

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

ATTACHMENT JT-4 TO STATEMENT OF JACQUALYN LOUISE TURFREY

Date of document: 16 July 2015
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Attachment JT-4

Agenda Paper

ABORIGINAL JUSTICE FORUM

Meeting No:	41- Chirnside Park
Agenda No:	5
Date:	23-24 April 2015
Agency:	Community Operations & Victims Support Agency

HOW DOES THE JUSTICE SYSTEM RESPOND TO ABORIGINAL FAMILY VIOLENCE?	
Action Type:	Discussion

1. PURPOSE

On 22 February 2015, the Royal Commission into Family Violence began its operations. The Commission has been tasked with the responsibility of finding the most effective ways to:

1. prevent family violence;
2. improve early intervention;
3. protect those at risk;
4. support victims; and
5. make perpetrators accountable for their actions.

In achieving these ends, the Commission will focus on improving systemic responses to family violence, particularly in the legal system and will look at the work performed by police, corrective services, child protection, and legal and family violence support services. The Commission's Terms of Reference identify the Aboriginal and Torres Strait Islander community as a group that deserves particular attention.¹

With this in mind, it is timely for the Aboriginal Justice Forum to examine the issue of family violence in the Aboriginal community. In assisting the Forum with its task, this paper presents a review of current justice responses to family violence for the general Victorian community and responses specific to the Aboriginal community. It focuses on the mechanisms available through the Department of Justice & Regulation (legislation and crime prevention initiatives), Victoria Police, the Courts and Corrections Victoria and poses some questions for consideration on the effectiveness of these responses as well as how these can be improved, with a view to informing a submission to the Royal Commission. Before these responses are discussed, this paper provides some context on the incidence of family violence in Victoria.

2. FAMILY VIOLENCE IN CONTEXT

2.1 What is the incidence of family violence in Victoria?

Family violence is a wide spread social problem in Victoria and affects people of all backgrounds, cultures, ethnicities and ages. Over the past several years, there has been a general growth in family violence incident reporting, charges laid as a result of

¹ For a full version of the terms of reference for the Royal Commission into Family Violence, please refer to Attachment A.

family violence incidents, intervention order applications and breaches of those applications.²

The 2013-14 Victoria Police Crime Statistics report indicates that there were 65,393 recorded family incident reports,³ an 8 percent increase when compared with the previous year, which recorded 60,550 family incident reports.⁴ In reference to charges, in the 2013/14 period there were 29,403 family incidents attended by police, which resulted in charges being laid against one or more parties involved. This represents an increase of 14.2 percent from the previous year (25,745).⁵

Family Violence Intervention Order (FVIO) applications and breaches of FVIOs have also increased. In the 2013/14 financial year, the Magistrates' Court reported hearing 50,208 FVIO related matters,⁶ which is an increase of 5 percent.⁷ The number of interim intervention orders granted has also grown 9 percent since the previous financial year, with 15,073 of these made in 2013/14.⁸

A greater number of FVIO hearings coming before the Magistrates' Court also translates to larger numbers of people requiring the assistance of Victoria Legal Aid's (VLA) services. VLA reported in 2013/14 that family violence matters made up:

- 72 percent of all duty lawyer services in the Family, Youth and Children's Law program; and
- almost 40 percent of all Family, Youth and Children's Law program matters.⁹

2.2 What is the incidence of family violence in the Victorian Aboriginal community?

Aboriginal people experience violence at a higher rate. The following Victoria Police data indicates that there has been a significant increase in family incident reporting, intervention orders and family violence offending over the past several years in families where Aboriginality is identified. However, the data set out below should be interpreted with caution, as there is a high-incidence of under-reporting of family violence amongst the Aboriginal community. The reasons for under-reporting are varied but are believed to include fear of reprisal from the perpetrator or wider family, need for protection of self or family from further victimisation and a lack of understanding about the criminal justice system.¹⁰ It should also be noted that the data used in this paper has been extracted from the LEAP database in July 2014 so may vary from the most recent Victoria Police crime statistics. The department undertakes ongoing work to monitor and update the data.

² Victoria Police 'Crimes Statistics 2013/14' (Report 27 August 2014), 3. (These statistics are drawn from the LEAP database)

³ A Family Incident Report is also known as a Family Violence Risk Assessment and Management Report and required to be completed every time a family violence incident and interfamilial-related sexual offence or child abuse is reported to police.

⁴ Victoria Police, Above n2, 15.

⁵ Ibid.

⁶ Family Violence Intervention Order related matters refers to applications for family violence intervention order, applications for variation, extension and revocation and the finalisation of original matters.

⁷ Magistrates Court of Victoria *Annual Report 2013/14*, (2014) 90.

⁸ Ibid. (There were 13,720 intervention orders granted in 2012/13).

⁹ Victoria Legal Aid, *Annual Report 2013/14* (2014) 55.

¹⁰ Amy Wignall, 'Building on what works: best practices for early intervention and prevention of family violence in Aboriginal communities' Research Paper, Depart of Justice & Regulation, June 2014, 11.

Also, further investigation is required to determine whether the increases below are an indication of increased violence, more dedicated family violence policing or more diligent recording of Aboriginal status.

