

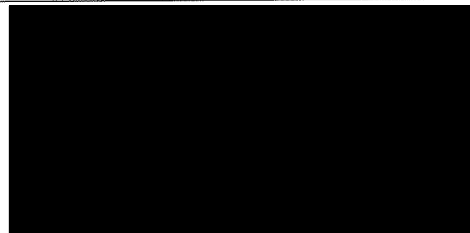
**IN THE MATTER OF THE ROYAL COMMISSION  
INTO FAMILY VIOLENCE**

**ATTACHMENT BA-12 TO STATEMENT OF BETH ALLEN**

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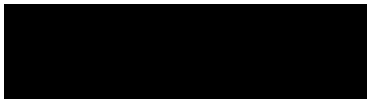
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This is the attachment marked '**BA-12**' produced and shown to **BETH ALLEN** at the time of signing her Statement on 13 July 2015.

Before me: .....  .....



**An Australian Legal Practitioner within  
the meaning of the Legal Profession Uniform Law (Victoria)**

Child Protection and family violence  
Guidance for child protection practitioners  
(incorporating the use of intervention orders)

2005



**Child Protection and family violence**  
**Guidance for child protection practitioners**  
(incorporating the use of intervention orders)  
2005

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### **Acknowledgements**

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## Foreword

This practice guidance in relation to family violence and the use of intervention orders has been developed to assist Child Protection practitioners to work more effectively and to achieve better outcomes for families where family violence presents a risk to the safety and well being of children. This resource can be used in conjunction with other training provided about family violence including the comprehensive orientation and training program, *Beginning Practice*; other professional development opportunities; and ongoing supervision.

The guide looks at family violence within the Victorian Risk Framework and suggests how family violence may inform the protective risk assessment. It also considers the dilemma of working with each individual in the family and how family violence impacts on the caseplanning process. In the wider sphere, the guide addresses issues of working with other services, and how working with violent families impacts on practitioners including worker safety issues.

Four Case examples are included in Appendix two which illustrate good practice in cases where family violence is a feature.

The guide (Appendix 1) provides guidance for the use of intervention orders within the Child Protection framework. It discusses Child Protection practitioners' role in the use of intervention orders and provides case examples to illustrate circumstances in which an intervention order might be considered.

We thank all those who have contributed to the development of this guide including members of the project's reference group, Child Protection regional staff, Legal Services Unit, Housing Services Branch, Family and Community Support Branch, the Family Violence Sector, Victoria Police and the Department of Justice.

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## Section 1: Child protection and family violence

### Introduction

Family violence occurs at alarming rates within our community and police reports of family violence are increasing. Although it is very difficult to measure the true extent of violence against women as most family violence and sexual assault go unreported, it is estimated that more than 100,000 Victorian women are experiencing family violence per year (7 per cent of the adult female population). Police reports in Victoria have increased 45 per cent in the past three years, reaching almost 28,500 reports in 2002–03. Police also report that children are present in 48 per cent of police attendances.

Any family member, including mothers, same-sex couples and adolescents can use violence against other people within the family, and may do so as a reaction against the violence they have experienced. However, as men most commonly use violence and their partners and children most commonly experience this violence, this document uses language and concepts that reflect this most likely form of family violence.

The impact of family violence on children has become a well-researched topic for a wide range of health and welfare professionals. It is estimated that one in four Victorian children and young people have witnessed family violence.<sup>1</sup> Children can be directly physically harmed within a violent environment. There are also associated risks of indirect and long term harm to children through the impact of children witnessing violence within the home or living within an environment characterised by the tension prior to violence and the aftermath, including injuries to the mother or physical damage to the home.

Family violence is a pervasive risk factor for children reported to Child Protection in Victoria. Child Protection practitioners frequently work with families where family violence presents a risk to the safety and wellbeing of children and are required to assess the risks to the children and develop safety plans with those families.

Family violence is present in more than half of all notifications made to Child Protection and, for children less than two years of age, family violence is reported as a parental characteristic in 57 per cent of cases. However, family violence is unlikely to be the only risk factor present. Between 1995–96 and 2002–03, the proportion of parents involved in substantiated cases who have one or more parental risk factors increased from 41 per cent to 73 per cent of families. Many families known to Child Protection and experiencing violence exhibit psychiatric disability (18 per cent), alcohol abuse (42 per cent) and/or substance abuse (41 per cent).<sup>2</sup>

The experience of violence within the family, regardless of who is using the violence, may cause injury, death and ill health. It can lead to emotional and psychological trauma for all involved, particularly the women and children to whom most commonly the violence is targeted. The whole community is diminished when families are living with what is often a crime secretly committed within the confines of a family.

Recent research has found that family violence is a greater risk factor for ill health and premature death in Victorian women younger than 45 years than any other, including high blood pressure, obesity and smoking. It is significant for children's safety that among women who suffer ill health outcomes, 33 per cent suffer depression and 26 per cent suffer anxiety. Both conditions may adversely affect a woman's ability to safely care for her children.<sup>3</sup>

Child Protection workers require knowledge, skills and guidance in relation to working with family violence because:

- family violence is present in the majority of families referred to the Victorian Child Protection program
- children re-notified to Child Protection are more likely to have family violence as a risk factor than those children referred on one occasion
- cases involving family violence may be closed prematurely on the assumption that the immediate risk has been addressed, that a parent is able to provide sufficient protection, or that another agency is managing the safety issues
- the cumulative emotional and psychological harm to children living within families where ongoing family violence is occurring is significant

<sup>1</sup> *The health costs of violence: measuring the burden of disease caused by intimate partner violence*, VicHealth, June 2004, pg 10.

<sup>2</sup> *An integrated strategy for child protection and placement services*. Community Care Division, Department of Human Services, 2002.

<sup>3</sup> *The health costs of violence: measuring the burden of disease caused by intimate partner violence*, VicHealth, June 2004, pg 12.

<sup>4</sup> *The predictive impact of domestic violence on three types of child maltreatment*. W.M. McGuigan and C. Pratt. *Child Abuse and Neglect* 25 (2001) 869–883

## 2 Child Protection and family violence Guidance for child protection practitioners

- children living in a home where family violence occurs are at considerably higher risk of being directly physically, emotionally and psychologically abused or neglected<sup>4</sup>
- Child Protection practitioners report a lack of confidence in articulating harm consequences of family violence to families, to other professionals and to courts
- Child Protection practitioners require guidance to ensure that they use the Victorian Risk Framework and the care and case planning framework to gather information, assess risk and develop safety plans for children exposed to family violence.

### Principles underpinning Child Protection practice with family violence

Although all child protection intervention is guided by the principles set out in the *Children and Young Persons Act 1989*, it is useful to also consider the following principles that are more specific to child protection work within a family violence situation. These principles are compatible with the draft principles in the Statewide Steering Committee to Reduce Family Violence's framework for an integrated response to family violence:

1. All family members have a right to a safe and secure domestic environment. The maintenance of the family unit should not override the rights of the individual to be protected from violence.
2. Children living in a home where family violence occurs are potentially at risk of significant harm.
3. Every effort should be made to ensure a child's safety and wellbeing within the family by enhancing the mother's capacity to protect her child.
4. Women who have experienced violence should be actively resourced and supported to respond to their children's needs. They should not be blamed if unable, at a particular point in time, to do so.
5. If the child's caregivers are unable to provide sufficient protection from significant harm to their child, Child Protection will intervene to ensure the child's safety.
6. When Child Protection investigates concerns of abuse and neglect arising from the impact of family violence, they will make every attempt to directly address the behaviour of the man who uses violence and ensure his accountability.
7. Although Child Protection is a service well placed to make a significant difference to the safety of children who have experienced violence, a coordinated community service response is essential to ensure children's longer-term health and wellbeing.

### Definition of family violence

The Victorian Government defines family violence as:

Violent, threatening, coercive or controlling behaviour that occurs in current or past family, domestic or intimate relationships. This encompasses not only physical injury but direct or indirect threats, sexual assault, emotional and psychological torment, economic control, property damage, social isolation and behaviour which causes a person to live in fear. (*Women's Safety Strategy*, p. 20)

The term 'family violence' rather than 'domestic violence' is used throughout this document as it reflects Victorian policy and legal language. Also, many Indigenous communities prefer the term as it describes the range and impact of violence where it occurs within kinship networks. The term 'family violence' recognises the far-reaching effects of violence in the home, the range of family relationships that can be characterised by violence and, most importantly, acknowledges the impact family violence has on children.



## Section 2: Assessment guidance using the Victorian Risk Framework (VRF)

The Victorian Risk Framework (VRF) is Child Protection's key tool for gathering information, analysing that information and judging risk. The VRF defines risk as:

the relationship between the degree of harm and the probability of the believed harm occurring (or of protection being provided).

To determine the degree and probability of harm (risk), the Child Protection practitioner is required to analyse gathered information in terms of its significance for the severity of harm, the vulnerability of the child, as well as the likelihood of harm and safety from harm. The VRF is on the Office for Children website at [www.dhs.vic.gov.au/vrf](http://www.dhs.vic.gov.au/vrf)

The VRF identifies three important organising principles consistently associated with occurrence or likelihood of recurrences of child abuse or neglect for children.

- **Pattern and history:** caregivers' prior pattern of treatment toward their children
- **Beliefs:** caregivers' beliefs and attitudes about children
- **Parenting characteristics and isolation:** presence of 'complicating factors', most significantly, substance abuse, mental illness, violent behaviour, and social isolation.

### Pattern and history

Family violence can present in a range of ways within different relationships. Some men who use violence employ constant put downs, humiliations, restrictions and violence to subjugate their partner and all who live within the home. Others use violence when drunk or substance affected. It is important to ask questions of both the man and the woman to develop an understanding of how the family violence has developed within the family and the pattern of the behaviour. Child Protection practitioners must observe infants and interview all children to inform the assessment of impact on the children. Use of genograms will assist the assessment process.

