



**RAPCAN** (Resources Aimed at the Prevention of Child Abuse and Neglect) is a registered section 21 Company, that is, a non-profit organisation and public benefit organisation based in Cape Town. RAPCAN's work is focused on the prevention of child victimisation and offending and the promotion of children's rights. We operate locally, at provincial and national levels in South Africa, as well as in the region and internationally. RAPCAN's work includes primary, secondary and tertiary prevention approaches to the following issues within the children's rights arena:

- Child abuse and neglect
- Corporal and humiliating punishment
- Child offending, especially sexual and violent offending

## 1. Executive Summary

This brief summarises key points of RAPCAN's recent research which examined services and practices that focus on adult and child victims of domestic violence.<sup>1</sup> It investigated, through the use of qualitative methods, how co-victimisation of mother and child are addressed in three settings, rural, peri-urban and urban, in two provinces within South Africa.<sup>1</sup> The research captured the perspectives of service providers on victimisation through domestic violence, and examined how these perspectives were translated into service implementation priorities. It further attempted to explore attitudinal influences on service provision. In addition, challenges to service delivery were investigated, as well as some of the creative practices that are applied to address these challenges.

### 1.1. Purpose

The submission is aimed at informing decision makers of identified trends, and challenges in service provision by police, as identified by SAPS members, and members of intersecting departments. The document thus highlights some of the shortcomings in service delivery pertaining to the SAPS, and makes certain recommendations in relation to these.

### 1.2. Summary of Recommendations

The research highlights the need for efforts to be directed towards:

- Promoting systemic reform through adequate training, including joint training with intersecting departments**
- Improving coordination and collaboration**
- Considerations need to be taken for the improvement of systems for state accountability and monitoring**



Suite 87, Private Bag X12, Tokai, 7966 Cape Town South Africa

E-mail [Fairouz@rapcan.org.za](mailto:Fairouz@rapcan.org.za) Web [www.rapcan.org.za](http://www.rapcan.org.za) Tel +27 21 712 2330 Fax +27 21 712 2365

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## 2. Research Findings

### 2.1. Early Warning systems

Early warning systems to detect abuse is critical. These are best situated at the first ports of call for members of the public, which

includes the police. However, where reports are made concerning threats or the early stages of abuse, the police decline to respond to such matters. Very often, complainants are told to report the matter only when a physical violation happens. This is contrary to the protection and prevention mandates of the police and requires address.

Additionally, joint and collaborative monitoring systems or processes between the SAPS and the Department of Social Development, regarding high risk cases, are non-existent. By establishing such systems, however, it would ensure that children at risk who have been previously identified are not subject to re-victimisation.

### 2.2 Challenges to identifying victims

The police involved in the area of Child Protection and Domestic Violence seem to have difficulty in making intersections between the victimisation experiences of the mother and child. This is asserted to be due to the police's lack of knowledge on the new Children's Act, and a lack of skills to implement the older Domestic Violence Act.

### 2.3. Protection and Security of victims

One of the departmental members referred to the limited protection available to adult victims of domestic violence in the criminal justice system:

*"The protection we can only provide is to put the perpetrator behind bars, or to refer to the social workers. When the perpetrator is coming to court, the only time a witness or victim is protected is if they are coming from prison, and if the police are escorting the perpetrator from prison. But when they are coming from the community, there is no protection".<sup>1</sup>*

This lack of security offered may also influence the decision of the victim to report the matter. Further, while police members often perceive that offering protection to victims who report fears and insecurities fall outside of their mandates, this is arguably part of their crime prevention mandate.

### 2.4. Extra-mandatory matters

Some challenges within the criminal justice system may result from an interpretation of mandate, as identified by a SAPS member.

