



Royal Commission
into Family Violence

Volume I

Report and recommendations

March 2016

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The Hon. Marcia Neave AO – Commissioner
Patricia Faulkner AO – Deputy Commissioner
Tony Nicholson – Deputy Commissioner

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Royal Commission
into Family Violence

The Hon. Linda Dessau AM
Governor of Victoria
Government House Drive
Melbourne Victoria 3004

29 March 2016

Your Excellency

In accordance with the Letters Patent dated 22 February 2015 and amended Letters Patent dated 23 December 2015, we have the honour of presenting to you the report and recommendations of the Royal Commission into Family Violence.

Yours sincerely,

The Hon. Marcia Neave AO
Commissioner

Patricia Faulkner AO
Deputy Commissioner

Tony Nicholson
Deputy Commissioner

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Acknowledgements

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In just over a year the Commission had to establish an office, appoint staff, absorb submissions, conduct consultations and public hearings and undertake research and analysis. Some staff members were with us for the whole of the Commission's term, others joined us for extended periods, and yet others contributed intensely over short periods. We could not have completed our final report without the extraordinary dedication, knowledge and hard work of all of these people. We thank them all.

The Commission's Chief Executive Officer, Mary Polis, provided exceptional leadership, advice and support. She managed Commission staff with calm and confidence, and her intellectual rigour and ideas contributed to all aspects of the report. As well as overseeing the operations of the Commission, she drafted a number of chapters and gave helpful guidance on the structure of others. She also liaised with government.

From the beginning the Commission was aware of the benefit of learning from the many dedicated people who have worked in the area of family violence over many years, as well as the importance of hearing from people affected by family violence. We also sought to inform the community about the prevalence and effects of family violence and to encourage individuals and organisations to become involved in its prevention. Our Director of Community Engagement, Annie Tinney, was responsible for overseeing our community consultation and submission processes. Annie brought a wealth of experience about policy development and community engagement processes. She oversaw the production of our final report, and managed our support team so that they were able to meet tight deadlines, despite their heavy workload. The work she did and her advice to the Commissioners was invaluable.

Lana Kolyunski took primary responsibility for arranging visits around Victoria and contacting local groups to identify the individuals and organisations with whom we should consult, as well as making sure this was a sensitively handled process. Annie and Lana were ably supported by Clare Cartledge, Emma Choy, Amy Shields and Lucy Larkins, who were unfailingly professional and adept in helping to organise our consultations, manage our submission process, assist with report production and respond to the many queries we received about the work of the Commission. Tracey Matters, our Media and Communications Manager, was vital in raising awareness of the problems of family violence with the public, and liaising with the press, especially during the public hearings. Tracey played a significant role in ensuring the quality of the design and printing the final report.

An effective response to family violence requires familiarity with a very wide range of subject areas. The Commission also had to understand and absorb the vast amount of information collected through our consultations, submissions, public hearings and roundtables. Our Research and Policy Team, headed by Michelle Burrell, rose to that challenge. Michelle challenged received wisdom and came up with original policy ideas. She inspired and supported the members of her team, oversaw the production of all drafts of the chapters in our report and wrote a number of chapters herself. Her ideas, enormous energy and leadership played a major role in shaping the final report.

Our researchers and writers included Rachael Green, Anthony Lawrie, John Maloney, Elda Colagrande, Hilary Little, Sally Finlay, Jacinth Pathmanathan, Becky Batagol, Alexia Staker, Amber Witcher and Dana Rechtman. We benefited greatly from their expertise, dedication and sheer hard work, which frequently involved them working late at night and over weekends. Tim McCarthy, our part-time librarian managed the large number of Commission resources. Our researchers were supported by a number of other contributors and a knowledgeable and skilled group of editors, led by Sam Horsfield, Kristie Dunn and Chris Pirie. Our thanks also go to the Crimes Statistics Agency for assistance with the statistics in the final report.

Our Principal Legal Advisor, Jared Heath, gave the Commission exemplary support on legal issues, and oversaw our hearing processes, the issuing of notices to produce and the legal review of the final report. Jared's advice and guidance was a valuable asset to the Commission. His legal team from Corrs Chambers Westgarth was responsible for taking witness statements and providing Commissioners and Counsel Assisting with support during the public hearings and were indefatigable and always helpful in reviewing the legal accuracy of the report. Jared and some members of his team, including Clare Parsons, Lucy Duggan, Alannah Hogan, Ben Russo and Anna Crowley also undertook research and drafted chapters or sections of the report. Evelyn Vagias also provided dedicated assistance as part of the Commission's legal team.

Our Counsel Assisting, Mark Moshinsky QC, now the Honourable Justice Moshinsky, Rachel Ellyard and Joanna Davidson, assisted the Commission during our public hearings in July/August and October 2015. Together with our legal and research teams, they identified the major issues to be explored and the witnesses who were called. The team was required to adapt hearing procedures to the policy nature of our terms of reference and did so superbly. The process of hearing witnesses concurrently to test differences of opinion enabled us to hear from a very large number of experts over a comparatively short period. The work of our legal team and Counsel Assisting helped us to refine our policy thinking in many ways.

Our thanks go to my Executive Associate, Joanna Rolfe, a former family lawyer who was well informed on the subject content and has magnificent organisational skills. Joanna performed many different functions, including providing high level support to all three Commissioners, drafting chapters for the final report, and assuming the lead on tipstaff duties during hearings. We are very grateful for her work.

We thank our corporate services team, headed by Kaye Fox, who managed all of the Commission's procurement and operational requirements. Kaye was ably supported by Pia Lindgren and Lisa Burke who together attended to the wellbeing of our team throughout the year. The Commission received considerable support from icourts, notably Kirsty Duncan and Ashley White, with our submission processes, public hearings and report compilation. The Commission received valuable IT support from Louis Carstens and Asanka Ranawaka from Dimension Data.

Finally, we thank the capable and dedicated interns, junior law graduates and other people who performed particular tasks for the Commission over short periods. We have not mentioned them by name, but acknowledge their substantial contribution.

The Hon. Marcia Neave AO
Commissioner

1 The Royal Commission and its work

Establishment

Family violence is a pervasive social harm, which blights the lives of many Victorians. To build on past reforms and to propose new ways of preventing family violence and supporting victims, the Royal Commission into Family Violence was established by Letters Patent issued by the Governor of Victoria, on advice from the Premier, on 22 February 2015. The Letters Patent appointed The Hon. Marcia Neave AO as Commissioner and Chairperson and Ms Patricia Faulkner AO and Mr Tony Nicholson as Deputy Commissioners.

This was the first royal commission to be established and conducted under the *Inquiries Act 2014* (Vic).

The terms of reference for the inquiry are set out in the Letters Patent (see Appendix A). The Commission was asked 'to inquire into and report on how Victoria's response to family violence can be improved by providing practical recommendations to stop family violence'. The terms of reference required the Commission to do the following:

- ▶ examine and evaluate strategies, frameworks, policies, programs and services and establish best practice for four areas—the prevention of family violence; early intervention to identify and protect those at risk of family violence and prevent the escalation of family violence; support for victims of family violence and measures to redress the impacts on victims, particularly on women and children; and accountability for perpetrators of family violence
- ▶ investigate means of ensuring systemic responses to family violence, particularly in the legal system and by police, corrections, child protection, legal and family violence support services—including reducing re-offending and changing violent and controlling behaviours
- ▶ investigate how government agencies and community organisations can better integrate and coordinate their efforts
- ▶ make recommendations on how best to evaluate and measure the success of strategies and programs put in place to stop family violence.

The Commission was also asked to consider the need to establish a culture of non-violence and gender equity and the needs and experiences of all those affected by family violence—among them children; older people; Aboriginal and Torres Strait Islander communities; culturally and linguistically diverse communities; gay, lesbian, bisexual, transgender and intersex communities; regional, rural and remote communities; and people with disabilities and complex needs. In addition, the Commission was asked to consider the necessity for short, medium and long-term solutions to the problem of family violence and the need for coordination across jurisdictions.

The Commission was originally asked to report its findings and recommendations to the Governor of Victoria by 29 February 2016. On 23 December 2015, following a request by the Commission, the Governor amended the Letters Patent to extend the reporting date to 29 March 2016. Appendix B is the amendment to the Letters Patent.

The Letters Patent authorised the Commission to incur expenses and financial obligations up to \$36 million. The Commission's estimated total expenditure was \$13.5 million. A statement of expenditure appears at Appendix C.

The Commission's processes

The Commission's processes reflected the distinctive nature of the terms of reference, which called for recommendations on matters of policy, rather than factual findings about particular past events. It was, therefore, important to consult victims of family violence and people and organisations with experience in assisting victims and perpetrators of family violence. The Commission also held expert roundtable discussions to canvass policy considerations relevant to such violence. This occurred alongside the formal processes of receiving evidence from witnesses during the public hearings that are more commonly associated with royal commissions.

The Commission was operating during a period of frequent changes to policy and practice and continuing community discussion about family violence. We adapted our program and lines of inquiry as new research findings were released and new initiatives were announced. Some changes closed off areas of inquiry; for example, we did not consider enforcement of interstate family violence intervention orders because this requires the involvement of all states and territories and is being pursued by the Council of Australian Governments.

The Commission also aimed to ensure that it raised awareness about the prevalence, incidence and effects of family violence and about the activities and deliberations of other organisations working to address it. The public hearings were broadcast live over the internet, and submissions, witness statements and hearing transcripts were published on our website.

Although the task was challenging, a number of positive factors contributed to the Commission's ability to conduct a detailed and thorough inquiry. First, we were able to build on an existing body of knowledge, research and analysis. Secondly, we learnt from people with expertise in and experience of current responses to family violence, both in Victoria and elsewhere, who came to us with an enormous optimism, vigour and commitment to the people they assist and to the task of ending family violence. We learnt a great deal from them. Thirdly, we worked in an environment in which the general community also shared a commitment to improving Victoria's response to family violence and a willingness to work towards this objective.

Because the Commission's task was to identify practical measures for improving the response to family violence, the public hearings, submissions and consultations focused on identifying good practices and on improving system-wide responses to family violence. Although the people we consulted had the shared goal of reducing and preventing family violence and reducing its damaging effects, they did not necessarily agree on how to achieve that goal. The Commission was committed to exploring competing views and contested ideas and to facilitating constructive debate. We hope, as a result, that people have found new areas of common ground and new opportunities for collaboration.

We were conscious that our processes placed demands on organisations that struggle daily to meet high demand for their services and have few or no resources to dedicate or divert to things such as writing submissions and attending consultations and hearings. Many services and individuals have been calling for reform of family violence policy for years—if not decades.

We were also aware that, by inviting individuals to share their experiences of family violence, there was a risk we would delay their recovery from its effects. Throughout the inquiry we aimed to deal supportively and respectfully with people affected by family violence and to make their experience of being heard as positive as possible.

Submissions

The Commission called for written submissions responding to its terms of reference and fixed a closing date of 29 May 2015. This date was chosen to give people as much time as possible to prepare their submissions, while ensuring that we were able to read and analyse the submissions before the public hearings began in July 2015.

On 31 March 2015 the Commission released an issues paper to guide organisations and individuals in the preparation of their submissions. The paper posed a series of questions arising from the terms of reference that people could use for guidance if they wished. No format was prescribed for the submissions: they could be typed or handwritten and lodged through the Commission's website or provided by email, post or hand delivery. We also provided an assisted submissions service for people who could not easily make written submissions; they were able to make their submission orally, and it was written up by a member of the Commission's staff.

The Commission was keen to receive submissions from a wide range of individuals and organisations—including people directly affected by family violence, those working in services that assist people experiencing violence, representatives of government agencies, business and the community, and experts working in relevant fields. In all, 968 submissions were received. Of these, 491 were from individuals and 477 were from organisations. Thirty-three people made assisted submissions. After the submissions had been read and analysed, and requests for confidentiality or anonymity taken into account, the majority of submissions were published on the Commission's website. This was done on a rolling basis.

The submissions covered a wide variety of topics, reflecting the breadth of the terms of reference, the complexity of the factors that affect family violence, and the diversity of experience, expertise and interest in family violence. They played a very important part in the work of the Commission, contributing directly to the questions examined during the public hearings and in roundtables, and are drawn on extensively in this report.

The Commission is indebted to all who prepared submissions and grateful for the efforts people made to bring relevant, thoughtful material to our attention. We are particularly grateful to the individuals who used their personal, often traumatic, experiences as a basis for proposing changes to policy and service responses to family violence. Some did so by writing their own submissions; others' stories were provided by organisations that compiled case studies. These accounts ensured we were constantly reminded of the personal toll of family violence and of what had or had not helped people affected by such violence.

Community consultations

The Commission held most of its community consultation sessions between 21 April and 7 July 2015. (Several sessions were held after this to accommodate sessions that could not be scheduled during the main consultation phase.) A four-week campaign plan to advertise the consultations began on 13 April 2015. For safety reasons, we did not disclose the locations, dates or venues of the consultations in advertisements, which appeared in Melbourne and regional newspapers; instead, people interested in attending were asked to call the Commission's inquiry line to register their interest. In addition to the public advertisements, the Commission liaised with the Regional Integration Coordinators funded by the Department of Health and Human Services to ensure that information about the consultations was circulated through local family violence services and networks.

Nearly 850 people attended the 44 consultation sessions, which were held in 21 locations in metropolitan Melbourne and regional Victoria. They included individuals who had experienced family violence as well as representatives of organisations working in the family violence system.

The people the Commission heard from who had directly experienced family violence included people from Aboriginal and Torres Strait Islander communities, women from culturally and linguistically diverse communities, women with disabilities, older people abused by family members, women in prison, sex workers, and men who had been affected by family violence or who had themselves been violent. People attending the sessions were invited to speak of their experiences—where they had first sought help, what had worked well for them, what had not worked well, and what improvements might be made in future. The discussions were generally held in small groups, with the commissioners moving from table to table to listen and ask questions. Psychologists attended each of the sessions to provide support when necessary.

In the consultations with people who come in contact with family violence through their work, the Commission heard from representatives of specialist family violence services and mainstream organisations, judicial officers, child protection workers, police, academics, maternal and child health nurses and other health professionals, faith leaders, teachers, lawyers, court staff, people working with children and young people, and representatives of Aboriginal and Torres Strait Islander communities and the lesbian, gay, bisexual, transgender and intersex communities. Generally, people attending the sessions were invited to choose their preferred topic of discussion—prevention and early intervention or safety and accountability. The topics were then discussed in small groups, each group being asked to consider three or four questions. As with the other sessions, the commissioners moved from table to table to listen and ask questions. A plenary was held at the end of each session. A spokesperson from each table reported back to the whole group on the main three or four areas for improvement identified at their respective tables. At the end of the plenary Commissioner Neave summarised the feedback.

Professional facilitators were engaged to facilitate the majority of the consultation sessions, and Commission staff attended all sessions to act as scribes at each of the tables. Information from the consultations, along with that from written submissions, helped shape the public hearings program and witness list, and was also used in the development of this report and the Commission's recommendations.

The consultations afforded individuals and organisations an opportunity to express their views and offer their ideas in an open and informal way. Often the process also led to individuals affected by family violence, as well as people working in the area of family violence, meeting each other for the first time. After some of the meetings participants told us they intended to maintain these contacts. The Commission hopes that some of these relationships have continued: as well as eliciting valuable information, the consultations were intended to encourage informal contact and information sharing between service providers who might not otherwise have worked together.

The Commission thanks all those who attended the consultation sessions and shared their experiences and expertise.

Briefings and site visits

The Commission received informal briefings from experts and visited a range of organisations during the course of its inquiry. The following people provided briefings:

- ▷ judges and magistrates
- ▷ chief executives and other leaders of both specialist organisations in the family violence sector and mainstream services involved with family violence
- ▷ senior representatives of Victoria Police
- ▷ senior representatives of government and statutory bodies
- ▷ academics and researchers
- ▷ individuals directly affected by family violence-related homicides
- ▷ representatives with expertise in particular aspects of family violence systems in New South Wales, South Australia, Tasmania, the Australian Capital Territory (including Commonwealth government representatives), New Zealand, the United Kingdom and the United States.

The Commission conducted site visits at a number of locations:

- ▷ Dandenong, Frankston, Ballarat and Kyneton Magistrates' Courts
- ▷ specialist family violence services—including refuges
- ▷ the premises of Aboriginal and Torres Strait Islander organisations
- ▷ schools
- ▷ police stations
- ▷ sexual assault multi-disciplinary centres
- ▷ the premises of mainstream organisations providing family violence services
- ▷ a session of a men's behaviour change program
- ▷ classroom observation of family violence training at the Victoria Police Academy.

It also visited South Australia, New South Wales and the Australian Capital Territory.

The Commissioner spent an afternoon and evening following a police van and observing how Victoria Police members respond to family violence incidents. Both Deputy Commissioners also spent time speaking to police members at different stations and observing general police duties and police family violence teams. In addition, Commission staff and Counsel Assisting participated in a training session on the Family Violence Risk Assessment and Risk Management Framework (also known as the Common Risk Assessment Framework or the CRAF), conducted by Domestic Violence Resource Centre Victoria.

These visits and briefings were invaluable in bringing to life matters canvassed in the more formal processes. They alerted us to the practical problems that arise when supporting victims of family violence and allowed us to ask detailed questions of experts. This helped guide the development of our research agenda and the content of our public hearings. Everyone who spoke to the Commission in this informal way was generous with their time and insights.

Public hearings

As noted, the task of this Royal Commission was to set directions for future family violence policy, rather than carrying out a forensic investigation into the cause or occurrence of a particular event with a view to determining fault or liability. Public hearings were used to highlight policy debates about the best way forward, and witnesses were sometimes asked to give evidence alongside each other in order to explore differences in proposed policy approaches.

Although the primary purpose of all the Commission's processes was to identify how responses to family violence could be improved, we also sought to increase community awareness of the nature, dynamics, prevalence and effects of family violence. We took this into account in arranging the public hearings, issuing regular press releases describing the evidence given at the hearings and streaming the proceedings live on the internet—except for the evidence of lay witnesses, whose evidence was subject to restricted publication orders. Transcripts of proceedings and relevant witness statements were placed on our website on the working day following each day of hearings.

In March 2015 the Commission appointed Mr Mark Moshinsky QC (now the Hon. Justice Mark Moshinsky), Ms Rachel Ellyard and Ms Joanna Davidson as Counsel Assisting the Commission. Their primary role was to oversee the public hearing process, including developing topics for discussion, selecting and preparing witnesses, and examining witnesses. They also attended several community consultation sessions, and the Commission briefed them in detail about subjects raised throughout the consultations, in submissions and in the relevant literature. The Commission expresses its gratitude for the hard work, expertise and assistance of its Counsel.

The Commission invited applications for leave to appear. The only party granted leave to do so was the State of Victoria, which assisted in the selection of state witnesses, prepared the witness statements and attended the hearings but, by agreement, left the questioning of witnesses to Counsel Assisting and the commissioners. This contributed to the Commission operating in a non-adversarial manner, which was consistent with its function of making recommendations on policies and systems reform. We are most grateful for the cooperation of Ms Rowena Orr QC, Counsel for the State of Victoria, and her team, who helped us achieve this goal.

Twenty-five days of public hearings were held during a four-week period in July–August 2015 and a week in October 2015. Two-hundred and twenty individual witnesses gave evidence, sometimes on multiple occasions (see Appendix D). Many witnesses appeared as members of panels; 13 witnesses appeared via video link and two by telephone.

The hearings were organised around 23 modules that focused on specific topics (see Appendix E) but did not cover or purport to cover all the matters to be considered by the Commission. Some of the matters in this report were not covered in the public hearings. Where appropriate, such topics were discussed at roundtables or through other forms of consultation.

The Commission invited eight individuals who had direct experience of family violence, either as a victim or, in one instance, as someone who had used violence, to give evidence about their experiences of current responses to family violence. A ninth person provided a written statement. The Commission refers to these witnesses as ‘lay witnesses’, and they were all assigned pseudonyms. The purpose of their evidence was to highlight strengths and weaknesses in services’ and agencies’ responses to family violence. Eight of the nine lay witness statements are presented in Appendix F; for safety reasons, one of the statements remains unpublished.

The Commission is very grateful to all people who provided statements and appeared as witnesses. They contributed substantial amounts of time to the hearings process, both in the preparation of their witness statements in advance and on the day or days of their attendance. The Commission offers particular thanks to front-line staff in organisations and agencies, who candidly and generously explained their work and insights, and to the individuals who so bravely described private and traumatic experiences in the hope that this would help others in the future.

Roundtable discussions

The Commission held six roundtable discussions on specific topics in the period between the two blocks of public hearings. The aim was to delve more deeply into topics that had been touched on in the public hearings. A list of roundtable discussions and the individuals who attended is provided in Appendix G.

Each roundtable discussion was attended by between six and 11 participants, as well as commissioners and staff of the Commission. Among the participants were judges, magistrates, academics, current and former representatives of government agencies, policy-makers and service providers. The sessions were kept confidential in order to facilitate the candid exchange of views and ideas. The information gathered was, however, used in preparing this report and the Commission’s recommendations. The contents of the sessions are referred to throughout the report, but comments are not attributed to individual participants.

Commissioned research

In addition to relying on the work of our research team, we commissioned two pieces of research—a report on family violence trends in Victoria from 2009–10 to 2013–14 and a report on the impact of family violence proceedings in the Magistrates’ Court of Victoria.

The Victorian Family Violence Database trend report 2009–10 to 2013–14

The Victorian Family Violence Database operated between 1999 and 2010 and was the repository for data from a range of sources—Victoria Police, the Magistrates' and Children's Courts, the Magistrates' Court Family Violence Division Courts and specialist family violence courts,¹ the Victims of Crime Helpline and the Victims Assistance and Counselling Program, the Department of Health and Human Services Integrated Risk Information database, the Victorian Supported Accommodation Assistance Program (now the Specialist Homelessness Services Collection), Victorian public hospital emergency departments, the Victorian Civil and Administrative Tribunal, and Victoria Legal Aid.

The most recent publication from the database, covering the period 1999 to 2010, was released in 2012, which means there has been no publicly available compilation of trend data for a number of years. Although the database had many limitations, its cessation has been a major loss for effective policy making. During this time data has continued to be collated, but information has generally been reported separately by each department and agency. Even within the same department or agency there is often more than one database and limited capacity for linking the information held in each source. For example, the Magistrates' Court holds data in separate civil and criminal law databases that are not linked.

To overcome this problem, the Commission sought data from departments under notices to produce and from Victoria Police, agencies, and the Magistrates' and Children's Courts. We then engaged the Crime Statistics Agency to analyse the data and report on family violence trends for the five years from July 2009 to June 2014. This data appears throughout the Commission's report. The agency's report appears in full in Volume VII.

The Commission thanks the Crime Statistics Agency for performing this complex task in a very short time. We would also like to thank the Australian Institute of Health and Welfare for its contribution to the CSA's work.

We note that the Victims Support Agency is working towards the production of more regular and focused data reports from the Family Violence Database (collated by the CSA). This is a positive development.

Understanding family violence proceedings in magistrates' courts

In recent years there has been a big increase in the number and complexity of family violence-related matters initiated in the Magistrates' Court of Victoria. This has placed unprecedented pressure on the operations of the court and on court users. The Commission wanted to gain a better understanding of the substance and outcomes of particular hearings than could be understood from existing data, as well as of the daily impact of family violence cases on the court and its lists. As part of that, we sought to determine whether courts have sufficient capacity to give adequate time and attention to each matter, provide a considered and appropriate outcome, and ensure safety for victims. This information was used to inform many of the recommendations made in this report.

In collaboration with the Magistrates' Court, the Commission engaged Dr Karen Gelb, a researcher and criminologist, to conduct the research, which involved observation of a number of courts in metropolitan and regional locations and analysis of de-identified case data. Access to individuals' files was restricted to court personnel, so ethics approval was not required.

The courts were chosen on the basis of a 'typical' spread of family violence cases in each type of court. The locations chosen were as follows:

- ▶ Ballarat, Family Violence Division—a large regional court; the region's headquarter court; 1044 family violence intervention order applications finalised in 2014–15²
- ▶ Geelong—a large regional court; the region's headquarter court; neither a Family Violence Division nor a specialist court; 1879 FVIO applications finalised
- ▶ Wangaratta—a mid-size regional court; neither a Family Violence Division nor a specialist court; 334 FVIO applications finalised
- ▶ Maryborough—a small regional court; neither a Family Violence Division nor a specialist court; 142 FVIO applications finalised
- ▶ Melbourne—a large metropolitan court; the region's headquarter court, with specialist family violence services; 2656 FVIO applications finalised
- ▶ Sunshine—a busy suburban court, with specialist family violence services; 2907 FVIO applications finalised
- ▶ Dandenong—a large suburban court; neither a Family Violence Division nor a specialist court but does have community-based family violence service providers; the busiest court for finalised FVIO applications in 2014–15, with 3228 finalised applications.³

The research methodology included interviews with judicial officers, court staff, duty lawyers from Victoria Legal Aid and community legal services, police, representatives of specialist family violence services, Court Network volunteers and representatives of other services at each court. Applicant and respondent workers were also interviewed in locations where these services are provided. The Commission thanks participants—and, in particular, the Magistrates' Court of Victoria—for their cooperation and assistance.

Information gathered as a result of Dr Gelb's research appears throughout this report. Her full report is presented in Volume VII.

Interaction with government

The Victorian Government established the Royal Commission Engagement Secretariat within the Department of Premier and Cabinet to coordinate and oversee the government response to the Commission. The Commission's chief executive officer and other staff members met regularly with officers from the secretariat to facilitate access to data and documents. Additionally, the Commission was briefed by government representatives from time to time on work being done in the area of family violence while the Commission was operating.

The Commission also entered into protocols with the government and Victoria Police to define the processes for production of relevant documents. The protocols provided for preliminary discussions to be held with departmental and agency officers to identify the data sets and documents held across government. This was followed by formal requests (including the serving of notices to produce) for production of materials in accordance with the provisions of the Inquiries Act.

Liaison with courts

Along with other agencies and services, Victorian courts play a central role in responding to family violence, protecting those at risk of violence and holding perpetrators to account.

Section 123 of the Inquiries Act provides that a royal commission cannot inquire into or exercise any powers in relation to (among other persons or bodies) a Victorian court, a member of the staff of Court Services Victoria in connection with the performance of judicial or quasi-judicial functions of a Victorian court, and the Director of Public Prosecutions.

The Victorian courts and Court Services Victoria voluntarily made a substantial contribution to the Commission's inquiry through presenting written submissions, providing informal briefings, facilitating court visits, attending roundtable discussions, and providing data and documents. In addition, the President of the Children's Court and four magistrates participated in the Commission's public hearings.

The Commission also received valuable input from the Family Court of Australia and the Federal Circuit Court of Australia through a joint submission and informal briefings. We also arranged a roundtable with judges of the Family Court and the Federal Circuit Court to discuss family violence issues that can arise in the interaction between Family Court, Magistrates' Court and Children's Court proceedings.

The Commission did not seek to inquire into any particular case or the performance of any particular judicial officer of a Victorian court. Similarly, although section 123 does not specifically refer to the Family Court of Australia or the Federal Circuit Court of Australia, the Commission did not seek to inquire into any particular case or the performance of any particular judicial officer of those courts.

Since potential legislative, policy and practice reforms might affect the role and function of the courts, the Commission considered matters relevant to the general operation of these courts without seeking to formally inquire into them. The voluntary contributions of these courts gave the Commission an understanding of their administrative structures, policies, practices and future plans. These are relevant to family violence and the current legal framework. The Commission took into account the perspectives of relevant judicial officers about possible areas for reform and their possible consequences for the courts.

Terminology

A glossary appears at the end of each volume of this report. It is useful, though, to discuss here some of the primary expressions the Commission uses in connection with family violence, affected communities, the police, the courts and service providers.

Language describing violence

'Family violence' is the term used throughout this report to refer to a wide range of behaviours, as defined in the *Family Violence Protection Act 2008* (Vic). The definition is discussed in Chapter 2.

In submissions and evidence some people referred to 'violence against women', 'domestic violence' or 'intimate partner violence'. These terms also appear in the literature. When the Commission is quoting from primary materials it uses those terms as they appear; otherwise, 'family violence' is the expression of choice.

'Domestic violence' is sometimes used to refer to acts of violence between intimate partners and violence in the context of family relationships; it is used in legislation in other jurisdictions and in some parts of the service system in Victoria. 'Intimate partner violence' is commonly used to highlight the predominant manifestation of the violence, which is in the context of intimate partner relationships.

Language about victims and perpetrators

State and national policy and the non-government service sector primarily use the terms 'victim', 'victim/survivor' and 'women and their children who experience violence'.

In Victoria, the majority of applications for family violence intervention orders are now made by Victoria Police. In the case of a police-made application for a family violence intervention order, the term 'affected family member' is used to describe the person who is to be protected by the order, while the term 'other party' is used to describe the person against whom the order is sought. In applications not involving the police, the word 'applicant' is used to describe the person seeking the order and 'respondent' is used to describe the person against whom it is sought. The word 'defendant' is used to describe a person being prosecuted for a family violence offence; the word 'offender' is used to describe a person who has been found guilty of such an offence.

Apart from when legal proceedings are being described, the Commission generally uses the term 'victim' of family violence throughout its report, since this is the term most commonly used in the community. The Commission recognises that some people consider 'victim' problematic because it suggests that people who have experienced family violence are helpless or lack the capacity to make rational choices about how to respond to the violence. The Commission uses 'victim/survivor' to specifically describe people who have experienced sexual assault, which is consistent with the Centres Against Sexual Assault terminology and general terminology in this field.

A broad range of terminology is used in relation to people who use violence, including 'perpetrators' and 'men who use violence'. 'Perpetrator' is the term used in state and national policy. The phrase 'men who use violence' is sometimes used by the non-government sector in Victoria, including organisations that run men's behaviour change programs; this phrase recognises that the majority of family violence that occurs is violence perpetrated by men against women, and it places responsibility for the violence with the man who uses it.

For the purposes of this report, the Commission uses the terms 'people who use violence', 'men who use violence' and 'perpetrator' interchangeably—except when specifically referring to adolescents or women who use violence.

In using the terminology just described, the Commission recognises that family violence should not define victims and their futures. Nor should it define the perpetrator for life: the aim must be to end that individual's use of violence.

Language describing communities

Aboriginal and Torres Strait Islander peoples

In this report the Commission is generally referring to family violence in Aboriginal, not Torres Strait Islander, communities. For this reason we usually refer to Aboriginal peoples and communities rather than to Aboriginal and Torres Strait Islander peoples and communities. This also reflects the language of the majority of the submissions presented to the Commission. In using 'Aboriginal peoples and communities', the Commission does not intend to exclude Torres Strait Islander peoples and communities from its deliberations and recommendations.

When citing publicly available research or data, however, the Commission adopts the terminology used in the original document; this includes using 'Indigenous', 'Koori' and 'Koorie'. 'Koori' and 'Koorie' are also used if inquiry participants used those terms in submissions, consultations or evidence. South-eastern Victorian Aboriginal people use 'Koori' to define a collective Aboriginality. The Commission acknowledges, however, that Aboriginal and Torres Strait Islander peoples from throughout Australia live in Victoria and the word 'Koori' does not accurately describe all these people.

Culturally and linguistically diverse communities

The term 'culturally and linguistically diverse communities', or 'CALD', is used throughout the report to reflect the fact that the Victorian population is diverse. The Commission recognises that in considering prevention and responses to family violence the distinct identity of each community needs to be considered.

If primary sources use the terms 'non-English speaking', 'ethnic', 'refugee and newly arrived communities' or 'religious communities', the Commission uses that terminology as it appears in the source.

Faith-based communities

'Faith-based communities' is used in recognition that people of various faiths might not come within the description 'culturally and linguistically diverse communities' and might have distinctive experiences of family violence. Some members of faith communities come from CALD backgrounds; others do not.

Disability

The term 'disability' is used in this report to reflect the language in the *Equal Opportunity Act 2010* (Vic) and the Convention on the Rights of Persons with Disabilities.

The term 'cognitive impairment' is used if the primary material uses that term; otherwise, the specific disability is referred to—for example, intellectual disability or acquired brain injury.

'Mental illness' is used throughout the report as this is the terminology generally used in the community, although the Commission acknowledges that some people prefer the term 'mental health disability' or 'mental ill-health'. The Commission recognises, too, that other terms, such as 'psychosocial disability', might be preferred by people with disabilities.

The Commission adopted a social definition of disability in the knowledge that, although a person might have a disability, it is often society's reaction to the disability that prevents the person's full participation in society and this is what has the disabling effect.

People who have experienced transphobia or homophobia

The term 'lesbian, gay, bisexual, transgender and intersex', commonly abbreviated to LGBTI, is used in many submissions and other primary sources. The Commission recognises that transgender and intersex people have traditionally been aligned in the literature with gay, lesbian and bisexual people because of shared or similar experiences of discrimination. Sexuality, gender identity and (non-binary) physical sex characteristics are, however, fundamentally different, and people in these communities should not be treated as though they form a homogenous group who all have the same experiences.

'Sexual orientation' refers to sexual and emotional attraction to people of a particular sex or sexes. In this report the Commission uses the terms 'lesbian', 'gay' and 'bisexual', although we recognise that community members can use other terms to describe themselves. When we refer to lesbian, gay and bisexual young people we use the term 'same-sex attracted';⁴ for transgender and intersex young people we use the term 'gender diverse'.

'Transgender' is an umbrella term that is used to describe a person whose gender identity differs from their physical sex as recorded at birth. 'Transitioning' refers to the process whereby a transgender person embarks on the changes that will ultimately mean living as a member of another sex. This is sometimes referred to as the person 'affirming' their gender because transitioning means they start the process of living in what they identify as their true gender. The Commission recognises that, for people who are transitioning, or affirming their gender, having their identity fully recognised in all areas of life is a crucial part of the experience of living as an individual of their affirmed gender.

'Sex' refers to a person's physical sex characteristics. The Commission recognises that sex is not binary and includes people who are intersex, people who are a combination or are on a spectrum of being male and female, and people who identify as being physically indeterminate.

'Intersex' refers to people who are born with physical, hormonal or genetic features that are neither wholly female nor wholly male, are a combination of female and male, or are neither female nor male.

Although 'gender identity' has a specific meaning under the Equal Opportunity Act, more broadly the term refers to identifying as male or female as defined by social and cultural behaviours and assumptions about identity, roles and appearance.

Language describing ‘the system’

The Commission uses the term ‘family violence system’ to refer to the many different organisations and services that victims and perpetrators of family violence might encounter as a result of family violence. This includes the police, the courts, specialist family violence services including men’s family violence services; it can also include other services working with the victim or perpetrator as part of the response to family violence—for example, Child FIRST and Integrated Family Services, Child Protection; health, education, legal and housing services; and Corrections Victoria.

The term ‘response’ is used to refer to action taken after violence occurs—for example, provision of crisis accommodation, counselling and support; police and civil and criminal justice responses; and perpetrator interventions.

‘Perpetrator interventions’ incorporates a broad range of responses for perpetrators, among them responses ordered by a court and other programs that provide education and rehabilitation for perpetrators, such as men’s behaviour change programs.

‘Primary prevention’ is the term the Commission uses to describe action that seeks to prevent violence occurring. Such action can be aimed at the population as a whole or be tailored to particular groups or communities. ‘Early intervention’—sometimes referred to as ‘secondary prevention’—is directed at individuals and groups who display signs that they may use violence or of being subject to violence. Early intervention forms part of response.

Victoria Police uses the term ‘police member’. Most people who presented submissions or gave evidence to the Commission used ‘police officer’, and the two expressions are used interchangeably in the report.

Endnotes

- ¹ For more information about the Magistrates' Court Family Violence Divisions and specialist family violence courts see Chapter 16.
- ² Includes original and secondary applications (applications to vary, extend and revoke).
- ³ Note that there will generally be multiple court visits before a matter is finalised—this is explored further on Chapter 16. See Magistrates' Court of Victoria and Children's Court of Victoria, Submission 978, Attachment 2.
- ⁴ As reflected in 'Writing Themselves In: A National Report on the Sexuality, Health and Well-Being of Same Sex Attracted Young People', and the approach adopted in other publications addressing young people's sexuality, the Commission adopts the expression "same-sex attracted" so as not to make any assumptions that same-sex attraction, feelings and behaviours necessarily entail the adoption of a particular form of identity. This is not intended to suggest that young people do not have the right or capacity to identify themselves as gay, lesbian, bisexual or otherwise: Lynee Hillier et al, 'Writing Themselves In: A National Report on the Sexuality, Health and Well-Being of Same Sex Attracted Young People' (Monograph Series No 7, La Trobe University, 1998) 12.

2 The nature, dynamics and effects of family violence

Introduction

This chapter provides an introduction to the nature, dynamics and effects of family violence in order to provide some context for the remainder of the report. It begins with a brief review of the legal definition of family violence in Victoria, before exploring how such violence is frequently a manifestation of power and control over the victim.

The legal definition of family violence is not confined to violence by males against their female intimate partners. However, the majority of reported violence falls into that category and much of the research into family violence focuses on it. Indeed, many of the submissions the Royal Commission received were also about intimate partner violence. This is reflected in the discussion in this chapter.

This chapter also considers forms of family violence that are not well understood—for example, emotional abuse, financial abuse and sexual violence as well as perpetrators' increasing use of technology to dominate and control victims and as a form of stalking. Also discussed are times of heightened risk for family violence—in particular, post-separation and pregnancy.

This chapter also speaks of the impact of family violence. Words on a page do not, however, convey the deep terror and fear that victims expressed to the Commission. No words can capture the lengths to which some victims of family violence—especially women caring for children—have to go to keep themselves, their children and sometimes other family members safe and to re-establish their lives.

Defining family violence

As a consequence of the Victorian Law Reform Commission's *Review of Family Violence Laws*,¹ a new definition of family violence was included in the *Family Violence Protection Act 2008* (Vic). This definition recognises that violence need not be physical to cause harm and to keep a victim living in fear. As well as including various forms of violence, the Act covers a wide range of relationships, reflecting the diversity of familial and kin relationships in our society.

1. For the purposes of the Family Violence Protection Act, family violence is:
 - (b) behaviour by a person towards a family member of that person if that behaviour—
 - (i) is physically or sexually abusive; or
 - (ii) is emotionally or psychologically abusive; or
 - (iii) is economically abusive; or
 - (iv) is threatening; or
 - (v) is coercive; or
 - (vi) in any other way controls or dominates the family member and causes that family member to feel fear for the safety and wellbeing of that family member or another person.
 - (b) behaviour by a person that causes a child to hear or witness, or otherwise be exposed to the effects of, behaviour referred to in paragraph (a).²

2. Family violence includes the following behaviours:
 - (a) assaulting or causing personal injury to a family member or threatening to do so;
 - (b) sexually assaulting a family member or engaging in another form of sexually coercive behaviour or threatening to engage in such behaviour;
 - (c) intentionally damaging a family member's property, or threatening to do so;
 - (d) unlawfully depriving a family member of the family member's liberty, or threatening to do so;
 - (e) causing or threatening to cause the death of, or injury to, an animal, whether or not the animal belongs to the family member to whom the behaviour is directed so as to control, dominate or coerce the family member.³
3. To remove doubt, it is declared that behaviour may constitute family violence even if the behaviour would not constitute a criminal offence.⁴

The meaning of 'family member' is broad. It covers both biological relationships and relationships arising from marriage, a de facto partnership or an 'intimate personal relationship'.⁵ It also includes a child who regularly resides with the other person or has previously done so (for example, a foster child) and a child of a person who has or has had an intimate family relationship with the relevant person.⁶ Further, it covers current and former relationships.⁷ An intimate relationship can exist regardless of whether the relationship involves or has involved a sexual relationship and regardless of the sex or gender identity of the people in the relationship.⁸

People living in the same house, people living in the same residential facility and people reliant on care can also be covered. The Act expands the definition of family member to include a person whom the victim regards or regarded as being 'like a family member' if it was reasonable for the victim to hold that view, given the circumstances of the relationship.⁹ For example, this could cover the carer of a person with a disability if the person regards the carer as a family member. It could also include the relationships between residents in aged care or disability accommodation where there are social or emotional ties between them.¹⁰

Additionally, the Act acknowledges that Aboriginal and Torres Strait Islander communities' definitions of the 'nature and forms of family violence are broader than those used in the mainstream'.¹¹ The definition of family member specifically includes a person who, 'under Aboriginal or Torres Strait Islander tradition or contemporary social practice, is the person's relative'.¹²

A clear and comprehensive definition of family violence is important for both practical and symbolic purposes. To define conduct as family violence is to express the community's shared condemnation of that conduct. It also determines the circumstances in which police can seek an intervention order on behalf of a victim and when a magistrate can make an order to protect a victim. Chapter 16 discusses these remedies.

Overall, the Commission found solid support for the definition of family violence in the Family Violence Protection Act, as well as for legal recognition of the range of family and kin relationships that exist in modern communities. Nevertheless, many in the community still do not recognise emotional abuse and economic abuse as family violence. The same applies to violence other than between intimate partners—for example, adolescent violence against parents and those cases of elder abuse and abuse of people with disabilities not involving intimate partnerships. These situations are discussed throughout this report.

Why do people say family violence is gendered?

The Commission was not asked to inquire into the causes of family violence. The Commission's terms of reference state:

Family violence is the most pervasive form of violence perpetrated against women in Victoria. While both men and women can be perpetrators or victims of family violence, overwhelmingly the majority of perpetrators are men and victims are women and children.

The causes of family violence are complex, and include gender inequality and community attitudes towards women. Contributing factors may include financial pressures, alcohol and drug abuse, mental illness and social and economic exclusion.

In Victoria three-quarters of victims in family violence incidents attended by police are female and 77 per cent of perpetrators recorded by police are male.¹³

The Commission's terms of reference also reflect current research about population-level risk factors and individual risk factors for intimate partner violence, which is the most common form of family violence and the one we know most about. This evidence was recently reviewed for UN Women and Our Watch; the review found that violence-tolerant attitudes and gender inequality are underlying or 'root' causes of violence against women.¹⁴ This is unsurprising. We are social beings and we are influenced by the world around us and what society teaches us. This includes stereotypes and social norms that dictate 'appropriate' behaviour for men and women.

Stereotypes about men and women are reinforced through practices such as social tolerance of discrimination and the idea that violence against women is sometimes justified by women's behaviour—for example, if a woman has sex with another man. Gender inequality is itself influenced by other forms of inequality such as race, disability, socio-economic status, geography and the impacts of colonisation. For this reason prevention efforts need to focus on these population-level risks, or root causes, in order to address the conditions in which violence against women can thrive. This and the evidence relating to prevention are discussed in Chapter 36.

It is also important to distinguish between *population-level* risk factors and *individual* risk factors. Among the individual risk factors associated with the perpetration of family violence are alcohol and drug misuse, mental illness, and exposure to violence as a child. But not all people who have had these experiences perpetrate violence, and men who have not had these experiences can still be violent towards women. We must also consider perpetrators' attitudes and beliefs—which are reinforced by broader social norms in the community and institutional settings and their experiences with peers, colleagues and friends, all of which help to make them the people they are—if we are to understand how best to respond to family violence.

Responding to individual risk factors is an important way of working out how best to target interventions to tackle family violence. It does not excuse violence or allow people to avoid taking responsibility for their behaviour. Individual risk factors are discussed throughout this report—for example, in chapters dealing with risk assessment and management, perpetrator interventions, the health system, including mental health and drug and alcohol services, and specific population groups.

Because population-level and individual-level risk factors are interrelated, preventing family violence requires mutually reinforcing approaches at the population, community, institutional and individual levels.

The dynamics and nature of family violence

He set out to destroy me on every level possible. Physically, mentally, emotionally and spiritually. All of it was intentional and planned.¹⁵

Family violence is not about 'losing it', being nagged or having too many drinks. The Commission received hundreds of submissions from people who have lived with, and continue to live with, the terror of family violence. And those submissions have a common theme—that the violence is a tool used to gain control over them.

Coercion, control and domination

My husband was of the opinion that when he married me he owned me. I became part of his chattels and that is how I had to live my life, by his rules, and they were 'do as I say, not as I do'.¹⁶

Submissions argued that the abuser's need to maintain control and dominance lies at the core of every abusive relationship.¹⁷ The Commission heard that in the vast majority of family violence cases this is grounded in the false belief that the abuser is entitled to control the victim and to use violence to achieve this. The UK Home Office provides some useful guidance about understanding controlling or coercive behaviour:

Controlling or coercive behaviour does not relate to a single incident, it is a **purposeful pattern of behaviour** which takes place over time in order for one individual to **exert power, control or coercion over another**.¹⁸

Many women who participated in consultations or made submissions said they did not understand that what was happening to them was family violence, particularly when the violence had not yet escalated to the point of causing serious physical injury. Sometimes they did not realise it was family violence until service providers or others pointed out these patterns of control and coercion.

Other victims described how what first appeared as love and attention turned into violence:

It was a whirlwind romance, where he won me over with his charm and intelligence, putting me on a pedestal. We ... moved [in] together within a few weeks of dating. The abuse wasn't immediate but started to show around six months into the relationship. It was an insidious creep of abuse. So slow that I just thought it was a normal part of a relationship.¹⁹

Controlling strategies can be 'indirect, subtle and psychologically traumatic, involving threats of harm, humiliation and insults, and financial or legal abuse'.²⁰ Tactics in addition to those just discussed include the following:

- ▷ controlling access to money
- ▷ using debt to control the victim
- ▷ controlling what she wears, her make-up or physical appearance
- ▷ cutting off the phone
- ▷ forbidding contact with neighbours, colleagues or friends
- ▷ restricting access to transport or cars
- ▷ threatening to reveal or publish private information
- ▷ using the justice system against the victim by making false or vexatious allegations.²¹

Additional tactics involve making a person give up employment or education, forbidding them to attend English language classes, and generally isolating them from the world beyond the perpetrator.²²

Perpetrators often seek to reinforce isolation and, as family and friends become more distant, the violence escalates and the victim's identity and self-worth are eroded by the perpetrator:

... the reality of real family violence is that there are no friends—you've been systematically isolated from them—you can guarantee that your partner didn't like them for some reason or they could see what the perpetrator was really like. They are intimidated and afraid or overwhelmed by your disclosure of abuse, scared that they will be affected or their own children will be in danger by being associated with you. They are long gone.²³

The crime is not as simple as just the crime, there is so much more in play. The control over aspects of your life has such a wide reach. The control in the day to day isn't taken as seriously as physical violence. You lose friends, you're not able to maintain new friends and new partners. It gets to the point where not even your own parents will have you stay the night because they're scared for their own safety.²⁴

In some cases described to the Commission the perpetrator's need to dominate his family entailed physically imprisoning women and children in the home: 'I was put under "house-arrest" for a period of [removed] weeks for defying him. He took my mobile phone, home phone, computer, and car keys to keep me isolated for this time'.²⁵

These controlling behaviours can also imprison women emotionally:

The most distressing thing I lost was me, my [self-worth]. Couldn't think straight, even to the point I couldn't write out a shopping list: I couldn't concentrate. I was always worried that I may do or say the wrong thing. It is so hard to describe to you the mental torment, always questioning yourself. Never being able to comprehend that this person who is supposed to love me can hurt you so badly.²⁶

Violence and coercion in the relationship can also force women to assume culpability for their partner's offences: '[She] took a drug offence for [her partner] ... even the police said they knew she hadn't done it'.²⁷ Or it can strike at the heart of the woman's reproductive autonomy:

He forced her to have an abortion. Her sister-in-law made the appointment. He told the GPs that she was poorly educated and that he signed papers on her behalf. She tried to commit suicide a number of times.²⁸

In short, the perpetrator dictates what the victim does, whom they talk to and see, where they go and what they think:

Scapegoating, blaming me for everything, saying I deserved it (the abuse) and it was my fault, I was a bad mother, locking me and the children out of the house. There were a few occasions I had to sleep outside with the dogs. Walking on eggshells ... He would come in to work all the time, if I was 10 minutes late from work he would ask why. I had to eventually leave my employment; was sick all the time and mentally exhausted. [I] wasn't allowed to have my own opinion, everything I said was wrong or stupid. Would get very agitated when he saw me happy ...²⁹

Abusers of parents may also attempt to dominate and control them. At a consultation with older victims, a woman told the Commission that her son, who was physically aggressive to her, had told her friends and police that she had dementia. After she had paid his very considerable debts he arranged for her to come to his own doctor for an assessment, without speaking to her doctor. He did so in an attempt to force her to execute a power of attorney in order to gain access to her money.³⁰

A pattern, not an event

Although every experience is unique, family violence is not a one-off incident for many victims.³¹ It is a pattern of behaviour that involves an escalating spiral of violence. This can include physical and sexual abuse, as well as psychological, emotional and financial abuse—all designed to intimidate, undermine, isolate and control. It can also include violence or threats of violence against children, other family members and pets.³² Ultimately, it can be lethal:

It is the prevalence and the all-encompassing awareness that you are living with something that is dangerous—life threatening. That fact slowly and methodically eats away at your self-awareness and ability to make decisions. All your decisions are about self-preservation and how safe you are from day to day and hour to hour. That is why you stay. It is safer to stay than to leave.³³

Nationally, ANROWS (Australia's National Research Organisation for Women's Safety) has reported that the Australian Bureau of Statistics' Personal Safety Survey shows that, of those women who had experienced multiple incidents of physical assault by a male perpetrator since the age of 15 years, two-thirds reported that the assaults were all perpetrated by the same man. That suggests that one in nine of these women—that is, 961,500 women—in Australia had experienced multiple assaults by the same man.³⁴

Dr Karen Gelb, a researcher and criminologist, who conducted research for the Commission, found that, of the family violence cases she observed in magistrates' courts, on average more than half (53 per cent) involved people with a history of family violence, although it is not known whether that history involved the same perpetrator.³⁵ Dr Gelb's report, which was not limited to cases involving intimate partner violence, is presented in full in Volume VII. Data analysis by the Crime Statistics Authority (including police data on recidivism rates, discussed in Chapter 15) also does not delineate between the circumstances in which repeat offending occurred within a single relationship or occurred against multiple victims.

Times of heightened risk

It is well established that the risk of intimate partner violence escalates at specific times—for example, during pregnancy or on separation (or attempted separation). It can also occur at times of natural disaster, as discussed here. Further information on risk assessment and management is provided in Chapter 6.

Pregnancy

Pregnancy and the early post-natal period are times of adjustment and change, when the risk of violence is elevated.³⁶ Pregnancy can trigger the use of violence by a man against his partner or can exacerbate existing violence in the relationship, particularly if the pregnancy is unplanned or unwanted.³⁷ Family violence in this context has been linked to the perpetrator feeling that his primacy in the relationship is being undermined.³⁸ Studies of the correlation between pregnancy and family violence tend to measure the prevalence of physical violence during pregnancy, but sexual and emotional abuse can be equally damaging to both the woman's and the child's safety and wellbeing.³⁹

The ANROWS analysis of data from the Australian Bureau of Statistics' Personal Safety Survey shows that, among women who had experienced intimate partner violence since the age of 15:

- ▶ More than 400,000 Australian women experienced partner violence during pregnancy.⁴⁰
- ▶ An estimated 180,600 women had experienced violence by a current cohabiting partner and were pregnant at some time in that relationship. Approximately one in five (21.7 per cent, $n=39,100$) of these women experienced violence during their pregnancy.⁴¹
- ▶ Of the 39,100 women who did experience violence by a current cohabiting partner during pregnancy, three out of five (61.4 per cent, $n=24,000$) experienced violence for the first time when they were pregnant.⁴²

An analysis of hospital data shows that at least 11 per cent of the women admitted to hospital for intimate partner violence-related assaults were pregnant, with some evidence suggesting that the abdomen–pelvic area of pregnant women was over-involved in these assaults compared with women who were not pregnant.⁴³ The Commission notes it is likely that the hospital data significantly under-reports family violence in this and other contexts.

Separation (or attempted separation)

Separation (or attempted separation) by a woman from her partner is also a time of heightened risk for family violence: ‘Indeed, the period after separation can be a very dangerous time for a victim, because the perpetrator may perceive a loss of control over her and may become more unpredictable’.⁴⁴

For women who have not previously experienced physical violence in the relationship, physical violence often starts or escalates during the separation period.⁴⁵ ‘[U]ncharacteristic acts of violence’ can occur in response to the separation or other traumatic post-separation events.⁴⁶ If the relationship is characterised by a history of violence, the violence can persist after separation and often escalates; it can culminate in the man killing his former partner and/or children.⁴⁷

Separation is therefore recognised in the Family Violence Risk Assessment and Risk Management Framework (often called the Common Risk Assessment Framework or CRAF) and similar risk assessment processes used internationally as a time of heightened risk for family violence against women and children, including the risk of death.⁴⁸

For women who are experiencing family violence, the high risk periods include immediately prior to taking action, and during the initial stages of or immediately after separation. Victims who stay with the perpetrator because they are afraid to leave often accurately anticipate that leaving would increase the risk of lethal assault. The data on time-since-separation suggests that women are particularly at risk within the first two months.⁴⁹

An Australian Institute of Family Studies investigation found that violence commonly occurs in separated (and separating) families. Of 4959 responding mothers:

- ▷ 26 per cent reported being physically hurt by their partner before separation
- ▷ 39 per cent reported that they had experienced emotional abuse alone from their partner before or during separation.⁵⁰

Of 4918 responding fathers:

- ▷ 16.8 per cent reported being physically hurt by their partner before separation
- ▷ 36.4 per cent reported that they had experienced emotional abuse alone from their partner before or during separation.⁵¹

Violence after separation can include financial abuse, which is ‘a particularly common strategy used to control partners post-separation and has long-term implications for survivors’ economic security’.⁵² The Commission heard that financial control and manipulation begin at separation for many women—particularly in relation to withholding child support payments and property settlement.⁵³ As discussed in Chapter 21, family violence is a significant contributor to women’s poverty. Fear of the financial consequences for themselves and their children can lead women to stay in the relationship or to return to it.

Victims told the Commission that after the relationship has ended some perpetrators then use the legal system as a form of violence.⁵⁴ One woman described this to the Commission: ‘I am still experiencing family violence but it comes on letterhead from his lawyer’.⁵⁵ Women’s Legal Service Victoria described this as ‘systems abuse’:

Procedural fairness is a key component of the family violence jurisdiction. We recognise that appropriate mechanisms must be available in the intervention order process for perpetrators to challenge allegations of family violence, make cross-applications and seek review of judicial decisions. There is, however, a category of cases where court mechanisms are abused by the perpetrator for the purposes of continuing to exercise power and control over the victim ...

It is difficult to measure the impact this course of action has on victims who are forced to come back to court on multiple occasions to justify the need for an intervention order. It requires them to tell their story multiple times to multiple Magistrates, court staff and duty lawyers. The trauma and feelings of powerlessness to stop abuse perpetrated through the system have a profound effect on the physical and emotional well-being of victims as well as their ability to heal and recover from their experiences.⁵⁶

It has separately been reported that more than half of parenting matters in the family law system involve allegations of family violence.⁵⁷ Dissatisfaction with family law processes was one of the strongest messages the Commission received from the submissions and consultations. Both men and women criticised the system, although women more commonly described feeling re-victimised by being disbelieved or being cast in a negative light as a result of their former partner manipulating court processes to their own ends,⁵⁸ whereas men often cited gender bias as a problem.⁵⁹ Access to children was frequently nominated as a way of controlling victims after separation:

And I'm so glad I left him. But I am still scared when he threatens me at my door at handovers. I am still scared he won't return my children to me safe and well. I am still married to him because he won't sign the divorce papers. I still feel trapped by him. I can't afford legal fees to protect my rights in court. I am trapped by the system. It doesn't stop.⁶⁰

They know the game, they know the law, they take the children, they lie in court, and they take custody despite the violence. They make it their business and they thrive on the court process.⁶¹

The Council of Single Mothers and their Children echoed the sentiments of many:

Too often though children become the vehicle these men use to maintain an abusive presence in the mother's life. Children are used to monitor and control women's behaviour and sometimes become the device through which men inflict the violence ...⁶²

Women who share parental responsibilities with an abusive partner or ex-partner are particularly vulnerable to non-physical forms of violence and threats ... Perpetrators of violence often deliberately misuse the systems that have been set up to help families such as the Child Support system and Family Court to maintain control over women and children.⁶³

Access and control through children can take on a particular nature for some migrant women who are especially vulnerable because of the insecurity of their immigration status. The Australian Muslim Women's Centre for Human Rights told the Commission that perpetrators use children to manipulate their victims by:

- threatening to send children back to countries of origin marked by war, civil unrest or regular and unpunished acts of violence against women by community or family
- threatening to or actually abducting the children, perhaps returning them to the country of origin where women may have no legal entitlement to custody
- threatening to or actually harming the children
- taking money that she intended to support family members in her home country
- raising the immigration status of a woman in custody cases, to undermine the woman's case for custody and divert the court's attention away from family violence.⁶⁴

The Commission was also told that perpetrators can delay property settlement so as to financially exhaust victims through legal fees in family courts and that they use this tactic to force women to agree to an outcome that is not in their best interests:⁶⁵ 'He was also hindering the transfer of property to me. Assets were not transferred to me for some 2 years.'⁶⁶

The family law system and its intersections with family violence are discussed in depth in Chapter 24.

