

GENDER BIAS TASKFORCE REPORT

Progress Report

A Report on Implementation by Government
of
Recommendations Contained in the Chief Justice's
Taskforce Report on Gender Bias

Compiled by
Women's Policy Development Office
in conjunction with the Ministry of Justice

April 1997

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INTRODUCTORY REMARKS

I take pleasure in presenting this Report on progress toward the implementation of the Report of the Chief Justice's Taskforce on Gender Bias. This Progress Report highlights reform by Government agencies since the release of the Report to the Chief Justice on 30 June 1994.

A decision of Government has been to focus on the most important and urgent issues highlighted in the Taskforce Report. In particular, considerable effort has been directed to developing a coordinated response to domestic violence. This has resulted in the development of the State's first coordinated action plan on family and domestic violence, and the development of legislation to provide better legal protection for women in abusive relationships.

Other legislative changes have included the creation of a new offence of unlawful stalking, provision for inter-state portability of restraining orders, increased penalties for breaching restraining orders and amendments to the *Bail Act* and *Firearms Act*.

I look forward to the implementation of those outstanding recommendations supported by Government in the year ahead, and in particular to the continued implementation of the recommendations arising from the Family and Domestic Violence Taskforce. Particular strategic priorities for 1996/97 will include the implementation of programs for domestic violence perpetrators and significant improvements in services for adult women offenders in the prisons, courts and community corrections.



Hon Peter Foss QC MLC
ATTORNEY GENERAL

CHAPTER 1 INTRODUCTION AND OVERVIEW OF MAJOR INITIATIVES

This report incorporates the responses of various Government agencies to the recommendations contained in the Report of the Chief Justice's Taskforce on Gender Bias and details progress towards implementation since the release of the Report in June 1994. It includes information collected from a number of Government agencies during 1995 as part of an earlier Progress Report commissioned by the then Attorney General, the Hon Cheryl Edwardes, MLA.

It has been a decision of Government to focus on the most important and urgent issues that were highlighted in the Taskforce Report. In particular, considerable effort has been directed to developing a coordinated response to domestic violence in order to increase protection for victims (primarily women and their children) and address the wider issue of prevention.

Major initiatives to date include:

The Family and Domestic Violence Action Plan

The Action Plan on Family and Domestic Violence was developed by an inter-agency Taskforce chaired by Mrs June van de Klashorst MLA, and was presented to Government and publicly launched in November 1995. It provides the basis for a coordinated inter-agency (including non-Government) response to domestic violence which provides better protection and support for victims, treatment of offenders and a program aimed at changing community attitudes and behaviour. Implementation of the Action Plan includes:

- the establishment of regional committees and the development of regional plans to identify services and resources to respond to domestic violence at the local level;
- working at the regional level with government and non-government agencies to develop services as needed for victims, perpetrators, children and families;
- the development of culturally appropriate alternative dispute resolution services for Aboriginal communities and families affected by domestic violence; and
- providing funding for community awareness and education and enlisting the support of people in the community to convey the message that violence is not acceptable.

Responsibility for State-wide co-ordination and implementation of the plan lies with the Domestic Violence Prevention Unit established for this purpose.

Review of Restraining Orders

A comprehensive Review of Restraining Orders was undertaken by an inter-agency Reference Group chaired by the Ministry of Justice. The Report of the Review of Restraining Orders, which took into account the relevant recommendations of the Gender Bias Taskforce Report, was launched in November 1995. As a result of the Review, Cabinet has approved legislative amendments to provide for two types of restraining orders: Violence Restraining Orders and Misconduct (non-violent) Restraining Orders. The Restraining Orders Bill 1997 (currently before the Lower House) will also provide for telephone applications for Violence Restraining Orders and a simplified application process.

Stalking

The Government has created a new offence of unlawful stalking which covers persistently following or telephoning a person; depriving a person of their property or use of their property; and tormenting a person by keeping watch on their house, place of employment or business. The legislation provides for a summary conviction penalty of two years imprisonment or a fine of \$8000 and an increase in maximum penalties to eight years imprisonment for aggravated stalking and three years for cases not involving a weapon or breach of a restraining order.

In November 1996 Cabinet approved amendments to the stalking legislation to include situations where there was no malicious intent, but nevertheless the person's behaviour causes apprehension and fear and to extend the forms of communication that constitute stalking behaviour.

Other Legislative Reforms

Other legislative changes enacted to provide better protection for women in abusive relationships include:

- portability of restraining orders between Australian States and Territories.
- increased penalties for breaching a restraining order to 18 months imprisonment or a fine of \$6000 (compared to 6 months or \$1000 previously).
- amendments to the *Firearms Act* to enable the police to seize firearms in a domestic violence situation.
- amendments to the *Bail Act* so that bail will be denied if the suspect is already on bail on a stalking charge.

The Domestic Violence Legal Unit

The Domestic Violence Legal Unit was established in October 1994 to offer a specialised service to assist women who wish to escape from domestic violence. The Unit aims to advise and assist women through the legal channels available to them by:

- speaking to the police on behalf of clients, to ensure appropriate charges are laid against the perpetrator and ensure prompt service of restraining orders;
- advising and assisting clients to obtain restraining orders and representing them in Court for restraining order hearings;
- initial advice and referrals on matters such as family law and/or property matters and Criminal Injuries Compensation;
- assisting women to understand court proceedings; and
- legal advice via the Duty Lawyer Service.

The Domestic Violence Legal Unit also assists women with non-legal matters such as emergency accommodation, assistance with Social Security applications, referral to medical services including sexual assault centres and referral to counselling services.

Structure of this report

More detailed comments on these and other initiatives are contained in Chapter 2 of this Report - Summary of Initiatives. Commentary on action taken in respect of each of the specific recommendations is contained in Chapter 3 - Responses to Specific Recommendations. Chapter 4 contains an overview of Government's strategic priorities for 1996/97.

CHAPTER 2 SUMMARY OF INITIATIVES

Summary responses have been broadly grouped according to the recommendations made by the sub-committees of the Taskforce. It should be noted that, although updates from the Police Service and Ministry of Justice have been incorporated into this chapter, in the main, initiatives undertaken since December 1995 are not included in the summary.

1. EDUCATION

The Taskforce concluded that education and awareness about gender issues are crucial to an understanding of the historical reasons why gender bias exists in laws, in institutional practices and in society. It recognised that due to their unequal social status and access to fewer financial resources, women cannot access available legal services on an equal basis with men. The role of community legal education was considered an important key in assisting women to understand and protect their legal rights and access available legal services.

Legal Aid coordinates community legal education in the metropolitan area and works co-operatively with regional offices to deliver community education in the regions. This involves training community workers in the dissemination of information and responding to identified community needs. The Legal Aid's Domestic Violence Legal Unit which was established in October 1994 also conducts education sessions for women and women's groups on the role of the Unit, its services and legal issues surrounding domestic violence.

The Taskforce recommended that school children be encouraged as part of their education to learn about citizenship and have an understanding of the role which gender and law has had in society.

Issues related to human rights are dealt with at lower secondary social studies units, and citizenship and court processes are part of the K-10 social studies syllabus. The Commonwealth Government has allocated \$25 million over the next four years to education to improve community understanding of civics and citizenship education.

The Taskforce stated that judicial responses to domestic violence often left women without sufficient protection and remedy. In order to address the issue of bias in the judiciary the Taskforce recommended that gender awareness and issues relating to domestic violence be incorporated into the judicial education program.

