



**Aotearoa New Zealand Association of Social Workers
(ANZASW)**

Submission to
Select Committee (Social Services)

on the

Crimes Amendment Bill (No 2)

Prepared by Stephanie Palmer
for Lucy Sandford-Reed
Chief Executive
ANZASW
DX Box WX33 484
Christchurch

DDI: 03 349 0190 x 4
Mobile: 027 349 0190
Lucysandford-reed@anzasw.org.nz
www.anzasw.org.nz

June 3, 2011

Does your organisation wish to appear before the Committee?

YES

What are your organisation's aims?

Aotearoa New Zealand Association of Social Workers (ANZASW) is the professional body for a national collective of more than **4,000 social workers**, who have day-to-day involvement with the most vulnerable people in our society. Our work is guided by a Code of Ethics that is aligned with the International Federation of Social Workers (IFSW). Our members work at the interface of whānau interactions and are well placed to comment on the implications of proposed amendments to the Crimes Act 1961 (Crimes Amendment Bill, No 2).

Social work is founded on principles of human rights and social justice. We are guided by the Treaty of Waitangi and respect the equality, worth and dignity of all people. As stated by the 1988 Royal Commission on Social Policy, we believe *“social well-being exists when all members of the community have a reasonable expectation of achieving those things which are generally accepted as necessary for a healthy and happy life”*. Our mission is to enable people to develop their full potential, our skill-set is problem solving and facilitation of positive change in individuals, organisations, whānau and communities. We recognise the environment contains opportunities for people to be both agents of change and victims of factors beyond their control. As a profession, we strive to alleviate poverty, foster social inclusion and liberate those who are vulnerable or oppressed. Social work is evidence-based and draws on theories of human development, behaviour and social systems.

Social workers respond to crises and emergencies along with the personal or social problems that arise from experience of barriers, inequities and injustices within our society. Our interventions involve problem solving, development of coping strategies, one-on-one counselling and therapy, family and group work, agency administration, community organisation and helping people to access services, resources and support systems within their community. We work across government and non-government settings including community organisations, iwi agencies, private practice, youth justice, child protection, mental health, addictions and disability. We are involved in research, training, education, professional development, competency assessment, data gathering, risk assessment, structural analysis, interagency protocols and the improvement of social policy.

Who has been Consulted?

The content of this submission has been informed by ANZASW's National Executive, Tangata Whenua Caucus and Social Justice Committee as well as the outcomes of a recent online survey in which members were asked to consider the following issues:

- has child abuse been clearly defined for Social Workers?
- should mandatory reporting be introduced in Aotearoa/New Zealand?
- what events should be reported?
- who should be legally required to report child abuse?
- should whānau members or neighbours have a legal obligation to report child abuse?

Responses were collected via Survey Monkey over the two month period commencing 20 December 2010 to 28 February 2011, full report available from StephanieP@anzasw.org.nz.

Mandatory reporting refers to the legal requirement of specified groups to report actual or suspected cases of child abuse and neglect to the statutory child protection agency and/or Police.

- are there cultural practices which may fit the definition of child abuse?
- do social workers have confidence in their ability to recognise child abuse?
- is there a need for ANZASW to develop a child abuse policy/guideline for members?
- what are the advantages and disadvantages of mandatory reporting?

Six percent of ANZASW's membership (n=243) completed the survey, representing around 4% of the social workers in New Zealand's total workforce:

- respondents were mostly NZ Pākehā (66%), female (85%), worked for a Government agency (66%) and highly experienced, having been social workers for 1-2 decades or longer (58%);
- 20% of respondents were Māori and 5% were of Pasifikā ethnicity;
- mostly employed by Community/NGOs (30%), MoH (27%) and CYF (19%).