Family Incident Reports

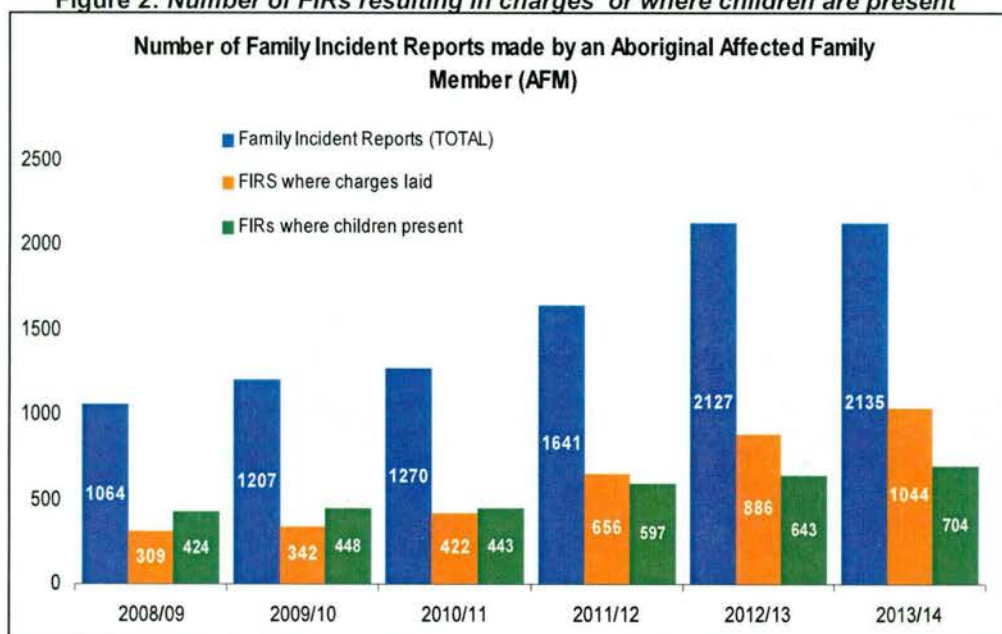
Figure 1 demonstrates that the number of Family Incident Reports (FIRs) made involving those identifying as Aboriginal has increased consistently since 2008/09 from 1064 to 2135 in 2013/14.¹¹ This represents an increase of 100.6 percent. This can be compared to the 53.6 percent increase in FIRs involving non-Aboriginal members of the community. It is also interesting to note that the number of non-Aboriginal FIRs is reported to have decreased by 6.7 percent since the previous financial year, while the number of Aboriginal FIRs has increased.¹²

Figure 1: Number of Family Incident Reports (FIRs) made by status

	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14	Change since 2012/13
Aboriginal	1064	1207	1270	1641	2127	2135	▲ 0.4%
Non-Aboriginal	20731	21725	24077	28065	34161	31856	▼ -6.7%
Unknown	12092	12745	15424	20233	24251	31356	▲ 29.3%

The number of FIRs recorded where children were present and which resulted in charges being laid is set out in Figure 2. The graph indicates that the numbers have increased consistently in both fields with the presence of children increasing by 66 percent and the number of charges increasing by 237 percent.¹³

Figure 2: Number of FIRs resulting in charges or where children are present



¹¹ Regional Aboriginal Justice Advisory Committee, *Victorian RAJAC Statistical Profile*, (2014)

1.

¹² Ibid.

¹³ Ibid.

The representation of FIRs made by Aboriginal affected family members by RAJAC region is set out in Figure 3. The highest incidence of FIRs occurs in Gippsland, Loddon Mallee, North Metropolitan and Hume.

Figure 3: Number of FIRs by RAJAC region

	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14	Change since 2012/13
Barwon South West	62	70	87	103	142	154	▲ 8.5%
East Metropolitan	19	23	27	37	64	71	▲ 10.9%
Gippsland	177	201	258	329	421	444	▲ 5.5%
Grampians	57	62	60	82	86	111	▲ 29.1%
Hume	167	119	114	154	253	269	▲ 6.3%
Loddon Mallee	290	330	374	491	612	579	▼ -5.4%
North Metropolitan	178	225	175	251	299	287	▼ -4.0%
South Metropolitan	88	142	136	141	169	150	▼ 11.2%
West Metropolitan	26	35	39	53	81	70	▼ 13.6%
Victorian	1064	1207	1270	1641	2127	2135	▲ 0.4%

In addition to the general increase in FIRs involving Aboriginal people, it is important to note that in Victoria Aboriginal people are more likely to be affected family members (AFMs) in Family Incident Reports (FIRs) than non-Aboriginal people. In the 2013-14 reporting period, there were 42 FIRs recorded on behalf of Aboriginal AFMs per 1000 Aboriginal people. This can be compared to the non-Aboriginal population in this period where 6 FIRs were recorded for every 1,000 non-Aboriginal people. Therefore, Aboriginal people are seven times more likely to be AFMs than non-Aboriginal people.¹⁴

Family Violence Intervention Orders

Figures 4 and 5 set out the number of FVIOs (both final and interim orders) that were applied for, extended, or had a Family Violence Safety Notice issued. The tables in Figure 3 and 4 set out data for both Aboriginal victims and Aboriginal perpetrators. Both tables indicate a general increase, however applications for the extension of a final FVIO have decreased for both victims and perpetrators by 60 percent and 51 percent respectively.¹⁵

