Ibid.

(Executive Director of New York based group National Advocates for Pregnant Women) does agree it is far better for a developing foetus if an expectant mother gives up drinking, smoking and taking drugs. However, she argues, it seems no expense is spared to prosecute and jail women addicts, but little is spent on getting them appropriate treatment. Paltrow states:<sup>482</sup>

The US has a phenomenal disregard for the wellbeing of families. Almost every problem is seen as one of personal responsibility rather than social or community responsibility.

The author argues that such legislation could be of benefit in NZ, but agrees with Paltrow, that the issue of drug and alcohol abuse must be seen as one of individual and collective responsibility. As such, what support services are in place within communities to help people who want to address the drug and alcohol issues they have? Additionally, the author maintains, there needs to be not only a focus on the women, but also on the men. The US legislation does not suggest fathers take similar steps to ensure their sperm are healthy – despite studies that suggest male alcoholism can cause birth defects in children.<sup>483</sup> Nonetheless, if there is to be such a legislative response, as mooted, then there needs to be an awareness/education programme underpinning this legislation. This is so that prospective parents understand the benefits that the legislation can have on the growth and health of their child. In this way, rather than the proposed legislative response being seen as dictatorial measure, it would be seen as a preventative measure for the sake of children.

### **3.15 Recommendation 15:**

#### **A Parenting Licence**

*.....A Hamilton mother gave up her child (2 year old son) to CYF a year ago. When news of the Kahui twins murder broke, the woman's memories of being in an abusive relationship, working, looking after a baby, having no transport and no family support came flooding back. She said she dealt with the stress in the wrong way and hit her child. I rang CYF myself – I told them I needed someone to take my baby before I do something to him.....I was beaten as a child, I want to break the cycle.....she was angry over the Kahui's deaths.....'I've gotten help for myself, so why couldn't they? How hard is it to accept responsibility for your actions?.....'*<sup>484</sup>

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<sup>482</sup> Ibid.

<sup>483</sup> Ibid.

<sup>484</sup> Tahana, Y “Mother’s advice: just ask for help” *Waikato Times*, 1 July 2006, 7.

Margaret Evelyn, CYF Community Liaison Officer, believes a community collaborative approach such as Everyday Communities and Everyday Theatre is absolutely vital, but with such strategies she firmly believes that we must make parents more accountable. She states:<sup>485</sup>

Services such as CYF were designed to be there for when things go wrong, yet many people see CYF as the place that should be doing the ‘parenting’ of their child or preventing of child abuse.

There has been the recent mooted of an ‘A Parenting Licence’. Arguably, you need a licence to drive a motor car, a licence to own a dog, but you don’t need a licence to ‘drive/direct’ a child’s life in a protective and safe way. Isn’t a child’s life of greater value than a car or a dog? Moreover, society in general does not make it easy for parents to get the help they need. Thus by the time parents are done with demonstrating how they qualify for help, families/parents feel very inadequate.

In September 2006, at a seminar on Family Violence (attended by senior social workers, paediatricians and child advocates),<sup>486</sup> a ‘Parents Licence Test’ was proposed by Judge Graeme MacCormick, a former Family Court Judge and Human Rights Commissioner. McCormick went on further to suggest that parents who refused to be ‘assessed’ or ‘accept help’ should immediately be referred to Child, Youth and Family with a view to suspending any child related benefits and removing their children.<sup>487</sup> The test, he maintained, which all New Zealand parents would have to sit in order to be able to keep the care of their children would be administered when a baby is born, and repeated when they turn 1, 3, 5, 8, 11 and 14. Families identified as being ‘at-risk’ would be given extra support and, if their behaviour did not change, they would face sanctions. McCormick argued this universal system was necessary to avoid stigmatising those high risk families where children were in danger. He said:<sup>488</sup>

Children are children of the country as well as their parents.....and social justice for the child over-rides parenting rights.....Parents deserve greater training and support – a so-called ‘parenting licence’ would prove that parents have sufficient skills to properly parent their children.

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<sup>485</sup> Margaret Evelyn, CYF Community Liaison Officer, Interview Notes, October 2006.

<sup>486</sup> Every Child Counts, Auckland, September 2006.

<sup>487</sup> Newman, M *Newman Weekly* New Zealand Centre for Political Debate, 23 September 2006

<<http://www.nzcpd.com/weekly50.htm>>.

<sup>488</sup> Ibid.