The Ministry of Justice has allocated funding to the Judiciary for this purpose and a workshop in gender awareness for the Judiciary was organised and conducted by the Chief Justice in January 1996. It is anticipated that further funding will be allocated to run similar workshops in the area of gender awareness as part of the Judiciary's ongoing legal education. Funding has been allocated to the Stipendiary Magistrates Association to hold a gender awareness workshop at its annual conference in September 1996.

In addition to the Judiciary a component of training and education of Justices of the Peace relates to the subject of domestic violence and restraining orders. All new Justices of the Peace are now required to undertake cross cultural awareness training as part of their compulsory induction, with Edith Cowan University providing the training for the Ministry of Justice. The cross cultural component of the course makes up 10% of the entire course.

Legal Aid has provided training on legal issues and domestic violence to the Northam Justices of the Peace Conference, to Family Court counsellors and to some magistrates.

As part of a comprehensive and strategic approach to domestic violence the Ministry of Justice will assess the developmental needs of Court staff and provide on-going training to them on domestic violence (and the importance of serving the needs of victims in a sensitive manner).

Comments on Police training are included in a later section.

2. WOMEN'S ACCESS TO JUSTICE

With fewer financial resources available to them, women's opportunities to access information about their legal rights, the availability of legal services, and how to obtain quality counsel are limited. They are therefore, unable to access justice on an equal basis with men. The Taskforce made a number of recommendations to address the issue of women's access to justice including improved access to information, the establishment of a specialist women's legal service and greater support for women in terms of advice and court support.

The Ministry of Justice has conducted a Review of Services to Adult Women Offenders which has made specific recommendations in relation to women's access to information and court support, particularly for Aboriginal women and women from non-English speaking backgrounds. The Ministry has produced a brochure on Stalking and will shortly be updating brochures for victims of crime. The Victim Support Service provides information to victims of domestic violence on court processes and applying for restraining orders, advice on victim impact statements and "court companionship".

The Legal Aid Domestic Unit provides advice to women on a range of legal matters and assist women understand the court proceedings. The Unit also provides information and referral on "non-legal" matters which can arise when a woman is seeking to escape domestic violence.

The view was expressed by the Taskforce that both men and women in country and remote areas experience difficulties in accessing justice. It was felt that this was compounded for women because of their more typical situation of economic dependency.

A number of the Ministry of Justice services, including the Victim Support Service, are now represented more strongly in regional centres of the State. It was the particular needs of women living in the regions which led to the recommendation in the Review of Restraining Orders that such orders should be obtainable by telephone.

Legal Aid in Western Australia is committed to developing Legal Aid contact centres in country areas where people can obtain legal aid application forms and guidance about accessing legal assistance. Other regional initiatives include:

- extension of Legal Aid contact centres in rural areas including Katanning, Esperance, Merredin, Moora, Armadale and in the Pilbara and Kimberley;
- on-going community legal education in the regional centres;
- regional workshops for solicitors and community workers;
- Teleconferencing with organisations such as the North West Women's Association, the Pilbara Community Legal Service and refuge workers about the legal needs of women in the North West of the State.

The Taskforce sub-committee on Aboriginal Women and the Law focused on identifying practical measures that can be implemented in order to overcome the problems identified to improve Aboriginal women's access to justice.

The Ministry of Justice Aboriginal Plan addresses a number of issues affecting Aboriginal women including improved access to information on justice processes. This has been assisted by the employment of both male and female Aboriginal Fines Liaison Officers located in Perth, Geraldton, Roebourne, Kununurra and Kalgoorlie to assist Aboriginal people with fine and court related matters. In addition the Ministry employs male and female Aboriginal Court Advisory Officers located at Perth, Albany, Bunbury, Northam, Geraldton and Port Hedland. An Aboriginal Courts Liaison Officer who is seconded to the Office of the Chief Justice, provides a state wide liaison role between the Judiciary and Magistracy and the Aboriginal community.

3. THE COURTS

The Gender Bias Taskforce concluded that women who need to become involved in the court system are disadvantaged in a variety of ways including in court administration, court facilities, court culture and the court proper.

The Review of Services to Adult Women Offenders identified the lack of information, intimidating court processes and out-dated court facilities as the main barriers for women accessing the Courts.

Court personnel

The majority of court officers are male and this may have consequences for women, particularly for women victims when they give evidence in sexual assault cases etc. The Ministry of Justice recognises that there is a need to increase the number of women working within the courts area, particularly in middle and senior management. The Ministry is currently examining strategies to address the issue including an examination of recruitment procedures for all Court personnel and selection criteria of positions for key competencies. A pilot mentoring scheme has been developed to assist women working in the Courts with career and professional development and to provide encouragement and support to women who wish to move into managerial and senior Court positions.

It is acknowledged that very few Aboriginal staff are currently engaged in the courts area. Consistent with the Aboriginal Plan, the Ministry is developing a strategy to increase the level of Aboriginal employees in its workforce, including court staff. Cross cultural awareness training will continue to be conducted for all client service staff on an on-going basis.

Witnesses/victims

Facilities for vulnerable witnesses including separate waiting areas and closed circuit TV will be considered in any new court complexes in line with the State-wide Building Facilities Review. Requirements for voice amplification facilities will also be addressed in conjunction with video facilities. To date, Albany court has been fitted with voice amplification facilities. Video facilities are progressively being installed in court complexes around the State.

Victims of crime and vulnerable witnesses may need additional support when appearing in court. Emotional support is available to victims through the Victim Support Service and the Legal Aid Domestic Violence Legal Unit provides assistance to women in domestic violence situations. The Child Victim Witness Service assists children called to give evidence in court by providing information about the process and progress of legal proceedings, thereby reducing the trauma which they may experience.

Information and support for Aboriginal women and women from non-English speaking backgrounds

Aboriginal women and women from non-English speaking backgrounds are often confronted with a system that is completely alien to their culture and way of life. If their first language is not English they will face the additional impediment of the language barrier. The Taskforce recommended that more support services be provided for this disadvantaged group of women.

The Ministry of Justice now employs 6 Aboriginal Court Advisory Officers in both the metropolitan and regional courts to provide assistance and support for Aboriginal people coming to court. Five of those positions are currently held by Aboriginal women. It is acknowledged that there are still not enough Aboriginal staff currently engaged in the courts area and consistent with the Aboriginal Plan, the Ministry in conjunction with DEET is in the process of developing a strategy to increase the level of Aboriginal employees in its workforce.

Although access to information may not in itself be gender specific, the lack of information impacts on women's ability to make decisions for themselves that affect their day in court. The Taskforce sub-committee that investigated the specific difficulties women face when coming to court made a number of recommendations in relation to accessing information.

The Ministry of Justice has recently revised and expanded its policy relating to the provision of interpreter services in all Western Australian courts. The new policy has been extended to cover civil court proceedings and requires court officers (including Aboriginal court advisory officers) to promote the provision of interpreters to court users in need of the service. The Ministry supports the appointment of suitably trained interpreters, skilled in explaining legal terminology and legal processes to Aboriginal women.

Court publications and brochures are being updated to be more user friendly and a Language Service Plan is currently being developed for non-English speaking persons. Staff providing information at the information booths at the Courts are released on an on going basis to attend customer training courses to ensure they are sympathetic and helpful to court users.

In addition, the Review of Services to Adult Women Offenders has recommended that a range of information be produced in easy to understand/read plain English and multi-lingual format on aspects such as: what to expect in court, how to obtain legal representation and child care information (including information on the current child care policy of the Ministry). The Ministry supports the recommendation of an information display booth where brochures etc. can be displayed for maximum benefit of the customer and this recommendation is being progressively implemented as Court facilities are upgraded.