Figure 4: Number of Family Violence Intervention Orders applied for by Police on behalf of Aboriginal complainants

Process	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14	Change since 2012/13
FV IVO FINAL	394	607	612	659	714	927	1000	▲ 8%
FV IVO FINAL EXTENDED	64	75	79	122	121	136	54	▼ -60%
FV IVO INTERIM	208	341	372	497	455	404	577	▲ 43%
FV IVO INTERIM EXT	37	65	40	64	<4	0	0	▼
FV SAFETY NOTICE				173	193	226	256	▲ 13%
Victorian	703	1175	1275	1515	1485	1693	1887	▲ 11%

¹⁴ Regional Aboriginal Justice Advisory Committee, *Victorian RAJAC Statistical Profile* (date unknown). (The numbers represented in this paragraph has been rounded up to the nearest decimal point.)

¹⁵ Ibid.

Figure 5: Number of Family Violence Intervention Orders applied for by Police against Aboriginal defendants

Process	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14	Change since 2012/13
FV IVO FINAL	440	514	562	646	661	777	883	▲ 14%
FV IVO FINAL EXTENDED	46	72	90	88	99	87	43	▼ -51%
FV IVO INTERIM	176	249	332	403	366	364	413	▲ 13%
FV IVO INTERIM EXT	34	60	23	63	<4	0	0	▼
FV SAFETY NOTICE				164	189	209	240	▲ 15%
Victorian	696	895	1007	1364	1315	1437	1579	▲ 10%

Breaches of Family Violence Intervention Orders

Figure 6 indicates the number of breaches of FVIOs committed by Aboriginal alleged offenders over the past eight years. There has been a steady increase in breaches since the 2007/08 reporting period with the number increasing by 269 percent. It should also be noted that the rate of breaches by Aboriginal offenders has more than doubled since the previous reporting period, which can be compared to non-Aboriginal offenders where the rate has increased by 26.7 percent.

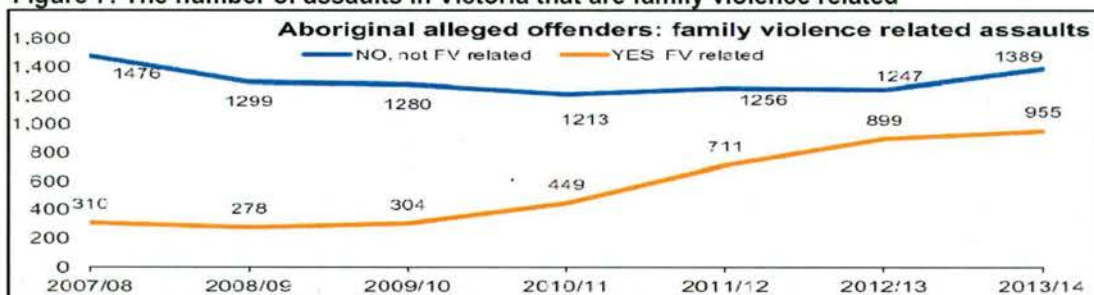
Figure 6: Number of Family Violence Intervention Orders that are reported by Police to have been breached by alleged offenders

	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14	Change since 2012/13
Aboriginal	184	230	236	281	352	435	680	▲ 56.3%
Non-Aboriginal	3410	3660	3862	4013	4999	6017	7624	▲ 26.7%
Unknown	472	871	1086	1288	1738	2719	3808	▲ 40.1%

Assault as a proportion of family violence related offences

Figure 7 indicates the number of assaults perpetrated in the Aboriginal community that are related to family violence. The graph at Figure 7 shows a steady increase since the 2007/08 reporting period with the number of assaults growing from 278 at this time, to 955 in the 2013/14 reporting period.¹⁶ This is an increase of 243 percent over the last seven years.

Figure 7: The number of assaults in Victoria that are family violence related

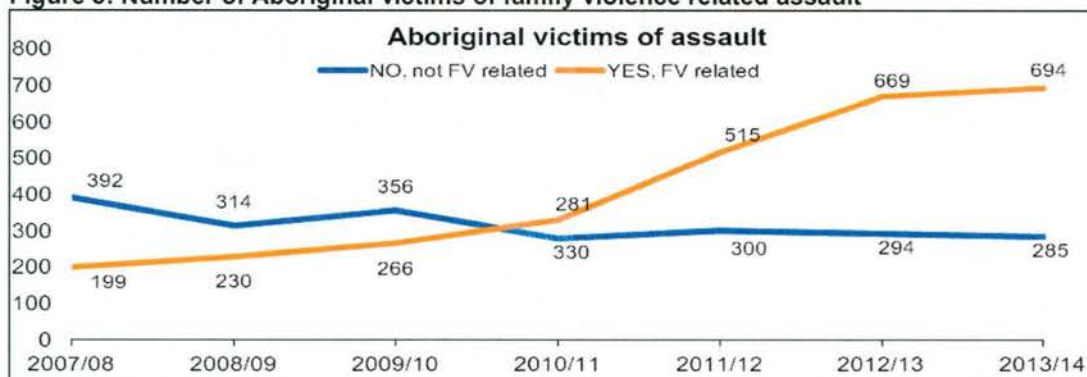


The final graph at Figure 8 indicates the number of Aboriginal victims of assault, where the assault occurred in the context of family violence. The number of assaults