There has been criticism of McCormick's suggestion. Dr Muriel Newman believes this response is typical of a big government approach whereby the so-called solution involves building a more intrusive bureaucracy. A bureaucracy, she argues, that will impose high levels of state intervention on all families with children, rather than simply targeting the minority of families where children are at serious risk.<sup>489</sup>

Maxim Institute's response is that a 'Parenting Licence' would fundamentally alter the relationship between families and the state, not just for 'at risk' children but for every New Zealand family. Instead of only intervening when families themselves and their communities have failed, the state would assume a watching brief over every family.<sup>490</sup> Are sanctions the answer? For example, there is already huge public fear around CYF taking children – and this is a primary reason why people often do not notify child abuse. People, in general, don't want to see their 'neighbour' have to have their children taken off them, because they know how devastating it would be if their own children were taken. Though, this point can be contrasted with the comments above, from the 22 year old Mum who contacted CYF herself. This Mum said, "I know he's (her son) going to have lots of questions when he gets older because I gave him to CYF, but he's safe and happy and that is what is important".<sup>491</sup>

The author argues that parents do need to know how to parent and so many parents in the current generation are doing this based on the poor parenting they received. Parents do need to be urged to get training in parenting. This could be a national guideline but to go as far as imposing sanctions is too bureaucratic, too heavy-handed. But then who should pick up the watching brief over children and arguably, how much co-ordination and collaboration between and across agencies/organisations/Government departments does it take to protect children from abuse? Yes, community and legislative responses are vital but there also has to be personal responsibility taken.

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<sup>489</sup> Ibid.

<sup>490</sup> Maxim Institute *Real Issues* No 223, 21 September 2006

<<http://www.maxim.org.nz>>.

<sup>491</sup> Tahana, *supra* n482.

### **3.16 Recommendation 16:**

#### **A Children's Centre in Every Local Council Community and a Child Advocacy Centre in Every Region**

The Social Policy Research Centre, University of New South Wales, released a report in 2000 on *The Link Between Children's Services and Child Protection*.<sup>492</sup> This report involved a literature review of research undertaken in Australia and overseas on the use of children's services as a child protection strategy and a field based study encompassing the collection and analysis of data received from directors and staff of children's services and workers in child protection.<sup>493</sup> The research showed that access to family support and children's services for children during infancy and early childhood had many potential benefits such as:<sup>494</sup>

It can help create a healthy environment that fosters children's development, supports parents and carers, minimises the risk of abuse and neglect and improves likely outcomes in adolescent and adult life. It has been estimated that the social and financial benefits in later life of providing early intervention programmes for families with young children far outweighs the earlier costs.

Thus, the author advocates that the provision of children's services such as a Children's Centre in every Local Council Community and a Child Advocacy Centre in every Region in New Zealand would be an important factor in preventing young children, who have been harmed, or are at risk of harm, from moving into, or further into, the statutory welfare system.

##### **3.16.1 A Children's Centre in Every Local Council Community**

In the United Kingdom, Children's Centres are being established as an approach to the prevention of child abuse. Such an approach is an example of individual communities recognising that they can become part of the answer to reducing child abuse. The UK Government has the goal of establishing a Children's Centre in every community by 2010, 3500 centres in total. The Children's Centres are a 20 year Government funded initiative and have been set up to specialise in the provision of

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<sup>492</sup> Fisher, K McHugh, M and Thomson, C *The Link Between Children's Services and Child Protection* Final Report SPRC Report 1/00 Social Policy Research Centre, University of New South Wales, February 2000.

<sup>493</sup> Ibid at ii.

<sup>494</sup> Ibid at 25.

integrated services for the families of children under 5, through highly professional multi-disciplinary teams.<sup>495</sup> The Sure Start Programme, which runs within the Children's Centres, targets community by community and in particular, all children under 5 in each of those communities. The support resources in the community are assessed, mothers are spoken to as to what other resources and supports they need in the community for their children and a community committee is formed, made up not only of the support agencies (government and non-government) but also with parent representatives from the community as well.<sup>496</sup>

A Children's Centre is a very proactive example of child abuse prevention right at the beginning of a child's life, arguable the best place to start. Such a centre can provide parents with programmes, resources and advice in a non-threatening and supportive environment. Allan Browne, Detective Sergeant, Hamilton Child Abuse Team, believes providing education and resources to parents and children is a vital part of reducing child abuse and family violence. So often Browne has seen parents leave their children in vulnerable situations and circumstances. This, to Browne, demonstrates parents/caregivers are showing a basic lack of respect, understanding and care for the child's safety. He has had parents make up stories such as "baby fell from the couch on to the metal stroller so that is why they have skull fracture." When in fact the truth was the parent had been 'out to it' on alcohol and had dropped the child on to the floor. Browne said:<sup>497</sup>

I am not about trying to put a guilt trip on parents/caregivers, but there has to be willingness for them to take personal responsibility for their actions

### 3.16.2 A Child Advocacy Centre in Every Region

In the United States there are Child Advocacy Centres (CAC) which are community-based child-friendly facilities designed to coordinate services for victims of non-fatal abuse and neglect, especially in cases of child sexual abuse and severe physical abuse. The key goal of these centres is to reduce the trauma to victims that may result from agency intervention.<sup>498</sup> The author argues that CACs are an excellent way to improve

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<sup>495</sup> Refer to <<http://www.sure-start.co.uk>>.

