

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

THIRD STATEMENT OF MARISA DE CICCO

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Filed on behalf of: State of Victoria
Prepared by:
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I, MARISA DE CICCO, Deputy Secretary, Department of Justice and Regulation, SAY AS FOLLOWS:

1. I am a Deputy Secretary of the Department of Justice and Regulation (**Department**). As Deputy Secretary, I have responsibility for the Criminal Justice Division of the Department. I have held this position since the Division was established in March 2014, following a restructure within the Department.
2. This is my third statement to this Royal Commission. My professional experience is set out in my first statement dated 21 July 2015.
3. I make this statement in my capacity as Deputy Secretary.

SCOPE OF STATEMENT

4. I have received a notice from the Royal Commission into Family Violence pursuant to s 17(1)(d) of the *Inquiries Act 2014* (Vic) requiring me to attend to give evidence at the Royal Commission and to provide a written witness statement.
5. In this statement, I respond to a request by the Royal Commission for information regarding Module 4 (Financial abuse and empowerment) and Module 20 (Information Sharing).
6. In relation to Module 4, I understand that the Royal Commission may be interested in the way family violence is taken into account in the infringements process, which was raised in evidence given to the Royal Commission as part of this module. In particular, I respond to the joint submission of the Federation of Community Legal Centres and the Financial and Consumer Rights Council Inc. dated 29 May 2015

(joint submission). I also respond to certain points made in relation to the infringements system in the statement of Mr Denis Nelthorpe dated 7 July 2015.

7. In relation to Module 20, my evidence will focus on an information sharing project that is currently being developed by the Department.

MODULE 4: INFRINGEMENTS AND FAMILY VIOLENCE

8. The joint submission makes two recommendations in relation to the infringements system:

8.1 The *Infringements Act 2006 (Vic)* (***Infringements Act***) should be amended by expanding the definition of 'special circumstances' to recognise that family violence contributes to victims of family violence incurring infringements; and

8.2 The *Road Safety Act 1986 (Vic)* (***Road Safety Act***) and accompanying regulations, forms and guidelines should be amended to recognise that infringements ought to be cancelled and enforcement orders ought to be revoked where a person:

(a) declares that they were not the driver at the time of the offending; and

(b) shows (for example, through a statutory declaration, copy of an intervention order, or a support letter from a family violence worker) that they are a victim of family violence and, accordingly are unable to identify the person in control of the vehicle at the time, due to risk of retaliation and fear of retribution.

9. Mr Nelthorpe's statement describes a number of circumstances of civil debt waiver and also refers to male perpetrators driving vehicles that are registered in the names of their partners and incurring penalties in the name of their partners. He refers to the reluctance, in family violence situations, to nominate the driver and advocates that where a woman is an affected family member in a family violence intervention order the fine should be waived and no attempt should be made to recover the fine. I do not seek to respond to the question of civil debt waiver but wish to provide further information regarding infringement penalties.

The infringements system

10. Before going into detail, it may assist if I provide some general comments regarding liability under the infringements system.
11. At the outset it is important to note that from a legal viewpoint the infringements system deals with offences under the criminal law. Whilst they are usually low level offences, some infringements result from conduct that constitute risks to road safety and some result in automatic licence loss. All infringements matters would, if they proceeded to a contested hearing in the Magistrates' Court, require the infringement offence to be proved beyond reasonable doubt and can result in a criminal conviction.
12. In this regard infringement penalties differ from civil debts. If a civil debt is waived, that is the end of the matter. If an infringement penalty is to be waived because the person did not commit the relevant offence, the question remains as to who should be held responsible for the commission of the offence. If an infringement penalty is to be waived where the person did commit the relevant offence there is a question of whether the explanation for offending should excuse the offending conduct.
13. The *Infringements Act* provides a framework for the issuing and enforcement of infringements in Victoria. It provides for the issuing of infringement notices by enforcement agencies. Enforcement agencies are listed in the *Infringements (General) Regulations 2006 (Vic)* (Schedule 1) and include Victoria Police, local councils, and government departments. The infringements regime extends beyond parking and traffic fines to include a broad range of contraventions, including, for example, contraventions under the *Domestic Animals Act 1994 (Vic)*, the *Water Act 1989 (Vic)*, and the *Casino Control Act 1991 (Vic)*.
14. The Infringements Court is a venue of the Magistrates' Court, which deals with the processing and enforcement of infringement notices and penalties. The infringements system is based on administrative processing rather than a hearing before a magistrate. The role of the Infringements Court is to resolve large numbers of unpaid infringement notices lodged by enforcement agencies. This is designed to reduce the workload on judicial and administrative resources without removing the right of any individual to appear before a magistrate (which I refer to below).
15. Broadly, the infringements system in Victoria involves three 'stages' that occur when payment of an infringement amount remains outstanding:

- 15.1 **The infringements stage** – The first stage begins when an enforcement agency issues an infringement notice. The notice will specify the period within which the fine is to be paid or further action is to be taken by the recipient (see ss 13 and 14 of the *Infringements Act*). Generally, the options available to a recipient at this stage are to:
- (a) pay the fine in full;
 - (b) apply to the enforcement agency for additional time to pay the fine, or arrange to pay by instalments (s 46 of the *Infringements Act*);
 - (c) apply to the enforcement agency for internal review or withdrawal of the fine (s 22 of the *Infringements Act*);
 - (d) elect to have the matter heard and determined in court (ss 16 and 30 of the *Infringements Act*);
 - (e) apply to cancel the infringement notice in certain circumstances where the person is not aware that an infringement notice has been served (s 37 of the *Infringements Act*); or
 - (f) nominate another driver as responsible for the offence if the infringement notice relates to an 'operator onus offence' for the purposes of Part 6AA of the *Road Safety Act*. I refer to operator onus offences below, in paragraph 18.
- 15.2 If the notice is not paid and no other action taken, a penalty reminder notice will be issued. In practice, it is common for a reminder notice to be issued, followed by a final warning letter if the recipient takes no action. If there is still no action the enforcement agency may lodge the details of the infringement penalty with the Infringements Registrar at the Infringements Court (s 54 of the *Infringements Act*).
- 15.3 **The enforcement order stage** – Following lodgement with the Infringements Court, the Infringements Registrar may then make an enforcement order pursuant to s 59 of the *Infringements Act*. An enforcement order is deemed to be an order of the Magistrates' Court. There is provision under the *Infringements Act* for the enforcement agency to request the Infringements Registrar not to make an enforcement order (s 58 of the *Infringements Act*). The making of the enforcement order will

incur costs in addition to the infringement penalty. Generally, the options available to the recipient of an enforcement order are to:

- (a) apply to the Infringements Registrar to revoke the enforcement order (see ss 65 and 66 of the *Infringements Act*);
- (b) apply for an extension of time in which to pay the fine, or to pay the amount in instalments (s 76 of the *Infringements Act*); or
- (c) pay the amount owing in full.

15.4 If the amount due under the enforcement order remains unpaid, a notice of intention to issue a warrant is sent to the person who is the subject of the order.

15.5 **The warrant stage** – If more than 28 days have passed after the enforcement order has been issued and no action has been by the person the subject of the order, in accordance with s 80 of the *Infringements Act* the Infringements Registrar must issue an infringement warrant. When the warrant is issued, an additional fee is added to the amount owing. An infringement warrant authorises the police or sheriff to, without notice, immobilise, detain, or seize the person's car (ss 96 and 97 of the *Infringements Act*), or to direct VicRoads not to renew the person's car registration or licence (ss 114 and 115 of the *Infringements Act*).

15.6 Before the warrant can be executed and more serious action taken, such as seizure and sale of property, and arrest, a 'seven day notice' must be personally served on the person the subject of the order (s 88 of the *Infringements Act*). In essence this notifies the person that the warrant is about to be executed and gives them seven days to take action.