Natural disasters

Studies have shown increases in levels of family violence in communities affected by natural disasters, both in Australia and elsewhere.⁶⁷ A 2009 study reported a four-fold increase in intimate partner violence following Hurricane Katrina.⁶⁸ It has also been reported that New Zealand police had a 53 per cent increase in call-outs to domestic violence incidents over the weekend of the Canterbury earthquake in 2010.⁶⁹

A 2012 study interviewed 29 women who experienced the Victorian Black Saturday bushfires in 2009. In that study 16 women spoke about family violence—14 in reference to their own relationship and two in reference to the relationships of close relatives (a sister and a daughter). For nine women the violence was a new experience since the fires, while for six the violence had escalated or there had been an isolated incident many years earlier. One woman had left her violent partner before the fires, and when he returned after the fires he resumed his violent behaviour. All but one of the 16 women who experienced violence after the fires said they were afraid of their partner.⁷⁰

Forms of violence

Family violence can take many forms. The Commission heard in submissions, at community consultations and in the hearings of the varied experiences of family violence. This section explores some of these forms of violence, including emotional and psychological abuse; physical and sexual violence; financial abuse; technology-facilitated abuse and stalking. All these forms manifest as part of the perpetrators' desire to control the victim.

Emotional and psychological abuse

I am the victim of emotional and economic abuse. I have never had visible bruises yet the terror and alarm I experienced was no different to a victim with visible bruising.⁷¹

The ABS Personal Safety Survey shows that over 2.1 million women in Australia have experienced at least one incident of emotional abuse by a former or current cohabiting partner since the age of 15 years.⁷² This is one in four women in Australia. Approximately 1.8 million women reported that they had experienced emotional abuse from a partner they were no longer in a relationship with.⁷³ This is one in five women.

Emotional abuse is almost always an aspect of intimate terrorism, but is rarely part of uncontrolled violence. And it is most definitely not the same as hurting someone's feelings. People can be deeply hurt by their partners, through thoughtlessness, anger, even infidelity or the end of a relationship without suffering emotional abuse. [Emotional abuse] is a very specific and deliberate form of emotional damage, designed to destroy any feeling of independence or self-worth, and thereby make someone easy to control and manipulate.⁷⁴

The ABS Personal Safety Survey also notes that approximately 1.2 million men have experienced emotional abuse from a current or previous partner since the age of 15. This is about one in seven men in Australia.⁷⁵

Section 7 of the Family Violence Protection Act defines 'emotional or psychological abuse' as behaviour that 'torments, intimidates, harasses or is offensive to the other person'.⁷⁶ Emotional abuse often forms part of the pattern of controlling behaviours. This is reflected in some of the examples of emotional abuse given in section 7 of the Act—preventing a person from making or keeping connections with family, friends or culture (including cultural or spiritual ceremonies or practices); preventing a person from expressing their cultural identity; repeated derogatory taunts, including racial taunts; and so on.

Forms of emotional abuse can differ in different circumstances. For example, for women in culturally and linguistically diverse or faith communities, emotional abuse can include:

- ▷ calling her racist names
- ▷ accusing her of abandoning her culture
- ▷ threatening to harm someone in her family in Australia or in her country of origin
- ▷ hiding or destroying important legal papers, such as her passport or her children's passports or birth certificates
- ▷ destroying her personal belongings from her country of origin
- ▷ convincing her that in Australia family violence is not unlawful
- ▷ convincing her that if she seeks police, welfare or the courts' assistance he will automatically receive legal custody of the children
- ▷ accusing her of marrying him for migration purposes only and threatening to or actually reporting her to immigration authorities
- ▷ blaming her for breaking up their family and community if she leaves him
- ▷ threatening deportation
- ▷ refusing to file or withdrawing immigration papers.⁷⁷

Threatening to withhold medication is also recognised as emotional abuse⁷⁸ and is a form of abuse often reported by women with disabilities.⁷⁹ In some circumstances withholding of medication can be life threatening: 'The next day I only attended the police station because he dissolved my chemotherapy medication and I needed to get it'.⁸⁰

The Family Violence Protection Act provides an example specific to the lesbian, gay, and bisexual communities—namely, threatening to disclose a person's sexual orientation to family or friends against the person's wishes.⁸¹ The following are other examples:

- ▷ telling a partner they will lose custody of their children as a result of being 'outed'
- ▷ using homophobia as a tool for control—for example, telling a partner they will be unable to gain police assistance or support from services because the system is homophobic
- ▷ telling a partner they deserve the abuse because they are LGBTI
- ▷ telling a partner they are not a 'real' lesbian, gay or bisexual
- ▷ disclosing or threatening to disclose HIV status.⁸²

The psychological damage inflicted by emotional abuse of a partner can be very serious, and emotional abuse inflicted on children by a parent can have lasting effects. Yet many in the community still do not recognise it as family violence:

Media, authorities and even family violence campaigns sensationalise physical violence—as they should. Literature tells us there are other forms of abuse and most organisations are aware, but in all my time away from my ex-husband, I have yet to encounter any professional who truly understands the other types of family violence. These are no less significant or dangerous than physical violence. There is a vast level of education that needs to be conducted to ensure society understands there are other types of family violence and these have just as much of [a] lasting impact as physical violence.⁸³

On the surface there appears to be no crisis. There is no imminent danger. Except for the slow, mental torture which causes the constituent to believe that she really is useless and perhaps her husband is right, and that she is insane. The psychological abuse has been so oppressive that it has triggered suicidal ideation in one constituent.⁸⁴

Victims may not recognise such abuse as family violence or feel less deserving of help. This was a strong theme in community consultations and submissions:

I didn't know what I was experiencing was domestic violence—it was psychological, controlling. He would clean his guns in front of me. He killed my animals.⁸⁵

I didn't think I was in domestic violence. I didn't feel I was entitled to it because he did not bash me. I thought there were women out there who needed help more. It's the perception of domestic violence, it's the image of a woman beaten bloody. So I didn't feel like I deserved the help.⁸⁶

Others felt the abuse was less serious than physical violence.⁸⁷ Perpetrators can also think that, because they are not physically hitting their partner or child, their behaviour does not amount to violence:

I never actually hit my wife, there was a lot of yelling and screaming, threatening behaviour, hitting walls ... It took her a long time to figure out what was actually going on. Over that 18 years, the longer it went on, the more it occurred, the plainer she saw things.⁸⁸

The Commission was informed that the nature of the violence experienced often had an impact on the police response. Some women reported that abuse that was not visible, was minimised, or was not acted on by police.⁸⁹

Ignoring patterns of controlling behaviour and focusing only on physical violence trivialises the abuse victims endure and traps them in violence. It can also have lethal consequences. A UK study found that controlling behaviour is a particularly important feature in child homicides: 'It is the extent of control over the whole family rather than the frequency of physical violence that indicates that such fathers are at high risk of killing children'.⁹⁰

Thus, '[c]ritical gaps still exist in the lack of shared understandings of family violence as coercive control'.⁹¹ This can lead to victims being ignored, not taken seriously or not believed when they do seek help.

Physical and sexual violence

He would strangle me—take me to black-out and bring me back. He would put a knife to my throat and draw blood just because he could.⁹²

The Commission was told that physical violence often does not occur until the relationship is well established, and for many women, remains a terrifying threat.⁹³ Victims spoke of the repeated, horrific violence they had experienced. To protect victims' safety and privacy, much of this evidence was given in confidence and cannot be reproduced. Some women, however, felt able to provide insights into their experience anonymously:

During all this time he was physically abusing me I had black eyes, chipped bones in my arm he ripped clothes off me and belted me time and time again ... [on] one occasion he started to belt and drag me from one end of the house to the other I ran to get out he tore my clothes off and threw me into the garden in the mud then dragged me out by my hair, I begged him to stop I didn't want to die. I went to the shower and curled up on floor he came and dragged me out and kept beating me I ended up in the garden again covered in mud I crawled to the door he just kicked and punched me until I just [lay] there, all because I didn't stay and drink with him and his friends at a [removed] break up. The police attended many times. Every time I would go to charge him he begged me not to.⁹⁴

Cho[k]ing, spilling hot drinks on me, pushing, flicking cigarettes, spitting, pushing me off beds and chairs. Smashing my head against walls. Whilst going to the toilet he would push me off the seat. Push me over in the shower, Verbal threats: calling me names; slut ... arsehole, cunt, and many more. He said he would bury me in a hole and threaten to shoot me. Always threatening to hurt my children, family and animals. Throwing objects at me. Throwing me out of the house in the nude, locking the door and not letting me in for 3 hours ...⁹⁵

The majority of the victims of family violence who told their stories to the Commission were women, but we also heard from men who often described violence they experienced as children:

My childhood can be best characterised as one of violence; perpetrated daily. I cannot recall a time where I did not see violence, hear violence or feel anxious about the next violent episode. The violence was perpetrated by my mother towards my father, but also to us as children.⁹⁶

Sexual abuse by an intimate partner is a major form of family violence and is a risk factor for death, including homicide and suicide.⁹⁷ Sexual violence also occurs in disability or aged care relationships and in same-sex relationships.⁹⁸

Some of the victims who came forward to the Commission described the use of sexual violence, including rape in marriage, to degrade and humiliate them:

I would be woken up at 4 am to him trying to put his penis in my mouth. Scared, I didn't know where to go or where to run.⁹⁹

... when I wasn't able to give to him anymore (sex or whatever because I was in pain) he would get violent with me if I refused to give him sex. He said that it was a man's need/ right. I would curl up on the edge of the bed terrified [he would ask for sex].¹⁰⁰

It was awful. I tried not to react. I hoped he had been satisfied. That it would buy me further safety.¹⁰¹

Victoria Police has noted that children are over-represented as the victims of family violence sex crimes, and it is highly likely that there is substantial under-reporting of family violence-related child sexual abuse.¹⁰²

Victims may find sexual violence particularly difficult to disclose. The Commission was reminded that 'often the sexual abuse is left under the table because of the additional layers of shame'.¹⁰³ Or it might not be recognised as family violence or a crime.¹⁰⁴

A lay witness explained that she did not know there could be rape in marriage:

I was then pregnant with the third child and I went to a different doctor and he said, 'Would you like me to file a report for the police?' I asked him 'What for?' He goes, 'These injuries, they look like they are from rape'. I said, 'It's not from rape, it's my husband'. He pressed further. He asked, 'What do you mean it's not rape it's your husband?' I said, 'Rape is from a stranger or an intruder'. And he said, 'No, rape is when you do not want sex and they force themselves'. I said, 'But it's my husband. What right do I have to say no?' ... The doctor said something that really resonated, it really sunk in and impacted me enough to make a massive change, in which he said, when I told him, 'I signed the dotted line that my body is his', and the doctor said, 'And he signed the dotted line to love and protect'. It was like a light globe just switched on ...¹⁰⁵

Even allowing for under-reporting, in at least two regions in Victoria more than half the clients who sought sexual assault counselling from Centres Against Sexual Assault were doing so for reasons associated with family violence.¹⁰⁶ Some clients were both survivors of child sexual abuse and people experiencing intimate partner violence.¹⁰⁷ For example, Northern Centre Against Sexual Assault submitted 'many CASA clients fall into the category of people who have experienced sexual assault and family violence on multiple occasions and throughout their lives'.¹⁰⁸

The stigma resulting from rape can be further entrenched if pregnancy follows. Research also suggests an association between family violence and termination of pregnancy and that there can be a repetitive cycle of termination.¹⁰⁹ Additionally, findings indicate that a woman concealing a pregnancy from her violent partner is also at risk of family violence and that this is linked to higher rates of murder and suicide.¹¹⁰

Mr Bernie Geary, OAM, the former Commissioner for Children and Young People noted:

It would be very difficult to assess how many pregnancies may occur as a result of sexual assault, when this is being used as a form of family violence within an intimate partner relationship, given the highly sensitive nature of such information and the strong likelihood that women would be too embarrassed and ashamed to make such a disclosure. The social assumption that any pregnancy occurring within a relationship is desired by both parties is also very strong. Furthermore, women may be very concerned to protect their unborn child from the stigma of being a product of sexual assault, regardless of what their own feelings about the pregnancy might be.¹¹¹

Financial abuse

Some perpetrators deny their partners economic freedom as a form of control. The Commission heard that this involves exercising control over finances during a relationship, and that this can continue, or frequently begin, after separation.

Many people do not realise that economic abuse is recognised as a form of family violence in Victorian legislation, and it can be used as grounds to apply for a family violence intervention order.¹¹²

In the approx. [removed] years we lived together I cannot remember a time that I did not have to ask for money to help pay the bills. At that stage I did not know there was such a thing as economic abuse.¹¹³

Perpetrators restrict women's access to funds by keeping bank accounts in their own name only or providing to their partner an allowance out of which she is expected to cover the costs of running a household, including buying groceries, paying bills and meeting expenses for children:

[He] would accuse me of spending his money, (even though I was working too). Got to the stage I couldn't even write a shopping list; was fearful if I would spend too much. Would say I was hopeless with the finances and would keep money from me. I wasn't allowed to buy essentials for myself or the children. Would not allow me to get food from the fridge and pantry because he bought it.¹¹⁴

One victim, described in a journal article on economic abuse, used her part-time salary as a nurse to meet the entire family's expenses while her partner spent his full-time salary on himself.¹¹⁵ Another stated that she was made to live frugally while her partner withdrew money from accounts and investments, including joint accounts, without her consent:

He wasted large amounts of money daily. I discovered a hidden spending pattern of daily withdrawals of money from ATMs and movement of large sums of money from our pension funds.¹¹⁶

Some perpetrators do not allow their partners to work and in that way achieve financial independence.¹¹⁷ Others harass victims at their workplace, making it difficult for them to stay employed.¹¹⁸ In addition to the immediate financial problems this causes, this can affect women in later life because they have inadequate superannuation after retirement.¹¹⁹

Economic abuse can be linked to car ownership, when perpetrators incur traffic and parking fines in vehicles registered in their partner's name.¹²⁰ The Commission also heard that perpetrators coerce their partner into taking out loans for cars, mortgages and credit cards in her own name or adding her name to or co-signing a loan to make her jointly liable for the debt:

[I was] responsible for all of the debt from our relationship. This included debt he had accrued in my name, and debt I accrued in my name as I was always encouraged to take out credit in my name as I had steady employment.¹²¹

Another form of economic abuse involves threatening to have essential services such as electricity, gas and water disconnected or leaving women with unpaid bills for these services.¹²² The Commission was also informed that perpetrators who kept accounts in their name alone would arrange for essential services to be cut off when they moved out and force their former partner to pay re-connection fees for the services.¹²³

Ms Jenny Blakey, Manager, Seniors Rights Victoria gave evidence to the Commission that financial abuse is the most common form of family violence against older people dealt with by her organisation. She estimated that about 61 per cent of calls to Seniors Rights Victoria relate to financial abuse.¹²⁴ Adult children with older parents can coerce their mothers, and their fathers, into entering financially dangerous arrangements such as using the family home as security for a loan.¹²⁵

I took out a reverse mortgage in 2006 to pay his debts. His friend at a bank helped him sort out his debt. But in 2009 he was in debt again and told me to take out another loan. I took out a reverse mortgage, had bills and rates issues from my son. I became concerned that I would not have a house.¹²⁶

Family violence against older people is discussed in Chapter 27. Chapter 21 further explores economic abuse.

Technology-facilitated abuse

SmartSafe project

Domestic Violence Resource Centre Victoria's SmartSafe project identified the following behaviours as examples of technology-facilitated stalking and abuse that can constitute family violence:

- ▶ threatening or abusive phone calls
- ▶ repetitive threatening or abusive text messages and emails
- ▶ checking or hacking email accounts
- ▶ monitoring internet use
- ▶ 'revenge porn', whereby a person distributes or posts false, humiliating, intimate or sexualised videos or photos without the other person's consent
- ▶ spreading rumours about the person or impersonating them online
- ▶ harassing or threatening the victim or the victim's friends and family on social networking sites such as Facebook and Twitter or dating, chat and games sites
- ▶ tracking the victim's location through apps and 'find my phone' services
- ▶ geotagging of photographs taken with smartphones
- ▶ smartphone spyware.¹²⁷

He installed a camera in our bedroom. I had purchased an emergency phone and he was able to locate it from seeing me hide it in my bedroom drawer, through the camera.¹²⁸

Perpetrators' use of technology to control, intimidate, stalk and harass victims is a 'rapidly growing problem' and was frequently raised as a concern in consultations and submissions.¹²⁹ Victoria Police submitted:

The widespread use of mobile phones has made it easier for perpetrators to harass, stalk and intimidate their victims. Over the past five years, intimate partner violence related harassment offences have increased more significantly than any other offence category. Although these offences predominantly relate to phone calls, text messages and emails, there were also several instances of tracking devices being used ... As technology becomes more affordable and readily used, family violence incidents involving these technologies will increase.¹³⁰

This is consistent with evidence given at the Senate Inquiry into Domestic Violence in Australia, where family violence workers stated that technology is increasingly being used 'to surveil, to harass, to stalk and to hurt women and children'.¹³¹ This form of family violence also extends to preventing, restricting or monitoring victims' use of technology:¹³²

I was isolated, he controlled all the money, tracked my phone calls, checked my mobile phone frequently and had a key-tracking program on my computer, banning me from going to certain websites.¹³³

Technology-facilitated abuse has particular implications for specific populations, such as Aboriginal and Torres Strait Islander women, women from culturally and linguistically diverse backgrounds, and women with disabilities.¹³⁴ Perpetrators exploit social isolation and language barriers and deliberately isolate culturally and linguistically diverse women further by 'restricting their access to technology, which women often relied on to stay in contact with friends and family'.¹³⁵

Indigenous women may need to use technology to keep connected to their mob, culture and community but this can place their whereabouts/situation known to the perpetrator if they also have the same connections.¹³⁶

It is difficult to obtain information about the extent of technology-facilitated abuse.¹³⁷ The SmartSafe project published a study of technology-facilitated stalking in family violence in 2013.¹³⁸ This study found that, of 44 women who responded to an online survey question about stalking experiences, 80 per cent reported receiving text messages that made them feel afraid, 65 per cent reported receiving calls that made them feel afraid, 63 per cent reported being made to feel they were being watched or tracked, and 51 per cent reported they were being followed. Of the 46 women who responded to the entire online survey, 20 per cent said their partner had downloaded apps to their phone.¹³⁹

A 2015 survey of family violence workers found as follows:

- ▷ Ninety-eight per cent of 546 workers surveyed had clients who had experienced technology-facilitated abuse.¹⁴⁰
- ▷ The most common technology was text messages—often large volumes of text messages sent in one day.¹⁴¹
- ▷ Thirty-four per cent of workers saw the use of GPS trackers on smartphone apps 'often' or 'all the time'; an additional 40 per cent stated that it happened 'sometimes'. These figures are higher than those for the 2013 study, when 29 per cent of workers identified the use of GPS-tracking technologies for stalking. This could mean workers are now more aware of this type of abuse and/or that the technology is increasingly being used by perpetrators of family violence.¹⁴²

As with other forms of family violence, technology-facilitated abuse occurs both within relationships and after separation, but it can escalate once the victim leaves the relationship.¹⁴³ One study found that technology-facilitated stalking is mostly used to stalk victims after separation¹⁴⁴:

He's been stalking me since October. A couple of times I went out at night and he'd follow me there and then break into the house and cause damage there. I don't go out. My phone was syncing with his and I didn't realise. One time when he broke in he stole my laptop and he'd set up my cloud so he had access to all things on my phone ...¹⁴⁵

My ex had also put an app on my iPhone called Find my iPhone. He had been tracking me without me knowing even after we separated. My [removed] found it about a month after he left.¹⁴⁶

As the Council of Australian Governments noted, 'Too often technology is being used to facilitate abuse against women. There is an opportunity to turn this around and use it instead to keep women and their children safe'.¹⁴⁷ In December 2015 COAG agreed to pursue 'actions to limit technology-facilitated abuse' and committed to a national summit in the final quarter of 2016 to profile best practice and review progress.¹⁴⁸

Stalking

Although stalking is a problem for many family violence victims, it is not well understood.

Submissions noted that many in the community perceive partner stalking as less serious than stranger stalking—particularly when victims try to report such behaviour as a contravention ('breach') of an intervention order.¹⁴⁹ One reason for this could be that technology-facilitated abuse has been normalised as a result of the increasing use of technology in relationships.¹⁵⁰

Citing findings from the 2013 National Community Attitudes towards Violence Against Women Survey, Victoria Police submitted, 'Fewer Australians consider harassment by repeat phone contact as a form of intimate partner violence when compared to 2009'.¹⁵¹ The survey results show that 37 per cent of respondents reported it was acceptable ('always acceptable' or 'rarely or sometimes acceptable') to track a female partner by electronic means without their consent, and 14 per cent reported such behaviour was 'not serious'.¹⁵²

Studies show that partner stalking often lasts much longer than stalking done by strangers or acquaintances.¹⁵³ Stalking is also linked to other forms of family violence, including sexual abuse and emotionally abusive or controlling behaviour.¹⁵⁴ The Centre for Forensic Behavioural Science and Forensicare submitted:

... recent research with stalkers assessed at Forensicare and followed up via Victoria Police files showed that approximately one-third of ex-intimate stalkers have had contact with police for family violence during their prior relationship with the victim.¹⁵⁵

Stalking and other forms of technology-facilitated abuse have a major effect on women's mental and physical wellbeing and on their daily routines, parenting and workforce participation.¹⁵⁶ Eighty-four per cent of the 39 women who responded to this question in the 2012 SmartSafe project reported that stalking affected their mental health and wellbeing:¹⁵⁷

Women talked about the invasiveness of technology-facilitated abuse and stalking because of its spacelessness; they were confronted with it anytime they logged into social media or email accounts or used their phone, tablet or computer.¹⁵⁸

Fear can therefore be heightened by the use of mobile technologies. By stalking a person for 24 hours a day, perpetrators can create a sense of 'omnipresence' that 'erodes [spatial] boundaries' and makes the victim feel it is impossible to escape the perpetrator.¹⁵⁹ For example, perpetrators sometimes place GPS tracking units in cars, bags and prams:¹⁶⁰

During the course of our relationship he informed me it was easy to purchase surveillance equipment off the internet and he knew how to install it due to the training he'd received within his employment.¹⁶¹

Victims feel they no longer have access to a 'safe space' away from the perpetrator, even after separation and relocation.¹⁶² This is particularly dangerous when they seek safety at a secure refuge, and the tracking and stalking can pose a risk not only to the victim herself but to other women and workers at the refuge.¹⁶³

The SmartSafe project found that perpetrators commonly bombarded victims with text messages to ensure their 'continual presence' in victims' lives:¹⁶⁴

Some perpetrators text and phone repeatedly, creating dread and fear in the victim that the harassment will never end. Some women receive only one text or call daily or weekly, but this can be equally as terrifying in the context of their specific domestic-abuse history.¹⁶⁵

Women living in rural, regional and remote Victoria can be particularly affected by technology-facilitated violence. They may be easier to find than women in metropolitan areas, and thus they may experience increased danger and safety risks and might be under greater surveillance as a result of being tracked by the perpetrator.¹⁶⁶ They may also have less access to police and other support services.¹⁶⁷

The Centre for Regional Law and Justice submitted:

The degree and amount of abusive messages sent could be extreme and it was not uncommon for perpetrators to commission people in their network (friends and family members) to engage in technology-facilitated abuse and or stalking. Sometimes survivors had proof of the perpetrator's identity, sometimes this was concealed. Several women told us that they received calls from people they believed to be their abuser or in their abuser's network, impersonating police officers, trying to intimidate women who were pursuing formal responses to family violence.¹⁶⁸

In addition, perpetrators use isolation to dominate and control their victims, and a sense of this can be conveyed through the use of technology. SmartSafe found that perpetrators would isolate women from their support networks by harassing family and friends through social media or by causing women to change their phone numbers or close down their social networking accounts to stop the abuse.¹⁶⁹ Isolation and lack of social support after traumatic experiences are associated with increased levels of psychological distress.¹⁷⁰

The effects of family violence

Living with the terror of family violence can have devastating effects on the health and wellbeing of victims in both the immediate and the long term. The Commission examined the effects of this violence, focusing on the cumulative and long-term effects and the effects on children, while also acknowledging the resilience of victims. The Commission also considered family violence-related deaths.

The effects on adults

As well as the physical scars resulting from the violence, victims of family violence can also experience a range of mental health difficulties, among them post-traumatic stress symptoms, depression, anxiety, eating disorders, sleep problems and self-harming behaviour.¹⁷¹ For many victims, these have long-term consequences.

Psychological effects

Victims of family violence and their supporters told the Commission about their experiences of serious psychological harm, suicidal thoughts and, in some cases, the suicide of a person who had been a victim of family violence.¹⁷² In a community consultation session, one woman told the Commission:

I've been fortunate in that I haven't been successful in ending my life. I've used spirit and determination to come out of that. But the causation comes out of family violence—the abuse, and not being believed. Seeing the impact on my children.¹⁷³

In addition, Lifeline submitted:

An examination of several published studies finds that those who experience domestic violence are 4.5 times more likely to attempt suicide. The experience of traumatic stress itself can foster suicidal thoughts and ideation, in part due to the reduced coping capabilities, and because of the perceptions that there is 'no way out'.¹⁷⁴

Many victims described to the Commission the experience of psychological harm during and following family violence. These included emotional and psychological breakdowns, changes in eating and sleeping patterns, anxiety and depression:¹⁷⁵

I suffer from PTSD since I left him, I have trouble sleeping, and experience nightmares nearly every night. I have severe anxiety attacks, almost constant headaches, and tiredness. I have trouble concentrating and focusing.¹⁷⁶

The mental health effects of family violence are further examined in Chapter 20.

Victims can experience a range of other psychological and emotional harms, including lack of self-esteem and misplaced feelings of guilt:¹⁷⁷ 'My self-esteem became so small. I spent my life trying to work out what I was doing wrong'.¹⁷⁸ These feelings were commonly experienced by women who told the Commission they felt they had failed when they could not ensure the safety of their children from the violence of the perpetrator:

Obviously the children and I are extremely distressed and I feel like I am a failure as a mother and a human being as I am unable to protect my children from a violent, volatile, abusive, manipulating, threatening and controlling father.¹⁷⁹

Others told the Commission they frequently felt unsafe and had constant fears for their own safety and that of their children. To protect themselves, women explained that they became hyper-vigilant. Living for prolonged periods in this heightened state of vigilance and security can be an exhausting and isolating experience:

I felt like I slept with one eye open and one eye closed for this period. It was only recently that I could afford to put a security door on my place.¹⁸⁰

When someone calls up and asks your name and address, an overwhelming fear comes over you. Worried that you will be found and brings it all up.¹⁸¹

On one occasion he laughed and told me '200 Meters is a joke to a [removed] anyhow'. I still to this day 3 years on find myself looking all around me when I go outside ... even when I am at home near a window.¹⁸²

For victims who relocate for safety reasons, the experience of 'resettlement brings with it financial burden, emotional distress, physical upheaval and social disconnect[ion]'.¹⁸³ In its submission Domestic Violence Victoria identified additional barriers to recovery after relocation:

There is an assumption that once they are in a refuge that they are now 'safe', but often their experience of refuges mean[s] that they are in an unfamiliar location, children are restricted from attending their usual school and are out of contact with the support provided by their communities, friends and family as well as experiencing continuing disruptions to their daily family life.¹⁸⁴

Others described beginning to believe the negative comments voiced by the perpetrator.¹⁸⁵ One woman spoke of the effect of violence and trauma on her independence and confidence:

I don't know how to function anymore as I don't have someone making decisions for me because of the control he had over me. I was in a 15-year controlling relationship. Unless I have an appointment to go to I don't get out of the house.¹⁸⁶

As noted, perpetrators of family violence often isolate the victim, which can alter the victim's perspective on what is acceptable behaviour.¹⁸⁷ Some victims choose to withdraw to manage their own safety, but this can add to their sense of social isolation:

For 3 months I became totally compliant. Everything he asked for I said 'yes' to. I went to work but went into a shell and quietly had a nervous breakdown. Not once in the 3 months did he see me naked, I slept on the edge of the bed, I lived in fear of making him angry. He later told a friend that our marriage had never been better.¹⁸⁸

For some victims, the effects of family violence are amplified because of the disadvantages they experience as a result of their cultural and linguistic background, disability, age, race, sexuality, gender identity or socio-economic status. One woman told the Commission:

I was still in the house but people were throwing beer bottles at the house in the night and my family in India were being threatened. I moved to a friend's place and he started calling from a private number to my friend's house asking where I was. But because I didn't have an IO [intervention order] I couldn't go to court. The Department of Immigration said because an IO wasn't done, they needed doctors' reports. I gave them that and they took two years to decide whether I was a victim of DV. And I was interviewed by a psych from Department of Immigration ...¹⁸⁹

These social, psychological and cognitive harms are not experienced in isolation but are compounded by continuing exposure to family violence.

Physical effects

Many victims described physical forms of violence as having a long-term and often debilitating effect. In a joint submission, EDVOS; Safe Futures Foundation; Safe Steps; WISHIN; and the Victorian Women's Trust described their observations of the brutality of physical violence:

Men hit women, kick, punch and slap them and slam their heads into walls. Men throw women across the room, rape them after a beating or in front of other family members, pull out their hair, bite and scratch them, burn and brand them with hot implements, throw objects at them, tie them up and torture them with blades and cigarettes. Sometimes men use drugs and alcohol coercively or covertly to reduce the woman's capacity to resist. Men tie up women and lock them in car boots and drive them around 'for a bit of a scare'. For one woman, we learned that her husband had done this to her three times in a week.¹⁹⁰

The Commission heard that women often experience head, face and neck injuries as a consequence of repeated physical violence to this part of the body.¹⁹¹ Women attending the Commission's community consultations spoke about a range of effects of these head- and face-related injuries, including loss of eyesight and hearing.¹⁹²

... comes home and kicks me in the head – breaks my optic nerve – blood everywhere. He came back the next day – my eyes are closed – I can't see – he never said sorry. He sat me on the seat of the car – I had to wear an eye patch. Two weeks later - I got the keys, went to the hospital. They said the injury was like a high impact car accident – they said they could not have helped me (save my eye).¹⁹³

The retina detached in my left eye and I have had laser surgery. I have tinnitus in my left ear. I have lost a quadrant of sight in my left eye. I have a cataract in my left eye, to be operated on next year. In ongoing physiological terms I have a worsening semi facial tremor over the whole left side of my face that requires bi-monthly neurological intervention and caused me to take early retirement from my profession in 2013 as the twitches were too embarrassing to bear all day in public.¹⁹⁴

Broken noses, broken ribs and other breaks were frequently reported to the Commission.¹⁹⁵ Repeated head, face and neck trauma, as well as once-only incidents, can lead to acquired brain injury, and are increasingly being recognised as going undiagnosed in many family violence victims.¹⁹⁶ Chapter 20 discusses acquired brain injury.

The Commission heard about cases of calculated and cruel physical violence intended to debilitate the victim:¹⁹⁷

At first it was bending of my fingers so that they swelled – to the point I could often not use fingers for weeks on end because of the damage.¹⁹⁸

She was the one that used to beat me in to unconsciousness more times than I can recall. The beatings were mostly over the head, hands and feet as she was determined to cripple me.¹⁹⁹

For some victims, the effects of the physical violence have necessitated intensive rehabilitation over long periods.²⁰⁰ Many victims told us, however, that it is years later when the signs of physical violence on the body begin to show:

What I wanted to say was how much ongoing medical costs I now have all these years later. When a right-handed man repeatedly strikes you over many years you bear the damage on the left side. Your head snaps to the right. Again and again. Your spine tells the story.²⁰¹

Children and young people as victims

To my parents, I was a trouble maker who was nothing but an inconvenient and difficult child who was never satisfied. I felt horribly unloved. It was such a desultory, dank, fetid and oppressive atmosphere that I came to the conclusion that my sisters and I must have been products of rape. Many years later after I'd escaped, I remember cowering when I saw my father on a bus. After his death, I cowered again because I saw someone who looked like him.²⁰²

Children can be affected by family violence directly by being the target of the violence or indirectly through exposure to family violence or its effects in the home. Both circumstances can have a profound impact on the wellbeing of children and young people.²⁰³ The Commission was told about the effects of family violence and sexual violence on children and young people's wellbeing. It was said they often continue to be affected in their adult life:

My father was, and still is, an alcoholic. Throughout my childhood, he physically, verbally and emotionally abused my mother, my two siblings and me. At the time, I felt that the death of at least one of us was inevitable, rather than probable ... My father's behaviour has affected every aspect of my life. It negatively impacted my school attendance, results and participation in extracurricular activities, such as sport, debutante balls and formals. It prohibited me from making and maintaining friendships. It has limited my opportunities and crushed my self-confidence.²⁰⁴

My experiences as both a victim/survivor as well as being in a family where sexual violence and abuse has occurred has been difficult not only due to the impacts of the abuse itself but also because of the isolation myself and members of my family felt after the abuse. As victim's of the abuse both directly and indirectly we have been made to feel ashamed, labelled and lost.²⁰⁵

For many adults with a traumatic history such as this, the long-term effects are debilitating:

To this day my anger is hard to control. It has got me in trouble with the law and courts. Because of this I isolate myself from everyone and I can't hold a relationship or trust anyone. I even try to end my life many many times.²⁰⁶

Incredibly sadly, the negative impact of my early life on my ability to understand boundaries in relationships came to a head two years ago when I was myself in an incredibly horrible abusive relationship.²⁰⁷

A victim of sexual abuse by her father said:

Even now at [removed] years of age I am distressed to write this. The sense of powerlessness and being different has never left me. I will often feel all wrong and have to leave. I cannot join in conversations as I do not have a shared experience with others. I am deeply ashamed and try so hard to remember how it started, perhaps I am somehow to blame. I can remember when I started to menstruate and he said we now had to be very careful. I still have this sense we were somehow in partnership.²⁰⁸

While many submissions described parents' use of violence, the Commission also heard from a number of people who experienced violence at the hands of a sibling. One submission described this as follows:

Although he never escalated (while still a child or teen) to serious violence, well not enough to put me in hospital and ... get the adults on his case, the constant and unpredictable attacks meant that I lived in a constant state of hyper-alert terror, with the attendant self-loathing, low self-esteem and depression that *every* victim of domestic violence knows far too well.²⁰⁹

The Commission heard many other stories of family violence perpetrated against children and young people and its often devastating impacts.

As noted, children can be affected by family violence as a result of being exposed to it or by indirectly experiencing its harmful impacts on the family. Although it is difficult to assess the full extent of children's exposure to family violence, it is apparent that a substantial number of children are affected. In Victoria in 2013–14 in 34 per cent ($n=22,376$) of family violence incidents recorded by police there was at least one child present,²¹⁰ and in the five years to 30 June 2014 the number of children listed as victims on family violence intervention order applications increased by 20.6 per cent to 23,332 children.²¹¹ The ANROWS analysis of the ABS Personal Safety Survey shows that since the age of 15, over half a million Australian women have children who saw or heard partner violence.²¹²

Victorian law recognises that, even when children are not the direct object of family violence, exposing them to it is itself a form of family violence.²¹³ Exposure can occur in many different ways—not only when children directly witness the violence. Among the examples given in the Family Violence Protection Act are when a child overhears threats of physical abuse of a family member, comforts or provides assistance to a family member who has been physically abused, cleans up a site after property has been intentionally damaged, or is present when police members attend an incident involving physical abuse.²¹⁴

Children can also be exposed by knowing or sensing that their mother is fearful.²¹⁵ The Commission for Children and Young People submitted:

Direct witnessing of incidents is not the only form of exposure that professionals should be concerned about, as there are a multitude of ways that children may experience family violence. Children may be just as traumatized, or even more, by incidents that they did not witness, but are aware have occurred due to physical injuries or threats to a family member or pet ... We know from horror films that when the imagination 'fills in the gaps', the experience may be more terrifying.²¹⁶

There is increasing recognition that children exposed to family violence are not passive 'witnesses' and that they suffer lasting effects even if they are not the direct object of the violence or do not directly witness it.²¹⁷ Children are highly sensitive to their environment and will register even subtle changes in their primary caregiver's emotional state or the atmosphere at home:²¹⁸

My children did not usually witness overt events (my husband would pick his moments and wait until we were alone to verbally and emotionally abuse me), however they were picking up on the 'atmosphere' in the home which was becoming increasingly hostile. To give an example, both of them approached me at different times, and totally out of the blue began asking me whether I wanted to be cremated or buried and telling me they didn't want to die ... I questioned them carefully thinking it may be part of the usual childhood fascination with death ... But they couldn't account for where their questions had come from. I knew in my heart it was to do with the more sinister atmosphere in our home ...²¹⁹

Children are exposed to emotional abuse when their mother is the target of violence:

Dad's controlling behaviour meant that I feared him much of the time. He only needed to look at me in a stern way and I would be shaking. Mum and Dad were often 'at war'—a very cold war so that the bulk of my childhood I would describe as tension-filled. I was well cared for with no doubts of my parents' love for me but Dad's controlling behaviour left me with soulscars I have been working with for a long time ... Some of the things I can look back at and can now identify as abuse are things like shouting at my Mum to 'just shut up' when she was expressing an opinion. This was reinforced by Dad when he demanded Mum to read stories that reinforced this idea that wives need to be happy with whatever their husbands say or do ... the scary stares, stonewalling with no response from Dad for weeks—Dad sleeping on the couch for all this time, carping at mum for going to work. Wives (this wife in particular) should be happy to be dependent on whatever Dad brought home, threatening mum with committing suicide if she ever left him and controlling mum's outings and getting snide remarks or cold treatment if she came home even a bit later than was expected.²²⁰

Exposure can begin from birth, or even in utero, and can have immediate and long-term psychological and behavioural impacts and health and socio-economic effects. The child's ability to trust and relate to others can be adversely affected, which in turn can affect future relationships.²²¹

There is some evidence that exposure to family violence as a child can lead to intergenerational transmission of violence: children exposed to family violence are more likely to hold attitudes that justify their own use of violence.²²² This does not, however, mean children exposed to violence will inevitably become perpetrators as adults or that they will necessarily suffer negative consequences in their lives: many children and young people demonstrate remarkable resilience in the face of family violence.²²³ Resilience is discussed below.

Cumulative effects

The Commission was informed that health and wellbeing effects are not experienced in isolation. They are complex and interrelated, can be experienced during a violent relationship, and can continue post-separation. One woman, who asked to keep her identity confidential, described having to leave the family home and the children's school, change names, and cease contact with friends for safety reasons. This was trauma additional to the experience of family violence.²²⁴

The Commission was told about a range of factors, particularly related to dealing with the legal and service systems, that compound women's experience of harm and delay or prevent the recovery process:

Women are moved out of their region for safety reasons but can then be far away from the court – resulting in many having transport issues, mobility issues, language issues, children to consider.²²⁵

I have to go to court every second week. I am trying to study, but I keep having to miss classes. I have spent the last three months in and out of court.²²⁶

I don't think the police station, when you have an IVO, the onus is on you to report every breach. It can take that person two minutes to breach and you have to sit there, sometimes up to two hours, reporting each breach and that's very taxing.²²⁷

I find having to retell this part of my life over and over with different organisations reimpacts and is adding to cumulative harm, so having the support from services I have known in [removed] to be of great assistance to me.²²⁸

It was said that the cumulative effect of these harms on health and wellbeing, in addition to economic insecurity and lack of employment and secure housing, contributes to poverty and homelessness. One person explained:

Depression is a really hard battle. But I don't need any more conflicting issues with psychologist people. Financially I can't afford to feed us. I can't afford to get our shower fixed. We didn't have a heater for 4 or 5 years. I just can't afford it. To me that's some sort of physical impact.²²⁹

Dr Rhonda Cumberland, Chief Executive Officer, Good Shepherd Australia New Zealand, described the current system's failure to engage with victims and recognise the cumulative impact of multiple forms of harm:

I have been distressed as I've worked in this field to see how many women do become trapped in the system. Again it's an unintended consequence, but we do think about crisis and resolving a crisis situation, and professionals who work in this area, any practitioner will know that once you've stabilised the crisis, the more that you move into a hardship circumstance or something that's stable, the system soon tires of you and forgets about you. It's in that forgetting and in that fatigue that women's capacity to get out of the system, that genuine empowerment of women fails to take place, and it does mean for long periods of time. You often only have sort of small windows to get the re-engagement to happen, to get the reconnections to happen. Once those windows close, it's highly unlikely that women can re-engage to the extent that they could have if there were an earlier intervention.²³⁰

Long-term effects

As noted, the trauma and the health and wellbeing effects of family violence often remain long after the violence itself ends.²³¹ This impedes recovery. The Commission received submissions from victims who had suffered family violence a considerable time ago and were still suffering from its consequences decades later:

A heavy sadness continues to fill my soul, as how do you ever fully recover from such a cowardly, dangerous, intentional and reckless act? Words really fail me when attempting to describe how this crime has affected us. I constantly relive every word, every hurt, every moment. Arguably, the most damaging aspect of the assault is the ongoing trauma from being betrayed by the person that I thought I could love and trust. This inhumane attack turned my world upside down and all order completely disappeared. The wounds remain, in time the mind covers them with scar tissue and the pain [lessens]. But it is never gone. The nightmares remain, the fear stays and the words still go unspoken. The damage is irreversible and forever-lasting.²³²

On a final note, my poor choice in a partner has cost me my career, health, financial security, happiness, dreams and hope for the future. On a daily basis I deal with the impact on my ex's behavior on my children and fear the impact this will have on them in the long term.²³³

Several submissions and community consultation participants described intense physical reactions and/or aversions to particular objects that reminded them of experiencing violence:

I cannot wear anything around my neck at the moment. If it wasn't for me kicking him, I would be dead. If I put something on it feels like I'm choking. Plus the knives. I only have one knife in my house at the moment because my son tried to stab me.²³⁴

Constant anxiety inside me. On high alert every time the phone rang or I got mail. Hearing cars, smelling cigarette smoke etc. were triggers for me, my body would stop working and I would panic.²³⁵

The Royal Australian and New Zealand College of Psychiatrists submitted that 'the most profound and long lasting effects of FV are those related to mental ill health. Chronic stress such as that seen in FV leads to neuro-biological impacts which in turn produce mental illness and physical illness'.²³⁶ The Commission was informed that psychological trauma caused by family violence can lead to ongoing cognitive and behavioural problems, including post-traumatic stress disorder:²³⁷

My children and I have all been diagnosed with severe post-traumatic stress disorder. It manifests differently in all of us but includes depression and anxiety disorders. Our lives are tainted by what happened to us and that never goes away ... I look at my children and how they struggle with the mental health issues of growing up in a house where violence was routine and where verbal abuse was dished out constantly and I blame myself always. I live with the shame and the guilt of not being able to protect them or myself, and I live with the knowledge that the person who inflicted this damage will never answer for it.²³⁸

The Commission was also informed that many women with extensive histories of family violence are being diagnosed with a condition called 'complex trauma disorder', which has symptoms affecting cognition and emotional wellbeing.²³⁹ The importance of 'trauma-informed care' in responding to the needs of victims of family violence was highlighted to the Commission.²⁴⁰ This is discussed in Chapter 19.

Resilience

Although hundreds of women described their experiences and the trauma caused by family violence, the Commission was struck by the enormous resilience and strength victims displayed both during and after the violence:

I am stronger and [more] empowered than ever before, and I am now completing my dual diploma in Community Services and Case management to achieve my goal, (and passion) to work in the family violence sector to help women and children recover from family violence and rebuild their lives, it can be done, and I have done it.²⁴¹

The Commission heard about the positive health and wellbeing outcomes of victims who were supported, both personally and professionally. Often, strong support networks from family, friends and professionals were crucial and served to increase a victim's resilience and enhance their sense of wellbeing:

I experienced physical, emotional, and spiritual abuse in the relationship. I can testify that complete recovery is achievable and attainable but it requires a lot of hard work. You cannot handle the situation in isolation; you need friends, family and counsellors to pull you through. It takes a lot of courage and strength to walk through it. You will have setbacks along the way provided you keep heading in the right direction that is all that it counts.²⁴²

I thank you for giving me this opportunity to submit my personal experience with family violence, I would like to add that I am doing fantastic now, this was 3 years ago, and with the amazing support of my family, children and psychologist, and my wonderful new partner, I have been able to heal, and not be a victim but a survivor.²⁴³

The Commission's findings are supported by those of a number of studies that highlight the resilience of victims of family violence and their ability to 'recover' from experiences of violence. The Australian Longitudinal Study on Women's Health found that younger women who had previously experienced partner violence had better mental health than women who had experienced violence more recently.²⁴⁴ A South Australian study that assessed 59 women who had experienced family violence for post-traumatic stress disorder, anxiety and depression showed a significant reduction in symptoms at a 12-month follow-up.²⁴⁵

Although children and young people disproportionately experience the effects of family violence, they too display great resilience: research shows that many children who experience such violence do as well as children who have not experienced it.²⁴⁶

The lasting impacts of family violence and men's violence against women is life long, however women, children and families have the ability to survive this and even thrive after the violence has occurred. What is crippling for individuals and families is a lack of support which would otherwise enable them to return to work, continue to study, maintain relations and participate in everyday life again. We need to minimise the impact violence can have on the lives of those directly impacted by violence and the family and friends who support them ... I would like all women and their families who have experienced violence to feel like they have somewhere to go, someone to call and to feel that they have a bright future ahead of them after the abuse has occurred.²⁴⁷

The resilience of children and young people is discussed in more detail in Chapter 10.

Family violence-related deaths

I grabbed [the] children and hid them in the back bedroom as I thought this would be the safest place if he tried to get in the flat. I rang the Police, as I was on the phone I heard a large gunshot and a Scream. I quickly tried to explain to the Police and hung up the phone, At that moment my Daughter came running out of the back bedroom and tried to look through the venetian blinds. I grabbed hold of her and we all just sat together in the bedroom until the Police arrived. MY HUSBAND SHOT HIMSELF DEAD. I was told by the Police that there were [removed] bullets in the gun. They believed that he had planned one bullet for each of us.²⁴⁸

Fiona, a mother of four from Melton West, had been at the Sunshine Magistrates' Court for an intervention order hearing. She had attended a nearby women's refuge before she was tragically killed by her ex-partner outside Sunshine Shopping Centre.²⁴⁹

On Saturday he rang [removed] and told her he had been injured in a football accident and asked her to return to their apartment to help him. Unfortunately she agreed to stay overnight to make sure he was OK, but by the morning she was dead brutally murdered by him ... the memory of the loss of our beloved, gentle daughter and sister ... continues to haunt us to this day.²⁵⁰

My sister ... was in a number of abusive relationships. She ended up committing suicide about five years ago. My sister never sought any type of help in any way.²⁵¹

Nikita Chawla was a beautiful, kind-hearted, gentle, energetic and ambitious young woman with a passion for performing arts and dance. Her life was taken in a brutal act of domestic violence perpetrated on 9 January 2015. She was 23 years old. She had her whole life ahead of her.²⁵²

Kelly loved life and just living – that was taken away from her and us; her family.²⁵³

The Commission received several submissions from family members of people who had been killed by other family members, some in recent years and others some time ago. Most of these cases involved women who were killed by their male partners or ex partners. The Commission met privately a number of bereaved families who spoke of the devastating impact of their loved one's—and in one case loved ones'—death. In each case the course of events leading to the death had involved a history of family violence. In some cases the family violence was known to family members, police, the courts and specialist family violence services during the victim's lifetime; in others, the victim had not disclosed or had only partially disclosed the occurrence or extent of the violence they had suffered.

The Commission was moved and impressed by the insight and conviction of these families. The Commission is grateful for the detailed and considered contribution it received from these families. The stories they told illuminated the very grave consequences that gaps and failings in the system's response to family violence can have. Their courage in revisiting the circumstances that had led to the death of their daughter or son, sister or parents was remarkable, as was the clarity with which they were able to identify ways that system failings might be addressed to spare other individuals and families a similar fate.

As shocking as the statistics on family violence-related deaths are, the Commission would like to acknowledge that the statistics outlined in this section cannot convey the grief the families have felt for the loss of their loved ones. 'Domestic homicides'²⁵⁴ are recorded by the Australian Institute of Criminology's National Homicide Monitoring Program.²⁵⁵ Of the 96 homicide incidents in Victoria between 1 July 2010 and 30 June 2012, almost a third were domestic homicides.²⁵⁶ Nationally, women constituted 76 per cent of the victims of intimate partner homicides, 50 per cent of homicides by parents, 52 per cent of homicides by children, and 25 per cent of other family homicides.²⁵⁷

There is a demonstrable link between family violence, homicide and suicide:

- ▶ Each year in Victoria about 40 per cent of all deaths attributed to homicide occur between parties in an intimate relationship or familial relationship (this includes adults and children). That is about 25 deaths a year.²⁵⁸
- ▶ Between 2009 and 2012 almost 35 per cent of women who died through suicide had a reported history of family violence. That is about 50 deaths a year.²⁵⁹
- ▶ A large number of men who died from suicide in Victoria between 2009 and 2012 had a history of family violence. Many men had a history of perpetrating such violence. There were approximately 110 deaths annually of men with a history of family violence.²⁶⁰ The Commission was cautioned, however, that the relationship and mediating factors between perpetration of family violence and suicide are not well understood.²⁶¹

The Coroners Court of Victoria identified 288 family violence-related deaths in the state between 1 January 2000 and 31 December 2010—in total, 150 females and 138 males.²⁶² The Coroners Court submitted to the Commission:

Coronial investigations of family violence homicides have also identified that third parties and professionals are often aware of the occurrence of family violence, however for various reasons have not notified any authority. This finding is replicated amongst those exposed to family violence who subsequently die from suicide, with almost 85% of these women having discussed their exposure to violence with either professionals or family and friends.²⁶³

As might be expected, the coronial investigations of family violence homicide have revealed that many parties involved in fatal family violence incidents had previous contact with the justice system. Many had contact with the police, courts and/or community corrections within six months of the fatal event. In addition, in some incidents, the perpetrator of family violence had a current family violence intervention order against them at the time of the fatal event. There was evidence of perpetrators breaching the conditions of the order in close proximity to orders having been made, as well as further violence occurring that was not reported to police. While family violence intervention orders are an integral part to improving victim safety, for a proportion of cases, it is evident that an intervention order does not result in an end to violence. As demonstrated here, this can be to the extent that a fatal outcome occurs.²⁶⁴

Some deaths are also indirectly linked to family violence, and the impacts are not known or understood until some time later, if at all. These include

- ▶ premature deaths from chronic illness, disability or injury linked to childhood neglect or to serious or sustained violence in adulthood
- ▶ deaths linked to neurological or psychiatric conditions caused or exacerbated by violence
- ▶ deaths caused by substance misuse, which itself can be linked to experiences of family violence.

In Chapter 25, we consider the role of the Coroner and the value of systemic death reviews conducted by that office.

Endnotes

- 1 Victorian Law Reform Commission, Review of Family Violence Laws: *Report* (2006).
- 2 *Family Violence Protection Act 2008* (Vic) s 5.
- 3 *Ibid* s 5(2).
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- 5 *Ibid* s 8(1)(a) and (b).
- 6 *Ibid* s 8(1)(d) and (e).
- 7 *Ibid* s 8.
- 8 *Ibid* s 8(2) and s 9(2).
- 9 *Ibid* s 8(3).
- 10 *Ibid* s 8(3)(a).
- 11 Aboriginal Affairs Victoria, 'Strong Culture, Strong Peoples, Strong Families: Towards a Safer Future for Indigenous Families and Communities –10 Year Plan' (Department of Planning and Community Development, October 2008) 11.
- 12 *Family Violence Protection Act 2008* (Vic) s 10(1)(b).
- 13 The figures quoted here are from 2013–14, but this gender split has remained stable over the five years from 2009–10 to 2013–14. Note also that individual victims and perpetrators could be counted more than once if they were involved in more than one incident in a year. Crime Statistics Agency, 'An Overview of Family Violence in Victoria: Findings from the Victorian Family Violence Database 2009–10 to 2013–14' (January 2016) 146.
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- 16 Anonymous, Submission 269, 1.
- 17 Council of Single Mothers and their Children, Submission 368, 7; No To Violence; Men's Referral Service, Submission 944, 5; Domestic Violence Resource Centre Victoria, Submission 945, 12.
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- 19 Anonymous, Submission 54, 1.
- 20 Council of Single Mothers and their Children Victoria Inc, Submission 368, 8.
- 21 See, eg, Community consultation, Melbourne, 6 May 2015; Community consultation, Sale, 12 May 2015; Anonymous, Submission 97, 8–9; Wyndham Legal Service–02, Submission 83, 13; Home Office (UK), above n 18, 4, 8 and 11; Anonymous, Submission 218, 1.
- 22 See, eg, Member for Yuroke, Submission 460, 5; Member for Werribee, Submission 278, 4.
- 23 Anonymous, Submission 534, 2.
- 24 Community consultation, Melbourne, 6 May 2015.
- 25 Anonymous, Submission 54, 1.
- 26 Nicole Brand, Submission 385, 1.
- 27 Mental Health Legal Centre Inc; Inside Access; Centre for Innovative Justice, Submission 648, 16.
- 28 Community consultation, Richmond, 1 May 2015, 3.
- 29 Nicole Brand, Submission 385, 2.
- 30 Community consultation, Melbourne 1, 24 April 2015, 2–3.
- 31 Crime Statistics Agency, above n 13, 105. According to police data analysed by the Crime Statistics Agency between July 2004 and 30 June 2014, 63 per cent of perpetrators were recorded on an L17 form for one incident only. However there may have been previous incidents not reported to the police.
- 32 Domestic Violence Victoria–02, Submission 943, 9.
- 33 Anonymous, Submission 290, 3.
- 34 Peta Cox, 'Violence Against Women: Additional Analysis of the Australian Bureau of Statistics' Personal Safety Survey, 2012' (Horizons: Research Paper No 01, Australian National Research Organisation for Women's Safety, October 2015) 129.
- 35 Karen Gelb, 'Understanding Family Violence Court Proceedings: The Impact of Family Violence on the Magistrates' Court of Victoria (produced on behalf of the Royal Commission into Family Violence)' (Karen Gelb Consulting, November 2015) 5, 39. This research was conducted at a number of courts in metropolitan Melbourne (Melbourne, Sunshine, Dandenong and the Neighbourhood Justice Centre) and regional Victoria (Ballarat, Geelong, Wangaratta and Maryborough).
- 36 See generally Loraine J Bacchus, Gill Mezey and Susan Bewley, 'A Qualitative Exploration of the Nature of Domestic Violence in Pregnancy' (2006) 12(6) *Violence Against Women* 588–604.
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- 46 Patrick Parkinson, Judy Cashmore and Judi Single, 'Post-Separation Conflict and the Use of Family Violence Orders' (2011) 33(1) *Sydney Law Review* 1, 5; Centre for Innovative Justice, above n 38, 16.
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- 48 Department of Human Services, above n 44, 75.
- 49 *Ibid* 28.
- 50 Rae Kaspiew et al, 'Evaluation of the 2006 Family Law Reforms' (Australian Institute of Family Studies (Cth), December 2009) 26.
- 51 *Ibid*.
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- 53 Owen Camilleri, Tanya Corrie and Shorna Moore, 'Restoring Financial Safety: Legal Responses to Economic Abuse' (Good Shepherd Australia New Zealand and Wyndham Legal Service, 2015) 12–13.
- 54 See, eg, Community consultation, Melbourne, 6 May 2015; Community consultation, Echuca 1, 7 May 2015.
- 55 Community consultation, Echuca 1, 7 May 2015.
- 56 Women's Legal Service Victoria—01, Submission 940, 47.
- 57 Dr Adiva Sifris and Anna Parker, 'Family Violence and Family Law: Where to Now?' (2014) 4 *Family Law Review* 3, 6–7.
- 58 Anonymous, Submission 808, 3; Anonymous, Submission 713, 3.
- 59 Dads in Distress Support Services, Submission 493, 1.
- 60 Anonymous, Submission 672, 1.
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3 Key family violence data

Introduction

Family violence is a pervasive and pernicious problem in our society. Although it takes many forms, the most common type of family violence is intimate partner violence, which is mainly perpetrated by men against women. There has been more research done on this type of violence than on violence against other family members.