<sup>496</sup> Ibid.

<sup>497</sup> Allan Browne, Detective Sergeant, Hamilton Child Abuse Team, Interview Notes, October 2006.

<sup>498</sup> Golman, *supra* n411 at 81.

the handling of cases in the child protection process – investigation, prosecution, and treatment – by assuring the collaboration of the key professionals (such as police, prosecutors, mental health professionals, medical examiners) and agencies involved. CACs enhance coordination and achievement of positive outcomes by the key professionals being co-located within the same building. Also, the child is assigned an advocate who monitors the case through the various systems, and then does a case review which promotes formal and informal discussion of cases.<sup>499</sup>

### **3.17 Recommendation 17:**

#### **Legislate for a Mandatory ‘Duty of Local Councils to have a Child Abuse Prevention Strategy in place for their Community’: A Whole-of-Community Approach**

In the UNICEF 2003 report<sup>500</sup> on OECD countries, the top five countries for a low child abuse rate per head of population were Spain, Greece, Italy, Ireland and Norway. There has not been any in-depth research, to date, as to what do these five countries have in common, what distinguishes them from other countries, and what features can be linked to the lower number of child abuse incidences. However, the author argues the differences between countries, in the prevalence of child abuse, most likely arises from differences in the prevailing ethos. That is, in the commitment by the country as a whole towards not only acknowledging that child abuse exists, but a country who also actively initiate intervention and prevention measures across all ecological sectors within that country.

In the early 90’s, Peggy Flandreau-West, a USA Child Protection Training Specialist, developed a model called the ‘Discount Hierarchy’.<sup>501</sup> She proposed that a shift in the prevailing ethos, in regards to family violence/child abuse, can only take place as communities move through the different stages of acknowledgment. That firstly, child abuse is an issue in their community, secondly, it is a significant problem, thirdly, that there are solutions, and fourthly, that communities, can become part of the solution; instead of the alternative which is trying to discount that child abuse

<sup>499</sup> Ibid.

<sup>500</sup> UNICEF, supra n16.

<sup>501</sup> Western Australian Government - Department of Health *Discount Hierarchy*  
<[http://www.health.wa.gov.au/publications/archive/dvtk\\_dh.html](http://www.health.wa.gov.au/publications/archive/dvtk_dh.html)>.

actually exists. Thus what the Discount Hierarchy demonstrates is that there is the need for communities to work towards a change in the prevailing ethos in regards to child abuse and not for the community to just have resource intensive remedial programmes for parents/caregivers who maltreat/abuse their children. No doubt such initiatives can be effective but where the pendulum needs to swing is to towards prevention approaches that will have a significant effect on the overall prevalence of child abuse in communities.

A number of communities around New Zealand are now adopting a whole-of-community approach to abuse/violence prevention in their community, as outlined in the section 2.1.3 examples in section of this paper. As this type of approach grows in its impact, other communities want it for their own community. For instance, in July 2006 the Marlborough Violence Intervention Project launched a Community Family Violence Prevention Campaign with two focuses – raising awareness and prevention – and more specifically who can do what to help. Chris Elphick (the Campaign Consultant) said:<sup>502</sup>

People in Marlborough have a kind of smugness common to most places in New Zealand – the feeling that violence happens somewhere else, not in Marlborough.

The author contends that there needs to be specific a Child Abuse Prevention Strategy run in each community, as opposed to child abuse prevention just being a part of a Family Violence Intervention Project. Such a strategy could be mandated through the Local Government Act 2002 (LGA). Pursuant to section 91 LGA 2002, a local authority, at least every 6 years, must provide opportunities for communities to discuss their desired outcomes in terms of the present and future social, economic, environmental and cultural well-being of the community. Then these outcomes must, under section 93 of the LGA, be incorporated into the long-term community council plan. What the author advocates is that a clause be added to LGA 2002 that mandates that each local authority has to have a community-driven, child-centred, multi-disciplinary, inter-sectoral strategy of child-abuse prevention in their region/community, which is monitored and evaluated on a regular basis. This strategy

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<sup>502</sup> Ministry of Social Development *Te Rito News* Issue 9, December 2006  
<<http://www.familyservices.govt.nz/documents/publications/te-rito-news/te-rito-news-december-2006.pdf>>.

would be community driven through the consultation process implemented to discuss desired outcomes for the community and then this strategy could be put into the long-term community council plan.