Court facilities (including security)

As part of the Building Facilities Review, the independent review of courts accommodation, and the Disability Plan, the Ministry of Justice is considering the Taskforce recommendations in relation to upgrading current court facilities. It will include planning for future court complexes particularly in relation to toilet and refreshment facilities, waiting areas, decor and acoustics. For example, new court facilities will place a high priority on separate facilities for victims and distressed witnesses.

The Ministry of Justice has developed a Child Care Policy for all parents required to use the courts (offenders, jurors, witnesses etc). A Pilot project giving court clients access to child minding services at the Rockingham Magistrate's Court commenced in June 1996. The service may be used by people who would otherwise need to bring their children with them to court. The Pilot Project will be reviewed after 12 months with a view to expanding it to other courts. If the Pilot is successful the Courts Services Division will promote the child care policy and

negotiate with child care agencies within the vicinity of the Courts to ensure the child care needs of women are addressed. The Review of Services to Adult Women Offenders has also recommended that planning for child care facilities is considered within the long term accommodation plans of the new Supreme Court.

The security and personal safety of court clients, particularly for those attending for restraining orders, is a significant issue. Court security is continually being up-graded as needed.

4. WOMEN AS VICTIMS

The Taskforce's Victims of Crime sub-committee investigated the impact of gender bias on women as victims of crime in the administration of justice in Western Australia. In particular it looked at the area of violence against women which focused on identifying positive, achievable and practical outcomes.

Victim services

The Ministry of Justice Victim Support Service provides a range of services to victims of domestic violence including trauma debriefing, counselling support, information on court processes, assistance with applying for restraining orders, advice and assistance in the preparation of victim impact statements and "court companionship". Regional expansion of the Victim Support Service has commenced with the introduction of services in Bunbury, Albany, Kalgoorlie, Geraldton, Northam and Port Hedland.

The Victims of Crime Act which was proclaimed in January 1995, officially recognised the role of victims in the criminal justice system for the first time. The legislation supports steps already taken for victims including the Victim Support Service, the victim/offender mediation service, and the use of victim impact statements.

The Director of Public Prosecutions works with the Victim Support Service to facilitate the option of tendering victim impact statements in the Courts. *The Act* provides a statutory basis for tendering victim impact statements and thereby provides victims with a positive and active role in the criminal justice process.

The Act makes provision for victims to be informed, upon their request, of the release or escape of the offender. Procedures have been set in place for this to occur and in addition, the Ministry of Justice Victim Mediation Unit has reached a recent agreement with the Police Service to locate child sexual abuse victims as part of the protective mediation process. Where possible the Unit monitors and manages victim/offender contacts.

Domestic Violence

The Taskforce examined domestic violence directed toward women in the context of day to day relationships, specifically physical violence, threats of violence, and sexual assault. It affirmed that domestic violence is a crime and must be consistently treated as such by the criminal justice system. The Taskforce stated that community attitudes to domestic violence including inappropriate myths and stereotypes which have in the past been reinforced by police and judicial responses to the problem, need to be addressed to ensure that effective strategies to prevent and control domestic violence can be developed.

A key initiative underpinned by the Gender Bias Taskforce Report was the Family and Domestic Violence Taskforce, chaired by the Member for Swan Hills, Mrs June van de Klashorst MLA, which developed an action plan for the expeditious reduction of the unacceptable levels of domestic violence within our community. The Action Plan on Family and Domestic Violence

was presented to Government and publicly launched in November 1995. Responsibility for State-wide co-ordination and implementation of the plan lies with the Domestic Violence Prevention Unit established for this purpose. The Unit is providing an overall strategy for Government and non-Government agency response to family and domestic violence and reports directly to the Minister for Women's Interests.

The State Government recognises that family and domestic violence is a crime and should not be tolerated in the community. This is a fundamental aspect of all domestic violence training conducted by the Domestic Violence Legal Unit. The Police Service is working with other agencies including the Domestic Violence Prevention Unit to establish procedures and policies on police responses to matters involving violence against women. The Domestic Violence Legal Unit is in a position to provide training to the Police Service and discussions are currently being held into this matter.

Restraining Orders

The Review of Restraining Orders conducted in 1995 made specific recommendations on legislative and procedural changes to improve the effectiveness of restraining orders, with particular emphasis on victims of domestic violence. The Review examined current legislation, especially in relation to increased police powers, costs and impact on juveniles. As a result of the Review new Restraining Order legislation was passed by the Legislative Council in March 1997 and is currently awaiting passage through the Legislative Assembly.

Restraining orders will be divided into two categories: Violence Restraining Orders (VRO) and Misconduct Restraining Orders (non-violent matters). VROs will contain specific provisions for mandatory seizure of firearms and police will be encouraged to apply for them on behalf of victims. While retaining appropriate safeguards, procedures will be streamlined to ensure faster access to orders, including the introduction of telephone applications, and there will be more effective enforcement of orders.

Other Legislative Amendments

As part of a wider strategy on family and domestic violence, the Government has already given effect to the portability of existing Restraining Orders made in other jurisdictions to Western Australia under the *Justices Amendment Act 1994*, proclaimed on 1st April 1995; increased penalties for breaches of restraining orders; and amended the *Firearms Act* to enable the police to seize firearms in domestic violence situations.

Stalking

The Taskforce reported that there was an urgent need to put in place legislation to assist women who complained of being stalked, either by strangers or ex-partners.

To provide appropriate legislation and penalties to deter and punish stalkers the Government has amended *The Criminal Code* and created a new offence of unlawful stalking. It provides for a maximum penalty of eight years imprisonment where stalking involved a weapon or breach of a restraining order. By defining stalking as a serious offence, bail will be denied if the suspect is already on bail on a stalking charge. Cabinet has approved amendments to the stalking legislation to (1) cover stalking where the element of intent to cause physical or mental harm to a person or apprehension or fear in a person is absent and (2) extend the forms of communication which constitute stalking behaviour.

5. PROTECTION OF ABORIGINAL WOMEN FROM VIOLENCE

The Taskforce acknowledged that the social and economic position of some Aboriginal women leaves them powerless and exhausted with just surviving to secure their own protection from violence. Their needs should be given special consideration by the Police, Courts and protection agencies.

Police

The Police Service acknowledges the need to increase the recruitment of Aboriginal women and men to the Police Force as Officers (not Aides) and this has been addressed in its Aboriginal and Torres Strait Islander Employment Strategy Five Year Plan. The function and role and power of Police Aides is under continual review in both metropolitan and country regions to identify possible difficulties for the Aides and the Aboriginal Communities.

The Police Service training at in-service level includes compulsory and ongoing cross-cultural components. The cross cultural awareness training now delivered within the Police Service is modelled on the Ministry of Justice package.

Police practice is to refer victims of sexual assault as quickly as possible to appropriate agencies such as Aboriginal Women's Refuges or Sexual Assault Referral Centres for assistance and support.

Counselling services

The Health Department of Western Australia acknowledges the priority importance of, and need for, counselling, especially for Aboriginal women who are in or have been in abusive and/or violent relationships. The State Health Purchasing Authority contracts with providers from the public and non Government sector for the delivery of responsive and culturally appropriate services for women.

In respect to the needs of Aboriginal women who have been subjected to an assault, female Aboriginal Liaison Officers and Aboriginal Health Workers are employed in a variety of settings and locations to assist Aboriginal women identify and articulate needs and concerns.

Several sexual assault centres have been established in Western Australian country centres in addition to the metropolitan service operating through King Edward Memorial Hospital. SARC provides crisis counselling, court support for victims, counselling for victims who have been assaulted in the past and education for health professionals in dealing with women who have been assaulted.