#### Consider:

- Is this the first incident of family violence?
- How would the mother rate the violence? Where would she place herself and her family on a scale of 1 being unsafe to 5 being totally safe?
- As family violence is often a chronic feature of a relationship, establish the pattern of the violence (that is, daily, weekly, monthly).
- What are the triggers for the violence - for example the children's behaviour, pregnancy, alcohol or substance abuse?
- What is the dynamic of the couple after the violent episode? Is there a honeymoon period? How long does it last?
- Has the woman who experienced violence left in the past? Did violence increase at that time?
- Did the mother/father experience family violence or other abuse or neglect as a child?
- Has the violence escalated?
- Is the man who uses violence remorseful after the incident?
- Are there periods of calm and relative safety with the family or is fear and aggression always present?
- Has the man who uses violence made attempts in the past to address his violence? Successfully/unsuccessfully?
- Has the woman who experienced violence also experienced violence in the past? If so, how did she manage that situation/s?
- Have there been previous Child Protection notifications in which family violence is the key concern?
- Is there a history of intervention orders? Did either party breach these orders?

## Beliefs

An essential aspect in assessing the parents' capacity to provide safety to the child involves understanding their beliefs about the impact of violence on the child. The more carers believe themselves correct in their attitudes, the more likely they are to continue their current behaviour supported by their belief system. As early as possible within a protective assessment, Child Protection practitioners must ensure opportunities to develop a clear understanding of the parent's beliefs about the family violence and its impact upon children in their care.

Child Protection assessment and intervention will be required for greater lengths of time, and with possibly greater use of statutory authority, when parents are unable or unwilling to recognise and respond to the children's safety and wellbeing needs.

In relation to the mother who has experienced violence, consider the following:

- In general, how does she rate the impact of the violence on her?
- How does she think living with violence affects her physical and mental health?
- Does she think the violence impacts on the way she responds to the children?
- Does she think the children have been at risk physically or psychologically because of their experience of violence?
- Does she think the violence is getting worse?
- Does she contemplate leaving?

In relation to the father who uses violence, consider the following:

- Does he minimise the level of violence he uses?
- Does he believe that the violence he uses adversely impacts on the children in his care?
- How strongly does he believe in his right to act in the way he does within his family?
- Does he know that his actions may constitute a crime?
- Does he take any responsibility for his violent actions or demonstrate remorse?
- Does he believe that the use of violence is a legitimate response in a range of settings?
- Does he use his culture as a reason (or an excuse) for his use of violence?

## Parental characteristics

Family violence is likely to impact upon a women's capacity to be an effective parent. The man who uses violence may undermine her self-esteem, be constantly critical of her parenting, trigger depression or substance misuse or actively promote their mother as an innocuous, inadequate or failed parent to the children. The man who uses violence may also threaten to kill or harm the children if she threatens to leave or if she does not acquiesce to his requests. Women who find it difficult to provide protection in the light of this constant belittling and terror should not be judged as unwilling to provide safety and support to their children, but unable (at least temporarily) to provide care and sufficient protection.

Pregnancy is generally a time of particular vulnerability for women as they are likely to be more financially and emotionally dependent upon their partner. Research suggests that women are more vulnerable to being abused when pregnant and it is well known that violence is likely to commence or escalate during pregnancy. Women who are abused in pregnancy are more likely to smoke, use drugs and antidepressants, have a poor diet, experience poorer levels of support, higher miscarriage rates, and make more use of social workers.<sup>5</sup>

In general, abused women are at greater risk than other women of physical injury (or homicide), gynaecological problems, complications in pregnancy and childbirth, depression anxiety, chronic somatic disorders, sexually transmitted diseases and HIV infections, and eating disorders.

<sup>5</sup> Taft, A. *Violence against women in pregnancy and after childbirth: Current knowledge and issues in health care responses*. Australian Domestic and Family Violence Clearinghouse. Issues paper 6. 2002

It is important to remember that, despite considerable violence, many women do take active and assertive action to protect themselves and their children from the violence they experience. It is the children who are not safe who come to the notice of Child Protection.

For women who have experienced violence, particularly women with children, leaving a violent situation is fraught with invidious choices and, for many women, staying and putting up with the violence for the sake of security and for her children seems a preferable option. To leave may mean some or all of the following:

- loss of income
- loss of accommodation
- loss of friendship networks (for mother and child)
- loss of face (shame)
- disruption of children's schooling
- loss of children (if she flees and leaves the children with others)
- increased risk of further assaults, including death.

Consider for women who have experienced violence:

- her capacity, both intellectually and emotionally, to recognise and respond to the emotional and physical safety needs of her child
- her capacity to effectively and safely care for her child. In more severe instances, women who experience violence may develop psychiatric illness as a result of the violence that may impact considerably on their capacity to care for their child. Depression, feelings of self-loathing and low self-esteem are all common outcomes for women who have experienced violence and are likely to impact on the women's confidence and competence as a parent.

The characteristics of men who use violence and the women who experience violence are varied. Consider for men who use violence:

- his agreement to an assessment by a psychologist, psychiatrist, counsellor, or men's behaviour change group leader
- his capacity, both intellectually and emotionally, to understand the impact of his behaviour on others
- his willingness and capacity to engage around changing his violent behaviour
- his use of charm and charisma or aggression and violence to control those outside the family. Both tactics can be extremely effective in focusing attention away from him and rendering him 'invisible'.

## Isolation and supports

Men who use violence may maintain power and control by isolating their victims. Isolation leaves women who experience violence with fewer opportunities to gather the emotional and practical resources they require to confront the man who is using violence, or to leave.

Consider:

- Is the family isolated from the positive influence and support of family and friends?
- Does the man who uses violence deliberately reduce opportunities for those who experience violence to be supported?
- Does the man who uses violence believe that he has a right to isolate his family from the broader community?
- Does the man who uses violence believe he has the right to control those with whom he lives?
- Does the man who uses violence make it difficult for services, including Child Protection, to talk with him or members of his family?
- How do cultural issues interplay with the violence, increasing isolation through decreased opportunities for information and support? What beliefs and attitudes exist within the person's cultural community? What supports exist?

## The impact of family violence on children

Like many of the child abuse and neglect scenarios faced by Child Protection practitioners, family violence may be chronic, episodic, cyclical or a one-off crisis. Children may be physically harmed either intentionally or as a result of being caught in the crossfire, accidentally hit or dropped. When there is violence within a family, the children are more likely to be the direct victims of child abuse and neglect. McGuigan and Pratt<sup>6</sup> report in their study that:

an assessment of domestic violence during the first six months of a child's life more than tripled the odds of physical abuse occurring, and doubled the odds of psychological child abuse and neglect occurring at some point during the child's first five years.

The stress for women and children who have experienced violence is not only the actual violence when it occurs, but also the constant threat of the violence. Children, particularly older children, may feel they are responsible for triggering the incident or that they need to protect their mother from the violence. The extent of the impact of harm to children must be assessed with the cumulative effects that exposure to family violence has on a child's safety and wellbeing.

One of the most serious long-term effects of children witnessing violence is the transmission of abusive behaviour in subsequent generations. Violence in the home becomes a model by which the child learns aggressive behaviour is an acceptable means of resolving conflict. Research also suggests that children exposed to violence often develop poor social skills, which may have an impact on their ability to function as healthy, productive adults.

Children are also affected by family violence in more specific ways dependent on their developmental stage and this impact needs to be considered in the assessment of risk. Developmental stages to consider include:

- **During pregnancy:** family violence often starts during pregnancy or soon after birth, with 42 per cent of women responding to the Australian Women's Safety Survey reporting they had experienced violence during pregnancy<sup>7</sup>. Child Protection practitioners may be working with the pregnant mother of children subject to a notification or may have a pregnant adolescent client in a violent relationship.
- **Infants and young children:** infants are at risk of being physically harmed by being accidentally hit or dropped during a violent incident. Longer-term harms from being physically harmed or witnessing violence may include developmental delays, excessive separation anxiety, sleep disturbances, disruptions in their feeding schedule, and failure to thrive.

Research suggests that the developing brain organises itself in response to events in early childhood. Stress responses associated with family violence can affect the development of the infant's brain resulting in long term maladaptive behaviours. Living in a home where family violence occurs causes uncertainty, stress and hyper vigilance in children, including babies<sup>8</sup>.

Stress sculpts the brain to exhibit various antisocial, though adaptive, behaviours... Through this chain of events, violence and abuse pass from generation to generation as well as from one society to the next. (Teicher, 2002)<sup>9</sup>

- **School-age children:** young children who experience violence may suffer physical injury. They may also suffer psychological effects, such as depression, anxiety, confusion, and a loss of self-esteem, anger, aggression, fear and withdrawal. It is not uncommon for children to feel that they are responsible for the violence. A child's behaviour may be negatively affected. Children who experience violence often perceive punishment as an expression of affection, for example, 'he only hit me because he cared about me'. Therefore, they may unconsciously seek attention through punishment for behaviours such as lying or stealing. They may also become aggressive, accident prone, self-destructive, and have difficulty concentrating.

Conversely, children may exhibit perfectionist behaviour or display an irrational fear of failure. Many children who experience violence display physical or psychosomatic symptoms, including complaints of headaches, gastric upsets and insomnia.

<sup>6</sup> The predictive impact of domestic violence on three types of child maltreatment. W.M. McGuigan and C.C. Pratt. *Child Abuse and Neglect* 25 (2001) 869 - 883

<sup>7</sup> WHO (2000) *Women and mental health: an evidence based review*, World Health Organization, Geneva (cited in *Health Costs of violence*, VicHealth).

<sup>8</sup> *Ibid*

<sup>9</sup> *Ibid*

- **Adolescents:** young people who have a history of experiencing violence and are also confronted by additional stresses associated with teenage years, are particularly vulnerable to adopting destructive behaviours, such as drug and alcohol abuse, running away from home, becoming suicidal, engaging in criminal activities, and seeking to escape through pregnancy or early marriage. Some research has shown that adolescents who experienced violence in the home are more likely to leave school and engage in criminal behaviour.