15.7 The options available to a person the subject of an infringements warrant vary depending on whether or not the warrant has been executed:

- (a) before the warrant has been executed, including during the seven day notice period, the options available to the person who is the subject of the order are the same as I have outlined above as for the enforcement order stage; and

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(b) after the warrant has been executed, there are limited options available and these depend on the enforcement action that is taken in execution of the warrant. The Sherriff is authorised to, among other things, search and seize property, negotiate a community work permit in payment of the outstanding amount, or have the person brought before the Magistrates' Court for sentencing under s 160 of the *Infringements Act*.

16. The steps described above and the timeframes between each step are described further in **Attachment MD-1** to this statement.
17. Requests for revocation of enforcement orders are not available for offences relating to excessive speed, drink-driving, or drug-driving offences (s 63A of the *Infringements Act*). Pursuant to s 63A(2), it is possible for an enforcement agency to make an application for revocation of an enforcement order for these types of offences, however this rarely occurs.

Operator onus offences

18. The policy behind the infringements system in Victoria with respect to 'operator onus offences' under the *Road Safety Act* is that the 'operator' of a motor vehicle - defined to include the registered operator under s 84BB - is guilty of the offence as if they were driving, or in charge of, the motor vehicle at the time of the offence. Pursuant to s 84BC of the *Road Safety Act*, an operator onus offence is one which is expressly stated to be an operator onus offence for the purposes of Part 6AA of the *Road Safety Act*.
19. Operator onus offences apply to certain offences where the identity of the person driving, or in charge of, the motor vehicle is not established at the time the offence is committed. This can occur where the offence is detected by an automated device, where that device does not establish the identity of the driver.
20. Pursuant to s 84BE of the *Road Safety Act*, the operator may avoid liability by nominating the actual person driving as responsible for the offence. The operator can avoid liability this way by giving:
- 20.1 a known user statement; or
- 20.2 a sold vehicle statement.

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21. An operator can also avoid liability if they are unable to nominate another individual by giving:
- 21.1 an illegal user statement;
 - 21.2 an unknown user statement.
22. I describe each of these four forms of notification under the heading 'Current legislative options'.
23. Many of the offences detected by automated devices relate to road safety issues, for instance speeding and red light infringements, whilst others, such as tolling and parking infringements, do not. However, as I have stated above, all are offences under the criminal law. Therefore the legislation is based on an expectation that someone is to be held responsible for the offence and the starting point is the operator.
24. If the operator is not to be held responsible then, subject to the exceptions described below, it is the person nominated by the operator.

Issues to be considered

25. The infringements system in Victoria can add to the difficulties faced by victims of family violence (for the purposes of this statement I will refer to victims of family violence as **affected family members**). Whilst the issues are not common, the concerns can arise in at least two ways. The affected family member may:
- 25.1 face a situation where infringement penalties with respect to operator onus offences accumulate in his or her name when he or she owns a car that is being used by the perpetrator of family violence in the commission of an offence; or
 - 25.2 raise no objection to being nominated for infringement penalties by the perpetrator when the perpetrator was the driver at the relevant time.
26. Examples of these offences include speeding, disobeying a red light, parking and tolling offences. As I have stated above, these offences are detected by automated devices or authorised officers and therefore the enforcement agency does not know the identity of the driver.

27. For the purpose of this statement I will describe these as **Identity Issues**, as they relate to circumstances where the affected family member did not commit the offence that is the subject of the infringement notice.
28. A further issue relates to circumstances where the affected family member may incur infringements that are caused by family violence circumstances. For example, speeding infringements incurred when fleeing from an abusive partner, parking tickets incurred when the affected family member cannot return home and public transport infringements when the affected family member is denied access to funds to purchase a myki.
29. For the purpose of this statement I will describe these as **Causation Issues**, as they relate to circumstances where the affected family member committed the offence that is the subject of the infringement notice but his or her conduct was caused by family violence.
30. One of the key challenges in dealing with these issues has been a lack of knowledge on the part of enforcement officials. Other than Victoria Police, none of the many enforcement agencies (the agencies that issue infringement notices, such as local councils) will be aware of the existence of family violence circumstances in a particular case and nor will the Infringements Court (the body that enforces unpaid infringements) unless this is brought to their attention by the affected family member.
31. Whilst members of Victoria Police may know of the existence of family violence circumstances, they will not know whether Identity Issues or Causation Issues exist in relation to an infringement, unless this is brought to their attention by the affected family member. I will address this knowledge issue in more detail later in this statement.
32. Whilst Identity Issues and Causation Issues do occur, the experience of Departmental officers, such as Sheriffs, and enforcement agencies is that these issues are not common. Despite this, the area is clearly one that requires consideration for reform.