ANZASW's submission on the Crimes Amendment Bill (No 2)

Social workers acknowledge and support the need for law makers to identify and develop legislative mechanisms which ensure the protection of children and vulnerable adults. As a profession, social workers are acutely aware of the devastating impacts experience of abuse and injustice can have on the lives of victims and their families as well as the community and wider society. The protection of children and vulnerable adults is central to our values and work ethic, however:

1. There is general concern the Crimes Amendment Bill (No 2) has been hastily drafted, in response to public distress over specific recent events, without proper consideration of the issues.
2. It is also felt the proposed legislative changes equate to the introduction of mandatory reporting in Aotearoa/New Zealand despite:
 - the absence of appropriate debate or transparency;
 - an equivocal international evidence-base that is unable to demonstrate the effectiveness of mandatory reporting in reducing child abuse;
 - New Zealand's lack of knowledge about the efficacy of current DHB protocols for reporting child-abuse which have, in effect, been mandatory for several years.
3. Although the majority of social workers (who completed our survey) said it should be mandatory to report child abuse (84%), there is a need to understand why older social workers and those with more experience were less supportive of a mandatory system, for example:
 - 20% of respondents aged 46 years and older opposed or were unsure whether mandatory reporting should be introduced;
 - social workers who had more than 20 years of practice were least supportive of mandatory reporting; and
 - 15-20% of respondents working in MoH, MSD and CYF opposed or were uncertain about the need for a mandatory reporting system.
4. Many of the social workers who responded to our survey were unsure about the "types of events" that should be reported and "who should do the reporting" and relatively few supported the introduction of system which gave whānau members and/or neighbours responsibility for reporting child abuse:

- 80-95% of respondents thought it should be mandatory to report most forms of physical, psychological, sexual and suspected abuse/ill treatment but there was considerably less support for reporting verbal abuse (74%) and/or suspected verbal abuse (54%);
 - 68% of respondents said they sometimes or often came across cultural practices which seemed to fit the definition of child abuse;
 - 80-90% of respondents thought doctors, police, social workers, teachers, nurses, Wellchild workers, school counsellors and midwives should be legally required to report child abuse;
 - respondents were less likely to support mandatory reporting by members of the clergy (76%), dentists (66%) and pharmacists (62%);
 - respondents were least supportive of mandatory reporting by whānau and/or neighbours (58%).
5. Our data strongly suggests the meaning of child abuse has not been clearly defined:
- 34% of the social workers (who completed the survey) thought child abuse had not been clearly defined;
 - social workers with more experience (years of practice) were more likely to say it was not clearly defined;
 - 60% of respondents working in MSD and 40% of those employed by MoH, other government agencies, Māori providers and Community/NGOs thought child abuse was not well defined.
6. In light of such findings, the proposed amendments raise a number of questions about the feasibility this legislation and need for clarification, specifically:
- how will households be monitored to ensure the “responsible” persons are taking reasonable steps to protect a child or vulnerable person?
 - what is “frequent contact” and “sufficient proximity” in terms of defining which persons will be responsible for reporting child-abuse in a household, eg - would this include neighbours/visitors/extended family members and/or similar others?
 - who will be responsible for reporting child-abuse in an institution and how will this be monitored/enforced, eg - would a cook or receptionist have a legal obligation to report suspected child abuse?
 - what is an institution, eg – does this include prisons, schools, pre-schools, rest-homes, half-way houses, holiday camps, churches, marae, training facilities, rehabilitation/recovery/reintegration facilities?
 - what specific events should be reported, apart from general offences listed in S.195A(1), eg - would this include emotional/physical/sexual abuse and neglect? how is grievous bodily harm defined?, what about cultural practices?
 - how will child abuse be defined for professionals and the general public?
 - how will everyday people ascertain the actual or potential risk to a child or vulnerable adult?
 - what benchmarks/precedents will the Court be using to determine the meaning of “reasonable steps” and the level of proof required for prosecution?
 - how will people know when their “responsibility” has been discharged, eg – would informing the Police, CYF, a social worker or the manager of a rest-home be adequate?