¹⁶ Ibid.

has increased from 199 in the 2007/08 reporting period to 694 in the 2013/14 reporting period, an increase of 248 per cent over seven years.¹⁷

Figure 8: Number of Aboriginal victims of family violence related assault



3. FAMILY VIOLENCE RISK FACTORS

3.1 What are some of the factors contributing to family violence in Victoria?

There is no single cause or factor that leads to family violence. A number of risk factors have been identified as associated with perpetrators of domestic violence, and these include age, low academic achievement, socio-economic status, social disadvantage, isolation and exposure to or involvement in aggressive or violent behaviour from a young age, alcohol consumption and a pattern of controlling or dominating behaviour.¹⁸

3.2 What are some of the factors contributing to family violence in Aboriginal communities in Victoria?

It has been accepted that there is no single factor, but rather a multitude of interrelated factors that contribute to the occurrence of family violence in Aboriginal communities. The main factors are discussed briefly below.

Dispossession of Land and loss of traditional language and cultural practices

The theory that family violence in Aboriginal communities stems primarily from the impact of white settlement has been widely supported.¹⁹ Colonisation has seen the Aboriginal population suffer a history of dispossession, loss of family (including forced child removals), language and cultural practice. It has been suggested that this loss of cultural identity (which includes a loss of contact with traditional Aboriginal lore) has led to an assumption that "violence is part of the tribal punishment once practiced by traditional ancestors",²⁰ when it is not.

Economic exclusion and entrenched poverty

Aboriginal people report being affected by racism and stereotyping, which in turn influences their ability to obtain employment. The average rate of unemployment in Aboriginal communities is four times that of the non-Aboriginal community, with the

¹⁷ Ibid.

¹⁸ Anthony Morgan and Hannah Chadwick, 'Key issues in domestic violence', research paper, Australian Institute of Criminology, December 2009.

¹⁹ Wignall, Above n 10, 3.

²⁰ Aboriginal Affairs Victoria, 'Victorian Indigenous Family Violence Taskforce –Final Report December 2003', Report, Department of Victorian Communities, 135.

majority of Aboriginal people receiving Government benefits.²¹ Unemployment in turn leads to poverty and financial stress, which has been identified as a risk factor in family violence.²²

Alcohol and drug abuse

The Aboriginal community has identified the overuse of alcohol and drugs as an important contributor to family violence.²³ While the consumption of alcohol does not cause violence, there is persuasive evidence of the strong links between alcohol abuse, victimisation,²⁴ and violent behaviour.²⁵ Amongst other statistics, studies have found that Aboriginal offenders are much more likely to report having recently used alcohol than non-Aboriginal offenders,²⁶ and Aboriginal homicides are three times more likely to involve both the offender and victim consuming alcohol.²⁷

4. LEGISLATIVE RESPONSE TO FAMILY VIOLENCE

4.1 How does Victorian legislation address family violence in Victoria generally?

The *Family Violence Protection Act 2008* (FVPA) is at the core of the justice response to family violence in Victoria and seeks to maximise safety for victims of family violence, prevent and reduce the incidence of family violence, and hold perpetrators to account.

The FVPA provides for a civil system of FVIOs and police issued Family Violence Safety Notices (FVSN). A perpetrator who contravenes an FVIO or a FVSN commits a criminal offence which is punishable by a maximum of two years imprisonment or a fine of up to \$35,426.²⁸ The FVPA also provides for a system of mandated Men's Behaviour Change counselling.

Recent amendments

In 2013, new indictable offences for contraventions of an FVIO or Family Violence Safety Notice (FVSN) have been introduced.²⁹ These offences cover situations where a perpetrator contravenes an FVIO persistently or in circumstances where they intend to cause harm or fear. The maximum penalty for these offences is five years imprisonment or \$88,566.³⁰ In addition to this, other recent changes to the FVPA include extending the length of a FVSN³¹ and changing the restrictions on the publication of information relevant to a FVSN or FVIO.³² Finally, in amendments

²¹ *Ibid*, 140.

²² *Ibid*, 133.

²³ *Ibid*.

²⁴ Colleen Bryant, 'Identifying risks for indigenous violent victimisation', Research Brief, Indigenous Justice Clearinghouse, 3.

²⁵ Paul Memmot Rachel Stacy, Catherine Chambers and Catherine Keys 'Violence in Indigenous communities' Full Report, Commonwealth Attorney-General's Department, 26.

²⁶ Anna Macklin and Robyn Gilbert, 'Working with Indigenous offenders to end violence' Research Brief, Indigenous Justice Clearinghouse, 2.

²⁷ Bryant, above n22, 3.

²⁸ Family Violence Protection Act 2008 s123 and section 37 (Note this penalty calculation is current to July 2015)

²⁹ *Ibid* sections 125A, 123A and 125A.

³⁰ (Note: this penalty calculation is current to July 2015)

³¹ *Ibid*.