Adolescents may also begin to use violence against their mother and siblings and this behaviour requires assessment as to its impact on the family, especially the other children. See discussion of adolescents using violence in Section Three.

## Section 3: Child Protection intervention

### Working with women

Police frequently make notifications to Child Protection citing family violence as the risk issue. The presence of the police at the family home and the subsequent involvement of Child Protection may be the first time the family has discussed with anyone the violence within their family. Child Protection practitioners must, therefore, be very sensitive to the dynamics created by the outside intervention; for example, children may be sworn to secrecy and will be reluctant to disclose incidences of abuse, especially at an initial interview.

Women and children's safety may be at greater risk once the violence is made public. Safety planning at this stage must take into account the seriousness of the previous violence experienced by the woman and children, the current incident, the statements (or threats) the man using violence is making and the beliefs both parents hold about the potential impact of the violence on the children.

To promote and enhance the mother's capacity to support her children and provide for their safety, Child Protection practitioners should:

- be sensitive to the shame and embarrassment a woman may experience when Child Protection become involved (shame and embarrassment at not only being seen as a victim but of being seen as an inadequate parent)
- ensure that the woman is given an opportunity to speak about the violence in a safe environment (without the man who uses violence or other family members present)
- be aware of the cultural dynamics that may also interplay with the violence
- with her consent, refer the women to a specialist family violence service or an appropriate service with a family support or a community health agency
- seek and promote instances of protection demonstrated in the past or in the current situation
- for an Indigenous family, ensure the intervention, while sensitive to the particular meaning Child Protection intervention has for Indigenous families, does not underplay the impact the family violence is having on the women or the children who experience the violence
- create means to overcome barriers to change (such as loss of housing, lack of income, and loss of relationship).

### Working with men

Working with the man who uses violence may be difficult, confronting and sometimes dangerous for Child Protection workers. Workers may avoid contact with such men, or even unintentionally collude with the violence, possibly due to fears for their own safety<sup>10</sup>. Men who use violence within their family can be adept at skilful evasion of contact with workers. As a result, the man becomes invisible and the focus of the Child Protection intervention turns to the mother who has experienced violence.

Child Protection can work more effectively with men who use violence by:

- ensuring that the Child Protection investigation fully assesses the impact of his violence on the safety and wellbeing of the children in his care
- taking all possible steps to meet face to face with the man in a safe location
- ensuring supervision and debriefing occurs to address workers' own emotional response to violence, including any sense of, or real threat to, the worker's own safety
- talking and attempting to engage with the man who uses violence about the impact of violence on the children and young people in his care and assessing his beliefs about using violence and his willingness to take responsibility for his actions
- acknowledging the mandated role of Child Protection is not a therapeutic role and assisting the man who uses violence to seek professional intervention either through an experienced family violence counsellor or men's behaviour change program
- ensuring that the man who uses violence is involved with, and kept informed of, Child Protection's actions and the reasons for them
- involving police when appropriate as in many instances family violence is a crime.

<sup>10</sup> Goddard, c and Stanley, J. *Hostage theory*

## Working with adolescents

Adolescents using violence against other family members, most often their mothers and siblings, is a serious and complex issue. For older adolescents, many of the issues in relation to working with men are applicable. However, for younger adolescents, parents are in the position of caring for them as a child yet also being expected to manage/control their behaviour. Finding solutions often involves a multi-faceted approach including education, therapy and legal interventions.

Research indicates that the use of violence in adolescence is seldom 'a phase' and that the child is not likely to 'grow out of it'. Violence usually increases in frequency and intensity over time. An assessment of the parents' own protection and the safety of other children from the adolescent's violence needs to be completed in relation to the parents' ability to protect all the children. This assessment will inform any decisions by Child Protection about ceasing their intervention. Legal interventions are discussed in the section of this report concerned with intervention orders.

## Working with children

Child Protection practitioners must directly observe and speak with all the children in the family on a regular basis. Other relevant factors when working with children include:

- children can often express what the family violence means for them, how they cope with it, and what they want to happen including participation in safety planning
- children can be part of the violence and may have been taught to participate in the abuse or denigration of their mother
- children may identify with the stronger, violent person or they may participate out of terror of being harmed themselves
- children may have taken on the protector role with their mother or younger siblings
- children may present as very traumatised and require immediate debriefing and later therapy or counselling (Child Protection practitioners may have to assume the more immediate debriefing role in the absence of other resources)
- children will need to be provided with ongoing support and helped to achieve stability in their life. This is often an issue when they move to a refuge or temporary accommodation to escape the violence.

## Section 4: Child Protection case planning

### Planning

A number of frameworks exist to assist Child Protection practitioners to assess, plan and intervene with families when family violence presents as a risk factor to children. While additional skills and knowledge of the specific dynamics of family violence are important, Child Protection practitioners can assess the impact of family violence on children using these basic Child Protection 'tools of trade'.

The overarching Child Protection planning framework is *Case and care planning in child protection: practice guidance for child protection practitioners 2002*. This guide provides practice principles as outlined in the Children and Young Person's Act for working with all families, including when family violence is a risk factor. These principles highlight the need to work broadly with families, taking account of safety issues for children and recognising that sensitive family focused practice is more likely to result in better outcomes for children.

### Case planning principles

When family violence is an identified risk factor, this practice guide reinforces the need to respond to the child's immediate safety issues and then to work with the family in a partnership approach to identify family strengths and actively work toward achieving a safe environment for the child. The principles are:

#### **Clarity and transparency: risk assessment and decision making**

Women who experience violence are often extremely traumatised. It is vital that Child Protection practitioners are clear about their role regarding assessing the children's level of safety and provide adequate information about the Child Protection assessment and decision making process.

Child Protection practitioners should aim to complete the risk assessment sections of the VRF with the mother and father and encourage their participation in case planning processes (potentially in separate meetings). They should also aim to raise awareness of the impacts of violence on children and the role of the adults (particularly beliefs and history) in relation to the violence. However, as the case planning process occurs, both caregivers will be clearly informed as to the assessed risks to their child and encouraged to work with Child Protection to develop strategies to reduce that risk.

#### **Clear offer of service and support to children, young people and their families**

When a notification has been accepted for investigation in which family violence is a risk factor, Child Protection practitioners need to offer a service to the family that addresses the risk to the children as well as services to address the violence and support the woman who has experienced violence.

#### **Affirmation of family strengths and resources**

Women who have experienced family violence may have low self-esteem or self-regard. They have often been placed in a position where their capacity to take control of a situation and be resourceful has been depleted.

Child Protection practitioners should look for and promote the mother's strengths and establish goals with her to move from the current situation toward protection for the child. Workers should also promote the parenting strengths the man who uses violence may exhibit towards his children and look at ways of developing his strengths and resources to live a life free of violence.

#### **Sensitive and respectful relationships with families**

Talking about family violence, particularly violence between intimate partners, can be difficult. Professionals working with families where it is the relationship between the adults that is the core of the professionals' involvement must be sensitive to the wide range of conflicting emotions such involvement may bring. Women may be at once grateful for the outside recognition of the violence they have been experiencing, or angry at the intrusion into what they believe is their private business. Men who use violence are unlikely to welcome examination of their behaviour. Older children too, may have adapted to the dynamics within the family and be resentful and fearful of repercussions of outside involvement. Child Protection must be aware of the dynamics within the family and be as respectful of these as possible while keeping the protection needs of the child paramount.



### **Acknowledgement of professionals' expertise and relationships with families**

Both the woman who has experienced violence and the man who used violence are likely to require referral to services that specialise in working with family violence. Children too are likely to require a therapeutic response.

Child Protection practitioners should be aware of appropriate, available community services including men's behaviour change programs, women's family violence support services, and services that provide therapy for children based on an assessment of their developmental needs. Each service type has its own theoretical basis and it is important to understand the basis from which these services are delivered.

### **Working effectively with other services**

Families may already be involved with various universal and targeted services, or their involvement may be part of the Child Protection case planning process. These services may include mental health, drug and alcohol, children's services, housing, maternity, and maternal and child health. As Child Protection intervention may be limited in time and intensity, and the family's need for support will be ongoing, it is important that Child Protection assumes the role of educator in relation to the dynamics and impact of family violence on the children. This is especially important when the service supporting the family is primarily adult-focused. This topic is discussed further in the section 'Working with other services'.

### **Impact of intervention**

Each family member is likely to react in a different way to Child Protection involvement. If Child Protection assesses that the child who experienced violence is at significant risk from the violence within the home, and the mother is unable to provide sufficient safety, the child may be placed away from her care. Child Protection practitioners must balance their responsibility to the child with the knowledge that the woman may feel victimised and helpless in a way that may mirror the situation she experienced within the violent relationship. Children too may be ambivalent about Child Protection involvement and the person who uses violence. They may have been conditioned to see the violence as their or their mother's fault. They may also be highly anxious if they are placed away from their caregivers for a period of time.

### **Attention to family dynamics**

Family violence plays itself out in a variety of ways. Child Protection practitioners should be aware of family dynamics and seek to introduce interventions that strengthen the capacity of the woman who has experienced violence to begin to address the impact of the violence on the child's psychological and emotional health. Family violence may co-exist with other risk factors, such as parental mental illness or substance misuse. Child Protection should undertake a complete psychosocial assessment, with the assistance of specialist assessment services such as mental health services, family violence services and alcohol and drug services.

### **Referral processes**

Many families notified to Child Protection have family violence listed as a key protective concern<sup>11</sup>. It is important that Child Protection develops comprehensive referral processes that may require cases being held open for a period of time to test the veracity of the safety plan. This action is particularly important if either or both caregivers express ambivalence towards the safety plan and the plan depends on community support.

A man who uses violence may be referred to a men's behaviour change program. However, such a program does not, in itself, ensure the safety of a man's partner or children. Anger management programs are not generally endorsed as an appropriate response to family violence as the emotion of anger does not always equate with violent behaviour.

