

COAG Commitment Welcomed as New DV Figures Released Study Reveals DV Endemic in Family Law Cases



National Legal Aid welcomes a COAG Advisory Panel report which highlights the need for increased legal assistance for domestic violence victims. The report coincides with the release of disturbing new figures revealing the extent of domestic violence in legal aid family law cases.

NLA welcomes the recommendations of the *COAG Advisory Panel on Reducing Violence against Women and their Children*. We are pleased with COAG's commitment to consider the recommendations when developing a Third Action Plan as part of the National Plan to Reduce Violence against Women and their Children.

The Advisory Panel's final report highlights the lack of resources for victims of domestic violence, especially in family law cases. It urges governments to 'ensure funding for supporting women and their children... is adequate and responsive to changes in demand'.

"The advisory panel correctly identifies the need for increased assistance for domestic violence victims involved in family law cases," said Suzan Cox QC, the new Chair of National Legal Aid, representing the Directors of Australia's legal aid commissions – the biggest service providers in the legal assistance sector.

"The report also calls for greater integration, collaboration and information sharing to support victims. Legal aid commissions are ideally placed to provide such integrated support for women and children through their journey from intervention orders, family courts and child protection matters."

Disturbing New Data

The urgent need for increased funding is also highlighted by disturbing new figures which reveal the widespread incidence of domestic violence in family law cases handled by legal aid commissions.

A recent audit shows domestic violence is a factor in 79% of legal aid Commonwealth family law matters.

The data indicates that, in 2014/15, domestic violence was a factor in approximately 21,000 legal aid family law matters across Australia. The highest incidence of domestic violence in these family law matters occurred in the NT (88% of cases), Western Australia (84% of cases) and Victoria (81% of cases).

"The figures demonstrate that vulnerable people often face a perfect storm of legal problems," Ms Cox said.

"These low-income domestic violence victims can't afford lawyers and are frequently in bitter dispute with partners over the care of their children. It is essential the assistance they receive is better funded."

The table below reveals the following.

- **NSW** recorded the highest number of cases. The analysis shows there were more than 6,000 NSW legal aid family law cases in which domestic violence was a factor.
- **Queensland** recorded the second highest number of cases, behind NSW. The analysis shows there were more than 5,000 Qld legal aid family law cases in which domestic violence was a factor.
- **Victoria** recorded the third highest number of cases, behind NSW and Qld. The analysis shows there were more than 3,600 Victorian legal aid family law cases in which domestic violence was a factor.
- **WA** recorded the second highest incidence of domestic violence. The analysis shows 84% of WA legal aid family law cases involved domestic violence.
- **SA** recorded the fourth highest number of cases, behind NSW, Qld and Victoria. The analysis shows there were more than 2,000 SA legal aid family law cases in which domestic violence was a factor.
- **Tasmania** recorded the lowest incidence of domestic violence. The analysis shows 72% of Tasmanian legal aid family law cases involved domestic violence.
- The **ACT** recorded the lowest number of cases. The analysis shows there were approximately 550 ACT legal aid family law cases in which domestic violence was a factor.
- In the **NT**, domestic violence indicators were present in 88% of legal aid family law cases.

State & Territory legal aid commissions	Percentage of legal aid family law cases with domestic violence indicators (2014/15)	Estimated number of legal aid family law cases with domestic violence indicators (2014/15)
NT Legal Aid	88%	610
Legal Aid WA	84%	1552
Victoria Legal Aid	81%	3666
Legal Aid Qld	79%	5309
Legal Aid ACT	78%	569
Legal Services Commission of SA	76%	2097
Legal Aid NSW	76%	6505
Legal Aid Tasmania	72%	896

Means Test Too Mean

“Sadly, the situation is even worse for the many other low-income domestic violence victims who do not qualify for legal aid in family law matters due to inadequate government funding,” Ms Cox added.

“They are denied assistance because the legal aid means test is too mean – a concern clearly highlighted by the Productivity Commission more than 500 days ago.

“I commend Commonwealth efforts to provide greater legal assistance to domestic violence victims through its Women’s Safety Package funding of \$15m over three years. However, the Productivity Commission recommends the Federal government immediately increase its legal assistance funding by \$120m per year. The Commission also recommends States and Territories boost their funding by a total of \$80m per year.

“Low income domestic violence victims are confronted by a daunting legal system as well as an overly restrictive legal aid means test that stems from inadequate government funding.”

Domestic violence victims often encounter numerous legal issues relating to the abuse and separation. These include tenancy, property and debt-related problems, as well as arrangements about the care of their children.

“It is vital for these victims to access legal assistance safely and quickly from properly-funded service providers with the required depth of legal expertise,” Ms Cox said.

“Legal aid commissions have assisted domestic violence victims for decades. We have the systems and skills in place and could do more for victims – but only if funding increases in line with the recommendations of the Productivity Commission and the COAG Advisory Panel.”

Bleak Future if Figures Ignored

“The future is bleak for many low-income families if we ignore these domestic violence figures and the recommendations of the Productivity Commission,” Ms Cox said.

“The data shows that underfunded legal aid commissions are confronting high numbers of disintegrating low-income families who are wrestling with complex legal disputes over the care of their children. In more than three-quarters of those cases, domestic violence is a factor. ”

In Her Own Words: Legal Aid in Family Law Matters Involving Allegations of Domestic Violence

“To the staff at Legal Aid,

On behalf of my 2 children, father and I we would like to say “thank you” for all the legal aid and support you have offered my family, enabling us to go to court and fight for our safety from my abusive, violent ex.

I was awarded 100% custody and this enables us to finally be able to move forward with our lives, feeling safe now.

I have been on Centrelink benefit as a single mum, and have just completed my Certificate 4 with Tafe, so I was unable to pay for legal fees.

I now want to work with domestic violence victims, help them see there’s a light at the end of the tunnel, help others just like your organisation has helped my family.

Your financial assistance has helped to improve and change our lives and we will forever be grateful to you.” (This is an unsolicited letter from a legal aid client. To protect her identity, she can be called ‘Jane’ [not her real name].)

Further reading: The Productivity Commission made the following finding [on p30 of its report](#). “The income tests are below many established measures of relative poverty. It is not the case that people are ‘too wealthy’ to be eligible for legal assistance, but rather that they are ‘not sufficiently impoverished’.”

- **Suzan Cox QC is available for interview. Media contact: Jeremy Boylen M 0421 611 856**