Such a process would acknowledge that a community knows best what works for them; a whole-of-community approach. Child abuse prevention does not have a 'single' solution, thus communities need a variety of options in order to prevent child abuse – but whatever options it decides to take it must be done in a co-ordinated and integrated manner. As stated by Ian Hassall:<sup>503</sup>

A multi-layered, whole-of-community approach is a community-building strategy for stopping child abuse and neglect. This strategy is based on an ecological perspective and is ambitious and long term in aiming to change the way in which the community functions and its members think and behave.....Such an intervention model is based on a view of the community as a single child-rearing, child-protection entity with multiple parts, each of which must be effectively in place for all the community's children to flourish.

A call to a whole- of-community approach to reduce child abuse is also one that is being echoed in Australia at present. In Australia, the reports of child abuse have almost doubled in the four years to June 2006, according to figures from the Australian Institute of Health and Welfare.<sup>504</sup> Adman Blakester, the Executive Officer of the National Association for Prevention of Child Abuse and Neglect (Australia) said:<sup>505</sup>

[w]e need to establish community action networks in every town, city and suburb to build the capacity of communities to support families and the capacity of families to raise children. The fact that this is the seventh year running, that every national indicator of child abuse and neglect has worsened, shows that what we are doing is not good enough.

In England, pursuant to the Children Act 2004, each Council (Authority) area has to establish a Local Safeguarding Children Board (LSCB) for their area (s13(1)). The Board has to be made up of an authority representative from the Police, Probation,

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<sup>503</sup> Hassall, I and Davies, E *Using action research to assist the development of a community building strategy to prevent child abuse and neglect* Ministry of Social Development Conference 'Connecting Policy, Research and Practice', Wellington, 29/30 April 2003

<<http://www.msd.govt.nz/documents/evetns/strategic-social-policy/conferences-03/1.20-paper.doc>>.

<sup>504</sup> Kontominas, B "Reports of child abuse double in four years" *Sydney Morning Herald*, 26 January 2007, 5.

<sup>505</sup> Ibid.

Youth Offending Team, Strategic Health Authority, Primary Care Trust, NHS (National Health Service) Trust, NHS Foundation Trust, Learning and Skills Board, Children and Family Court Advisor and Area Governor (if there is one) of the Prison/Secure Training Centre (s13(3)). The objective of the LSCB is to co-ordinate and plan/strategise what is being done within the area/authority for the purposes of safeguarding and promoting the welfare of the children in the area and to ensure the effectiveness of what is done by each person/body for those purposes (s14). Each local authority needs to involve children in this process. When inspectors assess how local areas are doing, they will listen especially to the view of children and young people themselves.

Thus, arguably one of the questions NZ communities must begin to challenge themselves with in a greater way is “How are we cherishing our children?” And from that point what are the people/personnel, skills, resources, training and supports that need to be in place so that a culture which cares for and respects children, is progressed? For example the *Review of Parenting Programmes* report (Families Commission, June 2005)<sup>506</sup> suggested a universal parenting programme could be built on an existing service (such as that provided by Plunket) providing a nationwide, ongoing programme but that the programme would be one that was based within communities. This is an example of a prevention measure that could be incorporated into a community’s child abuse prevention strategy. Operating the programme at a community level, would normalise the involvement of people building up their parenting skills.

However, as pointed out by Adam Tomison, NAPCAN, Australia,<sup>507</sup> a community approach to child abuse prevention should not mean that communities can, or should, take more than a share of the responsibility for preventing child abuse and neglect – “it should be that communities take a part as they are able”.<sup>508</sup> Further, as the author also maintains, Tomison says:<sup>509</sup>

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<sup>506</sup> Kerslake, *supra* n180 at 8.

<sup>507</sup> National Association for the Prevention of Child Abuse and Neglect.

<sup>508</sup> Tomison, *A Child Friendly Communities – tailoring a ‘whole of community’ message*

May 2005 <<http://www.napcan.org.au/documents/AdamTMinisters2005.pdf>>.

<sup>509</sup> *Ibid*, 2.

In no way should the development of community responses be seen as an opportunity by governments or the professional sector to abrogate their responsibility for child abuse prevention. The community involvement is best seen as 'value adding' to the range of work being undertaken by government, professional agencies and advocacy groups to prevent maltreatment.