### **Family decision making**

The principles and practices of family-decision making must be used with care when family violence is a risk issue, to ensure that women who have experienced violence are not influenced by a broader family network to minimise the extent and impact of family violence. On the other hand, based on an assessment of extended family members, decision making models may assist women to gain support to protect themselves and their children from violence. These models may also be useful for moderating the aggressive and violent behaviour of adolescents.

<sup>11</sup> Preliminary data from Child Protection and Juvenile Justice Branch - Innovation Projects 2003

## Safety planning

In all Child Protection interventions, protection from abuse and neglect must equate with immediate safety as well as provision of protection over time. Likewise with family violence, it is crucial to assess protection over a period of time, not just assess for immediate safety.

A mother who flees a family violence situation leaving her without accommodation, income security, friends or family support does not ensure a child's ongoing protection. Conversely, her child's safety and wellbeing will be enhanced when she is securely accommodated, has access to an income and supports, and an opportunity to stabilise emotionally so that she is available to meet her child's emotional needs. Alternatively, from a child protection perspective, for women who stay within a violent relationship, time is required to test their capacity to provide safety for their child within this relationship.

Safety planning within a family violence framework is considered to be about advocacy for women and children living with family violence Davies<sup>12</sup> (quoted in Waugh and Bonner 2002<sup>13</sup>). Davies states that:

Safety planning considers the possible risks if the woman stays in the relationship compared with the possible risks if the woman leaves. A woman must consider the impact of her decision in relation to her and her children's physical and psychological safety, the impact on her financially; the repercussions for her accommodation, employment, children's schooling and so on and also the views and responses of family and friends.<sup>14</sup>

In the Child Protection context, safety planning extends this to ensure concrete strategies to protect the child while maintaining overarching responsibility.

## Developing effective safety plans

When family violence is the predominate risk factor present, the case planning process must reflect this key issue. Any prior safety plans will become a significant part of the case planning process.

Safety plans require time, usually at least some weeks, to test their capacity to protect. Planning includes a partnership approach to referral and engagement of other services to continue required support once Child Protection involvement ceases.

### Safety planning should assess:

- The nature and severity of the abuse – the more severe the abuse by the man who uses violence, the clearer the imperative to design a comprehensive safety plan which can be tested over time.
- The capacity of the mother who has experienced violence to recognise and respond to her children's needs – if the mother is unable, for whatever reason, to recognise and respond to the safety and wellbeing issues in relation to her children, then the safety plan must include the provision of an adult who can ensure safety for the child.
- The availability of other resources and supports to address the immediate and long-term safety options for the mother and her children who have experienced violence. Child Protection practitioners should consider the impact and effectiveness of legal and community options including:
  - arresting or charging the man who uses violence
  - applying for intervention orders
  - considering the availability and effectiveness of men's behaviour change programs
  - accessing safe accommodation
  - referring to a domestic violence support service
  - providing income security for those who have experienced violence
  - arranging counselling support for the mother and children who have experienced violence.

<sup>12</sup> Davies J, Lyon E, Monti-Catania D. 1998. *Safety planning with battered women*. Sage London

<sup>13</sup> Waugh F and Bonner M. Domestic violence and child protection: issues in safety planning. *Child Abuse Review* (2002) Vol 11:282-295

<sup>14</sup> Ibid

## Additional planning frameworks

In addition to the care and case planning guidance, other frameworks that will assist Child Protection workers to work more effectively with children and their families when family violence is identified include:

### 1. Indigenous case planning

Section 119 of the Children and Young Person's Act outlines specific case planning considerations for Indigenous children and their families. When working with Indigenous children, workers will refer to the *Protocol between the Department of Human Services and the Victorian Aboriginal Child Care Agency* (2002) and the *Aboriginal Child Placement Principle Guide* (2002).

### 2. Looking After Children (LAC)

LAC provides a framework for care and case planning for children in out of home care within the Victorian Child Protection program. Adherence to the LAC framework principles means that children who do have to come into care as a result of family violence will be case managed in a coordinated way, ensuring that their overall health and welfare needs will be recognised and addressed.

### 3. Strength-based intervention with families

Working from a strengths-based perspective is a respectful and ultimately productive way of working with families. It ensures that while risk issues are addressed in a timely manner, attention is also paid to the family's strengths and protective capacities. A strengths-based approach is particularly important when working with violent families to avoid blaming women who have experienced violence and to attempt to engage men who use violence.

### 4. Child development

Knowledge of child development is essential for assessing the impact of particular adverse events on the health and wellbeing of children and young people. Family violence will impact on children differently according to their life stage. Child Protection practitioners are provided with skills and resources on child development during their induction to Child Protection and can access specialist assessment guides on the Intranet.

### 5. Theory of change

Alongside knowledge of development, Child Protection practitioners require an understanding of behaviour change theories. They must understand the precursors and impediments to change and suggested strategies to assist people to move from positions where change seems impossible to probable.

Research indicates there are particular pathways for a woman to leave an abusive relationship.<sup>15</sup> In general, these pathways could be formal supports such as assistance from professionals or informal supports such as family and friends. Child Protection intervention was listed specifically by a number of women in the study as a turning point leading to them leaving the violent relationship.

Commonly, five phases of leaving are articulated:

1. Pre-contemplation – managing or resisting the violence but not contemplating leaving.
2. Contemplation – beginning to think about leaving.
3. Deciding to leave – seeking information and making plans.
4. Actually leaving – leaving home temporarily or permanently.
5. Establishing a new, violence-free life – a particularly challenging phase, where women seek practical and emotional support, and where access to resources is crucial.

These phases of contemplating change may be relevant in relation to working with a man to establish a violence-free life:

1. Pre-contemplation – committing violent acts without seeking to cease this behaviour.
2. Contemplation – recognition that violence may be 'wrong' – beginning to think about reducing or stopping the violence.
3. Deciding to stop the violence – seeking information on how he may be assisted to live a violence-free life.
4. Actually stopping the violence – making and acting upon a decision to no longer act violently.
5. Establishing a new, violence free life – lives a violence free life.

<sup>15</sup> Patton, Shirley 2003. *Pathways: how women leave violent men*. Written for Women Tasmania

## Section 5: Culture and family violence

### Working with Indigenous families

Indigenous families known to Child Protection in Victoria are 20 per cent more likely to have family violence noted as a characteristic of their family<sup>16</sup>. Child Protection workers struggle with obtaining a balanced assessment and intervention with Indigenous families, cautious not to over-intervene due to the community's previous experiences with child welfare authorities, but not wanting to minimise harm Indigenous children may experience within their families when exposed to violence.

The Victorian Government's Indigenous Family Violence Task Force has provided the following contextual information about the issue of family violence within Indigenous families.

Family violence is an issue of serious concern to Indigenous families and communities in Victoria and throughout Australia. It is also recognised that family violence is adversely affecting the social and emotional wellbeing of Indigenous people, families and communities.

Indigenous definitions of the nature and forms of family violence are broader and more encompassing than those used in the mainstream. Whereas family violence is generally seen as an issue focused around physical abuse in spousal relationships, in an Indigenous community context, family violence includes a wide range of physical, emotional, sexual, social, spiritual, cultural and economic abuses that can occur within families, extended families, kinship networks and communities. From an Indigenous perspective the causes of family violence are located in the history and impacts of white settlement and the structural violence of race relations since then.

Mainstream models which are premised on inequality within a spousal relationship and which give rise to a limited service response of refuges and criminal sanctions do not fully address the complex fundamental causes of violence in Indigenous communities. In response to the unique historical context in which Indigenous family violence occurs, Indigenous communities have called for a holistic approach to family violence that addresses the legacy of the past and seeks to heal individuals, families and communities<sup>17</sup>.

Child Protection practitioners should assess notifications of family violence in the same way they assess all notifications but with particular regard to the individual or community's experience with child welfare over time. As well as using the practice frameworks listed earlier in this document, Child Protection practitioners must also adhere to the protocol between the Department of Human Services and the Victorian Aboriginal Child Care Agency and the Aboriginal placement principles.

### Working with culturally and linguistically diverse families

A significant number of women and children in family violence services are from culturally and linguistically diverse (CALD) backgrounds. Cultural values, lack of knowledge of rights and lack of support services often compound the difficulties encountered by women and children from CALD backgrounds experiencing violence. Many of these women see their husbands as their sole means of financial and emotional support, making them more vulnerable to family violence.

For many women from CALD backgrounds, the notion of a statutory Child Protection system is completely alien. Many clients from CALD backgrounds have a justifiable fear and mistrust of authority figures or institutions. For these reasons, Child Protection practitioners need to consider culture and its influence on clients, our service systems, and themselves. This reflection is a cornerstone of cultural sensitivity.

Interpreters need to be provided for women and children to translate the concepts involved in family violence and Child Protection, the law and social expectations of this country, any statutory requirements and consequences, and the rights and options of women and children experiencing family violence. Explanations may be necessary on several different occasions, and workers should actively check clients' comprehension of the information provided.

In many cultures, child rearing is seen as a responsibility shared with the extended family, rather than the exclusive domain of the parents. For women from many cultures, marriage requires assimilation into their husband's extended family and their wider authority, sometimes causing disenfranchisement of the mother's parenting role. Some younger women, particularly the newly arrived, may struggle to parent alone without the support and guidance an extended family can provide, despite the violence that may have characterised it and from which they have escaped.

<sup>16</sup> An Integrated Strategy for Child Protection and Placement Services. Community Care Division. Department of Human Services 2002.

<sup>17</sup> Indigenous Family Violence Strategy - Task Force Paper August 2002

## **The Immigrant Women's Domestic Violence Service**

The statewide Immigrant Women's Domestic Violence Service (IWDVS) is the central resource providing culturally appropriate support for women and children experiencing family violence. An IWDVS worker should be introduced to clients early in case management, so that the client may assess the role and relevance of IWDVS services to her and her children and to ensure appropriate support is provided in a timely fashion. IWDVS may offer a range of services, including co-case management to mainstream family violence workers and liaison with Child Protection, thereby providing crucial cultural context and support to the client family.