Chapter 2 provides an overview of the nature and dynamics of family violence, the different forms it can take, the times of heightened risk, and some of the effects of such violence.

This chapter explains some of the limitations of the data used throughout this report—the greatest problem being the widespread under-reporting of family violence. This is more fully explored in Chapter 39 but, for now, it is sufficient to say that our understanding of family violence is hindered by under-reporting, by a lack of capacity in various workforces to identify family violence, by gaps in recorded data on the impact of family violence for particular groups and communities, and by the ways in which people interact with different services and systems that aim to prevent or respond to family violence.

Acknowledging these limitations, it is important to explain some terms that can assist in the reading of the data used throughout this report—terms such as ‘prevalence’ and ‘incidence’. Efforts have been made in recent years to understand more about the prevalence of family violence. Although it is not clear whether its prevalence is increasing, there has been a marked increase in the reporting of it, and this is reflected in family violence incidence data for Victoria. This increased incidence puts extraordinary pressure on the systems and services that deal with family violence.

While we know that family violence can involve people of all ages and backgrounds, we share what we know about demographic trends of both perpetrators and victims of family violence.

Finally, this chapter also discusses some of the primary statistics that are often relied on throughout this report.

Terminology

- ▶ The terms ‘affected family member’ and ‘other party’, as used by the police, refer respectively to a person to be protected by a family violence intervention order (the victim) and a person against whom such an order is made (the perpetrator); the terms ‘applicant’ and ‘respondent’ are used by the courts.
- ▶ Throughout this chapter the terms ‘victim’ and ‘affected family member’ are used interchangeably. Similarly, the terms ‘respondent’ and ‘perpetrator’ are used interchangeably—recognising that there might not have been any findings of guilt in respect of the ‘perpetrator’, who could therefore be called an ‘alleged perpetrator’.
- ▶ The formal term for breaching a family violence intervention order is a ‘contravention’; it is, however, commonly described simply as a ‘breach’. These terms are used interchangeably in this chapter and throughout the report.

Data limitations

A great deal of family violence is hidden. People might not report their experience of it or it might be reported in a way that obscures its nature or extent, for example by reporting an injury, but not attributing it to violence (sometimes called ‘hidden reporting’). When people do report family violence, the services and organisations that collect the information might not record it properly or consistently (sometimes called ‘under-recording’).¹

Many varied and complex factors lie beneath hidden reporting and under-recording, among them the following:

- ▷ shame, fear and stigma
- ▷ practical or technical barriers—such as the way surveys and service providers pose questions and the language and setting in which the questions are asked
- ▷ factors that create additional barriers—such as linguistic and cultural barriers, geographical isolation, disability or homelessness—making people less visible in data collection
- ▷ not recognising certain behaviours—particularly emotional or economic abuse—as constituting family violence
- ▷ a lack of capacity among multiple systems and services to identify family violence.

Population survey data does, however, reveal the extent to which people might not report family violence. For example, the Australian Bureau of Statistics' Personal Safety Survey (ABS Personal Safety Survey) shows that, of people who had experienced violence by a current partner (estimated to be 66 per cent [$n=237,100$] women and 34 per cent [$n=119,600$] men), 25.6 per cent of women and 54.1 per cent of men said they had never told anyone about violence by a current partner, and 39 per cent of women and 70.3 per cent of men said they had never sought advice or support in connection with a current partner's violence.²

The ABS Personal Safety Survey also found that, of those people who had experienced violence by a previous partner (estimated to be 1,267,200 women and 336,300 men), 6.7 per cent of women and 20.9 per cent of men said they had never told anyone about previous partner violence, and 23.9 per cent of women and 47.6 per cent of men said they had never sought advice or support in connection with previous partner violence.³

Even when people do report family violence, information about them can be incompletely or inaccurately recorded. For example, some data sets might not record particular demographic characteristics or might record them unreliably or inconsistently.⁴ In addition, organisations and service providers can collect data differently, so it can sometimes be difficult to draw robust conclusions about trends or patterns.

Further, information about services and organisations themselves is often limited, which makes it hard to measure performance, forecast demand, and determine effective measures to reduce or prevent family violence.

The prevalence of family violence

In the context of this inquiry, the term 'prevalence' refers to the proportion of people in a population who have experienced family violence, or a particular manifestation of it, at least once. Prevalence data is usually derived from examining the proportion of family violence at a particular time—much like a data snapshot. This is different from 'incidence', which is a more dynamic measure that examines the rate and pattern of incidents, often expressed per 100,000 people. Incidence is discussed further shortly, under the heading 'The incidence of family violence'.

The Personal Safety Survey

The Australian Bureau of Statistics' Personal Safety Survey is arguably the most comprehensive source of data on the prevalence of interpersonal violence in Australia.⁵ It does have limitations, though; for example, it includes only adults, and it does not include people such as those living in residential care settings and people experiencing homelessness.

The survey focuses on men's and women's experiences of physical and sexual violence, emotional abuse, stalking and sexual harassment. The ABS conducted the survey in 2012 and 2005; a precursor survey, the Women's Safety Survey, was conducted in 1996. In 2012, 17,050 respondents completed the survey, 2,404 of them being in Victoria.⁶

The ABS Personal Safety Survey asked about respondents' experiences of physical, sexual and emotional violence in the preceding 12 months and since the respondents were 15 years old. For physical and sexual violence, the survey records the respondent's relationship with the perpetrator, thus producing an estimate of the prevalence of violence perpetrated by parents, children, siblings, partners and other relations. The survey uses the term 'partner' to describe a person with whom the respondent was living or with whom they lived at some point in a married or de facto relationship; 'partner violence' excludes violence perpetrated by a 'boyfriend/girlfriend or date'.⁷

The survey defines 'physical violence' and 'sexual violence' to include physical and sexual 'assaults' and 'threats'. Physical assault involves the use of physical force intended to harm or frighten. This includes being pushed, grabbed, punched, shoved, slapped, kicked, bitten, choked, dragged, stabbed, shot, or struck with a vehicle; it excludes contact during sport. Physical threat involves an attempt, threat or suggestion of intent to inflict physical harm made face-to-face and where the victim believed it was able and likely to be carried out. It includes threats to carry out the listed examples of physical violence.⁸

Sexual assault is defined to involve acts of a sexual nature carried out against the victim's will through force, intimidation or coercion or any attempt to do this. It includes rape, attempted rape, aggravated sexual assault and indecent assault. Unwanted sexual touching was separately considered under 'sexual harassment'. Sexual threat includes face-to-face threats of a sexual nature where the victim believed the threats able and likely to be carried out.⁹

Emotional abuse is defined as follows:

... when a person is subjected to certain behaviours or actions that are aimed at preventing or controlling their behaviour with the intent to cause them emotional harm or fear. These behaviours are characterised in nature by their intent to manipulate, control, isolate or intimidate the person they are aimed at. They are generally repeated behaviours and include psychological, social, economic and verbal abuse.¹⁰

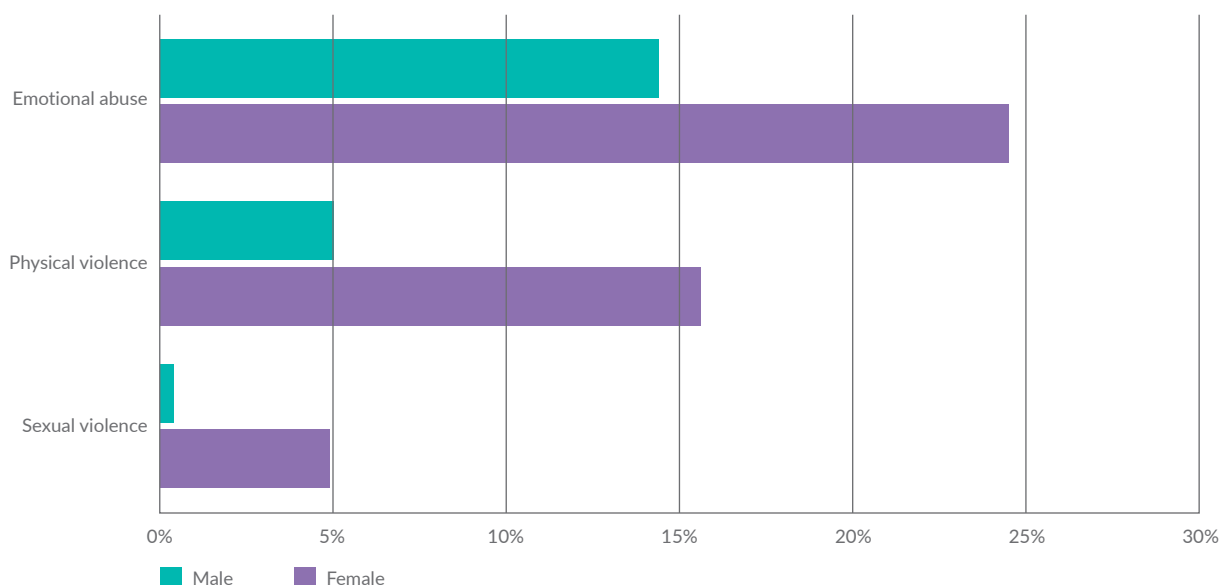
What the survey tells us

Figure 3.1 show some statistics from the ABS Personal Safety Survey. The figures reported are estimates of the proportion of the total adult male and female population of Australia (as opposed to the proportions of survey respondents). The data demonstrates that the Victorian and national prevalence of women's experience of partner violence in the 12 months preceding the survey are comparable, at 1.5 per cent of the female population.¹¹

The 'violence' figure and the subsets of 'physical violence' and 'sexual violence' include violence perpetrated by both strangers and family members. These figures place family violence in context and demonstrate that, while men experience overall higher rates of physical violence, women are more likely to experience both physical and sexual violence at the hands of a partner or ex-partner, parents, children, siblings and other relatives or in-laws. They also show that intimate partner violence is markedly more common than other forms of family violence. The next most prevalent form of family violence is that perpetrated by parents against children.

Figure 3.1 shows the estimated proportions of men and women who had experienced family violence (emotional, physical and sexual) since the age of 15 years and the relationship they had with the person committing the violence.¹² It demonstrates that the majority of family violence occurs in the context of an intimate partner relationship and that women are more likely to experience it than men.

Figure 3.1 Experience of emotional, physical or sexual family violence by a partner or ex-partner since the age of 15: Australia, 2012



Source: Australian Bureau of Statistics, 'Personal Safety Survey, Australia, 2012' (Catalogue No 4906.0, Australian Bureau of Statistics, December 2013), Table 4.

Measuring change over time can be difficult, partly because of changing approaches to asking questions and defining concepts between different surveys. ANROWS (Australia's National Research Organisation for Women's Safety) has reported, however, that the proportion of women experiencing violence perpetrated by a cohabiting partner in the 12 months preceding both the 2005 and 2012 ABS Personal Safety Surveys did not change, remaining at 1.5 per cent.¹³

To gain a sense of how the data compares internationally one can refer to the World Health Organization (WHO), which in 2010 estimated rates of intimate partner violence against women who have been in a relationship by region.¹⁴ The World Health Organization uses a narrower definition of physical and sexual violence than the ABS Personal Safety Survey by excluding threats of violence other than those involving a weapon but a broader definition of intimate partner, by including dating and informal partnerships. Like the ABS Personal Safety Survey, it measures experiences of intimate partner violence from the age of 15 years. The high-income region, which includes Australia, has a 23.2 per cent prevalence rate; this compares with the 23.6 per cent found in the ABS Personal Safety Survey.¹⁵ The average of all regions is about 30 per cent.¹⁶

The ANROWS analysis

In October 2015 ANROWS produced an additional analysis of the ABS Personal Safety Survey, including several hundred new statistical items related to violence against women.¹⁷ Among the main findings from its analysis are the following.

Characteristics of partner violence

- ▶ *Prevalence.* When the definition of 'intimate partner' is broadened to include non-cohabiting partners (boyfriend, girlfriend or date), one in four women—an estimated 2,194,200 women in Australia—had experienced violence by a male intimate partner since the age of 15 years. This is three-quarters of the total estimate for women who have experienced violence by a known male: family violence against women is overwhelmingly perpetrated by partners. An estimated 0.3 per cent of women have experienced violence by a female intimate partner. Rates of cohabiting partner violence in the 12 months preceding the survey were highest among women aged 25 to 34 years.
- ▶ *Pregnancy and children.* Since the age of 15 an estimated 400,000 women experienced violence by a cohabiting partner during pregnancy, and over half a million reported that their child had seen or heard partner violence.
- ▶ *Employment and financial impacts.* One in four employed women who experienced physical assault by a male cohabiting partner took time away from work as a result of their most recent incident of assault, and over half a million (seven out of 10 women who experienced violence in a previous relationship) abandoned property or assets when they moved away after a violent relationship ended.¹⁸

If the analysis is broadened to capture data on violence more generally, it becomes apparent that gender is a significant variable when considering different patterns of violence.¹⁹ For example, while we know that men are more likely to be victims of general (non-family) physical violence—one in two men have experienced physical violence since the age of 15, compared with one in three women—this type of violence is more likely to occur at the hands of men and outside the family home.²⁰ By contrast, violence against women is more likely to be perpetrated by an intimate partner.

Characteristics of general (non-family) violence

- ▶ *Perpetrators.* Both women and men are over three times more likely to be physically assaulted by a man than by a woman.
- ▶ *Place.* A man is most likely to experience violence in a place of entertainment; a woman is more likely to experience it in her home.
- ▶ *Multiple episodes.* An estimated 1.7 million women had experienced multiple incidents of physical violence by a male perpetrator since the age of 15. Two-thirds of these reported that the violence was perpetrated by the same man. In the 12 months preceding the survey women with disabilities were more likely than women without disabilities to experience multiple incidents of violence by a male perpetrator.²¹

The incidence of family violence

As noted, the term ‘incidence’ is used to capture the rate at which family violence occurs over time. Examining incidence helps us identify trends or patterns that might help to guide service responses. It is distinct from a consideration of ‘incidents,’ which is the number of separate and individual occurrences of an event—for example, police attending a house to respond to an incident of family violence. In this case, incidence is the rate at which the number of police attendances is increasing or decreasing.

In addition to the prevalence data provided by the ABS Personal Safety Survey, agencies, departments and services collect statistics that provide measures of the incidence of reported family violence.

Incidence has been calculated differently in some of the data sets discussed in this section. Victoria Police data measures incidence as the number of family violence incidents (police attendances for family violence) recorded in a specific period, so each time a victim (or another person) reports an incident of family violence it will be counted. Victoria Police also extrapolates these figures to gain a prevalence rate per 100,000.

The high-level data from the Magistrates’ Court and the Children’s Court reports all applications (original, extension, variation and revocation) for family violence intervention orders. The sections that report on the demographic characteristics of affected family members and respondents are based only on original family violence intervention order applications, so there is no double-counting of affected family members and respondents. This latter approach aligns with an alternative definition of incidence—the number of new cases of family violence in a particular period—that has been used in some studies.²²

Recent years have seen a marked increase in recorded cases of or cases related to family violence in many data sets. This does not necessarily mean, however, that family violence has become more prevalent. Increases in recorded cases might reflect higher reporting rates or improved skill or effort in identifying family violence. It is important to remember that many incidents of family violence go unreported. Nevertheless, the figures in this section show that extraordinary pressure is being placed on our systems and services.

As noted in Chapter 1, Victoria’s Family Violence Database collected incidence data from a range of sources between 1999 and 2010. It produced major reports in 2002, 2005, 2008, 2009 and most recently in 2012. This database was, however, not operational in the following years, resulting in an absence of publicly available compiled trend data.

To resolve this problem, and to advance our understanding of the nature and extent of family violence, the Commission engaged the Crime Statistics Agency to produce an updated set of family violence statistics for the five years from 1 July 2009 to 30 June 2014, based on analysis of all the data sources contained in the Family Violence Database.²³ The agency’s findings are included throughout this report. These and related matters are discussed in more detail in Chapter 39.

The following section looks at some primary indicators of incidence, beginning with the law enforcement and justice system and moving to other systems and services such as health, accommodation and specialist family violence services.

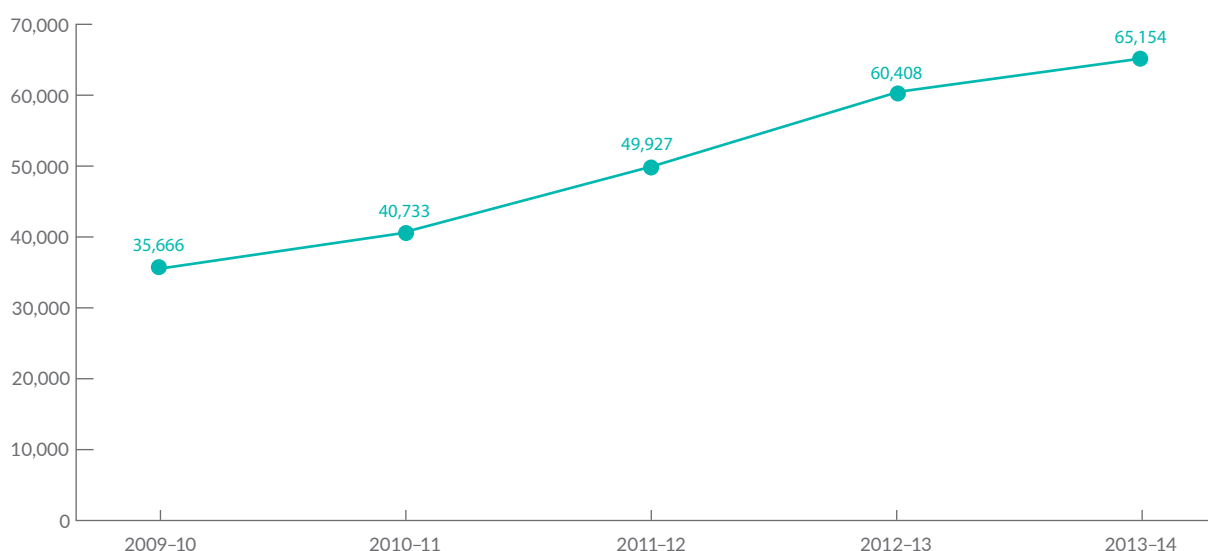
Legal and law enforcement indicators

Family violence incidents recorded by police

Many people affected by family violence in Victoria come into contact with police as a result of the violence. About 30 per cent of family violence intervention order applications are, however, made by victims directly to the courts, and these applications therefore do not appear in police statistics.²⁴

When police respond to a family violence incident, they complete a risk assessment and risk management report, known as an L17 form. The number of family incidents—incidents for which an L17 is completed—is therefore a valuable measure of the incidence of reported family violence. The number of ‘family incidents’ increased by about 83 per cent between 2009–10 and 2013–14 (see Figure 3.2).²⁷ There has been a 71 per cent increase in the rate per 100,000 population of police family violence reports over this five-year period, from 653.1 to 1115.3.²⁵ A further increase was seen in 2014–15, when there were 70,906 family incidents recorded by police, which equates to a rate of 1191.5 per 100,000 population.²⁶ The data is discussed further in Chapter 15.

Figure 3.2 Number of family violence incidents recorded on an L17 form by Victoria Police, 2009–10 to 2013–14



Source: Crime Statistics Agency, ‘An Overview of Family Violence in Victoria: Findings from the Victorian Family Violence Database 2009–10 to 2013–14’ (January 2016), Table 3: Family incidents recorded and family incident rate per 100,000 population—Victoria Police, July 2009 to June 2014, 24, provided to the Commission by the Crime Statistics Agency, 8 January 2016.

Recidivist perpetrators

As part of its work in response to the Commission’s request, the Crime Statistics Agency analysed 10 years of Victoria Police data relating to recidivist (alleged) perpetrators of family violence.

- ▶ From 1 July 2004 to 30 June 2014 police recorded 403,991 L17 forms involving 197,822 perpetrators. The majority (63 per cent, $n=125,044$) of these perpetrators were recorded on only one L17 form.
- ▶ Recidivist perpetrators had a disproportionate impact on the volume of family incidents recorded by police: 13 per cent ($n=25,092$) of perpetrators were recorded in more than four incidents each and seven perpetrators were recorded in more than 50 incidents each.
- ▶ Overall, despite accounting for nine per cent ($n=16,914$) of all unique perpetrators, those involved in five or more incidents accounted for 34 per cent ($n=136,349$) of all family incidents. The Crime Statistics Agency did not consider the extent to which individual perpetrators repeat violence against one or multiple victims.²⁸

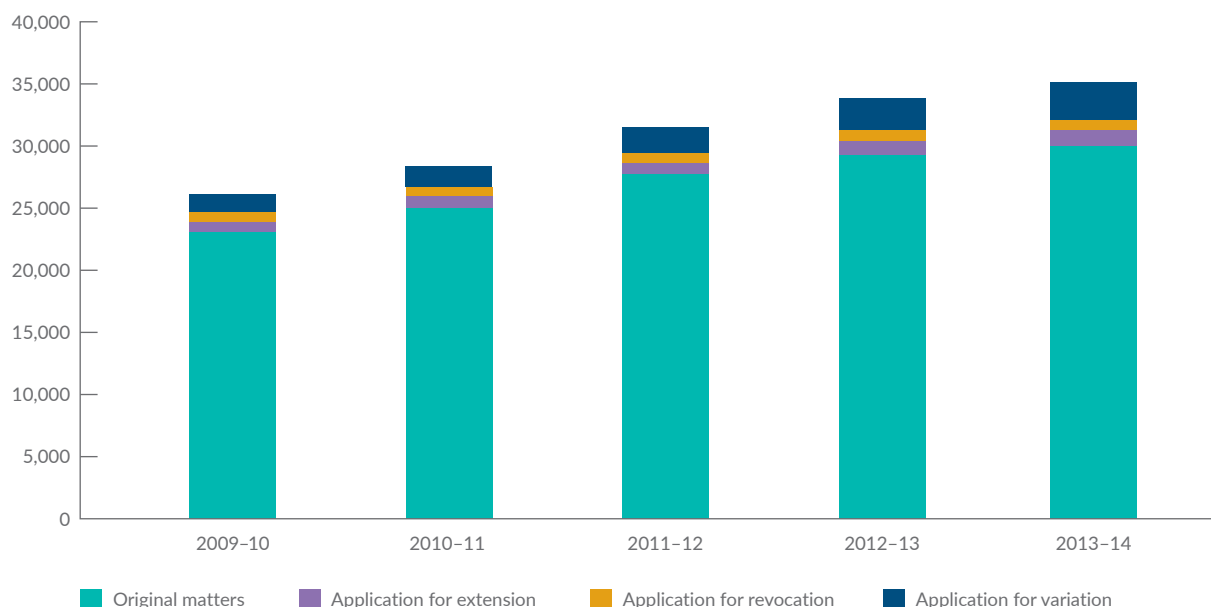
Chapters 15, 18 and 39 provide more detailed information about the problem and incidence of family violence recidivism.

Family violence intervention orders

The number of family violence intervention order applications heard by the Magistrates' and Children's Courts of Victoria is one measure of family violence.

Between 2009–10 and 2013–14 the number of FVIO applications finalised by the Magistrates' Court increased by 34.5 per cent, from 26,124 to 35,147.²⁹ Figure 3.3 shows the increase in FVIO applications finalised in the Magistrates' Court and the proportion that were original matters, applications for extension, applications for revocation and applications for variation, between 2009–10 and 2013–14.

Figure 3.3 Number of FVIO matters finalised in the Magistrates' Court, 2009–10 to 2013–14

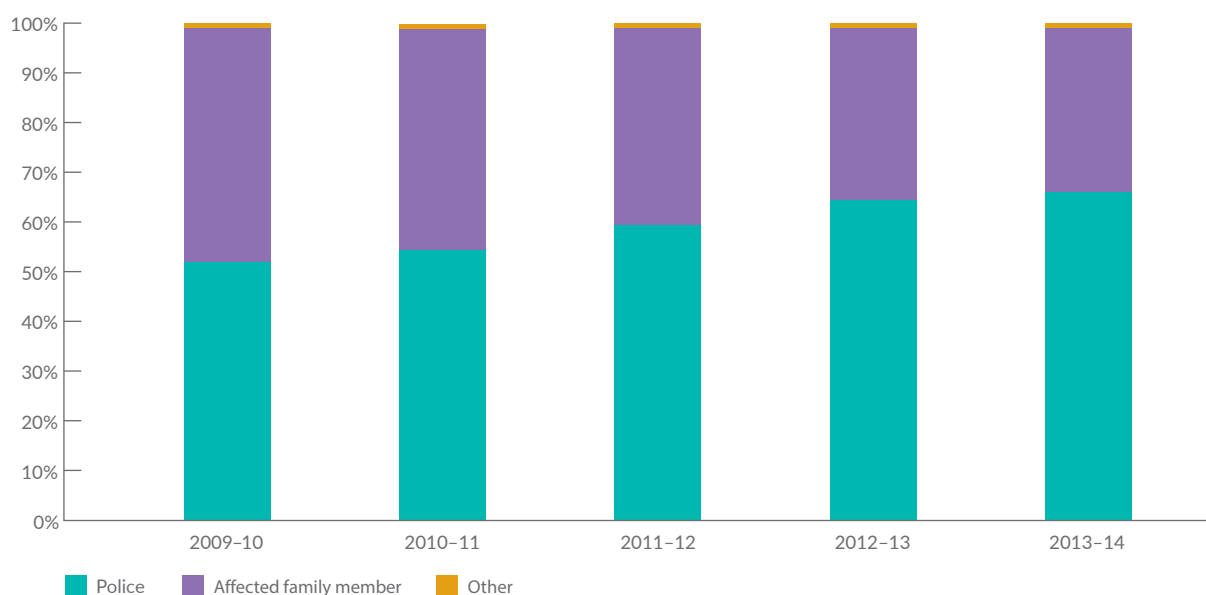


Source: Crime Statistics Agency, 'An Overview of Family Violence in Victoria: Findings from the Victorian Family Violence Database 2009–10 to 2013–14' (January 2016), Magistrates' Court of Victoria data source, Tab 1, Table 1: Finalised Family Violence Intervention Order applications by type of application, July 2009 to June 2014, provided to the Commission by the Crime Statistics Agency, 30 September 2015.

Focusing on original applications, the Crime Statistics Agency found that there were some 42,333 affected family members listed on original applications in 2009–10 and 52,777 in 2013–14, an increase of almost a quarter. There were 29,987 respondents in 2013–14, a 30.2 per cent increase on 2009–10.³⁰

Figure 3.4 shows an increase in the number of finalised FVIO applications made to magistrates' courts by police. Police-initiated applications now account for 66 per cent ($n=23,216$) of FVIO applications, up from 52 per cent ($n=13,670$) in 2009–10.³¹

Figure 3.4 Proportion of FVIO applications initiated by police and affected family members, 2009–10 to 2013–14



Source: Crime Statistics Agency, 'An Overview of Family Violence in Victoria: Findings from the Victorian Family Violence Database 2009–10 to 2013–14' (January 2016), Magistrates' Court of Victoria data source, Tab 3, Table 3; Number of Family Violence Intervention Order applications by complainant, July 2009 to June 2014, provided to the Commission by the Crime Statistics Agency, 30 September 2015.³²

The number of finalised FVIO applications in the Children's Court of Victoria increased by 33 per cent between 2009–10 and 2013–14, from 1407 to 1872.³³

If a person contravenes (breaches) a family violence intervention order—for example, by perpetrating further family violence—this is a criminal offence which can result in prosecution in the Magistrates' Court.³⁴ In their joint submission, the Magistrates' and Children's Courts of Victoria noted that since 2004–05 the number of contravention proceedings heard in magistrates' courts has more than trebled, reaching 6331 in 2013–14.³⁵ This does not necessarily reflect an increase in people breaching intervention orders or the fact that the intervention order system is failing. It could be that police are increasingly acknowledging the seriousness of breaches and acting on them or that women are more likely to call police if a breach occurs, or both.

Breaches of family violence intervention orders, even if they do not involve behaviours that are considered criminal, can cause profound fear and distress to victims. Further, prosecuting breaches adds to the burden of family violence on our criminal justice system. Breaches are discussed in Chapters 14 and 17.

Family violence-related crimes and the higher courts

The Director of Public Prosecutions submitted that in the last three reporting years approximately 1200 matters prosecuted by the Victorian Public Prosecution Service in the higher courts were nominated as family violence matters. The offences included homicide, assault, sexual offences and substantive breaches of intervention orders. About 10 per cent ($n=23$) of the 250 murder cases prosecuted in this period were related to family violence.³⁶ Family violence-related deaths and the Coroners Court are discussed in Chapter 25.

The demand for health, accommodation, legal and specialist services

Many other systems and services deal with victims and perpetrators of family violence. They are discussed throughout this report; this section outlines the main findings from the Crime Statistics Agency data and other sources relating to various services.

Homelessness assistance

The Specialist Homelessness Services Collection collates state-based data on the provision of services to people who are homeless or at risk of homelessness, including women escaping family violence and their children. These sources include the majority of the women's specialist family violence services. The SHSC replaced a different data set that was compiled for the Supported Accommodation Assistance Program, in July 2011. Since that time the number of support periods provided to all clients in Victoria has increased by 46.7 per cent, from 128,694 in 2011–12 to 188,775 in 2013–14, and the number of those seeking assistance for family violence reasons has increased from 50,586 to 74,292.³⁷

The proportion of those support periods given to clients seeking assistance for family violence has remained relatively stable: in 2013–14, 39 per cent ($n=74,292$) of all people seeking assistance from specialist homelessness services did so for family violence reasons.³⁸

From July 2011 to June 2014 an average of 83 per cent of clients seeking assistance for family violence reasons were women.³⁹

These figures could be affected by under-reporting: for example, a person might tell the service provider the cause of their immediate need for assistance (such as financial hardship) but might not disclose the relationship between that immediate need and family violence (or even if it has been disclosed, it may not be recorded).

Family violence services funded by the Department of Health and Human Services

The Department of Health and Human Services uses a platform called the Integrated Reporting Information System, or IRIS, for its service providers funded for family violence counselling (that is, women's and children's services and men's behaviour change programs).

In 2013–14 men's behaviour change programs and women's and children's family violence counselling⁴⁰ agencies in Victoria recorded 25,786 individual clients, generating 26,168 cases. (Cases can be closed for a number of reasons, so there can be more than one case per client.)⁴¹

Overall case numbers have increased by 218 per cent since 2009–10, from 8229 to 26,168. Of the 26,168 cases in 2013–14, 97 per cent recorded at least one family violence issue (two per cent did not record an issue and one per cent recorded no family violence issue).⁴²

More specifically, from 2009–10 to 2013–14 IRIS recorded a 446.9 per cent increase, from 3771 to 20,624, in the number of clients 'accessing' men's behaviour change programs and an 11.7 per cent increase, from 3963 to 4425, in clients accessing women's and children's family violence counselling.⁴³ It should be noted in the case of men's behaviour change programs, 'accessing' may be anything from a phone call through to the completion of a men's behaviour change program. Demand associated with women's family violence services is discussed in Chapter 8; demand for men's behaviour change programs is discussed in Chapter 18.

Legal services

The Crime Statistics Agency reports that in the five years from July 2009 there has been an 8.5 per cent increase in services provided by Victoria Legal Aid where the primary matter was related to family violence. VLA provided 21,172 such services in 2013–14.⁴⁴ VLA told the Commission its duty lawyer services are at saturation point, have not kept pace with the number of applications for intervention orders, and cannot meet the increase in demand for such services without additional resource investment.⁴⁵

In addition to Victoria Legal Aid, community legal centres and private practitioners (who might be funded by VLA) also provide legal services. The Federation of Community Legal Centres' submission reported that '[t]he number of new family violence cases opened by community legal centres increased by 85% between 2008/09 and 2013/14'.⁴⁶

Health

The impact of family violence on the health system can be obscured by under-recording, misdiagnosis, lack of identification or confidentiality requirements. This is discussed further in Chapters 19 and 39.

Demographic characteristics of perpetrators and victims

Family violence occurs in many different settings and is associated with people of all ages, genders, physical and intellectual abilities, socio-economic status, race, cultures and sexualities. Different groups and individuals have different experiences of family violence, however, and not everyone is affected in the same way or to the same extent. This section highlights some of what the data shows about the demographic characteristics of perpetrators and victims, noting the major limitations shared by all data sets, when it comes to capturing diversity.

Gender

Family violence disproportionately affects women and children, and a disproportionate number of men are perpetrators. The Crime Statistics Agency report provides statistics on this.⁴⁷

During the five years from July 2009 to June 2014 the proportion of male to female other parties (respondents) and male to female victims has remained relatively stable throughout agencies that contribute to the Victorian Family Violence Database. It continues to demonstrate an over-representation of women as victims of family violence:

- ▶ In family incidents for which an L17 was completed, three-quarters of affected family members (victims) were female and one-quarter were male.
- ▶ In family incidents for which an L17 was completed, 77 per cent of other parties (perpetrators) were male and 23 per cent female.
- ▶ Of the total finalised applications for family violence intervention orders in the Magistrates' Court, 78 per cent of respondents were male and 22 per cent female.

The following applies for 2013–14:

- ▶ Two-thirds ($n=323$) of patients presenting to emergency departments for family violence reasons were female and a third ($n=162$) were male; similarly, 69 per cent ($n=11,141$) of family violence victims making use of the Victims Assistance Program were female and 31 per cent ($n=5052$) were male.⁴⁸ As outlined in Chapter 19, emergency department figures are likely to under-report family violence involvement in patient presentations.
- ▶ In applications for family violence intervention orders in the Magistrates' Court, 64 per cent ($n=33,951$) of affected family members were female and 36 per cent ($n=18,826$) were male.⁴⁹
- ▶ In applications for family violence intervention orders in the Children's Court, 65 per cent ($n=1683$) of affected family members were female and 35 per cent male ($n=910$).⁵⁰

In connection with relationships between victims and perpetrators, Crime Statistics Agency data shows that in each of the relevant data sets during the five years from July 2009 to June 2014 the relationship of the victim to the perpetrator varied depending on the gender of the victim, women being more likely to be a current or former partner of a male perpetrator:

- ▶ In family incidents recorded by police, female affected family members were more likely to be a current or former partner of the other party, as opposed to male affected family members, who were more likely to have a different familial relationship to the other party (for example, as a son or a sibling). In 2013–14, 68 per cent ($n=33,766$) of female affected family members were a current or former partner of the other party, whereas only 48 per cent ($n=7545$) of male affected family members were a current or former partner of the other party.⁵¹
- ▶ Similarly, in applications for family violence intervention orders in the Magistrates' Court female victims were more likely to be in a current or former partner relationship with the respondent than male victims. In 2013–14, 73 per cent ($n=16,465$) of female affected family members were in a current or former partner relationship and 10 per cent ($n=2155$) were a parent of the respondent. Fifty-two per cent ($n=3819$) of male affected family members were in a current or former partner relationship, 14 per cent ($n=1051$) were the parent or step-parent of the respondent, and 10 per cent ($n=769$) were a sibling.⁵²

Children and young people

The ANROWS analysis of the 2012 ABS Personal Safety Survey confirms that since the age of 15, over 400,000 women have experienced partner violence during pregnancy.⁵³ The survey also revealed that most women who had children in their care during a violent relationship said that children were exposed to the violence.⁵⁴

Child victims

While the proportion of family violence incidents in which a child was present has remained relatively steady, there has been an increase in the number of children listed as affected family members on family violence intervention order applications. This could be because Victoria Police is now likely to list children as affected family members when it seeks an intervention order

- ▶ In 34 per cent ($n=22,376$) of all family incidents recorded by Victoria Police in 2013–14 there was at least one child present. This proportion remained relatively stable in the period 2009–10 to 2013–14.⁵⁵
- ▶ In the five years from July 2009 to June 2014 the number of affected family members aged 17 and under listed on FVIO applications in the Magistrates' Court increased by just over 20 per cent—from 19,353 in 2009–10 to 23,332 in 2013–14. Of these 23,332, 50 per cent were male and 50 per cent female.⁵⁶

Child and young people other parties

- ▶ In 2013–14 approximately two-thirds (65 per cent; $n=780$) of male respondents on family violence intervention order applications in the Children's Court were aged between 15 and 19 years; 13 per cent ($n=153$) were aged from 10 to 14 years.⁵⁷
- ▶ From July 2009 to June 2014, 11,861 child other parties with adult parent affected family members were recorded on police L17 forms (a relatively small proportion of overall numbers).⁵⁸
- ▶ Department of Health and Human Services data shows that in 2013–14 there were 82,073 reports to Child Protection, of which 37,492 had family violence indicated at the time of reporting.⁵⁹

Children and young people as victims of family violence are discussed in Chapter 10. Matters relating to adolescents using family violence are discussed in Chapter 23.

Groups and communities

Particular population groups tend to experience higher levels of family violence or particular manifestations of family violence, are more vulnerable to the impacts of family violence, and face greater barriers to obtaining support.

Situations pertaining to specific groups and communities are discussed in Chapters 26 to 35. Here, it is worth noting the following:

- ▶ Some groups and communities experience family violence at increased rates. For example, there is evidence that Aboriginal and Torres Strait Islander peoples might be at least 6.5 times more likely to report being a victim of family violence-related offending than non-Aboriginal and Torres Strait Islander peoples,⁶⁰ and Aboriginal and Torres Strait Islander women are 34.2 times more likely to be hospitalised as a result of family violence.⁶¹ We also know that under-reporting of family violence is common in these communities.
- ▶ In the 2008 Coming Forward survey of 390 lesbian, gay, bisexual and transgender Victorians, 35 per cent of women and 29 per cent of men reported experiencing partner violence or abuse and more than half of these respondents reported being physically attacked.⁶²
- ▶ Some groups and communities can be more vulnerable to particular manifestations of family violence. For example, up to one in 20 older people can experience elder abuse, and for about half of them that abuse might be in the form of financial abuse.⁶³
- ▶ Women with disabilities are at greater risk of family violence.⁶⁴ In the report of its Systemic Review of Family Violence Deaths, the Victorian Coroners Court notes that people with disabilities can face specific barriers because of:
 - ... communication and language barriers; a lack of appropriate transport and accommodation options for victims immediately fleeing violence; reliance on family members to provide care who may also be the perpetrators of violence; and in some instances, an absence of recognition as to their victimisation status.⁶⁵
- ▶ Victims from culturally and linguistically diverse backgrounds can face language and cultural barriers when seeking to engage with services. This can lead to the continuation of or an escalation in violence.
- ▶ Victims living in rural, regional and remote areas can have limited access to services and more limited means of leaving a violent relationship. This too can lead to the continuation of or an escalation in violence.

The data has its deficits and gaps in relation to these and other groups and communities; these can arise from under-reporting, from biases or omissions in data sets, or from assumptions or misapprehensions on the part of those collecting the data.

More broadly, statistics rarely capture the complexities that mediate people's contact or involvement with the family violence system—their lack of familiarity with or trust in the system; the inability of mainstream services and systems to respond flexibly and appropriately to their needs; and discrimination they might face in daily life and in multiple circumstances or organisations. These complexities are considered elsewhere in this report. The Commission is mindful of the implications they have in understanding the incidence and prevalence of family violence in our community.

Endnotes

- 1 Australian Bureau of Statistics, 'Defining the Data Challenge for Family, Domestic and Sexual Violence, Australia, 2013' (Catalogue No 4529.0, Australian Bureau of Statistics, February 2013) 14–15.
- 2 Australian Bureau of Statistics, 'Personal Safety, Australia, 2012' (Catalogue No 4906.0, Australian Bureau of Statistics, December 2013) Table 23, Table 24.
- 3 Ibid.
- 4 See, eg, Statement of Jackomos, 9 July 2015, 11–12 [51]–[55].
- 5 Peta Cox, 'Violence Against Women: Additional Analysis of the Australian Bureau of Statistics' Personal Safety Survey, 2012' (Horizons Research Report Issue 01, Australia's National Research Organisation for Women's Safety, October 2015) 6.
- 6 Australian Bureau of Statistics, 'Personal Safety Survey, Australia: User Guide, 2012' (Catalogue No 4906.0.55.003, Australian Bureau of Statistics, May 2014).
- 7 Ibid.
- 8 Ibid.
- 9 Ibid.
- 10 Ibid Glossary.
- 11 In this context, partner is defined as a current or ex-partner with which the respondent does live or has lived, and excludes boyfriends, girlfriends and dates. The survey does not report the percentage of Victorian males who have experienced partner violence in the 12 months preceding the survey. The survey only reports the percentage of Victorian males who have experienced violence by a perpetrator who was known to them (3.5 per cent), or by a stranger (6.9 per cent). Australian Bureau of Statistics, above n 2, Tables 3.1, 3.2.
- 12 This graph has been prepared from a table in the ABS Personal Safety Survey. In that table it was stated that where a person has experienced both physical and sexual violence they are counted separately for each type of violence they experienced but are counted only once in the aggregated totals. It should also be noted that the result relating to males experiencing violence by their son or daughter has a substantial margin of error and should be used with caution.
- 13 Cox, above n 5, 84.
- 14 World Health Organization, 'Global and Regional Estimates of Violence Against Women: Prevalence and Health Effects of Intimate Partner Violence and Non-Partner Sexual Violence' (2013) 17.
- 15 The definition of intimate partner used here for the Australian context includes current and previous partners with whom the respondent resided, as well as boyfriends, girlfriends and dates. Cox, above n 5, Table A1; *ibid* 17.
- 16 World Health Organization, above n 14, 31. These figures do not include emotional abuse or violence. Although the ABS Personal Safety Survey figures are not directly comparable, Australia may have a slightly lower proportion of women who have experienced physical or sexual assault by an intimate partner since the age of 15.
- 17 Cox, above n 5.
- 18 *Ibid* 78, 80, 86, 99–101, 116, 123.
- 19 *Ibid* 2.
- 20 *Ibid* 22, 24, 37.
- 21 *Ibid* 4, 128.
- 22 Access Economics, 'The Cost of Domestic Violence to the Australian Economy' (prepared for the Office of the Status of Women (Cth), 2004) 6–7.
- 23 Crime Statistics Agency, 'An Overview of Family Violence in Victoria: Findings from the Victorian Family Violence Database 2009–10 to 2013–14' (January 2016) 18. The report includes data from 11 data sources, extracted from six different agencies, all of which use different counting units and methodologies to collect and report on family violence. The sources are: Victoria Police, Magistrates' and Children's Courts, Specialist Family Violence Court Services, Department of Health and Human Services—Integrated Reports and Information System (RIS) and Victorian Emergency Minimum Dataset (VEMD), Victims Assistance Program, Victims of Crime helpline, Victoria Legal Aid, Specialist Homelessness Services Collection and Supported Accommodation Assistance Program.
- 24 State of Victoria, Submission 717, 12.
- 25 The L17 form is completed when police attend a family violence incident, or when a family violence incident is reported to them. If more than one incident is attended, or reported, more than one L17 form will be completed: Victoria Police, 'Code of Practice for the Investigation of Family Violence—Edition 3' (2014) 17.
- 26 Crime Statistics Agency, above n 23, Table 3: Family incidents recorded and family incident rate per 100,000 population—Victoria Police, July 2009 to June 2014, 24.
- 27 Crime Statistics Agency, *Family Incidents* (1 December 2015) <<http://www.crimestatistics.vic.gov.au/home/crime+statistics/year+ending+30+june+2015/family+incidents>>.
- 28 Crime Statistics Agency, above n 23, 105–6.
- 29 *Ibid* 41. See also Magistrates' Court of Victoria and Children's Court of Victoria, Submission 978, 20.
- 30 Crime Statistics Agency, above n 23, 45–6.
- 31 *Ibid* 43. See also Magistrates' Court of Victoria and Children's Court of Victoria, Submission 978, 44.
- 32 There is also a very small number of FVIO applications initiated by 'other'. It is not known who initiates these applications and they are omitted from this figure.
- 33 Crime Statistics Agency, above n 23, 52.
- 34 *Family Violence Protection Act 2008* (Vic) s 123.
- 35 Magistrates' Court of Victoria and Children's Court of Victoria, Submission 978, 21.
- 36 Statement of Champion, 11 August 2015, 3.
- 37 Crime Statistics Agency, above n 23, Specialist Homelessness Services Collection data source, Tab 1, Table 1: Number of support periods by whether client ever identified family violence as a reason to seek assistance, July 2011 to June 2014. Support periods do not equate to numbers of people. An individual may require (and receive) more than one support period.
- 38 Crime Statistics Agency, above n 23, Specialist Homelessness Services Collection data source, Tab 1, Table 1: Number of support periods by whether client ever identified family violence as a reason to seek assistance, July 2011 to June 2014.
- 39 Crime Statistics Agency, above n 23, 98–9.
- 40 Family violence services are also known as family violence counselling for women and children. It does not represent all family violence services; the majority of which are funded through homelessness funding.
- 41 Crime Statistics Agency, above n 23, 72–6.
- 42 *Ibid* 72.
- 43 *Ibid* 76.
- 44 *Ibid* 92. See also Victoria Legal Aid, Submission 919, 57.
- 45 Victoria Legal Aid, *Untitled*, provided by Victoria Legal Aid to the Commission, 20 January 2016.
- 46 Federation of Community Legal Centres, Submission 958, 19.

- 47 Crime Statistics Agency, above n 23, 12–13.
- 48 Ibid 83, Victims Support Agency data source, Tab 3, Table 2: Number of family violence victims by gender and age group.
- 49 Ibid 45.
- 50 Ibid Children's Court data source, Tab 9, Table 8: Affected family members on Original FVIO Applications.
- 51 Ibid 29–30.
- 52 Ibid 47–8.
- 53 Cox, above n 5, 101.
- 54 Ibid 102.
- 55 Crime Statistics Agency, above n 23, 35.
- 56 Ibid 49.
- 57 Ibid 58. The Children's Court has jurisdiction over respondents aged 10 to 17 at the time of the relevant incidents (and it continues to have jurisdiction for such matters until the respondents turn 19).
- 58 Ibid Victoria Police data source, Tab 14, Table 14: Parents as the affected family member where the other party is 17 years or younger, by gender of OTH and gender and age of AFM, July 2009 to June 2014 combined.
- 59 Department of Health and Human Services, 'Data Request Summary' (9 June 2015), Worksheet 1, produced by the State of Victoria in response to the Commission's Notice to Produce dated 5 June 2015, clarified on 4 February 2016. It is noted that family violence may be present but not necessarily evident at the time of a report or the reason for the protective intervention and may have been identified at later stages of involvement with Child Protection. It is also noted that where family violence is present this may not be the reason for the substantiation and that action- causation cannot be imputed.
- 60 Aboriginal Family Violence Prevention and Legal Service Victoria, Submission 941, 13, citing Koori Justice Unit, Department of Justice, 'Indigenous Family Violence Regional Action Group and Regional Aboriginal Justice Advisory Committee Joint Workshop' (March 2013)—based on 2011–12 data.
- 61 Ibid 4.93 Table 4A.11.22.
- 62 Victorian Gay & Lesbian Rights Lobby, Submission 684, 2 citing William Leonard et al, 'Coming Forward: The Underreporting of Hetrosexist Violence and Same Sex Partner Abuse in Victoria' (Monograph Series No 69, La Trobe University, Australian Research Centre in Sex, Health and Society, 2008) 45.
- 63 Department of Health, 'Elder Abuse Prevention and Response Guidelines for Action 2012–14' (2012) 3.
- 64 Sara-Beth Plummer and Patricia A Findley, 'Women With Disabilities' Experience with Physical and Sexual Abuse: Review of the Literature and Implications for the Field' (2012) 13(1) Trauma, Violence and Abuse 1.
- 65 Coroners Court of Victoria, 'Victorian Systemic Review of Family Violence Deaths: Summary of Homicides and VSRFVD Investigations' (2015) 40 (citations omitted).

4 Family violence policies and service responses: a brief history

Introduction

Women's groups and services have been providing a response for women and children affected by family violence since at least 1974, when Victoria's first women's refuge was established. Mechanisms for responding have been evolving ever since, reflecting an extraordinary period of activity at community and government levels. This is largely a consequence of women's services' persistent efforts to raise the profile of family violence in Victoria.

The first main round of reforms occurred in the early and mid-2000s. Since then, improvements have included legislative reform, changes to policy and government strategy, and practice and operational developments. Further reforms, including legislation and policy changes at the state and territory and federal levels, continued to progress even during the time of the Royal Commission.

The recommendations of this Commission will build on all this work.

Policies and responses until 2015 in Victoria

Government policies and service responses to family violence in Victoria have been shaped by history and the efforts of women to bring this problem into the open to gain the recognition it deserves. Today many of the individuals and organisations that originally put family violence on the government policy agenda still play a leading role in providing services to women and children affected by such violence.

After the introduction of the Commonwealth's *Homeless Persons Assistance Act 1974* (Cth) government funds began to be applied to homelessness services providing food and shelter.¹ In 1974 Women's Liberation Halfway House was established as Victoria's first women's refuge; it was a donated house and relied on rostered volunteer staffing. Several other Victorian refuges were established during the next few years.² In 1977 full government funding from both state and Commonwealth governments was provided for these refuges³ after a period of some funding from various philanthropic trusts and government departments. By the end of 1979 there were 16 funded refuges in Victoria.⁴

Throughout the 1980s women's services and the refuge movement continued to work to keep women safe in the face of community silence and little interest from the justice system. The *Crimes (Family Violence) Act 1987* (Vic) was a response to women's efforts to bring the problem of family violence into the open:

As women began challenging traditional stereotypes, they also began raising awareness about the impact and prevalence of domestic violence. Government acknowledges that long before family violence received widespread media attention and community outrage, women's-based family violence services were among the first advocates of the need to respond to violence in the home.⁵

The period from 2000 to 2005 saw an important change in family violence policy in the state. The appointment of Ms Christine Nixon APM as Chief Commissioner of Police in 2001 led to a Victoria Police review of all the organisation's policies dealing with violence against women and children. The resultant report, *Violence Against Women Strategy—A Way Forward*, noted:

There was persuasive evidence to indicate that police response did not meet community and victim expectations and that significant gaps exist. Although the review identified instances where police were achieving a form of best practice, the preponderance of evidence related to the negative or below-standard response by police to family violence and, in some cases, sexual assault.⁶

This accords with Domestic Violence Victoria's statement in its submission to the Commission:

Historically, police responded to family violence as a private matter, ignoring or minimising it – largely mirroring mainstream community views. It was commonplace for women seeking crisis support to report unhelpful, dismissive and uninformed responses from police.⁷

At around the time of the appointment of Chief Commissioner Nixon, the Women's Safety Strategy 2002–2007 was launched. This was the first comprehensive strategy on violence against women issued by any Victorian government since the early 1980s, and it brought 11 ministers and their government departments together, working within a single policy framework.⁸ As recommended in the Women's Safety Strategy, a Statewide Steering Committee to Reduce Family Violence, co-chaired by Victoria Police and the Office of Women's Policy in the Department of Premier and Cabinet, was established.⁹ The committee's membership included departmental and peak body representatives, family violence and sexual assault service providers, and other representatives of the justice system;¹⁰ their task was to decide 'what an integrated system means and the components that are necessary to ensure that an integrated response by the justice system and the victim support services can be achieved'.¹¹

With Chief Commissioner Nixon setting a new agenda for Victoria Police, major policy and operational changes to Victoria Police's responses to family violence followed.¹² Police engaged in discussions with family violence services about how to respond to family violence, and this provided a platform for a wider policy conversation within both government and the broader community. At that time the primary focus was on violence against women and children. Figure 4.1 shows a time line of some of the important government, including Victoria Police, reforms in response to family violence. Victoria Police also greatly improved its response to sexual assault and child abuse during this period, bringing reforms relating to family violence and sexual assault together in its Violence Against Women Strategy, which was adopted in 2002.¹³

The 2004 Victorian Law Reform Commission report *Sexual Offences: Law and Procedure Final Report* resulted in a number of key policy developments during this period:

- ▶ Victoria Police established sexual offence and child abuse investigation teams, with specialist detectives and a specific training program.
- ▶ The establishment of multi-disciplinary centres involving Victoria Police, the Department of Health and Human Services, the Centres Against Sexual Assault and the Victorian Institute of Forensic Medicine as 'a 'one-stop shop' for victims of sexual offences which combine service providers in one physical location'.¹⁴

In 2006 the Sexual Assault Reform Strategy was introduced to improve the investigation of sexual assault and child abuse.¹⁵ The model has since been expanded and evaluated (see Chapter 12 for further information). Many other family violence-specific (and sexual assault) policy and legislative changes were also introduced by successive Victorian governments during this period, among them the following:

- ▶ In 2002 the peak body for family violence services, Domestic Violence Victoria, was established.¹⁶
- ▶ Following the appointment of the Indigenous Family Violence Task Force in 2001, the Victorian Indigenous Family Violence Strategy was developed in 2002. The strategy involved a community-led partnership with government, with the aim of reducing family violence in Aboriginal and Torres Strait Islander communities. The taskforce delivered its report to government in 2003.¹⁷
- ▶ In 2002 the Victorian Law Reform Commission was assigned the task of reviewing the state's family violence laws.
- ▶ In 2004 Victoria Police launched the Code of Practice for the Investigation of Family Violence and introduced the risk assessment and risk management report (the L17) for all reported incidents of family violence. In 2004 Victoria Police also created two specialist family violence roles: family violence advisors and family violence liaison officers.¹⁸
- ▶ The Victorian Government established the Indigenous Family Violence Partnership Forum in 2005.¹⁹ Aboriginal family violence regional action groups, known as IFRAGs, were also set up throughout the state to support action against family violence in Aboriginal communities.²⁰
- ▶ In 2005 the defence of provocation as a partial defence to murder was abolished in Victoria.²¹

- ▶ The Family Violence Court Division was created in the Magistrates' Court and began sitting at Heidelberg and Ballarat in 2005.²² Since that time, the magistrates' courts at Melbourne, Sunshine, Werribee, Frankston and Moorabbin have become specialist family violence services courts.²³
- ▶ Also in 2005, the Statewide Steering Committee to Reduce Family Violence released its *Reforming the Family Violence System* report. This landmark document outlined an intention to build an 'integrated family violence system' that would bring together all the major services to ensure that 'women receive an appropriate response, regardless of the pathway through which they choose to receive assistance'.²⁴ Following the report's release, a funding reform package was developed, with the aim of strengthening and integrating approximately 70 agencies dealing with family violence in Victoria.²⁵ Domestic Violence Victoria described the report in the following terms:

This document paved the way for the reforms. Key elements included: a guiding set of principles; a focus on integration across the three main systems—police, justice and the family violence service system, and developing common practices and processes to ensure consistent responses by individual agencies.²⁶
- ▶ Domestic Violence Victoria established the Code of Practice for Specialist Family Violence Services for Women and Children in 2006.²⁷
- ▶ In 2006 the Victorian Law Reform Commission handed down its report identifying a number of deficiencies in the system of family violence intervention orders under the *Crimes (Family Violence) Act 1987* (Vic) and recommended the introduction of a new Family Violence Act, which ultimately became the *Family Violence Protection Act 2008* (Vic).²⁸ The Act covered all forms of family violence and was not confined to protecting women and children. In his Second Reading Speech for the Family Violence Protection Bill, Attorney-General The Hon. Rob Hulls MP stated that the Bill 'makes it crystal clear that family violence is not just a private issue—it is a public problem and requires a strong legislative response'.²⁹
- ▶ In response to the *Reforming the Family Violence System* report, new arrangements were made to encourage a more integrated approach to family violence, focusing on violence against women and children. This included the following:
 - ▶ a lead minister charged with coordinating the whole-of-government response to family violence³⁰
 - ▶ a Family Violence Ministers Group of relevant portfolio ministers³¹
 - ▶ a cross-government interdepartmental committee reporting to the relevant ministers³²
 - ▶ a whole-of-government unit supporting the interdepartmental committee, the Minister and the ministerial structures³³
 - ▶ family violence regional integration committees that included representatives from family violence services, family services, police, corrections, court services, Aboriginal and Torres Strait Islander services, community legal services, homelessness services and local government³⁴
 - ▶ regional integration coordinators to support these regional structures³⁵
 - ▶ a Family Violence Statewide Advisory Committee chaired by Victoria Police and the primary department overseeing the family violence reforms.³⁶

Some of these structures remain; others no longer operate as originally intended.