Participating police members indicated a struggle where members of the public approached them regarding a matter that falls outside of their mandate. In detailing the concerns and considerations that officials contend with, it was stated that:

*"You will find that a mother comes to the police station with complaints that the children are out of hand and they want the intervention of the police official. Sometimes it is difficult because we don't want to arrest children. But if they stole something from the house to sell it to get some money to do whatever...which is becoming a crime to us".<sup>1</sup>*



The police demonstrated insight into the affect that these situations have on the mother:

*“So the child is also sitting with a problem, but then from the mother’s side, there is also the emotional abuse”<sup>1</sup>*

But, in the case of the police, the legal and procedural tools to address such situations are lacking. When asked how they would address the situation, it was reported that *“we arrest them”*. It was also mentioned that such matters are referred to their Social Crime Prevention Unit. But even though prevention structures are being set up within SAPS, the difficulties in dealing with the situations that present themselves at police stations are clearly reflected in the contributions by SAPS members:

*“So where mothers have problems, they bring the child to the police station, expecting that the police are going to perform a miracle with this child. The only thing that I have is to start speaking to the child - to be maybe the father that the child is missing. And to address the child through that and also to teach the child – the reason that the child is being brought is so that the child can be taught something. And the only thing that I can tell the child is that ‘if you do not obey the laws of the country, I will have to lock you up’. But from our side, we try to address this with much more of a crime prevention focus, and it ends up a lot of times that people are expecting that we do have social workers in the police station”<sup>1</sup>*

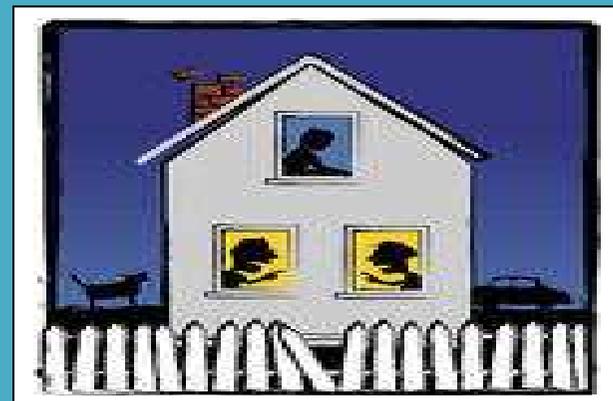
Participants felt that they were *“doing a lot of social work”*, which is beyond their scope and places undue burden on them. Urban participants indicated that there is a lot of awareness raising and outreach by the Social Crime Prevention unit. This seems to correlate with an increase in community issues being raised with the police, even those that are related to social welfare. This indicates two very important aspects: firstly, that the police are effectively engaging communities and that they attempting to be accessible there is a need for the department of social development, to work closer with police and show greater visibility in areas. The interpretation of the mandate of government services therefore seemed to be a challenge. This would need to be addressed by improved communication and collaboration between service departments.

## 2.5. The growing reliance on Family Group Conferencing (FGC)

The study elucidated an evolving trend towards the non-legislated application of family group conferencing (FGC) to deal with domestic violence complaints, even by the police. There is evidently a lack of understanding that the technique is not tailored to solve domestic violence issues and related problems where there are clear issues of power and control. Further, untrained attempts at FGC can place a victim at further risk. The police themselves identified their lack of skills to deal with such matters.

*“By law, we are not mandated to perform family conferences, although we are doing it as part of social crime prevention. I don’t think we are properly trained to do family conferencing” “Maybe they [the perpetrator] might not come. A person will just come here alone and wait for the perpetrator to come. The victim will then go home eventually and be asked “what did you do at that place?! I told you never go there!”<sup>1</sup>*

It is also clear that, despite clear legislative frameworks that guide the address of domestic violence, civil society and state role-players are increasingly viewing domestic violence as a family matter, and have thus developed tendencies to gravitate toward the search for out-of-court solutions. The hazards of such tendencies include that in their search for ‘restorative’ approaches that preserve the family, service providers may become blind to the potential life-threatening nature of domestic violence to both maternal and child victims, and may not act timeously or appropriately to such dangers where they arise.



## 2.6. Intra- and Inter departmental collaboration

Members from participating departments (SAPS, Social Development, Education) identified that there is a need for greater integration of projects, and collaboration with other departments.