Current legislative options to avoid liability

33. As I have stated above, Part 6AA of the *Road Safety Act* provides options for operators of motor vehicles to avoid liability, if they were not driving the motor vehicle at the time of the offence, by making:

33.1 **an illegal user statement**, which is a written statement describing their belief that at the time of the offence the motor vehicle (or trailer) was stolen (see the definition in s 84BB of the *Road Safety Act*);

33.2 **a known user statement**, which is a written statement:

(a) to the effect they were not driving, or that they did not have possession or control of the motor vehicle, at the time of the offence; and

(b) containing sufficient information to identify and locate the person who they last knew to have, before the offence, possession or control of the motor vehicle (or trailer) (see the definition in s 84BB of the *Road Safety Act*);

33.3 **a sold vehicle statement**, which is a written statement:

(a) that they sold or disposed of the motor vehicle before the time of the offence; and

(b) that they were not driving, nor did they have possession or control of the motor vehicle (or trailer) at the time of the offence; and

(c) containing sufficient information about the person to whom it was sold to, disposed of to, or otherwise vested in, and the date when this occurred (see the definition in s 84BB of the *Road Safety Act*); and

33.4 **an unknown user statement**, which is a written statement:

(a) to the effect they were not driving, or that they did not have possession or control of the vehicle, at the time of the offence; and

- (b) do not know and could not with reasonable diligence, ascertain the identity of the driver (see the definition in s 84BB of the *Road Safety Act*).

34. However, these options provide little scope to deal with the Identity Issues I have described earlier. Notification may not be an option for those who are at risk of experiencing family violence, because it requires them to nominate an abusive partner who will then be pursued for the offence. Some affected family members may be reluctant to make a notification for fear of reprisal by the perpetrator.

35. The *Infringements Act* also provides options, but these options provide little scope to deal with the Identity Issues. The options include:

35.1 **Internal review** – At the infringement notice stage a person can apply for internal review by the enforcement agency under s 22 of the *Infringements Act*. An internal review can be requested on one or more of the following grounds:

- (a) that the decision was made contrary to law or involved a mistake of identity;
- (b) that 'special circumstances' apply to the person; or
- (c) the conduct for which the infringement notice was served should be excused having regard to any exceptional circumstances relating to the offence.

35.2 'Special circumstances' are defined in s 3 of the *Infringements Act* in relation to a person to mean:

- (a) where a mental or intellectual disability or a serious drug or alcohol addiction has resulted in the person being unable to understand that the conduct constitutes the offence, or unable to control conduct that constitutes the offence; or
- (b) where homelessness has resulted in the person being unable to control the conduct which constitutes the offence.

35.3 'Exceptional circumstances' is not defined in the *Infringements Act*.

- 35.4 On an internal review made other than on the basis of special circumstances, the enforcement agency can decide to, amongst other things:
- (a) withdraw the infringement notice and take no further action;
 - (b) withdraw the infringement notice and issue an official warning in its place;
 - (c) confirm the decision to serve an infringement notice; or
 - (d) withdraw the infringement notice and refer the matter to the Magistrates' Court (s 25 of the *Infringements Act*).
- 35.5 On an internal review made on the grounds that special circumstances apply to the person, the enforcement agency may:
- (a) confirm the decision to serve an infringement notice and refer the matter to the Magistrates' Court;
 - (b) withdraw the infringement notice and issue an official warning in its place; or
 - (c) withdraw the infringement notice and take no further action.
- 35.6 Special circumstances and exceptional circumstances are both avenues that relate to excusing the conduct that gave rise to the offence. Therefore, they could provide a basis for withdrawing an infringement notice where Causation Issues apply, but they are not readily applicable to Identity Issues. However, special circumstances do not currently include family violence issues.
- 35.7 **Revocation of enforcement order** – Once an enforcement order has been made, there is an option to apply to the Infringements Registrar for revocation of the enforcement order. As I have outlined above, such an application can be made until the point when an infringements warrant has been made and executed, or where the circumstances set out in s.65(2) of the *Infringements Act* have occurred.
- 35.8 Where a person subject to an enforcement order has made an application for revocation of that order, the Infringements Registrar must revoke the