### **3.18 Recommendation 18:**

#### **Provide more Resources (Funding and Personal) but link that Provision to a Comprehensive Auditing Process**

In the September edition of the Police Association's monthly newsletter, 'Police News', child abuse investigators reported that they live in fear that one of the unassigned child abuse cases could be the next Lillybing or the next Kahui twin tragedy. Detective Sergeant Tusha Penny, Lower Hutt Child Abuse Team Supervisor, said:<sup>510</sup>

[w]e put our resources into the murder inquiries for these children when they get murdered, but when they're alive and we know they're at risk, often we don't have the resources to allocate to it. Police have to allocate resources rationally, despite the emotions involved, but even with the sturdiest of processes in place there is still risk of getting it wrong. Lower Hutt's child abuse files increased by 40% last year (2005) and have surged a further 60% this year (2006).

Masterton Detective Sue Mackle said:<sup>511</sup>

I have more than 100 files on my caseload, the highest I have encountered in my 13 years of child abuse investigation. It is not good for the victims. I can think of a number of instances where alleged offenders still have involvement with families and one or two of them are probably still living with the families.

Further, one unnamed detective said:<sup>512</sup>

Burglaries and other property offences are taking over police and child abuse is being shuffled back down the list of priorities.

In relation to child abuse cases, the Police use 'perceived danger' to decide case priority. This means the more danger a child is believed to be in, then the more quickly the case is dealt with.<sup>513</sup> This 'prioritising', and the child abuse investigators

<sup>510</sup> Watt, E and Welham, K "Child Abuse Swamps Police" *The NZ Herald*, 6 September 2006 <<http://www.stuff.co.nz/stuff/print/0,1478,3787687a10,000.html>>.

<sup>511</sup> Ibid.

<sup>512</sup> Ibid.

<sup>513</sup> Tahana, Y "Abuse team struggling to keep up with cases" *Waikato Times*, 13 September 2006, 5.

comments above, demonstrate that, more often than not, resources end up being put in to the top end of the child abuse continuum - namely when children end up being murdered, such as the Kahui twins. Therefore, resources also need to be put into the lower end of the child abuse continuum where prevention and intervention can take place before the abuse escalates into something more serious and fatal for children who have been, or are at risk of being abused. This primary prevention focus is also advocated by James Mansell, Senior Analyst CYF, who said:<sup>514</sup>

A possible solution to seek to rebalance the government response to children in need is by moving resources towards a general child welfare model and reducing the more forensic statutory child protection response. The underlying assumption here is that the child protection response rate is too high and hence harmful and so should be reduced to only the most severe cases, or that demand can be managed prior to reaching a child protection response.

However, the author maintains, along with the input of more resources across the different sectors of the ecological levels, the resources also need to be linked to an auditing type process. Not a process that will be cumbersome and use up the additional pool of resources, but a process that clearly identifies whether the resources have resulted in positive outcomes, such as the unallocated child abuse team cases reducing on a national level. An example of an auditing process is that used by the Ministry of Health (MOH). In 2002, the MOH developed the Family Violence Intervention Guidelines: Child and Partner Abuse (FVIG) which include a dual identification risk assessment and intervention for child abuse and intimate partner violence (IPV). The FVIG recommend asking about child abuse whenever a partner abuse screen is positive and vice versa.

These guidelines are monitored by the MOH use of a Delphi Audit Tool designed to test healthcare system responses to victims of child and partner abuse and includes an analysis of community agency collaboration, policy framework and clinical procedures, paid child protection and family violence staff, training plan, documentation, cultural safety and evaluation.<sup>515</sup> The MOH see the advantages of this audit tool being that it motivates DHB's (District Health Boards) by giving them clear feedback about progress, it tracks national and individual progress over time, it

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<sup>514</sup> Mansell, supra n357 at 80.

<sup>515</sup> Elvidge, supra n37.

pinpoints the strengths and weakness of DHB responses and it identifies where further work needs to occur.<sup>516</sup>

Section 2.2.3 in this paper, involved a discussion around the need for a non-contestable pool of funding. A lot of the child abuse prevention work being done at a community level at present is being done by small, financially fragile non-profit organisations. Thus, a key challenge at a government level is to provide a framework in which organisations within a community can pool their efforts and resources in a more co-ordinated and sustainable way for the sake of protecting children from abuse and neglect. The government cannot continue to allocate millions of dollars to the cause of family violence prevention (and within that child abuse prevention) and for that money not to be seen at a 'grass roots' level in communities that are working 'hands-on' supporting children and their families.