6. PARTICULAR LAWS

Industrial and Employment Law

Women still earn significantly less than men, are concentrated into a small range of industries and occupations, with lower skill levels and where part-time and casual work predominates. Women often have breaks in their careers for child rearing and other caring responsibilities. They are under represented at the managerial level.

The extent to which industrial relations laws contribute to these inequalities has not been subject to detailed examination. The Department of Productivity and Labour Relations, in concert with other States, is endeavouring to establish a mechanism whereby comparative data on the relative progress of female and male employees under enterprise and workplace agreements in a decentralised labour market can be monitored.

In relation to parental leave, the *Minimum Conditions of Employment Act (1993)* provides a safety net of minimum standards relating to such matters as rates of pay and various types of leave including parental leave of minimum standards. The minimum standards have effect in every contract of employment which is not governed by an award or workplace agreement, thereby extending to those employees an entitlement which previously did not exist. The provisions of the Act give an employee, male or female, the right to up to 52 weeks unpaid leave in respect of the birth of a child to the employee or employee's spouse.

Workers Compensation

The Taskforce stated that the effect on women workers of the workers compensation system is little studied, however it has been an area of concern for quite some time. The system of compensation is predicated largely on the male experience of work and industrial accident or injury and is inadequate to cope with the types of injuries suffered by women.

The Taskforce recommendation to review the laws relating to worker's compensation and damages for personal injury to identify areas that may directly or indirectly discriminate against women has been referred to Work Cover, Western Australia for advice.

Criminal Injuries

The Taskforce identified gender bias in the criminal injuries compensation system, recognising that the central problem with the current legislation is that it is predicated on male experiences of assault and does not adequately take account of the kinds of assaults suffered by women in the home, in particular sexual assault. The fact these assaults occur in the home without witnesses, that the relationship between victim and perpetrator means they are often not reported to the police immediately and that women are more frequently assaulted by a family member, tend to militate against women being able to successfully claim compensation.

To address the backlog of criminal injuries compensation claims legislation is to be introduced to enable the appointment of additional assessors. In addition, a general review of the criminal injuries compensation system is currently being undertaken by the Ministry of Justice which will consider, among other things, the recommendations of the Taskforce.

Family law including "de facto" relationships

The general law of property does not regard domestic contributions made by partners to a de facto relationship in the manner which is provided for in the case of a married couple under the Family Law Act. When a de facto relationship ends it is more likely to be the woman who is left with no means of economic support, (except for Social Security benefits). In relation to ex-nuptial children, it has been the policy of successive State Governments to decline to refer power to the Commonwealth in relation to ex-nuptial children. This is because it was considered unnecessary since the State Family Court already has jurisdiction in relation to all children in the State. However, this may have serious consequences in relation to matters such as child support which impacts predominantly on women who head most sole-parent families.

The Taskforce recommended enactment of legislation to provide for the recognition of de facto relationships and to make provisions for support and maintenance rights as well as property. Legislation relating to de facto relationships property matters is being drafted. That legislation

does not make provision for support and maintenance rights for the children of de facto couples as these matters can already be taken before the Family Law Court. Amendments to the State *Family Court Act* have been finalised and ready for introduction into Parliament. The Reforms will reflect major amendments to the Commonwealth *Family Law Act*, and include provisions relating to ex nuptial children.

Equal Opportunity and Discrimination Laws

The Sub-committee on Laws which Discriminate Against Women believed that the retention and strengthening of the Equal Opportunity Jurisdiction is crucial to the promotion of equality between men and women. The sub-committee argued that the common law simply does not provide adequate, gender-neutral processes or remedies for women who suffer discrimination.

The Equal Opportunity Commission requested funding in 1995 of \$123,000 per year to implement the findings of the "Investigation and Conciliation: Report of the Steering Committee into Processes Under the Western Australia Equal Opportunity Act 1984" which recommended improvements to the investigation and conciliation processes practiced under the Act. However, the proposal for funding was not endorsed by the Cabinet Estimates Committee.

Criminal Responsibility

The Taskforce stated that provocation under The Criminal Code does not take account of the realities of women who kill or injure their abusers. Provocation requires suddenness, proportionality and loss of self control of the objective ordinary person. Further it requires a specific triggering incident. This does not take account of women experiencing prolonged abuse who may eventually be provoked beyond endurance without a specific trigger.

The Criminal Law Officers' Committee of the Standing Committee of Attorneys General has proposed amendments to the law of self-defence found in the "Model Criminal Code, Chapter 2, General Principles of Criminal Responsibility". The Taskforce recommended that *The Criminal Code* be amended as envisaged by the "Model Criminal Code" but with the addition of a new defence to take account of the realities of "battered women" who kill their abusers. Consistent with this view the *WA Criminal Code* is being examined with a view to the clarification of provisions in relation to subjective and objective elements regarding defence of property and person.

Female genital mutilation

The Taskforce adopted the view of the Family Law Council that female genital mutilation is a practice which should not be accepted in Australia and that the law should be clarified to make it clear that female genital mutilation is a crime and that it constitutes child abuse in Australia.

On 14 July 1995 the Standing Committee of Attorneys general endorsed "model" legislation prepared by the Model Criminal Code Officers' Committee as the basis of uniform legislation to criminalise the practice of female genital mutilation. That model legislation will form the basis of a submission to Cabinet for the enactment of those provisions in Western Australia.

Prostitution

The Taskforce Report stated that the police containment policy and other provisions in the Criminal Code and Police Act are discriminatory against sex workers and provide further examples of gender bias in the law.

The Taskforce made specific recommendations regarding prostitution including the repeal of all provisions in legislation referring to prostitutes and related activities; a new offence of procuring for prostitution by coercion, force or violence be legislated; repeal of provisions in the Local Government Act granting Local Councils power to prohibit prostitution; zoning regulations be developed by the Department of Land Administration for the establishment or continued operation of premises used for prostitution; and that sex industry workers come within the provisions of the Occupational Health, Safety and Welfare Act.

The Police Service is investigating and developing proposals for the regulation of the industry.

7. POLICE OFFICERS

The Taskforce Report stated that because the Police Service is predominantly male (approximately 91% of all Officers) this can have adverse consequences for women when seeking the protection of the law. Research indicates that women are often reluctant to seek assistance from the Police in matters relating to domestic violence or sexual assault due to the fact the force is overwhelmingly male, and not sensitive to the issues. This is compounded for Aboriginal women where a proportion of the Police Service have, in the past, displayed a lack of understanding of Aboriginal culture and the problems faced by Aboriginal women, particularly in domestic violence situations.

Affirmative Action

In regards to the recommendation that the Commissioner of Police initiate Affirmative Action strategies to ensure that membership and promotion within the Police Service reflects the composition of the community and every station has access to a police woman, the Police Service advise that it complies with all EEO requirements and where suitable applicants are available they are recruited.

Professional development

All police recruits are required to undertake gender awareness training during their police academy behavioural science training. The sensitisation of police officers to the difficulties women face in making reports of sexual assault is addressed by the Sexual Assault Referral Centre who present information to recruits and, in some instances, serving Police Officers. Specialist training in taking evidence from victims of sexual assault is generally the case in the metropolitan area. Major advances have been made through the co-operative efforts of police and Sexual Assault Referral Centres, which deal specifically with evidence gathering.

Police training reflects the serious nature of domestic violence and this is reinforced by the presentation of training units on domestic violence and crisis intervention. Included in this are active role plays and simulations to reproduce, as far as possible, real life situations.