enforcement order if satisfied that there are sufficient grounds for revocation (s 66 of the *Infringements Act*). This is a decision for the Infringements Registrar, but it is conceivable that family violence could provide 'sufficient grounds'. The term 'sufficient grounds' is not defined in the *Infringements Act*.

- 35.9 The Infringements Registrar may revoke the enforcement order and cancel the infringement notice if satisfied that the applicant was not the driver and has nominated the driver (s 66(4) of the *Infringements Act*). Again, it is acknowledged that in matters involving family violence an affected family member may not be in a position to nominate the driver.
- 35.10 If an enforcement order is revoked, the parties must be notified and the matter of the infringement offence must be referred to the Magistrates' Court for hearing (s 66(5) of the *Infringements Act*). Upon receiving notification that an enforcement order has been revoked, the enforcement agency may request the Infringements Registrar not to refer the matter to court (s 69 of the *Infringements Act*).
- 35.11 In circumstances of family violence, if the matter were referred to court, the affected family member would be required to attend court and enter a plea of guilty or not guilty. As the law currently stands in relation to operator onus offences, if the affected family member was not driving the motor vehicle at the time of the offence, but was the registered owner, the affected family member would be found guilty of the offence (unless the defence in s 84BH of the *Road Safety Act* applies). If the affected family member pleads guilty to the offence then their circumstances of family violence may be taken into account by the court in a plea in mitigation.
- 35.12 **Enforcement** – Broadly, if an infringement warrant is executed and the person has insufficient personal property to seize and sell to cover the amounts outstanding, and the person does not consent or is ineligible for a community work permit, the person must be brought before the Magistrates' Court. The powers of the court in this context are set out at s 160 of the *Infringements Act*. The Court may order that the person be imprisoned for a period of one day in respect of each penalty unit to the amount of the outstanding fine. If the Court is satisfied that the person has a mental or intellectual impairment or illness, that special circumstances

apply, or that, having regard to the person's circumstances, that imprisonment would be unduly excessive or harsh, the Court may make a range of orders. This includes discharging the outstanding fines in full or in part, ordering the person be imprisoned in relation to the outstanding undischarged amount, or ordering the person to pay the outstanding undischarged amount. The Court may also adjourn the further hearing of the matter for a period of up to six months. This is generally done to allow the person an opportunity to pay all or part of the outstanding amount. Where the Court considers that imprisonment would be excessive or unduly harsh, the Court can also order that person comply with a community work order.

The challenges

36. As mentioned earlier in this statement, one of the key challenges is the lack of knowledge by enforcement agencies as to the existence of family violence circumstances and, if they are known, whether they resulted in an Identity Issue or a Causation Issue. In addition, any new approach must be developed in the context that infringements offences concern breaches of the criminal law.
37. In developing a new approach to these issues, consideration must also be given to issues, such as the following:
- 37.1 What information should be required to demonstrate that a family violence situation exists and that:
- (a) there is a threat that violence will occur if the abusive party is named as the offender; or
 - (b) the family violence circumstances caused the commission of the offence by the affected family member?
- 37.2 If an enforcement official, such as a Sheriff's Officer or a local council employee, is notified of a family violence situation by a person named in an infringement notice, what structures will need to be put in place to support that person and provide or enable access to agencies that can assist?
- 37.3 Whether liability may be transferred to the actual driver at some point in time, and by what process, will depend on whether this can occur without creating a risk of violence. This is especially relevant where the

infringement offence has road safety implications, which make it important that the wrongdoer recognises that his or her conduct was an unacceptable breach of the law.

