

30 June 2011

**Submission to the 'Protecting Victoria's Vulnerable Children Inquiry'
Prepared by: The Royal Children's Hospital, Paediatric Intensive Care Unit**

The Royal Children's Hospital (RCH) Paediatric Intensive Care Unit recently participated, with other hospital departments, in a community consultation process for the "Protecting Victoria's Vulnerable Children Inquiry".

We welcome this opportunity to submit further information to the inquiry, specifically to *"The factors that increase the risk of abuse and neglect occurring, and effective preventative strategies"* (Terms of Reference 1, 2011).

In making this submission, we strongly advocate for greater recognition within our community that the abuse of children is a crime.

Between 1 January 2005 and 1 January 2011, a total of thirty two children were admitted to the Royal Children's Hospital Paediatric Intensive Care Unit with a coded, provisional diagnosis associated with a "non-accidental injury". This figure is likely to under represent the true prevalence of children requiring intensive care as a result of a non-accidental injury, as it does not include:

- children whose injuries were coded as non-accidental after their discharge from intensive care; or
- children whose cause of injury was, in fact, non-accidental but never established and coded as such.

It should also be noted that this figure of thirty-two children lies alongside the following cohorts:

- critically ill children who, following a non-accidental injury, died prior to admission to hospital;
- children who received a non accidental injury that required admission to hospital, but not intensive care; and
- children who sustained a non-accidental injury but never presented to hospital.

Of these thirty-two children admitted to intensive care, twenty-three (71.9%) were aged under one year and six (18.8%) were aged between one and three years. The remaining three children (9.4%) were aged over 3 years.

Twenty-seven (84.4%) of these children sustained head injuries. The remaining children suffered injuries that were classified as burns, drowning, and major trauma to the limbs and chest. The injuries sustained by all of these children were of such severity that they required constant monitoring and highly specialised care that for 29 children (90.6%) included the use of a mechanical respirator, commonly referred to as "life support". Many of these children showed signs of previous, undiagnosed, physical abuse.

Of the thirty-two children admitted to intensive care, seven died.

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Reference to the cause of these children's injuries by health professionals largely relied on the term "non-accidental injury". We contend that this term:

- fails to locate these children's injuries within a concept of violence; and
- fails to promote an understanding that the abuse of children is a crime, in which there is a victim - the child – and an offender.

In part, the dominance of this terminology reflects the limited intersection between child abuse and the criminal law in broader, Australian society and the current positioning of both child abuse and neglect strongly within a welfare paradigm.

One of the primary functions of the criminal justice system is to define acceptable standards of behaviour. As asserted by the Australian Law Reform Commission (2010, p. 935), the "prosecution of an offender when those standards are breached sends a clear message to the community, denounces abusive or neglectful conduct, punishes the offender and acts as both a specific and general deterrent, to prevent the offender and others from committing or recommitting the same offence".

We assert that the limited application of the criminal law to cases of child abuse severely limits the ability of the criminal justice system to perform this function and, as a consequence, there is a failure to assert within our community that the abuse of children is unacceptable and will not be tolerated.

We therefore make the following calls for action –

1. Greater application and enforcement of the criminal law in cases of child abuse;
2. A strong emphasis upon the notion that child abuse is a crime at all levels of a public health model for the prevention of child abuse and neglect; and
3. A change in language within all relevant government, departmental, agency and institutional policy to reflect the understanding that child abuse is a crime.

References:

Australian Law Reform Commission (2010). *Family violence – A national legal response (ALRC Report 114)*, Chapter 20: "Family violence, child protection and the criminal law". Accessed 20th June, 2011 at <http://alrc.gov.au>