³² The Family Violence Protection (Amendment) Act 2015 provided that subject to the consent of a protected person named on an Order, the details of the respondent to the Order can be published in the media.

recently passed but not yet commenced, the Court will have the power, in some circumstances, to grant an FVIO in favour of a victim that can automatically become final 28 days after the respondent is served, if the respondent does not challenge the order.³³

4.2 How does the legislation currently respond to family violence in the Aboriginal Community?

4.2(a) Definition of family violence

The FVPA is responsive to Aboriginal conceptions of family violence through the broad definition of **family** and **family violence**. The expanded definition of family in the FVPA includes 'any relative'. This is described in section 8 of the FVPA to mean a broad range of things including 'a person who, under Aboriginal or Torres Strait Islander tradition or contemporary social practice is the person's relative'.³⁴ The definition of family violence in section 5 of the FVPA includes physical or sexual abuse, threatening or coercive behaviour or behaviour that controls or dominates the family member and causes that person to feel fear.³⁵

The definitions of family and family violence referred to in the FVPA are arguably culturally appropriate as they broaden the scope of the kinds of violence, occurring within Aboriginal communities that can come to the attention of justice agencies. However, it has been suggested that this definition still falls short of (Aboriginal) understandings of family violence and that the wide-ranging issues of violence may not always be captured by current legislation.³⁶ These issues include the following: intergroup violence, one-on-one same sex-adult fighting, self-injury, suicide, lateral violence,³⁷ and child abuse.³⁸

The definition developed by the Victorian Aboriginal Family Violence Taskforce (VIFVTF) has been suggested to reflect a more accurate interpretation of violence perpetrated within the Aboriginal community (refer below).³⁹

VIFVTF Definition of Family Violence

'An issue focused around a wide range of physical, emotional, sexual, social, spiritual, cultural, psychological and economic abuses that occur within families, intimate relationships, extended families, kinship networks and communities. It extends to one-on-one fighting, abuse of Indigenous community workers as well as self-harm, injury and suicide.'

Questions for discussion

- How could the definition of family violence under the FVPA be amended to reflect understandings of family violence in the Aboriginal community?
- What elements of the definition developed by VIFVTF could be used to inform practical responses to family violence in Victoria?

³³ Family Violence Protection (Amendment) Act 2015.

³⁴ Above n 27, section 8.

³⁵ Above n 27, section 5.

³⁶ Wignall, above n10, 7.

³⁷ Lateral violence refers to harmful behaviours (such as gossiping, bullying, shaming, social exclusion, family feuding and organisational conflict) that occur within the Aboriginal communities which stem from the sense of powerlessness that comes from being part of an oppressed group (ATSISJC 2011)

³⁸ Memmot et al, Above n24, 35.

³⁹ Wignall, Above n10, 7.

4.2(b) Sentencing of Aboriginal offenders

The FVPA has a strong focus on perpetrator accountability as is evidenced by the serious penalties applicable to a contravention of an FVIO or a FVSN.

Sentencing practices in regard to family violence have changed significantly over the past few years with the use of fines declining and the use of terms of imprisonment increasing. More specifically, the most common sentence for repeat contraventions of FVIOs is a term of imprisonment - the use of such a sentence increasing by 34 percent since the 2009/10 reporting period.⁴⁰ A consequence of this is that where perpetrators knowingly or unintentionally contravene orders, there is a higher likelihood of a sentence or Community Corrections Order being imposed.

In relation to general offending, evidence suggests that in Victoria re-incarceration is likely for 50.3 of Aboriginal prisoners, which can be compared to a rate of 35.7 percent for non-Aboriginal prisoners.⁴¹ There currently is no data on rates of recidivism and imprisonment for family violence related crimes, but given the data relating to assaults committed in a family violence context, it could be expected that tougher penalties for such offences will impact on Aboriginal family violence perpetrators.

Questions for discussion

- What evidence is there about effective interventions for Aboriginal family violence perpetrators?
- Is it necessary to consider a suite of alternative interventions specifically targeting Aboriginal perpetrators?

5. POLICE RESPONSE TO FAMILY VIOLENCE

5.1 How does Victoria Police respond to family violence in Victoria?

Code of Practice

In August 2004, Victoria Police introduced its Code of Practice for the Investigation of Family Violence (the Code) in response to criticisms that previous practices were not meeting community expectations.⁴² The central Family Violence Unit within Victoria Police is responsible for coordinating police participation in the Code, while the operation of the Code is the responsibility of police at the regional level.⁴³

The Code focuses on safeguarding victims, appropriate service referrals, carrying out investigations and prosecutions, and breaking the cycle of family violence. The practices enshrined in the Code require police to take greater action when responding to incidents, assessing immediate and future risks to the victim and pursuing criminal, civil or referral options. The Code also highlights the specific problems and vulnerability of the Aboriginal community and encourages police to provide a culturally appropriate response when dealing with members of this community.⁴⁴

⁴⁰ Ibid 10.

⁴¹ Department of Premier & Cabinet, 'Victorian Government Aboriginal Affairs Report 2013', Report, Department of Premier & Cabinet, 10. (The data indicates the percentage of prisoners who will return to prison within two years of being released).

⁴² Victorian Auditor General's Office, 'Implementing Victoria Police's Code of Practice for the Investigation of Family Violence' Auditor General's Report, June 2009, v.

⁴³ Ibid.

⁴⁴ Victoria Police, Code of Practice for the Investigation of Family Violence, Victoria Police, June 2014, 11.