- ▶ In the *Reforming the Family Violence System* report the need for consistent risk assessment, information sharing and cooperation between agencies had been emphasised.³⁷ This led to the development of a multi-sector, cross-government Family Violence Risk Assessment and Risk Management Framework—referred to as the Common Risk Assessment Framework, or CRAF—which was launched in 2007.³⁸ The CRAF provided the basis for extensive training and practice reform in the mainstream and specialist family violence sectors. It and other protocols aimed at supporting consistent responses to family violence became an important part of the new system.
- ▶ In 2007 VicHealth (the Victorian Health Promotion Foundation), published *Preventing Violence before It Occurs: A Framework and Background Paper to Guide the Primary Prevention of Violence against Women in Victoria*, which had been commissioned by government.³⁹ VicHealth's work in primary prevention of violence against women has since been internationally recognised.

- ▶ In June 2008 the Indigenous Family Violence Ten Year Plan: Strong Culture, Strong Peoples, Strong Families was launched.⁴⁰ The plan, the first of its kind in Australia, built on the reform process that had begun in 2002. The Indigenous Family Violence Partnership Forum continues to play an important role in providing a link between the community and government:

The partnership forum is a forum for ongoing, high level dialogue between government departments and Aboriginal communities about the needs of Aboriginal communities in confronting issues of family violence. It is attended by senior representatives from government and Aboriginal Community members, to ensure that Aboriginal voices are heard at senior levels of government where programs to address Aboriginal family violence are developed.⁴¹

- ▶ Also in 2008, the Commonwealth Government's White Paper on homelessness was released. It recognised that homelessness could be reduced by improving support for women and children to stay in their own homes when it is safe to do so.⁴² This led to the National Partnership Agreement on Homelessness which commenced in 2009 (and has been subsequently renewed, most recently in 2015) which Victoria was a signatory to and which gave priority to women and children experiencing family violence.⁴³ The agreement also funded some family violence services to deliver Safe at Home programs, which are designed to help victims of family violence remain in their homes where possible.⁴⁴
- ▶ *A Right to Respect: Victoria's Plan to Prevent Violence against Women 2010–2020* was released in 2009.⁴⁵ Its purpose was to implement a recommendation in a VicHealth report for a whole-of-government primary prevention plan that was both cross-government and whole-of-community in scope.⁴⁶ *A Right to Respect* recognised that primary prevention was an essential step in eliminating violence against women and had a particular focus on family violence and sexual assault.
- ▶ Also in 2009, the Victoria Police strategy *Living Free from Violence—Upholding the Right: Victoria Police Strategy to Reduce Violence against Women and Children 2009–2014* was released.⁴⁷
- ▶ In 2010 the government released *A Right to Safety and Justice: A Strategic Framework to Guide Continuing Family Violence Reform in Victoria 2010–2020*. This document highlighted the need to strengthen reform efforts and improve perpetrator accountability, risk assessment, risk management, data, workforce capacity and the system's response to children.⁴⁸ The framework was designed to consolidate and build on the 2005 reforms.
- ▶ After a change of government in 2010, *Victoria's Action Plan to Address Violence against Women and Children, Everyone Has a Responsibility to Act 2012–2015*, was published.⁴⁹ It proposed a single work plan to consolidate the three previously separate policy areas of family violence, sexual assault and the prevention of violence against women, as well as addressing other forms of violence against women, such as sex trafficking.
- ▶ In 2013, following some years of development, Koori Family Violence Police Protocols for Mildura, Darebin and Ballarat were launched.⁵⁰ The protocols aimed to strengthen the police response to incidents of family violence in Aboriginal communities.⁵¹
- ▶ In October 2014, the Victorian Government introduced *Ending Violence Against Women and Children: Further Initiatives for Victoria's Action Plan to Address Violence Against Women and Children 2012–2015*.⁵² This strategy outlined a range of initiatives to 'prevent violence against women and children before it occurs, keep victims of violence safe and hold perpetrators to account', and was supported by \$150m government funding.⁵³ The new government, elected in November 2014, deferred spending the majority of this investment⁵⁴ in line with its election commitment to establish a Royal Commission to inform future decisions.⁵⁵ The 2015–16 Budget allocated additional funding over five years for a range of family violence services and programs, including this Commission.⁵⁶ Much of the funding was for one year only pending this Royal Commission's report (see Chapter 41 for more information).
- ▶ After the election in November 2014 the State Government appointed a Minister for the Prevention of Family Violence.⁵⁷ It also announced the establishment of the Royal Commission into Family Violence.⁵⁸

Figure 4.1 Family violence-specific reforms, 2002 to 2014

2002	
Women's Safety Strategy 2002–2007 launched, recommending establishment of a statewide Steering Committee to Reduce Family Violence	Statewide Steering Committee to Reduce Family Violence co-chaired by Victoria Police and the Office of Women's Policy established
Indigenous Family Violence Strategy established	
2003	
Indigenous Family Violence Taskforce delivers report to government	
2004	
Victoria Police Code of Practice for the Investigation of Family Violence launched	Ten sergeants appointed as full-time regional family violence advisors
Family violence liaison officers available at all 24-hour police stations	Victoria Police risk assessment and risk management report introduced (L17)
2005	
Indigenous Family Violence Partnership Forum established	Defence of provocation as a partial defence to murder was abolished in Victoria
Family Violence Court Division created in Magistrates' Court (Heidelberg and Ballarat)	<i>Reforming the Family Violence System</i> report released by the Statewide Steering Committee to Reduce Family Violence
2006	
Domestic Violence Victoria established code of practice for specialist family violence services	Victorian Law Reform Commission's report on family violence released
Regional committees and governance structures established	
2007	
Launch of CRAF, the Common Risk Assessment Framework for assessing risks against women	
2008	
<i>Family Violence Protection Act 2008</i> (Vic) came into effect, including the introduction of family violence safety notices	<i>Strong Culture, Strong Peoples, Strong Families—Indigenous Family Violence Ten Year Plan</i> launched
2009	
<i>A Right to Respect: Victoria's Plan to Prevent Violence against Women 2010–2020</i> released	<i>Living Free From Violence—Upholding the Right: Victoria Police Strategy to Reduce Violence Against Women and Children 2009–2014</i> released
National Partnership Agreement on Homelessness between the Commonwealth and state and territory governments commences	
2010	
<i>A Right to Safety and Justice: A Strategic Framework to Guide Continuing Family Violence Reform in Victoria 2010–2020</i> released	
2012	
Action Plan to Address Violence against Women and Children, <i>Everyone Has a Responsibility to Act 2012–2015</i> published	
2013	
Koori Family Violence Protocols launched (Mildura, Ballarat and Darebin)	
2014	
<i>Ending Violence Against Women and Children: Further Initiatives for Victoria's Action Plan to Address Violence Against Women and Children 2012–2015</i> introduced	Royal Commission into Family Violence announced
Minister for the Prevention of Family Violence appointed	

The history of the family violence system for Aboriginal and Torres Strait Islander communities

In its submission to the Commission, the Koori Caucus outlined a number of strategic policies and initiatives that have been established through the commitment between Victorian Aboriginal communities and the Victorian Government. The following provides an excerpt of some of those initiatives:

- In June 2000, the *Aboriginal Justice Agreement* was established to reduce the over-representation of Aboriginal people in the youth justice and criminal justice system.
- In October 2001, the Victorian Indigenous Family Violence Task Force was established to raise community awareness of Aboriginal family violence and engage communities in the development in local responses.
- In 2002, the Victorian Government released the *Framework for the Development of the Victorian Indigenous Family Violence Strategy*: a partnership approach between the Indigenous community and government to support the development of the community-led Victorian Indigenous Family Violence Strategy.
- In 2002, as part of the strategy 10 Indigenous Family Violence Regional Action Groups were established across the state, each with an Indigenous Family Violence Support Worker employed to provide ongoing support.
- In 2003, the Indigenous Family Violence Community Initiative Fund (CIF) was established. The fund provides annual grants amounting to \$650,000 to support Aboriginal community-based projects that aim to prevent, reduce and respond to family violence.
- In December 2003, the *Indigenous Family Violence Task Force Final Report* was delivered to the Victorian Government, highlighting 28 recommendations for immediate action.
- In October 2004, the government released the Victorian Government response to the Victorian Indigenous Family Violence Task Force Final Report which outlined the Victorian Government's commitment to support and build on the recommendations of the task force.
- In April 2005, The Indigenous Family Violence Partnership Forum (IFVPF) was established to enable Aboriginal communities to address Aboriginal family violence in partnership with the Victorian Government. A key goal of the forum was to oversee the development and implementation of a 10-year plan to reduce family violence.

The IFVPF has resulted in the partnership that exists today, which is strengthened by the following government strategies that directly respond to issues relating to Aboriginal family violence within the current policy context including:

- **Strong Culture, Strong Peoples, Strong Families:** towards a safer future for Indigenous families and communities 10 year plan 2008–2018 outlines a 10-year vision to make Victoria a safer place for Aboriginal families. It is a living document that will guide, inform and direct joint efforts of the Aboriginal community and the Victorian Government to reduce Aboriginal family violence. It provides a strategic framework to assist services that address Aboriginal family violence in the short, medium and long term and led to the development of the Indigenous Family Violence Primary Prevention Framework in 2012.
- **Family Violence Risk Assessment and Risk Management Framework:** the Aboriginal contextualisation of the Family Violence Risk Assessment and Risk Management Framework, which involved the development of training materials to better equip professionals and practitioners to identify risk factors associated with family violence and respond appropriately to Aboriginal people experiencing family violence. The materials were piloted in Dandenong, Geelong and Mildura during 2013–14.

Other related policies were the *Victorian Aboriginal Affairs Framework 2013–2018*, *Aboriginal Justice Agreement Phase 3* and the *Cultural Competency Guidelines for Family Violence Services*.⁵⁹

Changes occurring during the Royal Commission

The Victorian Government and its agencies continued to make important policy announcements about family violence during the term of this Royal Commission. Among the milestones and announcements were the following:

- ▷ In March 2015 Victoria Police announced the establishment of the first Family Violence Command in an Australian police jurisdiction, headed by Assistant Commissioner Dean McWhirter.⁶⁰
- ▷ In May 2015 the government announced the plan to develop the Family Violence Index, designed to bring together data from a range of areas to measure how well family violence is being addressed.⁶¹
- ▷ In August 2015 the government announced that in 2016 respectful relationships education would be introduced into the school curriculum from foundation to year 10.⁶²
- ▷ Also in August 2015 the government announced that a best-practice model clause for family violence leave would be developed for inclusion in all Victorian public sector enterprise agreements.⁶³
- ▷ In October 2015 the government announced \$50,000 in funding for the Women's Health Association of Victoria to help prevent family violence and launched a new online guide developed by Women's Health Victoria to support regional prevention planning.⁶⁴

Between November and December 2015 the government made the following announcements:

- ▶ In November 2015 it announced it would provide to Our Watch \$900,000 to manage a Workplace Equality and Respect Project to help Victorian workplaces build the policies and practices they need to prevent violence.⁶⁵
- ▶ Also in November 2015, the government launched a consultation paper for Victoria's gender equality strategy recognising the links between gender inequality and women's safety.⁶⁶
- ▶ Still in November 2015, the government announced the allocation of \$12 million over four years to fund Family Violence Flexible Support Packages to assist with expenses faced by people escaping family violence. Packages of up to \$7000 were to pay for things such as rental or relocation costs, furnishings, clothing and books for children, and security measures to improve safety at home.⁶⁷
- ▶ Grant funding of \$365,000 was allocated for the roll-out of an online family violence intervention order application to the busiest magistrates' courts in Victoria. An online form has been piloted since mid-2015 by the Neighbourhood Justice Centre.⁶⁸
- ▶ In December 2015 the government announced the development of a new module for school year 10—focusing on gender, power and media—that will build on the two respectful relationships modules for years 8 and 9.⁶⁹ It also announced continued funding for the Partners in Prevention program (through Domestic Violence Resource Centre Victoria), which aims to build the capacity of staff to support schools delivering respectful relationships education.⁷⁰
- ▶ Also in December 2015, the government announced the development of a new memorial to honour the lives of victims and survivors of family violence in the City of Melbourne as a joint Victorian Government and City of Melbourne project.⁷¹
- ▶ Still in December, the Victorian Equal Opportunity and Human Rights Commission released the report of its independent review of sexual harassment and discrimination in Victoria Police.⁷² This report reflects on the importance of redressing gender inequality within Victoria Police to ensure community confidence in the policing of family violence.⁷³
- ▶ In late December 2015 the government provided its response to the former State Coroner, Judge Gray's findings in relation to the death of Luke Batty.⁷⁴

The national response

The Commonwealth Government directly provides a range of universal programs and initiatives, that are relevant to people affected by family violence. These include social security, Medicare, the Pharmaceutical Benefits Scheme, and the family law system, including the Family Court of Australia and the Federal Circuit Court of Australia.⁷⁵ It also directly funds a range of programs and activities that are specifically related to family violence. For example, it has committed about \$200 million to the *National Plan to Reduce Violence against Women and Children 2010–2022* between 1 July 2009 and 30 June 2017.⁷⁶

Additionally, the Commonwealth provides funding to the states and territories for the delivery of a variety of services. This can include funding contributions towards universal services such as education and health. In the case of family violence, the Commonwealth's role is largely through funding contributions under the following arrangements:

- ▶ The National Affordable Housing Agreement Specific Purpose Payment contributes towards the cost of Victoria's social housing (including public housing) and homelessness assistance.⁷⁷ The majority of specialist family violence services are funded through the homelessness stream⁷⁸ including women's refuges and specialist family violence support services (also referred to as 'outreach' and 'case management'). In 2015–16 the Commonwealth funding to Victoria under the agreement is \$329.9 million.⁷⁹
- ▶ The National Partnership Agreement on Homelessness provides funding for measures designed to reduce homelessness, including family violence-related homelessness. Victoria's contribution in 2015–16 is \$30.4 million;⁸⁰ the Commonwealth contribution is \$22.8 million.⁸¹ The two-year extension of the agreement, until 30 June 2017, gives priority to front-line services focusing on women and children experiencing family violence and on homeless youth.
- ▶ The National Partnership Agreement on Legal Assistance Services provides funding to legal aid commissions in each jurisdiction, including for responses to family violence-related matters. In 2015–16 funding to Victoria under the agreement was \$47.9 million.⁸²

In the past four years there has been increased national recognition of the need to develop policies for preventing and responding to family violence. In 2011 the Commonwealth Government, in partnership with the states and territories, announced the *National Plan to Reduce Violence against Women and Children 2010–2022*.⁸³ Endorsed by the Council of Australian Governments, the plan consists of four three-year action plans and is supported by all states and territories, which will develop their own implementation plans.⁸⁴ The Commonwealth and the states and territories have nominated a number of areas to focus on as part of the second action plan. These include prevention, responses for people who have diverse experiences, supporting innovative services and integration, improving perpetrator interventions, and continuing to build the evidence base for future family violence reform.⁸⁵

Two national bodies were established as a result of the national plan:

- ▶ Australia's National Research Organisation for Women's Safety, ANROWS, a national research body with contributions from all jurisdictions⁸⁶
- ▶ Our Watch, a national foundation to prevent violence against women and their children. Our Watch was established by Victoria and the Commonwealth in 2013 and now includes contributory funding from the Northern Territory, South Australia and Tasmania.⁸⁷

In January 2015, Ms Rosie Batty was appointed 2015 Australian of the Year in recognition of her efforts in campaigning against family violence following the death of her son, Luke, at the hands of his father.⁸⁸

In the same month the former Prime Minister announced that the question of violence against women and their children would be discussed as part of the Council of Australian Governments' agenda, and a new COAG advisory panel would be formed; the panel was to be chaired by former Victoria Police Chief Commissioner Mr Ken Lay APM, and Ms Batty was appointed a founding member.⁸⁹ At the April 2015 COAG meeting the following milestones were announced for 2015:

- ▶ A national domestic violence order scheme would be agreed, under which domestic violence orders will be automatically recognised and enforceable in any state or territory of Australia.
- ▶ COAG would consider national standards to ensure that perpetrators of violence against women are held to account at the same standard throughout Australia.
- ▶ Progress would be reported on a national information system that will enable courts and police in different states and territories to share information on active domestic violence orders (called family violence intervention orders in Victoria). New South Wales, Queensland and Tasmania were to trial the system.
- ▶ COAG would consider strategies for tackling the increased use of technology to facilitate abuse of women and for ensuring that women have adequate legal protections against this form of abuse.
- ▶ All governments would jointly contribute to a \$30 million national campaign to reduce violence against women and their children and potentially for associated increases in services.⁹⁰

At its December 2015 meeting the Council of Australian Governments agreed to the following:

- ▶ standards to ensure that interventions with perpetrators are effective throughout Australia
- ▶ actions to limit technology-facilitated abuse
- ▶ introduction of a national domestic violence order scheme so that DVOs issued in one state are recognised in all others, with every jurisdiction committing to introduce laws to give effect to this in the first half of 2016
- ▶ development of a comprehensive national DVO information-sharing system that police and the courts will be able to use for evidentiary purposes or to enforce DVOs, noting this will take several years to implement fully
- ▶ in the short term, establishment of an interim information-sharing system that will provide to police and the courts information on all DVOs that have been issued but will not have the same evidentiary or enforcement capacity as the proposed permanent system
- ▶ the holding of a national summit on preventing violence against women and their children in the final quarter of 2016 to profile best practice and review progress.⁹¹

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5 Systems overview

Introduction

There is no single pathway into the family violence system. There are myriad entry points and overlapping service systems with whom victims and perpetrators have contact and receive services. The 2005 Statewide Steering Committee to Reduce Family Violence report on reforming the family violence system acknowledged that it was important for all service systems to respond to the needs of women seeking help.¹ In practice, the main focus of reforms to date has been on the police, justice and family violence service systems, which are often the first line of response to family violence. One of the arguments put forward in the Commission's report, however, is that family violence requires a whole-of-government approach and that reforms are needed in all the service systems that work with victims and perpetrators.

The systems that are briefly outlined in this chapter (and covered in more detail elsewhere in the report) include Victoria Police; specialist services that cater primarily but not exclusively for the needs of women (and their children) who are victims of family violence; the courts and legal services; the child protection system, which protects children at risk of abuse (including as a result of family violence); and Integrated Family Services that have been established to support families and divert people who might otherwise enter the statutory child protection system. Also briefly described are housing and homelessness services, sexual assault services, and victim support services. Other relevant services, such as drug and alcohol, mental health and other health services, are described in Chapter 19, while relevant aspects of the corrections system are discussed in Chapter 18. Governance arrangements are outlined in Chapter 38.

Points of entry

The process of seeking assistance for family violence is not linear: there are many entry points into the systems which assist those affected by family violence.² The following are examples of how victims can enter the system:

- ▶ They can disclose the violence they have experienced to a person or organisation that comes into contact with them for other reasons. Many of these are generalist service providers—for example, hospitals, general practitioners or other health practitioners, maternal and child health nurses, or teachers or school counsellors. This can result in the victim and her children being referred to another service or services.
- ▶ They can seek legal advice from a lawyer.
- ▶ They can seek help from the police, who might respond by issuing a family violence safety notice or seeking an intervention order on behalf of the victim(s) and/or charging the perpetrator with a criminal offence.
- ▶ They can contact a specialist family violence service for advice and assistance, either directly or via a referral from another service.
- ▶ They might be contacted by a specialist family violence service after police have made a family violence risk assessment and management report and referral (known as an L17).
- ▶ They can go directly to a magistrates' court to seek a family violence intervention order.
- ▶ They might seek entry to a refuge through a specialist family violence service or through a homelessness access point.
- ▶ They might tell a friend or family member or someone from whom they are receiving pastoral care.

Children can connect with family violence services in several ways:

- ▶ Through their parents—for example, if their mother has entered the system as described above.
- ▶ They could seek help directly—for example by telling a teacher or doctor about the violence or if they are adolescents, by approaching a refuge.
- ▶ An adult, friend or family member might alert police, Child Protection or Child FIRST.
- ▶ Their school or early childhood service might recognise signs of violence and contact a parent or notify Child Protection or Child FIRST.
- ▶ The evidence of violence might be noticed by a maternal child health nurse or health practitioner.

Perpetrators—that is, people who use violence—can connect with family violence services in some of the following ways:

- ▶ They might seek assistance, either of their own volition or at the urging of a friend or family member.
- ▶ They might be a respondent on a family violence intervention order and be required to attend a magistrates' court.
- ▶ They might be contacted by a specialist family violence service after police have made an L17 referral.

Perpetrators might be required to participate in a men's behaviour change program as part of a magistrate court order, a community correction order or as a parole condition.

The systems just noted are complex and difficult to navigate—for people working in the field, for victims, for family members trying to help someone affected by violence, and for perpetrators who are seeking help to change their behaviour or ordered to attend a program by a court. This complexity means that people can be referred from one organisation, government department or non-government agency to another in order to address all of their needs, often at a time of crisis.

Victoria Police

Victoria Police members can be the first point of contact for people experiencing family violence. The quality of the police response influences victims' confidence in reporting family violence and seeking help.³

The Victoria Police Code of Practice for the Investigation of Family Violence lists the main functions of police in responding to family violence:

- ▶ maximise the safety and support to those involved
- ▶ identify and investigate incidents of family violence and prosecute individuals accused of criminal offences arising from family violence
- ▶ assist in the prevention and deterrence of family violence in the community by responding to family violence appropriately.⁴

Victoria Police has developed a series of specialist roles dedicated to family violence work, although all front-line officers do a considerable amount of this work.⁵ Among the specialist positions are 17 family violence advisors and a family violence liaison officer at every 24-hour police station.⁶ The Family Violence Command, established in March 2015, has overall responsibility for monitoring Victoria Police's organisational response to family violence, maintaining accountability, and improving police responses to family violence, sexual assault and child abuse.⁷

Victoria Police attended more than 65,000 family violence incidents in 2013–2014.⁸

The Code of Practice for the Investigation of Family Violence and the Victoria Police Manual⁹ set out how Victoria Police members are required to fulfil their functions with respect to family violence.¹⁰ Under the Code, police must perform a risk assessment.¹¹ They can then adopt one or more of the following approaches.

Family violence safety notices and intervention orders

The Code of Practice states that police should pursue civil options—that is, apply for a family violence safety notice or a family violence intervention order—whenever the safety, welfare or property of a family member appears to be endangered by another family member (even without the agreement of the victim).¹²

- ▶ A family violence safety notice enables police to place immediate restrictions on a perpetrator—with similar effect to that of an intervention order—for up to five working days.¹³ The FVSN also serves as an application for a family violence intervention order and as a summons for the alleged perpetrator to appear in court.¹⁴ Police make the application on behalf of the victim, but victims are often told they need to attend the court to give evidence in support of the order.¹⁵
- ▶ Most safety notices result in the issuing of a final family violence intervention order by a court.¹⁶ An FVIO is a civil order, and it can include a range of conditions designed to protect the safety of the affected person and prohibit a person from engaging in family violence.¹⁷ If police intend to apply for an FVIO against a person or to vary an existing order, they can exercise certain powers to ensure the safety of a person or to preserve their property: they can direct the alleged perpetrator to go to or remain at a particular place (for example, a police station) or to remain in the company of a police member or another person. If a person refuses or fails to comply with a direction, they can be apprehended and detained for up to six hours or for a longer period if this is authorised by the court.¹⁸ In addition, if a person breaches an FVIO—for example, by visiting a place from which they have been excluded—this is a criminal offence that can result in prosecution in the Magistrates' Court.¹⁹ Formally, this is called a contravention order, although the term often used is 'breach'.

Police members must assess the interests of children independently from those of their parents since the best interests of the child are paramount and children might have different needs.²⁰ Children can be included on FVIO applications for the victim if their needs are similar. In some cases a separate application might be required for a child.²¹

In 2013–14 police issued 8288 family violence safety notices and applied for 11,091 family violence intervention orders;²² they took such action in about one-quarter of all family violence incidents they attended.²³ In the same year about two-thirds of total family violence intervention order applications were made by Victoria Police, the remaining one-third being made by affected individuals.²⁴

Criminal prosecution

The police are responsible for investigating and prosecuting criminal offences arising from a family violence incident (including breaches of FVIOs) in the Magistrates' Court. In 2013–14 Victoria Police laid charges in respect of 27,701 family violence incidents—43 per cent of all incidents²⁵ (including breaches of existing FVIOs).²⁶

The Code of Practice highlights the importance of prosecuting breaches of family violence safety notices and family violence intervention orders: failure to do so could convey the idea that the notice or order is not taken seriously, potentially leading to further offending, abuse and possible harm. The code states:

FVIOs and FVSNs must be strictly interpreted and enforced. There is no such lawful term as a 'technical' contravention and police must lay charges for any contravention ...²⁷

Decisions to prosecute are based on the evidence gathered and should not be a subjective assessment by the responding police as to the seriousness of the contravention.²⁸

In some cases the perpetrator might be charged with an offence (such as rape or attempted murder) that must be prosecuted in the County or Supreme Court rather than the Magistrates' Court. The Director of Public Prosecutions authorises the laying of the charge, and there will be committal proceedings in the Magistrates' Court to decide whether the alleged perpetrator should go to trial. This is discussed further in Chapter 16.

Police referrals

Formal referrals: L17s

Police must make a formal referral via a risk assessment and risk management report (known as an L17) if they consider that assistance is required. The Code of Practice notes that formal referrals are appropriate where, for example, police intend to pursue criminal or civil options or where there is a future risk of violence or to address recidivism.²⁹

The services receiving the L17 will then make contact with the victim or, in the case of men's services, the perpetrator. L17s for male victims are sent to the Victims Support Agency.³⁰ Typically, multiple L17s will be sent in relation to the same incident, to accommodate the needs of victims, perpetrators and any children.

Referrals occur in accordance with the Family Violence Referral Protocol between the Department of Health and Human Services and Victoria Police.³¹ The Code of Practice stresses that referrals are in addition to, and do not replace, the pursuit of criminal charges or seeking of civil protection in response to family violence.³²

When children are present

The Code of Practice and the Referral Protocol stipulate multiple referral pathways when children are affected by family violence:

- ▶ Police may make a report to Child Protection if they believe a child or young person is otherwise in need of protection within the meaning of the *Children, Youth and Families Act 2005* (Vic) (there are circumstances when they must do this).³³
- ▶ If a child is included on a victim's referral to a family violence service, the service will conduct a risk assessment in relation to the child (and refer the child to Child FIRST, if required).
- ▶ Police may make a referral to Child FIRST if they are concerned about the welfare of a child but have not otherwise made a referral to Child Protection or a family violence service.³⁴

Child Protection, Child FIRST and family services play an important part in protecting children who are the direct targets of family violence and children who are affected by violence directed at a parent (usually the mother). The majority of referrals are directed to Child Protection rather than Child FIRST: in 2013–14 there were 11,042 referrals to Child Protection compared with 1901 referrals to Child FIRST.³⁵ However, referrals to Child FIRST have grown significantly since the introduction of a protocol between Victoria Police and Child FIRST.³⁶ Child FIRST is discussed later in this chapter.

Informal referrals

Informal referrals occur when police attending an incident give parties the contact details of services they might want to contact. The Code of Practice states that informal referrals can be appropriate if no evidence is available to pursue a criminal or civil option and there are no immediate concerns for the victim's or a child's safety or welfare.³⁷ Informal referrals are being used less and less frequently by police, with the majority of all incidents now resulting in formal referrals.³⁸

Specialist family violence services

Most specialist family violence services respond to the needs of women and children experiencing family violence committed in the context of an intimate partner relationship. This is largely attributable to family violence services responding to where the demand is greatest. There are relatively few services specifically for people who experience other kinds of family violence—for example, older people who are subjected to violence by their children. There are no specific services for people from lesbian, gay, bisexual, transgender and intersex communities who are subjected to family violence. These groups are discussed in Chapters 8, 27 and 30.

Specialist family violence services (both men's and women's services) are funded by the Victorian Government, usually through the Department of Health and Human Services, to provide specific services.³⁹ The services are generally provided by a broad range of non-government community service organisations.

Men's behaviour change programs, men's case-management services, programs for adolescents who use violence and treatment services for sexually abusive behaviours could also be regarded as family violence services. These are discussed in Chapters 18 and 23.

Specialist family violence services for women and their children

Women and their children's specialist family violence services consist of the following:

- ▶ a statewide 24-hour telephone service—called Safe Steps Family Violence Response Centre
- ▶ specialist family violence support services—also referred to as 'case-management services', 'outreach services' and 'women's services'
- ▶ crisis and emergency accommodation
- ▶ family violence counselling for women and children.

Key frameworks governing family violence services

The work of specialist family violence services is informed by various policy frameworks:

- ▶ the Code of Practice for Specialist Family Violence Services for Women and Children (September 2006)
- ▶ the Homelessness Services Guidelines and Conditions of Funding (May 2015)
- ▶ the Family Violence Risk Assessment and Risk Management Framework, also known as the Common Risk Assessment Framework, or the CRAF.

The Code of Practice states that the role of specialist family violence services includes the following:

- ▶ supporting women in making informed choices for themselves and their children in relation to their circumstances
- ▶ helping women and children improve the safety of their accommodation or establish safe accommodation while maintaining connections with friends, family and community supports
- ▶ minimising disruption to children's lives by ensuring they are linked to communities and schools.⁴⁰

The Code and the Homelessness Services Guidelines state that family violence services are principally provided to women and children who are experiencing an immediate crisis, recovering from experiences of violence and abuse, or at risk of being unsafe in the family environment.⁴¹

The homelessness services objectives are to increase safety and wellbeing for women and children and acknowledge and support women in their efforts to gain control over their lives.⁴² The principles that underpin the practice are giving priority to the safety of women and children, supporting their choices, and holding perpetrators accountable for their actions.⁴³

The CRAF provides the overarching policy guidance relating to risk assessment and management.

Statewide 24-hour information and referral service

In Victoria Safe Steps Family Violence Response Centre operates a 24-hour a day telephone information and support service for women and children who have experienced or are experiencing family violence. Workers complete risk assessments, help women develop safety plans, and refer them to support options in the community—including specialist family violence support services and generalist services, such as community health centres. The crisis line receives about 55,000 telephone calls a year.⁴⁴ We do not know how many different women this number covers.

In addition to the statewide telephone information and referral service, Safe Steps also provides:

- ▶ a referral point for receiving L17 forms from Victoria Police for women who require immediate support and accommodation
- ▶ a main entry point into women's refuge accommodation
- ▶ emergency accommodation—a three-bedroom crisis accommodation unit provided in partnership with three local services and access to other emergency housing—for people unable to gain access to a refuge
- ▶ for women and children awaiting suitable accommodation, accommodation in motels. The Housing Establishment Fund is used for this.

In addition, the Commonwealth Government funds 1800 RESPECT, a 24-hour crisis and trauma counselling service offered by telephone and online for people who are currently experiencing or have experienced sexual assault, domestic or family violence.⁴⁵ This service can also refer people to Safe Steps or to specialist family violence support services in their area.

Specialist family violence support services

Specialist family violence support services provide support and assistance for women and their children in order to keep them safe. There are 28 of these services in Victoria. They range from single stand-alone services to medium-sized services offering a suite of family violence responses and other services located in large community support agencies.

Receipt of L17s and other referrals

All 28 regional specialist family violence services receive referrals from a range of sources, among them Victoria Police, Child Protection, family services, health care service providers (including general practitioners and maternal and child health nurses), schools, legal services and individuals who have experienced violence.

Nineteen services (18 services plus Safe Steps) act as contact points for Victoria Police L17 referrals in their area. Most services triage all referrals on the basis of a risk assessment using the information available at the time of referral (such as the L17 form), although the way in which various services perform this task can differ. The service then tries to make contact with the woman to offer help.

Case management

Case management (also referred to as 'outreach') is the core function of specialist family violence support services, involving risk and safety planning based on a woman's needs over time. This is performed by workers who have been trained in the dynamics, nature and impacts of family violence. These staff work with women to identify their specific needs, which can include the following:

- ▶ access to therapeutic or counselling programs—for women or their children
- ▶ housing—including referral to refuges or other accommodation options
- ▶ follow-up with police—including arranging retrieval of items from a woman's house
- ▶ referral to legal assistance
- ▶ support to attend court in order to obtain a family violence intervention order
- ▶ liaising with services including Child FIRST/family services and Child Protection.

Depending on a woman's needs, workers also liaise with community health services; maternal and child health services; schools; mental health, alcohol and other drugs services; and accommodation providers—particularly homelessness services, Centrelink and others. They will also help women find employment, education and training.

Some specialist family violence support services are funded to provide intensive case-management support for women at high-risk. This is, however, a relatively small component of the system.⁴⁶

High-risk family violence response

Risk Assessment and Management Panels (RAMPs) are part of the Victorian Government's commitment to responding to women at high risk of family violence. Pilot projects were established in 2012, and RAMPs are currently being rolled out across the state.

RAMPs aim to manage risk for women and children at serious and imminent risk of death or injury from family violence. They bring together agencies such as Victoria Police, corrections, health, Child Protection and housing and specialist family violence services to share information and plan for safety.⁴⁷ The high-risk response service includes additional case-management capacity in existing specialist family violence services to support women and children at high risk.

There are a range of different brokerage funds—discretionary funds that can be applied to goods and services—that are available to women. There are also a number of other local initiatives that aim to help women and children at high risk. This is discussed in Chapter 6.

Safe at Home programs

The Department of Health and Human Services funds some specialist family violence support services to deliver Safe at Home programs using National Partnership Agreement on Homelessness funding. The funding covers specialist workers to assess the safety needs and level of support required for women and children to stay in their own homes, as well as brokerage funds that can be used to stabilise housing or increase home security by, for example, installing deadlocks, screen doors, security lighting and home alarms.⁴⁸

There has been an increasing focus in recent years on programs designed to keep women and children safe at home. The availability and delivery of Safe at Home programs is discussed in Chapter 9.

Crisis and emergency accommodation

Refuges

Refuges are intended to provide short-term accommodation for women and children in the immediate crisis period after they leave a violent partner. The expected length of stay is six weeks, although this is frequently exceeded because there is nowhere else for the women to go.

The 24-hour access point for entry into refuges is Safe Steps, although individual refuges often have local arrangements. Usually, women can be admitted to refuges only during business hours. If a refuge does not accept a referral, Safe Steps will refer the woman to another refuge, until a suitable placement is found. It is not known how long this process takes, but it is uncommon for women to go directly from home to a refuge. Women either remain at home, or in other arrangements such as with friends, pending a vacancy or are placed in ad hoc emergency accommodation, as discussed shortly.

In Victoria there are 31 refuge sites, consisting of 54 individual properties⁴⁹ that can accommodate about 105 families, depending on family size:⁵⁰

- ▷ Eighteen of these refuges are 'communal' facilities, with communal kitchens and living areas,⁵¹ and can accommodate 69 families.⁵²
- ▷ Thirteen are known as 'dispersed', or 'cluster', refuges—co-located self-contained properties supported by one community service organisation⁵³ and able to accommodate at least 36 families.⁵⁴
- ▷ Three are specifically for Aboriginal women and their children—one located in metropolitan Melbourne and two in regional, rural and remote Victoria.⁵⁵

The Victorian Government advised the Commission that 20 of the 31 refuges are 'high security', meaning that their addresses are not disclosed on the Department of Health and Human Services housing database.⁵⁶

Women's experiences of refuge accommodation are discussed in Chapter 9.

Emergency accommodation properties

There are currently 57 Crisis Accommodation Program properties in Victoria dedicated to accommodating women and children who have experienced or are experiencing family violence.⁵⁷ The properties are generally administered by refuges and form part of the suite of emergency accommodation options; refuge staff provide support to families using these properties.

The Victorian Government informed the Commission that intake to Crisis Accommodation Program properties is determined by the individual organisation.⁵⁸ In some instances a community service organisation that operates both a refuge and a CAP property will transfer a family from a high-security refuge to a CAP property as a 'step down' until alternative safe housing can be arranged.⁵⁹ Women experiencing family violence can also gain access to emergency accommodation through the homelessness service system (discussed further below). This is often the pathway for women who do not want to disclose family violence and/or for whom family violence is not the current crisis issue.

Ad hoc accommodation

Because the demand for refuge accommodation usually exceeds capacity, women unable to remain safely at home or who do not have other options (such as staying with family or friends) are often placed in ad hoc accommodation such as hotels, motels, boarding or rooming houses or caravans until a refuge vacancy or other suitable accommodation becomes available.

In 2014–15 only about 19 out of 455 women (and their accompanying children) who were referred to Safe Steps were accommodated directly in a refuge.⁶⁰ It is estimated that 97 to 100 per cent of people need to spend at least one night in a motel awaiting supported accommodation.⁶¹ This data does not include women who are experiencing family violence but who might have gained access to ad hoc emergency accommodation through a homelessness Initial Access and Planning service. Ad hoc accommodation is funded through the Housing Establishment Fund.⁶²

Family violence counselling

Family violence counselling—both individual and group counselling—offers support to women and children experiencing or recovering from family violence. Women can refer themselves to counselling or be referred by a service provider.

Among the services provided are assessment, information, education, support and other help for women seeking intervention orders through the courts. The services are provided by community service organisations, some of which may also be providers of specialist family violence support services.

At the statewide level a minimum of 30 per cent of family violence counselling services are intended to be provided for children and young people affected by family violence.⁶³

In 2014–15, \$5.8m was allocated for around 4200 clients, with help for a further 7500 occasions of assistance for services delivered by Court Network.⁶⁴

Services for perpetrators and adolescents who use violence

The main program-based intervention available to men who use violence comes in the form of men's behaviour change programs, which are specialist group-based counselling sessions of a 'psycho-educational' nature run over a minimum of 12 weeks.⁶⁵ Men attend voluntarily (although this can be as a result of referral by a court) or a court might order them to attend. Places for voluntary participants are limited, and waiting times range from one to seven months: about 700 men in Victoria were on waiting lists as at March 2015.⁶⁶

In the criminal context, a perpetrator can be ordered to attend a behaviour change program through the sentencing process, as a condition of either a community correction order⁶⁷ or parole.⁶⁸ Perpetrators in custody can also participate in prison-based programs.

Chapter 18 discusses perpetrator programs in the community and correctional settings.

The Adolescent Family Violence Service, which operates at three sites, provides family-based case-management and group-based support to young people aged between 12 and 17 years who use violence at home.⁶⁹ These services are discussed in Chapter 23.

Services for specific populations

Some programs for victims of family violence focus on specific population groups. In other cases organisations that provide general services for a specific population group assist people in relation to family violence, for example Seniors Rights Victoria.

There are specific family violence services for Aboriginal and Torres Strait Islander peoples, including three refuges, case-management services, and a specialist prevention and legal service,⁷⁰ the Aboriginal Family Violence Prevention and Legal Service Victoria. Many Aboriginal and Torres Strait Islander service providers receive funding for services for both victims and perpetrators.⁷¹

InTouch Multicultural Centre Against Family Violence provides multilingual and culturally sensitive assistance, information, and legal and migration services to victims of family violence from culturally and linguistically diverse backgrounds.⁷²

Women with Disabilities Victoria, the peak body for women with disabilities in the state, provides advocacy and information services for women experiencing family violence.⁷³

Chapters 26, 28 and 31 provide more information about services available for specific populations.

Courts and legal services

For many victims and perpetrators of family violence the court process is a central part of their involvement with the family violence system. Different courts have different roles in responding to family violence and have developed specialised responses in recent years as a consequence of the increase in the volume and complexity of family violence-related matters.

The jurisdictional framework

A number of areas of the law can address matters that directly or indirectly relate to family violence. For present purposes, the following broad areas are relevant:

- ▷ family violence intervention orders
- ▷ criminal matters arising both from FVIO breaches and from criminalised forms of family violence such as physical and sexual violence
- ▷ civil matters such as tenancy, guardianship, employment, and debt disputes where family violence is a factor
- ▷ applications for financial assistance by victims of family violence.⁷⁴

In Victoria, jurisdictional responsibility for these areas is divided among a range of courts and tribunals, including the Magistrates' Court of Victoria, the Children's Court of Victoria, the County Court of Victoria, the Supreme Court of Victoria, the Victorian Civil and Administrative Tribunal, and the Victims of Crime Assistance Tribunal.

Family violence intervention orders

The *Magistrates' Court Act 1989* (Vic) and the *Children, Youth and Families Act 2005* (Vic) provide that family violence intervention order applications—including applications for interim and final orders and applications for extensions, variations and revocations of FVIOs—must be made in the Magistrates' Court or the Children's Court.

Either the Magistrates' Court or the Children's Court may hear FVIO applications involving a child.⁷⁵ Where practicable, however, applications involving a child respondent are heard in the Children's Court.⁷⁶

Appeals against intervention orders are usually heard in the County Court.⁷⁷

Criminal matters

Each of the Magistrates', Children's, County and Supreme Courts hears some family violence-related criminal matters.

Criminal offences in Victoria are divided into summary and indictable offences.⁷⁸ Magistrates' courts have jurisdiction to hear less serious summary offences and some indictable offences (with the consent of the parties and if considered appropriate by the court).⁷⁹ Other more serious indictable offences can be heard only in the County or Supreme Courts (see Chapter 17).

The Children's Court's Criminal Division has wide jurisdiction to hear and determine criminal matters involving children aged 10 to 17 years at the time of offending (and under 19 when proceedings begin), including committal proceedings and charges on summary offences. It may hear and determine summarily any indictable offences except death-related offences, which are usually heard through the adult court system.⁸⁰

FVIO proceedings can be heard and determined by the Children's Court when they are related to proceedings before it. The maximum penalty that may be imposed in the Children's Court is two years' detention in a youth justice centre, even when the legislation creating the offence allows for the imposition of a higher maximum penalty. The maximum total effective sentence that may be imposed for multiple offences determined at the same hearing by the court is three years' detention.⁸¹ Further sentencing options in the Children's Court are fines, dismissal of charge without conviction, good behaviour bonds, and probation.

Other civil matters

The following are examples of other courts and tribunals that may hear civil matters:

- ▶ The Victims of Crime Assistance Tribunal considers applications for financial assistance made by victims of crime. An estimated quarter of such applications were from family violence victims in 2014–15.⁸²
- ▶ In the Victorian Civil and Administrative Tribunal family violence issues can arise in tenancy matters or in allegations of financial abuse, exploitation or neglect of people with disabilities, or older people.⁸³
- ▶ The Coroners Court has jurisdiction in connection with fatalities, including those relating to family violence.⁸⁴

Chapters 16 and 25 provide further information about these issues.

Court-based programs, services and systems

The Magistrates' Court

The Magistrates' Court of Victoria is the busiest court in the state, handling about 90 per cent of all cases that come before Victorian courts. There are 53 magistrates' courts in 12 regions in the state. Each region has a headquarter court, and some have multiple satellite courts.⁸⁵

The centrepieces of the Magistrates' Court's response to family violence are the Family Violence Court Division courts at Ballarat and Heidelberg⁸⁶ and the Specialist Family Violence Services courts at Melbourne, Frankston, Sunshine and Werribee,⁸⁷ which were established in 2005–06. The capacity to mandate participation in men's behaviour change programs has now been extended to Frankston and Moorabbin courts, which have been allocated applicant and respondent workers.⁸⁸

The Family Violence Court Division and Specialist Family Violence Services courts have a range of similar features including trained family violence registrars, applicant (and in most cases respondent) support workers, co-located legal and non-legal support services, dedicated police prosecutors for police-initiated applications and family violence training for magistrates and staff. They were designed to deal specifically with the problems raised by family violence but, in view of the number of such courts in the state and the prevalence of family violence, the majority of family violence matters are dealt with in the mainstream magistrates' courts.

The Magistrates' Court is in the process of rolling out applicant and respondent support workers to all headquarter courts and has allocated specialist family violence registrars to all headquarter courts.⁸⁹

Beyond the Family Violence Court Division and Specialist Family Violence Services courts, most magistrates' courts and all headquarter courts set aside specific days each week for family violence matters. The Magistrates' Court also provides a 24-hour after-hours service for urgent FVIO matters.

A variety of services are available—either statewide or in a limited subset of magistrates' courts—that are not specific to family violence but are commonly used by parties in such proceedings. Examples are:

- ▶ The Court Integrated Services Program and the CREDIT/Bail Support Program⁹⁰—these are case management and referral services for people who are on bail or summons and are accused of criminal offences. Both seek to address underlying issues experienced by the accused (such as drug and alcohol misuse, homelessness and health issues).
- ▶ Court Network—a volunteer service which provides onsite support, information and referrals to individuals in some 18 Magistrates' Courts in Victoria. Court network volunteers 'walk the floor', assisting people in Court where a need is recognised. They also see clients referred from services outside court.
- ▶ The Youth Justice Court Advice Service (which is also offered in the higher courts)—assists people aged 18 to 20 in the courts for criminal matters.
- ▶ The Child Witness Service—which seeks to ameliorate the trauma experienced by children who are providing evidence. The service is staffed by social workers and psychologists and also provides remote witness facilities so that the child does not have to give evidence in front of the accused.⁹¹ CWS is located in Melbourne, but also supports children in rural regions via outreach and visits to witnesses at local court locations.⁹² Although the program is not family violence-specific, 275 of the 615 new referrals to the service in 2014–15 involved a family violence incident.⁹³

The Children's Court

The Children's Court of Victoria is a specialist court with two divisions. The Family Division hears applications relating to the protection and care of children who are at risk as well as applications for family violence intervention orders; the Criminal Division hears matters pertaining to criminal offending.⁹⁴

No court-funded family violence-specific services operate in the Children's Court.⁹⁵ With the exception of the Melbourne Children's Court, however, the Children's Court sits in Magistrates' Court venues.

Within the Children's Court several services and programs are offered that people involved in family violence-related Children's Court matters may use. Examples include a specialist list at Melbourne Children's Court that facilitates the intensive management of certain cases involving child sexual abuse (the 'D List'),⁹⁶ the Children's Court Clinic,⁹⁷ and child protection conciliation conferences.⁹⁸

Issues specific to the Children's Court are considered in Chapter 11.

The Victorian Civil and Administrative Tribunal

Depending on where the proceedings take place, parties to VCAT proceedings can also have some access to Magistrates' Court facilities and services. VCAT employs a family violence support worker in the Residential Tenancies Division who is able to help clients in all tribunal lists with family violence-related matters. The worker can explain VCAT procedures, offer practical assistance during a person's attendance at the tribunal, and provide referrals to community-based services.

VCAT's Melbourne venue has a dedicated client office and remote witness room, along with security staff and closed-circuit surveillance. Security is more limited at suburban and regional venues, although the option exists to attend a hearing via telephone.⁹⁹

The Neighbourhood Justice Centre

The Neighbourhood Justice Centre is a multi-jurisdictional court that opened in 2007 in Collingwood, Melbourne. It sits as a magistrates' court, a children's court, the Victorian Civil and Administrative Tribunal and the Victims of Crime Assistance Tribunal and has a wide range of co-located legal and non-legal services, among the latter being services for Aboriginal and Torres Strait Islander peoples and people of culturally and linguistically diverse backgrounds, support for people with disabilities (including physical, intellectual and mental health disabilities), and employment and training, drug and alcohol and other specialist support services.

The higher courts

The County and Supreme Courts have limited specific services for dealing with family violence. Security staff and screening can be used and can be increased or modified to suit the needs of specific individuals or matters. There might, however, be no advanced indication that a case involves family violence, which makes it difficult to suitably manage such cases.

Of note is the Supreme Court's role in administering 'funds in court', which are ordered by courts and tribunals to be paid to beneficiaries who are either children or people with disabilities or injuries that give rise to a need for assistance in managing their affairs. A significant proportion of beneficiaries are successful Victims of Crime Assistance Tribunal applicants—the court reported that '[a]pproximately half of all beneficiaries at any one time are children who have received money from VOCAT'¹⁰⁰—and some will be victims of family violence. Others might have become beneficiaries for other reasons but have subsequently experienced family violence.

Legal services

Both applicants and respondents are able to obtain free information and advice on family violence matters through Victoria Legal Aid's free information and advice telephone service, Legal Help, which in 2013–14 provided assistance in 8432 family violence matters and made 4247 referrals.¹⁰¹

VLA also provides (or provides for) free duty lawyer services at all major metropolitan magistrates' courts and most rural and regional courts.¹⁰² Services range from providing information—for example, explaining the type of matter being heard and the potential outcomes—to providing advice, negotiating with the other party to a dispute, making referrals, and representing parties in court.

These services are provided under a 'mixed model', with services provided by lawyers from VLA, community legal centres¹⁰³ and the private profession. The aim of this is to ensure fewer conflicts of interest and greater coverage of the courts. In many cases VLA lawyers will act for respondents and community legal centres for applicants, subject to any conflicts of interest.¹⁰⁴

Defendants in criminal proceedings arising out of family violence can also receive means-tested legal assistance. VLA can also be ordered to provide legal assistance in certain circumstances so that a protected witness can avoid being cross-examined by a respondent.¹⁰⁵ VLA also provides some advice and representation (including for children) in family law and child protection matters and offers community legal education services.¹⁰⁶ In 2013–14 it provided 14,796 family violence legal services to 11,269 clients.¹⁰⁷

Other organisations and services—such as Women's Legal Service Victoria, the Victorian Aboriginal Legal Service, the Aboriginal Family Violence Prevention and Legal Service Victoria, and InTouch Multicultural Centre Against Family Violence—provide legal services to clients in particular population groups.¹⁰⁸

Further information about the courts and legal services is in Chapter 16.

Child Protection

Child Protection is part of the Victorian Department of Health and Human Services. Child Protection receives and may investigate reports about children and young people where there are significant concerns for their wellbeing, or where Child Protection believes that a child or young person is in need of protection.¹⁰⁹ Where reports are investigated and substantiated, Child Protection may work with a family and/or other services to address concerns identified to keep children safe.¹¹⁰ In some cases, Child Protection may seek protective orders in the Children's Court of Victoria.

In 2013–14 family violence was indicated in 37,492 reports to Child Protection.¹¹¹ Out of the total number of reports from police to Child Protection for that year (24,139), family violence was indicated in 17,481 reports; 14,032 of the 17,481 reports came from police via the L17 process.¹¹² As at 30 June 2014 there were 7,070 children or young people in out-of-home care placements (the placement system for children and young people removed from the care of their family) in Victoria. Of these children and young people, family violence was indicated in 3400 cases.¹¹³ Chapter 11 discusses the child protection system.

Integrated Family Services

The Victorian Government funds Integrated Family Services as the major program responsible for helping vulnerable families experiencing difficulties that adversely affect their parenting and family life, which in turn can affect a child's safety, stability or development. Family violence is one of these difficulties along with significant parenting problems, pressure due to mental ill-health, substance abuse or lack of support.

In 2013–14 there were 96 community-based child and family services funded by the Department of Health and Human Services to provide Child FIRST and Integrated Family Services in Victoria.¹¹⁴ The programs had a combined budget of \$93.7 million in 2013–14.¹¹⁵

Child FIRST

Child FIRST—the FIRST standing for Family Information, Referral and Support Teams—is a central referral point to a range of community-based family services and other programs within each of the 23 catchment areas across Victoria. Child FIRST is the intake point for family services; that is, there is no eligibility re-assessment for referred families.¹¹⁶

Child FIRST can be directly approached by families, as well as receiving referrals from concerned third parties on behalf of families. It provides information about relevant services, assessments of children and families' needs and risks to help determine what services are required and referrals to relevant services.

Child FIRST teams each have a child protection worker co-located there to help provide consultation on specific cases, and work in partnership with IFS to engage families as appropriate, including joint visits where appropriate.¹¹⁷

Family Services

Family services are for those vulnerable children and young people whose development has been affected and/or in respect of whom concerns are escalating which, unaddressed, may lead to a referral to Child Protection.¹¹⁸

Family services work with families to enhance parenting capacity and skills, parent-child relationships, child development, and social connectedness. This assistance can include counselling, as well as in-home support and group work, and can also include secondary consultations with other services. Case workers provide assistance in accordance with a child and family action plan, which is largely based on the assessment carried out by Child FIRST. The aim is to improve parenting capacity and skills and strengthen parent-child relationships, child development and social connectedness through a range of means, including working with individuals and groups. Assistance is delivered both in the home and by outreach to wherever is appropriate. It can be provided directly or through brokerage funds.¹¹⁹

Housing and homelessness services

The specialist homelessness service system was designed to 'secure housing for people at risk of or experiencing homelessness, through meeting immediate material needs and working with people within a case management model to address any issues that have contributed to their homelessness'.¹²⁰

Homelessness services (other than the specialist family violence services discussed above, even though most of these services are also funded through homelessness funding) play an important role in responding to family violence.¹²¹

They include homelessness access points (also known as Initial Assessment and Planning services) which provide an assessment and referral to relevant homelessness services in the area. These can be important entry points for women who may not wish to seek assistance through specialist family violence services as they may not be willing to disclose family violence or the risks of violence may not be immediate or current.

Homelessness services assist people in a number of ways. They may provide an immediate crisis response by arranging crisis accommodation in a refuge, or emergency accommodation in a motel, rooming house or caravan park. They may also assist people to access transitional housing, which is subsidised housing for up to 12 months for people who are homeless or at risk of homelessness. A person needs to be linked into a support service in order to be eligible for a transitional property.¹²²

Homelessness services also assist people to secure longer term housing, including applications for social housing. Social housing provides subsidised rental housing for people on low incomes who meet income and asset eligibility criteria, including women who have left family violence. The two main forms are public housing (through the Department of Health and Human Services with rent capped at 25 per cent of combined eligible household income),¹²³ and community housing (provided by non government organisations with income and asset limits that are generally higher than public housing and tenants generally pay no more than 30 per cent of their combined household income).¹²⁴ As at June 2015 there were 85,199 social housing dwellings (64,866 of which were public housing).¹²⁵

Homelessness services are also available to perpetrators requiring alternative accommodation in order to comply with a family violence intervention order or safety notice excluding them from the home.

These services are discussed in Chapter 9.

Services for sexual assault

In Victoria the specialist sexual assault sector consists largely of government-funded Centres Against Sexual Assault, along with multi-disciplinary centres that were introduced as part of the 2006 Sexual Assault Reform Strategy. There are also therapeutic treatment programs for children and young people exhibiting sexually abusive behaviours.

CASAs have been operating since 1979, assisting children, young people and adults who have experienced sexual assault.¹²⁶ This includes sexual assault that happens within a family violence context. The Victorian Government told the Commission that sexual assault services include crisis care, casework, advocacy and group work.¹²⁷ Crisis care includes an after-hours telephone service (the Victorian Sexual Assault Crisis Line), crisis intervention, counselling and advocacy as well as liaising and coordinating support with other services such as police. Counselling, advocacy and support is also provided to adult survivors of childhood sexual assault. CASAs can provide community education, training and specialist consultation to other services. Some CASAs are also funded as providers of family violence counselling for women and children.

There are currently six MDCs in Victoria.¹²⁸ These are essentially 'one-stop shops' for victims of sexual assault, with co-located Victoria Police Sexual Offences and Child Abuse Investigation teams, Department of Health and Human Services Child Protection practitioners and CASA counsellors/advocates.¹²⁹ MDCs also have links to forensic medical staff, and from 2014–15, MDCs have been extended to include community health nurses who will support victims/survivors and refer them to appropriate community services.

In addition to these services, the Sexually Abusive Behaviours Treatment Services program funded by the Department of Health and Human Services, provides voluntary therapeutic services for children and adolescents who exhibit problem sexual behaviour and sexually abusive behaviour.¹³⁰ The Victorian Government advised that it funds 11 agencies to provide these services in Victoria.¹³¹ SABTS may be accessed in a number of ways, including self referral, and referral from a community agency, school or Child Protection.¹³² The Children's Court can make referrals to the program for 10 to 14 year-olds, after making a Therapeutic Treatment Order.¹³³ If convicted of a sexual offence, young offenders can be ordered to participate in therapeutic treatment with the Male Adolescent Program for Positive Sexuality.¹³⁴

Chapter 12 provides more detail about sexual assault services.