The cross cultural awareness training now delivered within the Police Service is modelled on the Ministry of Justice package. Aboriginal issues and cross cultural awareness will be included in relevant units to be known as the Police Training and Development Program.

Responses to Domestic Violence

The policy of the Police Service until 1991 reflected what is often the community view - that domestic or family violence is a "private" issue requiring mediation. However, police have at all times treated assault as a crime. If there is evidence of a crime or an offence having been

committed, it will be investigated. The community view that violence in families is acceptable is changing, as are police practices.

The Police Policy and Procedure (PAP/13) Family and Domestic Violence has been revised and clearly states that:

1. Family and Domestic Violence shall be treated as seriously as other forms of violent crime in the community.
2. The law to be applied where there is evidence that an offence has been committed.
3. Police should provide every assistance to victims seeking to obtain Restraining Orders. This may include making application on behalf of the victim for their protection.

The practice of providing all victims with a brochure which clearly outlines community resources available for victims, their rights and emergency numbers is currently in operation in many regions on a localised basis.

The recommendation that current routine police orders, policy or instructions which recommend counselling or mediation for victims of domestic violence be amended to conform with the National Committee on Violence Against Women's Mediation Guidelines is under examination by the Police Service. The general thrust of the Committee's recommendations has been accepted by the Australasian Commissioners of Police.

In October 1995 Family Incident Reports were introduced on mainframe computer for all police officers to record all reported incidents of family and domestic violence. To improve existing data collection systems across agencies the Domestic Violence Prevention Unit has convened a sub-committee to address the issue of the collection of reliable data. A comprehensive Family and Domestic Violence Data Collection Proposal will be developed with relevant Government departments and agencies through the Family and Domestic Violence Implementation Advisory Committee.

Aboriginal Women

Police relations with Aboriginal communities are continually developing and improving. Far more emphasis is now placed on working with communities. Close co-operation coupled with a higher level of training in cultural awareness will overcome some concerns. The Police Service recognises the need to develop strategies towards improving service delivery to Aboriginal women in remote communities. The Service is an active participant in a research project established to examine and measure family violence in the east and west Pilbara and west Kimberley.

8. WOMEN OFFENDERS

The Taskforce Report provided statistical information and an analysis of past research on women offenders. It concluded that in the sentencing process women are treated differently in some circumstances and are often "doubly" punished because of community attitudes and stereotypes about appropriate feminine behaviour. Once sentenced, women are further disadvantaged due to their minority status within the offending population, resulting in fewer resources and services for women offenders and a lack of suitable programs designed to meet their needs.

These issues are being addressed by legislative changes in the area of sentencing and fines enforcement and as part of a wider Ministry of Justice Review of Services to Adult Women Offenders.

Sentencing of women

Over the past twelve months the Government, through the Ministry of Justice, has implemented a number of strategies to provide alternative sentencing options for offenders who do not represent a danger to society to ensure that imprisonment remains a sanction of last resort.

The soon to be proclaimed *Sentencing Act 1995* will make available a wider range of sentencing options. Given the nature and type of offences that women generally commit, the new provisions under the Act should be of significant benefit to women offenders. In particular, provision for the imposition of suspended sentences will be targeted at offenders where a prison sentence may be warranted but where the best option would be to suspend the sentence. Factors that Judges and Magistrates may take into account when considering a suspended a sentence include the nature of the offence committed and the person's personal circumstances.

A Ministry of Justice report on the preparation of pre-sentence reports has been completed and attention given to addressing gender and racial bias in the preparation of pre-sentence reports. In particular, redress of the bias is being addressed by providing training to all staff, and to those officers who oversight reports.

Fines Enforcement

The Fines, Penalties, Infringement Notices Enforcement Act has been successful in reducing the number of women imprisoned for fine default. The Act has a flexible time to pay provision that allows offenders to negotiate a realistic time frame in which to pay their fine and allows for alternative methods of enforcement such as suspension of drivers or motor vehicle licence.

The *Sentencing Act* requires the courts to take account of offenders' financial circumstances and allows for such information to be provided in pre-sentence reports. Counsel for the defendant will continue to present this information.

A major strategy of the Ministry of Justice Aboriginal Plan 1996 is to liaise with Aboriginal communities to minimise the default rates on unpaid fines with the objective of reducing the rate of imprisonment of Aboriginal people for fine default. Aboriginal Fines Liaison Officers are now located in Perth, Geraldton, Roebourne, Kununurra and Kalgoorlie to assist Aboriginal people with fine and court related matters.

Community Based Orders

It is a strategy of the Ministry of Justice 1996 Aboriginal Plan to maintain and expand the number of Aboriginal communities (currently about 40) contracted to provide supervision of offenders subject to orders of community supervision and where such facilities exist, Aboriginal offenders are given culturally appropriate placements for community work. The Review of Services to Adult Women Offenders identified the need for more culturally appropriate programs for Aboriginal women and recommended that Community Corrections managers encourage more local Aboriginal communities to provide opportunities for Aboriginal women to undertake their orders.

Women in prison

The Ministry of Justice Report on Review of Services to Adult Women Offenders has provided an extensive account of services provided to women in custody and an outline and Action Plan of how the needs of women offenders might better be met through improved services in prison. The recommendations of the Review cover a range of areas including:

- the needs of minimum security and remand prisoners and strategies to address the disadvantages they currently face, including their accommodation needs and the current security classification system.
- assisting women maintain contact with their families and communities by increasing flexibility in the prison visiting system and addressing the needs of women from remote localities and women from non-English speaking backgrounds and other cultures.
- expanding the range of employment, educational and other development programs for women prisoners and identifying the means to achieve this.
- the gender mix of staff at Bandyup and the need to introduce more flexible working arrangements at the prison to ensure the current gender balance is maintained and more female prison officers are encouraged into the system.
- the specific health care needs of women prisoners and the facilities and services provided to them, including the need for increased health prevention and treatment programs relevant to this population.
- the importance of pre and post release programs to the successful rehabilitation of the offender, the need for "life skills" courses and drug/alcohol treatment programs and increased involvement of community agencies in the provision of such programs.
- gender awareness training and the need to incorporate it into the induction program for Prison Officers and Community Corrections staff.

Since the release of the Report of the Chief Justice's Taskforce on Gender Bias in June 1994 significant improvements have been made in a number key areas at Bandyup Women's Prison. Since 1 July 1995 a Family Support Centre has been operating at Bandyup, providing a valuable service to the families and visitors of the prisoners. The Centre provides information and emotional support to prisoners' families, child care services during visiting times, establishes and maintain linkages with other welfare agencies and provides general assistance for visitors on prison business including assisting with Statutory Declarations and other administrative matters and liaising with prison staff.

Medical services have also been improved with an increase in doctors' visits from 2 days to 3 days per week. Psychiatric services have been upgraded and a psychiatrist now attends at Bandyup on a weekly basis (compared to on a needs basis as previously). Since May 1996 there has been an increase in nursing coverage at Bandyup from 13 hours a day to 24 hours.

The current gender mix of staff at Bandyup is currently 60% women and 40% men which is considered by both women prisoners and the prison administration as a good balance and there are currently female staff holding senior positions in the prison administration.

CHAPTER 3 RESPONSES TO SPECIFIC RECOMMENDATIONS

This chapter essentially updates information provided by a number of Government, Government-funded, and non-Government agencies during 1995. That information was provided for an earlier Progress Report to the then Attorney General, the Hon Cheryl Edwardes. Therefore, some of the information provided in this chapter may no longer be current and persons interested in the current status of particular recommendations should contact the relevant agencies. This chapter also incorporates updates from the Police Service and the Ministry of Justice to April 1997.