- 37.4 Is a judicial decision needed in order to remove liability for an infringement from one person, to decide whether or not another person should bear that liability and, where applicable, decide the identity of that person?
- 37.5 Should an enforcement official, for example a Sheriff's Officer or an official of the Infringements Court, be obliged to make a report to Victoria Police if a person notifies them that he or she is an affected family member in the context of seeking consideration of special or exceptional circumstances? Consideration is also required as to what should occur if the affected family member does not want the matter to be reported.
- 37.6 How would a new approach apply to excessive speed cases? These are infringement offences that have clear road safety implications as they relate to speeds in excess of 25 kmph over the speed limit and result in automatic licence suspension after 28 days. As I have stated above, these are currently excluded from the revocation process.

Potential for future development

38. The Department has been examining options to reduce the level and impact of infringement fine debt on affected family members, including issues associated with nominations and as part of proposals to broaden the 'special circumstances' test. However, the Department has deferred consideration of these issues until the Royal Commission into Family Violence reports its findings and recommendations.
39. The issues I have described go beyond the question of debt waiver and demonstrate the need to consider what action, if any, should be taken in regard to the commission of the underlying offence. Decisions in relation to a number of these issues would be more appropriate for a judicial officer rather than an administrative officer. Accordingly, the Department's view is that the preferable approach is for these matters to be raised and addressed in the context of family violence intervention order proceedings in the Magistrates' Court. Such an approach also addresses the difficulties faced by enforcement agencies and the Infringements Court in identifying family violence cases where waiver should be considered.

40. Taking into account the challenges I have mentioned, the current thinking within the Department is that there are two parallel avenues to address the situation:
- 40.1 Changes could be made to relevant forms, processes and proceedings in the Magistrates' Court so that there is a requirement to ask the affected family member whether he or she has any outstanding infringements resulting from Identity Issues and/or Causation Issues. If so, the infringement matters could then be brought before the Court and dealt with at the same time as the family violence proceedings, with a magistrate deciding whether infringements will be waived and whether liability should be transferred to another person. However, it would be important that this be a separate proceeding so that any dispute regarding liability for the infringements does not create the need to defer the family violence proceedings.
- 40.2 Concurrent with the changes described above, it will be necessary to consider changes to existing infringements legislation so that internal review and revocation processes include a means by which Identity Issues and Causation Issues caused by family violence circumstances are able to be identified and satisfactorily managed. This may be by way of an expansion of the special circumstances category that enables a matter to be taken before a magistrate to decide whether infringements will be waived and whether liability should be transferred to another person.
41. Consideration of these changes is currently at a high level and there are many details to be addressed, particularly as the liabilities relate to criminal law offences, not civil law obligations. Having said that, it should be noted that some changes will be made upon the commencement of the *Fines Reform Act 2014 (Vic)*. This Act will, amongst other things, appoint the Director, Fines Victoria, whose functions will include overseeing, monitoring and reporting on the infringement activity of enforcement agencies and the operation of internal review processes.
42. Under the *Fines Reform Act 2014 (Vic)* the Director, Fines Victoria will also have an enforcement review function. Pursuant to this review function, a person served with a notice of final demand, in respect of certain infringement offences, may apply to the Director for review of the decision by the enforcement agency to serve the infringement notice and to enforce the infringement fine. The grounds for review include special circumstances as well as exceptional circumstances.

