



**Royal Commission**  
into Family Violence

## **WITNESS STATEMENT OF PROFESSOR ANDREW DAY**

I, Andrew Day, Clinical and Forensic Registered Psychologist of 1 Gheringhap St, Geelong, in the State of Victoria, say as follows:

1. I make this statement on the basis of my own knowledge, save where otherwise stated. Where I make statements based on information provided by others, I believe such information to be true.

### **Current role**

2. I am a Professor of Psychology at Deakin University. I have held this position since 2011. I also hold the concurrent position of Visiting Professor at Coventry University in the United Kingdom.
3. The focus of my research is on the treatment and management of offenders and, in particular, the development and delivery of behaviour change programs.

### **Background and qualifications**

4. I have been an academic since 1998. From 1998 until 2009, I worked in the Centre of Applied Psychological Research at the University of South Australia where I held the positions of Research Fellow, Senior Research Fellow and Associate Research Professor in Forensic Psychology.
5. From 2008 until 2011, I was Adjunct Associate Professor in the School of Law at Flinders University and from 2009 until 2011 I also held the position of Adjunct Associate Research Professor in the School of Psychology, Social Work and Social Policy at the University of South Australia.
6. I joined Deakin University in 2009 as an Associate Professor in Clinical Forensic Psychology and was appointed Professor in Clinical Forensic Psychology in 2011.

7. Prior to becoming an academic, I worked as a Prison Psychologist and Clinical Psychologist in the United Kingdom and as a Clinical Psychologist at South Australian Mental Health Services.
8. I hold a Bachelor of Arts (Honours) in Social Psychology from the University of Sussex, a Masters in Applied Criminal Psychology from the University of London and a Doctorate in Clinical Psychology from the University of Birmingham.
9. I have published extensively on offender rehabilitation and the treatment of violent offenders. Attached to this statement and marked "AD1" is a copy of my curriculum vitae including my publication record.
10. A list of the key references which have informed the content of my statement is attached to this statement and marked "AD2".

### **The importance of working with perpetrators of family violence**

11. Perpetrator behaviour change programs have, in recent years, come to play an increasingly important role in community efforts to prevent family violence, although concerns have also been expressed that these programs are not funded at the expense of providing services for women and children.
12. The rationale for intervening with known perpetrators is based on the understanding that repeat offending is relatively common and that interventions that are even modestly successful in preventing further violence will, therefore, make a significant contribution. There is also evidence that alternatives, such as imprisonment, do little to deter criminal behaviour; that longer sentences are not associated with reduced offending; and, more generally, that punishment-based responses are an ineffective way of changing behaviour (unless some very specific conditions are in place).
13. It follows that policies and programs that focus on addressing the causes of family violence in known perpetrators and equipping them with the motivation, problem awareness, and skills that are needed for them to act in ways that do not involve violence will have a much greater chance of success.

### **Current evidence regarding efficacy of behaviour change programs**

14. It is important to carefully consider the strength of the evidence that is reported in different program evaluations before arriving at any overall conclusions about the efficacy of behaviour change programs for perpetrators of family violence.

