

ADAM TOMISON discusses aspects of a recently released report that proposes a new comprehensive model for the investigation and alleviation of child sexual assault

## NEW MEASURES FOR COMBATING

The Victorian Government recently released the first report of the Victorian Parliamentary Crime Prevention Committee's inquiry into the 1992-93 Victoria Police Annual Report, and in particular the section 'Sexual Offences Against Children and Adults'.

The report deals primarily with the sexual assault of children and the child protection system's response to those assaults. The Committee spent approximately 12 months collecting material, meeting with offenders, community groups, and national and international experts in the fields of law and justice, and the welfare professions. The result is a report that recommends the implementation of a 'multifaceted, integrated service to combat sexual assault of children' (p.xii), a model which has the potential to enable Victoria to 'yet again be a world leader in crime prevention and community safety' (p.xii).

While this report was based on an assessment of the Victorian child protection system, the issues identified are relevant to other child protection systems both interstate and overseas.

The Committee makes 130 recommendations which, if adopted, would affect legislation, the roles of police, Health and

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An Integrated Model, First Report  
Crime Prevention Committee,  
Parliament of Victoria,  
IV North, Government Printer,  
Melbourne, May 1995.***

Community Services, and the legal response to sexual assault (criminal and civil matters). The role of educating professionals in preventing and detecting child sexual assault would be greatly enhanced, and greater resources would be allocated to services offering support to abused children and their families, and also for the rehabilitation and supervision of sex offenders.

The report details an 'integrated' model for the investigation and alleviation of cases of child sexual assault. While the Committee did not investigate other forms of child maltreatment, it did note that the model may be applicable for dealing with other forms of abuse. Given that physical abuse is currently dealt with in a manner similar to sexual abuse (that is, via criminal

and protective investigations), the proposed system would seem to be an appropriate means of management for physical abuse at least, and possibly for other forms of child maltreatment.

Because of its scope, it is not possible to produce a detailed analysis of all facets of the Crime Prevention Committee's proposed child protection system. Rather, this discussion attempts to highlight and summarise some aspects of the report.

### **Shift in Focus**

Since the late 1970s, the child protection system in Victoria has undergone a number of changes as part of a continuing trend towards a welfare model of child protection (Fogarty 1994). This trend has occurred at the expense of a criminal justice approach which, over time, has meant a greater role for welfare professionals and less involvement of police at the 'coalface' of child protection. The Committee's report represents a shift in focus away from the welfare model back to a stronger law and order approach, where importance is placed on bringing sex offenders to justice, and the primary child

protection role is perceived to be the investigation and substantiation of sexual assaults. Child and family support and counselling appears to be relegated to an important but subsidiary role.

### Current Child Protection System

Under the 'single track' child protection system currently operating in Victoria, and only implemented in 1992, Health and Community Services Victoria (HCS) has the primary statutory responsibility for the management of all child protection matters. The criminal investigation of child physical and sexual assault remains the task of Victoria Police.

This approach was implemented in response to well-documented problems in inter-professional and inter-agency cooperation, collaboration and communication occurring under the previous 'dual tracks' system, where both HCS and the police were involved in protective investigations. Despite the move to a 'single track' system, evidence presented to the Committee would suggest there are still barriers to the proper investigation of suspected child sexual assault and, in some instances, a lack of cooperation between agencies.

HCS staff in particular, were criticised for a failure to adequately follow reporting and investigations protocols, and for inappropriately making criminal investigation decisions.

The Committee also criticised HCS for failing to conduct a substantive investigation in approximately half of all notifications in 1994. In these cases the decision to sub-

highlight the fact that neither service, working separately, has all the answers for the management of child sexual assault cases.

### Team Approach to Child Protection

Multidisciplinary, team approaches to child protection have been advocated since the 1980s. Initially, the approaches were more in the nature of inter-professional and inter-agency communication and collaboration. However, there has been a move towards a

investigators – a police officer specially trained in criminal investigation and child abuse matters who will lead the investigation, and a Protective Advocate, an experienced HCS worker who would form an integral part of the SART from receipt of a notification through to the end of any court process. The police investigator would be primarily responsible for conducting the criminal investigation; the Protective Advocate would be involved in the investigation whenever the child or other family members are being

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stronger team approach, where agencies conduct joint investigations of child maltreatment matters.

