

## Editorial Introduction

Domestic and family violence among young people is a growing concern. Young people are often unable to access legal support when such matters come to the attention of police and the courts. In 2020 Youth Advocacy Centre Inc (YAC) initiated a project that provided legal advice and support in domestic and family violence matters involving young people in South-East Queensland. The project sought to gain an in-depth understanding of the needs of young people in such matters. This paper presents an overview of practitioner perspectives relating to project outcomes, and recommendations to promote young people's access to relevant support.

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## Practitioner experiences of working with young people in domestic and family violence legal matters in Queensland

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### Introduction

Young people experience violence as victims and as perpetrators. Violence has been linked with various individual, family, peer, community and social risk factors and can have negative impacts on young people's physical, emotional and social wellbeing, which may extend across their lifetime (Centers for Disease Control and Prevention, 2021).

Youth Advocacy Centre Inc. (YAC) is a specialist community legal and social welfare agency for young people aged 10 to 17 years old. YAC provides services related to legal matters, family, homelessness and youth issues, bail and court support, and a community legal education program. Recently, there have been growing concerns within the youth sector about the inability of young people under 18 years who experienced domestic and family violence to obtain adequate support and information (Hines, 2021). To address this, YAC undertook a domestic and family violence project within Southeast Queensland from 2020 to 2021, supported by a 12-month grant through the COVID-19 frontline legal assistance services funding. The project—*Youth and Domestic and Family Violence: Current System Responses and Support Needs*—had two goals: 1) improve understanding of the experiences and needs of young people who have been exposed to domestic and family violence and 2) provide legal services to young people regarding domestic and family violence matters. The project addressed all aspects of domestic and family violence legal matters where young people might be involved. This included young people's participation as aggrieved, respondent and named person parties and those involved in breach proceedings, as well as those experiencing or perpetrating family violence.

YAC provided support and advice in relation to 47 matters—31 involved the provision of legal advice and 16 required court representation. This briefing paper reports on four factors identified across the course of the project that negatively impacted on service delivery. These factors are documented in the YAC project report (2021a) and were the basis of a submission to the Women's Safety and Justice Taskforce in relation to *Discussion paper 1: Options for legislating against coercive control and the creation of a standalone domestic violence offence* (YAC 2021b). Factors were identified based on the practical experiences of practitioners who delivered legal advice and support to young people during the YAC project.

The four key factors that negatively impacted on service delivery in the context of providing legal information, advice and representation to young people in relation to domestic and family violence matters were 1) engagement with young people, 2) young people's knowledge of domestic violence in intimate partner relationships, 3) access to support services for young people who have perpetrated violence and 4) the absence of a child-focused approach. These factors are elaborated on below and linked to relevant research. They draw attention to limitations in the current court system regarding domestic and family violence matters involving or related to young people and formed the basis of the YAC project report's recommendations (which are summarised below).

In this paper, the terms 'children', 'young person' and 'young people' are used interchangeably to mean a person aged under 18 years, reflecting the terminology used by YAC and the youth sector, and the wording of the *Domestic and Family Violence Protection Act 2012* (Qld).

### Engagement with young people

Based on project practitioner observations of young people's experiences, it was evident that current legal provisions for addressing domestic and family violence involve powers to deal with matters concerning children and make orders that are potentially against the children's views and wishes, thus restricting their life choices. Young people who were in an intimate personal relationship and aggrieved, or respondent parties had limited involvement in the court process. They (aggrieved or respondent) did not think it was necessary to attend court because police officers mentioned such attendance as not compulsory. When young people are not part of proceedings, the opportunity to understand their background, current situation and the context of allegations is lost, and the court must make decisions without hearing directly from all parties.

In domestic and family violence matters, the court has the power to name a child on a protection order if it is satisfied that this is necessary or desirable to protect the child from associated domestic violence. The YAC project found there was no requirement for the court to hear from the child or their advocate when the child was a named person. Any opportunity for the young person, whether aggrieved, respondent or named, to engage and receive legal advice was lost when they did not attend court (Goldfarb et al., 2021). This is a concern when protection orders are made without considering the views, wishes and consent of the involved young people.

The YAC project provided legal advice to young people who were parties to protection orders. These young people were either unaware of the order or did not understand its meaning or significance. This increases the risk of breaching an order. Such a breach can invoke criminal jurisdiction and increase the likelihood of reoffending among young people (Hart, 2011). Moreover, being criminalised for breaching an order may create stigma among young people that will continue despite any reformatory work they undertake to change their behaviour.

Some young people who YAC worked with were frustrated and disagreed with the conditions of the protection order as it contradicted their views and lived experiences. Lack of understanding of the process or being unsure of things happening around them created stress and tension among young people (Cossar et al., 2016). However, when children received information and advice and were involved in the court process, they became more aware of their situation and felt safer and more comfortable (Weisz et al., 2011). Therefore, engaging young people, listening to their voices and recognising their varied needs are critical for promoting better decisions and outcomes (Cashmore, 2011).

### Young people's knowledge of domestic violence in intimate partner relationships

The young people (aggrieved and respondent) supported by YAC had limited understanding of domestic violence or healthy intimate partner relationships. Physical violence was commonly reported, whereas non-physical acts such as coercive control behaviours were often not identified or reported. The majority of young people perpetrating intimate partner violence and family violence (child-to-parent violence) in the context of the YAC project were male. The risk factors for perpetrating violence were not clear.

However, it was observed that young people previously exposed to domestic violence (as a victim) and/or removed from the familial environment were more prone to perpetrating violence. The experience of being detached or abandoned seemed to make them more protective of their intimate partners and exhibit coercive or controlling behaviours to maintain their relationships (Mason-Jones et al., 2016). According to Lee et al. (2013), it is possible such aggressive behaviours are learned and replicated. Flood and Dembele (2021) claimed individuals are not born as perpetrators but are created as an outcome of widespread social conditions. Therefore, it is important to consider these factors.