Victim support services

The Victorian Government's Victims of Crime Helpline, provided by the Victims Support Agency, offers information, advice and support for victims and their families. The line operates from 8.00 am to 11.00 pm seven days a week and is the access point to a range of free services aimed at helping to manage the impact of crime on victims.¹³⁵ Male victims of family violence are referred to this service.¹³⁶ The Victims Support Agency also funds and coordinates the Victims Assistance Program, which provides case-management support to victims of crime¹³⁷ and is delivered by community agencies throughout Victoria.¹³⁸

The Witness Assistance Service in the Office of Public Prosecutions provides support to adult witnesses in criminal trials; the Child Witness Service provides support to children who are witnesses in criminal trials.

Commonwealth agencies

Although family violence and associated services are generally provided at the state and territory level, a range of Commonwealth agencies are relevant to family violence systems. As noted, the Commonwealth provides funding for a variety of state services; Chapter 4 provides details of the Commonwealth's role in this regard.

The Family Court and the Federal Circuit Court seek to resolve legal disputes flowing from family separations, such as disputes relating to parenting and financial circumstances (including child support). The Federal Circuit Court hears the bulk of family law matters; more complex cases and appeals are heard by the Family Court.¹³⁹

In addition to providing parenting and other benefits and entitlements, Centrelink offers one-off crisis payments for people experiencing difficult or extreme circumstances. This can include victims of family violence.¹⁴⁰

The way forward

A royal commission necessarily invites consideration of how existing services and systems might work more effectively. There has been considerable progress in meeting the needs of victims of family violence over the past 16 years, though further improvements are needed. This sentiment was captured by Dr Rhonda Cumberland, Chief Executive Officer of Good Shepherd Australia New Zealand, who noted:

There is no comparison between the response today and that of 2000. We can point to the failures today – and there are many. However, the failures of the system should not be confused with a lack of progress. We have come a long way from women self-referring, women not reporting to police, from police not drawing the dots between family violence and crime and domestic murder. I acknowledge how far we have come since those dark days. The days of an isolated women's service response are gone.¹⁴¹

Some submissions noted that, while the foundational policies and legislation underpinning the family violence response in Victoria are sound, the potential of the initiatives has not been fully realised. For example, the Federation of Community Legal Centres observed:

The [Family Violence Protection Act] is widely regarded as a best practice model in terms of the legal protections offered and its purpose, which is to prevent and reduce family violence, prioritise the safety of victims, and hold perpetrators accountable for their use of violence. Seven years on provides opportunity to reflect on how the legislation is working in practice.¹⁴²

Court Network also highlighted concerns about implementation of the reforms—specifically, that this has occurred in an ad hoc way and has lacked the resources to effectively respond to demand.¹⁴³

Fragmentation and ‘silos’ among service providers were often raised as a concern in connection with the existing systems’ response to family violence. Domestic Violence Resource Centre Victoria remarked:

Despite efforts at integration over the past decade, the system has continued to fail many women. The system still operates in separate ‘silos’, women are unable to smoothly navigate the system, women with diverse needs are being left behind by this system, and significant barriers to integration remain.¹⁴⁴

The Commission heard that, although the various elements of the family violence system response have worked together to accommodate burgeoning demand, the increased volume of reported family violence has made it difficult to provide effective responses. Further reform is necessary to prevent family violence in all its forms and to ensure that all the systems that come into contact with family violence victims respond to their needs. System reform is also required to ensure that those who are violent are held responsible and accountable for their behaviour and helped to change.

Endnotes

- 1 Statewide Steering Committee to Reduce Family Violence, 'Reforming the Family Violence System in Victoria' (2005) 5.
- 2 Peta Cox, 'Violence Against Women: Additional Analysis of the Australian Bureau of Statistics' Personal Safety Survey, 2012' (Horizons Research Report, Issue 01, Australia's National Research Organisation for Women's Safety, October 2015) 104–15.
- 3 Community consultation, Richmond, 1 May 2015; Community consultation, Bendigo 1, 5 May 2015; Christine Craik, Submission 437, 1.
- 4 Victoria Police, 'Code of Practice for the Investigation of Family Violence—Edition 3' (2014) 2.
- 5 Transcript of Tucker, 3 August 2015, 1566 [3]–[9].
- 6 Victoria Police, Submission 923, Attachment 3, 38.
- 7 Statement of McWhirter, 27 July 2015, 9 [37]–[38].
- 8 Crime Statistics Agency, 'An Overview of Family Violence in Victoria: Findings from the Victorian Family Violence Database 2009–10 to 2013–14' (January 2016) 24.
- 9 The Victoria Police manual includes policy rules and procedures and guidelines. Policy rules are mandatory, minimum standards police members must apply. Non-compliance with or departure from a policy rule can be subject to management or disciplinary action. Procedures and guidelines are not mandatory requirements on their own; however, they support the interpretation and application of the policy rules.
- 10 Victoria Police, Code of Practice, above n 4, 2; Victoria Police, 'Victoria Police Manual—Policy Rules: Family Violence' (22 February 2010), produced by the State of Victoria in response to the Commission's notice to produce dated 5 June 2015.
- 11 Victoria Police, Code of Practice, above n 4, 8 [2.3].
- 12 Ibid 31 [5.2.2].
- 13 Victoria Police, Submission 923, Attachment 3, 43.
- 14 *Family Violence Protection Act 2008* (Vic) s 31.
- 15 Victoria Police, Code of Practice, above n 4, 39 [5.12].
- 16 Victoria Police, Submission 923, Attachment 3, 43.
- 17 *Family Violence Protection Act 2008* (Vic) s 81.
- 18 Ibid ss 13–23.
- 19 Ibid s 123.
- 20 Victoria Police, Code of Practice, above n 4, 37 [5.9].
- 21 Ibid.
- 22 Crime Statistics Agency, above n 8, 40.
- 23 Statement of McWhirter, 27 July 2015, 7 [28]. Family violence intervention orders were applied for by police in 17 per cent of incidents: Crime Statistics Agency, above n 8, 44. Note that some of these incidents would have involved breaches of existing family violence intervention orders, which could explain the relatively low proportion of incidents resulting in a family violence intervention order application.
- 24 Statement of McWhirter, 27 July 2015, 7 [31].
- 25 Crime Statistics Agency, above n 8, Victoria Police data source, Tab 20, Table 20: Family Incidents where Charges were Laid, July 2009 to June 2014, provided to the Commission by the Crime Statistics Agency, 30 September 2015.
- 26 In 2013–14 Victoria Police laid charges in 27,701 of a total 65,154 family violence incidents. Breaches of family violence intervention orders are included in the total 27,701 charges laid: *ibid*.
- 27 Victoria Police, Code of Practice, above n 4, 28.
- 28 Ibid 29.
- 29 Ibid 44.
- 30 No To Violence; Men's Referral Service, Submission 944, 25.
- 31 Department of Health and Human Services, 'Family Violence Referral Protocol between the Department of Health & Human Services and Victoria Police—2015' (June 2015) produced by the State of Victoria in response to the Commission's Notice to Produce dated 5 June 2015.
- 32 Victoria Police, Code of Practice, above n 4, 44.
- 33 See *Children, Youth and Families Act 2005* (Vic) s 184.
- 34 Victoria Police, Code of Practice, above n 4, 45–7.
- 35 Crime Statistics Agency, above n 8, 40.
- 36 Crime Statistics Agency, above n 8, Table 16: Total Referrals Made Following a Family Incident – Victoria Police, July 2009 to June 2014, 40.
- 37 Victoria Police, Code of Practice, above n 4, 44–8.
- 38 In 2009–10 there were 14,109 informal referrals made by Victoria Police for female affected family members compared with 5,103 in 2013–14, representing a 47.5 per cent decrease. This is compared with an increase of 317 per cent in formal referrals for female affected family members during the same time period. Crime Statistics Agency, above n 8, Victoria Police Data Source, Tab 31, Table 31: Referrals Made by Victoria Police by Police Region and Gender of the Affected Family Member, July 2009 to June 2014, provided to the Commission by the Crime Statistics Agency, 30 September 2015.
- 39 These organisations may also be given one-off grants to run specific projects or to carry out research. They may also receive funding from philanthropic organisations for particular projects.
- 40 Domestic Violence Victoria, 'Code of Practice for Specialist Family Violence Services for Women and Children: Enhancing the Safety of Women and Children in Victoria' (2006) 32.
- 41 Ibid 27; Department of Health and Human Services, 'Homelessness Services Guidelines and Conditions of Funding May 2014' (Version 2.1, 2015) Part 5, 14.
- 42 Department of Health and Human Services, above n 41, Part 5, 14.
- 43 Ibid.
- 44 Some callers may have contacted the service on multiple occasions. The Commission does not know how many individual women and children were assisted by Safe Steps. Safe Steps Family Violence Response Centre, Submission 942, 1.
- 45 National Sexual Assault, Domestic and Family Violence Counselling Service, *About Us* (2015) 1800RESPECT <<https://www.1800respect.org.au/about/#link1>>.
- 46 With a target of only 106 'episodes of support' per annum. Department of Health and Human Services, 'Intensive Case Management Data Collection and Analysis Project: Final Report' (9 August 2007), i, produced by the State of Victoria in response to Commission's Notice to Produce dated 5 June 2015.
- 47 Primary Care Connect, Submission 145, 3.
- 48 Homelessness Taskforce, Department of Families, Community Services and Indigenous Affairs (Cth), 'The Road Home: A National Approach to Reducing Homelessness' (2008) 33.
- 49 Statement of Rogers, 20 July 2015, 12 [78].
- 50 Ibid 12 [79].
- 51 Ibid 20 [126].

52 This is based on an assumption that of the total capacity of 105 families, 36 families can be accommodated in dispersed refuges, meaning the balance is 69 families.

53 Statement of Rogers, 20 July 2015, 20 [125].

54 Ibid 20 [126].

55 Ibid 25 [152]–[153].

56 Ibid 20 [129].

57 Department of Health and Human Services, 'Response to Notice to Produce 20 August 2015', 3, produced by the State of Victoria in response to the Commission's Notice to produce dated 20 August 2015.

58 Department of Health and Human Services, '20 August 2015 Notice to Produce PART B', 1, produced by the State of Victoria in response to the Commission's Notice to produce dated 20 August 2015.

59 Ibid.

60 Safe Steps Family Violence Response Centre, 'Interpretation of Safe Steps Data' (29 September 2015), 1–2, provided by Safe Steps Family Violence Response Centre to the Commission, 29 September 2015.

61 Ibid 3.

62 Statement of Rogers, 20 July 2015, Attachment 10, 1.

63 Department of Health and Human Services, 'Family Violence Support Services 31233', 2, produced by the State of Victoria in response to the Commission's Notice to Produce dated 24 August 2015.

64 Department of Health and Human Services, 'DHHS Response in Relation to Part A 2(a)(ii) and (iii)', 6, produced by the State of Victoria in response to the Commission's Notice to Produce dated 20 August 2015.

65 Transcript of Vlasis, 24 July 2015, 1439 [8].

66 No To Violence; Men's Referral Service, Submission 944, 31.

67 *Sentencing Act 1991* (Vic) s 48D(3)(f).

68 *Corrections Act 1986* (Vic) s 74(5); *Corrections Regulations 2009* (Vic) reg 83B(1)(k).

69 Department of Health and Human Services, *Adolescent Family Violence Services* (3 July 2015) <<http://www.dhs.vic.gov.au/for-individuals/children,-families-and-young-people/young-people/adolescent-family-violence-service>>.

70 Transcript of Singh, 20 July 2015, 858 [31]–859 [6].

71 Statement of Turfrey, 16 July 2015, 13–14 [55].

72 InTouch Multicultural Centre Against Family Violence, Submission 612, 11.

73 Women with Disabilities Victoria, Submission 924, 3.

74 Note that coronial matters and other work done by the Coroners Court of Victoria is considered in Chapter 25, and family, parenting and Child Protection matters are discussed in Chapter 11.

75 That is, a person aged under 18 years when the application is made: see *Family Violence Protection Act 2008* (Vic) s 4 (definition of 'child').

76 Ibid s 146. The Children's Court may also hear and determine FVIO matters not involving children if they are related to FVIO or Child Protection proceedings before it: *Family Violence Protection Act 2008* (Vic) ss 147–147A.

77 *Family Violence Protection Act 2008* (Vic) ss 114–15.

78 *Sentencing Act 1991* (Vic) s 112.

79 As well as committal proceedings for matters to be tried in the higher courts. See *Magistrates' Court Act 1989* (Vic) s 25; *Criminal Procedure Act 2009* (Vic) ss 28–9; *Sentencing Act 1991* (Vic) s 112.

80 I.e. murder (including of children), attempted murder, manslaughter, arson causing death or dangerous driving causing death. See *Children, Youth and Families Act 2005* (Vic) ss 3, 516.

81 Ibid s 413.

82 Magistrates' Court of Victoria and Children's Court of Victoria, Submission 978, 1, 23.

83 Victorian Civil and Administrative Tribunal, Submission 164, 1, 5.

84 See *Coroners Act 2008* (Vic) ss 1, 4–5; Court Services Victoria, Submission 646, 4–5.

85 Ibid 1.

86 Ibid 10.

87 Ibid 11.

88 Ibid.

89 Ibid, Attachment 1, 1.

90 The Court Integrated Services Program is offered at Latrobe Valley, Sunshine and Melbourne Magistrates' Courts and CREDIT/Bail at Ballarat, Broadmeadows, Dandenong, Frankston, Geelong, Heidelberg, Moorabbin and Ringwood Magistrates' Courts. See Magistrates' Court of Victoria and Children's Court of Victoria, Submission 978, 13–14.

91 Department of Human Services, 'Assessing Children and Young People Experiencing Family Violence: A Practice Guide for Family Violence Practitioners' (January 2013) 111.

92 Magistrates' Court of Victoria and Children's Court of Victoria, Submission 978, 18.

93 Department of Justice and Regulation, 'Cost of family violence to the Child Witness Service (New version of DJR.0013.0001.0001), 1, produced by the State of Victoria in response to the Commission's Notice to Produce dated 14 August 2015 (as varied on 20 August 2015 and 20 October 2015).

94 Children's Court of Victoria, *Jurisdictions* (4 March 2016) <<http://www.childrenscourt.vic.gov.au/jurisdictions>>.

95 Magistrates' Court of Victoria and Children's Court of Victoria, Submission 978, 16.

96 Unlike the Magistrates' Court Sexual Offence Lists, the Children's Court lists currently have no statutory basis.

97 The clinic is staffed by psychiatrists and psychologists and conducts clinical assessments of children and young people, provides clinical services to them and their families, and reports to courts and other bodies on a person's needs, development and trajectory and the options which courts may consider in determining relevant proceedings: *Children, Youth and Families Act 2005* (Vic) s 546; Magistrates' Court of Victoria and Children's Court of Victoria, Submission 978, 16.

98 Trained mediators (accompanied by a Koori co-convenor where Aboriginal and Torres Strait Islander children and their families are involved) assist families to resolve disputes and avoid a court hearing where possible. Anecdotal indications from mediators suggest that a majority of those attending conferences have, or have had, an FVIO in place between some family members: Magistrates' Court of Victoria and Children's Court of Victoria, Submission 978, 16.

99 Victorian Civil and Administrative Tribunal, Submission 164, 3–5.

100 Supreme Court of Victoria, Submission 705, 3.

101 Victoria Legal Aid, Submission 919, 58.

102 Ibid, 13.

103 The Federation of Community Legal Centres reports that 20 of its member centres provide legal services in some 29 Magistrates' Courts. See Federation of Community Legal Centres, Submission 958, 14.

104 Victoria Legal Aid, Submission 919, 13.

105 *Family Violence Protection Act 2008* (Vic) s 71.

106 Victoria Legal Aid, Submission 919, Foreword.

107 Ibid, 57.

108 See, eg, Women's Legal Service Victoria—01, Submission 940, 14 ; Victorian Aboriginal Legal Service, Submission 826, 1; Aboriginal Family Violence Prevention and Legal Service Victoria, Submission 941, 11; InTouch Multicultural Centre Against Family Violence, Submission 612, 3.

109 *Children, Youth and Families Act 2005* (Vic), ss 28–34, 162.

110 Department of Health and Human Services, *Protective Intervention Policy* (29 February 2016) <<http://www.cpmmanual.vic.gov.au/policies-and-procedures/phases/protective-intervention/protective-intervention-policy>>.

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121 Council to Homeless Persons, Submission 920, 8.

122 Statement of Springall, 20 July 2015, 6 [26].

123 Statement of Rogers, 20 July 2015, 5 [24].

124 Ibid 7 [45], [46].

125 Ibid 4 [17], [21].

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136 No To Violence; Men's Referral Service, Submission 944, 25.

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144 Domestic Violence Resource Centre Victoria, Submission 945, 11.

6 Risk assessment and management

Introduction

Assessing the risk that a person will be subjected to family violence and then appropriately managing that risk, underpins all efforts to uphold safety for victims of family violence and to hold perpetrators of family violence to account.

Risk assessment and management tools provide a way of thinking and talking about family violence risk with a person. These tools are a lens through which practitioners gain a clearer picture of the victim's experience and what action is required. They can help a practitioner to understand why a victim may stay with a perpetrator, how what at first may have seemed loving attention has become control and domination, and why a victim may be scared to disclose the violence.

Before 2007 there was no common risk assessment and management approach for the family violence system in Victoria. In 2007, the Victorian Government introduced the Family Violence Risk Assessment and Risk Management Framework (known as the Common Risk Assessment Framework, or the CRAF) to enable risk assessments to be conducted whenever a person at risk of or experiencing family violence makes contact with a service. The government is currently reviewing the CRAF.

This chapter considers the extent to which the CRAF has met its aims and where improvements might be required. It also looks at how we can better support risk assessment and management practices for those at all levels of risk.

The first section of this chapter explores current risk assessment and management practices in Victoria, including the application of the CRAF and multi-agency risk management practices to date. This includes the Risk Assessment and Management Panels, or RAMPs, currently being rolled out across the state to respond to women and children at highest risk of family violence. It also provides an overview of risk assessment and management practices in other Australian jurisdictions and internationally, which could help guide the Victorian Government's review of the CRAF.

The second section of this chapter identifies some of the matters commonly raised before the Commission in connection with gaps in Victoria's approach to family violence risk. The Commission was informed that the CRAF provides essential guidance on risk assessment but that its consistent application has been hindered by a lack of strong leadership from government. The Commission also heard that the CRAF does not do enough to support risk assessment for children and victims of non-intimate partner violence and that risk management strategies do not place enough focus on perpetrators.

In the final section of the chapter, after considering all the evidence before it, the Commission proposes a way forward. It recommends a number of changes to enhance the CRAF as a best-practice framework and to support its use. The Commission proposes a means for ensuring that risk assessments in important locations such as health services and courts are aligned with the CRAF, and that training in risk assessment and management be provided to the various service providers that frequently come into contact with victims and perpetrators of family violence. It further recommends a number of measures to support the effective statewide roll-out of RAMPs.

During the Commission's deliberations, Victoria Police advised that it is trialling a new triage tool to assess levels of risk and better respond to family violence in parts of western Melbourne. Victoria Police has a unique role in risk assessment and management. Police are often the first responders to family violence incidents. Because of their investigative functions, they also have a central role in monitoring and managing perpetrators. The Commission provides its view on the proposed model, recognising that the trial is yet to commence.

Context and current practice

'Risk assessment' refers to the process of identifying whether a person is at risk of family violence and then determining the likelihood that they will be affected by violence or, if violence is already occurring, that it will escalate.¹ Although risk assessment cannot eliminate the possibility that unpredicted events will occur, it does allow for informed and tailored responses that can reduce the risk that the person will be harmed.

Various service providers perform family violence risk assessments when they come into contact with women, children and families; these include specialist family violence services, mainstream services such as health and family services, and police and justice services. Some might detect the risk of family violence and make a referral to a service provider who is better equipped to perform a full risk assessment. The tools used to identify and respond to risk can therefore differ according to the role and function of the practitioner assessing the risk and the service context.

Although risk assessment is a central part of the work of service providers who come into contact with families, victims constantly assess and manage their own risks. Many women take steps to anticipate and manage a perpetrator's behaviour over a long period before seeking support. Victims' assessment of their own level of risk has been found to be an accurate predictor of the recurrence of family violence, with a predictive value similar to that of more formal risk assessment approaches.² A multi-site, four-year follow-up evaluation of US perpetrator treatment programs found that:

Women's perceptions of safety and the likelihood of re-assault [emerged as the] most consistent and strongest risk marker. In fact, the women's predictions were as useful as all the batterer characteristics combined.³

This finding was reinforced by former State Coroner, Judge Ian Gray, quoting from Mr Rodney Vlasis of No To Violence during the inquest into the death of Luke Batty: 'sound risk assessment practice requires that where there is ambiguity or inconsistency [in verbal reports of fear] [a] risk assessment should err on the side of caution when the victim is significantly afraid'.⁴

Sometimes, however, it is not advisable to depend solely on a victim's assessment of her risk. Some women might not disclose or might minimise the extent of violence in an effort to manage the perpetrator. For example, a woman might fear that if she discloses the violence, the risk to herself or her children will escalate.⁵ Service providers must therefore also use professional judgment and consider identified risk factors for family violence in order to make an effective risk assessment.⁶

The risk assessment process can also give a victim the chance to recognise her situation as violent, acknowledge her experience and position, prevent her from blaming herself for the situation, and take action to achieve her own safety. By describing the perpetrator's behaviour during a risk assessment, a woman can 'obtain some clarity about the abuse she is experiencing and shrug off some of the blame the abuser has levelled at her':

It may be the first time that a woman has had an opportunity to think about her situation objectively, in terms of the risk the abuser poses to her, and her children. Because she is fearful of the abuser, the notion of 'risk' makes sense to her, however it is often the first time she has heard that kind of objective terminology. In this way, risk assessment can also serve as a therapeutic exercise for women.⁷

Risk assessment is not a 'one-off' exercise.⁸ The risk of family violence can fluctuate over time, and it can escalate rapidly. New risk assessments are required whenever circumstances change for victims or perpetrators—for example, when the victim is planning to leave the violent relationship or when she separates from her partner, when the perpetrator is about to be released from custody, when Family Court proceedings have begun, when the perpetrator becomes aware that the victim has sought support, or when the victim is pregnant or gives birth.

Given the dynamic nature of risk, a risk assessment requires regular review. Each time a service provider makes contact with a woman, they should be doing a risk assessment. Service providers can ask 'last time we spoke, I asked you how scared you were on a scale of one to five and you said three. How are you feeling now?' If she responds with 'four', a service provider will want to know what has happened in the interim. And when the level of risk is reviewed or revised, there is also a need to revisit the woman's safety plan.⁹

Approaches to risk assessment

There is no definitive method of assessing the risk of family violence. As the Melbourne Research Alliance to end violence against women and their children noted, 'risk assessment is an art rather than a science and should be considered preventative rather than predictive'.¹⁰

Within the human services field, approaches to risk assessment have included the following:

- ▷ a clinical approach—exercising professional judgment
- ▷ an actuarial approach—using scales or matrices based on a retrospective analysis of risk
- ▷ a structured professional judgment approach—in which clinical and actuarial approaches are used in combination.¹¹

The actuarial method relies primarily on predictive risk factors taken from empirical research. These risk factors are assigned a numerical value and a total risk score is generated. This score provides an indication of the probability that an individual will re-offend in the foreseeable future. While training is recommended before a person uses any risk assessment tool, the literature stresses the particular importance of training in the proper use of actuarial tools.¹²

One strength of the actuarial approach is that the tools use consistent criteria; this means findings can be replicated easily, which supports consistent data collection.¹³ An actuarial approach can, however, also limit the assessor to a fixed set of factors, which could lead them to ignore other information or potentially minimise factors that professional judgment would identify as critical.

A structured professional judgment approach is accepted as more accurate than the other approaches on their own, since it is more flexible than the actuarial approach, is more consistent and transparent than unstructured clinical judgments, and allows for the use of professional judgment.¹⁴ Most current frameworks for assessing family violence, including the Family Violence Risk Assessment and Risk Management Framework, also known as the Common Risk Assessment Framework or CRAF, promote a structured judgment approach.¹⁵

Given the complexity and dynamic nature of risk, and the fact that many service providers, beyond specialist family violence services, might be required to identify and assess a risk of family violence, the Commission heard that different risk assessment approaches should be available:

The structured professional judgment tool ... on balance has more utility, but it requires a higher level of training and expertise and of course all of these tools are only as good as the information they are based on ... in an ideal situation you would be able to use an actuarial tool for people who are unable to train their expertise to make in-depth decisions, but then you would have the opportunity to have a more comprehensive assessment, say when a particular matter is referred to a risk assessment panel or other body, where a multi-disciplinary team can actually look at a range of factors to make decisions and then use that information to help manage change.¹⁶

The important role of risk assessment tools in guiding the professional judgement of even very experienced practitioners, was also stressed to the Commission:

... if you have a really good assessor, they have that checklist in their head of 20 factors that are on the danger assessment tool and are asking the woman about those factors and therefore she comes through with roughly the same information, but in a way it's because there is a very good assessment done on the basis of some quite detailed questioning, which is different from someone coming in and just going, 'Tick the box, have you experienced domestic violence'.¹⁷

As noted by Professor Cathy Humphreys, Professor of Social Work at the University of Melbourne, the lack of certainty in risk assessment means that the information gathered through a risk assessment tool constitutes only one information source:

... you will have a lot of people that look very high risk that in fact may have stopped themselves for a range of reasons from continuing their violence. Similarly, you will have people that look pretty low risk who then do atrocious things. You can't necessarily use the tools or even professional judgment to predict some of that. So when we are thinking about what's the role of risk assessment and risk management it's a very helpful guide, but it's not the whole story.¹⁸

The Commission is also aware of caveats in relation to the use of risk assessment tools:

Firstly, the priority on the most dangerous perpetrators may leave many women and children without an adequate and safe intervention. Secondly, the risk factors are indicative not predictive and serious cases may be left out of a system which only prioritises intervention to high risk cases. Thirdly, risk assessment may be seen as an end in itself, rather than a mechanism through which to inform the management of risk. Finally, the risk assessment and risk management needs to actively enhance the policing response and not overwhelm police with administrative paperwork...¹⁹

Risk assessment tools can be targeted to victims (for example, the CRAF), perpetrators, or both. Importantly, the CRAF sets out risks associated with both victimisation from family violence and perpetration of family violence. Most of the risk factors for victims and perpetrators are similar, although in relation to actuarial tools the way risk factors are weighted can be different.²⁰

The Commission was also told about the role of 'self-assessment' tools for women that could operate as an adjunct to formal risk assessment. For example, the University of Melbourne is testing an interactive web-based health relationship tool and safety decision aid called 'I-DECIDE'.²¹ The tool is for women who are not able to seek help or disclose violence to their health practitioner. It is being tested through a randomised controlled trial to determine whether it is accessible and useful.²² This tool is discussed in Chapter 19. Examples of risk assessment approaches used in other jurisdictions are outlined in Table 6.2.

Risk management

Effective risk management is complex and requires familiarity with and cooperation between a number of different professionals working in different agencies, each with a different skill set and mandate.²³ It requires formal partnerships between agencies, and other mechanisms for supporting coordinated responses to the risk or occurrence of family violence.²⁴

Risk management (for both victims and perpetrators) is also most likely to be effective when 'operating in the context of coordinated community responses', where entire communities are responsible for responding to family violence, not just individual practitioners or agencies.²⁵

Risk management for victims

Use of a risk assessment tool alone cannot guarantee a victim's safety. Risk assessment must lead to effectively managing risk, 'otherwise it is a useless exercise in sharing information to no effect'.²⁶ Risk management requires 'a system, not just a tool, and highly skilled people to identify and manage those risks'.²⁷

Risk management strategies for victims of family violence include developing safety plans; putting ongoing risk assessment mechanisms in place; arranging accommodation for victims; ensuring that victims have access to support services, such as counselling and legal advice; taking legal action against the perpetrator; developing protocols between services working with the victim and with the perpetrator, so that perpetrators can be monitored;²⁸ and referring high-risk cases (where victims are at risk of serious injury or death) to multi-agency case-management panels such as Risk Assessment and Management Panels (RAMPs).

Technology is increasingly being used alongside other supports to assist risk management. Such technology includes safety cards and watches, CCTV and use of alarms.²⁹ The BSafe program is a personal alarm system with an in-built GPS that can connect the user to an operator by pressing a button. It allows for a victim to be easily located.³⁰ The Safe-T-Card has an alarm button, an in-built GPS and audio and/or video streaming capacity.³¹ Chapter 9 discusses these devices and provides details of the Victorian Government's recent announcement of a \$900,000 pilot to trial the implementation of safety devices and casework support in a number of regions.³²

Risk management for children is also important. The Department of Health and Human Services guide *Working with Families where an Adult is Violent* provides useful information for practitioners working with families where family violence is occurring. The guide acknowledges the gender-based nature of family violence and provides evidence about the effects of family violence on children and parenting.³³ The guide provides some contextual information about family violence against children, namely that mothers are the most common perpetrators of child abuse, which is defined to include neglect.³⁴ The guide notes that where women have a history of violence, they are more likely to physically abuse their children than women who do not have this history; depression is also a risk factor.³⁵

Risk management of perpetrators

Although the 'perpetrator ultimately controls the risks of family violence',³⁶ risk management of perpetrators is a relatively new field.³⁷ Among current risk management strategies for perpetrators are referral to men's behaviour change programs, legal responses, and monitoring perpetrator activity through information sharing between agencies.

Greater monitoring of perpetrators was a recommendation of Judge Gray in the report of his inquest into the death of Luke Batty. The Commission was told that risk management of perpetrators with a high level of offending is best left to police, the courts and Corrections Victoria.³⁸ Recent research conducted with family violence perpetrators in correctional settings suggests that the following are effective strategies for managing perpetrators with a high level of offending:

- (1) quick and judicious adjudication of cases;
- (2) careful monitoring of correctional outcomes via regular court reviews or specialized probation/parole programs;
- (3) continued safety planning for victims and risk management for perpetrators;
- and (4) vigilant supervision involving consequences for those who fail to complete mandated batterer intervention programs.³⁹

Managing perpetrator risk can involve the following:

- ▶ monitoring or supervising known perpetrators to provide current information on their whereabouts, intentions and vicinity to victims. This can be done through CCTV, GPS monitoring or partner contact via men's behaviour change programs. Supervision could include restricted activity, such as attendance at programs, or communications restrictions⁴⁰
- ▶ interventions that require physical separation from victims—for example, justice responses such as exclusion from the home, intervention orders or being remanded—and service responses such as crisis accommodation or support from respondent workers
- ▶ interventions to minimise and eliminate risks—including men's behaviour change programs and programs aimed at responding to other individual risk factors such as alcohol and drug misuse.

Risk management of perpetrators has increasingly become part of the role of Victoria Police family violence teams, which have evolved to focus on recidivist and high-risk perpetrators.⁴¹ Risk management of perpetrators by police is described further in Chapter 15, but in summary it includes:

- ▶ passive or overt monitoring such as Law Enforcement Assistance Program (LEAP) alerts and enforcement tools respectively
- ▶ family violence 'person of interest' flags in the LEAP database to alert police, who come into contact with the person, of their status
- ▶ management plans tailored to individual circumstances and implemented by a family violence team.⁴²

Police family violence teams have also implemented a number of local, multi-agency initiatives (see the section 'Multi-agency risk management').

These initiatives draw on the expertise of other services to manage recidivist and high-risk perpetrators. The Commission was told that the development of RAMPs has enabled a more targeted focus on perpetrator interventions, including through information exchange with community-based agencies:

The reality is that we spend the majority of the time at the RAMP talking about accountability. The data we have indicates that the more we are able to make a perpetrator accountable and visible, whether through compliance with an order, active treatment or imprisonment, the more the woman's experience of safety increases.⁴³

The RAMP acts as a kind of spotlight on the perpetrator. It sends a really clear message to him and to the broader community, that 'we are watching you.' No matter where you go across these sectors, we know about you. The RAMP creates a web of accountability. If we are serious about increasing accountability for men, then losing the information gap, as the RAMP does, is critical.⁴⁴

Recidivist and high-risk perpetrators

Recidivist and high-risk perpetrators require ongoing risk assessment and risk management. Recidivist perpetrators are those who frequently commit family violence or breach family violence intervention orders. High-risk perpetrators are those who commit severe family violence or whose use of violence has or is escalating.⁴⁵ This group is distinct from recidivists because high-risk perpetrators might not necessarily use frequent violence. For example, a sizable minority of family violence homicides are not preceded by other violence.⁴⁶

Analysis of police data shows that between July 2004 and March 2015 police assessed repeat violence as 'unlikely' for 45 per cent ($n=4599$) of perpetrators who went on to repeat violence and as 'likely' for 55 per cent ($n=5532$). Police predictions using the L17 form are therefore 'slightly better than chance' at predicting recidivism.⁴⁷

Victoria's Risk Assessment and Risk Management Framework

The Family Violence Risk Assessment and Risk Management Framework (often referred to as the Common Risk Assessment Framework or the CRAF) was introduced in 2007 as part of the Victorian Government's ongoing investment 'in the development of an integrated family violence system ... that incorporates both specialist family violence and mainstream service providers'.⁴⁸ It was developed after consultation with more than 500 stakeholders, among them the police, the courts, family violence specialist services, and a diverse range of other service providers.⁴⁹

The Commission heard that the CRAF was designed so that professionals across a wide range of organisations could consistently identify and assess the risk of family violence and manage family violence through the provision of appropriate and timely responses to victims and holding perpetrators to account for their actions.

More than a practice tool, the CRAF was initially intended also as a tool for integration across the various sectors of the family violence system in Victoria. The use of CRAF was intended to establish a shared understanding and approach, not only to risk assessment and risk management, but also to responses to family violence in general. It is a key driver of an effective family violence system, supporting women and children's safety and violent men to be held accountable.⁵⁰

The CRAF was the first statewide risk assessment and management model to be used in Australia.⁵¹ Dr Rhonda Cumberland, Chief Executive Officer of Good Shepherd Australia New Zealand, described to the Commission how the family violence sector assessed risk before the CRAF was introduced:

As workers, it was frightening to know the risks women faced and to know at the same time how little was available to assist them. We did not have the knowledge, the systems, the tools, and the skills to respond effectively. We made many mistakes. We removed women not just from their homes but from their communities. The system required that women leave their jobs. We took children out of school for long periods of time and often required them to change schools. We did not know then how to assess women's risk.⁵²

The CRAF is used by police and other services to assess the level and nature of risk in family violence incidents. It guides the identification of risk, through determining vulnerabilities and other factors (for example, pregnancy, access to weapons) that could contribute to determining the level of risk in a particular context.

It was developed to provide guidance to practitioners from a range of sectors working with victims of family violence and while it includes the risk factors for perpetrators, it was designed to use with victims. The CRAF employs the definition of family violence in the *Family Violence Protection Act 2008* (Vic).⁵³ Whilst acknowledging that both men and women can be perpetrators and victims of family violence, the CRAF uses gendered terminology and refers to victims as women and children and perpetrators as men, reflecting that the most prevalent form of family violence is intimate partner violence perpetrated by men against women.⁵⁴

The CRAF principles

The CRAF is built around six principles or components:

A shared understanding of risk and family violence among all service providers. An integrated service response to family violence depends on all agencies speaking a common language in terms of risk assessment and family violence, and having a common understanding of what underpins family violence—including what constitutes family violence, the ways family violence can affect women and children, and factors affecting the likelihood and severity of family violence.

A standardised approach to recognising and assessing risk. All victims of family violence in Victoria should receive a consistent level and quality of service from the range of family violence service providers, regardless of where they enter the system.

Appropriate referral pathways and information sharing. The various services that work with and help protect women and children must engage effectively with each other as well as with services that work with men who use violence. Inter-agency communication, referral and information sharing are essential to responding to risk and to continuing case management.

Risk management strategies. Victims are linked with support services and case managed where appropriate, and the service system works together to respond to and reduce violence.

Consistent data collection and analysis. Data is collected and analysed to determine the prevalence of family violence, identify common entry points into the family violence system, identify under-represented groups, and guide future service delivery.

Quality assurance. Organisations using the CRAF should monitor its application and supervise staff and ensure that new staff are trained to use the CRAF and that ongoing staff receive regular professional development relating to understanding family violence and effectively using the framework.⁵⁵

The CRAF includes three practice guides to support different practitioners to identify and manage risk, depending on their role:⁵⁶

- ▶ *Practice Guide 1: Identifying Family Violence.* This is for use by professionals working in mainstream settings, including health care providers, teachers and Centrelink officers, who encounter people they think might be victims of family violence. The guide contains a set of possible indicators of family violence, questions to identify family violence, advice on how to ask these questions, and steps to take if family violence is identified—for example, referring the victim to a specialist family violence service or arranging ongoing opportunities to monitor and discuss the violence.
- ▶ *Practice Guide 2: Preliminary Assessment.* This is for use by professionals who work with victims of family violence but for whom responses to family violence are not their primary business—for example, Victoria Police, professionals in court and legal settings, and Child Protection officers. The guide helps these professionals perform a preliminary risk assessment to determine the level of risk to and the safety requirements for the victim.
- ▶ *Practice Guide 3: Comprehensive Family Violence.* This is for use by specialist family violence professionals, among them specialist family violence services, men's behaviour change programs, family violence counsellors, refuge services, and specialist family violence courts. The guide helps these professionals perform a comprehensive risk assessment to determine the level of risk to the victim and to make provision for securing the victim's safety and meeting their recovery needs.⁵⁷

In summary, the practice guides set out what is expected of various professionals in relation to risk assessment and management, depending on their role and responsibility. Practitioners using practice guides 2 and 3 are directed to determine the level of risk to an individual by:

- ▷ supporting the victim to assess her own level of risk
- ▷ considering evidence-based risk factors
- ▷ exercising professional judgment.⁵⁸

Domestic Violence Resource Centre Victoria told the Commission:

[The] CRAF uses a Structured Professional Judgment Approach that strikes a balance between actuarial methods and clinical decision-making. It draws on evidence-based frameworks while also taking account of case-specific situations and contexts that are not considered using a strictly actuarial tool. This approach promotes consistency through an evidence-based framework, but allows the flexibility to encompass the unique characteristics of each case, including the perspective of the victim.⁵⁹

Evidence-based risk factors

The development of the CRAF was based on research and evidence about factors associated with the likelihood of violence recurring and a victim being injured or killed by a perpetrator of family violence.⁶⁰ Nationally and internationally, current family violence risk assessment tools are largely based on an analysis of adult family violence homicides and serious assault cases.⁶¹ Given that the majority of victims of family violence homicides are women and perpetrators a male partner or ex-partner, the majority of risk assessment tools have been designed to assess male violence against female intimate partners.⁶² Table 6.1 identifies the risk factors for family violence adopted by the CRAF.

Table 6.1 Risk factors affecting the likelihood and severity of family violence

Risk factors for victims
<p><i>Pregnancy and new birth</i></p> <p>Family violence often begins or intensifies during pregnancy and is associated with increased rates of miscarriage, low birthweight, premature birth, foetal injury and foetal death. Family violence during pregnancy is regarded as a significant indicator of future harm to the woman and her child.</p>
<p><i>Depression and mental ill-health</i></p> <p>Victims with a mental illness may be more vulnerable to family violence.</p>
<p><i>Drug and/or alcohol misuse or abuse</i></p> <p>Victims may use alcohol or other drugs to cope with the physical, emotional or psychological effects of family violence; this can lead to increased vulnerability.</p>
<p><i>Has ever verbalised or had suicidal ideas or tried to commit suicide</i></p> <p>Suicidal thoughts or attempts indicate that the victim is extremely vulnerable and the situation has become critical.</p>
<p><i>Isolation</i></p> <p>A victim is more vulnerable if she is isolated from family, friends and other social networks. Isolation also increases the likelihood of violence and is not simply geographical. Other examples of isolation are systemic factors that limit social interaction or support and the perpetrator not allowing the victim to have social interaction.</p>
Risk factors for perpetrators
<p><i>Use of weapon in most recent event</i></p> <p>Use of a weapon indicates a high level of risk because previous behaviour is a likely predictor of future behaviour. A weapon is defined as any tool used by the perpetrator that could injure, kill or destroy property.</p>
<p><i>Access to weapons</i></p> <p>Perpetrators who have access to weapons, particularly guns, are much more likely to seriously injure or kill a victim than perpetrators without access to weapons.</p>
<p><i>Has ever tried to choke the victim</i></p> <p>Strangulation or choking is a common method used by male perpetrators to kill female victims.</p>

Risk factors for perpetrators	
<i>Has ever threatened to kill the victim</i>	Evidence suggests that a perpetrator's threat to kill a victim is often genuine.
<i>Has ever harmed or threatened to harm or kill children</i>	Evidence suggests that where family violence is occurring, there is a likelihood of increased risk of direct abuse of children in the family. Children are adversely affected through experiencing violence directly and by the effects of violence, including hearing and (or) witnessing violence or through living in fear due to a violent environment.
<i>Has ever harmed or threatened to harm or kill pets or other animals</i>	A correlation between cruelty to animals and family violence is increasingly being recognised. Because there is a direct link between family violence and pets being abused or killed, abuse or threats of abuse against pets may be used by perpetrators to control family members.
<i>Has ever threatened or tried to commit suicide</i>	Threats or attempts to commit suicide have been found to be a risk factor for murder–suicide.
<i>Stalking of the victim</i>	Stalkers are more likely to be violent if they have had an intimate relationship with the victim. Stalking, when coupled with physical assault, is strongly connected to murder or attempted murder. Stalking behaviour and obsessive thinking are highly related behaviours.
<i>Sexual assault of the victim (including rape, coerced sexual activity or unwanted sexual touching)</i>	Men who sexually assault their partners are more likely to use other forms of violence against them.
<i>Drug and/or alcohol misuse or abuse</i>	A serious problem with illicit drugs, alcohol, prescription drugs or inhalants leads to impairment in social functioning and creates a risk of family violence. This includes temporary drug-induced psychosis.
<i>Obsession/jealous behaviour towards victim</i>	Obsessive and/or excessive jealous behaviour is often related to controlling behaviours and has been linked with violent attacks.
<i>Controlling behaviours—for example, the perpetrator telling the victim how to dress and who they can be friends with, controlling how much money they can have, and determining when they can see friends and family or use the car</i>	Men who think they 'should be in charge' are more likely to use various forms of violence against their partner.
<i>Unemployment</i>	Unemployment is associated with an increased risk of lethal assault, and a sudden change in employment status—such as being terminated—might be associated with increased risk
<i>Has ever harmed or threaten to harm the victim</i>	Psychological and emotional abuse has been found to be a good predictor of continued abuse, including physical abuse. Previous physical assaults also predict future assaults.
<i>Has ever harmed or threatened to harm or kill other family members</i>	Threats by the perpetrator to hurt or cause actual harm to family members can be a way of controlling the victim through fear.
<i>Previous or current breach of an intervention order</i>	Breaching intervention order conditions indicates the defendant is not willing to abide by the orders of a court. Such behaviour should be considered a serious indicator of increased risk of future violence.
<i>Depression/mental health</i>	Murder–suicide outcomes in family violence have been associated with perpetrators who have mental health problems, particularly depression.
<i>History of violent behaviour</i>	Perpetrators with a history of violence are more likely to use violence against family members. This can occur even if the violence has not previously been directed towards family members. Other victims may have included strangers, acquaintances and/or police officers. The nature of the violence may include credible threats or use of weapons, and attempted or actual assaults. Violent men generally engage in more frequent and severe family violence than perpetrators who do not have a violent past.

Relationship factors

Recent separation

For women who are experiencing family violence, the high-risk periods include immediately before taking action, and during the initial stages of or immediately after separation. Victims who stay with the perpetrator because they are afraid to leave often accurately anticipate that leaving would increase the risk of lethal assault. The data on time since separation suggests that women are particularly at risk within the first two months

Escalation—an increase in severity and/or frequency of violence

Violence occurring more often or becoming worse has been found to be associated with lethal outcomes for victims.

Financial difficulties

Low income (less than that required to provide for basic needs) and financial stress, including a gambling addiction, are risk factors for family violence.

Note: Blue denotes higher risk.

Source: Department of Human Services, Family Violence: Risk Assessment and Risk Management Framework and Practice Guides 1-3—Edition 2 (April 2012), 26-28.

The CRAF emphasises that risk factors should not be used as a 'checklist' for ascertaining the level of risk; instead, they should provide the basis for a discussion with the victim. The CRAF also states that these factors might interact in varied and complex ways and that, 'despite the co-occurrence of certain factors with family violence, none is causal'.⁶³ Professional judgment should be exercised in relation to whether a factor is relevant to risk in the victim's context. For example, if the perpetrator has a diagnosed mental health problem but is currently treated and well, this risk factor 'should not add significant weight to the assessment'.⁶⁴ The assessor should, however, 'enquire about what helps the man to stay well, and the likelihood of this wellness continuing'.⁶⁵

Assessing risks to children

The current version of the CRAF stresses that exposure to family violence can have a serious impact on children's current and future physical, psychological and emotional wellbeing⁶⁶ and that practitioners must consider children as victims to be assessed in their own right, separate from their mother.⁶⁷ The CRAF includes some discussion of and reference to specific indicators of family violence, sexual abuse and neglect of children,⁶⁸ as well as prompting questions and service pathways for children.⁶⁹ It does not include any specific risk factors for children.⁷⁰

The CRAF notes that all interventions with children and families across the child and family services sector (which includes Child Protection, out-of-home care and Integrated Family Services) are guided by the Department of Health and Human Services' Best Interests Framework for Vulnerable Children and Youth, and emphasises practitioners' mandatory obligations to report to Child Protection when a child is deemed to be at risk.⁷¹ The 2014 Department of Health and Human Services child protection practice guide, *Working with Families Where an Adult is Violent: Best Interests Case Practice Model*, also provides advice to practitioners in relation to assessing risks to children.⁷² This guide emphasises the link between family violence and child abuse and that effective interventions require collaboration between family violence services and Child Protection.⁷³

Assessing perpetrator risk

At the time of its development, the CRAF provided a new focus on perpetrator behaviour as central to guiding risk assessment.⁷⁴ An underpinning principle of the CRAF is that 'perpetrators should be held accountable for their use of violence and challenged to take responsibility for their actions'.⁷⁵ The CRAF states that 'collecting information on perpetrators—and especially any indicators of future or continuing risk—is a responsibility shared by all professionals'.⁷⁶

The CRAF provides a structured assessment guide intended to capture relevant information about perpetrator behaviours reported by victims that can be shared across the family violence system to support risk management.⁷⁷ The CRAF refers to other guides for assessing and responding to perpetrator risk, such as standards developed by men's behaviour change programs and the Victoria Police Code of Practice for the Investigation of Family Violence.⁷⁸

In 2009 the then Department of Human Services developed a Framework for Comprehensive Assessment in Men's Behaviour Change Programs to align with the CRAF.⁷⁹ This more recent framework provides guidance about interviewing and working with men, assessment for group programs, risk management practice, and interviewing victims.⁸⁰ It includes risk factors for perpetrators but does not provide a specific perpetrator risk assessment tool. The Commission was unable to determine the level of uptake and use of this framework.

When entering prison, Corrections Victoria's intake and screening for both 'General Offenders' and 'Serious Violent Offenders' also screens for family violence-related offending.⁸¹ Those eligible for offending behaviour intervention and who are identified as having committed a family violence-related offence have the Spousal Assault Risk Assessment tool administered as part of their clinical assessment.⁸² The Risk-Need-Responsivity model, which is discussed in more detail in Chapter 18 underlies the use of the SARA tool.

Implementing the CRAF across the family violence system

Since 2007, funding of \$4.7 million has been provided to implement the CRAF, and in 2014-15 the Victorian Government committed \$800,000 a year ongoing to develop and further implement the CRAF.⁸³ Originally developed and managed by the Office of Women's Policy, the CRAF is currently managed by the Department of Health and Human Services. It was updated in 2012 and is available in both hard-copy and digital formats, as well as online on *The Lookout* family violence practitioner website and the department's website.⁸⁴

The Commission was informed that the CRAF was originally developed as one of the foundational initiatives to progress an integrated family violence system.⁸⁵ An essential aspect of ensuring this integration has been described as an effective 'whole of government authorising environment' for the use of the CRAF.⁸⁶ This included commitment and leadership at a ministerial level, oversight from senior government executives, a central family violence policy unit, and strong partnership and advisory structures with the non-government sector to ensure the CRAF's broad use.⁸⁷

Training for people who use the CRAF

Statewide workforce development and training in using the CRAF was rolled out from 2008. From 2008 to 2010 and from 2011 to 2013, Domestic Violence Resource Centre Victoria, Swinburne University and No To Violence delivered this training.⁸⁸

The Commission was told that over 6500 professionals have attended CRAF training since 2008.⁸⁹ These workers have come from a wide range of sectors—including sexual assault services, Child FIRST and Integrated Family Services, Child Protection, homelessness services, disability services, counselling and mediation services, Aboriginal family violence services, the Magistrates' Court and Corrections Victoria.⁹⁰ Training has been delivered to mixed groups of practitioners from various sectors, to foster shared understanding, inform the group of other sectors' roles, and encourage the building of regional networks.⁹¹

Victoria Police advised the Commission that police attendance at CRAF training is arranged by region. There is no central record of the numbers of police who have attended training.⁹² Victoria Police indicated that family violence training was provided from 2008-09 to support implementation of the *Family Violence Protection Act 2008* (Vic). The training included risk assessment information congruent with the CRAF and was provided to 6013 police members between 2008-09 and 2010-11.⁹³ Corrections Victoria also advised the Commission that approximately 560 of its community correctional services staff were trained between 2009-10 and 2013-14.⁹⁴

Evaluation of the training program

The CRAF training program was evaluated in 2009⁹⁵ and then again in 2012.⁹⁶ The 2009 evaluation found that effective training coverage was achieved for specialist family violence services and that sector-wide training coverage was achieved for magistrates' court registrars and maternal and child health nurses.⁹⁷ Both evaluations found that the training was effective in increasing participants' understanding of risk assessment, risk management, safety planning, questioning and overall competence in responding to family violence.⁹⁸

The integrated cross-sector training approach was also seen as beneficial:

Participants and other stakeholders valued a cross-sectoral and regional approach to training and recognised the positive role it plays in developing an integrated and coordinated family violence service system.⁹⁹

The evaluations recommended targeting training to additional sectors including mental health, drug and alcohol, primary health services, and legal and education services.¹⁰⁰ The evaluation noted there had been 'low engagement of culturally and linguistically diverse services and Indigenous services statewide in training'.¹⁰¹ The Commission heard that CRAF training should also be reviewed to more effectively respond to diverse populations.¹⁰²

Further developments

A project to support the development of Aboriginal-specific training materials to supplement the existing CRAF materials was piloted in three locations in 2013–14.¹⁰³ Overseen by the Indigenous Family Violence Partnership Forum, development of an Aboriginal contextualised CRAF was reported as one of the specific achievements in the mid-term evaluation of the Indigenous Family Violence 10 Year Plan.¹⁰⁴

The Commission was advised that additional resources have been developed to make the CRAF more relevant to professionals working with culturally and linguistically diverse communities.¹⁰⁵ A project was also funded to improve the guidance within the CRAF for effectively working with culturally and linguistically diverse communities.¹⁰⁶

A CRAF Professional Development Strategy, first developed in 2009 and managed as part of the broader CRAF project in the Department of Health and Human Services, has focused on incorporating the CRAF into the tertiary education curriculum. The Commission was told that curriculum materials are currently being trialled by Swinburne University of Technology for a number of its community work areas and courses.¹⁰⁷

Another CRAF implementation project has involved training and workshops for general practitioners.¹⁰⁸

The Victorian Government has further advised the Commission that in 2015–16, it will:

- ▶ deliver 59 training sessions in cross-sectoral risk assessment and risk management and up to 480 sessions in Identifying Family Violence regional sessions (in 2015–16 and 2016–17)
- ▶ develop risk assessment and risk management e-learning modules to supplement face-to-face training
- ▶ expand *The Lookout* website¹⁰⁹ to increase technical capacity and support communities of practice.¹¹⁰

The Commission understands that the first e-CRAF training module, 'Understanding family violence', is now online at *The Lookout* and that three further modules are in development.¹¹¹

Aligning risk assessment practices across agencies

One of the aims of the CRAF is to establish a shared understanding of the risks associated with family violence in order to facilitate information sharing between agencies and government departments and to 'enable uniform risk assessment processes and appropriate referrals to take place anywhere in the system'.¹¹² The Victorian Government told the Commission that this aim is 'far from complete', although there have been a number of efforts to improve the consistency of risk assessment practice across sectors.¹¹³

Victoria Police currently uses a risk assessment approach, as recorded in a family violence risk assessment and risk management report (referred to as an L17 form), that was developed before the CRAF but that aligns with the framework.¹¹⁴ The Commission heard that this alignment has served the Victorian system well.¹¹⁵

I think one of the strengths of the Victorian system to date has been that we have kept the police and the wider family violence service system roughly on the same page in terms of risk assessment, that the risks that are outlined in the L17 parallel the risks outlined in the Common Risk Assessment Framework.¹¹⁶

Other service providers that have aligned their practices and tools with the CRAF include the following:

- ▶ *Maternal and child health nurses.* These practitioners use CRAF-based family violence identification and referral processes in their Key Age and Stage Framework.
- ▶ *Primary care partnerships.* The partnerships have incorporated family violence screening and referral tools, based on the CRAF, in their practice manual and service coordination tool templates.
- ▶ *Alcohol and drug treatment services.* Services have included family violence identification and assessment and CRAF recording templates in their 'Adult Alcohol and Other Drug Screening and Assessment Instrument: Clinician Guide' and the supporting module.
- ▶ *Magistrates' Court registrars.* Elements of the CRAF are reflected in the forms used by all registrars and applicant support workers to help parties with applications for family violence intervention orders.¹¹⁷

Victoria Legal Aid told the Commission that it is currently working on the implementation of a 'safety and risk identification tool' as part of its Family Violence Service Delivery and Education Framework,¹¹⁸ which aligns with the CRAF and will be implemented across the organisation. The Family Dispute Resolution Service has a separate family violence risk assessment and management process.¹¹⁹

The CRAF has also been used as part of *Strengthening Hospitals' Responses to Family Violence*, discussed in Chapter 19.¹²⁰

Review of the CRAF

During the period of the Commission's deliberations, the Victorian Government announced a review of the CRAF. The tender request for the first stage of the review was released in January 2016. The objective of the first-stage review is '[to] provide an evidence base to inform the redevelopment of a best practice framework and suite of dynamic risk and need identification, assessment and management tools through the lens of family violence'.¹²¹

The tender document states that this will include an assessment of the use of the CRAF in a range of workforces, perceptions of its usability, and perceptions of victims of family violence in relation to risk assessment and management in different settings.¹²² This first-stage review component is to be completed by May 2016.

The broader review will also consider redeveloping the CRAF in order to provide a ‘best practice framework and suite of tools for family violence risk assessment and management and a corresponding implementation strategy’.¹²³ The government noted that the scope of this will include:

- ▷ effective risk assessment in the emerging area of technology-facilitated family violence
- ▷ risk management
- ▷ improving training in the use of the CRAF
- ▷ responding to the needs of diverse communities—including culturally and linguistically diverse and Aboriginal communities
- ▷ responding to other forms of family violence
- ▷ assessing risk for children and young people
- ▷ assessing risk for perpetrators
- ▷ information sharing, particularly in relation to the perpetrator.¹²⁴

The Victorian Government’s response to Judge Gray’s report on his inquest into the death of Luke Batty emphasised that the CRAF review will include strategies for embedding use of the CRAF in organisational practice—for example, its inclusion in service agreements as a requirement of funding.¹²⁵

Trial of police triage tool

As discussed in Chapter 14, Victoria Police members are at the front line of the response to family violence in Victoria, and they routinely perform risk assessments using the L17 form. In advance of the Department of Health and Human Services review of the CRAF, Victoria Police will trial a series of actuarial risk assessment and triage tools for use by police members attending family violence incidents. The trial will begin by June 2016.¹²⁶

These tools, developed by the Centre for Forensic Behavioural Science at Swinburne University of Technology, will be used by police members attending family violence incidents and by police family violence teams to determine the level of specialist police response required for an incident.¹²⁷

Two tools have been developed using L17 data for 2013–14. The data was analysed to identify the most significant factors in predicting a subsequent police call-out to a family violence incident between the same two people within 12 months.¹²⁸ Prior history of family violence was also included in the analysis, using LEAP data.¹²⁹

The first tool is called the Victoria Police Screen and Assessment of Family Violence Risk: Screening Version, or VP-SAFvR:SV. It is a ‘front-line’ triage instrument that allows responding police members to ‘categorise family violence cases as low, moderate or high concern’. This will be used by all police in Altona, Footscray, Williamstown and Werribee when they attend a family violence incident. It requires police to answer 13 questions, each worth one point.¹³⁰

If an incident scores three or less, police members will not proceed to conduct a full risk assessment, will not make a formal referral, and will not refer the incident to the family violence team.¹³¹ If an incident scores four or more, a full risk assessment will be carried out using a (revised) L17.¹³² The police member will also make a formal referral by sending the L17 to the appropriate contact point, in keeping with the Victoria Police Code of Practice for the Investigation of Family Violence.¹³³ The incident will be escalated to the family violence team in that police division for further triage and assessment using other instruments (described below).