The result has been the development of a variety of team approaches. In Australia these have included: Suspected Child Abuse and Neglect (SCAN) teams in Queensland; joint investigations by South Australia's Child and Family Health Service workers and police (separate organisations, joint response at the investigatory stage); and, currently being trialled in New South Wales, the co-location of Department of Community Service workers and police members whereby staff from each section operate as a cohesive unit. The latter approach in particular, has received positive evaluations.

interviewed. The Protective Advocate's role would be to offer the child and non-offending family support and to ensure an 'easy' path for the child through the child protection (and court) system. If a protection application is required, the Advocate would also make the application.

Medical, legal and counselling services would play key roles in secondary intervention and support. The Committee stated that child sexual assault victims should be entitled to counselling or psychological services regardless of age or gender. The Committee separated the provision of services into 'pre-court' and 'post-court', a resurrection of the system used by Community Services Victoria (HCS pre-1993) to assign child protection workers. In the new model, children would be supported under the pre-court service while they remain SART clients. The provision of support for children post-court, (where the court process was completed, or the case was closed without

court action) would be contracted to external services. Significantly, the Committee recommends that the Minister for Community Services lobby the Commonwealth government to consider Medicare coverage for the counselling and support of child sexual assault victims.

# CHILD SEXUAL ASSAULT

stantiate/unsubstantiate was made purely on the results of a phone conversation with the notifier. Concern was raised that HCS made little attempt to check the credibility of its professional notifiers or the ability of non-professional notifiers to know and articulate the 'full picture' of a family's situation. The Committee noted that 'there is an underlying philosophy of "deflecting" away as many notifications as possible in order to reduce the number requiring further action' (p.22). It was concluded that in future HCS should conduct further inquiries prior to making a decision to close a case, and that the current system of deflecting cases did not reflect the community's expectation of a child protection service, nor did it meet the needs of children in need of protection.

In contrast, little attention appears to have been paid by the Committee to problems with the police role in child sexual assault. The report makes little mention of a common complaint of HCS workers concerning police who also fail at times, to follow the 'single track' protocol, and the effect on case management when police inappropriately make decisions affecting protective investigations (Tomison 1994). Such breaches serve to

Such a team approach to child protection is reported to result in a breakdown of traditional police-welfare rivalries, enhanced communication and cooperation, and enhanced investigation and case management of suspected child sexual assault cases by both services. The wider professional

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community is also reported to perceive such teams as a more effective means of handling maltreatment cases, and are thus more likely to refer to the service.

The Crime Prevention Committee reported that, with the exception of HCS managers, evidence presented to the Committee in verbal and written forms advocated a multidisciplinary model of child protection service.

Under the Committee's model, Sexual Assault Response Teams (SARTs) would be set up in each state region. The primary intervention team would comprise two main

Under the SART system, all notifications received by HCS or police are required to be immediately referred to the regional SART for evaluation and investigation. In order to prevent agencies failing to report cases, or delaying reports, such as is reportedly occurring in the current child protection system, the Committee recommends that it be a disciplinary offence for HCS or police to fail to follow the SART reporting protocol.

The Committee recommends that a state Child Protection (Sexual Assault) Board be set up to manage and coordinate the operation

of the SARTs. The Board would have a role in overseeing the training of the SART team members; regional staff would be tasked with reviewing case decisions where a complaint or dissenting opinion is voiced.

### **Role of police**

In some ways the Committee's proposed model is a step back in recent history. After only three years of the 'single track' system, the implementation of the Committee's model would see police regain some of the responsibility for protective investigations. The Committee indicated the role of SART criminal investigator would best be filled by police members trained in criminal investigation work, but with some child protection expertise. The Committee recommends that Community Policing Squad members be recruited to the SARTs and given specialist criminal investigation training.