The participants however identified some key challenges in workable partnerships, and one departmental member stated:

*"I think that each department is still very much focussed on their core work and maybe don't yet really see sufficiently the interconnections, that you can't protect people without involving health, social development, the courts and the police. They have to work together, and maybe there isn't sufficient political will yet....It seems to be very much about being territorial about the departmental budget, that this is my money and we have to do this and that with it and we can't afford to do other things with it and not wanting to work across inter departmentally"*<sup>1</sup>

## 2.7. Training

Training of the police was also identified as an issue that needed attention, in particular clarity on the role of police. The police, as providers of a critical service in response to domestic violence, need to be well trained. It is particularly problematic when police send complainants back who have a protection order, with police reportedly informing clients that their protection orders are "old, and they should go and get a new one". Participants further explained:

*"The police don't know what is included in the ambit of domestic violence and complainants are sent back. So, when there is a complainant stating that their partner refuses to pay the rent, they say that is not domestic violence"*.<sup>1</sup>

Other participating departmental members complained that the police was also noted to be over-familiar with some community members, and displayed unprofessional conduct:

*"The people are so used to the police: they are drinking together, they are together at church, and when the policeman comes with the protection order, it does not carry that weight. It happens in the townships. So if Sergeant So-and-so brings it and the man knows him, he will just say 'Agh, we will talk' (meaning we'll resolve it in private). We need something that says, despite the braai's and socialising, once you put on the uniform, now you have taken on another role"*.<sup>1</sup>

The study suggests that members need to learn to put personal associations aside in favour of their professional responsibility.

## 2.8. Gender and Domestic Violence

This research has shown that at all three of the research sites, domestic violence is gendered with it largely perpetrated by men against women. However a lack of understanding of gender and domestic violence was common across departments. These understandings further directly and indirectly place the burden of blame on females for the fact that they are in abusive situations, and these attitudes may skew service outcomes.

Further, the onus of responsibility is also seemingly entirely placed on women for child care, as well as for ensuring that they do not end up in abusive relationships. Instead of addressing the root causes of gender inequality, these tendencies are proving to result in prejudice to women, and a lack of willingness to provide her with required and sufficient care and service.



### 3. Background to the Problem:

#### 3.1. Children and domestic violence

Global data shows that a significant number of cases of domestic violence are perpetrated against children, in addition to the adult female partner.<sup>1</sup> Despite the lack of prevalence rates for victimisation of children in the context of domestic violence within South Africa, The Western Cape-based Mosaic Training, Service and Healing Centre for Women, report that they identified 24,585 affected children at the courts, and 1,865 affected children in the field. A total of 26,450 children were referred by Mosaic for counselling for the 2008-2009 reporting period.<sup>1</sup> Anecdotal evidence provided by Mosaic further reflects that there are at least twice as many child victims than adult victims.<sup>1</sup>

Further, between 133 million and 275 million children worldwide witness domestic violence each year.<sup>1</sup> Yet, 'children are often the unseen, unintended and unassisted victims of domestic violence'.<sup>1</sup>

Research also suggests links between men's abuse of women, showing that children may be abused as part of the abuse of their mother.<sup>1</sup> Such forms of co-victimisation are often perpetrated with the abuser's intending that the abuse of the child will have an abusive affect on the mother.<sup>1</sup>

#### 3.2. Witnessing domestic violence

Research shows that in witnessing the abuse of a mother in the home in childhood, men are socialised into violence, and the belief that violence is an appropriate means of resolving conflict in intimate relationships.<sup>1</sup> Indeed, young boys' witnessing of abuse against their mother has been identified as the most consistent risk factor for engaging in domestic violence later in life.<sup>1</sup> These findings present a particular challenge when addressing children's experiences of violence in the context of service provision to their abused mothers. They further have a bearing on efforts aimed at violence prevention. It is asserted that violence prevention needs new ideas, and attention needs to be paid to, inter alia, the exposure of children to trauma and abuse.<sup>1</sup>

#### 3.3. The Family Group Conference: Can it be used in situations of domestic violence?

Historically, there has been a great emphasis on the justice system responses to domestic violence. The increased understanding of the importance of incorporating prevention interventions ushered in a focus on interventions that targeted perpetrators, children, and also, the family. Typically within the mandate of the Department of Social Development, and for use only in specific context, these prevention models include family therapy, and what seems to be a spin-off from this: family conferencing.

The Children's Act provides for certain lay-forums and alternative dispute resolution mechanisms. Pre-hearing conferences and family group conferences are two of these mechanisms.<sup>1</sup> However, the Act clearly states that these lay-forums may not be held in the event of a matter involving the alleged abuse of a child, and further, only skilled practitioners may use such techniques.