15. This involves a careful assessment of the quality of the design of evaluation studies before it can be assumed that any observed reductions in family violence are a direct result of participation in a program. This is where random allocation into either a 'treatment' group or a comparison group (which may mean no intervention, 'treatment as usual', referral to an alternative program, or placement on a waiting list) becomes relevant. Random allocation helps to overcome the rather substantial problems that are associated with selection bias. This relates to the possibility that the characteristics of participants that influence their selection into programs will also influence their subsequent success, thereby making it difficult to attribute any change to their participation in the program.
16. Although some well-designed program evaluations have reported promising results, the evidence relating to the overall effectiveness of perpetrator behaviour change programs is both weak and unconvincing. There is evidence to suggest that at least one in three perpetrators who complete programs will go on to commit further acts of family violence as reported by their partners, and at least one in five will behave in ways that lead to further police contact. The actual rates of violence are, however, likely to be higher than these, given that family violence is often under-reported. As such, although behaviour change programs clearly do have a positive impact on some perpetrators, it should not be assumed that attendance at a program will necessarily be beneficial. The possibility that some programs actually make perpetrators worse, not better, should always be considered.
17. Whilst nearly everything we know about program effectiveness comes from evaluations of programs that have been implemented in other countries (primarily in North America), there seems no reason to expect that Australian programs are any more successful. Local evaluations have, to date, not provided the type of evidence that is required to draw firm conclusions about program efficacy, largely because the types of evaluation that are needed to attribute positive change to program completion are complex, require large numbers of participants, and probably involve cross-jurisdictional collaboration. This lack of local outcome data creates particular difficulties for policy makers who want to make evidence-based decisions about which programs to replicate, generalise, or scale up and has led to a situation where many programs do not progress beyond the pilot or development stage, are limited in scope to the specific context in which they were first developed, or are constrained by short-term, non-recurrent funding models.

18. There is a need to establish that behaviour change programs have the potential to produce significant reductions in family violence before they are implemented on a wider scale. The distinction between the *efficacy* and the *effectiveness* of an intervention is useful here. Efficacy trials establish whether an intervention produces the expected result under ideal circumstances, whereas effectiveness trials measure program outcomes under 'real world' conditions. Efficacy trials are required to establish that program outcomes are not limited by implementation issues. The ethical issues associated with random allocation to behaviour change programs are less pronounced in circumstances where there is little evidence that the intervention has a positive effect and when alternative interventions are made available.

### **Matters which may impact on program effectiveness**

19. One factor that has an obvious impact on effectiveness is the way in which outcomes are assessed. A 'successful' intervention might, for example, be considered to be one that is able to link a victim to a support service that then facilitates a process for separation. Regular perpetrator attendance at a program might also be regarded as an indicator of success, given the additional opportunities that this offers for effective monitoring and providing victim support. In other words, programs do not necessarily rely on perpetrators changing their behaviour to be considered effective, especially when their focus is on promoting perpetrator accountability or on developing more systemic responses to family violence (e.g. cross-agency communication about risk). It is nonetheless still reasonable to expect that any behaviour change program will be able to demonstrate that participation does lead to a reduction in either the occurrence or the intensity of family violence.
20. A wide range of behaviours fall within the definition of family violence provided in the *Family Violence Protection Act 2008* (Vic), including physical, sexual, economic, emotional and psychological abuse, as well as exposing children to abusive behaviour. This, in itself, creates problems in determining how programs should be considered to be effective, and suggests that multiple indicators are needed to assess outcomes. It further points to the need for any claims of reductions in family violence to be qualified with specific information about those behaviours that have changed as a result of program participation.

21. It is helpful to distinguish between behaviour that is *aggressive* and that which is *violent*, as this points to the need for precision when devising methods by which program effectiveness might be assessed. Violent behaviour is largely defined by the extent of physical harm inflicted and, in practice, it is this type of behaviour that is of most concern (even though aggressive behaviour is much more common). Whilst nearly all acts of violence are aggressive, not all acts of aggression are violent. Thus intimidation, a term used to refer to a wide range of different behaviours (including looks, gestures, explicit threats of violence, property damage, threats to children or challenges to child custody or immigration status), is generally viewed as aggressive rather than violent, despite the use of intimidation clearly meeting the definition of family violence provided in the Act.
22. The presence of aggressive behaviour is, from both a legal and an evaluation perspective, particularly difficult to assess reliably in a context in which much family violence occurs behind closed doors, where the only witnesses are the victims, and where the facts of the violence are often disputed. It is, therefore, important to consider information about perpetrator behaviour from multiple sources, including victim reports, perpetrator reports, witness statements, police call outs, charges, and convictions. In practice, however, many evaluations of behaviour change programs rely on two principal sources of information: police call outs to reports of family violence; and victim self-reports. It is likely that both sources substantially under-estimate the true incidence of family violence, although also possible that, in some circumstances, they over-estimate incidence.