## Section 6: Working with other services

### Collaboration—an essential key to good practice

Collaborative practice between services (universal, targeted and statutory) across an integrated service system provides a better chance of supporting families to achieve positive change. This strategy is even more relevant while working with families experiencing violence when a range of services may be involved, including voluntary family violence and family support services and statutory justice and child protection programs.

Efforts towards collaborative practice face tensions that must be acknowledged and addressed, including:

- acknowledging who is the client
- understanding differences in the philosophical basis of practice
- resolving referral issues related to scarcity of resources
- addressing dispositional issues, particularly between Child Protection and agencies around the need for statutory intervention
- establishing roles and responsibilities, including case management – who is doing what.

Knowledge of the range of service systems that can assist families when violence occurs within the home is a key to working effectively with families. Child Protection should be clear that while assessing risks to the child is their key concern, effectively working with the wider family violence service system and the legal system will help protect the child in the long term by reducing the likelihood of the violence being repeated. Some relevant services may include the Family Law Court, the police, family violence services and other services, such as drug and alcohol, mental health, and family support services.

Child Protection must maximise the use of case conferences or case planning meetings with all relevant parties to assist with planning, coordination and information exchange. These meetings will also allow Child Protection to ensure their role is explained and understood by services, the courts and the broader community.

### The family violence and sexual assault service system

Family violence encompasses a wide range of behaviours – from the extremely dangerous to the less serious. Families, therefore, require a range of interventions from voluntary services, legal services and, at times, the intervention of a Child Protection service.<sup>16</sup> It is also widely acknowledged in research and practice that an integrated service response is the most effective intervention approach.

**The Office for Children:** Family Violence Prevention, Sexual Assault Services and Support Program includes:

- men's behaviour change programs
- family violence networkers
- after hours family violence services including the Men's Referral Service and No To Violence
- Centres Against Sexual Assault
- family support services.

**The Housing Division** provides a number of supported accommodation or outreach services and allied resource and referral agencies via the Supported Accommodation Assistance Program (SAAP). The aim of these programs is to assist people who are homeless or at imminent risk of homelessness to achieve the maximum possible degree of self-reliance and independence. Programs include:

- domestic violence outreach services
- women's refuges (incorporating children's support workers)
- children's support workers (individual and group programs)
- Immigrant Women's Domestic Violence Service (IWDVS)

<sup>16</sup> *Effective intervention in woman battering and child maltreatment cases: guidelines for policy and practice.* The National Council of Juvenile and Family Court Judges. Nevada 1999

- Domestic Violence and Incest Resource Centre (DVIRC)
- Women's Domestic Violence Crisis Service (WDVCS)
- Children in Homelessness Services Positions and Domestic Violence Victoria (DVVic).

## Victoria police

Victoria Police is often the first agency to respond to a family violence incident. The role of police attending a family violence incident is to contain the violence and abuse by using criminal and civil legislation. Police will make a notification to Child Protection if they attend a family violence situation and believe that children are at risk of significant harm. Child Protection assesses these notifications in the same way as other notifications and determines whether a direct investigation is required on the basis of the assessed risk.

## Recent community responses to family violence

Over the last few years, governments and communities have renewed their focus on providing a more effective response to families experiencing family violence. A number of new approaches, initiatives and projects have been implemented or are in development. Some developments are listed here to provide a wider community response and to emphasise the need for an integrated, community-wide approach to working with families experiencing family violence. See 'Section 6: Working with other services' for more information about these initiatives.

- **Family violence: a framework for an integrated response for Victoria.** This draft framework, being developed by government and non-government agencies as part of the Victorian Statewide Steering Committee to Reduce Family Violence, will guide integrated practice with families experiencing family violence.
- **Family Violence Division of the Magistrates Courts.** In 2005, two Magistrates Courts will establish Family Violence Divisions to bring together specialist expertise and resources to improve the response of the civil-criminal justice system to family violence.
- **Family Violence Intervention Pilot Project.** This project will allow courts to direct men who are subject to intervention orders to have assessments and, if assessed as suitable, to attend men's behaviour change programs.
- **Family and Domestic Violence: Crisis Protection Framework.**

In 2002, the Department's Family and Community Support Branch and Community Programs, Housing and Community Building Division established a framework for the development of family violence crisis protection services.

- ***Towards collaboration: A resource guide for Child Protection and family violence services.*** In 2004, this resource was produced to provide support and information to enhance cross-sector collaboration. It will guide regional development or reviews of local protocols.
- ***Victoria Police code of practice for the investigation of family violence.*** In 2004, Victoria Police completed a review of their code of practice for the investigation of family violence that reinforces their concern for children present during family violence incidents, including the need to assess the needs of the child independent to those of the mother experiencing violence. The new code of practice lists particular action police must undertake in regard to the safety and welfare of children, including notification to Child Protection or other community referrals. Further information on the role of the police is available in the section on intervention orders.

## Section 7: Impact of family violence on workers

Working with families where family violence is an issue will have an impact on workers. The nature and seriousness of the impact will vary between workers and over time, but workers will be most effective if they are able to recognise and understand the inevitable impacts and are able to seek assistance through their regular supervisory processes.

### Workers' responses to family violence

Workers may respond in a number of ways when working with families characterised by family violence. They may become uncomfortable addressing the issues of violence and may have a tendency to ignore the violence and the man who uses violence and focus exclusively on the woman and children who have experienced the violence and who are usually more accessible and may be more open to intervention.

Workers may be fearful of the violence and feel intimidated or manipulated by the man who is using violence. This fear may lead workers to actively or unconsciously avoid the man who is using violence, thereby letting him become 'invisible'. This reaction, termed the 'hostage effect', occurs when workers fail to openly acknowledge and address the violence within families, thereby leaving the children unprotected.<sup>19</sup>

Workers who have experienced chronic emotional strain working within family violence situations over a period of time may experience 'burnout'. This condition may be characterised by emotional exhaustion, a tendency to depersonalise the clients and to internalise negative feelings about clients, leading to feelings of inadequacy and failure.

### Worker safety

Workers have a right to a safe workplace. It can be useful to consider workers' safety issues when developing case plans, planning interviews and making access arrangements. Safe places and arrangements for meetings and interviews can be specified, for example, having two workers present. The police may be available to accompany workers when they need to visit the home, especially when guns may be present. These issues and how they are addressed are particularly relevant when clients live in rural and isolated areas.

All of these worker reactions and responses need to be acknowledged and addressed through supervision, debriefing and training opportunities to increase knowledge and skills in the family violence area. It is also important for workers to offer support to colleagues when necessary and generally contribute to a workplace ethos of support and staff care.

<sup>19</sup> MacNamara, N., *Domestic violence, children and worker impact*



## Appendix 1: Child Protection—use of Intervention Orders

### Introduction

The following guidelines provide an overview of intervention orders and provide guidance for use within a Child Protection framework. Case examples are included to illustrate the variety of circumstances in which an intervention order can be considered. Child Protection practitioners should also seek expert legal advice when any uncertainty exists about the relationship of the *Children and Young Person's Act 1989* with other legislation such as the *Crimes (Family Violence) Act 1987* or the *Family Law Act 1975*.

Please note that this guidance does not provide information or advice in relation to Department of Human Services staff seeking intervention orders for their own workplace safety. Please refer to regional workplace guidelines on personal safety in the workplace.

Intervention orders are primarily a tool for individuals to seek to restrict another person's behaviour in relation to himself or herself through the use of civil legislation. Intervention orders are primarily intended to protect people from violence that occurs between family members. However, they can also be used to address stalking behaviour from non-family members.

Women seeking safety from men who are known to them form the majority of complainants (applicants) for intervention orders. Police also act as the complainant in approximately 8 per cent of applications sought. While Child Protection and others, with the written consent of the aggrieved family member, can act as complainant, it occurs in less than 1 per cent of applications.

Child Protection practitioners' role in relation to the use of intervention orders is to offer support to victims of family violence, predominantly women, to assist them to take out orders to protect themselves and their children. A further role is to assess the capacity of the intervention order, alongside other possible interventions, to provide sufficient safety to the child over time.

### Background

Family violence is a risk factor in more than half of the families with whom Child Protection in Victoria is involved.<sup>20</sup> Child Protection practitioners must be skilled and knowledgeable about effective intervention with families where violence occurs, including having an understanding of the types of intervention orders and their relevance to Child Protection practice.

While Child Protection practitioners develop an intimate working knowledge of the *Children and Young Persons Act 1989* (CYPA), they must also have a working knowledge of other key Acts that frequently impact on their work, including the *Family Law Act 1975* and the *Crimes (Family Violence) Act 1987* (CFVA).

The CFVA, section 4, gives family members the option of applying for an intervention order to restrict a person's (the defendant's) behaviour in relation to another person (the aggrieved family member). Orders under this section are made in relation to violence between family members and applications for them are made in the Magistrates' Court or Children's Court of Victoria (for children under the age of 17 years). Intervention orders can extend to having the perpetrator removed from the family home.<sup>21</sup>

Child Protection workers also need to be aware of the stalking provisions of section 21A of the *Crimes Act 1958*. This is used when the complaint is between people who are not related and the conduct complained of consists of stalking or harassment.

While an intervention order is a civil procedure, breaching the order carries criminal penalties. Therefore, the implications of orders need to be understood by all parties, in particular when an order may be sought against a child under the age of 17 years.

### Current initiatives

In 2002, the Attorney General requested the Victorian Law Reform Commission to review the CFVA. The review has not been finalised to date.

In 2004, the Attorney General introduced two pilot Domestic Violence Courts, situated in Heidelberg and Ballarat. These specialist courts will commence operation in early 2005 and will aim to improve responses to victims of crime, particularly women and children who have experienced violence.

Victoria Police has also undertaken a significant review of its response to family violence and a revised code of practice for the investigation of family violence will take effect in late 2004.