Certainly, providing funds for analysis, reports, reviews and research around child abuse are vitally important to the goal of reducing the number of child abuse incidences in New Zealand. But this need for analysis must be balanced against providing money for the 'action' of facilitating the change in households where child abuse takes place. For example, some women (and their children) applying for a protection order do not meet the criteria for being able to receive legal aid. As such, these particular women have to find the funds to be able to get a lawyer to get their affidavit written their case presented in court. How difficult does it have to be for women (and their children) to get out of the cycle of abuse – arguably are they actually just going from one form of abuse to another – this time systems/institutional abuse?

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<sup>516</sup> Elvidge, *supra* n37.

### 3.19 **Recommendation 19:**

#### **Establish an Ongoing National Media Awareness/Education Campaign:**

#### **Promote a ‘Child-Cherishing’ Culture**

*....Parents of baby who died alone in the back seat of a car while they were at a party say they have learned their lesson.....’we have learned that children don’t sleep in the car’ the mother said, ‘and we don’t consume as much alcohol now – only on special occasions – really, really, special’ said the father The couple were attending a party and left the 13 month old baby on the back seat of their car – it was a cold night and the baby was suffering from bronchitis.....Huntly coroner Bob McDermott said the case showed a gross lack of care of a child.....<sup>517</sup>*

What Detective Jo Linton, Hamilton FST has observed in her work is that there are generations of dysfunctional families now ‘breeding’ the next generation of dysfunctional families. But despite this, for Linton, it’s about at least doing something, “you have to start somewhere”, to help the community become more aware of the prevalence of family violence. She passionately believes that education is the key and the message has to be put out to the community constantly that family violence is unacceptable and that family violence does affect children. Mansell, in analysing the CYF weekly notification spikes from 2000 to 2004, found a correlation between the level of media attention (that given to high-profile child deaths or serious abuse) and the notification rates. “Weeks with high levels of media attention were significantly likely to have a high notification rate”.<sup>518</sup> Further, Denis McKinley, UNICEF Executive Director (NZ) believes that until the awareness of child abuse is progressed then there will remain little improvement to community attitudes to abuse and violence.<sup>519</sup> Linton and McKinley’s comments, and Mansell’s analysis, reinforce that there is a need for an ongoing, as opposed to ad-hoc, national media awareness/education campaign that promotes a ‘child cherishing’ culture.

The author defines a ‘child-cherishing’ culture as one that emphasises children need to be nurtured, cared for and respected. It is the collective responsibility of adults, at a parental, family, neighbourhood, community and national/government level, to progress such a culture. Child abuse prevention needs to focus less on what it wants

<sup>517</sup> Prattley, H “Death a ‘lesson’ for parents” *Waikato Times*, 1 October 2006, 5.

<sup>518</sup> Mansell, supra 357 at 80.

<sup>519</sup> Watts, E “Children find hell in Godzone” *Sunday Star Times*, 30 October 2005, A4.

to avoid and more on what it wants to accomplish for children. As succinctly put by Daro and Donnelly:<sup>520</sup>

Rather than defining the goal as the absence of (*child*) abuse, it's about the goal of maximising the potential of children and helping parents to understand that their child's ability to develop to their potential depends on their actions as parents and also the supportive efforts and actions of other adults in the child's life, such as teachers, coaches etc..... The normative standard needs to be one that encourages parents to seek and receive the support they need to care for their children.

This point is also reiterated by Adam Tomison who said:<sup>521</sup>

We accept that the hard message to prevent child abuse and neglect isn't producing enough community action, so we are reframing the message – making it a little easier to deal with. It does not mean we are changing our mission of preventing child abuse and neglect, rather that we're getting better at tailoring it to what people will engage with, something where they can also feel they are making a difference.

A recent example that demonstrates the collective responsibility to progress a 'child-cherishing' culture is the new guidelines that the Dental Association have introduced to help detect and report children who may be victims of abuse.<sup>522</sup> The Dental Association believes its members are in an ideal position to spot suspected abuse, as up to 70% of abused children suffer face or neck injuries.<sup>523</sup>

Further the need for, and importance of a child-cherishing culture is evident in Nigel Latta's book 'Into the Darklands'. Latta, a Psychologist who does a lot of work with child abuse perpetrators, and in particular those who have committed sexual acts on/with children. Latta writes:<sup>524</sup>

We always try and look for the complicated answers – stuff happens because most of us don't really give a shit.....this explanation does not take account of complex historical, socio-economic, political or social factors, but experience has shown me that what a child needs is 'to be loved and to love' – without that foundation it is difficult to reverse the 'hard-wiring' that is now in place as that (unloved/uncherished) child goes on to become an adult who abuses children.....let me say it one more time: this stuff happens because most of us don't really give a shit. And for that, we are all to blame.

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<sup>520</sup> Daro, D and Donnelly, A "Charting the waves of prevention: two steps forward, one step back" *Child Abuse and Neglect* 26 (2002) 731-742.