Since the Code was introduced, police attendance at family violence incidents has increased. Police have also applied for more intervention orders and the numbers of investigations and prosecutions in relation to family violence have risen.⁴⁵

5.2 How does Victoria Police respond to family violence in the Aboriginal community?

Koori Family Violence Police Protocols

In 2008, the Department of Justice (now the Department of Justice & Regulation) provided funding to Victoria Police for a project to explore and identify issues associated with police response to Aboriginal family violence. Victoria Police contracted the Aboriginal Family Violence Prevention and Legal Service Victoria (FVPLS) to undertake this project as a pilot in six agreed priority areas – Bairnsdale, Darebin, Mildura, Ballarat, Shepparton and Dandenong.⁴⁶

The protocols promote a holistic response to all parties involved in a family violence incident including adult and child affected family members as well as perpetrators of the violence.⁴⁷ The protocols make police aware of local Aboriginal support services and enable them at the time to make referrals to these services when appropriate. The protocols also specify that police officers must undertake a form of cultural awareness training and that local communities and services should develop and sustain strong partnerships with local organisations.⁴⁸

Questions for Discussion

- What aspects of the protocols do you believe are effective in identifying and addressing Aboriginal family violence and could these be incorporated into the general *Code of Practice for the Investigation of Family Violence*?
- Are there any police or law enforcement projects or initiatives being carried out in other jurisdictions that could be used to address Aboriginal family violence?

6. COURT RESPONSE TO FAMILY VIOLENCE

6.1 What is the Court's response to family violence in Victoria?

Magistrates' Court specialist services

The Magistrates Court of Victoria has jurisdiction over FVIOs. Over the past decade, the Court has significantly changed the way family violence matters are dealt with, through the introduction of Family Violence Court Divisions (the Division) in 2005 and Family Violence specialist services shortly after.

The features of the division include specially assigned Magistrates, applicant and respondent support workers, family violence outreach workers, dedicated prosecutors, specialist court registrars and additional legal aid. Magistrates sitting in the Division can hear related matters at the same time as hearing an FVIO matter, such as criminal matters and family law parenting orders.⁴⁹ Men can also be ordered

⁴⁵ Above n41, v.

⁴⁶ Clear Horizon Consulting, 'Evaluation of the Koori Family Violence Police Protocols' prepared for the Department of Justice & Regulations (draft), no page reference provided.

⁴⁷ Ibid.

⁴⁸ Ibid.

⁴⁹ Magistrates Court of Victoria *Family Violence Court Programs* (4 March 2015) Magistrates' Court of Victoria < <http://www.magistratescourt.vic.gov.au/jurisdictions/intervention-orders/family-violence-court-programs> >

to attend specialist counselling programs known as 'Men's Behaviour Change programs'. Importantly, the Division focuses on recognising and responding to the needs of applicants from culturally and linguistically diverse (CALD) backgrounds, applicants with a disability, Aboriginal applicants and children affected by violence.⁵⁰

A number of Magistrates' Courts also offer specialist family violence services.⁵¹ The services are very similar to those offered by the Divisions, but Magistrates cannot hear other matters in addition to FVIO applications and cannot mandate Men's Behaviour Change counselling.

Men's Behaviour change programs

Under the FVPA, men subject to FVIOs appearing at certain Magistrates Courts can be ordered to attend a group-based Men's Behaviour Change program.⁵² The aims of this program are to increase the accountability of men who have been violent towards their families through court-directed counselling and to enhance the safety and provide support to the families of violent men. Men who refuse to attend counselling or refuse to attend an initial assessment for eligibility for counselling can be criminally prosecuted under the FVPA.⁵³ There are currently no court mandated Men's Behaviour Change programs that target Aboriginal offenders.

6.2 How do the Courts respond to family violence in Aboriginal Communities?

Koori Family Violence and Victims Support Program

In efforts to provide a more culturally appropriate response to Aboriginal and Torres Strait Islander victims and offenders in family violence matters, the Magistrates' Court of Victoria implemented the Koori Family Violence Court Support Program (now the Koori Family Violence and Victims Support Program).

The program began as a pilot in 2011 and employed a Program Manager, an Aboriginal Men's Family Violence Support Worker and an Aboriginal Women's Family Violence Support Worker. This program has been expanded by the court to include:

- providing culturally appropriate support to Aboriginal victims and perpetrators with family violence intervention order or family violence criminal related matters and VOCAT matters;
- conducting intake assessments, providing support and non-legal advice and guidance to applicants and respondents;
- conducting risk assessments and providing referrals to legal services and ongoing support where required;
- collaborating with police prosecution, duty lawyers and Aboriginal legal services to determine the best approach in offering choices for clients;
- providing secondary consultations to both Aboriginal and mainstream services;
- collecting data to monitor cases and enable the program to build a comprehensive data set to inform future service delivery;
- strengthening relationships and referral pathways with both Aboriginal and mainstream community organisations; and
- management of community engagement along with client support work.

⁵⁰ Ibid.

⁵¹ These services operate in Melbourne, Frankston, Sunshine, Werribee and Moorabbin Magistrates Court.

⁵² The Ballarat and Heidelberg Magistrates' Courts began providing FVCIP services in June 2005. Since this time, Frankston and Moorabbin Magistrates' Court have also been empowered under the FVPA to provide this service.

⁵³ Above n27, section 129 and 130

Work is currently underway to seek an ongoing funding commitment from government.