## 4. Recommendations

Some SAPS members recommended certain protocols or a strategic reconsideration of certain aspects, as follows:

Participants suggested that a register be maintained indicating all the houses where domestic violence is taking place and where the complainant has a protection order. It was suggested that this would facilitate and ensure follow-ups with these households, to determine the problem stopped, or whether it still persists, also to determine the effectiveness of protection orders.

Participants also indicated a need to re-think the strategies of dealing with the perpetration of violence:

*“I think the governmental sphere needs to re-think and go back to the bosberaad or something. It is easy for people to accuse and to say that the perpetrators are not being dealt with by the court, and for people to say that the police are not arresting enough, it’s easy to say that correctional services must not open the gates when people are arrested. But what happens is at the end, everyone has a reason for continuing the way they are continuing”.*<sup>1</sup>

### 4.1. Promoting Systemic Reform through Training

At the level of systemic reform, the role-players in the health, legal/justice, security, education and social development systems need to be specially trained in preventing, detecting, monitoring and addressing violence (Ward, 2009).

### 4.2. Improving Coordination and Collaboration

Joint training and problem solving discussion for a (case flow meetings, for example) are useful tools to develop integrated practices, and should be held consistently and regularly.

### 4.3. Improving systems for State Accountability and Monitoring

Governments must be held accountable for monitoring the implementation of laws and for periodic review and revision of laws that do not offer sufficient protection for women and children. Further, even if laws are developed in a manner that reflect the obligations outlined in both CRC and CEDAW with regard to violence, they will have little impact if the public (especially those they are meant to protect) does not know they exist.<sup>1</sup>

Public capacity building around knowing the content of laws and procedures to access available remedies is therefore important.

Civil society could play an important role in monitoring and follow-up, which are core elements in establishing systems of accountability.



## Notes:

- i. Nagia-Luddy, Fairouz and Mathews, Shanaaz (2010) Service responses to the co-victimisation of mother and child: Missed opportunities in the prevention of domestic violence: Experiences from South Africa. RAPCAN, Cape Town.
- ii. The data was collected from May to October 2009. The study sites included an urban, peri-urban and rural site in South Africa, as the contexts, support systems, service infrastructures and community cultures differ vastly across these contexts. It included the urban areas of Athlone<sup>1</sup>, Kuilsriver, Kraaifontein, Brackenfell and Eersteriver, in the Northern suburbs of Cape Town, the peri-urban areas of Helderberg<sup>1</sup> and Stellenbosch, and the rural Eastern Cape town of Cala.
- iii. Governmental Focus Group, Urban, in Nagia-Luddy and Mathews, *ibid.*
- iv. Governmental Focus Group, Urban, in Nagia-Luddy and Mathews, *ibid.*
- v. Governmental Focus Group, Urban, in Nagia-Luddy and Mathews, *ibid.*
- vi. Governmental Focus Group, Urban, in Nagia-Luddy and Mathews, *ibid.*
- vii. Governmental Focus group, Urban, in Nagia-Luddy and Mathews, 2011, Op Cit, note i.
- viii. Nagia-Luddy and Mathews, *ibid.*
- ix. Governmental Focus Group, Urban, in Nagia-Luddy and Mathews, *ibid.*
- x. Governmental Focus Group, Urban in Nagia-Luddy and Mathews, *ibid.*
- xi. Pinhiero, 2006
- xii. Majiet, Zarina, e-mailed correspondence, 2009
- xiii. Supra
- xiv. Holden and Ritchie in Currie, 2006, p. 426; Pinhiero, 2006
- xv. Holden and Ritchie in Currie, 2006, p. 426
- xvi. Holt, Buckle and Whelan, 2008
- xvii. Holt, Buckley and Whelan, 2008, p. 800
- xviii. Abrahams et al, 2006
- xix. Abrahams and Jewkes, 2005; Frank, 2006
- xx. Jewkes, Mathews, Seedat, Van Niekerk, Suffla and Ratele, 2009
- xxi. S70 of the Children's Act 38 of 2005
- xxii. Governmental Focus Group, Urban in Nagia-Luddy and Mathews, *ibid.*
- xxiii. Ward, 2009