### **Role of HCS**

The introduction of SARTs would appear to result in a more limited HCS role in child protection. Given that the abusive elements of a case may only become apparent after an initial investigation, the most sensible solution would be for the SART teams to handle the investigation of *all* suspected maltreatment cases. Under such a scenario, HCS may be left with a very limited role in child protection – the supervision of statutory clients and the coordination of child abuse prevention efforts (see below).

### **Perpetrators**

With regard to the Committee's discussion of sex offenders, it appears that there was some confusion as to who constitutes the greatest menace to children. Much of the description of sex offenders appears to be related to paedophiles or preferential sex offenders (those who prefer to have sex with children), when by far the most common offender is a family member, who is usually a situational

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offender (assaults a child when the opportunity presents, but does not have a preference for sex only with children). (Angus and Woodward 1995)

The most common family-based sex offenders are the natural fathers of victims (Angus and Woodward 1995), yet the father as offender is not mentioned in this report. The Committee has concentrated more on information about stepfathers and mothers' defacto partners as offenders, and at times appears to confuse sex offenders in general with paedophile offenders. In addition, paedophile activity and organised child sexual abuse rings are discussed in detail. This may have occurred because of an overly strong focus on convicted sex offenders.

The Committee also takes a somewhat simplistic view of incest, stating that incest 'should not be looked at and treated as a family problem, or a problem for family counselling . . . the incest offender must be made to face the consequences of his criminal acts and take full responsibility for the offences' (p.123).

The focus purely on the need to punish doesn't take account of the realities of child sexual assault. Regardless of length of sentence, many child sex offenders return to the family. Therefore, it is not enough merely to punish offenders; 'punishment' must include some measures designed to minimise re-offending once the perpetrator returns to the community.

### **Offenders – Criminal Justice and Treatment**

Despite a criminal justice focus, the Committee made a number of recommendations for the treatment of sex offenders; some of these are reviewed here.

#### **Criminal justice**

The underlying theme of the Committee's report to return to treating child sexual assault as a criminal matter first and foremost has implications for the criminal justice system. It would involve removing some of the 'impediments' to prosecuting offenders successfully, and legislative reform to ensure that convicted child sex offenders be given sentences of the same severity as offenders who sexually assault adults receive.

Singled out for particular attention was the Magistrates Court where, it was reported, only 10 per cent of child sex offenders in 1993 who came before the Court were sentenced to a term of imprisonment, and this figure included those offenders whose prison sentence was suspended. The Committee was of the view that virtually all cases involving the sexual penetration of a child should result in a prison term.

The separation of trials where there are multiple victims of sexual assault is commonplace within the court system. In each case the defence requests and is granted separate trials for each victim. It is argued that the failure to implement separate trials

# National Child Protection

**The National Child Protection Clearing House, located in the Family Information Centre of the Australian Institute of Family Studies, continues to progress in all of its four main functions, and clients are making good use of resources and services JUDY ADAMS reports.**

### **The collection**

The Clearing House has collected materials in the child abuse/neglect area in various formats – books, manuals, periodicals, audio-visual material, legislation, electronic files, ephemera, kits, and training manuals. Currently the Institute's library holds over a thousand items directly related to child abuse/neglect and more on peripheral topics. All significant journals in the area have been purchased.



Interlibrary loan facilities are provided and, while many items have been borrowed by clients since the beginning of the year, the Clearing House wishes to increase the use of what is now a very good resource. To demonstrate the scope of the collection,

bibliographies have been prepared and distributed on the following topics:

- child abuse prevention and the community
- child abuse prevention videos
- mandatory reporting
- child witnesses
- child abuse prevention and the school
- child abuse prevention and parents
- physical punishment
- who abuses children
- resources for children
- child abuse and substance abuse
- your choice of child abuse-related topic

Contact the Clearing House if you would like one of these bibliographies, which are free of charge.

has the effect of introducing an element of 'prior conviction', and thus affects the 'fairness' of the trial for the accused. Obviously separate trials seriously weaken a prosecution. The report lists examples where an offender who allegedly molested four boys was found guilty when the cases were combined but, on appeal, had his cases separated and was found not guilty on each. The Committee recommends that legislation be enacted that presumes that multiple victim sexual assault cases, which are presented together, will be heard together, with the proviso that a trial judge be satisfied that there has been no collusion by the victims which would taint the evidence.