<sup>521</sup> Tomison, supra n508 at 5.

<sup>522</sup> NZPA "Dentists detect child abuse" *The NZ Herald*, 30 November 2006, A9.

<sup>523</sup> Ibid.

<sup>524</sup> Latta, supra n54 at 168.

An interviewee for this thesis recalled how she went down to her local dairy which is known for its amazing sweet collection. There was a queue which contained a number of adults and a child. As the respondent waited in line she saw the child get her turn to choose her sweets. What that the respondent observed was the dairy owner did not put on his plastic gloves to pick out the sweets the girl wanted, yet for the adults ahead of the girl who had got sweets he had put plastic gloves on. Again nothing complex in this situation - just simply one pair of plastic gloves on would show that the owner cherished the child enough to care about her physical health (in this instance) enough to treat her in the same way he had afforded the adult customers by putting gloves on.<sup>525</sup>

Another interviewee for this thesis recalled an incident from when she was on her lunch break at a course – to which she had brought her young baby as the baby was still breastfeeding. She had looked out to the car park and saw three unattended small children in a car. As she walked across to the car, with her baby in her arms, the male adult/driver came out of the TAB and got into the car, starting it up. The interviewee noticed none of the children had car seats or were buckled in. One of the children also had a plastered broken arm. She said to the man she had come over to the car because she was concerned the children were unattended and were they now going to be buckled in - “F.....off” he said to her “give a shit about your own kid and not about mine”, to which he reeved up the car and took off.<sup>526</sup>

It’s all adults that need to progress a child-cherishing culture at a personal level (as the above two examples show) and at a professional level. For instance, a 7 year old girl was brought to her GP by her mother with a groin rash and vaginal discharge. The GP obtained the necessary medication and the girl and mother were sent home. The GP said he acted in this way because he felt there was no immediate danger as there were no males in the house and the child’s mother had declined a pediatric referral. Three months later, the girl presented with the same symptoms CYF were not contacted until after the girl had been treated, thereby removing the evidence (through a forensic examination) to make a legal case in Court. The father, who was assumed to be the perpetrator, was asked by CYF to move into a motel and to have no

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<sup>525</sup> Child Protection Nurse Specialist, Interview Notes, October 2006.

<sup>526</sup> After School Care Supervisor, Interview Notes, October 2006.

contact with the family until further notice. The family left the country two days later before any further investigation could be completed. An interagency meeting occurred a month later to discuss the case. The GP was not in attendance and the reason for this is not clear.<sup>527</sup>

The Health and Disability Commission found the GP had failed to comply with the Code of Health and Disability Consumers Rights by not complying with professional standards (such as not following the recommended referral process/guidelines for GPs for suspected abuse, set out by the Ministry of Health – published in 2000), not consulting and referring properly, not co-operating appropriately with other providers who needed to be involved in the child’s care – and more crucially – choosing to treat the child himself and thereby leaving the child at risk of further abuse.<sup>528</sup>

Rajen Prasad, Chief Commissioner, Families Commission believes:<sup>529</sup>

Family and friends can play an important part in preventing child abuse and neglect. However, many of us choose not to say or do anything because we don’t know what action to take, we don’t want to interfere, or we are worried about what may happen if we do say something.

Rajen Prasad’s comments can be backed by an Australian national study of community attitudes about child abuse. The study, conducted by the Australian Childhood Foundation (ACF), found 31% of Australians would not believe children who said they were being abused, 20% would not know what to do if they believed a child was abused, 40% could not bear to see images of abused children and 16% were unaware that most child abusers were known to their victims.<sup>530</sup> ACF’s Chief Executive, Joe Tucci said:<sup>531</sup>

[o]utdated community views are endangering young abuse victims who have only a one in three chance of being believed if they reported it. We are closing down opportunities for children to tell us that they are being harmed and we are closing down the possibility of helping them.

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<sup>527</sup> Jacobs, P Dr and Webber, C *Lessons to be learned from the Health and Disability Commissioner’s Findings*

NZFP (New Zealand Family Physicians), Volume 29, Number 5, October 2002

<<http://rnzcgp.org.nz/news/nzfp/Oct2002/HDC-October-02.pdf>>.

<sup>528</sup> Ibid.

<sup>529</sup> Family Voice, supra 105.

<sup>530</sup> Edwards, L “A third ‘wouldn’t believe’ child abuse claims” *The Melbourne Age*, 11 April 2006, A6.

<sup>531</sup> Ibid.