The Program was evaluated in 2012 and the evaluation generally revealed positive results. The evaluation noted clients felt the program had improved their court experience in easing their anxiety and stress about the court process.⁵⁴ Service providers reported an enhanced ability to progress cases and make timely referrals.⁵⁵ Court staff reported that clients were more receptive to court orders and were more willing to consider service provider referrals.⁵⁶ The main challenges associated with the program related to staffing and in particular the loss of staff during the course of the program. The success of the program and retention of staff would be enhanced by greater certainty of ongoing funding.

Based on the outcomes of the evaluation, the program does have the capacity to make a significant contribution toward the long-term goal of improved community confidence in both the courts and the Victorian justice system.

Koori Court

The Koori Court operates as a division of the Magistrates Court and focuses on sentencing Aboriginal defendants who have pled guilty to an offence and who have shown an intention to take responsibility for their actions.⁵⁷ In this court, Aboriginal Elders or Respected Persons, the Koori Court Officer, Aboriginal defendants and their families can contribute during a hearing.⁵⁸ The purpose of this court structure is to reduce perceptions of cultural alienation, ensure sentencing orders are appropriate to the cultural needs of Aboriginal offenders, and to assist them to address issues relating to their offending behaviour.⁵⁹ The Koori Court currently does not have jurisdiction to hear FVIO contravention matters, nor does it have the jurisdiction to hear sexual offence matters.⁶⁰ There is work currently being done to scope out the possibility of hearing FVIO contravention matters at the Koori Court and the justice and cultural implications of this change.⁶¹

Questions for discussion

- What aspects of the Koori Family Violence and Victim Support Program do you think are effective in addressing Aboriginal family violence?
- What improvements would you like to see made to this program?
- What training should general court staff receive in relation to Aboriginal family violence matters?
- Are there any models in other jurisdictions that may also be appropriate in dealing with Aboriginal family violence matters?

⁵⁴ Clear Horizon Consulting, 'Evaluation of the Koori Family Violence Court Support Program Pilot', Evaluation Report, Prepared for the Department of Justice & Regulation, (18 June 2012)

⁵⁵

⁵⁵ Ibid.

⁵⁶ Ibid.

⁵⁷ Magistrates' Court of Victoria, 'Koori Court', (4 March 2015) Magistrates' Court of Victoria, <http://www.magistratescourt.vic.gov.au/jurisdictions/specialist-jurisdictions/koori-court>.

⁵⁸ Ibid.

⁵⁹ Ibid.

⁶⁰ Court Services Victoria, 'Review of the Koori Court Model', Background Paper, date unknown, 2.

⁶¹ Ibid.

7. CORRECTIONS VICTORIA'S RESPONSE TO FAMILY VIOLENCE

7.1 What is Corrections Victoria's response to family violence in Victoria?

Corrections Victoria currently administers two programs aimed at addressing the violent behaviour of offenders - the *Men's Behaviour Change Program* and the *Domestic Abuse Program*.

The Men's Behaviour Change Program is a 13 session (26 hour) program that provides an opportunity for perpetrators of violence to accept responsibility for their behaviour and teaches them to respond to conflict or emotional situations with confidence and self-control.⁶² Men's Behaviour Change programs are directed towards low risk offenders in the community who have either received a condition on their Community Corrections Order mandating attendance at a Men's Behaviour Change program, or a non-mandated relevant treatment and rehabilitation condition.

The Domestic Abuse Program is a 20 session (40 hour) rehabilitative group intervention program targeting moderate to high risk offenders serving Community Corrections Orders or custodial sentences for domestic and family violence related offences. Each Domestic Abuse Program is accompanied by a Partner Contact service, which has been developed to offer an opportunity for partners of violent offenders to access supports, information and referral pathways. The Partner Contact service also has the function of holding perpetrators accountable if they continue to demonstrate abusive behaviour towards their partner during the program's duration. Studies evaluating the effectiveness of the program have shown significant reductions in reoffending rates in the Domestic Abuse Program treatment group and a longer time period between reoffending.⁶³

7.2 What is Corrections Victoria's response to family violence in the Aboriginal community?

The *Dardi Munwurro* "Strong Spirit" Building Strong Communities Program aims to engage Victorian Aboriginal men to address personal, relationship and behavioural issues that directly impact on family violence. This is achieved by drawing on traditional values and understanding of men's issues, and by using models that enable men to respond appropriately to life's challenges.

The program works closely with the Aboriginal Community and local services through the establishment of a local Steering Committee and through engaging community stakeholders. In 2010, three *Dardi Munwurro* programs were delivered across Victoria, and consisted of an initial one-day introduction and engagement session, a three-day workshop, four half-day post workshops and four half-day follow up sessions.⁶⁴ Since 2010, no further *Dardi Munwurro* programs have been delivered by Corrections Victoria.

An interim evaluation of the *Dardi Munwurro* program was completed in 2014 and revealed positive results. In particular, the evaluation revealed the program was achieving:

- improved communication and problem solving skills;

⁶² Corrections Victoria, 'Offending Behaviour Programs - MBCP and DAP', prepared for the Department of Justice & Regulation, (5 March 2015) 1.

⁶³ Ibid.

⁶⁴ Corrections Victoria 'Dardi Munwurro Program overview' Department of Justice & Regulation, 4 March 2015, 1.