<sup>20</sup> *An integrated strategy for child protection and placement services*. Community Care Division, Department of Human Services, September 2002

<sup>21</sup> *Family violence and homelessness - removing the perpetrator from the home*. Discussion Paper No. 3 2002. Domestic Violence and Incest Resource Centre

## Intervention orders and Child Protection

Supporting a woman to seek an intervention order is one of a range of strategies Child Protection workers consider when family violence issues are present. Child Protection workers, Team leaders and unit managers should consider how the use of an intervention order might support their case planning to keep a child safe.

### Key points for consideration

- If Child Protection has significant concerns about the safety of a child or young person, after a complete risk assessment is undertaken, workers should consider statutory action under the CYPA. Do not assume that the use of an intervention order alone will ensure the child's safety.
- Intervention orders can provide an opportunity to ensure safety to people, including children who have experienced violence. They provide a strong, clear message to the person who used the violence that a continuation of violent behaviour may have criminal consequences.
- Effective use of an intervention order requires the cooperation of the aggrieved family member in responding to breaches of the order. Pressuring a person to make an application for an intervention order is inappropriate and likely to render the order ineffective. The courts may also be reluctant to make an intervention order if the complainant is unable or unwilling to enforce the terms of the order.
- Use of intervention orders against people under the age of 17 years, and particularly under the age of 15 years, should be carefully considered. The young person needs to understand that breaching an order is a criminal offence.
- While Child Protection practitioners will rarely be the complainants in intervention order applications, they can consider being the complainant if the application by a family member who experienced the violence places that person at significant further risk and the intervention order will assist to ensure the child's safety.
- The intersection of the CFVA, the CYPA and the Family Law Act leads to potentially complicated legal hierarchies. Child Protection workers should seek the guidance of legal officers for clarification regarding legal outcomes when more than one of these Acts applies to their clients.

An intervention order is a way of protecting the aggrieved person from future harm. The Magistrate must be satisfied on the balance of probabilities that not only did the assault, harassment, offensive behaviour or threats occur, but that the alleged behaviour is likely to occur again. The grounds for a protection application under the Children and Young Persons Act contain the concept of likelihood of harm. To obtain an intervention order, there must have already been an assault, harassment or threat. The likelihood of harm concept in the Children and Young Person's Act is not a basis for the making of an intervention order.

## Intervention orders between family members

Under the CFVA, 'family member' in relation to a person means:

- the spouse or domestic partner of that person
  - a person who has or has had an intimate personal relationship with that person
  - a person who is or has been a relative of that person
  - a child who normally or regularly resides with that person
  - a child of whom that person is a guardian
- or
- another person who is or has been ordinarily a member of the household of that person.

## Stalking

Section 21 A(5) of the Crimes Act 1958 allows the court to grant an intervention order against a person who is not a family member. The court must be satisfied on the balance of probabilities that the defendant has stalked another person and is likely to do so again.

### What may an intervention order do?

An intervention order may prohibit or restrict a person (the defendant) from:

- approaching an aggrieved person
- accessing premises where an aggrieved person lives, works or frequents
- being at a particular location
- contacting, harassing, stalking, threatening or intimidating an aggrieved person
- damaging property owned by an aggrieved person
- causing another person to engage in conduct that is prohibited by the intervention order.

The order may also direct the defendant to participate in prescribed counselling.

Intervention orders can include orders to revoke firearms' licenses including the right to possess or carry firearms. If the police form the view that there are grounds for an IO they have the power under the *Firearms Act 1996* to enter, search premises and seize firearms without a warrant.

From a Child Protection perspective, an intervention order can be useful in a range of circumstances including:

- strengthening the support and protection a non-abusive parent can offer her child
- sending a clear message to the men who use violence that the legal system will respond seriously to their actions
- offering an interim period of safety while a further protective assessment can be completed
- obviating the need for a child to be placed away from the care of their mother
- supplementing orders applied for under the CYPA.

### Limitations of intervention orders

Although intervention orders can be an effective Child Protection strategy, practitioners must not place undue emphasis on the capacity of an intervention order to provide sufficient safety for the children at risk in the immediate or longer term.

Limitations of intervention orders in a Child Protection context include:

- Reliance on the defendant not to breach the order. Child Protection workers must assess the possible risks to the child if the order is breached, including if the child itself breaches the order.
- The capacity of the women to report a breach to police and to Child Protection. She may be unwilling to report, lack knowledge about how to report or be threatened or intimidated not to report.
- The effectiveness of the intervention if the woman felt pressured into applying for the order as a way of appeasing Child Protection concerns.
- Potential for consent orders to be obtained under pressure that may impact on the family
- The heightened safety concerns for women and children at the point of taking action against men who use violence, as we know that women are at significant risk of further incidences of abuse, including homicide, when separating from a violent partner.
- The difficulty in obtaining an intervention order to remove the man from the family home.
- The capacity for an intervention order to be revoked or conditions varied without the knowledge of Child Protection, thereby lessening the effectiveness of any safety plan.
- Person information, eg addresses, of the complainant is published
- Any appeals against the order may increase the stress on the family.

## How long does an intervention order last?

A temporary intervention order can be made by the court to cover the time to the final making of an order. A Magistrate can make the final order for as long as they consider suitable. They can also choose to not include a specific end date for the order so that the order remains in force until the court revokes it, sets it aside or reverses it on appeal. Over the past four years approximately half of all orders made have been for a period of 1–2 years.<sup>22</sup> If an order is due to lapse but it is still needed, the complainant can apply to extend the duration of the order.

## Who can apply for an intervention order?

Section 7 of the CFVA defines who may bring a complaint and includes:

- a member of the police force
- the aggrieved family member
- if the aggrieved family member is a child, a parent of the child
- any other person, including a Child Protection worker, with the written consent of a parent of the child or with the leave of the court
- the aggrieved family member, with the leave of the court if he or she is of or above the age of 14 years
- any other person, with the written consent of the aggrieved family member, if the aggrieved family member is of or above the age of 18 years
- any other person, if a guardianship order under the *Guardianship and Administration Act 1986* is in force in respect of the aggrieved family member or with the leave of the court.

In 2000–01, the majority of complaints for an intervention order finalised in relation to family violence were made by the aggrieved person themselves (13,035) followed by the police (2,003). Guardians, agents and persons with consent or leave accounted for only 53 finalised applications. Therefore, Child Protection workers in Victoria rarely act as the complainant with families with whom they work.<sup>23</sup>

## Breaches of the intervention order

A breach of an intervention order is a summary criminal offence of the CFVA (s. 22). If the nature of the breach impacts on the safety of the affected family member, police are directed to use the specific power of arrest that is contained in s. 23 of the Act to ensure the safety of family members and their property. However, if the breach does not constitute a threat to the family members or their property, the police may elect to act by summons. If a person is found guilty of breaching an intervention order, his penalty can be a jail term or a fine.

The *Police code of practice for the investigation of family violence 2004* provides guidance in relation to the obligations of Victoria Police when an intervention order is breached. If police are not responding to breaches of intervention orders in accordance with the code, contact your local family violence liaison officer for assistance. The police must also provide an appropriate referral.

## Variation of the order

Police must inform both the aggrieved family member and the defendant of the process to have the intervention order varied. Where the breach appears to have occurred with the consent of the aggrieved family member, police must inform this person that they may be aiding and abetting the commission of a summary offence. The police may charge the defendant with the breach.

<sup>22</sup> Intervention Order Statistics 1994/95–2000/01. Statistics of the Magistrates' and Children's Courts of Victoria. Department of Justice

<sup>23</sup> *ibid*

The reality of working with families where family violence is an issue is that breaches do occur reasonably regularly. Child Protection practitioners should be aware of the seriousness of breaches and advise parties to attend court as soon as possible to seek a revocation or variation of the order to accommodate changed circumstances. Child Protection practitioners should be aware of the particular dynamics of family violence. A woman may initially have the confidence and support to apply for an intervention order, but may be unable to sustain that commitment to the order when the crisis passes and supports are fewer. The likelihood of a breach is increased if the woman felt pressured or coerced into applying of the intervention order.

If a breach of the order is likely to increase the risk to the child, Child Protection should ensure that the overall safety plan for the child does not rely solely on the protection the intervention order provides.

## Police and intervention orders

The protocol between the Department of Human Services and Victorian Police, *Protecting children* (1998), states that police must inform Child Protection:

where there are strong indicators that incidents of family violence are placing young children or young people at significant risk or danger.<sup>24</sup>

Child Protection workers should contact the Sexual Offences and Child Abuse Unit when they require police clarification or assistance in any Child Protection matter that involves family violence.

Also note that each Victorian 24-hour police station has a nominated sergeant who undertakes the role of Family Violence Liaison Officer. Child Protection practitioners can contact this person for specific assistance and advice in relation to both criminal and civil options available to the police in family violence matters.

The code of practice articulates that the police, for the continuing safety and wellbeing of victims, must:

- assess the immediate threats and risks
- manage the incident
- assess the level of future protection required.

Police will apply for an intervention order when:

- the safety, welfare or property of a family member appears to be endangered by another

or

- a criminal offence is involved.

When police do not make an application for an intervention order, they must explain the civil options and refer the aggrieved family member to appropriate referral agencies or the court registrar.

## Complaint and warrant and complaint and summons processes

The police can initiate proceedings using either the complaint and warrant process or the complaint and summons process.

**Complaint and warrant** is used if there are **immediate** concerns for the safety of the affected family members or a **criminal offence** has occurred. The complaint and warrant process means that the:

- police complete the application for the intervention order
- court registrar issues a warrant for the arrest of the defendant and makes the application to the Magistrates Courts registrar during office hours or contacts the after hours registrar

<sup>24</sup> Protecting Children, Protocol between Department of Human Services and Victoria Police – effective as at 25 August 1998.

- if the registrar issues the warrant, the registrar gives police the execution copy of the warrant and any police officer can execute the warrant
- the defendant is bailed to appear at the Magistrates Court within five working days, or the defendant can be brought directly to court to hear the application for the intervention order
- if the defendant is bailed, the conditions of bail will reflect the conditions sought in the intervention order, thus seeking immediate safety for the affected family members.