- how can a professional who has not been trained in the assessment of risk (eg - teacher, doctor, NGO social worker) be deemed responsible for the protection of a child/vulnerable person who says they are “OK” and at what point could they be prosecuted for failing to take reasonable steps?
 - is increasing the maximum length of sentence from 5 to 10 years an evidence-based, or exploratory, deterrent? and how will its effectiveness be measured in terms of rehabilitation/reintegration outcomes and rates of child abuse?
7. The social workers, who completed our survey, felt the main advantage of a mandatory reporting system will be “clarification of their professional roles and responsibilities”, or removal of doubts and uncertainty about when to report suspected abuse. Other perceived advantages included:
- potential reduction in child abuse rates;
 - proper investigation of suspected abuse;
 - symbolic acknowledgement of a zero tolerance message;
 - gradual streamlining of services for risk assessment, intervention and prevention.
8. However, the disadvantages of mandatory reporting may outweigh any potential benefits. Reiterating disadvantages found in the international literature, the social workers who completed our survey expressed concerns about:
- exponential increases in already burgeoning workloads, eg - available data suggests CYF received 89,461 notifications of child abuse in 2007/08 (up 35% from 2006/07) but in 2008/09 there were 110,797 notifications (representing a 13% increase in workloads);
 - wasting precious resources on the processing of trivial/malicious/unfounded reports instead of the families who actually need care, eg – in 2007/08 little more than half (55%) of the 89,461 reports received required follow up (49,000) and in 2008/09 two-thirds of the reports (70,797) did not need further action;
 - lack of funding and proper resourcing for service delivery;
 - need for interagency protocols, professional development pathways, appropriate training packages and effective screening/assessment/intervention tools;
 - an urgent need to clarify the definition of child-abuse for whānau, communities and professional groups;
 - undermining social worker’s relationships with their clients, eg – confidentiality/anonymity cannot be assured;
 - negative impacts on children and their families, eg – fear of prosecution, unwillingness to engage with professionals, veils of silence and secrecy, loss of essential care/support services, destabilization of families, unnecessary removal of children, not enough foster homes, social/community stigmatization, trial by media, lack of compensation for unfounded reports;
 - withdrawal of funding for current strategies, lack of investment in social solutions/building on knowledge about the underlying drivers of child-abuse, eg - drug and alcohol use, family breakdown and dysfunction, the presence of non-biological adults in the house, low maternal age, poverty and single parenthood.
9. This submission has largely drawn on the outcomes of an ANZASW membership survey which has the following limitations:
- relatively small sample size (capturing responses from approx. 4% of the social workers registered to practice in NZ);

- the Background section was not informed by comprehensive literature review due to difficulties accessing the academic article base;
 - the questionnaire template did not seek information about existing child-abuse protocols/policies (in employer organisations), participation in child-abuse training programmes and experience of interagency protocols.
10. Nevertheless, it is felt the proposed 6-month transition period will not be long enough to prepare social workers, and communities, for the legislative changes that will be introduced with the Crimes Amendment Bill. As the professional body for social workers, for example, ANZASW will be aiming to:
- review, update and disseminate their child-abuse policy for members, including guidelines for working within the Act;
 - gather more detailed information about cultural practices which fit the definition of child-abuse with a view to informing policy and protocols;
 - assist the development, implementation of interagency child-abuse protocols;
 - develop resources which clearly define the meaning of child-abuse for social workers, whānau, communities;
 - explore opportunities for professional development/training initiatives that will improve social worker's confidence in their ability to recognise child-abuse, engage in interagency protocols, support families under investigation and work with interventions and/or preventative techniques;
 - ensure participation in such training is linked to annual practicing certificates;
 - improve knowledge about child-abuse screening and intervention techniques with a view to engagement in the development/implementation of quality assurance activities;
 - develop workforce development strategies for addressing/mitigating burdensome workloads, assisting the processing/follow-up of child abuse reports, dealing with unfounded claims and supporting whānau under investigation;
 - contribute to the development of information resources for families and those who have the care of a child/vulnerable person, eg - teachers, nurses, GPs, counsellors;
 - develop systems for monitoring and reporting on child-abuse data for social workers.

Concluding Comments

Attempts to encourage more support and responsibility to protect children and vulnerable adults within our communities are laudable. However, ANZASW believes the issues implicit within this legal discussion are many and complex and have not been fully resolved. While these amendments seek to strengthen the mechanisms for protection of children and vulnerable adults *in law*, it is less clear how the changes will ensure more protection *in practice*.