By adopting a threshold score of four, the Centre for Forensic Behavioural Science estimates that 50 per cent of all police incidents will be referred to the family violence team for further assessment.¹³⁴

There is an option for police members to override the point assessment if the incident has not scored the requisite four points but, using their professional judgment, the police consider the matter requires escalation to the family violence team.¹³⁵ Further, 'these categories will not influence the criminal prosecution response'.¹³⁶ The Code of Practice must be followed.

The second tool is called the Victoria Police Screen and Assessment of Family Violence Risk, or VP-SAFvR, which will be used by the family violence team to determine which incidents require a 'standard preventative follow-up' or 'a more intensive level of assessment and management'.¹³⁷

This tool will identify cases that are more likely to experience severe family violence involving the same two people over 12 months. 'Severe family violence' is defined as either frequent or physical violence. Frequent is defined as at least three further family violence incidents involving the same two people in succeeding 12 months.¹³⁸ Physical family violence is defined by the presence of any charge for a violent offence involving both the two people in the original incident in the succeeding 12 months.¹³⁹

Incidents scoring below a threshold of four will be followed up by the station family violence liaison officer in consultation with the family violence team.¹⁴⁰ Those scoring above the threshold will receive another assessment using a structured professional judgment risk assessment instrument, the B-SAFER.¹⁴¹ Each of these cases will receive a 'priority case management plan'.¹⁴²

Using four as the threshold will result in approximately 25 per cent of all family violence incidents—that is, half of those referred to the family violence team for further screening—receiving a 'comprehensive risk assessment and management plan from the Family Violence Team'.¹⁴³

The Commission understands that the Centre for Forensic Behavioural Science will deliver training modules to family violence team members before the trial begins. These initial training modules will be evaluated and refined into a 'combined online and offline suite of training that can be used to train future FVT members across Victoria'.¹⁴⁴ The documentation provided to the Commission does not mention training for front-line police members in the trial area, although development of online training is identified for 2017.¹⁴⁵

This is a three-year project; the final report and evaluation are to be completed by December 2018. An initial evaluation of the 'frontline triage instrument' will be completed by December 2016.¹⁴⁶

The Commission discusses this trial further in 'The way forward' section of this chapter.

Multi-agency risk management in Victoria

At the time the CRAF was developed, thinking about what was required across the system to effectively manage risk was in its very early stages. The CRAF therefore provides limited guidance in relation to strategies for continuing risk management.¹⁴⁷ 'Victoria has been stronger on agreeing the process for risk assessment rather than necessarily agreeing the process for escalated risk management'.¹⁴⁸

Some legislative and policy developments since the introduction of the CRAF that have supported risk management include the following:

- ▶ increased investment by government and the non-government sector to enable women and children to stay safely at home if they choose, with legislative changes¹⁴⁹ and funding for targeted programs—for example, Safe at Home-type programs
- ▶ greater understanding of how the current privacy laws can assist or inhibit risk management
- ▶ reports from the Victorian Systemic Review of Family Violence Deaths—particularly highlighting situations where relevant information was available before the death but was not shared, sometimes because of legislative restrictions on the exchange of information or incompatible data systems.

In addition, a number of practical initiatives have been introduced in response to gaps in effectively managing risk. These responses have to date focused primarily on high-risk family violence cases. They include the introduction of case-management triage models involving Child Protection, family violence and family services and the inclusion of family violence workers at police stations and in police family violence teams.¹⁵⁰ These responses are discussed in Chapter 13.

Since 2007, Victoria Police has employed specialist family violence teams in areas particularly affected by family violence. The Enhanced Family Violence Service Delivery Model, announced in 2011, provided for the statewide roll-out of family violence teams, and there are now 32 teams in the state.¹⁵¹

The primary responsibilities of family violence teams are to provide an immediate specialist response to a family violence incident; to provide a secondary response unit to support primary police units; to proactively investigate and case-manage recidivist offenders, affected family members of recidivist offenders and high-risk clients; and to investigate criminal offences, including breaches of family violence intervention orders.¹⁵²

The Commission learnt that there is considerable variation in how Victoria Police family violence teams operate on the ground—including in their approaches, staffing and reporting structures.¹⁵³ Family violence teams are discussed in detail in Chapter 15.

Other important developments in multi-agency risk management have been the creation of RAMPs and local multi-agency partnerships to manage high-risk cases.

Risk Assessment and Management Panels

The pilot programs

Multi-agency, coordinated responses to women and children at imminent risk of family violence were formally introduced in 2011 with the introduction of two Strengthening Risk Management pilot projects, one in the City of Hume and the other in the City of Greater Geelong.¹⁵⁴

Drawing from models in similar jurisdictions—in particular, South Australia and the United Kingdom¹⁵⁵—the pilot projects aimed to:

- ▶ test the implementation and delivery of coordinated multi-agency approaches to strengthen family violence risk assessment and management
- ▶ trial new integrated governance arrangements, roles and responsibilities and new ways of working collaboratively
- ▶ increase the accountability of men who use violence and engage with them to change their behaviour.¹⁵⁶

Each pilot had two main components—early identification of women and children at highest risk and referral of high-risk cases to a specialist Risk Assessment and Management Panel. One RAMP coordinator, Ms Bernadette McCartney, Executive Manager, Community Support, Bethany Community Support, described the task thus:

... essentially what the RAMP do is upon the identification of a woman and her accompanying children, if that's the case, [as being] at the highest risk of being seriously injured and/or killed, they are referred into a multi-agency, multi-sector panel, which comprises ... a number of different sectors which include specialist family violence services for men and for women. Victoria Police, Corrections Victoria, in our instance, the Magistrates' Court, Child Protection, Child FIRST, Barwon Community Legal Service, Barwon Health's clinical drug and alcohol, clinical mental health and drug and alcohol services, and homelessness services and the Office of Housing.¹⁵⁷

The RAMPs involved in the pilots met monthly and as required, to share information, assess the level of risk of referred cases, and coordinate risk management action plans. Data shows that during 17 months, 55 cases involving about 90 children, were referred to 26 RAMP meetings.¹⁵⁸

The two pilots were evaluated in 2012 and 2013. The evaluation found that the pilots had achieved the primary aim of reducing risk and improving safety for women and children at highest risk, with comparatively better outcomes achieved for those women supported by RAMPs than for those supported by case management alone.¹⁵⁹ The evaluation also showed that use of RAMPs allowed for more comprehensive risk assessment and management plans, extended knowledge among important sector partners of the family violence risks, and greater coordination compared with the 'traditional' response of the family violence service system.¹⁶⁰ RAMPs led to numbers of intervention orders more than doubling and to improvements in processes aimed at keeping victims safe.¹⁶¹

The evaluation further noted that the allocation of additional case-management resources to the pilot agencies enabled higher rates of engagement with high-risk households because workers had more time to persist in making contact and engaging with women.¹⁶² The evaluation concluded that strengthened risk management was needed throughout Victoria to further protect victims at imminent risk of serious injury or death and to reduce the incidence of severe and repeated family violence. Among other things, the evaluation recommended:

- ▷ a strong authorising environment and whole-of-government commitment to risk management—including high-level multi-departmental endorsement and support, and formalised guidelines
- ▷ the establishment of RAMPs at regional and sub-regional levels across the state
- ▷ RAMPs to be constituted by members who are senior in their organisations to ensure that decision making is streamlined
- ▷ police either chairing or co-chairing RAMPs with specialist family violence services
- ▷ for each RAMP, a coordinator role that is located in specialist family violence services
- ▷ a greater focus on managing perpetrators.¹⁶³

The evaluation found that the traditional case management response for men was inappropriate for this high-risk dangerous target group,¹⁶⁴ with monitoring of the perpetrator, information sharing and collaboration with the justice system, being required areas of focus.¹⁶⁵

It pointed out that the development of memorandums of understanding and formal agreements covering the sharing of confidential information between RAMP members was challenging for both pilots.¹⁶⁶ Difficulties in developing shared understanding about which cases were 'eligible' for a RAMP were also noted. As a result, it took more than a year for the two RAMPs to reach a consensus on the definition of 'risk of serious harm or lethality'.¹⁶⁷ The evaluation cautioned that in relation to a statewide roll-out of the RAMPs:

... without clearer guidelines to differentiate high risk of serious harm or lethality, [this] would likely result in different interpretations due to the influence of individual (strong) views, time spent debating risk levels and eligibility, and possible adverse impacts on working relationships.¹⁶⁸

The evaluation recommended that an actuarial tool and framework be developed to assist with differentiating level and type of risk—not only for the purposes of the RAMP but also in a broader effort to build understanding of risk management beyond the family violence sector.¹⁶⁹ It also emphasised that the collaborative practices built within the RAMP had positive effects on communication and working relationships outside the immediate RAMP membership.¹⁷⁰

Expansion of the RAMPS

On the basis of the success of the pilot programs, in October 2014 the Department of Health and Human Services allocated \$17.3 million over four years for the statewide expansion of the initiative so that there would be a RAMP in each of the 17 departmental local areas.¹⁷¹ The Commission was told that the dedicated annual funding for RAMPS amounts to between \$177,500 and \$285,000 per site in the statewide roll-out.¹⁷²

RAMP funding is expected to provide case-management support to approximately 816 women and their children, on the basis of one case management worker supporting 48 high-risk clients a year and each RAMP coordinator convening 12 RAMP meetings a year.¹⁷³

The Commission heard that the Department of Health and Human Services has developed a number of mechanisms for supporting the implementation of the RAMPS, among them the following:

- ▶ a memorandum of understanding across key government agencies to implement multi-agency RAMPS throughout Victoria
- ▶ local agreements between the Department of Health and Human Services (a 'RAMP Local Deed') and the lead family violence agency
- ▶ development of the Strengthening Risk Management program and operational guidelines
- ▶ operational oversight and reporting through the Department of Health and Human Services at the divisional and local area level
- ▶ oversight by the whole-of-government Family Violence Interdepartmental Committee.¹⁷⁴

The Commission understands that progress on the roll-out to date has included selecting providers, recruitment of the RAMP coordinators, developing guidelines and a memorandum of understanding between the Departments of Health and Human Services, Justice and Regulation (through Corrections Victoria) and Education and Training and Victoria Police.¹⁷⁵

The Commission also understands that the RAMP program has developed a more detailed RAMP referral tool.¹⁷⁶ The tool lists CRAF indicators, as well as other perpetrator risk factors known to affect the seriousness of risk.¹⁷⁷ Specialist training support is being provided to all RAMPS through Domestic Violence Victoria, No To Violence and Domestic Violence Resource Centre Victoria.¹⁷⁸

Other local multiagency partnerships for managing high-risk

In addition to RAMPS, a number of other models and approaches have been developed for dealing with victims and their children at high-risk of family violence.

The High-Risk Response Conference, Melbourne northern region¹⁷⁹

The conference is a twice-monthly police-led multi-agency information-sharing meeting to review high-risk cases.¹⁸⁰ It has reviewed 600 cases since 2013. The meetings provide 'opportunities for strong relationship building, networking and collaboration across Family Violence service delivery agencies, where there hasn't been previously'.¹⁸¹

The Repeat Police Attendance and High-Risk Program, Melbourne eastern region

Since March 2014 the Repeat Police Attendance and High-risk Program has brought together the Eastern Domestic Violence Service and Victoria Police to engage with high-risk victims of family violence via dedicated EDVOS domestic violence advocates.¹⁸² Police and EDVOS staff make joint visits to women identified as at high risk and jointly develop safety and response strategies.¹⁸³

The High-Risk Client Strategy, Melbourne western region

The High-Risk Client Strategy is a coordinated multi-agency response to managing the immediate safety and welfare needs of women identified as being at high risk of serious injury or death as a consequence of family violence.¹⁸⁴ In contrast with RAMPs, the woman concerned is always included in High-Risk Client meetings at which her situation is discussed. An evaluation of the strategy found this is a successful feature of the model.¹⁸⁵ Under the strategy, case-management services were provided for 16 women during the two-year pilot.¹⁸⁶

Risk assessment and management in other jurisdictions

In order to put the evidence it received about risk assessment and management into a broader context, the Commission reviewed risk assessment and management responses in a number of jurisdictions in Australia and internationally.

Australian initiatives

All Australian jurisdictions have some degree of integrated response to family violence (and sexual assault) and have assigned priority to and focused on different elements of risk assessment and risk management practice. Table 6.2 provides a brief overview of some of these practices.

The Commission notes that South Australia and Western Australia have common risk assessment frameworks that have been developed at the government level and that New South Wales has adopted the Domestic Violence Standard Assessment tool, which is used by police. It further notes that the Tasmanian model entails an integrated IT platform that provides for information sharing between police and family violence services and that the South Australian model is supported by a central information portal whereby all police reports of family violence incidents can be accessed and assessed for risk by multi-agency teams (MAPs) led by South Australia Police. South Australia and New South Wales also have multi-agency panels or safety meetings similar to the Victorian RAMPs.

The New South Wales trial of the family violence disclosure scheme

In 2012, following the murder of Clare Wood by her former partner who had previous convictions for family violence, the United Kingdom introduced what is referred to as 'Clare's Law'. Clare's Law allows the police to disclose information to certain members of the public about a history of violent offending by a new or existing partner if that disclosure might help protect a person from criminal abuse or harm. The scheme establishes conditions under which police may disclose this information, either on application by a person's intimate partner or a third party (such as a potential victim's parent) or unilaterally (without an application having been made). The former is characterised as a 'right to ask' and the latter as a 'right to know'.

On 6 March 2015, the New South Wales Government announced that a scheme based on Clare's Law would be implemented in NSW; on 14 October of that year, following public consultations, a model for piloting the scheme was announced.

Under the scheme:

- ▷ The 'primary person' is a person who is in or was formerly in an intimate relationship with the 'subject' and is concerned about the subject's safety.
- ▷ A 'third party' is a person who is concerned about the 'primary person'; for example, they could be a family member, a friend, a guardian or a professional working with the family.
- ▷ The 'subject' is the person in an intimate relationship with the 'primary person'. It is this person whose history of family violence and related offences may be disclosed.¹⁸⁷

The scheme will be piloted in four New South Wales Police Force local area commands from early 2016.¹⁸⁸ Either a primary person or a relevant third party can make an application at a police station in one of the four pilot areas. New South Wales Police reviews applications and conducts criminal record checks to determine whether a relevant conviction that requires a disclosure exists. A conviction will be disclosed if the subject has a relevant offence¹⁸⁹ in their criminal history.

New South Wales Police will perform a risk assessment of the primary person using the Domestic Violence Safety Assessment Tool in order to identify any threats or serious threats. If a serious threat to the life, health or safety of any person is identified as a result of the assessment, a 'fast-tracked disclosure' will be made.¹⁹⁰ If there is no relevant conviction to disclose, the primary person will be informed of the outcome. The New South Wales documentation states '[T]his should not create a false assurance and applicants will be advised that they should remain vigilant and report any future concerns'.¹⁹¹

Victoria Police supports the development of a similar register in Victoria, noting:

As a person enters into a new relationship, they are generally only aware of their partner's history based on what that person tells them. Recognising that a person may have concerns about certain attitudes or behaviours that their partner starts to display, or what they might start to hear from other sources, the Royal Commission may consider a legislative regime based on the English 'Clare's Law' ... such an initiative could break the all too common pattern of perpetrators harming successive partners and avoid exposing unwitting adults and children to known perpetrators of family violence.¹⁹²

Table 6.2 Risk assessment and management in Australian jurisdictions: a sample

System elements	South Australia	New South Wales	Tasmania	Western Australia
Common risk assessment	<p>A domestic violence risk assessment form is used to assess high risk of serious injury or death. The form includes weightings that allow workers to calculate a risk score. Police and all government services and specialist domestic violence and homelessness services use the same form.</p> <p>The form was introduced as part of the state's response to high-risk cases (the Family Safety Framework).</p>	The Domestic Violence Safety Assessment Tool. At this stage police must use the tool. Other services have the option to use their own tools or professional judgment.	Police members use a risk assessment screening tool, which was developed in 2004 and evaluated in 2009.	The Family and Domestic Violence Common Risk Assessment and Risk Management Framework is a standardised approach to identifying, assessing and responding to family violence. Used by a range of government agencies and community sector services, including family and domestic violence specialist services, it was originally adapted from the Victorian CRAF and uses a structured professional judgment approach.
Type of risk assessment	The domestic violence risk assessment form is an evidence-based, actuarially scored tool; it includes victim narratives about severity, and the assessor also applies professional judgment.	The Domestic Violence Safety Assessment Tool is actuarially scored.	The risk assessment screening tool is actuarially scored.	The framework combines three elements to determine the level of risk—the victim's assessment of risk, evidence-based risk factors, and a practitioner's professional judgment. It is not an actuarial approach.
Formal referral pathway (police)	The primary entry point to domestic violence support services is the Domestic Violence Gateway, which conducts an assessment and refers to regional services. If referred by another agency such as police, information including risk level is shared.	<p>All police Domestic Violence Safety Assessment Tool forms go electronically to a central referral point run by Victims Services.</p> <p>This database does an automatic sort and referral by gender and postcode every morning and diverts these referrals to the appropriate regional intake points.</p>	Operational police use the risk assessment screen tool on attending all family violence incidents. A report is generated within the Family Violence Management System report.	<p>Family and Domestic Violence Response Teams are a partnership between police, child protection and family support and domestic violence services.</p> <p>The teams aim to improve victim safety by triaging cases for prompt and early intervention following a police-call out to a domestic violence incident.</p>
Response to high-risk (meetings)	<p>Women and children assessed to be at high risk are referred to a local family safety meeting attended by a range of agencies and services such as police, Child Protection, victim support, health, mental health, education, drug and alcohol services, housing and women's domestic violence services.</p> <p>Nineteen Family Safety Meetings operate across the state and are regionalised to each Police local service area.</p> <p>SA Police chairs the meetings, which aim to share information under a specially developed information sharing protocol and to implement an action plan for each referral.</p>	NSW has local Safety Action Meetings. Currently, six meetings cover nine local area commands. A further six sites will be rolled out in the first quarter of 2016. The Local Coordination Points contact clients, conduct a secondary risk assessment, provide case coordination for the client and provide secretariat support for Safety Action Meetings.	<p>Police refer all matters to a multi-agency Integrated Case Coordination group, which provides ongoing case management. Weekly ICC meetings occur in each of the four police districts and are attended by all Safe at Home Services.</p> <p>All Safe at Home services have access to the Family Violence Management Systems reports, as well as the shared platform Safe at Home Management System.</p>	Multi-agency case management is an integrated, interagency approach to supporting people at risk of injury, harm or death due to family violence. The approach involves information sharing between agencies and the development of a multi-agency safety plan to reduce identified risks. Multi-agency case management provides a platform for agencies to share information, develop comprehensive risk assessments, plan strategies to mitigate risks, and work towards child and adult victim safety and perpetrator accountability. Multi-agency case management is also important for creating transparency and accountability between agencies in relation to their roles and responsibilities in responding to family and domestic violence.

IT systems and/or platforms	<p>South Australia has a co-located model called MAPS. All police family violence incident reports (both criminal and the ‘domestic abuse’ reports) are automatically uploaded overnight into MAPs. These are reviewed and assessed by the MAPS multi-agency team (police, education, child protection, corrections, housing and health). Follow-up is referred back to the regional services. Note that this is not a shared platform; rather, it is one into which other parts of the system can have input.</p>	<p>Police, central and local coordination points can log into a database and see all the referrals and entries that are relevant to them.</p>	<p>Shared information platform between police, Child Protection and family violence services. All Safe at Home services can view and input into this platform (note that these are government services). The common IT platform is accessible by all ICC members, and includes the initial Family Violence Management System report and other information on victims, children and perpetrators provided by services.</p>	<p>A shared database known as the Triage Application has been developed to support the operations of the Family and Domestic Violence Response Teams, including recording outcomes.</p>
Privacy and information sharing	<p>South Australia does not have information privacy legislation.</p> <p>Instead, the South Australian Cabinet has issued an administrative instruction requiring government agencies and contracted service providers to comply with a set of Information Privacy Principles.</p> <p>Consistent with the administrative instruction, the South Australian Ombudsman has issued Information Sharing Guidelines for Promoting Safety and Wellbeing to provide a consistent approach to information sharing where there are threats to safety and wellbeing.</p>	<p><i>The Crimes (Domestic and Personal Violence) Act 2007</i> was amended to insert a new part (Part 13A) to allow information sharing and improve integrated responses to domestic violence. Service providers must adopt the provisions and standards set out in a protocol to share information under Part 13A and the protocol.</p>	<p>Section 37 of the <i>Family Violence Act 2004</i> provides that an information custodian within the meaning of the <i>Personal Information Protection Act 2004</i>, acting in good faith, does not commit a breach of that Act by reason only of collecting, using, disclosing or otherwise dealing with personal information for the purpose of furthering the objects of the Family Violence Act. (Section 3 deals with the Act’s objects, stating that in the administration of the Act the safety, psychological wellbeing and interests of people affected by family violence are the paramount considerations.)</p>	<p>Section 70A of the <i>Restraining Orders Act 1997</i> and regulation 15 of the <i>Restraining Orders Regulations 1997</i>.</p> <p>Other governing documents include a bilateral schedule in place between the Department for Child Protection and Family Support, Western Australia Police and not-for-profit organisations; a memorandum of understanding on information sharing between agencies with responsibilities for preventing and responding to family and domestic violence in Western Australia; and a tripartite schedule between the Department for Child Protection and Family Support, the Department of Corrective Services and Western Australia Police—Collaboration and Exchange of Information on serious domestic violence offenders.</p>
Feedback loops	<p>Both the Family Safety Framework meetings and the MAPS process have follow-up and accountability mechanisms to assess if actions have been taken.</p>	<p>Timed alerts in the shared database send reminders if action is not taken.</p>	<p>Occurs via Integrated Case Coordination meetings, and cross-agency information is accessible on the shared IT platform.</p> <p>Feedback can and will be elevated through the multi-agency governance structure when required.</p>	

System elements	South Australia	New South Wales	Tasmania	Western Australia
Other matters	<p>The SA model involves a standard risk assessment format with high-risk matters being referred to a Family Safety Meeting and all agencies contributing agency information to form a collaborative safety action plan to mitigate risk.</p> <p>The MAPs model is being reviewed by the SA Office for Women.</p> <p>The Domestic Violence Gateway hosts the Domestic Violence Serial Offender Database, which collates information from the regional domestic violence service to assist in identifying serial offenders to ensure accuracy of risk levels.</p>		<p>Integrated case coordination occurs under Safe at Home in relation to all 'active' family violence 'cases'—not just those that are high risk.</p> <p>Police laptops allow members to remotely generate Family Violence Management System reports and process and issue police family violence orders.</p> <p>Safe Families Tasmania is led by Tasmania Police, and will co-locate officers from multiple government agencies—including the Departments of Police and Emergency Management, Justice, Health and Human Services, and Education—in a single unit providing timely responses to family violence.</p> <p>Safe Families Tasmania will collect evidence across government to aid prosecution of offenders and support people experiencing family violence. It will also perform interagency case assessment for families experiencing family violence.</p>	<p>The second edition of the Common Risk Assessment and Risk Management Framework was released in November 2015. It extends the original framework and includes:</p> <ul style="list-style-type: none"> ▶ an updated policy context ▶ new information and resources to strengthen information sharing, referral pathways and collaborative case management ▶ strengthened practice guidance about engaging with and responding to perpetrators for the purpose of assessing and managing risk ▶ a modified risk assessment tool to better align with the risk assessment process, with provision made for recording of the victim's assessment of the level of risk and professional judgment.

Source: Information received by the Commission from relevant jurisdictions.

National developments

Developing national frameworks for supporting common risk assessment practice is a recommendation in the National Plan to Reduce Violence against Women and their Children 2010–2022.¹⁹³ It is also a recommendation of the 2010 Australian Law Reform Commission and New South Wales Law Reform Commission report, *Family Violence—A National Legal Response*, particularly for the family law system.¹⁹⁴

The Royal Commission understands that recent risk assessment frameworks developed at the national level for the Federal Circuit Court were not developed in consultation with the states and make limited reference to state family violence risk assessment frameworks. The Commission received submissions that highlighted the importance of risk assessment in the family law system.¹⁹⁵ Research shows that professionals in the federal family law system do not always assess family violence risk and that lawyers do not routinely ask clients about family violence, yet they nonetheless feel confident in their ability to identify violence, as do practitioners of family dispute resolution.¹⁹⁶

There has been a significant increase in the number of reports to child protection authorities by the federal family courts—both the Federal Circuit Court of Australia and the Family Court of Australia—in the past five years (see Chapter 11). In particular, there has been a dramatic increase in the number of reports to child protection authorities from the Federal Circuit Court, which hears the majority of family law matters, since the introduction of a new ‘Notice of Risk’ form in early 2015. This is discussed in Chapter 24.

The risk assessment tool developed for use in family law systems is called DOORS—the Detection of Overall Risk Screen.¹⁹⁷ The Commission learnt that DOORS has a broad definition of ‘risk’. An evaluation of 2012 Family Law amendments found that DOORS has received a ‘mixed reception and limited take up’.¹⁹⁸ DOORS is discussed further in Chapter 24.

International risk assessment methods

The United States, Canada and the United Kingdom have developed a number of family violence risk assessment tools.¹⁹⁹ Four of them have been tested for ‘predictive validity’ in multiple research studies (see Table 6.3). Most of the risk factors used are similar for all the tools, although the way the factors are weighted to inform actuarial assessments varies.

Table 6.3 Family violence risk assessment tools and their existing strengths and limitations²⁰⁰

Tool	Description	Evaluation
Danger Assessment	Developed in the United States, the danger assessment was designed to specifically address the likelihood of death or life-threatening injury occurring in the context of intimate partner violence. It is a weighted scoring system, but the developer does not recommend cut-off scores for decision making.	One of the oldest measures still commonly used. One of the better tested tools, with acceptable internal consistency and good test–retest reliability. Further independent testing is needed, including of the measure's applicability to different cultural groups. ²⁰¹ Recommended as a good tool to use with victims since it allows them to understand their own levels of risk.
Domestic Violence Screening Inventory (DVSI and DVSI-R)	Developed and used in the United States, the DVSI was designed to be a brief risk assessment tool, to be completed alongside a criminal history review. Produces an overall score indicating likelihood of imminent risk of violence.	Uses 12 social and behavioural factors found to be statistically related to domestic violence recidivism. No independent validity studies to date. Authors have reported statistically significant predictive validity of DVSI and concurrent and predictive validity of the DVSI-R.
Ontario Domestic Assault Risk Assessment	13-item tool derived empirically from a list of potential risk factors from over 500 police files. Uses actuarial scores of risk of repeated domestic violence. Used with perpetrators, not victims. Male offenders are placed in one of seven categories of risk.	Correlated with Danger Assessment and Spousal Assault Risk Assessment. Distinguishes between recidivists and non-recidivists of wife assault. Authors caution against use for predicting lethal family violence.
Spousal Assault Risk Assessment	Developed in Canada, this is a widely used structured judgment tool, used to guide professional judgment rather than as a test in itself.	Twenty items were developed after a review of the empirical literature on wife assault and clinician's evaluations of male wife abusers. One of the few tools for which validity is supported by independent studies. Uses an inclusive definition of spousal assault. It is not limited to acts that involve injury or death, nor particular legal status of relationships or gender of victim or perpetrator. A Brief Spousal Assault Form for the Evaluation of Risk contains 10 items, designed for use within the criminal justice system.

Source: Adapted from Elly Robinson and Lawrie Moloney, 'Family Violence: Towards a Holistic Approach to Screening and Risk Assessment in Family Support Services' (Briefing No 17, Australian Family Relationships Clearinghouse, 2010) 11.

In addition to the tools shown in Table 6.3, the Commission notes one tool specific to highlighting risks for children. In the United Kingdom, the Barnardo's Risk Matrix supplements risk assessment in cases where families are known to be experiencing family violence.²⁰² It is not an actuarial tool; it is designed to inform clinical practice and decision making, with the child as its focus. It has not been subjected to rigorous testing.²⁰³

International multi-agency approaches

The Commission reviewed developments in coordinated approaches to identifying and responding to family violence risk in other jurisdictions. In particular, developments in the United States and the United Kingdom have had a significant influence on developments in Australia. Most jurisdictions are advancing coordinated multi-agency approaches to some degree, and drawing from the lessons from coordinated community responses, such as domestic violence coordinating councils, the Duluth model in the United States, and the multi-agency risk assessment conferences in the United Kingdom.

Although many of the principles and elements of these responses are similar, a recent ANROWS (Australia's National Research Organisation for Women's Safety) review of multi-agency risk approaches to violence against women highlighted that the main differences between approaches relate to the formality of governance frameworks, whether the approach is supported by legislation, whether the model is supported by standard protocols, and the nature of the relationship between statutory and non-government agencies.²⁰⁴ The review also found that a challenge common to all approaches was that marginalised communities have difficulties gaining access to service systems.²⁰⁵

Multi-agency Risk Assessment Conferences

Victoria's RAMPs are broadly based on the multi-agency risk assessment conferences introduced in the United Kingdom in 2003.²⁰⁶ There are currently 250 MARACs in operation across England and Wales.²⁰⁷

MARACs comprise representatives of key organisations who meet regularly to respond to high-risk victims of family violence through the development of multi-agency safety plans. These core agencies are generally police, family violence services, health, corrections, probation, housing and children's services.²⁰⁸

Three principal roles support the operation of MARACs—the chairperson (93 per cent of MARAC chairs are police); the MARAC coordinator (providing coordination and administrative support); and independent domestic violence advocates.²⁰⁹ Advocates act as representatives for victims at meetings, and are the victims' primary point of contact.²¹⁰ Domestic Violence Victoria has called for the funding of advocate roles in Victoria.²¹¹ Family violence advocates are discussed in Chapter 8.

The MARAC uses a standardised assessment referral form (the CAADA DASH). A referral is triggered by the number of ticks on the form combined with professional judgment. The majority of MARACs meet monthly, although more frequently if required.²¹² Evaluations suggest that areas core to the MARACs' effectiveness were enhanced information sharing, appropriate agency representation and strong partnership links; and the role of the independent advisor in representing and engaging the victim in the process.²¹³ In addition, leadership through the MARAC chair and effective coordination through a MARAC coordinator were also key to effective practice.²¹⁴

Evaluations have indicated the potential of MARACs to improve victims' safety and reduce re-victimisation, noting that the findings are constrained given the evaluations have not included a control group.²¹⁵

Multi-agency Safeguarding Hubs

The Commission was also informed about multi-agency safeguarding hubs.²¹⁶ The MASH model was developed in the United Kingdom in 2011 to respond more effectively to children at risk of abuse and violence. While there are a number of different MASH models in operation, some include permanently co-located multi-disciplinary teams, with staff from child protection services, police, health, housing, and youth offending services.²¹⁷

Team members collate information from their respective agencies in order to guide the screening of all referrals of children and families. This intake system replaces intake by child protection services.²¹⁸ MASH involves an agreed process of risk assessment and dissemination of information to the appropriate agency for necessary action.²¹⁹

Information technology systems are streamlined under the MASH model. For example, in Devon a MASH partnership with a software provider led to pioneering technology, called MASHProtect, which has played a crucial role in facilitating the identification of vulnerable children.²²⁰

The confidentiality of information is maintained by designating MASH teams 'sealed intelligence hubs', with protocols applied to disseminating information outside the hub.²²¹

The Commission learnt that, although the MASH model is a screening mechanism for all child protection referrals, triage approaches that aim to filter and direct family violence referrals—particularly the large volume of notifications received from the police—are developing simultaneously in some local authorities. Stanley and Humphreys note that these triage approaches are consistent with models being trialled in the northern region of Melbourne.²²²

Challenges and opportunities

This section provides an overview of the issues commonly raised before the Commission in relation to risk assessment and management. Among the challenges identified are inconsistencies in implementation of the CRAF; gaps in the current risk assessment and management frameworks, including discussions of proposals for a new actuarial or tiered tool and whether the CRAF should be validated; and obstacles to sharing information.

Inconsistencies in applying the CRAF

The Commission was advised that the CRAF is an invaluable framework and that it has been enthusiastically adopted and applied by a range of service providers. Berry Street submitted:

It has been invaluable to have a common risk assessment framework of practice and a common risk assessment form with common evidence-based risk factors to assess risk and safety and as a tool to aid discussion with clients and other service systems. The CRAF framework provides a very clear directive that risk assessment is not implemented as a 'checklist form' but rather, a gender aware, culturally sensitive, trauma-informed engagement is necessary. When assessing a client's risk and protective factors, we need to ask questions and collaboratively find solutions. The expertise of the women experiencing violence is central to the CRAF; however, the risk factors and professional judgement of the practitioner making the assessment are all equally weighted elements. It is stressed that risk assessment is an ongoing process. The CRAF document cannot be underestimated for its significance and effectiveness.²²³

However, a number of submissions noted problems with the implementation and application of the CRAF.²²⁴

In the absence of a strong authorising and monitoring environment, some services and sectors have developed their own versions of the CRAF, which means that women who have similar risk levels can encounter different service responses according to where they live.²²⁵ Domestic Violence Resource Centre Victoria submitted:

... there has been a noticeable 'CRAF drift' in Victoria, where some key agencies are adapting and adopting CRAF in their own tools or procedures. DVRCV understands from training participants that some family violence services are using shortened or 'rapid risk assessment' processes and tools. This could be seen to be the result of a highly pressured system, but the potential danger is that the core features of CRAF are being watered down or used in an ad hoc way by a variety of agencies.²²⁶

The Commission heard that a further consequence of the lack of a strong authorising environment is that services' differing levels of understanding of family violence and differing approaches to assigning priority to risk assessment (which the CRAF aimed to correct), have persisted:

... for example, forensic drug and alcohol services where a male client may be referred because of involvement with the criminal justice system and may also be a perpetrator of family violence, but the training and the mandate of that drug and alcohol worker may be to be an advocate for that man as a client. So the drug and alcohol worker will seek to address the drug and alcohol issue, but not see it as relevant to address the man's use of family violence, and may actually, for example, support the man in court to contest an intervention order or may actually give a very positive report about the drug and alcohol use and ignore the fact that he is aware that there is still active family violence going on.²²⁷

As outlined, the CRAF was designed to provide risk assessment and management guidance to suit a range of professionals according to their level of engagement with victims of family violence.²²⁸ The Department of Health and Human Services advised the Commission that at present all government-funded service providers are required to use the CRAF under their service agreements.²²⁹ However, the Commission heard that there are variations in CRAF competency throughout the family violence system and that increased training for the range of professionals that may use the CRAF is needed to develop core skills and competencies relevant to their particular role.²³⁰

Safe Steps Family Violence Response Centre acknowledged that there have been some efforts to 'increase competency among general practitioners, maternal and child health nurses and other professionals', but an effective response from these service providers 'relies on individual practitioners going out of their way to access this information'.²³¹ Similarly, Domestic Violence Resource Centre Victoria submitted that applying the CRAF consistently depends 'on the retention of each trained individual and their level of motivation and skills'.²³²

The Eastern Metropolitan Region Regional Integration Committee informed the Commission:

In recent years, the CRAF's strategic intent has been squandered, with it being moved into the then Department of Human Services, which did not provide strategic whole of government leadership in the family violence area. Moreover, recent government initiatives such as the Children and Youth Area Partnerships and Services Connect not having been required to incorporate CRAF into their design and implementation, the CRAF has been vastly underutilised and is now poorly maintained and promulgated. Both initiatives lacked credible policy linkages with the family violence reform, or had any requirement for CRAF to form part of their platforms, notwithstanding the prevalence of family violence amongst the intended beneficiaries.²³³

The Commission learnt that mechanisms to ensure that the full range of services use the CRAF are insufficient²³⁴ and are not mandated.²³⁵

While awareness of CRAF has been notably effective in improving the response to family violence in many non-specialist services that formally had a haphazard approach, the use of CRAF and its application within and across sectors is inconsistent. Clear direction and operational advice is required to ensure that CRAF is truly a tool for integration.²³⁶

Managing all levels of family violence risk

Responding to high-risk family violence cases is an essential part of the risk management response, however the vast majority of women and children will not be assessed as being at high risk, will not be referred to a RAMP and will not receive intensive case management. The Commission heard that there is therefore a gap in responding to victims at lower levels of risk. This is a concern for three primary reasons:

- ▷ Risk assessment is an imprecise science and it is impossible to always predict levels of risk.
- ▷ Focusing solely on high-risk cases can create a perverse incentive to wait until risk escalates to that threshold before the required strategies are put in place.²³⁷
- ▷ Living with any level of family violence has significant cumulative negative impacts on the health and wellbeing of individuals and families.

The Commission heard that the elements of good risk management are the same at all levels of risk, and comprehensive guidelines, policies and resources to support effective risk management strategies are required.²³⁸ The need for an integrated and effective system response for all was a common theme, 'as the vast majority of those experiencing family violence will never be referred to a RAMP or receive intensive case management'.²³⁹ The Victorian Government submitted:

While it is important to strengthen the identification of family violence in a range of universal and secondary services, we also need to provide interventions that aim to prevent violence from escalating. This will include improving the capacity of professionals in a range of sectors (such as maternal and child health, family services, health services and homelessness services) to work with people experiencing family violence in a way that maintains safety and minimises the impact of violence.²⁴⁰

In the report on his inquest into the death of Luke Batty, Judge Gray emphasised that ensuring the level of risk is appropriately assessed requires clarity about organisational roles and responsibilities for risk management—in particular, the role of Victoria Police:

... reform in this area must recognise the various roles each organisation has within the system. Police officers as frontline responders are called upon to make an assessment, largely based on their operational and their practical policing experience and their training. Consequently, the risk assessment tool Victoria Police use needs to have the focus on rendering the parties safe, and ensuring that there are some effective police interventions at first instance which secure a safe outcome for all concerned, and allows Victoria Police [to be] in a position to both notify and engage its partners to ensure a more considered response.²⁴¹

Determining the level of risk with an actuarial or tiered tool

The Commission was informed that the absence of an actuarial or tiered tool to identify the level of risk makes it more difficult to achieve a consistent approach about the threshold for referral to a RAMP²⁴² and to ensure that all women and children are responded to in a consistent and timely way.²⁴³

The Commission was also told that, while the CRAF provides a summary of risk factors for victims and perpetrators, it does not present this information in a usable format that can be applied easily by a practitioner.²⁴⁴ Mr Scott Widmer, Executive Director, Service Design and Operations Division, Department of Health and Human Services, noted:

... a validated tool that weights risk to produce a risk score or otherwise inform an assessment of risk ... has the potential to be particularly useful for professionals using Practice Guide 1 or 2 who may not feel sufficiently confident to analyse risk without further guidance.²⁴⁵

The need for an actuarial tool was raised in the 2013 evaluation report of the Strengthening Risk Management project that led to the RAMP model. The evaluation supported the development of an actuarial tool within the CRAF for use by specialist family violence services:

Development of an actuarial tool, to be used in conjunction with the CRAF, could assist workers to assess (or quantify) 'highest risk' and imminence, and would support the effective roll out of the RAMPs. This approach would need to be supported by eligibility guidelines and training.²⁴⁶

The absence of such a tool in Victoria makes it more difficult to achieve a consistent approach within RAMPs, and across all RAMPs, about the threshold for referral. There are concerns that a more rigorous assessment approach, is required to support sharing of confidential information at RAMPs.²⁴⁷

As discussed, Victoria Police is about to commence a trial of an actuarial tool. The Commission was advised that actuarial tools for police could be appropriate, given that the level of demand on the system for assessing and managing family violence risks is currently overwhelming the response: 'A validated tool could assist front line police to ask appropriate questions at the FV incident and provide greater guidance for risk assessment and management'.²⁴⁸

Ms Catherine Plunkett, RAMP Development Officer from Domestic Violence Victoria, told the Commission that she was concerned about Victoria Police using an actuarial tool without a significant boost to the quality and quantity of their training in family violence risk assessment and management.²⁴⁹

While there was cautious support from agencies in relation to Victoria adopting an actuarial tool or tiered approach, the Commission also heard the need for clear safeguards if this were to be implemented, such as the need for:

- ▷ formal guidance and extensive training
- ▷ clarity about the role of the first responder's use of the tool when these responders are not specialist family violence services
- ▷ effective monitoring to manage the risk of inaccurate assessments
- ▷ oversight to ensure that the tool is not used only to identify high-risk cases or as a de facto demand management tool.²⁵⁰

Others told the Commission that the three pillars of risk assessment within the CRAF—using professional judgment, evidence-based risk indicators, and the victim's own assessment of risk—are important to maintain.²⁵¹

Gaps in the CRAF

The Commission was advised that the CRAF needs to be updated to reflect current best practice in assessing and managing risk.²⁵² Among the concerns commonly raised in the evidence presented to the Commission were the need for a greater focus on risk assessment for children and victims of family violence where the violence does not occur in an intimate partner relationship; and the need for a renewed focus on risk assessment of perpetrators.

Risk factors for children

Many inquiry participants noted the need to strengthen current practice in relation to risk assessment for children.²⁵³ The Commission heard that many service providers find it difficult to assess the risk of family violence to children and that this is inadequately accommodated in the CRAF. One reason for this difficulty is that perpetrators who are violent towards their partner often have no history of violence towards their children, and often women themselves do not believe that their children are at direct risk from the perpetrator.²⁵⁴

Domestic Violence Victoria emphasised the importance of accurately assessing the risk to children—particularly by first responders such as police:

A lack of understanding of the impact on children of family violence [victims] along with limited capacity and opportunity can lead to inadequate or inappropriate risk assessments being conducted. As a consequence the information communicated to family violence services and child protection or Child FIRST agencies [by police] may not accurately or adequately convey the full extent of a child's experience.²⁵⁵

The Australian Childhood Foundation noted in its submission that assessing risk for children should reflect the cumulative nature of harm associated with family violence, but that this is not currently the case: '[T]he service system is geared towards treating violence and abuse which occurs in the family as discrete incidents that are not cumulatively harmful to children and young people'.²⁵⁶ Ms Catherine Plunkett from Domestic Violence Victoria told the Commission that in her experience as a trainer,

... most Child Protection workers find it difficult to understand that assessing the risk to a woman is essential to understanding the risk to her children. Yet, we know that because children are dependent upon their mother, that if she is being harmed, then they are being harmed as well.²⁵⁷

Stanley and Humphreys argued that child-focused risk assessment needs to engage with mothers as partners and with men as fathers in a way that avoids collusion in claims that the violence is mutual or minimal.²⁵⁸ They further stated that risk assessment for children is an area where professional judgment is needed, rather than a validated risk assessment tool:

... the safety of children is dependent upon risks associated with the perpetrator, risk factors associated with their primary carer (usually their mothers), and the effectiveness of protective factors which surround the child.²⁵⁹

Berry Street advised the Commission that, although it routinely uses the CRAF, it had amended the aide-memoire to fill gaps to do with both children and perpetrator behaviour.²⁶⁰ In relation to children, it recommended the CRAF include additional risk indicators:

... perpetrator behaviours towards children such as physical assault of child, sexual assault of child, child injury due to attempt to intervene, threats to kill child, threat to abduct child, references to murder/suicide, sexual grooming of child, child exposed to pornography, child present during a violent incident.²⁶¹

Filicide risk

Filicide, or the killing of a child by a parent or guardian, is a form of family violence and the risk factors associated with it are pertinent to this discussion.²⁶² As noted in Chapter 25, about 27 children are killed by their parents each year in Australia.²⁶³ Research suggests that there are gendered patterns to filicide. Mothers kill their children at similar rates to fathers, however they do so in different circumstances and for different reasons.²⁶⁴ Neonaticides (the killing of a baby within the first 24 hours of life) are almost always perpetrated by mothers; retaliatory killings to punish an intimate partner are predominately perpetrated by men.²⁶⁵

Since prior family violence against the mother is a feature in most killing of children by men,²⁶⁶ knowing a woman's level of family violence risk provides important information about the potential risk of lethal harm to her children.²⁶⁷ Filicide is more likely to occur when women try to leave the relationship.²⁶⁸ A retrospective case analysis of family violence homicides showed the following:

- ▶ Paternal filicide is a rare event that is often hard to predict and prevent.
- ▶ Current research with domestic homicide review committees suggests that warning signs can be overlooked by some professionals and agencies.
- ▶ Child homicides in the context of domestic violence are often motivated by revenge against the mother for leaving the abusive relationship.
- ▶ There is a need for close coordination between family and criminal court professionals to ensure that the safety plan for a parent in these circumstances extends to the children as well.²⁶⁹

The Department of Health and Human Services stated that men with a history of intimate partner violence need to be carefully assessed during and after separation in relation to the risk of filicide, even when there has been no previous violence towards the child. Where there have been threats to kill, stalking and breaches of family violence intervention orders or Family Court orders, contact with the child should be stopped and urgent safety plans put in place. The department has also cautioned that 'a thorough assessment of the history and pattern of the violence needs to be undertaken, rather than relying on separation as a safety mechanism in itself'.²⁷⁰

As Judge Gray noted, although there is no validated risk assessment tool capable of reliably identifying whether a parent will commit filicide, there are validated tools that can predict with reasonable certainty when mothers are likely to be at risk.²⁷¹ Judge Gray recommended that children be considered at potential risk of harm if their mother is at risk:

Filicide should be considered as part of the broader phenomenon of family violence, rather than existing in a separate category. Steps taken in response to family violence are *likely* to reduce the frequency of its various manifestations, including filicide, however, it is by no means clear that steps taken in response to family violence generally, will *necessarily* reduce the incidence of filicide.²⁷²

Risk assessment of children in other jurisdictions

It is the Commission's understanding that there is no current validated risk assessment tool in Australia or internationally that specifically measures the risk to children of family violence:

This is a complex area. While all child protection departments throughout the Western world struggle with the inundation of referrals of children living with domestic violence largely, though not exclusively from police, there has not been an actuarial tool developed to regularise or create a consistent practice in this area.²⁷³

The Commission notes that the Western Australian Common Risk Assessment and Risk Management Framework provides guidance in relation to the assessment of risk for children, as well as additional specific risk indicators such as the following:

- ▷ Is the adult victim pregnant or is there a new birth?
- ▷ Has the child ever been in the adult victim's arms when she/he has been attacked?
- ▷ Has the child ever tried to intervene in the violence?
- ▷ Are there child contact or residency issues and/or current Family Court proceedings?
- ▷ Are there children from a previous relationship present in the household?²⁷⁴

The first two listed risk factors were said to be indicative of an increased likelihood of an adult victim being killed.

In the United Kingdom, work done alongside the Multi-Agency Risk Assessment Conference high-risk initiative produced a checklist for identifying risks children may be living with. This is accompanied by the following caveat:

[It is not a] full risk assessment for children. The presence of children increases the wider risks of domestic violence and stepchildren are particularly at risk. If risk towards children is highlighted you should consider what referral you need to make to obtain a full assessment of the children's situation.²⁷⁵

Better risk assessment for children is also a central concern for the Family Court because of the implications for orders with unsupervised access to children and of the risk of filicide. This issue is considered in Chapter 24.

Risk factors relevant to all victims

The Commission heard that the CRAF needs to be reviewed in order to take into account the breadth of different experiences of family violence. For example, Women with Disabilities Victoria reported that the CRAF does not reflect all the risk factors experienced by women with disabilities:

Women we interviewed explained that perpetrators have tactics to use impairment-based-violence to gain power. This can be by discrediting women with cognitive impairments, tampering with medication, withholding aids, and for women with no speech it is very easy to limit what are already rare communication opportunities.²⁷⁶

Women with Disabilities Victoria reported that the lack of risk indicators specific to women with a disability in the CRAF meant that, when the Department of Health and Human Services was developing the family violence disability crisis fund, it needed to create an informal supplementary disability template for the CRAF.²⁷⁷ A further example provided to the Commission was that within disability and mental health services family violence can be perceived as ‘carer burnout’ and thus escape detection.²⁷⁸

Victoria has separate guidelines to prevent and respond to elder abuse, developed in 2012.²⁷⁹ These guidelines aim to facilitate closer links between the family violence and aged care sectors and to ‘raise awareness of the needs of older women experiencing elder abuse as a form of family violence and to ensure appropriate service responses are available.’²⁸⁰

The Commission received evidence expressing different views about the need for a separate mechanism for assessing elder abuse:

People experiencing elder abuse and FV may display a number of similar risk factors – including dependency, social isolation, poor health and disability. There are, however, other risk factors of elder abuse – such as the accumulation of assets, reduced capacity and death of a partner – that would not necessarily be identified by the established common risk assessment framework (CRAF) for FV. The identification of accumulated assets as a risk factor of elder abuse is particularly important as it can increase vulnerability to elder financial abuse even in the absence of other risk factors.²⁸¹

Seniors Rights Victoria submitted that the existing guidance is adequate but that connections between policy and practice could be strengthened:

In Victoria, SRV believes that elder abuse can be effectively combated through existing frameworks but because of the intersection between family violence and ageing, policy making around elder abuse needs to be situated in the broader discussion about ageing and creating a society that respects the rights and needs of older people. As such, the Victorian Government must continue to take a whole-of-government approach to elder abuse.²⁸²

Research indicates that adolescent violence in the home often begins after the mother and father have separated.²⁸³ An adolescent interviewed as part of research conducted in Victoria and who was being violent towards his mother, reported that he experienced violence ‘all the time ... when I was living with my dad’. When asked if he was violent in the home when his dad lived there he said, ‘No, because my dad would beat me up’. It was after his mother re-partnered that he started using violence against her.²⁸⁴ This was seen to be an area in which many sectors are seeking clearer guidance and more resources:

There are no standards of practice nor practice frameworks in working with adolescent family violence. Whilst a Common Risk Assessment Framework (CRAF) exists in relation to safety in heterosexual adult family violence, there is no guidance in relation to risk assessment and safety planning with adolescent violence in the home.²⁸⁵

This issue is discussed in Chapter 23.

Victoria Police recommended that the CRAF also be amended to incorporate risk assessment indicators for lesbian, gay, bisexual, transgender and intersex people.²⁸⁶

Validating the CRAF

The Commission heard that, although CRAF training has been evaluated, the CRAF itself has not. Further, the CRAF does not contain a validated risk assessment tool. Professor Jim Ogloff AM, Director of Psychological Services at Forensicare and Director of the Centre for Forensic Behavioural Science at Swinburne University, told the Commission that if the CRAF is to be retained:

... further work needs to be done to validate the framework. It must be evaluated and further developed so that it does what is required – provide an indication of the likelihood that family violence will be repeated and that the severity of family violence will escalate.²⁸⁷

Judge Gray also noted that the CRAF is not validated in his report on the inquest into the death of Luke Batty.²⁸⁸

Validation involves comparing and reviewing risk assessment and management processes and tools and the outcomes of assessment and management decisions over time and determining whether the processes and tools support effective decisions.²⁸⁹ Professor Ogloff said that at present only a small number of risk assessment tools have actually been validated.²⁹⁰ These are discussed in the section entitled 'International risk assessment tools'.