Child Protection practitioners who attend a serious family violence incident with police should be aware of police guidelines in relation to complaint and warrant and discuss the appropriateness of this mechanism for obtaining an intervention order.

**Complaint and summons** are used by police when they **do not have immediate concerns for family members** however they have assessed that the safety, welfare or property of a family member appears to be endangered by another, or a criminal offence has been committed. The police will complete the application and arrange for a summons to be issued by a Magistrates Court registrar.

### Police attendance at court when they are the complainant

The police officer involved in seeking a complaint **is required to attend** the intervention order hearing when the affected family member is unable to attend and/or the police officer can give substantial evidence that would not otherwise be available to the court regarding the incident. The police officer may attend, or arrange for other police to attend if they assess the defendant may assault or harass the affected family member at court or if the affected family member would be unable to proceed without support and it has not been possible to arrange support from other agencies.

### Making applications on behalf of children

An adult applying for an intervention order on behalf of herself can also seek to include her children on the intervention order if the circumstances justifying an order are the same or similar for the child as for the adult.

Since the amendment in 1997 allowing this kind of application, there has been an increase in the number of children aged 15 years or under being named as aggrieved persons (316 in 1994–95 to 5,753 in 2000–01).<sup>25</sup>

The protocol between Magistrates and Children's Court in relation to family violence and stalking matters involving children and young people<sup>26</sup> states that:

If requested to include a child in a complaint by the child's parent, registrars should inform the complainant that a magistrate can only make an order if satisfied that the child has been the subject of stalking, an act of violence, offensive behaviour or any other conduct which meets the criteria in section 4 of the Act together with a likelihood of such conduct against that child in the future. Allegations about the defendant's conduct towards each child must be included in the complaint together with the reasons why future conduct is feared.

The protocol also states that:

In all cases involving children, suburban magistrates should consider the appropriateness of transferring the case to the Family Division of the Melbourne Children's Court.

As the Melbourne Children's Court sits as a Children's Court continuously, resources are more readily available, including a full-time team of specialist Children's Court duty lawyers, access to the Children's Court Clinic, availability of the Department of Human Services Legal Unit, magistrates who are dealing daily with child protection and child crime matters, experienced Children's Court prosecutors, experienced Children's Court registrars and the availability of remote witness facilities in two court rooms.

Other matters appropriate for consideration include the benefits of having the child or young person separately represented to ensure the child is, as best as is practicable, in a position independent of any adult complainant and the opportunity to facilitate involvement of the Child Protection Unit of the Department of Human Services if the complaint gives rise to protective issues.

<sup>25</sup> Intervention Order Statistics 1994/95 - 2000/01. Statistics of the Magistrates' and Children's Courts of Victoria. Department of Justice

<sup>26</sup> Protocol for Family Violence and Stalking Matters Involving Children and Young People. Magistrates and Children's Court Victoria. December 2002.

The protocol continues...

The Children's Court does not have jurisdiction to make intervention orders in favour of adults against adult defendants. If a complaint involving both an adult and a child or children as aggrieved family members is transferred to the Children's Court, it will be necessary to 'split' the complaints and initiate separate proceedings for the child (ren) in the Children's Court while retaining the adult complainant in the Magistrates' Court.

However, the protocol does caution against always recommending that cases be split:

Separating the complaints from each other may not always be desirable given two courts could then be considering the same set of facts and circumstances (Section 21.6).

Child Protection practitioners and others should be aware that they may need to advocate for the children's matters to be heard alongside the mother's in the Magistrates Court rather than placing an increased stress on the family through their attendance at both the Children's Court and a Magistrates Court.

For rural courts, Child Protection workers should consider requesting the Magistrate to change jurisdiction from Magistrates Court to Children's Court to ensure that the court is child focused when considering the application.

### When should Child Protection be the complainant?

Child Protection practitioners would infrequently apply for an intervention order on behalf of children. Child Protection workers most usually issue a protection application and apply for an interim accommodation order (IAO) in the Children's Court under the Children and Young Person's Act, including conditions to manage the risk of harm to the child. Interim orders made under the Children and Young Person's Act can include conditions such as those often used with final intervention orders, for example, parents can be directed to engage with certain services or refrain from certain behaviours.

The most usual instance is for Child Protection practitioners to seek an IAO in the Children's Court with conditions to ensure the child's safety and for the woman who has experienced violence to apply at a similar time for an intervention order for herself in the Magistrates Court. It may be useful to have a condition added to the Children's Court order requesting the Child Protection worker be informed if the intervention order is revoked or varied.

### Intervention orders made against children

Approximately 8 per cent of intervention orders (984) made in 2000–01 were against people aged 19 years or younger. Of those, 61 were made against young people less than 15 years of age.<sup>27</sup>

While the safety and wellbeing of the affected family member, including younger siblings, is the key concern when considering the use of an intervention order, there are limited circumstances in which it is appropriate for a Child Protection practitioner to recommend the use of an intervention order or support caregivers to apply for an intervention order against a young person. Breaching an intervention order has potentially serious criminal consequences. Therefore, intervention orders against young people, particularly young people under the age of 16, should be used with caution.

Factors to consider when deciding to apply for an intervention order against a young person include the attitudes of the adults (do they believe that the violence is inappropriate and should be ceased?) and their capacity to report a breach. Other factors to be considered are the young person's willingness to take responsibility for his violent actions and his motivation to change his behaviour.

### Interstate orders

The CFVA allows for interstate and New Zealand orders to be registered in Victoria and thereafter enforced as if they were orders made in Victoria. Intervention orders may also be known as protection orders (New Zealand) and as restraining orders, protection orders or intervention orders (Australian states and territories).

When Child Protection practitioners are involved with families from another state or territory or from New Zealand, they should query whether the equivalent of intervention orders had been made in that jurisdiction. If so, they may be able to be registered and enforced in Victoria. The person for whom the order was made would need to register the order with the Magistrates Court. Once registered, it can be enforced as if the order were made in Victoria. It can be varied, revoked and extended.

<sup>27</sup> Intervention Order Statistics 1994/95 – 2000/01. Statistics of the Magistrates' and Children's Courts of Victoria. Department of Justice page 72

## Legal relationship between intervention orders and other court orders

A complex set of legal dynamics may come into play if orders are in effect under the Family Law Act, the CYPA and the CFVA. Below is a summary of the legal relationship between the three Acts. Child Protection practitioners should seek advice from their regional court advisor or the Court Advocacy Unit if they require further clarification on the precedence of orders.

### Children's Court

The CFVA (s. 25) states that an intervention order prevails over any order under the CYPA.<sup>26</sup> Child Protection practitioners must note that despite any access orders through the Children's Court (CYPA), if the intervention order states there is a 'no contact' or 'no approaching' condition in relation to the children, the intervention order takes precedence and, until varied or revoked, access cannot take place.

### Family Court

The CFVA (s. 25A) states that:

an order under the Crimes (Family Violence) Act operates subject to any declaration made under section 68S of the Family Law Act 1975 of the Commonwealth by a court having jurisdiction under Part VII of that Act.

Section 68R of the *Family Law Act 1975* allows a contact order to be made that may be inconsistent with an intervention order. If the contact order is made under s. 68R of the Family Law Act, contact must proceed in accordance with that order even if an intervention order prohibits contact.

Section 68S allows parties to the Family Court proceedings to make an application to the Family Court for a ruling on the extent of any inconsistency between a s. 68R contact order and an intervention order. Workers must satisfy themselves whether such a ruling has been made or whether a ruling will be sought.

A condition can be placed on an intervention order that refers to pre-existing contact or access orders, for example, 'the defendant may only have contact with the child as per orders made by the Family/Children's court on [xxx date]'. If the Family Court order was not specifically made pursuant to section 68R, the intervention order will apply and prohibit contact or approaching.

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<sup>26</sup> Crimes (Family Violence) Act 1987



## Appendix 2: Case examples

### Case example one

Maree and Matthew are the parents of three-year-old Christy and five-year-old Joel. The children were notified by a family violence service when Maree came to a women's refuge with the children after Matthew threatened to kill her. Matthew had physically assaulted Maree in front of the children and had also hit the children so severely that Joel sustained a fractured rib. Matthews's abusive behaviour towards Maree and the children had been occurring over the past two years and escalating in frequency and intensity.

Maree had also been verbally abusive to the children and was particularly frustrated by Christy, who Maree believes contributed to Matthews's violence because of her poor sleeping patterns and difficult temperament. The refuge worker was concerned that Maree was hostile to Christy. Neither parent had sought medical attention for Joel, and Maree also delayed seeking treatment once she was in the refuge saying that the injury would heal itself. After accepting the report and completing an initial investigation, Child Protection issued a protection application and applied for an interim accommodation order (IAO) with a number of conditions in relation to both Maree and Matthew. The children remained in Maree's care.

Matthew was extremely hostile to Child Protection and made threats against the worker and Maree. As Matthew intimidated Maree, Child Protection was active in supporting Maree to apply for an intervention order for herself and her children. They assisted her to seek the order through the local Magistrates Court. They were able to include all three on the order as the Child Protection worker gave evidence supporting the concerns for the children.

The intervention order was sought in addition to the IAO as the violence, and threats of continued violence, against Maree and the children was so significant that it was felt that an intervention order with a more significant criminal sanction if breached was a more protective mechanism for the children than an IAO by itself. Child Protection also supported Maree with the enquiries police made in relation to the assaults to her and the children.

As Matthew had physically injured Joel and Maree, Child Protection was working jointly with Victoria Police to investigate these assaults.

### Key practice issues

Child Protection accepted this notification for investigation due to a range of factors including:

- the increasing frequency of the violence and the increasing intensity
- the physical injury to Joel
- the lack of capacity to protect the children from physical and psychological harm
- the reported lack of capacity for Maree to respond to Christy's emotional needs, in fact a perceived blaming of Christy for the violence
- the vulnerability of both children to further harm from both parents
- the heightened safety issues for Maree and the children after separating from the family violence situation.