### **Types of programs which are likely to be effective**

23. Considerable diversity exists in current programs in relation to basic issues concerning the stated purpose of intervention and core understandings of the nature of family violence. There has been considerable debate about which approach to behaviour change should be preferred, although the evidence suggests that the main approaches to intervention produce broadly similar outcomes.
24. Debates about program design and content are often characterised in terms of the differences that exist between sociological (including feminist) and psychological explanations of family violence. However, in practice many contemporary programs draw on elements of both of these theories, reflecting a common view about the nature of the problem as generated within a context of gender relations,

socialisation and learning, and an orientation to intervention that focuses on changing behaviour and ways of thinking about interpersonal relationships.

25. Although these attempts at integration are reasonable, this can lead to problems with the 'integrity' of programs that undermines their effectiveness. The term integrity is used in this context to describe the process by which the theoretical model is visible in the process by which perpetrators are expected to change. For example, it has been suggested that whilst many organisations claim that their programs are based on the Duluth model, detailed documentation and observations of program delivery in men's group interventions have shown varying levels of adoption of the Duluth program, and inconsistent levels of operationalisation of Duluth principles in both practice and conceptualisation.
26. The same might also be said about the integrity of cognitive-behavioural methods, given that programs often utilise a basic version of what is intended to be a sophisticated treatment approach. This highlights the need for behaviour change programs to be supported by a theory manual (in addition to a practice manual) which clearly articulates the rationale (or 'logic') underpinning each activity and session. Program logic models are widely considered to be a pre-requisite for effective evaluation and involve simple statements about the inputs, activities, and intended impacts of each program activity. They clearly document the link between the way in which problems are conceptualised and the way in which interventions are operationalised.
27. There are grounds to consider ways to improve staff training, supervision, and support processes if high integrity programs are to be delivered that achieve their desired results. This is in light of evidence that behaviour change programs that are well run produce better results than those that are more effective, but which are poorly delivered.
28. It may also be important to ensure that cognitive-behavioural methods are consistently employed. Although the available evidence does not suggest that these methods lead to better outcomes when applied to perpetrators of family violence, this may be a result of poor implementation.
29. Cognitive-behavioural therapy is the most evidence-based approach to behaviour change that is currently available, including in changing criminal behaviour. Reviews of multiple treatment outcome studies with offenders have demonstrated,

for example, an average recidivism rate of 30% for those who receive this form of treatment, compared with 40% for control groups. This equates to a reduction in re-offending of 25% when cognitive-behavioural methods are used.

30. There is evidence that psycho-education, by itself, is ineffective in changing violent behaviour. The cognitive-behavioural approach emphasises the importance of changing both 'pro-criminal attitudes' (those thoughts, values and sentiments that support criminal conduct), and personality traits (such as low self-control, hostility, pleasure or thrill seeking, and a lack of empathy) that are considered to be key risk factors for violence. In practice, this means that program activities should have an explicit focus on changing the networks of beliefs that support, facilitate, or legitimise family violence. This will commonly involve an exploration of the origins and maintenance of these beliefs over time, including the impact of key developmental experiences, such as trauma.
31. They should also aim to help perpetrators acquire new skills that can help them to manage interpersonal conflict in ways that do not involve aggression or violence, and address those factors that are known to increase risk that are potentially amendable to change as a result of intervention. There is evidence, for example, that those who are referred to behaviour change programs experience high levels of anger and mental health problems and low levels of well-being and social functioning. Specific interventions are required to address these areas and should be considered to have an important role in managing risk. In particular, the link between alcohol use and family violence is increasingly being recognised, suggesting that activities to both monitor and manage alcohol use might be usefully included in behaviour change programs.