It can take up to 10 years to validate an assessment tool,²⁹¹ since the most reliable evaluations monitor assessments over a number of years.²⁹² The alternative is to use retrospective evaluation, which involves assessing family violence incidents that have already occurred against the indicators in a particular tool.²⁹³ There is substantially less research available about the effectiveness of family violence risk assessment tools and frameworks compared with non-family violence and sexually violent offending.²⁹⁴ A 2009 meta-analysis of sexual assault re-offending found 95 rigorous prospective studies while, in comparison, the field of intimate partner violence research had nine comparable investigations.²⁹⁵

In relation to the small number of studies and other issues relating to validation, Professor Humphreys explained that most risk assessment tools focus on male violence against female intimate partners because this form of violence is most common in homicide data and serious crime reviews.²⁹⁶ She also cited this as the reason for there being a lack of validated risk assessment tools for children: the capacity to measure predictive factors for filicide is limited because filicide is statistically rare.²⁹⁷ As noted, Judge Gray emphasised that validated tools can predict with reasonable certainty the families in which there is likely to be a recurrence of family violence and that a risk of lethality for a mother can also indicate a risk for her children.²⁹⁸

The Commission was informed that the current CRAF indicators associated with escalating risk of family violence are 'recognisable and aligned with other domestic violence [risk assessment and management] frameworks'.²⁹⁹

The inquest into the death of Luke Batty

Judge Gray released his report on the inquest into the death of Luke Batty on 28 September 2015. Judge Gray made a number of findings and recommendations relevant to risk assessment, risk management and the CRAF. In summary, he recommended ensuring that risk assessments are:

- undertaken upon notification of risk to a child;
- in writing;
- refer to previous risk assessments;
- routinely shared with relevant agencies and persons, such as protected persons named in an FVIO;
- uniform in approach while acknowledging the different legislative mandates of agencies;
- coordinated with respect to risk management and safety planning, such as RAMPs; and
- remove the practice of asking women at risk of family violence to enter into undertakings which require them to supervise or manage the behaviour of the perpetrator.³⁰⁰

Judge Gray also made findings in relation to confusion about privacy legislation and sharing information in risk assessments, flaws in the L17 system, lack of clarity about the roles of different professions assessing risk, lack of practice guidance, and the need for a comprehensive workforce development and training strategy in relation to risk assessments.³⁰¹

The Victorian Government responded to Judge Gray's report in December 2015, committed to implementing all his recommendations, and referred the report to this Royal Commission.³⁰²

Workforce training

Domestic Violence Victoria submitted that expertise in risk assessment and risk management is essential to securing the safety of women and children:

It cannot be left to the 'best efforts' of non-specialist agencies. High risk and crisis situations are not the same but can easily be confused. Women may seek housing or financial support, as symptoms of their undisclosed family violence. Though their exposure to family violence may be detected through an initial needs assessment, women at high risk are unlikely to be identified at this point as most are reluctant or unable to disclose the extent of their risk to a service provider who lacks the specialist skills and knowledge to recognise and respond to the complexity of their situation.³⁰³

The Commission was also told that a person experiencing family violence is more likely to disclose the full extent of the violence if they feel safe and supported and trust the process:

When risk assessment is conducted by interview with the woman, it should be a collaborative process done with the woman, not on the woman. This requires a relatively high level of skill and is an approach you would expect to find in specialist women's family violence services ... However, if risk assessment is conducted with a perfunctory, question and answer approach, a woman who is at high risk and has adopted a strategy of minimising the abuse in order to cope emotionally and psychologically, will often maintain that minimisation and either not disclose the most harmful abuse or decline offers of assistance. This potentially makes any intervention or risk management ineffective.³⁰⁴

Berry Street and others submitted that fully realising the benefits of the CRAF requires a comprehensive training strategy and investment to ensure that all relevant workforces are properly trained and supported in applying the framework to their decision making and action:³⁰⁵

[The CRAF] is an excellent tool. However, the funding to sustain the training on a long term basis wasn't maintained and therefore it became problematic to access. This training needs to be sustained and delivered to key professional groups annually.³⁰⁶

The Commission was informed that in the past CRAF workforce training had a positive impact and had significantly improved how professionals identified and responded to family violence.³⁰⁷ Since 2013, CRAF training has been delivered on a more ad hoc basis. The need for more training, and the lack of a specific plan for continued delivery was raised in a number of submissions.³⁰⁸ Ms McCartney told the Commission that there is a risk in high-demand sectors that, without continued training, workers will view the CRAF as something that is done once and placed in a woman's file.³⁰⁹

Noting that the CRAF's effectiveness depends on organisations developing processes, policies and procedures associated with it, Domestic Violence Resource Centre Victoria submitted:

The delivery of CRAF training to Community Corrections staff was well received ... because trainers were able to reference the organisation's policy and procedural directions, which effectively operationalise the use of CRAF.³¹⁰

The Commission also heard that, because the CRAF 'has been the only free of charge and broadly accessible professional development in family violence issues that is available in Victoria', organisations often send workers with no previous family violence training to CRAF training.³¹¹ Domestic Violence Resource Centre Victoria advised the Commission that current CRAF training is an inadequate introduction to family violence, with very little information being provided about the causes, dynamics, misconceptions and impacts associated with family violence.³¹²

The Commission was also told that the CRAF should include capability benchmarks targeted at different levels of practice, roles and workforce functions.³¹³ Domestic Violence Resource Centre Victoria identified consistent elements needed for all professionals—for example, an understanding of the nature and dynamics of family violence, knowledge of risk indicators, and knowledge and confidence to ask direct questions. It submitted that there will also be additional skills and competencies required to match different roles and functions.³¹⁴

Judge Gray made a number of recommendations relating to workforce knowledge and implementation of the CRAF. Among them he recommended that the State of Victoria:

[E]nsure all agencies operating within the integrated family violence system are sufficiently supported to provide their respective training and professional development to undertake CRAF based family violence risk assessments. Such training and professional development should include, but not be limited to, recognising, understanding; and responding to family violence. Each agency's staff should be educated in the dynamics of family violence, with specialist training provided to those employees whose primary role is to have contact with victims and perpetrators of family violence.³¹⁵

In its response to this recommendation the Victorian Government stated that it will consider training in its evaluation of the CRAF, 'including a review of implementation initiatives to ensure that these reflect best practice'. The response further states that the government 'anticipates that professional development and training, including training materials and delivery, will be revised'.³¹⁶

Risk management for perpetrators

The Commission heard that there are limited interventions available to manage the risks posed by perpetrators and that where community-based men's behaviour change programs do exist, they are insufficient or inappropriate for the risk profiles of all perpetrators. Submissions emphasised that the perpetrators who pose the highest risk of serious harm to women and children might not be suitable for these programs:

The currently offered Men's Behaviour Change programs are widely regarded as ineffective for high risk men who are treatment-resistant and show high levels of non-compliance. This problem is further complicated by the linkages between high risk family violence [and] drug and alcohol abuse, mental illness or mental disorder, and a personal history of neglect and abuse.³¹⁷

Mr Andrew Reaper, Deputy Commissioner of Corrections Victoria, gave evidence that:

[Men's behaviour change programs] can be effective in engaging low risk offenders with family violence related offences who are not eligible for a clinical intervention ... [E]vidence suggests that offence specific clinical interventions for low risk offenders can in fact increase their risk of reoffending, and as such, psych-educational/skills based programs are more suitable for this cohort.³¹⁸

The Commission was informed that 'connecting the accountability and consequences for men on MBC programs to the broader intervention system (police, courts, child protection, corrections and women's services) so that they are "held" within the broader system' is crucial to the effectiveness of these programs.³¹⁹

No To Violence submitted that there is an ongoing and urgent need to resource the community sector, share information and develop better practice in identifying and managing perpetrator risk:

... what the [men's behaviour change programs] will do with all those other 15,000, 20,000, 30,000 men is support the child protection practitioners to better engage with them or to work alongside our colleagues in community corrections to improve supervision practices which at the same time will improve facilitator practices.³²⁰

The Commission was also advised that when men's behaviour programs are used they should be funded to engage with the partners of perpetrators, to identify and respond to safety needs and to increase the likelihood that a victim's feedback about their partner's behaviour will assist with monitoring.³²¹

The Commission received a number of proposals for improving management of high-risk perpetrators. These suggestions emphasise the importance of matching perpetrator interventions to specific needs and levels of risk.³²² Among the proposals were:

- ▶ supporting information sharing with a centralised database³²³
- ▶ recognising that community-based men's case-management programs have limited effectiveness for high-risk perpetrators³²⁴
- ▶ strengthening responses from Corrections Victoria—for example, more specialist supervision on probation or parole³²⁵
- ▶ strengthening court and justice responses—for example, court-mandated perpetrator programs with appropriate penalties for non-compliance³²⁶
- ▶ linking perpetrators to programs dealing with factors that increase the likelihood they will use violence (such as substance abuse and mental ill-health)³²⁷ and integrating substance abuse programs with family violence programs.³²⁸

These proposals share the common theme that agencies need to work together to effectively manage perpetrator risk. Research shows that:

coordination and communication among agencies is ideal when possible because, in many [domestic homicide] cases, separate agencies each possessed unique and significant information with respect to lethality risk that taken together, would have painted an alarming picture with respect to the need for formal risk assessment, and safety planning.³²⁹

This is consistent with the findings and recommendations of the Victorian Coroner's Systematic Review into Family Violence-related Deaths and, more recently, the coroner's findings in relation to the death of Luke Batty.³³⁰

The Commission discusses information sharing to improve risk management, including that of high-risk perpetrators, in Chapter 7; perpetrator programs and responses are discussed in Chapter 18.

Progress of the RAMP roll-out

Concern was expressed to the Commission that the new RAMP model for assessing and managing high-risk family violence cases has been modified from its pilot form, 'which will in all likelihood diminish its impact':

Pathways for ongoing case management for women and children beyond RAMP have not been clearly articulated in the new guidelines, despite this issue being raised in evaluation reports ... RAMP funding announced in 2014 only allows for a single caseworker to manage a caseload solely of women and children who have experienced potentially lethal risk, with no clearly articulated exit plan to ongoing support. This is a significant dilution of the model.³³¹

The lack of consideration of governance arrangements in relation to RAMPs at the regional and statewide levels, was also raised with the Commission.³³² Domestic Violence Victoria submitted:

[I]t would be strategically sound to use these existing structures to build consistency of risk management across the state. We can leverage off the current governance bodies to strengthen place based service provision and provide the right platforms to consider the next steps for the state-wide high risk models under development, or indeed any initiative that has implications for any aspect of risk management.³³³

The Melbourne Research Alliance to end violence against women and their children submitted that memorandums of understanding, agreement about databases and adequate resourcing are needed to ensure that the model meets its objective of strengthening accountability and enhancing safety for high-risk victims of family violence:

A RAMP on 'a shoe-string' is potentially dangerous as the model is designed to work with the most high-risk perpetrators where homicide, serious assault and stalking are real possibilities. Poor practice may have serious consequences.³³⁴

The Commission notes that the government has progressed work in a number of these areas.

Obstacles to sharing information about risk

It was noted in a number of submissions that improved data collection, data sharing and adequate IT systems, supported by clear information-sharing legislation, were essential to supporting coordinated, multi-agency risk management.³³⁵

The Commission was informed that sharing information increases victim safety, improves case management and coordination, reduces the need for victims to re-tell their stories, and increases the accountability of perpetrators.³³⁶

The Commission heard from the government and non-government sectors, that there have been major difficulties in relation to the capacity of current privacy legislation to support effective information-sharing arrangements.³³⁷ As the Coroners Court has consistently noted in reports on family violence deaths, information sharing is an essential strategy for comprehensive system-wide risk management.³³⁸ The Victorian Government has also advised that the current privacy legislation creates limits to information sharing by RAMPs, and that it has been working with the Commissioner for Privacy and Data Protection to resolve the situation and to ensure that RAMP participants can confidently share information.³³⁹

The barriers to effective information sharing in the context of the RAMPs are discussed in Chapter 7. As noted there, in view of the current legislative barriers, the Department of Health and Human Services has applied for an information-use arrangement that will permit departures from relevant privacy legislation. The approval process requires that the Commissioner for Privacy and Data Protection consider the agreement and prepare a report for the relevant minister or ministers. The agreement must then be approved by the relevant minister or ministers.³⁴⁰

Gaps in information required to manage perpetrator risk can have dire consequences. The Commission discusses privacy law in Chapter 7, where it makes recommendations designed to remove legislative impediments and to establish infrastructure to streamline the sharing of information.

The way forward

Family violence risk assessment and risk management is complex, and assessing the family violence risks for victims and perpetrators is a profound and significant responsibility. Too many women and children are bearing and managing the risks of family violence on their own. This is not acceptable.

The risk perpetrators pose should be assessed and managed, and services that support victims or work with perpetrators should not operate in isolation from each other. We need to take a systems approach to keeping the victims of family violence safe. This means that all agencies inside and outside the family violence system must have a shared understanding about risk assessment and management, as well as about family violence itself. They must understand that risk is dynamic and ongoing, keep the focus on the perpetrator and privilege the victim's experience and knowledge of their own levels of risk. These are core principles. A systems approach also demands that agencies share information in a timely and pro-active way and have a common approach to multi-agency risk management.

The CRAF has provided a strong basis for Victorian services to assess the risk of family violence. The initial intent of the framework was to improve understanding of the dynamics of family violence and to ensure that different sectors and services had a shared understanding of how to identify and assess risk. In recent years, however, a lack of whole-of-government guidance has diminished the CRAF's usefulness as a means of integrating service responses to family violence. The CRAF is now seen primarily as a practice tool, rather than the definitive mechanism for identifying and managing safety risks in Victoria.

There are pockets of excellence in risk assessment and risk management practice. However, we need consistency, resourcing and infrastructure statewide to support risk assessment and risk management. All victims—regardless of their level of risk or where they live—deserve a timely response that prioritises their safety and focuses on perpetrator accountability.

The CRAF should continue to provide the overarching framework for ensuring that risk assessment and management are coordinated throughout the system. In view of this, the CRAF must be improved, understood by all relevant service providers, and applied consistently. Its original intent as a framework for the entire system needs to be re-established and embedded in practice.

All service providers need to be confident about using the CRAF. This does not, however, mean that all service providers will use the same tool or ask the same questions. Instead, there needs to be a shared understanding about the nature and dynamics of family violence, what the risk factors are, how to have a conversation with a victim or a perpetrator about the risks, and what to do next—this is what the CRAF provides. For example, child protection workers will always use the Best Interests Framework, but that framework should be guided by what the CRAF tells us about family violence risk.

The message that all services—not just the family violence system—have a role in identifying and responding to family violence should be reinforced through policy, service agreements, and investment in workforce capacity and competency. Minimum standards and practice requirements for risk assessment and management, information sharing and referral are all needed to support standard practice. Accountability and monitoring of implementation of these practices will need to be included in responsibilities at each level of governance of the family violence system.

A next-generation CRAF

The Commission considers the following to be essential elements of an improved risk assessment and management framework:

- ▷ a revised CRAF that allows for risk assessment for a broader range of victims, including children, and places greater emphasis on monitoring perpetrator behaviour
- ▷ a governance process that requires and supports consistent risk assessment and management throughout government and government-funded services
- ▷ the roll-out of RAMPS as a matter of urgency
- ▷ removal of legislative impediments to information sharing and the establishment of a Central Information Point to consolidate information about perpetrators, relevant to risk.

The first three of these elements are discussed here; matters relating to the new Central Information Point and improved information sharing are discussed in Chapter 7.

The Victorian Government is currently engaged in the first stage of a comprehensive review of the CRAF in response to Judge Gray's recommendations in his report on the inquest into the death of Luke Batty.³⁴¹ The Commission welcomes this review as one of the first steps towards reforming and strengthening the family violence system. We are heartened that the review will consider the evidence that was put before the Commission and will take account of its recommendations, along with those of Judge Gray.³⁴²

The Commission considers that the CRAF is an important framework for risk assessment and risk management that incorporates overarching principles, risk assessment and screening tools, and practical guidance; much of the information included in it is consistent with the literature and evidence about effective risk assessment and management. The CRAF should be maintained and strengthened.

A review of how the information is presented, the clarity of practice guides and further information about minimum standards of assessment, may be necessary. Helpful tools such as 'ready reckoners' and fact sheets, covering areas such as information sharing, responding to perpetrators and identifying the primary aggressor, will be beneficial for many practitioners who do not specialise in family violence and who need these resources.

Further, it is essential that this review clarifies the organisational responsibilities for different sectors' use of the CRAF—for example, who should be using it and when, who should be trained in its use, and which non-family violence specific providers should be using it.

The Commission also considers the CRAF should be reviewed every three to five years to reflect the latest evidence about risk.

In relation to the 2016 review, the Commission proposes that a number of new elements be incorporated in the CRAF, as follows.

A new actuarial or tiered risk tool within the CRAF

An actuarial or tiered risk assessment tool should be developed for the CRAF as a priority. The tool will support shared understanding of family violence and consistent referral.

The Commission notes concerns about the use of actuarial tools. All practitioners using such tools should be required to participate in regular training, and their use of the tool should be monitored so that the risk of inaccurate assessments or a default to responding only to women at the highest risk, can be managed and mitigated. Fundamentally, we must not allow an actuarial tool to become a rationing device for services, including police responses. To do so would leave victims in danger and defeat the purpose of having a risk assessment process at all.

Alongside the use of empirically tested risk indicators, all risk assessments must take into account the victim's assessment of her level of risk and the practitioner's professional judgment.³⁴³ The Commission agrees with Judge Gray's recommendation that the CRAF review will need to examine whether greater weight should be given to a victim's level of fear.³⁴⁴

In addition to risk assessment tools, the CRAF needs to incorporate further practice guidance for screening family violence. Other new developments, such as online self-assessment tools that women can use to assess their own risk, should also be considered. One example of an online tool is I-DECIDE which is currently being tested by the University of Melbourne.

Consistent and aligned approaches to risk assessment for all levels of risk should also be supported by whole-of-government governance processes, as set out in Chapter 38.

Recognition of specific risks for children

The separate and unique effects of family violence on children, as well as the links between risks to women and risks to their children, are well documented. They are not, however, being translated into risk assessment and management practice.

Relationship breakdown and separation constitute a time of increased risk of filicide (killing of a child by a parent), as well as intimate partner homicide. Reviews of intimate partner and filicide deaths reveal that the risk indicators are very similar. System attention must be focused on the time of separation as a crucial point of risk for family violence. This warrants increased resourcing and a shared understanding and coordinated action throughout the family law, Child Protection, Integrated Family Services and family violence systems.

The Commission agrees with the Australian Childhood Foundation that there is 'still inadequate understanding of the impact of trauma arising from such abuse and violence on the development and functioning of children and young people'.³⁴⁵ Tools, guidance and practice responses should reflect the risk of cumulative harm of family violence for children, while also taking into account their age and developmental stage.

Resources developed by the Department of Health and Human Services, including *Working with Families Where an Adult is Violent: Best Interests Case Practice Model* (2014), and *Assessing Children and Young People Experiencing Family Violence: A Practice Guide for Family Violence Practitioners* (2013) should be supported by ongoing training and practice guidance, supervision and coaching to support their application. These resources should also provide clear links to, and align with, the revised CRAF.

The Commission is of the view that, rather than a specific risk assessment tool for children, we need a common and consistent approach to identifying and assessing the risks to children. It agrees with Professor Humphreys that this is an area where professional judgment is central: the 'problem is that the safety of children is dependent upon risks associated with the perpetrator, risk factors associated with their primary carer (usually their mothers), and the effectiveness of protective factors which surround the child'.³⁴⁶

The review of the CRAF provides an important opportunity to highlight risks to children and to incorporate evidence-based risk indicators specific to children. The Western Australian approach, reflected in its revised common risk assessment and risk management framework, appears to be an effective example.³⁴⁷

Perpetrator assessment

More comprehensive risk assessment tools and guidance for practitioners working in men's behaviour change programs are required, as well as advice on the ways in which men's behaviour change programs should engage with the family violence system in order to improve risk management.

As part of the CRAF review, the Victorian Government should review and incorporate risk assessment and management principles and guidance set out in the Framework for Comprehensive Assessment in Men's Behaviour Change Programs, developed by the (then) Department of Human Services to align with the CRAF, alongside other perpetrator risk assessment tools in use by Corrections Victoria. This should include articulation of the expected responses from different service providers, noting that these responses will vary according to service providers' roles and responsibilities. It is important to recognise that assessment of perpetrator risk requires information that goes beyond that gathered at an incident to include continuing risk assessment that captures a broader pattern of coercive and controlling behaviour.

There is also an opportunity, alongside the review of the CRAF, to develop guidelines for these programs that align with the Risk Needs Responsivity model and the Spousal Assault Risk Assessment tool used by Corrections Victoria. The evaluation of the Victoria Police actuarial tool trial, which will include Victoria Police family violence teams in the trial area also using the B-SAFER tool will also provide important information.

Non-intimate partner forms of family violence

The CRAF review should also consider the needs of different population groups and the specific barriers these groups can face.

For example, young people can be both victims of family violence and themselves use violence. The review of the CRAF should include a specific focus on young people and the risk factors associated with their victimisation or use of violence, or both. Guidance for those working with adolescents who use or experience violence should also be included as a new element of the CRAF. The evaluation of the Adolescent Violence in the Home program may inform this aspect of the CRAF review (see Chapter 23).

The CRAF review should also consider family violence risk assessment tools and guidance relevant to older people at risk of or experiencing family violence. Older people can have specific barriers to escaping family violence—for example, they can be reliant on family members or carers who use violence. Service providers as well as police and the courts need to be aware the many women have experienced continued violence from their partner for years, while others might experience it only later in life. The high rate of family violence perpetrated against older people by their children should also be taken into account.

People with disabilities can experience unique forms of violence at the hands of family members or carers—among them threats to withdraw care and controlling access to medication, mobility and transport. The CRAF review should take these factors into account, as well as perpetrators who might present a risk to people with disabilities (including paid and unpaid carers).

The Commission notes work that has already been done to contextualise the CRAF for use with Aboriginal and Torres Strait Islander peoples, and that this should be reviewed as part of the broader CRAF review. Early work to improve risk assessment and management approaches to working with people in culturally and linguistically diverse communities should also be considered as part of the review.

The CRAF review will need to consider the experience of different groups, as well as the practice guidance and training that will need to be developed and delivered. This is part of the broader workforce development the Commission recommends in Chapter 40.

Recommendation 1

The Victorian Government review and begin implementing the revised Family Violence Risk Assessment and Risk Management Framework (known as the Common Risk Assessment Framework, or the CRAF) [by 31 December 2017] in order to deliver a comprehensive framework that sets minimum standards and roles and responsibilities for screening, risk assessment, risk management, information sharing and referral throughout Victorian agencies. The revised framework should incorporate:

- ▷ a rating and/or weighting of risk factors to identify the risk of family violence as low, medium or high
- ▷ evidence-based risk indicators that are specific to children
- ▷ comprehensive practice guidance.

The framework should also reflect the needs of the diverse range of family violence victims and perpetrators, among them older people, people with disabilities, and people from Aboriginal and Torres Strait Islander, culturally and linguistically diverse and lesbian, gay, bisexual, transgender and intersex communities.

The authorising environment

The CRAF is a vital mechanism for facilitating consistent practice throughout the family violence system. It is relevant to all departments' policies and practice and their interoperability.

The Commission agrees with Judge Gray that the Victorian Government needs to ensure that all agencies operating in the system use the CRAF (or a CRAF-aligned risk assessment tool) when dealing with family violence matters.³⁴⁸ Since victims, children and perpetrators might come into contact with multiple services, all relevant agencies—including, for example, health services—should align their risk assessment practices with the CRAF.

The Commission considered mechanisms whereby government departments, police and other agencies might be supported to do this. In our view, legislative change is required to support this intent.

The Commission's proposal is that the primary legislation—the *Family Violence Protection Act 2008* (Vic)—set out the relevant principles, including the use of a common risk assessment framework. The content of that framework, such as relevant roles and responsibilities, standards and practices, would then be approved by the relevant minister (or ministers) or secretary (or secretaries).³⁴⁹ This approach has the advantage that it is flexible, since the approved content (such as the CRAF) can be amended easily if there are any changes in practice.

It is also consistent with the concept, set out in Chapter 7, that 'prescribed organisations'³⁵⁰ share information when it is necessary to manage a risk to safety but when the method of determining whether this test is satisfied is not specified—although it is expected that this would be done through the CRAF or a CRAF-aligned risk assessment tool.

Even if an organisation is not formally required to use the CRAF, such organisations should be encouraged to use it because it will reflect best practice. This will contribute to the overall objective of greater alignment and consistency of practice. Further, the approved CRAF should be made publicly available—for example, on the Department of Premier and Cabinet or the Department of Health and Human Services website—so that all are able to adopt and use it.

In addition to the amendments just discussed, the *Family Violence Protection Act* could be amended to require departments to ensure that any service provider contracts or funding arrangements relevant to family violence oblige those providers to align their risk assessment policies, procedures, practices and tools with the CRAF as approved by the relevant minister (ministers) or secretary (secretaries). This will establish a clear expectation for the service providers and assist in ensuring consistent practice. It would not, however, capture providers who do not have a contract with or are not funded by the Victorian Government.

Recommendation 2

The Victorian Government amend the *Family Violence Protection Act 2008* (Vic) [within 12 months] so that it:

- ▶ empowers the relevant minister or secretary to approve a Family Violence Risk Assessment and Risk Management Framework (and roles and responsibilities, standards and practices under it) for family violence risk assessment in Victoria
- ▶ sets out the principle that 'prescribed organisations' and agencies contracted by the Victorian Government to provide family violence services (if not otherwise prescribed organisations) are required to align their risk assessment policies, procedures, practices and tools with the Family Violence Risk Assessment and Risk Management Framework as approved by the relevant minister or secretary.

Responsibility for the CRAF in government

At present the CRAF is the responsibility of the Department of Health and Human Services. Although the Commission recognises that placing responsibility for the CRAF with the department has enabled strong operational links with the family violence services sector, there is a need to better link the CRAF with police and justice operational practice. This will require a concerted whole-of-government effort.

Concerted effort is also needed to extend the CRAF to link to the practice of other health and human services sectors. The Statewide Family Violence Action Plan recommended in Chapter 38 will ensure strategic engagement with the CRAF at the policy and practice levels. This calls for management through whole-of-government processes and consultation.

The Commission's view is that placing the ongoing management of the CRAF with the Family Violence Unit in the Department of Premier and Cabinet will more effectively achieve this aim. It will support a whole-of-government view on the process for departments to monitor their broader responsibilities in relation to family violence risk management, as well their relevant agencies' use of the CRAF.

However, operational decisions regarding responsibility for the CRAF within the public sector are a matter for government. If the CRAF is to remain with the Department of Health and Human Services, increased resourcing and further governance arrangements will be required to ensure that it is implemented as a whole-of-government framework, as part of the Statewide Family Violence Action Plan.

Investing in the workforce

The Commission was informed that to date the CRAF workforce development process has substantially contributed to understanding and capacity in relation to risk assessment and management in many sectors. But the current 'stop-start' approach to workforce development in this area is not tenable. The government's commitment of \$800,000 a year for CRAF training should be increased to support the substantial demand for training and to ensure that a broad range of practitioners can receive appropriately targeted training on a continuing basis. All sectors will need to be trained in the revised CRAF and current funding levels are not sufficient for this to be done well.

A workforce development strategy should accompany the revised CRAF, targeted to different sectors and relevant to their specific roles. This should form part of and complement the industry plan the Commission recommends in Chapter 40. Many different services and people are involved in identifying and responding to the risk of family violence, each with a different role and skill set. Investing in the capacity, capability and competence of each requires a clear focus on who does what, how and when. It will be necessary to develop clear and defined competencies and skills to support practitioners. The tiered approach of Domestic Violence Resource Centre Victoria could be a useful framework in this regard.³⁵¹

It was stressed in evidence that training is limited in its provision of guidance on how managers should consistently implement the CRAF, as the training is more directed to front-line staff.³⁵² The Commission is of the firm view that implementing the CRAF at the organisational level cannot be left to individual workers' skill level and commitment. Organisations need to provide clear guidance in relation to organisational responsibilities, such as developing policies to respond to disclosures, and developing protocols to support referral. The Commission welcomes the Victorian Government's recognition of this in its response to Judge Gray's report into the death of Luke Batty: it has committed to building the CRAF into service agreements as a requirement of funding.³⁵³

In addition, effort, incentives and requirements for organisations to create work processes that enable practitioners to 'exercise' the CRAF as it is intended, and support them in doing so, will be important. Supervision and the availability of specialist practitioners for secondary consultation are essential to ongoing practice development.

As the Commission reiterates throughout this report, an overarching approach to building general knowledge of family violence throughout the workforce is required. At present the CRAF represents the bulk of the family violence training available in Victoria. In view of the fact that the inclusion of family violence training in pre- and in-service training will be a long-term goal, the CRAF training will need to include general information about the nature and dynamics of family violence. After the CRAF training delivery review, the CRAF workforce strategy will continue to be one of the central planks of future system reform.

Recommendation 3

The Victorian Government implement the revised Family Violence Risk Assessment and Risk Management Framework and develop a sustained workforce development and training strategy as part of the recommended family violence industry plan [from 1 January 2018]. The framework should provide for:

- ▶ minimum standards and core competencies to guide identifying, risk assessment and risk management practice in family violence specialist services, mainstream services and universal services
- ▶ whole-of-workforce training for priority sectors—including general practitioners and hospital, mental health, drug and alcohol, child protection, aged care and disability workers—that takes into account and aligns with their roles and standards of practice.

The Victoria Police actuarial triage trial

As noted, Victoria Police is about to begin a trial of actuarial triage and risk assessment tools in western Melbourne. The trial presents an opportunity to test how an actuarial approach can be applied to police decision making in relation to the level of specialist response required. It also offers an opportunity to test how front-line police are best equipped to accurately assess family violence risk and use the options available to them, including formal referrals and civil and criminal options.

The timing is significant here, since the trial will be under way at the same time as the CRAF review. The lessons learnt from the trial will be important considerations for the review—not least because the trial will provide an opportunity to test how the tension between the desire to manage demand related to a high-volume crime can be reconciled with the paramount requirement for victim safety. The value of the trial will lie in developing an unambiguous pathway for escalation of matters to a specialist police response. This is a sound policy aim.

The Commission notes the emphasis on the actuarial tool being used to predict the likelihood of another police call-out to the same two people—as opposed to the assessment of family violence risk per se. Although there will be many commonalities between these two events, conceptually and practically they are distinct.

This emphasis on predicting future police demand reflects the very real challenge Victoria Police faces in treating family violence as core business while also seeking a differentiated response to guide allocation of specialist family violence team resources. The Commission understands this dilemma, but it is concerned that it might lead to some unintended consequences.

Reducing the number of formal referrals

The Commission was informed that having a threshold score of four on the initial screening tool used by police members will mean that 50 per cent of all police family violence incidents will be categorised as of ‘low concern’.³⁵⁴ Among other things, these cases will no longer have a full L17 assessment completed. Nor will police make a formal referral to a specialist family violence service (or Child FIRST or Child Protection) or, in the case of perpetrators, to a men’s service.

It has been a central principle of the Victorian system that the police can rely on comprehensive specialist risk assessment and safety planning by a family violence service being conducted for all police referrals. This relieves the burden on police and has been a practical means of developing a more integrated and consistent response, by transferring the onus to the service system to make contact with the victim and perpetrator, rather than hoping they might do so themselves.

The past five years have seen the ratio between informal and formal referrals change for the better. There has been a much stronger emphasis on police making formal referrals. This reflects the important role police play as first responder and as a gateway to other supports.

In 2009–10 about 62 per cent of referrals for victims were informal—that is, where information is provided to the victim about services but the L17 form is not sent to a specialist service for follow-up. In 2013–14 the proportion of such referrals had dropped to about 13 per cent.³⁵⁵ The ratio between informal and formal referrals for perpetrators has also changed considerably. In 2009–10 about 65 per cent of referrals for perpetrators were informal; in 2013–14 this had dropped to about 17 per cent.³⁵⁶

Of course, this trial is taking place in only one area, and the assumption that the threshold score of four is appropriate needs to be tested. The Commission is concerned, however, that effectively reducing formal referrals to 50 per cent of cases will dramatically affect how people gain access to the family violence service system: it would reverse the intention of previous reforms to have as many victims and perpetrators as possible connected to services, with police acting as a conduit to support.

The Commission considers this a retrograde step. Managing demand should not be privileged over a comprehensive and integrated response to the full range of needs of victims. Adoption of the reforms the Commission recommends will mean the need to manage demand should be less urgent.

Quality assurance

It will also be important to monitor any unintended effects on quality assurance processes associated with the trial. As noted in Chapter 15, at present most family violence teams monitor and triage all divisional L17s. If L17s are only forwarded in 50 per cent of cases this could mean that supervisors and family violence liaison officers, who are already busy, end up having a greater quality assurance role in relation to cases that are ‘screened out’ of the family violence teams’ remit by the triage tool—without the benefit of the information collected through a full L17 risk assessment.

Absence of administrative ‘overrides’

An associated question concerns how police members will ensure that they comply with all aspects of the Code of Practice for the Investigation of Family Violence when using the triage tool. The draft tool provides an option for police attending an incident to override the score using their professional judgment in order to conduct a CRAF-consistent risk assessment, escalate the matter to the family violence team, and by inference make a formal referral.³⁵⁷

This is most welcome. Current best practice suggests that, given the changing and complex nature of family violence risk, professional judgment should always be able to override tools. It is essential to retain police discretion in this area. Since the initial screening tool is a simple one and lacks detail, the danger is that it misses family violence risk that will not score over the threshold and might diminish the required nuanced response. This could put victims and their children at further risk.

In conducting the trial Victoria Police will also need to consider whether any administrative overrides should be built in, for example a directive that when a child is present, criminal charges are contemplated, a family violence safety notice or a police-initiated family violence intervention order is required, and a full risk assessment and formal referral are made, regardless of the triage score.

In such circumstances it is likely that the attending officer would need to collect the information required to complete the amended L17 risk assessment in any case to use in the police application for a family violence intervention order or the brief of evidence for a criminal charge, or both.

Somewhat counter-intuitively, an incident for which a criminal charge or a family violence safety notice or intervention order is contemplated would not necessarily score the requisite four points using the triage tool in its current form. The Centre for Behavioural and Forensic Science, which designed the tool, has recommended against an administrative override in all cases with a criminal charge, noting that this would result in an increase of 18 per cent in referrals to the family violence team each year—‘without much improvement in the overall predictive validity of the instrument’.³⁵⁸

This gives rise to the potential for another possible unintended consequence—namely, that the scoring system is used as a shorthand way of determining which options are used under the Code of Practice. In many ways this is the aim of the tool (to guide and create priorities for action), but it also poses the risk that inexperienced police members will assume that if an incident fails to score the requisite four points that they should not pursue criminal or civil options, even when otherwise these would be available. While the requirement of Victoria Police is that the Code of Practice must be followed, the Commission is concerned that in practice, front-line police might default to not pursuing all options if the incident does not reach the threshold for a full risk assessment. Much will depend on the skill and experience of the police member attending the incident.

The Commission is confident that Family Violence Command is aware of these considerations and will sensibly examine the administrative overrides needed to comply with the Code of Practice and ensure a comprehensive and pro-active approach to policing family violence incidents throughout the trial.

An emphasis on physical violence

As noted, the definition of ‘serious family violence’ being used for the trial is frequent or physical violence.³⁵⁹ Physical family violence is equated with having a charge for a violent offence within the next 12 months.³⁶⁰ The Commission recognises that criminal charges are likely to eventuate when the violence is physical, but it also seeks to maintain and increase police members’ awareness that family violence manifests in many ways—including as emotional and financial abuse. Similarly, in regard to the threshold of ‘severe family violence’ the effect of cumulative harm—which may or may not be physical—needs to be considered. This will probably be of less concern for specialist police in family violence teams who will conduct second-tier risk assessments to determine ‘seriousness’; it will, however, be important that communications with and training of front-line police members make it very clear that non-physical family violence such as threats of physical violence, is also a priority. This goes to the broader point of the importance of training for all police members who will be using the tools in the trial.

The Commission considers it will be particularly important to train police members in identification of the primary aggressor, which as noted in Chapter 14 remains a challenge for police members who attend incidents. The triage tool requires police to check LEAP for all prior incidents, so it may assist in this regard. However, the absence of a formal referral for those who score less than four again comes into sharp relief, because the true primary aggressor is often only identified through these referrals.³⁶¹

Alignment with the CRAF review

The project summary provided to the Commission by Victoria Police notes that if the evaluation of the front-line triage tool is positive ‘new processes will be rolled out across Victoria through a change management process beginning in 2017’.³⁶² It will be important that the timing and completion of the CRAF review and any decision making by Victoria Police in relation to future L17 practices are aligned and that the implications for the family violence system as a whole are fully considered.

The trial evaluation will need to test the concerns expressed above. The capacity to audit across police stations will provide an indication of the extent of unintended consequences—including the risk of failing to pursue civil and criminal options and not exercising professional judgment when faced with a low triage score. As mentioned, the introduction of an administrative override may allay some of these concerns.

More challenging will be managing the system risks associated with not making formal referrals. This will be a highly important test for the trial and will be of great significance to the CRAF review if we are to avoid a return to a police culture in which connecting people to services was the exception rather than the rule.

The Commission suggests that consultation with and feedback be sought from specialist family violence services, expert stakeholders and victims, in connection with all elements of the trial design, testing and evaluation.

A new approach to managing perpetrators

The Commission notes that different perpetrator interventions have different objectives. Some monitor perpetrators, some support men in ceasing their use of violence, some focus on individual accountability, and some impose criminal sanctions. As a basic principle, the family violence system should be able to offer interventions tailored to the needs of each perpetrator over time. These interventions may include:

- ▷ risk assessment, access to and sharing of current and pertinent information about the danger posed by the perpetrator
- ▷ monitoring the perpetrator by using technologies such as CCTV and men’s behaviour change programs, coupled with information provided by the victim
- ▷ managing risks through civil court orders, mandatory men’s behaviour change programs, exclusion conditions, and specialist respondent workers at magistrates’ courts
- ▷ managing high-risk perpetrators by using strategies such as correctional orders including appropriate conditions, responding to accompanying risk factors (for example, through drug and alcohol and mental health programs), using RAMPs and appropriate sentencing.

All services need to strengthen their response to perpetrators in Victoria in order to keep them ‘in view’ and address the risk factors associated with their use of violence. One way this can be done is through improved information sharing between the justice, health and human services systems—as the Commission recommends.

As discussed in Chapter 18, the efficacy of interventions in managing the risks associated with an individual’s perpetration of family violence remains an area that warrants further study. The research ANROWS is doing in relation to perpetrator interventions will make an important contribution to the evidence.³⁶³

At present police and the justice system have the primary role in managing perpetrator risk. If perpetrator interventions are to be effective, strong justice responses are needed to ensure that perpetrators who continue to use violence are subject to consistent and appropriate penalties and consequences. The Commission’s recommendations in this regard are outlined in Chapters 17 and 18.

Other types of intervention that focus on monitoring and supervision—such as specialist supervision on probation or parole—also warrant consideration. Research has found that ‘monitoring and supervision appear to be of particular importance for high-risk [family violence] perpetrators’.³⁶⁴ This is discussed in Chapter 7. The Commission also proposes that the health and human services system develop stronger capacity and competencies for working with perpetrators.

Both specialist and non-specialist sectors need training and support in order to do this better. Universal community and health services should be resourced to work effectively with perpetrators, keep them in view, and to respond to specific risk factors that perpetrators may present with. Organisations that work with dangerous and often frightening men, will need to manage the risk of occupational violence as well as risks to the perpetrator’s family members.

A perpetrator register?

A register for perpetrators is being considered by other jurisdictions in Australia. The Commission is of the view that a perpetrator register scheme should not proceed in Victoria at this time for a number of reasons:

- ▷ The effect of such a scheme on increasing women’s safety has not been demonstrated.
- ▷ There has been very limited evaluation of similar schemes, although the UK scheme is being evaluated.
- ▷ Under such a scheme the onus remains on the victim to keep herself safe.
- ▷ A scheme is potentially costly.
- ▷ A scheme is usually limited to those perpetrators who have a criminal history, although this could be changed.³⁶⁵

The Commission’s main concern, however, is that having such a scheme could give women a false sense of security if a perpetrator’s name does not appear on the register, simply because he has never had contact with the police.

The Commission proposes that if there is any future consideration of such a scheme for Victoria it should take these concerns into account. The results of the New South Wales trial will be instructive.

Setting the tone for the entire response

The Commission considers that RAMPs have the potential to provide an effective mechanism for managing risks posed by perpetrators and setting the tone for the entire system’s response. It also considers that improving information sharing and shared risk management responsibility for high-risk cases should guide practice for all cases. High-risk cases should not divert attention from lower risk perpetrators whose use of violence could escalate in the absence of intervention. We should be learning from what works collectively to keep more people safe, regardless of their defined ‘level of risk’.

Strengthening Risk Assessment and Management Panels

Obstacles to roll-out

The statewide roll-out of Risk Assessment and Management Panels is an immediate priority.

A number of elements have been introduced or progressed during the Commission's term that respond to concerns and recommendations arising from the Strengthening Risk Management evaluation. Among these are a memorandum of understanding between key government agencies, local agreements, the development of formal program and operational guidelines, and oversight by the Family Violence Interdepartmental Committee. One of the main challenges the RAMP pilot programs faced was in sharing information. These challenges have continued and have greatly delayed the statewide RAMP roll-out. Removing obstacles to information sharing is an important aspect of the infrastructure required to ensure RAMP success.

Targeted workforce development is now being provided to the different sectors directly responsible for RAMP implementation. This is an essential development and, although these sectors are the priority, this training should be extended to other sectors for whom knowledge of the RAMP process is a required part of practice. Shared knowledge about required responses to high-risk family violence must be understood and implemented consistently throughout the state, with a clear relationship to broader risk management practices. This is particularly important as different regions currently have different approaches to high-risk cases as a result of having developed over time to meet urgent local needs. Throughout the training and educating in relation to the RAMPs, a central message of focus on the perpetrator, rather than the victim, will be essential.

The safety implications of changes to funding arrangements will need to be a priority focus of the RAMP evaluation. It is not clear whether the additional case-management funding provided to directly support the RAMP model is adequate. The Commission understands that the original Strengthening Risk Management evaluation found that pilot agencies' access to additional case-management resources did enable higher rates of engagement with high-risk households.

Oversight of implementation

The establishment of the two RAMP pilots was protracted and inefficient, largely as a consequence of the lack of a clear authorising environment. The Commission welcomes the fact that the current Family Violence Interdepartmental Committee has oversight of the RAMPs: ensuring efficient engagement with government agencies to resolve difficulties as they arise will be a priority. The Commission was told that the South Australian model—in which the high-risk initiative is overseen by the whole-of-government executive chaired by the lead minister—works effectively. The level of whole-of-government agency leadership and shared commitment among government and non-government agencies to implementation was highlighted to the Commission as one of the key elements of the South Australian model's success.

Ongoing high-level multi-department commitment to the implementation of risk management will be central to an effective authorising environment. RAMPs cannot be conceived as a stand-alone reform and must be related to other initiatives the Commission recommends—for example, the revised CRAF, the strengthening of risk management practice for all levels of risk, developments within the police in relation to specialisation of family violence teams, and the development of the new Support and Safety Hubs the Commission recommends in Chapter 13.

The Commission further proposes that RAMPs have clear regional governance arrangements and a clear mandate, that regional integration committees develop a regional platform for information sharing and share their experiences, and that high-level endorsement from the ministerial and departmental secretary level be secured to ensure support within divisional, regional and local contexts.³⁶⁶

The Commission considers that RAMPs will highlight the practicalities underpinning effective risk management. Ensuring strong engagement and consultation with statewide and regional governance and advisory structures throughout this process will be crucial to ensuring consistent good practice and systems fixes, rather than leaving these things to be dealt with individually (and inefficiently) by RAMPs around the state. State and regional governance arrangements will also support systems responses for all levels of risk and for all stages of people's engagement with the family violence system. Arrangements for this are set out in Chapter 38; there is a clear role for the Victorian Secretaries Board in this area.

Recommendation 4

The Victorian Government facilitate the roll-out of the Risk Assessment and Management Panels, or RAMPs, as a priority [within 12 months], ensuring that this includes:

- ▶ adequate resourcing and support—case management and links to long-term support
- ▶ standardised referral guidance, to be used by all agencies, that is aligned to the revised Family Violence Risk Assessment and Risk Management Framework to identify high-risk cases for referral to RAMPs
- ▶ organisational and practice guidelines for effective RAMP operation, supported by a targeted workforce development and training program
- ▶ processes for supporting oversight by Regional Family Violence Integration Committees
- ▶ implementation oversight by the Cabinet Family Violence Sub-committee and the Victorian Secretaries Board Family Violence Sub-committee.

Information sharing

The requirement that agencies collaborate and exchange information—particularly within and between health, human and justice services—is a necessary part of a coordinated family violence response and is essential for risk management at all levels of risk. The current onus is on workers to navigate systems that do not talk to each other, to share information with other individual workers with whom they are already connected, and to work within and around complex and often misunderstood privacy requirements. These shortcomings put women and children at greater risk. This is a complex area of law, and agencies need to have a clear understanding of their function and the reasons for the collection of the information.³⁶⁷

Providing greater certainty to the family violence response system in relation to its capacity to share required information is an immediate priority. The Commission recommends for legislative reform and system infrastructure—including a Central Information Point for risk information—in Chapter 7.

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- 127 Victoria Police, 'Victorian Police Screen and Assessment of Family Violence Risk (Screening Version VP-SAFvR): Report on the Development and Validation of Instruments' (24 December 2015), 3, provided to the Commission by Victoria Police, 8 January 2016.
- 128 'Victoria Police Corporate Statistics Unit provided the CFBS researchers with data on all Family Violence Incidents (FVIs) in the 2013/14 financial year that involved a unique dyad (n=44,443). For each incident they provided data from the L17 completed at the time of the FVI in addition to historical data about the perpetrator's history of violence and family violence, and the history of family violence within the dyad. They also provided 12 months of follow-up data on any subsequent FVIs involving the same dyad': ibid 3–4.
- 129 'Additional family violence variables were created based on information held in Victoria Police databases. History of family violence was coded based on the presence of prior FVIs involving the same dyad, in addition to information about each index perpetrator's history of FVIs as either a perpetrator or AFM outside of the current dyad. Family violence recidivism was defined as any subsequent FVIs within 12 months that involved the same dyad, regardless of the identity //f the role of the two parties in the FVI': ibid 4–5.
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- 140 Victoria Police, above n 126, 6.
- 141 Ibid.
- 142 Ibid.
- 143 Victoria Police, above n 127, 4.
- 144 Victoria Police, above n 126, 7.
- 145 Ibid 22.
- 146 Ibid 14–15.
- 147 See, eg, Domestic Violence Resource Centre Victoria, Submission 945, 34.
- 148 Melbourne Research Alliance to End Violence Against Women and their Children (Prof Cathy Humphreys et al)—01, Submission 840, Briefing Paper 1, 3.
- 149 Melbourne Research Alliance to End Violence Against Women and their Children (Prof Cathy Humphreys et al)—02, Submission 840, Briefing Paper No 6, 2.
- 150 Berry Street, Submission 834, 37; Domestic Violence Victoria, Submission 943, 11, 19.
- 151 Victoria Police, Submission 923, 38, 40, 43.
- 152 Ibid 43.
- 153 Victoria Police, 'Governance Review of Family Violence' (2014), 16, produced by the State of Victoria in response to the Commission's Notice to Produce dated 5 June 2015.
- 154 Statement of Widmer, 21 July 2015, 24 [105].
- 155 Ibid 25 [108].
- 156 Ibid 24 [106].
- 157 Transcript of McCartney, 23 July 2015, 1331 [23]–1332 [4].
- 158 Statement of Widmer, 21 July 2015, 28 [125].
- 159 Ibid Attachment 17, vi.
- 160 Ibid.
- 161 Ibid Attachment 17, 73.
- 162 Ibid Attachment 17, vi.
- 163 Ibid Attachment 17, 82–3.
- 164 Ibid Attachment 17, vi.
- 165 Ibid 29 [129].
- 166 Ibid.
- 167 Ibid Attachment 17, 60.
- 168 Ibid Attachment 17, 62.
- 169 Ibid.
- 170 Ibid Attachment 17, 65.
- 171 Ibid 30 [130].

- 172 The pilot sites were funded at \$387,188. While a coordinator is funded under both models, the key difference is that the original pilots had 2.6 FTE case management resources attached to the RAMP program, while the statewide rollout reduced this to between 0.5 and 1.5 FTE but expanded the overall capacity of specialist family violence support services with an additional \$2 million in 2015–16, consistent with the RAMPS evaluation: Department of Health and Human Services, 'Question 1. RAMPS Pilot, Review and State-wide Rollout', 1–2, produced by the State of Victoria in response to the Commission's Notice to Produce dated 14 August 2015 (as varied on 20 August and 20 October 2015).
- 173 Department of Health and Human Services, 'Response to Notice to Produce', 3, produced by the State of Victoria in response to the Commission's Notice to Produce dated 20 August 2015.
- 174 Department of Health and Human Services, 'Guidelines for the Establishment and Operation of the Strengthening Risk Management Program: Risk Assessment and Management Panels—Draft' (May 2015), 41, produced by the State of Victoria in response to the Commission's Notice to Produce dated 5 June 2015.
- 175 See, eg, Statement of Widmer, 21 July 2015, 30 [132]; Department of Premier and Cabinet, 'Appendix 2 – Forms' produced by the State of Victoria in response to the Commission's request for information issued on 20 August 2015.
- 176 Department of Premier and Cabinet, above n 175.
- 177 Ibid.
- 178 Statement of Widmer, 21 July 2015, 31 [134].
- 179 Children's Protection Society, Submission 505, 17.
- 180 Northern Metropolitan Region Indigenous Family Violence Regional Action Group, Submission 934, 8.
- 181 Ibid.
- 182 Eastern Domestic Violence Service Inc, Submission 619, 21.
- 183 Ibid.
- 184 Also referred to as 'Extreme Risk Client Strategy': Women's Health West Inc, Submission 239, 19.
- 185 Western Integrated Family Violence Committee, 'High Risk Client Strategy Pilot 2008-2010: Evaluation Report' (November 2013) 6, 55.
- 186 Women's Health West Inc, Submission 239, 19.
- 187 New South Wales Government, NSW Domestic Violence Disclosure Scheme <https://www.women.nsw.gov.au/__data/assets/file/0009/335385/DVDS_Factsheet_Oct-15.pdf>. For former relationships, there must be ongoing contact with the former partner.
- 188 Ibid.
- 189 Relevant offences include personal violence offences committed in a domestic relationship (i.e. domestic violence offences as defined by the *Crimes (Domestic and Personal Violence) Act 2007* (NSW)) and certain specific personal violence offences where they were committed outside of a domestic relationship (such as sexual offences, child abuse offences, or murder). Breaches of apprehended domestic violence orders (equivalent to family violence intervention orders in Victoria) will also be disclosed: *ibid.*
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- 193 Council of Australian Governments, 'The National Plan to Reduce Violence Against Women and Children 2010–2022' (February 2011) 25.
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- 202 Melbourne Research Alliance to End Violence Against Women and their Children (Prof Cathy Humphreys et al)—01, Submission 840, Briefing Paper 1, 25; Stanley and Humphreys, above n 61, 80.
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- 210 Statement of Widmer, 21 July 2015, Attachment 17, 11. Steel, Blakeborough and Nicholas, above n 209.
- 211 Domestic Violence Victoria—02, Submission 943, 3.
- 212 Statement of Widmer, 21 July 2015, Attachment 17, 12.
- 213 Steel, Blakeborough and Nicholas, above n 209.
- 214 Ibid.
- 215 Ibid.
- 216 Home Office (UK), above n 207, 4.
- 217 Stanley and Humphreys, above n 61, 82.
- 218 Ibid.
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- 221 Sarah Golden, Helen Aston and Ben Durbin, 'Devon Multi-Agency Safeguarding Hub: Case-Study Report' (National Foundation for Educational Research, July 2011) 2.
- 222 Stanley and Humphreys, above n 61, 82.
- 223 Berry Street, Submission 834, 20.
- 224 See, eg, Statement of Ogloff, 20 July 2015, 11 [46]; Statement of Plunkett, 20 July 2015, 7 [31]; Women with Disabilities Victoria, Submission 924, 16–17.

225 Domestic Violence Resource Centre Victoria, Submission 945, 35; Domestic Violence Victoria—02, Submission 943, 16.

226 Domestic Violence Resource Centre Victoria, Submission 945, 35.

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232 Domestic Violence Resource Centre Victoria, Submission 945, 38.

233 EMR Regional Family Violence Partnership and Together For Equality and Respect, Submission 464, 8–9.

234 Domestic Violence Victoria—02, Submission 943, 16.

235 Domestic Violence Resource Centre Victoria, Submission 945, 29.

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238 Domestic Violence Resource Centre Victoria, Submission 945, 38.

239 Catherine Plunkett, 'Trust and Safety, Risks and Opportunities' (2014) 2 *Domestic Violence Resource Centre Victoria Advocate* 1, 6.

240 State of Victoria, Submission 717, 42.

241 Coroners Court of Victoria, above n 4, 94 [519].

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243 Statement of Widmer, 21 July 2015, Attachment 17, 88.

244 Statement of Plunkett, 20 July 2015, [43].

245 Statement of Widmer, 21 July 2015, 20 [84].

246 Ibid Attachment 17, 88.

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249 Statement of Plunkett, 20 July 2015, 13 [65].

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253 Melbourne Research Alliance to End Violence Against Women and their Children (Prof Cathy Humphreys et al)—01, Submission 840, Briefing Paper 1, 8; Domestic Violence Resource Centre Victoria, Submission 945, 6.

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255 Domestic Violence Victoria—04, Submission 943, 17.

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268 Kirkwood, above n 263, 63.

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 291 Ibid 1251 [12]–[16].
 292 Ibid [6]–[8].
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 294 Northcott, above n 12, 12.
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 296 Transcript of Humphreys, 23 July 2015, 1243 [7].
 297 Transcript of Humphreys, 23 July 2015, 1242 [21]–1241 [3]; Melbourne Research Alliance to End Violence Against Women and their Children (Prof Cathy Humphreys et al)—01, Submission 840, Briefing Paper 1, 4.
 298 Coroners Court of Victoria, above n 4, 80 [443].
 299 Melbourne Research Alliance to End Violence Against Women and their Children (Prof Cathy Humphreys) Submission 840, Briefing Paper 1, 8.
 300 Coroners Court of Victoria, above n 4, 103–5.
 301 Ibid 88 [489], 95 [526], 104–6.
 302 The Hon Daniel Andrews MP, above n 125, 1.
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 304 Statement of Plunkett, 20 July 2015, 10 [48].
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 307 Darebin City Council, Submission 222, 7.
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 318 Statement of Reaper, 17 July 2015, 6 [30].
 319 Melbourne Research Alliance to End Violence Against Women and their Children (Prof Cathy Humphreys et al)—01, Submission 840, Briefing Paper 2, 2.
 320 Transcript of Vlasis, 24 July 2015, 1480 [13]–[18].
 321 See, eg, Melbourne Research Alliance to End Violence Against Women and their Children (Prof Cathy Humphreys et al)—01, Submission 840, Briefing Paper 2, 6–7.
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 323 No To Violence; Men's Referral Service, Submission 944, 16.
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 337 Statement of Widmer, 21 July 2015, 31 [136], 12–18.
 338 Coroners Court of Victoria, above n 4, 104.
 339 Statement of Widmer, 31 July 2015, 13 [51]–[52].
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 349 The Commission considered the option of setting out the roles and responsibilities, standards and practices in subordinate legislation but, because this remains subject to a range of requirements and processes, empowering the relevant minister/s or secretary/s to approve this content is more flexible and efficient.
 350 As discussed in Chapter 7 the particular organisations to be prescribed will need be determined by thorough analysis. The Commission's view, however, is that they should be similar to the bodies currently able to share information under Part 3.2 of the *Children, Youth and Families Act 2005* (Vic). These bodies must be registered 'community services' and cover a wide range of social services including homelessness, health, disability, drug and alcohol and mental health services.
 351 Transcript of Maguire, 13 October 2015, 3397 [12]–3398 [18].

352 See Domestic Violence Resource Centre Victoria, Submission 945, 38.

353 The Hon Daniel Andrews MP, above n 125, Attachment 1, 3.

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355 That is, 18,965 informal referrals for victims out of total police referrals for victims of 30,410 in 2009–10 (62.4 per cent) and 7407 informal referrals for victims out of total police referrals for victims of 59,035. See Crime Statistics Agency, 'An Overview of Family Violence in Victoria: Findings from the Victorian Family Violence Database 2009–10 to 2013–14' (January 2016) Victoria Police Data source, Tab 1, Table 1: Family Incidents Recorded and Family Incident Rate per 100,000 Population, July 2009 to June 2014; Tab 31, Table 31: Referrals made by Victoria Police by Police Region and Gender of the Affected Family Member, July 2009 to June 2014, provided to the Commission by the Crime Statistics Agency, 30 September 2015.

356 That is, 11,837 informal referrals for perpetrators out of total police referrals for perpetrators of 18,134 in 2009–10 (65.3 per cent) and 9031 informal referrals for perpetrators out of total police referrals for perpetrators of 52,609 (17.2 per cent).

357 Victoria Police, above n 130.

358 'If such an administrative override were introduced, the effect on referrals to the FVT would be profound. Adding the override reduced the discriminatory ability of the VP-SAFvR:SV substantially, AUC = 0.57 (95%CI = .56-.57), with the primary effect being to reduce the specificity so that there was only a 34% chance of correctly identifying cases where there were no further FVIs'. Ibid 10–11.

359 Victoria Police, above n 127, 11.

360 Ibid 11–12.

361 For discussion of primary aggressor and L17 referrals see Women's Health West Inc, Submission 239, 38.

362 Victoria Police, above n 126, 10.

363 Erin Mackay et al, 'Perpetrator Interventions in Australia: Key Findings and Future Directions' (Compass Issue PP01, Australia's National Research Organisation for Women's Safety, November 2015).

364 Joudis et al, above n 25, 384.

365 Jane Wangmann, *Violent Offenders Registers Sound Good, But Are a Costly, Unproven Distraction* (2015) The Conversation <<http://theconversation.com/violent-offenders-registers-sound-good-but-are-a-costly-unproven-distraction-44182>>.

366 The Commission sees this approach as essential to the RAMPs success, and requires the explicit, formal endorsement and ongoing commitment of relevant Ministers and government departments. Precedents include the UK, where the Home Office, building on the work of CAADA, provided an authorising environment, support and resources, for the operation of the Multi-Agency Risk Assessment Committees since 2002.

367 Statement of Widmer, 31 July 2015, 4 [17].

7 Information sharing

Introduction

Organisations within the family violence system and organisations that otherwise provide services to victims or perpetrators of family violence collect and use a wide range of personal information for a variety of purposes. Effective and appropriate sharing of that information is crucial, playing a significant role in keeping victims safe and holding perpetrators to account. The consequences when information is not shared can be catastrophic.

Despite the significant role of information sharing in responding to family violence, there are a number of barriers that mean information is not shared as effectively as it could be. Improving information-sharing practices is a vital next step in the development of Victoria's family violence system.

In this chapter the term 'information sharing' describes not only a situation in which an organisation or individual provides information to another organisation or individual. It also describes the exchange of information within organisations—for example, between different business units in a large government department. In each instance of information sharing, organisations will collect, use and disclose information.

The first section of this chapter outlines the legislation and policies that govern information sharing in Victoria. It discusses the complex legislative environment that family violence professionals must navigate and the enormous volume of legislation relevant to information sharing, including both general privacy legislation and other, subject-specific Acts that contain relevant confidentiality and secrecy provisions. Some pieces of Victorian legislation establish specific information-sharing regimes, while Commonwealth legislation is also relevant in some instances. This section then goes on to discuss obligations that fall outside legislation, such as policies and formal information-sharing arrangements (such as memorandums of understanding or protocols).

The next section of the chapter looks at the evidence heard by the Commission in relation to current information-sharing practices. The Commission received evidence that information is not, at present, routinely or systematically shared within the family violence system. This includes different agencies sharing information about perpetrator risk, men's and women's services sharing information, and sharing information with victims. Even where legislation or policy facilitates information sharing, the complexity of the legislative environment means organisations do not fully understand their obligations and are consequently reluctant to share information.