The report goes on to discuss the rules of evidence in child sexual assault cases, promoting the need for 'special hearsay exception laws', such as are operating in the United States, whereby a secondary source (doctor, parent, teacher) in whom the child has confided is able to have a statement admitted into evidence. In addition, the Committee recommends that the prosecution be able to ask leading questions of a child witness in order to establish the facts in a case.

The Committee also recommends more uniform application of a number of measures aimed to reduce the trauma of the child witness in child sexual assault cases. These have been advocated in Australia and overseas for a number of years and their use has already been implemented, to some extent. These include the use of videotaped interviews as the child's evidence in chief; child witnesses

giving evidence via closed circuit television; and the use of a screen to prevent the child seeing the accused in court.

If implemented, these recommendations would go part of the way to reducing the trauma of child witnesses in the court environment. However, although the Committee states that 'the radical changes to our judicial system will benefit all Victorians without impinging on the rights of the accused beyond that which the Committee considers reasonable' (p.316), the Committee has advocated a number of measures (some discussed here) that will effectively lower the burden of proof currently existing in the criminal courts. It would be expected that such recommendations would be vigorously opposed by at least some civil liberties and parent rights groups.

#### **Treatment/rehabilitation**

The Crime Prevention Committee acknowledged that despite the wishes of the wider community, sex offenders are not able to be locked away for ever. Given that offenders will be returned to society, the Committee's integrated model of sexual assault services also contained some recommendations for treatment and rehabilitation.

According to the Committee, assessments of child sex offender recidivism indicate that, without treatment, approximately 60-70 per cent of sex offenders will re-offend, while less than half of sex offenders who undergo a treatment program reportedly re-offend.

Cost/benefit analysis has indicated that

treatment of offenders is a cost-effective approach to the problem of child sexual assault, given that it appears to lead to much lower recidivism rates, while the costs of treatment are far outweighed by the costs of incarcerating recidivists, as well, of course, as the social and human cost of the assaults themselves (Prentky and Burgess 1990).

Based on national and international evidence, the Committee proposed that there be a mandatory assessment of all convicted sex offenders sentenced to a custodial or non-custodial sentence. Following assessment, offenders should commence an extensive treatment program which should continue until the offender's parole period has expired. The Committee acknowledged that a Parole Board may have concerns at granting parole to a sex offender who has refused treatment, or who has made unsatisfactory progress through the treatment system.

The Committee recommends that all convicted offenders be registered with a Victorian Sex Offender Registry for *life*. Information to be registered for each offender should include name, date of birth, current address, source of employment, physical description, a set of fingerprints, DNA sample and photograph. It is recommended that police be responsible for maintaining the Register and for conducting regular information updates, and also that they conduct criminal checks of applicants for positions involving the supervision or care of children. Any applicant with a conviction or who has been involved as a suspect in investigations of child sexual assault would be ineligible to hold a position involving the care or supervision of children. The applicant's prospective employer would not be given details of the applicant's record, rather a recommendation would be given by police as to the suitability of the applicant.

As the Committee points out, the intention of the checks is to protect children from paedophiles, thus the standard of proof required is less than is applied by criminal

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# Clearing House

#### **Databases**

In order to obtain a picture of child abuse prevention programs and research being undertaken in this area, questionnaires were sent to all the names on the Child Protection mailing list and other relevant professionals and researchers in the field. Responses are being entered into two Clearing House databases, *Research-in-Progress* and *Child Abuse Prevention Programs*. So far, the survey has yielded 162 responses, 130 for the Programs Database but only 32 for Research-in-Progress; researchers are urged to send back forms (even if only partially completed) or to phone in their program/research information.