The current system works to prevent contact between the aggrieved and respondents of domestic and family violence to stop further perpetration violence. However, there is no assistance for young people to understand the dynamics of domestic and family violence and engage in safe and respectful relationships.

Raising awareness about domestic and family violence, and resourced support services, will help manage further incidents of domestic and family violence (De Koker et al., 2014; Russell et al., 2021).

This may also prevent the behaviours from escalating and continuing into adulthood. YAC considers there to be an urgent need for further research regarding (a) young people's perpetration of domestic and family violence and (b) the nature of effective engagement with young people to understand their perspectives and address their support needs.

### Access to support services for young people who have perpetrated violence

Prior to the YAC project, young people in detention had no ability to obtain specialist legal information or advice about domestic and family violence matters in Queensland. According to YAC's experience, young people involved in domestic and family violence matters require more support than what is currently offered through the duty lawyer service. For example, they need assistance with writing submissions to police, drafting affidavit materials, arranging collection of property with police, and so on. In addition, caseworkers dealing with young people have limited access to court documents, including those detailing the acts of domestic and family violence alleged or perpetrated by a young person. This reduces caseworkers' ability to link a young person with the appropriate support services while they are in custody. During project, YAC worked with Youth Justice (Department of Children, Youth Justice and Multicultural Affairs) to connect with young people in youth detention centres to provide advice and information.

There is no long-term funding support for behavioural intervention programs for young people who have perpetrated violence and are in contact with the criminal justice system. Intervention programs (cognitive behavioural, psychoeducational, social and employment skills, alcohol/drug counselling, etc.) help reduce the risk of reoffending (Dowling et al., 2021). They may improve emotional regulation, increase thoughtful behaviour, reduce stress and increase dialectical thinking (Murray et al., 2018; Walden et al., 2019). Moreover, ongoing behavioural intervention programs can reduce the psychological impacts associated with trauma (Joiner & Buttell, 2018) and improve resilience (Greenbaum & Javdani, 2017). These types of continuous services are needed for young people.

### Absence of a child-focused approach

Several service gaps related to child-centred approaches to the current domestic and family violence system were identified during the YAC project. First, no distinction is drawn between adults (18 years and over) and young people involved in such matters. Young people are often viewed as a victim-survivor or perpetrator, without considering that they are also a child. The cognitive development of a child differs from that of an adult.

A child's brain undergoes continuous structural and functional changes, during which their planning, decision-making and problem-solving skills continue to develop (Tamnes et al., 2013), and such changes influence their cognitive capacities and behaviours (Albert et al., 2013). It is critical to consider a child's age, level of maturity, and intellectual and emotional capacities while they participate in the justice system (Liefwaard, 2016).

Second, any history of adverse childhood experiences is often ignored. There are multiple complexities regarding children's involvement in the domestic and family violence system. For example, young perpetrators of violence in intimate partner relationships may be victims of domestic and family violence and/or child maltreatment, have difficulties with emotional regulation, and/or have a cognitive impairment or behavioural disorder (Kimber et al., 2018; Lee et al., 2013). While childhood trauma is a major contributor to a young person's use of violence, it is often disregarded (Nelson et al., 2020). Further, young people may be returned to the home where they were victimised or exposed to family violence and expected to behave differently. Some children have mental health issues. An analysis of police data describing reported DFV assaults by young people in New South Wales during 2014 found that approximately 24.5% of perpetrators of domestic and/or family violence had a diagnosed or unspecified mental health condition, commonly depression/bipolar disorder, attention deficit hyperactivity disorder and/or autism (Freeman, 2018). These child-related factors are not consistently acknowledged by the police bringing applications or by the courts in making protection orders.

Third, domestic and family violence court waiting areas are not child friendly. They may expose young people to violence and conflict. Young people who are respondent parties are required to wait in the same space as adult respondents, regardless of the courthouse. When young people observe violence or aggression within the community and in a courthouse, and in a courthouse, it reaffirms that violence is normal behaviour and socially accepted. The focus of reforms and changes to frameworks responding to domestic and family violence has been on adult victim-survivors and adult perpetrators, and the vulnerabilities of young people are rarely considered. Since society, more broadly, and the legal system, in particular, make a significant distinction between the needs and capabilities of adults and young people, different approaches are required.

## Recommendations

Based on the above four factors, the YAC project report made the following recommendations:

- Young people should be considered as individuals separate from adults, with their own distinct views and support needs.
- Protection orders should be a last resort for intimate personal relationships involving young people.
- A child rights and developmentally informed framework should guide police and court interactions with young people exposed to domestic and family violence matters as aggrieved, respondent and/or named person parties.
- Ongoing funding should be provided for the representation of young people in domestic and family violence matters through community legal centres.
- Access to trauma-informed support, therapeutic and intervention services should be expanded to include young people who experience or perpetrate domestic and family violence.
- Accessibility of protection orders should be reviewed to consider and incorporate the needs of vulnerable and minority community members, including children, to facilitate their understanding of such orders.
- Educational programs that challenge traditional gender views and focus on empowering non-males to make decisions regarding their sexual and reproductive health should be run in school, flexi schools, detention centres and community centres.
- Magistrates Court timetabling of domestic and family violence matters involving child parties should be reviewed to minimise interaction with adults attending court for other matters.
- Consideration should be given to separate timetabling of domestic and family matters involving young parties and the appropriateness of youth domestic and family violence matters being heard in the Children's Court.

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