In order to overcome temporal inconsistencies, the response text has been standardised by general reference to either the legislative amendments currently under consideration (Restraining Orders Review Committee) or the Action Plan on Family and Domestic Violence (Family and Domestic Violence Taskforce). Further detail on the proposed amendments and the action plan can be obtained from the Ministry of Justice and the Domestic Violence Prevention Unit.

Government agencies contributing to this report included:

The Western Australian Police Service; the Ministry of Justice; the Assessor of Criminal Injuries Compensation; the Departments of Aboriginal Affairs; Education; Health; Family and Children's Services; Local Government and Productivity and Labour Relations; the Western Australian Planning Commission; Worksafe Western Australia, the Equal Opportunity Commission and Women's Policy Development Office.

Comment was also sought and received from Government-funded and non-Government organisations involved or having an interest in the delivery of relevant services. These included-

The Women's Advisory Council; Legal Aid Western Australia; the Aboriginal Legal Service of Western Australia (Inc); Murdoch University Law School; the University of Western Australia Law School; the Western Australian Bar Association; the Law Society of Western Australia; the Women Lawyers' Association of WA; and the Sexual Assault and Referral Centre.

Some of the 198 recommendations in the Gender Bias Taskforce Report are unable to be reported on at this time, for example recommendations 16-25 pertaining to 'Women in the Legal Profession', a matter currently the subject of examination by a joint committee of the Law Society and the Women Lawyers' Association of Western Australia. Some other recommendations require further clarification or legal opinion before a final response can be articulated.

Of the 198 responses contained in this chapter, nine are not supported by Government (41, 110, 136, 138, 140, 145, 147, 157 and 183), three are being investigated for partial implementation (146, 148 and 149) and two require further clarification (178, 179) or legal advice (120, 177) before a response can be articulated. Also several require further consideration or endorsement by the Judiciary (26-34, 36-40, 51, 87, 98 and 182c) and a number have been referred to Government agencies for advice or additional information.

EDUCATION

Recommendation 1: *"That a community legal education system be developed to deal with the vast lack of knowledge by women in relation to their legal rights and the protection of them." (1.4.12)*

Response: Legal Aid Western Australia delivers community education in the metropolitan area and works co-operatively with regional offices to deliver community education in the non-metropolitan region. Legal staff are involved in community legal education where their workloads allow. All community education undertaken by the Legal Aid Domestic Violence Legal Unit (DVLU) is aimed at benefiting victims of domestic violence, the majority of whom are women. The DVLU has conducted a series of education sessions for women and women's groups on the role of the unit, its services, legal issues surrounding domestic violence including specific focus on application for restraining orders and community training workshops for support groups.

Recommendation 2: *"The law as to human rights, citizenship and Court processes be taught in all schools, commencing in upper primary and the students be given an understanding of gender issues in the law." (4.81) (7.34)*

Response: Issues to do with human rights are dealt with in the lower secondary social studies units 'International Co-operation and Conflict' and 'Social Issues', albeit they are not a key curriculum focus. Citizenship and court processes are important focuses in primary and lower secondary units in the decision-making strand of the K-10 Social Studies syllabus, for example, 'Community Decision-Making' and 'Law'. In the post-compulsory years there are two courses ('Australian Studies' - commenced 1995; 'Political and Legal Studies' - to commence 1996) which provide a new focus and perspective on active citizenship and an understanding of court processes. In addition the subject 'Law' (a non-TEE course) continues to provide a view on the workings of the WA court system.

Recommendation 3: *"That feminist legal scholarship be included at Universities within all compulsory introductory subjects in law programs such as Legal Process (UWA), Australian Legal System (Murdoch University), Legal Framework (Curtin University of Technology) and Introduction to Legal Studies (Edith Cowan University - Legal Studies). The aim of such inclusion is to introduce all students to the history and basic principles of feminist legal scholarship. The legal system's tolerance of and failure to deal with violence against women, should be included." (7.41)*

Where appropriate feminist legal scholarship be integrated into all compulsory and elective subjects." (2.34)

Response:

The Law School at the University of Western Australia has recently introduced within the tutorial program of Legal Process, material which examines gender related issues. The policy of the Law School, where appropriate, is to include gender issues within both compulsory and optional units. A new optional unit - Feminist Analysis of the Law - will be introduced in 1996. The Murdoch University Law School's Australian Legal Systems course provides an introduction for all students to the history and principles of feminist legal scholarship which includes some treatment of the legal system's "tolerance of and failure to deal with violence against women". The treatment of feminist legal scholarship in the Australian Legal System course is currently being revised and expanded. The review will take account of the Report's recommendations.

ACCESS TO JUSTICE

Recommendation 4: *"That more resources be made available for women to access information about and support from the legal system." (1.4.2.12)*

The Ministry of Justice has produced a large range of new brochures and updated many others. Brochures are now available on (1) Court Services including payment of fines, being a witness, jury duty, Court of Petty Sessions, the Local Court and Court Child Minding (2) Victim Services including Victim-Offender Reparative Mediation, Coping with Trauma, and a guide for Victims of Crime (3) Information brochures on the *Sentencing Act* including Work Release, Intensive Supervision Order, Community Based Order, Suspended Imprisonment, Conditional Release Order, Pre-Sentence Reports, Bail, and Community Work. (4) Prisons in Western Australia.

Recommendation 5: *"That the need for specialist women's legal services and centres be acknowledged and supported." (1.4.2.12)*

Response:

A specialist women's legal service has recently been established in Perth and will greatly assist in providing women better access to justice. The service has been established with a Commonwealth grant of \$270,000 a year as part of the Federal Government's 1995 Justice Statement.

Recommendation 6: *"That Community Legal Centres be better resourced to cater for legal advice and court representation of women, including 9am to 5pm office hours; toll free number to a lawyer." (1.4.2.12)*

Response:

The Commonwealth Government provides funding for a number of Community Legal Centres in Western Australia, both generalist and specialist services. However this funding source is limited and in other States is complemented by State Government programs.

Recommendation 7: *"That the use of support workers such as para-legals be greatly expanded to improve women's access to justice." (1.4.2.12)*

Response: Community Legal Centres currently employ a number of para-legals, however there is a need for para-legals to work in the rural and remote areas of the State. In Legal Aid Western Australia a number of para-legals are employed to provide advice and assistance through the information line and the minor assistance program.

Recommendation 8: *"That special attention be given to the needs of women in country or remote areas where they have additional difficulties in accessing the justice system." (1.5.3.5)*

Response: Improving access to justice, consistent with the Ministry's Strategic Plan, is given particular attention in the Aboriginal Plan and the Women's Plan and was a particular consideration in the Review of Services to Adult Women Offenders. A number of the Ministry's services, including the Victim Support Service, are now represented more strongly in different regions of the State. It was the particular needs of women living in the regions which led to the recommendation in the Review of Restraining Orders that such orders should be obtainable by telephone. Legal Aid Western Australia advises that its regional offices are committed to developing Legal Aid contact centres where people can obtain legal aid application forms and guidance about accessing legal assistance.

Recommendation 9: *"An over-riding recommendation is that the State and Federal Governments, adequately fund and assist the development of the Women's Legal Service of Western Australia, established in November 1993, and that the legal profession support this initiative." (7.20)*

Response: See response to recommendation 5.