- greater recognition of the roles and responsibilities of Aboriginal men;
- improved confidence, resilience and leadership;
- better understanding of family violence and intergenerational trauma;
- improved capacity to recognise the impact of one's behaviour on others; and
- increased awareness and use of support services.⁶⁵

A final evaluation of the program has not yet been undertaken, but based on the outcomes of the interim evaluation, it may be useful to consider how a tailored approach to violence prevention for Aboriginal offenders could be rolled out and expanded.

Questions for discussion

- What aspects of the *Dardi Munwurro* program do you consider to be effective in addressing Aboriginal family violence?
- What do think the key features would be of a program developed for female Aboriginal perpetrators of violence?
- Are there other family violence programs run by corrective services in other jurisdictions that could be used to address Aboriginal family violence?
- Are there any aspects of those programs that could be integrated into the delivery of current Corrections programs?

8. DEPARTMENT OF JUSTICE & REGULATION'S RESPONSE TO VIOLENCE PREVENTION

8.1 What is the Department's response to the prevention of violence against women and children through the delivery of programs?

Reducing Violence Against Women and their Children

In 2011-12, the Victorian government funded eight *Reducing Violence Against Women and their Children* (RVAWC) grants as part of the Community Crime Prevention Program. The recipients were awarded one-off grants of up to \$600,000 over a three year period for projects in each of Victoria's eight regions. The projects addressed a range of issues including:

- promoting equal and respectful relationships between men and women during their transition to parenthood;
- working across local government, workplaces and sporting settings to coordinate a region-wide approach to preventing violence against women;
- bringing about structural and systemic organisational change to promote gender equitable and non-violent workplace cultures; and
- working within local government and faith-based settings to train and build the capacity of male leaders in preventing violence against women.⁶⁶

8.2 What is the Department's response to the prevention of violence against women and children in Aboriginal communities through the delivery of programs?

Koori Community Safety Grants

⁶⁵ Ibid 2.

⁶⁶ Department of Justice & Regulation, *Reducing Violence Against Women and their Children grant projects*, (6 March 2015) Department of Justice & Regulation <http://www.crimeprevention.vic.gov.au/home/our+grants/reducing+violence+against+women+and++their+children/reducing+violence+against+women+and+their+children+grant+projects> .

As part of the wider RVAWC program grants program, \$2.4 million was provided to support accessible, culturally appropriate initiatives that specifically addressed the needs of Aboriginal communities. The result was the Koori Community Safety Grants Program (KCSGP). The KCSGP provided opportunities for Aboriginal Controlled Organisations (ACCOs) to work in partnership with each other to address the unique forms of violence experienced by Aboriginal people, including family violence.⁶⁷

In 2013, the grants for four KCSGP projects (each of three years duration) were awarded to ACCOs across Victoria. The four programs were:

- *Family and Community Violence Prevention Project* delivered in the Mallee District and targeted Aboriginal communities Mildura and Swan Hill;
- *Aboriginal Family Harmony Project* delivered in Greater Shepparton;
- *Strong Men; Strong Communities Project* focuses on Aboriginals in the East Gippsland region; and
- *Strong Relationships. Strong Community Project* which services communities in Northern Metropolitan Melbourne.⁶⁸

While all projects were aimed at preventing violence and early intervention in Aboriginal communities, they also sought to achieve additional aims through a combination of different activities. Activities involved all members of the community, and included workshops, behaviour change programs, media campaigns, camps and gender-specific health programs.

One of the gender specific programs for women is *Sisters Day Out*. This is a workshop program aimed at strengthening the role Aboriginal women play in relation to family and community. The program involved Elders and brought Aboriginal women together across generations in celebration of culture, family and community. One of the gender-specific programs for men is the *Dardi Munwurro program*, which is described in the corrective services context above. For further information on the programs please refer to Attachment B.

An interim evaluation of the grants programs revealed that they were achieving:

- an increased understanding of Aboriginal culture, traditions and identity;
- recognition of traditional gender roles and their equal importance;
- new and renewed connections between individuals within the community;
- improved understanding of what constitutes violent behaviour;
- improved understanding of the services available; and
- improved understanding of the issues unique to Aboriginal victims and perpetrators of family violence.⁶⁹

An interim evaluation of the programs indicated positive outcomes, with the evaluation revealing the establishment of new partnerships and relationships with local organisations, an increased awareness of violence against women and children and an awareness of appropriate support services.⁷⁰

Questions for discussion

⁶⁷ Wignall, Above n10,21.

⁶⁸ Koori Justice Unit, 'Interim Process Evaluation- Koori Community Safety Grants summary report', Department of Justice & Regulation, June 2014, 4.

⁶⁹ Ibid, 17.

⁷⁰ Willis, Matthew, *Reducing Violence Against Women and their Children grant project: Review of progress and interim evaluation reports*, Department of Justice, August 2014, 5.

- Have you received any feedback on the effectiveness of any of the programs run under a Koori Community Safety Grant?
- In addition to *Sisters Day Out* and *Dardi Munwurro* what programs have been received positively by the Aboriginal community and why?
- Are there other violence prevention programs run in other jurisdictions that could potentially be implemented in Victoria?
- What about these programs makes them effective in identifying and addressing violence in the Aboriginal community?

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