The author proposes that a similar study conducted in NZ would most likely show the same findings. What can be demonstrated from the ACF research and the preceding examples, case and comments is that it is adult behaviour that is holding people back from protecting children from abuse. This 'holding back' simply cannot continue to happen. As individuals, as families, as communities, as a nation we must cherish our children more – we must love our children. We must as the adults take more responsibility. We 'must give a shit' about what is happening to the children that we associate with everyday in our community, whether we are the dairy owner or the child care supervisor or the GP or the health worker or the teacher or the parent.

### **3.20 Conclusion**

The analysis in Section 3 of this thesis clearly shows that one way in which NZ's high incidences of child abuse can be reduced is if at a government level, there is an increase in the legislative and policy responses within an ecological framework to child abuse prevention. NZ does currently have a varied range of legislative and policy responses, as outlined in this paper. But those responses, the author has argued, are not strong enough, nor sufficient enough to address NZ's shameful growing rates of child abuse.

In short, NZ's approaches to child abuse prevention are too reactive, and too ad-hoc and are increasingly being subsumed and minimised at a community and government level, under family violence initiatives and strategies. Further, government funding is poured into projects and initiatives which are promising as primary child abuse prevention measures, but this is done at the expense of existing measures not being evaluated, monitored or audited in a comprehensive and consistent manner.

Additionally, there is a bias toward child abuse prevention being responded to only as a medico-social discourse. As opposed to the recognition that a legal discourse can also be seen as a significant contributor to reducing child abuse.

Therefore, the author maintains, that it is not more child abuse prevention projects and initiatives that NZ needs. Instead, there needs to be a mandatory review and consolidation of the existing strategies/preventative measures across the different

ecological levels. The outcomes of this review and consolidation can then be backed and strengthened at a community level, by pro-active legislative and policy responses.

As stated by Ian Hassall:<sup>532</sup>

For community building to be effective, the whole-of-community approach locally must be matched by a whole-of-government approach nationally in providing policy support.

In summary, NZ does not advocate well enough for its children, their voice is muted:<sup>533</sup>

Children have no voice in Parliament, yet are our single most important future investment. With the birth rate declining (now 1.8 children per woman) and abuse rising, children are becoming an endangered species, yet their wellbeing has seemingly dropped off the national agenda.

There is too much of an emphasis on adult/parental rights, rather than adult/parental responsibilities to children. There is also more of a focus on political correctness and rhetoric around child abuse, than there is on ensuring legislative and policy responses which can make community-driven, child-centred, multi-disciplinary, inter-sectoral approaches to child abuse prevention a practical reality in New Zealand.

The aforementioned point was also one reflected in the *UN Global Study of Violence Against Children* (2006).<sup>534</sup> David Kenkel, Advocacy Manager for UNICEF New Zealand said:<sup>535</sup>

The strongest recommendation this new report makes is that countries need to put children at the forefront of policy. In New Zealand we need to start acting as if children really mattered rather than just mouthing the words. New Zealand still hasn't lived up to the promises we made to our children thirteen years ago when we signed up to the United Nations Convention on the Rights of the Child. Recent initiatives like the Taskforce on Family Violence are a good start but too often these kinds of things aren't followed through. New Zealand children need more than good beginnings; they need commitment from government and community for the long term.

Further, in the UN report, Professor Pinheiro, the independent expert appointed by the UN Secretary General to lead the study said:<sup>536</sup>

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<sup>532</sup> Hassall, supra n503 at 6.

<sup>533</sup> Chamberlain, supra n13 at 48.

<sup>534</sup> Pinheiro, Paulo Sergio, United Nations *UN Global Study of Violence Against Children* August 2006, <[http://www.unicef.org/violencestudy/reports/SG\\_violencestudy\\_en.pdf](http://www.unicef.org/violencestudy/reports/SG_violencestudy_en.pdf)>.

<sup>535</sup> UNICEF NZ New Zealand is shamed by our child abuse record says UNICEF NZ as UN Global Study on Violence Against Children is released 13 October 2006 <<http://www.unicef.org.nz/media/news/news1160684054.html>>.

The best way to deal with violence against children is stop it before it happens. Everyone has a role to play in this, but States must take the primary responsibility. ....People must be held accountable for their actions, but a strong legal framework is not only about sanctions, it is about sending a robust, unequivocal signal that society just will not accept violence against children.

It is time that this challenge was taken up at a community and national level. It is time that New Zealand stop 'limping along' in the protection of its children and young people. As succinctly put by the late Laurie O'Reilly, former NZ's Children Commissioner.<sup>537</sup>

Be passionate about children. Be committed to the principle of a first call for children – namely that children should have the first call on our resources and capacities, thus their interests be paramount.

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<sup>536</sup> Pinheiro, supra n534 at 25.

<sup>537</sup> O'Reilly, supra n361.

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