Recommendation 10: *"More Aboriginal people, particularly Aboriginal women, be encouraged to obtain law degrees and be supported in their studies in order to provide more Aboriginal women lawyers."*

Other efforts should be made to increase the numbers of Aboriginal lawyers and other persons to represent Aboriginal persons in courts and to increase the number of legal positions and the number of Aboriginal women as para-legals (including at private firms); also the education and quality of service of legal representation for Aboriginal women by the provision of specific courses at Universities and at post-graduate level." (4.72) (4.112)

Response: Aboriginal and Torres Strait Islander students seeking admission to law and to other undergraduate courses can access alternative entry methods at Murdoch University and at the University of Western Australia. Specifically, access to a variety of undergraduate courses is granted on demonstration of a reasonable capacity to undertake a particular course. Special assistance is offered to Aboriginal and Torres Strait Islander students via the Aboriginal Programs Centre (UWA) and the Aboriginal Education Unit (Murdoch) and through the Aboriginal Foundation Program. Additionally, a five week pre-law course is administered jointly by UWA and Murdoch, in association with the University of the Northern Territory and the Department of Employment, Education and Training. The course is

run over the summer vacation, with admission to undergraduate law following successful completion of the course.

Recommendation 11: *"More resources should be made available to the Aboriginal Legal Service for the creation of a separate women's issues unit within the Service to enable the ALS to better serve the needs of Aboriginal women; also for an "after hours" crisis service." (4.114)*

Recommendation 12: *"A separate Aboriginal Women's Legal Service should be established in order to overcome the conflict of interest situations which often prevent the ALS from acting for Aboriginal women and to fully service the legal needs of Aboriginal women." (4.115)*

Recommendation 13: *"Aboriginal persons (including counsellors) be available for Aboriginal women to discuss legal processes with before they get to court." (4.76)*

Response (11-13): Implementation of these recommendations is dependent on increased funding. While recommendation 11 is supported by the ALS, it has to date not secured necessary funding increases for the creation of such a unit or for an after hours crisis service. However the ALS is endeavouring to address these needs within current funding levels. A women's committee comprising Aboriginal and non-Aboriginal female staff has been established to improve ALS services to women. In spite of its being Perth based, the committee has regular contact and input from women in ALS country offices and from the female members of the Executive Committee. The ALS is currently developing a training package for Aboriginal court officers dealing with violence against women. In the interim assistance has been sought from the Legal Aid Commission's Domestic Violence Legal Unit for the training of female court officers in the management of domestic violence, in particular the provision of legal advice and representation.

Recommendation 14: *"Greater efforts be made by Government departments to ensure that information on legal issues and the rights of Aboriginal women are produced and accessed by Aboriginal women." (4.111)*

Response: The Ministry's Aboriginal Plan addresses a number of issues affecting Aboriginal women customers, including improved access to information on justice processes.

Recommendation 15: *"That all political parties examine their selection procedures for systematic discrimination against women and consider and implement strategies to enable women to participate equally in the political process. (7.29)*

Response: The State Government is not the appropriate vehicle through which this recommendation is best pursued.

WOMEN IN THE LEGAL PROFESSION
(Recommendations 16-25)¹

The Law Society of Western Australia advises of the recent establishment of a Joint Committee with the Women Lawyers' Association of WA to develop a policy and implementation plan to deal with the following issues:

- To review, recommend and follow up implementation of the Gender Bias Report.
- To develop a strategy policy and plan over the next 12 months.
- To recommend on publication and dissemination of the plan.
- To consider the appointment of women to the Judiciary, tribunals, etc.

Additionally, the Law Society is working with the Law Council of Australia on the development of a national policy and action plan for women with careers in the law.

APPOINTMENTS TO THE JUDICIARY
(Recommendations 26 - 34)²

These matters require discussion between the Government and the Judiciary concerning strategies for implementation should the recommendations be considered appropriate. To this end the Attorney General will seek the advice of the Chief Justice.

Recommendation 35: *"That part-time judicial and magisterial positions be available, together with (a) flexible working hours and (b) flexible and appropriate pro-rata arrangements relating to the non-contributory pension. (3.10)*

Response: With respect to part (a), part time appointments presently exist for Commissioners, Registrars and Magistrates. With respect to part (b), the Government has given effect to flexibility in appointments in a number of jurisdictions.

Recommendation 36: *"That judges and magistrates upon appointment be immediately provided with educational materials in relation to their functions including materials relating to the avoidance of gender bias." (3.11)*

Recommendation 37: *"That a program be established for current and prospective judges and magistrates to receive continuing education in gender issues." (3.12)*

Recommendation 38: *"As part of the Chief Justice's judicial education program, specific training should be incorporated to address domestic violence and appropriate judicial response to it." (5.97)*

Recommendation 40: *"That the Judiciary be educated on the Aboriginal female perspective in courtroom situations." (1.5.3.5)*

Response (36-38,40): These recommendations require endorsement by the Judiciary.

¹ Text of recommendations printed in full at end of this report in the Appendix.

² Text of recommendations printed in full at end of this report in the Appendix.

The Ministry of Justice would suggest taking a line similar to that adopted by the Australian Institute of Judicial Administration in relation to Aboriginal Cultural Awareness, namely that an educational package be developed. In respect to recommendation 38, Legal Aid advises that the Domestic Violence Legal Unit has provided training on legal issues and domestic violence to the Northam Justices of the Peace Conference, to Family Court counsellors and to some Magistrates.

Recommendation 39: *"That a Judicial education program be introduced in relation to an awareness of the female victim perspective as victims/witnesses in sexual assault cases." (1.5.3.2)*

Response: This recommendation requires endorsement by the Judiciary. It is noted that an education package would benefit from input from the Sexual Assault and Referral Centre (SARC) and the Victim Support Service.

Recommendation 41: *"Aboriginal women Justices of the Peace be appointed in courts where there are a considerable number of Aboriginal women defendants, subject to the general limitation that only Magistrates and Judges should be able to impose imprisonment." (4.71)*

Response: The recommendation is not supported by the Ministry of Justice on the following grounds:

1. The appointment of Justices of the Peace for particular courts is not consistent with Government policy. Other than for the administration of Aboriginal community by-laws, Justices of the Peace are appointed to whole Magisterial Districts or to the whole of Western Australia.
2. A limitation on the imprisonment powers of Justices of the Peace is part of the *Sentencing Act 1995*. The proposal will require a review of all sentences of imprisonment imposed by Justices of the Peace within 48 hours.

Recommendation 42: *"All Justices of the Peace and other judicial officers attend cross cultural awareness courses which include information as to the rights of Aboriginal women in Aboriginal society, otherwise the judicial officers not be allowed to sentence Aboriginal women defendants. Aboriginal women be consulted as to the content and conduct of these courses." (4.74)*

Response: The Ministry of Justice supports the recommendation in respect to cross cultural awareness training for judicial officers and Justices of the Peace. All new Justices of the Peace are now required to undertake cross cultural awareness as part of their induction program with Edith Cowan University providing the training for Ministry of Justice. The cross cultural awareness component makes up 10% of the entire course.

THE COURTS

Recommendation 43: *"That an immediate review of recruitment practices in relation to court personnel be undertaken."* (1.5.3.2)

Response: There is a recognised need to increase the number of women working within the courts area. This issue will continue to be addressed in the continuing implementation of the Ministry's Women's Plan and Aboriginal Plan.

Recommendation 44: *"The gender balance of court personnel should be examined and the courts be required to adopt an affirmative action policy as a matter of urgency."* (5.36)

Response: The Ministry of Justice recognises the existence of a gender imbalance in the courts, and in particular an imbalance in middle and senior management positions. The Ministry is currently reviewing all Job Description Forms to ensure the promotion of equity and removal of any systemic discriminatory practices.