#### **Network**

The mailing list network continues to grow steadily. Since the beginning of the year, nearly 700 people have contacted the

Clearing House either to join the network or to expand or correct the directory information held for them. Every Australian state is well represented on the mailing list: New South Wales (29 per cent), Victoria (16 per cent), Queensland (14 per cent), South Australia (9 per cent), Tasmania (8 per cent), Western Australia (7 per cent), Australian Capital Territory (6 per cent), Northern Territory (5 per cent). Overseas addresses account for 6 per cent of the mailing list.

The Clearing House's fourth publication for the year on the topic of Child Sexual Abuse will be distributed in December.

#### **Advice and information**

An information desk in the Institute's Family Information Centre is staffed during office hours to answer queries by telephone, fax, mail, email, or in person; queries requiring

specific subject knowledge are referred to the Institute's Clearing House Research Adviser.

Advice has been provided on a range of subjects, including: definitions of emotional abuse; child abuse indicators and statistics; research ethics, methodology and interpretation of data; children's rights and children's ombudsman; in-depth analysis of child protection systems; parenting, prevention, and home visitor programs; respite care services; cultural differences and child maltreatment; removal of Aboriginal and Torres Strait Islander children; physical punishment; inter-professional and community group networking; family court issues; child sexual abuse offenders (especially homosexual versus heterosexual offenders, adolescent offenders); offender programs; and criminal justice issues.

**For further information contact: National Child Protection Clearing House, Australian Institute of Family Studies, 300 Queen Street, Melbourne, Victoria 3000.**

courts. Under the proposed system, applicants would have the right of appeal through the court system.

This section again highlights the trade-off between the rights of the offender versus the rights of the child (and the broader community). If the Sex Offender Registry and the criminal checks of job applicants are instituted it would be expected that civil rights groups would be involved in protesting such moves. Of interest is a recent media report stating that the draft report of the joint parliamentary committee overseeing the National Crime Authority's investigation of organised sexual activity has not supported the introduction of a national paedophile register on civil rights grounds (Daley 1995).

### **Adolescent sex offenders**

It was reported that a significant number of sex offenders are adolescents, (and sometimes children). Practitioners indicated to the Committee that adolescents displaying the early signs of sex offending tend to grow up and commit sex offences unless they are provided with treatment. The need to break the cycle of offending at an early stage was echoed by many professionals.

The Committee recommends that all adjudicated adolescent sex offenders undergo assessment and appropriate treatment. Rather than using the criminal justice system as a means of ensuring that young offenders receive mandatory assessment and treatment, the Committee recommends extending the grounds under which a protection application may be made under the *Children and Young Persons Act, 1989*. The new grounds would allow applications to be taken out for children displaying the 'early signs of sexually offending behaviour', and would enable an appropriate assessment and treatment program to be instituted under SART or HCS supervision.

In the Committee's view, the potential benefits of such a system would be the adequate treatment and prevention of sexual assaults by young offenders. A positive side-effect of the program may be an adequate investigation as to why a child had begun behaving in such a way and a determination of who, if anyone, had sexually assaulted the child victim/offender. A possible negative consequence, depending on the strictness under which such protection applications are applied for, may be a large number of inappropriate applications, where a child is put through the system unjustifiably.