### **Types of offenders for whom programs are likely to be effective**

32. One of the most important findings to emerge from offender rehabilitation research conducted over the last 30 years is the need to ensure that the right programs are delivered to the right people at the right time. In particular there is now substantial evidence to show not only that higher risk offenders have better rehabilitation outcomes than those who are lower risk, but also that over-intervening with those who are at low risk can have the unintended consequence of increasing offending.
33. Related to this is the need to match the intensity of the intervention to the level of risk that the perpetrator presents with and to avoid providing programs to groups

that are made up of both low and high risk offenders. Generally, it is suggested that those assessed as high risk should receive more intensive programs than are often offered in the family violence sector, typically over 100 hours (face to face contact) delivered over a period of over six months.

34. The term 'risk' requires definition as it has different meanings which depend on the context in which it is used. In relation to behaviour change programs, the term risk is usually used to refer to the (statistical) probability of a new offence being committed (and adjudicated) over a fixed period, often two years. The perpetrator is then assessed in terms of the extent to which he (or she) shares characteristics with other offenders who are known to re-offend.
35. Examples of risk factors for family violence are past physical assault, past sexual assault/sexual jealousy, past use of weapons and/or credible threats of death, recent escalation in the frequency or severity of assault, past violation of 'no contact' orders, and extreme minimisation or denial of family violence history. In addition, there are a number of risk factors for general violence which should be considered in any assessment or intervention plan.
36. Knowledge about current relationships with intimate partners (when present) is likely to be particularly useful in assessing risk. Accordingly partner contact is often identified as a key component of any assessment, as well as a means to monitor ongoing risk and assessing change. An important aspect of programming is to ensure that victims are provided with information about how to maintain their safety.
37. A number of different instruments have been developed to screen for risk of family violence, and so it is important to identify the risk assessment tool that is best suited to the purpose for which it is to be used. For example, in Victoria, the Common Risk Assessment Framework has been developed to better identify and respond to women and children who are victims of family violence to ensure that the focus of any intervention and support remains on the safety of those experiencing violence. It does not, however, provide information on the likelihood of a perpetrator committing further offences.
38. Other assessment tools have been developed that classify perpetrators reasonably well, although few large scale prospective validation studies have been conducted and there is little research that has validated these measures for use with specific sub-populations (such as prisoners or those from minority cultural groups).



- Consequently a program of work is required to examine the validity of existing risk instruments to inform selection into programs in a manner which is likely to significantly improve program efficacy.
39. Related to the idea of risk is a body of work that has sought to identify qualitatively different subtypes of perpetrator, generally on the basis of the severity, frequency, and the generality of their violence. One of the most important, and potentially most useful, classification schemes identifies four discrete types:
- 39.1. *Coercive Controlling Violence*, which describes a pattern of emotional abuse, intimidation, coercion, and control that is commonly associated with persistent and serious physical violence. Thus, this type of violence is characterised by the use of a wide variety of other methods of asserting power and control in intimate relationships, in addition to physical violence.
- 39.2. *Situational Couple Violence*, which describes partner violence that is not based on coercive control as it relates to particular conflicts that escalate into violence, either in relation to idiosyncratic incidents or patterns of relating that produce repeated conflict. This is the most frequently identified form of intimate partner violence, and is thought to be perpetrated equally by women and men.
- 39.3. *Violent Resistance* is violence that occurs as a direct response to high levels of coercive control, and can also be understood as a form of self-defence.
- 39.4. *Separation-Instigated Violence* describes violence that first occurs following separation, but which can be differentiated from continuing violence that also occurs in the context of a separation.
40. Other typologies reflect similar patterns. For example, the term *Family-Only Violence* is used to refer to male perpetrated family violence that occurs primarily in response to environmental triggers, such as substance abuse, extreme stress, loss of jobs, or severe work challenges. Such individuals do not typically endorse the use of violence and exhibit empathy and positive attitudes towards women. A distinction is sometimes also made between the *Primarily Violent* offender who engages in some violence outside of the family, and those who are *Generally Violent* and have extensive criminal histories. Members of this latter group display sporadic and extreme violence against a variety of targets, often with little

provocation and are thought to have low levels of empathy and hold more pro-violence attitudes.