Child Protection practitioners sought an IAO to enable them to continue to supervise the safety and wellbeing of the children because:

- the opportunity and likelihood of harm remained
- the dynamics of violence in this family indicated that considerable work would need to be undertaken to support and promote Maree's parenting role and to assess the capacity for Matthew to provide an environment for their children that was free from violence and abuse.

Child Protection also sought to support Maree to apply for an intervention order for herself and her children because:

- Maree, while agreeing that she would remain apart from Matthew, was highly anxious about being the complainant and required significant support to do so

- as Matthew's violence was of a serious and sustained nature, an intervention order strengthened the conditions placed on the Children's Court order. Matthew had committed a criminal offence by physically injuring Joel and Maree and an order was considered necessary to support the range of other actions taken by Maree, Child Protection and the family violence service to address Maree and the children's safety.

### Case example two

Renata is a 43 year-old woman living with her eight and 10-year-old daughters and 17-year-old son. Renata has suffered from a severe depressive illness over many years that has impacted significantly on her capacity to care for her children. She recently started treatment with a psychiatrist that appears to be effective. She has very limited family support and the children's father left the family many years ago.

The principal of the girl's primary school notified Child Protection of their concerns. The girls had been frequently absent from school and when at school the girls were alternatively disruptive and very rude or tired and withdrawn. The youngest girl, Miranda, presented at school with a black eye and bruised shoulder and, with some reluctance, she said her brother was responsible for the injuries. She also said that her brother frequently verbally and physically assaulted her mother and sister. Child Protection accepted that the report for direct investigation on the basis that the children were at risk of significant harm, both physical and emotional. On meeting with the family, Child Protection confirmed that the brother Tim was very aggressive. Among a range of strategies to address his behaviour, the Child Protection practitioner suggested to Renata that she apply for an intervention order to stop Tim from verbally and physically harming her and her daughters. Tim remained living with the family while he was referred to a counselling program specifically designed for young men who exhibited aggressive behaviour.

Renata applied for an intervention order in the Children's Court on behalf of her daughters. The Child Protection worker attended court and gave evidence to explain the Child Protection role in relation to continued work with the family for a limited period of time with a view to issuing a protection application if the protective concerns were not adequately addressed in that timeframe. The Children's Court Magistrate advised Renata to apply for an intervention order on her own behalf in the Magistrates Court, including specific conditions which were consistent with the intervention order being made in the Children's Court.

### Key practice issues

Child Protection intervention focused on the following:

- assessing the emotional and physical safety of the girls
- obtaining a full history of the level of violence Tim was using against his mothers and sisters and a history of Tim's development
- supporting Renata to overcome her depressive illness
- assessing the impact of Renata's illness on her parenting capacity
- promoting and supporting Renata's parenting role
- referring all family members to appropriate support services
- connecting the family with extended family, perhaps through a family group conference
- providing Renata with support to address Tim's violence
- providing a clear message to Tim that his physical violence was of such severity that his mother and siblings were required to apply for an intervention order to ensure their safety
- considering applying for a supervision order through the Children's Court to provide an ongoing role for Child Protection if the violence does not abate and Renata continues to find it difficult to provide for her children's safety and wellbeing.

### Case example three

Child Protection received a notification from the police stating that they had attended a family violence incident the previous evening. They reported that the three-month-old baby was present in the room when the mother, Abir, and father, Youseff, had an explosive verbal argument. Youseff hit Abir in the stomach. This action caused her to drop the baby on the floor. Abir agreed to go to a friend's place for the rest of the night. Child Protection accepted the notification for further assessment and visited the mother the next day at her friend's home. When interviewed by Child Protection, Abir said that she and Youseff often had serious verbal fights and that he had first started to hit her when she was seven months pregnant with Izel. Abir also stated that Izel was often in the room when the fights occurred and that when Izel was only two weeks old Youseff hit Abir when she was breastfeeding Izel. Abir said that Izel's crying had become a trigger for Youseff to lose his temper. She stated that she wanted to go home whether Youseff was there or not.

The Child Protection practitioner explained that she believed that Izel was at considerable risk of emotional and physical harm as a result of Youseff's aggressiveness. She stated that Child Protection would therefore seek an interim accommodation order (IAO) in the Children's Court with conditions attached to restrict Youseff's unsupervised contact with Izel. Abir found it difficult to understand that the fighting was impacting upon Izel, saying that Izel was too young to know what was happening. She said that she couldn't see why she and Youseff can't move back in together and sort things out.

#### Key practice issues

Child Protection sought an IAO through the Children's Court because of:

- the extreme risk of physical and emotional harm for Izel
- the lack of capacity of Youseff to understand that the level of violence places Izel at such risk
- the limited insight Abir had into the impact of the family violence on Izel and her lack of capacity to prevent the violence
- the pattern and history of the harm to Izel – Youseff used violence against Abir and their unborn baby and has continued to use violence against both of them
- the increased risks to Izel and Abir at this stage, as the point of separation is often a time of heightened violence.

An intervention order, while offering criminal sanctions if conditions were breached, relies to some extent on Abir's commitment to the order. A Magistrate may be reluctant to make an intervention order if Abir is not actively seeking one. If Abir did apply for an intervention order on behalf of herself and her child, it is likely that the magistrate at the Magistrates Court would refer the issues in relation to Izel be heard in the Children's Court. It is expected that the Children's Court would support more assertive involvement of Child Protection through the use of the Children and Young Person's Act. It is possible that applications for both an IAO and an intervention order might be appropriate.

### Case example four

Luke and Eve are the parents of Damian (eight years), Michael (11 years) and Jay (14 years). Child Protection received a notification from a man, Adrian, who attends the same church as the family. Adrian says that while Luke is a very loving and caring father, he physically punishes the children quite severely, especially Jay. Adrian said that Jay had come to church on three occasions over the past three months with bruising to his face. Luke told Adrian that Jay had been answering back so he slapped him across the face. Luke also said that he hits Damian and Michael with a leather strap. Child Protection accepted the report for further investigation. Enquiries with the school revealed that the parents were very proud of their sons but that the school had also been worried about unexplained bruising on Jay and Michael. Child Protection becoming involved with their family devastated Luke and Eve. Interviews with the children revealed a close bond with both parents, but a real fear of Luke when he disciplined them. Luke stated that he was reluctant to stop physically disciplining the children, as he believed that this was the correct way to manage children, particularly sons.

Child Protection sought an intervention order on behalf of the children in the Children's Court. The conditions on the order stated that Luke was not to physically discipline his children. Luke and Eve both took the intervention order seriously and Luke agreed to modify his behaviour in the light of the order. The children reported that they felt safer. The family developed a positive relationship with the school counsellor who assisted Luke with strategies to manage the boys' behaviour without recourse to such extreme physical punishment. Child Protection closed the case after approximately ten weeks of intervention that included active monitoring of the safety plan as developed.

### **Key practice issues**

An intervention order was an effective strategy for this family as the use of the order alongside a comprehensive assessment was able to provide an effective safety plan tested over nearly a three-month period, which then obviated the need for an ongoing order through the Children's Court.

## Appendix 3: Resources

### More information on change theory

Prochaska, J.O., & DiClemente, C.C (1982) Transtheoretical therapy: toward a more integrative model of change. *Psychotherapy: Theory, Research and Practice*, 19, p276-288

### Guide for assessing developmental phases of children

Sheridan, Mary D., *From birth to five years: children's developmental progress*, ACER Press, 1996.

### More information on strengths-based practice

Working Well with Families page, located at KnowledgeNet: Community Care/Manuals/Child Protection/Working Well with Families.

*Child protection and family violence: information sheets for men and women about the impact of family violence on children.* Published by the Child Protection and Juvenile Justice Branch. May 2002.

*Victorian Risk Framework – specialist assessment guide* for assessing the impact of family violence on parental functioning. KnowledgeNet: Community Care/Manuals/Child Protection/Victorian Risk Framework

*Aboriginal child placement principle guide* for child protection and care workers 2002 at [www.dhs.vic.gov.au/indigenousinitiatives](http://www.dhs.vic.gov.au/indigenousinitiatives)

*Towards collaboration: a resource guide for Child Protection and family violence services* at [www.vic.gov.au/commcare](http://www.vic.gov.au/commcare)

*Victorian Police code of practice for the investigation of family violence* 2004.

Domestic Violence and Incest Resource Centre (DVIRC) at [www.dvirc.org.au](http://www.dvirc.org.au)

## Appendix 4: References

Crimes (*Family Violence*) Act 1987

Davies J, Lyon E, Monti-Catania D. Safety planning with battered women. Sage London, 1998

Department of Human Services, *An integrated strategy for child protection and placement services*. Community Care Division 2002

Department of Human Services. *Protecting children. Protocol between Department of Human Services and Victoria Police* – effective as at 25 August 1998.

Department of Justice. Intervention Order Statistics 1994/95–2000/01. Statistics of the Magistrates' and Children's Courts of Victoria.

Domestic Violence and Incest Resource Centre, *Family violence and homelessness – removing the perpetrator from the home*. Discussion Paper No. 3, 2002.

Holder, Robyn. *Domestic and family violence: criminal justice intervention*. Australian Domestic and Family Violence Clearinghouse. Issue paper 3. 2001.

Magistrates and Children's Court Victoria. Protocol for family violence and stalking matters involving children and young people. December 2002.

McGuigan W.M. and Pratt C.C. The predictive impact of domestic violence on three types of child maltreatment. *Child Abuse and Neglect* 25 (2001) 869–883.

National Council of Juvenile and Family Court Judges. *Effective intervention in woman battering and child maltreatment cases: guidelines for policy and practice*. Nevada 1999.

Patton, Shirley. *Pathways: how women leave violent men*. Written for Women Tasmania, 2003.

Province of Nova Scotia, *Fact sheet – children exposed to family violence*, Canada 2002.

Victoria Police. *Police response to family violence: a reference guide*. March 2002.

Victorian Government, *Women's Safety Strategy: A Policy Framework*. October 2002.