### **Child Abuse Prevention**

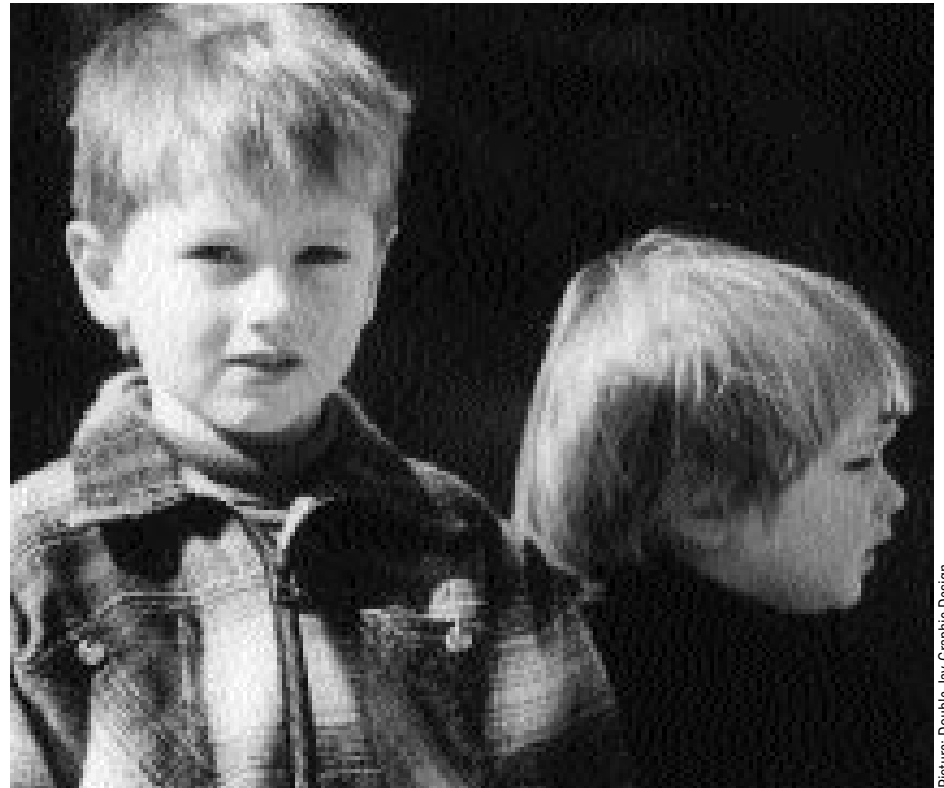
The Committee recognised that it is only through use of the education system and the media that community attitudes to child sexual assault will change. Part of that change will be the development of child sexual assault prevention programs. It was recommended that an HCS position, that of Pro-active Services Coordinator, be created to supervise and coordinate child abuse prevention activities across the state. The National Child Protection Council has already initiated the formation of such positions in each Australian State or Territory. In Victoria, this person is known as the Child Abuse Prevention Coordinator.

The Committee also recommends setting up regional, community-based Child Protection (Sexual Assault) Committees comprised of representatives from local government, community groups, local agencies and medical/counselling personnel. Similar to the United Kingdom's Area Safety Committees, these would provide community input to the SART service to ensure the teams remain aware of community issues and expectations. Such Committees would play an important role in information exchange, coordination and the community focus for the region.

by a number of professional and community groups in Victoria and elsewhere, and reflects a growing perception that education should not be limited to purely academic subjects. Under this approach, schools are strongly involved in preparing young people to function in society, rather than working to educate on a purely academic agenda.

### **Conclusion**

The Committee's report details an 'ideal' model for the investigation and alleviation of



Picture: Double Jay Graphic Design

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**Assessments of child sex offender recidivism indicate that, without treatment, approximately 60–70 per cent of sex offenders will re-offend, while less than half of sex offenders who undergo a treatment program reportedly re-offend.**

Another major thrust of the Committee's prevention approach to child sexual assault is the enhancement of current educational programs running in primary and secondary schools. It is the Committee's view that the education system should take more responsibility for the production of capable, functioning members of society. This responsibility would involve running compulsory protective behaviours programs in schools (as occurs in South Australia) and the uniform teaching of life skills. According to the Committee, the latter should address the following issues: criminal law; victim empathy; sex, gender and socialisation; sexual education; sexual assault; child abuse; violence; domestic violence; and alcohol/drug use.

Such an approach is currently advocated

cases of child sexual assault. The Committee acknowledged that 'reports of sexual assault will most probably increase as a consequence of its recommendations, and that the recommendations also have resource implications for many government departments' (p.317). The Committee also noted that in order for the model to function effectively, it would need to be incorporated as a whole (although in fact some facets of the model are already in existence). Given the major resource implications associated with employing such a model, it remains to be seen which parts, if any, are implemented.