41. A number of methods are available to classify offenders into these different groups, although current assessment tools have yet to be calibrated such that they take account of the differences in both the probability of further offending (risk) and the level of harm associated with the offending (dangerousness) risk that potentially exist. It would be expected, however, that those perpetrators who routinely use coercive controlling violence represent the highest risk of causing physical harm. This is an area that requires further research. Nonetheless, the key observation here is that effective intervention with perpetrators of family violence is likely to require a detailed analysis of risk factors, precipitating situations, typological profiles, and available program options, and that the same program will not always be appropriate for all perpetrators.


**Other approaches and treatment modules which may be effective in addressing and managing perpetrator risk**

42. Attendance at programs may be voluntary or mandated in a variety of ways including by a criminal court as a condition of a community based order, by a court as part of a civil Family Violence Order (or intervention order), or by Child Protection authorities through obtaining an undertaking from the perpetrator. There is some evidence that mandating treatment does not lead to poorer outcomes for other offender groups, although particular skills are required to engage those who are mandated to attend, given that motivational problems on the part of program participants is widely considered to be a major factor that determines their progress.
43. Australian research has suggested that on entry to programs, most men have beliefs that are broadly supportive of domestic violence and are generally unwilling to engage with program material. Male perpetrators' explanations of their use of violence have often centred on emotional responses to feeling threatened, seeing themselves as victims of circumstances. Mandated referral to a treatment program can often be seen by offenders as further vindication that they are without control, and have been treated either unfairly or unjustly.
44. There is also evidence of high rates of attrition in many family violence behaviour change programs, with some studies showing that up to half of all men who begin programs, do not complete. This is of major concern given evidence that those who

start, but who do not complete, offender rehabilitation programs, are left at higher risk of re-offending than those who do not attend a program and points to the need for program facilitators to have a high level of expertise in engaging perpetrators, as well as consistent consequences for non-attendance and re-offending.

45. Strength-based approaches are potentially useful in helping perpetrators to understand family violence in a way that facilitates engagement with the process of behaviour change. These approaches highlight the need for perpetrators to find ways to meet their needs and achieve their personal goals without using violence. This is often achieved by taking personal preferences and values seriously (e.g., about the lives they want for their children), drawing on these to motivate perpetrators to want to live better lives and to learn how to develop the competencies required to not be violent in the future.
46. There are particular challenges associated with engaging perpetrators from particular sections of the community, including those from some cultural minority groups. Given that beliefs about aggressive and violent behaviour are typically influenced by both social and cultural norms, these issues require explicit attention in behaviour change programs.
47. This includes consideration of contributing factors to family violence that may be culturally specific. For example, when working with perpetrators who identify from Aboriginal and/or Torres Strait Islander cultural backgrounds there is a need to consider the impact and relevance of inherited grief and trauma, dispossession of land and loss of traditional language and cultural practices, loss of traditional Aboriginal roles and status, economic exclusion and entrenched poverty, including the impact of poor housing standards and overcrowding, and difficulties confronting the issues within communities, for both victims and perpetrators.
48. It is important to recognise the need to manage risk both psychologically (in terms of change that occurs in programs) and environmentally (through monitoring, supervision, restricting opportunities for violence, and improving the likelihood that violence will be detected). As such, program attendance should be supported with sophisticated and integrated systems of case management.
49. Perpetrators who live in the community may be involved with a range of different agencies, across both the government and non-government sectors, and current multi agency and partnership approaches to risk management in Australia are often

informal, except for those considered to be at very high risk. Effective case management should be supported by the development of explicit guidelines which detail how the interagency management of perpetrators should occur, allowing for information that can assist in risk assessment and risk management to be shared. It is clear that failures to work effectively in partnership have contributed to very negative outcomes in a number of cases.



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Andrew Day

Dated: 1 July 2015