

**Report of GREG HOWE as rappourter for the session on
Saturday 28 August 2010**

Stream 3: Civil and Family Law

“Domestic Violence in the Courts: re-victimising or protecting the victims”

Denis Farrar chaired this session due to the unavailability of Geoff Sinclair. The speakers were as follows:-

Nicky Davies (Director-Family Law, Civil Justice and Legal Advice Services, Legal Aid, Queensland) delivered a paper highlighting the three voluminous recent reports into domestic violence, namely the Chisholm Report, the Law Council Report and the AIFS Report. Given the enormity of those reports, she delivered a brief but comprehensive summary of each of those reports, which summary was probably too brief and somewhat hurried given the brief time available to her.

Susan Davitt is the Chair of the Family Violence Specialist Network at Legal Aid, New South Wales. Her paper was entitled “*How can lawyers be upskilled to secure fair outcomes?*”. Her paper should be on the website. She highlighted the initiative used by New South Wales Legal Aid to train all lawyers and support staff at the Commission on the issue of domestic and family violence. She highlighted that there is a lack of training and awareness of this area, but reported that the training programme that had been implemented appeared to be extremely successful. From our Committee’s point of view, it would probably be useful if we could check whether other Legal Aid Commissions and other Community Legal Centres and perhaps Family Relationship Centres are aware of the training programme. It may well be that they are doing this in any event.

Andrew Boe is a criminal barrister at the Queensland Bar. He discussed the issue of whether a history of domestic or family violence should be an admissible and relevant issue on sentencing for criminal offences. He highlighted some relevant amendments to the Criminal Code in Queensland to allow a Court to reduce a murder verdict to a manslaughter verdict if there had been a history of domestic violence. He pointed out some difficulties with respect to that amendment and indicated his (and other members of the Bar) strong opposition to the amendments. He highlighted the necessity and importance of forensic examination of allegations, so as to obtain corroboration of those allegations. He suggested that the “*domestic violence*” tag could be seen to down play or sanitise what is essentially serious criminal conduct and effectively suggested that to continue to use the terms “*domestic violence*” and “*family violence*” might be counterproductive in the sense that they might not import the serious degree of criminality associated with such conduct.

He did not appear to have produced a paper and spoke without notes or reference to any technological aids.

Again, there was little time for questions at the end of this session.