In conclusion, two points need to be raised. First, the report is somewhat preoccupied by analysis of the criminal justice system and its response to child sexual

assault. The SART approach offers many benefits, but the process by which it was arrived at may not have involved a full consideration of the HCS interpretation of the current system and current problems. For example, mention has been made of HCS failing to adequately refer suspected child sexual assault cases to the police, but little attention was paid to the fact that police are also guilty of breaching referral protocols by failing to refer matters to HCS, delaying referrals, or making protective investigation decisions. In the Committee's defence, the apparent failure to consider fully the HCS position may, in part, have been due to the HCS decision to refuse the Committee access to their files.

Second, the Committee noted that 'the community must accept that incarceration in, and of itself, will not achieve a single thing, other than the protection of the community for that time which an offender is incarcerated' (p.230). Yet despite this acknowledgement that incarceration is not enough to prevent sexual abuse, much of the report relates only to the criminal justice system's response to sexual assault. While the social censure of such crimes is necessary, and may act as a deterrent for some, it is only by changing community attitudes, and preventing the development of sexually abusive behaviour in the up and coming generations that there will be a large cut in the number of sexual offences being committed against children (and adults).

It has been said by some practitioners that it is too late to attempt to fully rehabilitate the current generation of sex offenders and child abusers in general. It is paramount, however, to break the cycle of abuse with young victims. Overall, the model outlined in the Crime Prevention Committee's report makes a good attempt to prevent the sexual assault of future generations.

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## Mandatory Reporting of Abuse as Perceived by Young People and Youth Sector Workers

Now available is the report of a study designed to highlight the particular issues that mandatory reporting of abuse raises for adolescents and for those who have a professional role with them.

The report is entitled *Family Violence: Young People and Youth Sector Workers Informing Government About the Implementation of Mandatory Reporting In Victoria*, by Danny Sandor, Youth Affairs Council of Victoria, and Julian Bondy, Department of Community Services Administration, Royal Melbourne Institute of Technology. The study was funded by the Criminology Research Council.

This research questioned young people and youth sector workers about various aspects of new Victorian mandatory reporting laws. Focus groups were conducted by peer researchers with 163 young people comprising a mix of those who had experienced and had not experienced protective intervention. In addition a specially designed self-report survey was administered to 150 workers drawn from the membership of the peak youth affairs body for the State.

### Key findings of focus groups with young people

- Young people felt they lacked knowledge and understanding of the mandatory reporting system. They did not appreciate that a worker could not legally choose whether or not to make a report (or to give absolute confidentiality).
- There was a concern that mandatory reporting may be a deterrent to disclosure of abuse.
- Young people did not call for complete exemption from the mandatory reporting laws, but rather for a presumption that their wishes would prevail.
- There was concern about having choices – about to whom they disclose, whether their disclosure is notified and, if so, the course of the investigation. This was more important to them than whether youth workers as a category should be mandated or not.

- Young people have a range of fears about the consequences of their abusive situation coming to the notice of the authorities.
- Young people lack knowledge of their rights when contemplating a disclosure; they want more information about this and feel they need a support person if they embark upon the process.

### Key findings of youth sector workers survey

- Workers feel they lack important knowledge and skills in relation to mandatory reporting.
- In deciding whether to report disclosures of abuse, workers appear to be influenced by such factors as whether the young person concerned agreed to a formal report being made, and the worker's concern that abuse would continue.
- Nearly half the respondents had decided at least once not to make a report. Factors influencing their decision included: whether or not the survivor was still in reach of the perpetrator; the young person's attitude to notification; the capacity to arrange services without official involvement; concern that notification might lead to systems abuse.
- Although there was majority support for the notion of mandatory reporting laws, workers were concerned about the circumstances of their implementation and could envisage a situation where they would not comply with reporting requirements.
- The major recommendation from respondents was for further training.

The report concludes with ten recommendations spanning the areas of legal and administrative changes, training, information, program initiatives and research.

**Copies of the report are available from the Youth Affairs Council of Victoria, Suite 1, 250 Gore Street, Fitzroy, Victoria 3065. Phone (03) 9419 9122.**