Recommendation 45: *"On the job training for Court personnel include a component on domestic violence and that component emphasise the importance of serving the needs of victims in a sensitive manner."* (5.96)

Response: The recommendation is supported by the Ministry of Justice as an important initiative to be addressed as part of a comprehensive and strategic approach to domestic violence. The Ministry will assess the developmental needs of Court staff and review existing training material accordingly. It will develop, implement and evaluate a program with input from the Victim Support Service.

Additionally, the Legal Aid Domestic Violence Legal Unit advises that it has provided training on legal issues and domestic violence to Family Court counsellors, administration staff at the Perth Court of Petty Sessions and Court welfare workers at the Central Law Courts.

Recommendation 46: *"Vulnerable witness mechanisms currently available should be adapted to the special needs of sexual assault victims as witnesses, including closed court TV, video and screens."* (5.33)

Response: The recommendation is supported by the Ministry of Justice, consistent with its Justice Charter. Facilities for vulnerable witnesses will be considered in any new court complex in line with the State-wide Building Facilities Review (see Recommendation 60). The report of an evaluation of vulnerable witness mechanisms has been undertaken.

Recommendation 47: *"The immediate redefinition of areas in courtroom precincts for witnesses/defendants and applicant/respondents be more practical. More appropriate planning of new court buildings or those to be renovated particularly in the country areas should be undertaken to address this problem."* (1.5.2.3)

Recommendation 48: *"Appropriate accommodation within the court building be made for victims of domestic violence."* (5.135)

Recommendation 49: *"Separate and private waiting areas should be provided within the Courts for families and supporters of women victims waiting for a hearing and making applications for restraining orders." (5.34)*

Response (47-49): These recommendations are supported by the Ministry of Justice, consistent with its Justice Charter.

Facilities for vulnerable witnesses are now considered in all new court complexes.

Recommendation 50: *"That the particular difficulties and needs experienced by Aboriginal and non English speaking women as they access the criminal justice system be recognised and accommodated in all courts' procedures, planning and practices." (1.5.3.5)*

Response: Court publications and brochures have been updated to be more user friendly. A Language Service Plan has been developed for non English speaking persons and several initiatives are currently under implementation. The difficulties experienced by these groups have been further considered in the Review of Services to Adult Women Offenders.

Recommendation 51: *"A permanent Committee, with some members being judicial officers (one from the Supreme Court), be established to monitor the operation of the courts as they affect Aboriginal people and to work in with the proposed Aboriginal Justice Advisory Committee. On the committee should be an equal proportion of Aboriginal women and men." (4.70)*

Response: This recommendation is a matter for consideration by the Judiciary and will be referred to the Chief Justice.

The Ministry of Justice funds an Aboriginal Court Liaison Officer who is attached to the Office of the Chief Justice. The role of the Liaison Officer is to advise Judicial Officers and staff of the Supreme Court concerning Aboriginal cultural issues and establish consultative processes to assist the judiciary to meet and liaise with Aboriginal communities.

Recommendation 52: *"Court services and the Police Department give more credence to expressed concerns by Aboriginal people concerning their personal safety when having to attend court." (4.129)*

Response: The security of court clients, particularly those attending for restraining orders, is a significant issue. Court security is continually being upgraded as needed and is on going.

Recommendation 53: *"Staff at information booths in the Courts be trained to ensure they are sympathetic and helpful to court visitors." (1.5.2.3)*

Response: The Ministry of Justice's Justice Charter sets out a series of customer service strategies and customer service standards will be clearly

articulated in day to day operational terms. This is reinforced by the 1997 Court Services Customer Service Charter and related customer service initiatives which was launched in April 1997.

A generic customer service training course is available and the Courts Services will ensure staff are released on an ongoing basis to attend training courses.

Recommendation 54: *"Aboriginal women be placed in court offices at all levels (including as support and resource persons) in particular where Aboriginal women are involved in court proceedings and processes. All court staff be given ongoing cultural awareness training." (4.73)*

Response:

It is acknowledged that very few Aboriginal staff are currently engaged in the courts area. Consistent with the Aboriginal Plan, the Ministry has been funded by the Department of Education, Employment and Training to develop a strategy to increase the level of Aboriginal employees in its workforce, including court staff. Cross cultural awareness training is conducted on an ongoing basis in country and city locations. The Courts Division will facilitate the release of all client service staff to attend this training. Introductory training courses have been developed for new Aboriginal appointees.

Recommendation 55: *"That para-legal staff be provided to assist women with Court procedure and to offer them emotional support." (1.5.3.5)*

Response:

Ministry of Justice staff are trained to provide advice on practice and procedure, rather than legal advice, counselling or support. A package is to be developed to provide information for clients on support agencies. A victims support video for witnesses is currently available. Emotional support is available to victims through the Ministry's Victim Support Service.

The Legal Aid Domestic Violence Legal Unit provides women with information about their legal rights in situations of domestic violence. It also conducts the duty lawyer service every day at the Restraining Order Court. Solicitors providing the service give women advice on their legal position and provide them with information about court procedure.

Recommendation 56: *"That a less exposed and enclosed witness box for victims in sexual assault cases be provided in relevant courts." (1.5.3.2)*

Response:

See response to Recommendation 46.

Recommendation 57: *"That voice amplification facilities be installed in all courts." (1.5.3.2)*

Response:

Requirements for voice amplification facilities will be addressed in conjunction with video facilities. To date, Albany Court has been fitted with such facilities. See response to Recommendation 46.

Recommendation 58: *"That provision of child care facilities be acknowledged by the relevant authorities as an essential service in courts. The Family Court facility should be followed as*

a model. The provision of suitably trained persons to be available for children during the time parents are present in the court should be of the highest priority." (1.5.2.3)

Response: This recommendation has been considered as part of the Ministry of Justice Building Facilities Review. A policy in respect of this matter has been developed and a Pilot project giving court clients access to child minding services commenced at Rockingham court in June 1996. The pilot will be reviewed after 12 months with a view to expanding the service to other courts.

Recommendation 59: *"That information booths similar to the one housed inside the counseling area of the Family Court, be made available immediately in every court foyer in full view and contain essential information for the court visitor." (1.5.2.3)*

Response: Ministry of Justice Court brochures have recently been updated and new information material produced. Space is made available to display information and consideration will be given to the facilities required to present this information to the maximum benefit of the customer, while at the same time respecting the aesthetic considerations of each court office.

Recommendation 60: *"That there be access to toilet facilities within the court environment in country areas." (1.5.2.3)*

Response: This recommendation has been considered as part of the Building Facilities Review. Implementation will be subject to capital works funding priorities.

Recommendation 61: *"The Ministry of Justice be required to produce a Disabilities Plan for all courts." (5.42)*

Response: The Ministry has developed a Disabilities Plan for the whole of the Ministry in line with legislative requirements.

Recommendation 62: *"The courts and the criminal justice system in Western Australia recognise and acknowledge that there is a need to incorporate Alternative Dispute Resolution processes into the resolution of disputes which involve Aboriginal people." (4.85)*

Response: The Aboriginal Alternative Disputes Resolution Service has received an increase in resources (from one to three full time positions) and is now better placed to provide services across the metropolitan area and regionally.

Recommendation 63: *"That proper refreshment facilities be made available at Courts. The refreshment machine in the Supreme Court is not considered appropriate. The coffee shop facility at Sir Charles Gairdner Hospital is a desirable model." (1.5.2.3)*

Response: Future planning for court buildings will consider this requirement. Vending machines are currently located in a number of courts.