43. This centralisation should assist applicants and enable a more consistent application of policy for family violence matters. Implementation and monitoring of the application of the agreed protocols by the enforcement agencies will be more readily managed.
44. As noted above, one of the challenges will be the question of whether an enforcement official, such as a Sheriff's Officer or an official of the Infringements Court, should be obliged to make a report to Victoria Police if a person notifies them that he or she is in a family violence situation, especially if the affected family member does not want the matter to be reported.
45. The Department could consider whether the model used in drug courts (wherein specialist staff are trained to deal with debt issues in the course of addressing other matters related to that person) could be applied to family violence situations. This would require legislative change and further training of family violence staff at the courts, but would more efficiently address matters for the victim in a specialised context.
46. Development and implementation of new approaches will also require consultation by the Department with a range of stakeholders, including the Magistrates' Court, Community Legal Centres, the Infringements Standing Advisory Committee, Victoria Police, enforcement agencies, and the Infringements Court.
47. Identification of these issues has already commenced and the Department will be ready to proceed quickly once the recommendations of the Royal Commission have been received.

MODULE 20: INFORMATION SHARING PROJECT

Family violence information sharing

48. In the context of family violence, information sharing supports a risk management strategy, allowing entities to exchange critical information about victims and perpetrators to prevent or reduce the risk of further escalating violence causing severe injury or death.
49. Information sharing also enables early intervention, prevention and protective strategies to be implemented. It also minimises unnecessary duplication between agencies and reduces the number of times a victim must repeat their story.

50. It has been acknowledged that in many circumstances, important information regarding family violence matters is not being shared across the civil (family violence intervention orders) and criminal systems.
51. In November 2014, funding of \$2.5 million was committed by the former Victorian Government for the exploration of information sharing strategies. This commitment has been maintained by the current Government. This funding was allocated to the Department to develop the project (\$2 million in 2015/2016 and \$0.5 million in 2016/2017).

Project to scope an information sharing system

52. Justice entities such as the Magistrates' Court of Victoria, Victoria Police, Corrections Victoria and Victoria Legal Aid are currently prevented from sharing information due in part to incompatible information technology (IT) systems.
53. This incompatibility can lead to inefficient processes and ineffective outcomes such as:
- 53.1 inability to track cases across multiple data systems or adequately track family violence history;
 - 53.2 inability to identify, track or adequately monitor perpetrators or flag triggers that are likely to lead to escalating violence; and
 - 53.3 inability to identify cases across multiple jurisdictions, leading to multiple hearings.
54. As such, the Department's information sharing project aims to:
- 54.1 identify barriers to information sharing between justice entities;
 - 54.2 determine how information sharing systems and processes can be improved, and what technical support is required; and
 - 54.3 conduct a pilot of software that will support the Department's information sharing needs.
55. It is anticipated that improved information sharing software capacity will create efficiencies across the justice entities, providing a more seamless and timely response to family violence.

56. The pilot will initially be limited to justice entities and will follow identification of 'off the shelf' software that is deemed to be fit for the purpose. Piloting the identified software with relevant agencies and analysing outcomes is a means of evaluating the suitability of the software to strengthen the justice system's response to family violence matters. It is expected that it will be completed during 2016-17. The results of the pilot project may inform consideration as to whether such an information sharing strategy could be implemented across other government departments or to assist in the implementation of the Royal Commission's recommendations.
57. The potential barriers to information sharing between the justice entities include not only the technological barriers but also the various legislative provisions that impose obligations on justice entities to maintain the privacy and confidentiality of personal information. Accordingly, while the IT based solutions are being investigated in the information sharing pilot project, the Department will consider policy and/or practice based strategies to address these barriers by:
- 57.1 seeking approval of an information sharing model from the Privacy and Data Protection Commissioner;
- 57.2 establishing State-wide and/or local level protocols/memoranda of understanding between all relevant agencies; and
- 57.3 if necessary, seeking appropriate amendment of existing legislation.

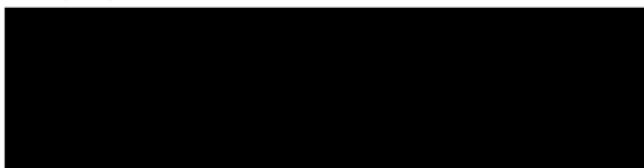
Signed by MARISA DE CICCO)

at Melbourne)

this 7th day of August 2015)



Before me



An Australian legal practitioner
within the meaning of the
Legal Profession Uniform Law (Victoria)