Barriers to information sharing are then examined, with the Commission identifying three key themes which affect agencies' ability, or willingness, to share information: the fact that legislation and policy governing information sharing are complex, confusing and restrictive; the lack of an information-sharing culture and leadership in regards to sharing family violence risk information; and reliance on outdated IT systems.

Finally, the Commission outlines a way forward. In relation to legislative reform, it assesses several possible options before outlining its preferred approach: to create a specific family violence information-sharing regime under the *Family Violence Protection Act 2008* (Vic). This regime is intended to provide clear authority for prescribed organisations to share information. It outlines a number of guiding principles and design elements for the new regime. Noting that legislative change alone will not create a culture of information sharing throughout the family violence system, the Commission then recommends a means to develop an information-sharing culture, including producing guidance materials and developing an awareness campaign. The Commission also recommends the establishment of a Central Information Point, to provide up-to-date information to assist risk assessment and risk management. In relation to IT systems, the Commission recommends measures for improving outdated IT systems to enhance agencies' abilities to share information.

These recommendations support the Commission's recommendations relating to keeping the perpetrators of family violence in view and accountable. There should be a rebalancing of the way in which organisations view information sharing, to ensure that concerns about privacy do not outweigh concerns about safety. The current barriers to sharing information about perpetrators of family violence must be removed so that risks to the safety of victims can be managed.

Context

Types of information and organisations

Organisations within the family violence system and organisations that provide other services to victims or perpetrators of family violence collect and use a wide variety of personal information for a variety of purposes. This information can be about victims of family violence (including children) or perpetrators or both.¹

For example, Victoria Police provides copies of the L17 form (the family violence risk assessment and management report) to specialist family violence services after attending a family violence incident.² Victoria Police, the Department of Education and Training, the Department of Health and Human Services, and many other organisations may disclose information to Child Protection, Child FIRST or Integrated Family Services for the purpose of identifying and responding to children at risk of harm. Table 7.1 shows examples of some of the information different organisations might collect and use in the context of family violence.

Table 7.1 Information collected and used in the context of family violence³

Organisation		Information	
Department of Health and Human Services (including through contracted service providers) ⁴	Specialist family violence services	Women's services	Identifying information about victims, children and perpetrators, including names, dates of birth, genograms, places of residence, employment status, cultural identities, visa status and disabilities. In addition to identifying information, services will have information about risk factors recorded on risk assessments and safety plans (including behaviour of the perpetrator and other information communicated by the victim), and current and previous case management services provided to the victim or referrals made.
		Men's services	Identifying information and risk assessments. Information about perpetrators' participation, attendance and progress in behaviour change programs, previous partners and children from other relationships, parenting status and risk factors will be more detailed.
	Child protection, Child FIRST or Integrated Family Services	Identifying information and current and previous involvement of children in care of victims or perpetrators, including age, living arrangements, contact information, and schools children attend. Details about reported concerns for safety and wellbeing of children, including in relation to family violence. Information collected during consultations and investigations. Current and previous involvement with victims or perpetrators as children or young people. Information about child protection orders.	
	Mental health services	Identifying information and current and previous mental health problems of victims (including children) and perpetrators and any treatment services provided.	
	Alcohol and drug treatment services	Identifying information and current and previous information about alcohol or drug use and treatment services provided to victims or perpetrators, or both.	
	Housing and homelessness services	Identifying information and residency information about victims (including children) and perpetrators. Current and previous housing services responses provided.	
	Health-care services (community health or hospitals)	Identifying information and health information about victims (including children) and perpetrators—for example, medical conditions, injuries, and hospital and emergency department admissions.	
	Sexual assault support services	Identifying information and information about previous and current sexual assaults, investigations, support services provided and referrals made.	
	Disability services	Identifying information and information about disability and current and previous disability services provided to victims (including children) or perpetrators.	
Private health service providers (such as GPs)		Identifying information and health information about victims (including children) and perpetrators.	
Victoria Police		Identifying information about victims, perpetrators and witnesses (including children); health information such as information about a person's mental health or use of drugs and alcohol; criminal record information, including existing commitments such as bail conditions or intervention order conditions; other information about perpetrators, including their propensity for violence, apparent drug or alcohol misuse or access to weapons, which can affect the level of risk posed by them; and information relating to court orders. ⁵	
Corrections Victoria		Identifying information and what behaviour-management programs the offender has participated in while in prison or while subject to a community correction order; information relating to criminogenic risk factors for the offender, such as whether there has been an increase in substance use, unstable mental health, unemployment or homelessness, and the identity of people with whom the offender is associating. ⁶	
Department of Education and Training		Identifying information and information about children and their parents, including early childhood and school enrolment and attendance data, participation in school-based programs, incident reports and referrals to other services (such as Victoria Police or Child Protection) and information collected by the Victorian Maternal and Child Health Service. ⁷	

Organisation	Information
Magistrates' Court of Victoria	Identifying information, intervention orders, information contained in evidence and court documents, transcripts and audio recordings of court proceedings, ⁸ reports drafted for court proceedings, records of interactions with court staff, including risk assessments—for example, applicant and respondent support workers.
Children's Court	Identifying information and information from the Department of Health and Human Services in relation to protection applications, child protection orders, information contained in evidence and court documents, audio recordings of court proceedings, ⁹ reports drafted for court proceedings, records of interactions with court staff.
Family Court or Federal Circuit Court	Identifying information and information related to family law proceedings, including parenting and financial orders, injunctions, transcripts and audio recordings of court proceedings, expert reports drafted for court proceedings, including by family consultants, and notice of risk forms.

It appears no comprehensive assessment has been conducted to date of the types of information collected, used and disclosed by organisations responding to family violence or of important information flows within the family violence system.¹⁰ This situation is complicated by a lack of coherence about the respective roles and responsibilities of different organisations and practitioners.¹¹

The importance of sharing information

Maximising responses to family violence

Many submissions and witnesses stressed how important information sharing is to keeping victims safe.¹² Mr Scott Widmer, Executive Director, Service Design and Operations Division of the Department of Health and Human Services, gave evidence to the Commission that information sharing serves two central purposes in this context:

First, it is necessary to assess and manage the risk to a victim's safety and, in particular, to prevent or reduce the risk of further harm. This includes sharing information about perpetrators to hold them accountable for their behaviour. Secondly, information sharing through case management and the co-ordination of services assists victims to recover from family violence and perpetrators to change their behaviour.¹³

The Family Violence Risk Assessment and Risk Management Framework (referred to as the Common Risk Assessment Framework, or CRAF), provides an explanation of why information sharing is important:

Sharing information helps to ensure that victims of family violence receive support and assistance in a timely and effective manner; increases the safety of victims; and promotes accountability of perpetrators.

Sharing information between services helps to enhance protection for women and children when they are vulnerable. It also enables earlier intervention and prevention strategies to be implemented, by enhancing case management and coordination, and providing services with clearer roles and expectations for service provision.

Importantly, sharing information helps people to feel confident that their situation is understood and is being managed across a range of service providers; it also means they do not have to repeat personal and sensitive information and possibly be subjected to further trauma.¹⁴

Speaking from the perspective of a specialist family violence service, Ms Bernadette McCartney, Executive Manager of Bethany Community Support, emphasised that obtaining information about a perpetrator 'has real importance in terms of safety planning'.¹⁵

In its written submission, the Coroners Court of Victoria identified the potentially catastrophic consequences that can result when information sharing does not occur:

Assisting persons exposed to family violence (as perpetrators and/or victims) relies on detection by appropriately skilled professionals with a mandate to respond. In conducting in-depth reviews of service contacts amongst persons involved in family violence homicides, the [Coroners Court of Victoria] has identified family violence-related contacts with a number of government and non-government entities across the legal, health and community setting. In many instances important information about the occurrence of family violence was not sought and/or shared between these entities. Had the pattern and nature of contacts amongst both parties to the homicide been available to all services involved, the level and nature of risk may have been assessed differently and points of intervention may have been more clearly identified, which may have changed the outcome.¹⁶

This view was reiterated in the coronial inquest into the death of Luke Batty. In response to Ms Rosie Batty's submission that there were many 'red flags' indicating that the level of risk posed by Mr Anderson was escalating, The former State Coroner, Judge Ian Gray stated:

The point of the submission is that the system—the agencies assisting or working with Ms Batty—did not collectively, in real time, know and share and consolidate the [discrete] pieces of information applicable to her situation. This is a fundamental point. Real time updated information sharing between agencies (including Victoria Police) is a key element in a fully integrated system, and in my view, is a necessary precursor to interventions which can be taken to promote safety and save lives ...¹⁷

Judge Gray added:

Despite Ms Batty's numerous contact with the Courts, the police, the DHS, various counsellors, and her various treating medical practitioners her evidence was that she felt alone. Ms Batty's experience was that:

There seemed to be no sharing of information I had supplied or police had gathered across from Victoria Police, the Family Court, the Magistrates' Court and DHS. As all these agencies have responsibilities including protecting women and children, I would have thought they would be capable of sharing relevant information to save time, improve responses and protection.

I agree with Ms Batty that there was an absence of effective information sharing between services and there was no comprehensive family violence risk assessment undertaken and shared.¹⁸

The Victorian Government has accepted all of the recommendations made by Judge Gray, including those about information sharing.¹⁹ The Commission notes that, in response to the coroner's recommendations, the Department of Premier and Cabinet has started a review of legislative and policy impediments to sharing relevant information between agencies in relation to a person at risk of family violence. The department opened a tender process in January 2016 to select a provider to undertake the review. The selected reviewer will be required to recommend options that can be implemented by the Victorian Government to remove these impediments, but will not be required to implement any of these recommendations.²⁰

Appropriate information sharing

The Commission heard that, although information sharing is important, it must also be done appropriately because victims have a right to privacy, especially at a time when they are vulnerable.²¹ The Commissioner for Privacy and Data, Mr David Watts, submitted:

The need to identify, reduce and prevent family violence, and ensure the safety of individuals affected by family violence requires integration and coordination between various organisations. This will regularly involve the sharing of sensitive personal information. Having the ability to share *the right information with the right people at the right time for the right purpose* will significantly supports [sic] better outcomes by protecting those at risk.²²

In addition to infringing privacy rights, inappropriate information sharing can have negative practical consequences for victims of family violence. For example, if victims feel their information is being shared inappropriately, they might lose confidence in the family violence system. A loss of confidence or trust can limit a victim's willingness to report family violence in the first place or to seek help in the future.²³ The Commission was told that, additionally, a failure to share information properly or to protect the security of information can actually increase the risk of family violence—for example, if information is inappropriately disclosed to a perpetrator or to someone who might tell the perpetrator.²⁴

It was also noted that there is a need to strike a suitable balance between the information sharing necessary to respond to family violence and the privacy rights of both victims and perpetrators.²⁵

Current law and policy

This section outlines what the Commission was told about current legislation and policy, organisational factors and technological capacities that affect information sharing in the family violence system.

Victorian legislation

Broadly, two types of legislation govern information sharing in Victoria—default information privacy laws and subject-specific legislation that contains confidentiality or secrecy provisions or provides for specific information-sharing regimes. There are also a number of formal information-sharing arrangements and policies of relevance to family violence.

The *Charter of Human Rights and Responsibilities Act 2006* (Vic) protects rights to privacy, although there is no general right to privacy at common law.²⁶ If an organisation proposes to share information about a specific individual, privacy rights must be considered. As the Commissioner for Privacy and Data Protection noted, however, it is clear that:

... the right to privacy does not trump the right to personal safety. Victoria's privacy laws are written to reflect that. Tragedies should not occur as a result of a misunderstanding of privacy legislation.²⁷

Information privacy

The Commissioner for Privacy and Data Protection informed the Commission that 'information privacy' refers to 'the right of individuals to determine for themselves when, how, and to what extent their personal information is shared with others'.²⁸ The *Privacy and Data Protection Act 2014* (Vic) and the *Health Records Act 2001* (Vic) govern information privacy and are 'default legislation'; that is, they apply unless they are inconsistent with any other Act.²⁹

The Privacy and Data Protection Act applies to ‘personal information’,³⁰ whereas the Health Records Act applies to ‘health information’.³¹ The legislation does not regulate the handling of information that is already publicly available—for example, information in a telephone directory or newspaper or on a website or the published reasons of a court.³²

Despite applying to different types of information, each Act regulates the handling of information by establishing a number of privacy principles, known as Information Privacy Principles under the Privacy and Data Protection Act, and Health Privacy Principles under the Health Records Act. An organisation subject to the IPPs or HPPs must not do an act or engage in a practice that contravenes these principles.³³ The Privacy and Data Protection Act and the Health Records Act apply to ‘public sector organisations’, which includes ministers, government departments, local councils, statutory authorities, courts and tribunals (except in relation to their judicial or quasi-judicial functions), Victoria Police, hospitals, and contracted service providers.³⁴ The Health Records Act also applies to any private sector organisation that provides a health service in Victoria or collects, holds or uses health information.³⁵

Organisations subject to either or both Acts have important roles in the family violence system and in responding to family violence. With the exception of the federal courts, each organisation listed in Table 7.1 is subject to either the Privacy and Data Protection Act, or the Health Records Act, or both Acts (either directly or as a contracted service provider).³⁶

The first principle of both the IPPs and HPPs relates to collection of information, and provides that an organisation must not collect personal information unless the information is necessary for its functions or activities.³⁷ It also deals with *how* information can be collected, including that it must be done in a fair and lawful way and where possible, collected directly from the individual to whom the information relates.³⁸

A further key feature of appropriate information sharing is the IPP and HPP prohibition on using or disclosing information for a purpose other than the one for which the information was collected—known as the ‘primary purpose rule’.³⁹ The primary purpose for collecting the information is determined by an organisation’s overall legislated purposes and functions.⁴⁰ Mr Widmer told the Commission that an organisation’s enabling legislation will determine what information it can collect and use in order to fulfil its functions and whether disclosure of such information would be for a purpose other than the primary purpose.⁴¹

The primary purpose rule is not absolute, however. Both the Privacy and Data Protection Act and the Health Records Act permit information to be shared for a secondary purpose in a number of circumstances, including, for example, where:

- ▶ The secondary purpose is related to the primary purpose (or directly related in the case of sensitive or health information) and the individual would reasonably expect the organisation to use or disclose the information for the secondary purpose.⁴²
- ▶ The individual has consented to the use or disclosure of the information.⁴³
- ▶ The use or disclosure of the information is required or authorised by or under law.⁴⁴
- ▶ An organisation has reason to suspect that unlawful activity has been, is being or may be engaged in and uses or discloses the personal information as a necessary part of its investigation of the matter or in reporting its concerns to relevant individuals or authorities.⁴⁵
- ▶ An organisation reasonably believes that the use or disclosure of the information is reasonably necessary for specified law enforcement purposes.⁴⁶

In evidence before the Commission, the exemption to the primary purpose rule that was the subject of most comment is known as the ‘serious and imminent threat exemption’. This exemption permits an organisation to use or disclose information for a secondary purpose if ‘the organisation reasonably believes that the use or disclosure is necessary to lessen or prevent a serious and imminent threat to an individual’s life, health, safety or welfare’.⁴⁷

Under the Privacy and Data Protection Act there are also multiple exemptions from compliance with the IPPs for ‘law enforcement agencies’.⁴⁸ This means that Victoria Police, other state and territory police and federal police (and other agencies responsible for the performance of functions or activities directed at the prevention, detection, investigation, prosecution or punishment of criminal offences or breaches of a law imposing a penalty or sanction) are not required to comply with the IPPs if the law enforcement agency believes on reasonable grounds that non-compliance is necessary:

- ▶ for the purposes of one or more of its or any other law enforcement agency’s law enforcement functions or activities; or
- ▶ in connection with the conduct of proceedings commenced or about to be commenced in any court or tribunal.⁴⁹

Additionally, the Privacy and Data Protection Act contains several flexibility mechanisms that allow for departures from the IPPs if this would be in the public interest.⁵⁰ This includes the following:

- ▶ temporary public interest determinations
- ▶ public interest determinations
- ▶ information usage arrangements.⁵¹

Similarly, other mechanisms—namely, codes of practice and certification—can clarify the application of the IPPs in certain circumstances.⁵² The procedures required for organisations to take advantage of these mechanisms vary, but each involves applying to or coordinating with the Commissioner for Privacy and Data Protection. The Health Records Act does not contain the flexibility mechanisms included in the Privacy and Data Protection Act.

Data security

The Privacy and Data Protection Act also governs data security. Under Part 4 of the Act the Commissioner for Privacy and Data Protection is obliged to develop the Victorian protective data security framework for monitoring and assuring the security of ‘public sector data’.⁵³ The Commissioner may issue standards, consistent with the framework, known as ‘protective data security standards’.⁵⁴ Draft Victorian Protective Data Security Standards have been developed and are expected to come into effect in July 2016.⁵⁵ Under Standard 15, which relates to information sharing, public sector organisations are required to develop secure information-sharing practices to prevent the unauthorised sharing of public sector data.⁵⁶

The Commissioner for Privacy and Data Protection has also issued standards for law enforcement data security, or SLEDs, pursuant to Part 5 of the Privacy and Data Protection Act.⁵⁷ The SLEDs apply only to Victoria Police and the Chief Statistician, along with his or her employees or consultants.⁵⁸ The Commissioner for Privacy and Data Protection told the Commission:

Chapter 4 of the SLEDs applies to the release, or disclosure, of law enforcement data. Standard 11 provides that release of law enforcement data must only occur if that disclosure is authorised and Victoria Police must ensure that agreements with approved third parties include the requirement that release of law enforcement data must only occur if it is authorised. Underneath this standard, there are several protocols which represent the minimum mandatory requirements to be addressed, in order to meet each standard. Protocol 11.1 provides that users must not release any information except where the release or communication of that information is authorised by law and/or Victoria Police policy.⁵⁹

Assistant Commissioner Wendy Steendam, Information, Systems and Security Command (now Deputy Commissioner) and Senior Sergeant Ailsa Howard, Senior Supervisor, Security Incident Register, explained to the Commission that the SLEDs requirements directly affect information sharing by Victoria Police.⁶⁰

Secrecy and confidentiality provisions

Privacy legislation is only one part of the complex legislative environment family violence professionals must navigate when seeking to share information.⁶¹ In addition to information privacy and data protection legislation:

... individual pieces of legislation contain provisions that limit, restrict or prohibit the use or disclosure of information, including personal information. By virtue of section 6(1) of the [Privacy and Data Protection Act], these provisions operate to the exclusion of the [Privacy and Data Protection Act]. Typically these provisions take the form of confidentiality or secrecy provisions.⁶²

The Commission heard evidence from Mr Widmer about several of these subject-specific Acts that apply to the Department of Health and Human Services—among them are the *Children, Youth and Families Act 2005* (Vic); the *Disability Act 2006* (Vic); the *Mental Health Act 2014* (Vic); the *Public Health and Wellbeing Act 2008* (Vic); the *Health Services Act 1988* (Vic); and the *Housing Act 1983* (Vic).⁶³

Mr Andrew Reaper, Deputy Commissioner, Offender Management, at Corrections Victoria, outlined the specific provisions of the *Corrections Act 1986* (Vic) that govern the disclosure of personal or confidential information held by corrections organisations.⁶⁴ He noted that a range of other Victorian legislation—such as the *Serious Sex Offender (Detention and Supervision) Act 2009* (Vic) and the *Sentencing Act 1991* (Vic)—is also relevant to the disclosure of information by Corrections Victoria.⁶⁵

Assistant Commissioner Steendam and Senior Sergeant Howard explained that ‘at State level there are a number of statutes governing the way Victoria Police engages in information sharing’.⁶⁶ These include, in addition to the information privacy legislation and the *Children, Youth and Families Act*, the *Victoria Police Act 2013* (Vic) and the *Sex Offenders Registration Act 2004* (Vic).⁶⁷ Victoria Police also provided the Commission with an extensive list of those pieces of legislation that affect specific or specialised information-sharing activities undertaken by Victoria Police, or apply to discrete forms or types of law enforcement data, including among others the *Coroners Act 2008* (Vic), the *Crimes (Assumed Identities) Act 2004* (Vic) and the *Surveillance Devices Act 1999* (Vic).⁶⁸

The Magistrates’ Court noted that it is subject to provisions governing sharing of information in the *Family Violence Protection Act*, while the Children’s Court is subject to similar provisions under the *Children, Youth and Families Act*.⁶⁹ These provisions are discussed in Chapter 16.

In addition to setting out the statutory and other functions of parts of the Department of Health and Human Services, Corrections Victoria and Victoria Police, these pieces of legislation contain specific confidentiality and secrecy provisions, that can override the IPPs and HPPs. Table 7.2 provides examples of such provisions.

Table 7.2 Victorian secrecy and confidentiality provisions relevant to family violence: some examples

Legislation	Section	Description
<i>Mental Health Act 2014</i> (Vic)	346	A mental health service provider and their staff (including past and present contractors, volunteers and board members) must not disclose health information about a consumer, subject to certain exemptions. A penalty is imposed for unauthorised disclosure.
<i>Children, Youth and Families Act 2005</i> (Vic)	36(5)	A community-based child and family service may consult with a number of organisations for the purpose of assessing a risk to a child or making a referral. If a service receives information through consultation, it must not disclose that information to any other person (unless it is permitted to do so under the Act). A penalty is imposed for unauthorised disclosure.
	205(2)(b)	A protective intervener (Child Protection or police officer) who is investigating the subject matter of a report must not disclose any information arising from the investigation to anyone (other than certain people listed in the Act—for example, a court). No penalty is imposed for unauthorised disclosure.
<i>Corrections Act 1986</i> (Vic)	104ZZA	It is an offence for a relevant person ⁷⁰ (or someone who has previously been a relevant person) to use or disclose personal or confidential information about a prisoner unless the use or disclosure is reasonably necessary for listed reasons, including: <ul style="list-style-type: none"> ▶ the administration of corrections legislation ▶ law enforcement ▶ to lessen or prevent a serious and imminent risk to a person's life, health, safety or welfare or to public health ▶ with the authorisation or at the request of the relevant individual ▶ to ensure the proper care or housing of a person who is or is likely to be provided with services by or on behalf of the Department of Health and Human Services ▶ to a person included on the Victims Register in certain circumstances ▶ if the use or disclosure is specifically authorised or required by or under the Corrections Act or any other Act.⁷¹
<i>Victoria Police Act 2013</i> (Vic)	227	It is a summary offence to, without reasonable excuse, gain access to, use or disclose 'police information' if it is the member's duty not to gain access to, use or disclose that information. 'Police information' is broadly defined in section 225 to mean any information that has come to the knowledge or into the possession of the member in the performance of functions or duties or the exercise of powers as a member of Victoria Police personnel or otherwise as a result of being a member of Victoria Police personnel. The maximum penalty for the offence is imprisonment for two years. A contravention of this section is also a breach of discipline. ⁷²

Information-sharing regimes

Some pieces of Victorian legislation establish specific information-sharing regimes to achieve particular purposes. For example, Part 3.2 of the *Children, Youth and Families Act* contains an information-sharing regime that provides for referrals, intake and assessment, family engagement and service provision where there is 'a significant concern for the wellbeing of the child'.⁷³ The legislation provides that child protection, Child FIRST and family services workers can consult a wide range of organisations for the purposes of assessing a risk to a child or determining which service should be used to assist the child or the family.⁷⁴ The *Children, Youth and Families Act* provides clear authorisation for collection and disclosure of information for these purposes.⁷⁵ Family violence services funded by the Department of Health and Human Services are included in the information-sharing regime.⁷⁶

Another example is the *Human Services (Complex Needs) Act 2009* (Vic), which makes provision for the Secretary of the Department of Health and Human Services to obtain personal information and health information about a person with multiple and complex needs for the purpose of developing a care plan for that person.⁷⁷ The individuals and entities authorised to disclose this information to the Secretary are set out in the Act.⁷⁸

Commonwealth legislation

Although the *Privacy Act 1998* (Cth) was not the subject of extensive evidence, the Commission notes that the Privacy Act applies to information sharing in the context of family violence. The Privacy Act requires Commonwealth public sector agencies (such as Centrelink) and some private sector entities to comply with the Australian Privacy Principles, which are similar to the Information Privacy Principles under the Privacy and Data Protection Act.⁷⁹

Among the private sector organisations to which the APPs apply are individuals, bodies corporate, partnerships, and any other unincorporated associations or trusts, with an annual turnover of \$3 million or more, or that provide a health service and hold health information other than in an employee record.⁸⁰ This means that many large non-government organisations working to respond to family violence, or social disadvantage more broadly, must comply with the APPs. For example, the websites of Safe Steps Family Violence Response Centre and Berry Street and organisations providing a health service (such as St Vincent's Health Australia) explain that these organisations must comply with the APPs.⁸¹

Additionally, the *Family Law Act 1975* (Cth), the *Family Law Rules 2004* (Cth) and the *Federal Circuit Court Rules 2001* (Cth) contain provisions governing access to court records and the disclosure of information by the Family Court and the Federal Circuit Court in relation to child protection and family violence.⁸² These provisions are discussed in Chapters 11 and 24.

In summary, the Commission heard there are a number of pieces of legislation that are potentially relevant to information sharing in the context of family violence. Restrictions on information sharing are contained in the 'default' information privacy legislation or in subject-specific legislation. Specific information-sharing regimes may also apply. As a result, organisations involved in responding to family violence (such as Victoria Police) can be subject to multiple layers of legislation, sometimes in relation to the same information.

Formal information-sharing arrangements and policies

In addition to legislation governing information sharing, organisations must take account of the requirements of various policies and formal information-sharing arrangements (such as memorandums of understanding or protocols) that apply to them. The Commission heard there are multiple information-sharing protocols and memorandums of understanding that can apply directly or indirectly in the context of family violence.⁸³

The Department of Health and Human Services has entered into at least 18 protocols or memorandums of understanding relating to information sharing in connection with family violence; it has 13 protocols with Victoria Police alone.⁸⁴ Corrections Victoria has nine memorandums of understanding and protocols in operation to facilitate relevant information sharing, including with Victoria Police and DHHS.⁸⁵

The Department of Justice and Regulation produced to the Commission a number of memorandums of understanding and protocols which govern information sharing between it and other bodies, while the Department of Education and Training identified several different protocols and guidelines that applied to it.⁸⁶

Victoria Police nominated the Family Violence Referral Protocol between the Department of Health and Human Services and Victoria Police 2015⁸⁷ (which sets out the approach to informal and formal referral pathways between police and DHHS-funded family violence services) and the Protecting Children: Protocol between Department of Human Services—Child Protection and Victoria Police⁸⁸ (which outlines permitted information exchange between Victoria Police, Child FIRST and Child Protection) as the primary documents governing the relationship between Victoria Police and other government agencies in relation to family violence.⁸⁹

Mr Widmer explained to the Commission that these types of documents, known by a variety of names, contain commitments given by agencies at the most senior level.⁹⁰ He noted that the Department of Health and Human Services has:

... set up a range of protocols that guide how that information sharing should occur and seek to explain what that mandate is and how that works in practice, but even those protocols can be challenging because at its core the legislative basis is complicated.⁹¹

The Commission understands that below these high-level protocols and memorandums of understanding sit specific policies and guidelines, which provide operational guidance for front-line workers. One family violence-related example is an information sharing fact sheet produced by the Office of Women's Policy in 2010.⁹²

Additionally, Mr Widmer told the Commission that practice in relation to information sharing is also influenced by the CRAF and the Code of Practice for Specialist Family Violence Services for Women and Children.⁹³ There appears, however, to be little explicit guidance on information sharing in the code, with only one short section dealing with 'Exchange of information'.⁹⁴ The code also advises specialist family violence workers to ask the person requesting information (for example, an employee of a government department) for the legislation that supports their request and expects these workers to be familiar with the various pieces of legislation just outlined.⁹⁵

The Commission was also referred to the No To Violence minimum standards, and extensive Victoria Police guidance material as examples of policies relevant to information management and information sharing.⁹⁶ The Commission received, however, little evidence about how such agreements operate or how policies are actually applied, both within organisations and throughout the entire family violence system.

Current information-sharing practices

The Commission heard evidence that at present, information is not routinely or systematically shared within the family violence system.⁹⁷

Information about perpetrators

A consistent theme in evidence was the lack of information sharing about perpetrators of family violence, which is said to leave victims vulnerable. Domestic Violence Victoria stated:

Family violence workers report that detailed information about perpetrators is not routinely shared between the relevant agencies. Family violence agencies often know more about the perpetrator than the police based on what the woman has told them; effective information sharing can be contingent upon personal relationships with police who will share info if there is an established positive working relationship.⁹⁸

No To Violence and the Men's Referral Service submitted:

Information related to perpetrator dangerousness is shared inconsistently between agencies responsible for managing risk, due to the lack of a strengthening risk management framework, inadequate database investment, and the siloed nature of service delivery.⁹⁹

Mr Widmer told the Commission that the sharing of information about perpetrators is likely to be limited because the primary basis for information collection under the CRAF is consent and 'in most cases seeking consent from the perpetrator is either unsafe or unfeasible, given that it may result in the escalation of risk to the victim'.¹⁰⁰ He added that this means a family violence agency would not routinely obtain the following:

- the perpetrator's criminal record and whether there are any outstanding warrants for his arrest;
- details of any prior contact the perpetrator has had with police in relation to family violence (eg previous L17 referrals);
- details of any contact the perpetrator has had with child protection or Child FIRST/ family services, including whether he had been determined to be a person responsible for harm;

- any history of drug and alcohol or mental health conditions that the perpetrator may have that is relevant to his risk of violence;
- details of any relevant court orders (such as intervention orders) that the perpetrator may be subject to or have breached in the past;
- advice from Corrections Victoria about the perpetrator if he is receiving a corrections service; and
- details of previous family violence risk assessments that have been conducted by other agencies in respect of the perpetrator.¹⁰¹

Victoria Police explained that it 'does not provide women's referral services with the perpetrator's information, nor does it provide perpetrator referral services with the victim's information'.¹⁰²

As Assistant Commissioner Steendam and Senior Sergeant Howard noted:

We are aware that victims' referral agencies are concerned that they do not receive the parts of the L17 regarding the perpetrator, which they regard as relevant for risk assessment purposes. In Victoria Police's view, this information, especially that relating to prior criminal convictions or investigations, is sensitive personal information. The disclosure of this information to referral agencies not capable of complying with the SLEDs would be a breach of the SLEDs.

Police members are adept at assessing risk arising out of criminal histories and will provide general information regarding a perpetrator's criminal history to victims' referral agencies; for example, that the perpetrator has a history of using violence. In Victoria Police's view, referral agencies can rely on Victoria Police's assessment, so far as it relates to history of violence or other relevant issues, and do not need to know the details of a perpetrator's prior criminal offending in order to conduct an effective risk assessment. The disclosure of detailed criminal histories, beyond this generalised type of information, may also be a breach of the [Privacy and Data Protection] Act.¹⁰³

Victoria Police submitted that there is a need for further exploration of the minimum information required to adequately respond to family violence:

Victoria Police recommends breaking down what is actually meant under the banner of 'information sharing' and clarifying what capabilities are required to support the effective use of information ... For us, the first step is for each agency to articulate the minimum information they require and they could contribute for the purpose of responding to family violence. It is our experience in other areas, such as responding to incidents involving people with mental health issues, that a lack of clarity about minimum information requirements can result in misperceptions about the level and type of information sought, and consequently, misapprehensions about whether that information can be released.¹⁰⁴

Victoria Police also noted that, once information is disclosed to other services, no suitable feedback loop exists and Victoria Police does not receive information about what services are being provided to victims following referral, whether those services have been accepted, and how effective those services have proved in dealing with the risk of harm.¹⁰⁵

Information sharing between men's and women's services

Bethany Community Support told the Commission that information sharing between men's and women's specialist family violence services is lacking.¹⁰⁶ Plenty Valley Community Health Service expanded on this:

... we believe that privacy regulations that prevent suitable exchange of background information between agencies should be provided with exemptions where sufficient cause exists. We believe that the same exemption should be applied so that providers of services to the perpetrator on one side, can exchange information with providers of services to victims. The present structural separation of information available from both parties can create a risk of dangerous gaps occurring in risk management.¹⁰⁷

Sharing information with victims

Information held by agencies in the family violence system may not be shared with victims unless the serious and imminent threat exemption applies.¹⁰⁸ For example, in relation to information held by Corrections Victoria:

If a victim or victim's support service seeks information from Corrections about where an offender resides, what programs they have undertaken whilst in prison or whilst subject to a community correction order, or risk related information ... Corrections is unable to disclose this information unless specifically authorised to disclose the information under the provisions of the Corrections Act ... In my experience, it is not for a victim or victim's support service to seek such information. I am not aware of any recent occasions where information of this nature has been provided to a victim. This may be due to the difficulty of the requesting party providing Corrections with information sufficient to establish a serious and imminent threat to a person's life, health, safety or welfare.¹⁰⁹

Nexus Primary Health put forward a different view:

Safety for women and children must override legislation around privacy. For example: Victoria Police are unable to inform a woman that her current partner has a history of family violence against previous partners. This is important information for women to ensure she can assess her level of safety and for her children. High risk cases (especially involving drug or alcohol addiction/mental illness) must be flagged as high risk for women and children. They must be protected from the wrath of perpetrators who fall into these categories.¹¹⁰

The evidence before the Commission suggests that the family violence system expects victims to play an active role in managing risks to their own safety and that of any children in their care.¹¹¹ It was noted, however, that a victim is unable to do this if they do not have all the information relevant to managing the risk. Several individual submissions highlighted the fact that because of privacy laws, women were not told or were unable to find out particular information (for example, about the perpetrator's visa status, conditions of parole and participation in behaviour change programs while in prison) they considered relevant to their safety.¹¹²

The need for better sharing of information with victims of family violence was a central finding arising from the inquest into the death of Luke Batty. Judge Gray said:

... Ms Batty sought to obtain information from Victoria Police about the child pornography charges [brought against Mr Anderson] and was advised they could not release any details to her. Ms Batty's evidence on this issue was:

I couldn't understand that when I wanted to protect Luke fully that I was not allowed to have access to information that enabled me to understand the risks.

I note the evidence in relation to the reasons why Ms Batty was not told about the child pornography charges by Victoria Police. I do not intend to comment on the respective police officer's reasons for not telling Ms Batty, save to say that clearer guidance should be given to police officers by Victoria Police in relation to such matters. In my view, such information should be shared. In any event, by 22 July 2013, Ms Batty knew of the child pornography charges and she acted on that information appropriately by contacting the DHS.¹¹³

Luke Batty's father (Mr Anderson) was also the respondent in an interim intervention order, which named a person he was living with, XYZ, as the protected person. XYZ sought the interim intervention order after an incident involving knife threats by Mr Anderson to XYZ. The coroner said that in his view Ms Batty 'should have been informed of that intervention order, so she could assess the risks Mr Anderson posed to her and Luke.'¹¹⁴

Victims Register

There was some evidence before the Commission that information sharing with victims of family violence can occur under the Victims Register.¹¹⁵ The Victims Support Agency administers the register, which was established under regulation 6 of the *Corrections (Victims Register) Regulations 2014* (Vic) for the purpose of recording persons entitled to receive prescribed information under section 30A of the Corrections Act.¹¹⁶ The prescribed information includes the following:

- ▶ the length of an offender's prison sentence
- ▶ any changes to an offender's prison sentence
- ▶ whether an offender has escaped or died
- ▶ an offender's parole status.¹¹⁷

Victims Support Agency staff may share this information with registered victims, for example, where an offender is close to his or her release date (whether on parole or at the end of sentence).¹¹⁸ A person must, however, apply to be listed on the Victims Register: there is no automatic process of registration following the commission of a criminal act against a person.¹¹⁹

Prisoner release information

The Commission was also told that Corrections Victoria and Victoria Police share information about prisoner releases in order to develop policing responses¹²⁰ and that the Department of Health and Human Services collects information about people receiving treatment under the Mental Health Act if that information demonstrates there is a serious and imminent threat to a victim's life, safety, health or welfare.¹²¹ Such information sharing occurs on a limited, case-by-case basis, rather than systematically or proactively.¹²²

Dr Melisa Wood, Senior Clinical & Forensic Psychologist at the Victorian Institute of Forensic Mental Health (Forensicare), told the Commission that when information is shared it is not always accurate:

Information sharing between police and corrections also requires improvement, as there is a limitation on the amount of accurate information the police or the family violence teams can obtain from corrections in terms of when a perpetrator is released from prison. A list is circulated by corrections listing which perpetrators will be released per week or per month, but a specific release date is not provided. This can cause unnecessary stress and anxiety for the victim of the prisoner who is due to be released. There must be improvement in the provision of information from corrections to family violence services regarding when the associated offender is released, so that appropriate victim safety planning can occur.¹²³

Information sharing with the Magistrates' Court

The Commission heard evidence that information sharing within the Magistrates' Court and between the Magistrates' Court and other organisations in the family violence system is limited, and that information is not shared routinely or systematically.¹²⁴ Particular issues relating to information-sharing practices and courts are discussed in greater detail in Chapter 16.

Challenges around information sharing

The University of New South Wales Social Policy Research Centre notes in a recent report:

There are a number of interrelated factors that affect information sharing between organisations, including: individual agency interpretations of policy documents and legislation; governance structures; technical factors such as compatibility of computer systems; training and support; organisational structure and culture; trust, rewards, incentives and other social factors; and individuals' beliefs about information sharing.¹²⁵

Evidence before the Commission showed that the reasons for the lack of information sharing are complex and overlapping, but three important themes did emerge:

- ▶ the fact that legislation and policy governing information sharing are complex, confusing and restrictive
- ▶ the lack of an information-sharing culture and leadership
- ▶ reliance on outdated IT systems, which impedes information sharing.

Complex, confusing and restrictive legislation and policy

At present, there is no legislation that specifically authorises information sharing in the context of family violence.¹²⁶ As a result, organisations must navigate the various pieces of legislation and policy described in this chapter each time they wish to or are asked to share information.¹²⁷ The Commission received evidence from a range of sources that Victoria's legislative framework creates serious barriers to information sharing in the context of family violence.¹²⁸

The complexity of the legislative and policy framework can result in confusion and a risk-averse approach to sharing information. The Commission heard that members of Victoria Police are required to unpack issues and navigate their way through a complex set of statutory provisions, standards and guidelines that apply differently to different requests for information. The Commission was told that while members of Victoria Police receive training on information sharing, it is unnecessarily onerous to require police members to have this level of expertise and is not conducive to effective and timely information sharing. It may also lead to unnecessary caution:

Coupled with the extremely complex system of governance in relation to information sharing, this may lead to an overly cautious approach being taken to information sharing by police members.¹²⁹

Women's Health West Inc submitted that specialist family violence workers struggle when deciding whether information sharing is appropriate.¹³⁰ Domestic Violence Victoria also noted, 'There is currently some confusion and misunderstanding among the sector about what information can be shared between police, family violence agencies, child protection and Child FIRST.'¹³¹

The multiple and varying memorandums of understanding, policy documents and guidance materials (as discussed) add to the complexity when determining whether to share information between organisations. One organisation might be able to disclose the information, but the other might not be able to collect it, or vice versa. The Code of Practice for Specialist Family Violence Services for Women and Children, an example of such guidance material, expects front-line workers to have copies of various pieces of legislation accessible to them, something that directly conflicts with the view that 'service delivery workers should not have to be lawyers'.¹³²

The Commission heard that in the context of family violence, obtaining consent to share information does not present a simple answer to this complexity since seeking consent from a perpetrator is often unsafe or not feasible.¹³³ Obtaining a victim's express or implied consent or obtaining accurate and complete information from them can also be difficult because their contact with organisations often occurs at a time of acute stress.¹³⁴ Further, consent must be free, informed and tailored to the particular disclosure: it might not be appropriate, for example, to have a client sign one consent form for all services. Additionally, ensuring that consent remains current can be difficult to manage.¹³⁵

The Commission was told that the legislative context creates a barrier to information sharing because it is ill-suited to family violence risk assessment and risk management across the spectrum of risk, from the highest risk cases to those of low risk.¹³⁶ It was said that cases meeting the serious and imminent threat threshold are more straightforward in terms of information sharing, yet information privacy and confidentiality and secrecy legislation still creates complications.¹³⁷ These complications are apparent in the roll-out of the risk assessment and management panels (RAMPs). Risk assessment and management panels are discussed in detail in Chapter 6.

Case study: legislative barriers to the roll-out of RAMPs

RAMPs provide a coordinated, multi-agency risk approach and case management service to women and children at imminent risk of serious injury or death from family violence. Key agencies are brought together through monthly, or extraordinary, meetings of senior staff from the partner agencies involved. RAMP members share information, assess the level of risk for referred cases, and coordinate risk management action plans.

As noted in Chapter 6, expansion of the RAMPs beyond the initial pilot sites was announced in the May 2014 State Budget and the statewide roll-out of the program was announced in October 2014.¹³⁸ Ms Bernadette McCartney, chairperson of the Geelong RAMP, told the Commission about the benefits and importance of information sharing at RAMP meetings during the pilot phase.¹³⁹

During the public hearings the Commission heard evidence that privacy concerns had delayed the roll-out of RAMPs across the state. Professor Cathy Humphreys, Professor of Social Work at the University of Melbourne, said:

I think that in Victoria at the moment we have a situation that's highly dangerous because, whereas we were making progress in the two demonstration site risk assessment panels, now that the Privacy Commissioner has got in there to have a look at this they have decided that that level of information sharing is problematic. It may be because we are trying to bring in different people as core partners to the risk assessment panel; I'm not sure. But certainly the messages that have gone out to the sector at the moment are that, where there was sharing of information, they are now stopping it. That's highly dangerous. I think it's very problematic, the situation we are in at the moment, and it's also stopped the development of the RAMPs at the moment.¹⁴⁰

The Commissioner for Privacy and Data Protection denied that his office was the source of any delay and said he had not taken any action to inhibit information sharing in such programs.¹⁴¹

It is evident that the Department of Health and Human Services has concerns about the RAMP program breaching the information privacy legislation and other confidentiality and secrecy provisions. Mr Widmer explained that, although information sharing at a RAMP is based on consent (where possible) and the serious and imminent threat exemption, the model does have limits.¹⁴²

A significant restriction on the operation of RAMPs is that agencies at RAMP meetings are currently unable to record information about a perpetrator's criminal history without the perpetrator's consent. The Commission notes that in some cases, Information Privacy Principle 10 permits the collection of 'sensitive information' (including criminal records) without consent, including where the collection is necessary to prevent or lessen a serious and imminent threat to life or health in circumstances where the individual concerned is incapable of giving consent.

Given that RAMPS rely on the serious and imminent threat exemption, information that is not strictly relevant to preventing or lessening the threat but that could nonetheless be relevant for appropriate responses would not fall within the exemption and cannot be shared. Further, if the RAMP meeting actually achieves its objective of mitigating the risk, the information might not be within the exemption threshold such that information sharing must cease. As a result, once a case is referred, RAMP partners must constantly monitor risk levels in relation to information privacy and other legislation.

While all RAMP meetings involve multilateral information sharing, the information privacy legislation is drafted with a focus on bilateral information sharing. Further, restrictions can differ depending on who is disclosing the information to whom, as the agencies may be subject to different IPPs, HPPs and secrecy and confidentiality provisions in different pieces of legislation, depending on their function and purpose. This adds to confusion about what can be discussed and recorded at a RAMP meeting.¹⁴³

Other barriers identified by the Department of Health and Human Services and the Privacy and Data Protection Commissioner include:

- ▶ Organisations that collect personal information from individuals are required to inform them of certain things, including to whom the organisation usually discloses such information.¹⁴⁴ This would include disclosure at a RAMP meeting. Victims of family violence may be deterred from seeking out services in circumstances where they fear that the information could become known to the perpetrator.
- ▶ Organisations that collect personal information about an individual from someone else must take reasonable steps to inform the individual, among other things, of the purpose for which the information is collected, other than in circumstances when this would pose a serious threat to the health or safety of any individual.¹⁴⁵ There is a risk that representatives of organisations attending a RAMP meeting could rely on this serious threat exception in error. There might also be concerns associated with collecting third-party information tied to a RAMP case—for example, information about a victim's parents, neighbours or new partner, who would not be given notice about such collection.
- ▶ People attending RAMP meetings might also rely on the serious and imminent threat exemption in error, which would make information sharing unlawful.
- ▶ Organisations may use or disclose personal information in circumstances where the organisation reasonably believes that this is necessary to lessen or prevent a serious and imminent threat to an individual's health or safety.¹⁴⁶ However, more stringent requirements are imposed on certain specified groups of people, including Corrections Victoria staff, as information can only be used or disclosed where there is an actual imminent threat, rather than a reasonable belief that there is a threat.¹⁴⁷

In view of these barriers, the Department of Health and Human Services informed the Commission during the hearings that it had undertaken to apply for an information usage arrangement, or IUA, from the Commissioner for Privacy and Data Protection, that will permit departures from the IPPs and other 'information handling' provisions.¹⁴⁸

Information usage arrangements

An IUA is an arrangement that allows for a modification of, or exemption from, an Information Privacy Principle (other than IPP 4 or 6). The IUA may also permit handling of personal information as permitted or required by law or under another Act.¹⁴⁹ An IUA must include detailed information about, among other things, the parties to the arrangement, the information to be handled under the arrangement, how the arrangement will facilitate the public purpose, and the actions a party or organisation may take under the arrangement.¹⁵⁰

Seeking approval for an IUA is a two-stage process. First, a lead party (which, in the case of RAMPs, is the Department of Health and Human Services) must submit the IUA to the Commissioner for Privacy and Data Protection. The commissioner must consider the public interest in the proposal and prepare a report for the relevant minister or ministers against defined public interest tests (set out in the Privacy and Data Protection Act) and, where appropriate, certify that those tests are met.¹⁵¹ Second, the relevant minister or ministers may approve the IUA after receiving the commissioner's certificate.¹⁵²

On 24 December 2015, the Department of Health and Human Services submitted an IUA to the Commissioner for Privacy and Data Protection for approval.¹⁵³ Although there is no formally established procedure for applying for an IUA, the Commissioner for Privacy and Data Protection required the department to complete a privacy impact assessment and a human rights impact assessment of the RAMP program as part of the application.¹⁵⁴ The Commission notes that the IUA application process for RAMPs has entailed extensive legal advice and correspondence with the Commissioner for Privacy and Data Protection. Further advice, consultation and reporting will also be needed in order to receive ministerial approval.

If executed, the RAMP IUA will be the first of its kind in Victoria.¹⁵⁵

Beyond the highest risk cases, such as those dealt with by RAMPs, the difficulties posed by the legislative framework for information sharing become even more complex. In these cases it is almost always unclear whether decision makers can rely on the serious and imminent threat exemption. In relation to the exemption, Mr Widmer explained:

... many family violence cases will not meet this threshold. This is because requiring the threat to be both 'serious' and 'imminent' sets a high bar. In particular, whether a threat is 'imminent' can be uncertain and difficult to establish in the dynamic context of family violence. In addition, while the evidence of 'imminence' may be unclear, the threat can nevertheless be serious and a victim placed at real risk.

Mr Widmer told the Commission that this high bar may prevent information sharing that would facilitate early intervention in family violence situations, as risks cannot be identified and appropriate service responses implemented until the threat becomes imminent. It is also difficult for practitioners to establish whether there is a 'serious and imminent threat' without relevant information about the perpetrator.¹⁵⁶

Assistant Commissioner Steendam and Senior Sergeant Howard also highlighted the problem:

Outside of high risk cases ... a grey area arises regarding risk assessment and risk management. The initial assessment of risk may require information sharing before a serious or imminent threat can be established; effective risk management may require information sharing in cases where the risk to a person does not constitute a serious or imminent threat on the basis of the available information; and the degree and imminence of a person's risk of family violence is also dynamic.¹⁵⁷

Assistant Commissioner Steendam elaborated on this during the Commission's public hearings, noting that in circumstances of ambiguity many members of the police will not disclose information, including because of requirements in the Victoria Police Act relating to information sharing and the disciplinary consequences that can be imposed for breaches of this Act.¹⁵⁸

The Commission notes that the interplay between the serious and imminent threat exemption and subject-specific confidentiality or secrecy provisions poses difficulties for a number of agencies and individuals, among them corrections, mental health practitioners, and child protection.¹⁵⁹ In relation to Child Protection, the Commission heard that 'the complexity of information sharing provisions in the [Children, Youth and Families Act] can lead to confusion and difficulty for practitioners in complying with the legislation'.¹⁶⁰ Specifically, the Commission heard that secrecy and confidentiality provisions, including relating to the content of protective intervener reports,¹⁶¹ may mean that Child Protection does not disclose information which may be relevant for risk assessment to specialist family violence agencies or other relevant organisations.¹⁶²

In summary, the Commission heard that the current legislative and policy framework in Victoria presents serious challenges for the efficient, effective and timely sharing of information in connection with family violence.

Lack of proactive information sharing

The Commissioner for Privacy and Data Protection advised the Commission that merely removing perceived barriers will not ensure that information will be shared:

In short, my experience is that there are many reasons why individuals refrain from sharing information. These include:

- a general reluctance to share information;
- an overly legalistic approach to information sharing;
- professional or ethical obligations of confidentiality; and
- concerns about sharing information in breach of their legislative obligations.

A culture of information sharing requires a willingness by public sector organisations to engage for a common purpose.¹⁶³

He went on to say:

One of the things that I have noticed as a privacy adviser, as a lawyer in departments, but also as Commissioner, is how different perspectives of risk within the public sector can just simply stop information sharing taking place and positions become entrenched, incredibly difficult to unravel.¹⁶⁴

The University of New South Wales Social Policy Research Centre's recent literature review identified a number of organisational factors that can inhibit or enable information sharing.¹⁶⁵ These are summarised in Table 7.3.

Table 7.3 Organisational barriers to and enablers of information sharing

Enablers	Barriers
Agreement on aims and agendas between organisations	Differing aims, values, agendas and goals
Senior leadership actively promoting organisational coordination and information sharing	Lack of clarity about decision-making authority within agencies for information sharing
Workforce development that includes training in when to share information, that redresses barriers and concerns, and that develops shared understanding of basic assumptions, expectations, terms and concepts	Lack of clear policies or protocols for sharing information with others
Efforts to develop the trust and knowledge of other organisations	Mistrust between organisational groups or organisations
Adequate protections for personal data, leading to increased trust	Lack of knowledge and understanding about the interventions provided by other agencies (and thus with whom information should be shared)
Staff having a clear understanding of the benefits of information sharing	Perceptions that information sharing is difficult and time-consuming because of unfamiliarity with legislation and protocols for information exchange
Organisational structures where responsibilities for information exchange are clear and where there are structured links with other organisations	Organisational self-interest, resulting in an aversion to information sharing

Source: Based on Michael Keeley et al, 'Opportunities for Information Sharing: Case Studies' (Social Policy Research Centre, 2015).

The Commission heard that there is a general culture of risk aversion rather than proactive and coordinated information sharing, throughout the family violence system. Pockets of good practice, based on local relationships, do occur, but no overall authorising environment exists and there is a lack of leadership specifically related to information sharing. For example, Mr Widmer stated:

... anecdotally this Commission has heard lots of evidence of people acting in a risk averse way where they are unsure of whether they should or can share information, [and] may choose not to, in order to be risk averse ...¹⁶⁶

The Privacy and Data Protection Commissioner submitted:

... our experience is that many Victorian public sector organisations have failed to properly operationalise their privacy, or other information obligations, including record-keeping obligations. Sometimes, this is attributable to them taking an excessively legalistic and risk-averse approach to information obligations. High quality service responses to family violence issues need to be supported by high quality information sharing process and procedure, training and support so that front line workers can make decisions confidently and consistently.¹⁶⁷

Assistant Commissioner Steendam and Senior Sergeant Howard informed the Commission that major practical and cultural barriers to information sharing exist throughout the entire family violence system.¹⁶⁸ Similarly, the Maternal Child Health Nurse Network identified cultural barriers, stating there is a reluctance to share information between agencies that could help prevent violence, something that is a source of increasing frustration for MCH nurses.¹⁶⁹

Quantum Support Services Inc. submitted that:

... the implementation of privacy legislation has resulted in some organisations and government departments not appropriately sharing information and coordinating with others in the sector through fear of breaching their obligations.¹⁷⁰

Bethany Community Support highlighted the need for greater guidance on permitted information sharing, along with the potential for legislative change to prompt practice changes:

One of the key barriers that Bethany sees in relation to information sharing is a general lack of understanding about what information can or cannot be shared. There is a sense that people working across agencies may be afraid of crossing boundaries when it comes to the sharing of information. There is a need for all those working across the family violence system to have clear guidelines around when, how and why information should be shared and the importance of confidentiality and privacy ...¹⁷¹

With the exception of the statewide roll-out of RAMPs (which is yet to occur), the Commission is not aware of the existence of any formal whole-of-government leadership or governance arrangements focusing on improving information sharing in the family violence context.

The Privacy and Data Protection Commissioner explained some of his recent efforts to provide leadership in connection with information sharing more generally, targeting senior levels of the public sector:

I have jointly convened with deputy secretary levels an information sharing forum to address at a senior level what the information sharing barriers are across government. So that consists of DPC ... DJR, DHHS, Education, and that's the core group at the moment ...¹⁷²

I found it surprising in Victoria the extent to which at senior levels people actually don't really know what the right approach is, how to go about doing it. So we have written to Secretaries saying, 'Would you support us developing a curriculum and delivering an executive series of master classes on information sharing?'¹⁷³

The Commissioner is in the process of developing guidelines for sharing personal information that provide guidance on 'how to work with privacy to achieve good information outcomes'.¹⁷⁴ He also commented on information sharing at the point of service delivery:

... much needs to be done to ensure that the information sharing needs of frontline service delivery workers are clarified and simplified. This needs to occur *before* an emergency arises through the operationalisation of information sharing procedures—through, for example, training and standard operating procedures. Service delivery workers should not have to be lawyers.¹⁷⁵

Outdated and ineffective information technology systems

In addition to legislation, policy and organisational factors, IT systems have an important role in enabling or inhibiting information sharing. Almost all submissions and witnesses who gave evidence about IT in the context of family violence acknowledged that the current arrangements present major barriers to information sharing.

The current landscape

The University of New South Wales Social Policy Research Centre states in its recent report:

Within the literature a number of technological barriers to information sharing were identified. It should be noted that information technology is rapidly evolving and recent developments such as 'cloud computing' have greatly improved the ability to transfer information across systems and to ensure the safety of information. Nevertheless, the literature indicates that factors such as incompatibility of databases and mismatched data structures can create practical barriers, which make information sharing cumbersome and challenging in some circumstances.¹⁷⁶

There is no single family violence database or information systems interface in Victoria. Instead, multiple platforms are used by various organisations in the family violence system—for example, Victoria Police,¹⁷⁷ the Magistrates' Court of Victoria,¹⁷⁸ and Corrections Victoria¹⁷⁹ use separate systems. The Department of Health and Human Services also uses multiple systems and databases.¹⁸⁰

Mr Widmer explained:

Information technology systems and databases in health and human services have largely developed over time to support particular services, in line with the way departmental structures have developed to mirror the programmatic focus of enabling legislation. This has resulted in the development of numerous and separate client information systems. There are currently at least 14 discrete systems that record and store client information, collate data or provide information on targets and services across the human services output groups. In addition, relevant records may be kept in at least 12 related health information systems ... For example, child protection, Child FIRST/Family services, family violence, housing, homelessness, mental health, alcohol and drug, disability, hospitals each have separate databases. Additional systems operate in the funded non-government sector, often as case management systems.¹⁸¹

The Commission was told that the use of multiple systems means it is not possible or practicable to track a particular victim or perpetrator throughout the family violence system since the IT systems are incapable of 'talking' to each other:

... there is limited transferability of information between [Department of Health and Human Services IT systems]. As previously discussed, workers need to navigate systems that do not talk to each other by transmitting information to support clients via manual arrangements. This inhibits information sharing across services that can assist in assessing and managing the risk of family violence to women and children.

These limitations also affect case management to assist women and children to recover from family violence, and to rehabilitate men who use violence. This can:

- prevent workers from identifying and addressing the full range of an individual's or family's needs;
- inhibit the development of complete, accurate, and timely plans and service responses for individuals or families; and
- mean that the onus is on clients to navigate from service to service, sometimes telling their stories multiple times. This places further pressure on individuals and families, and time is wasted gathering information that already exists in separate client information systems. Individuals can have records in multiple systems, as well as multiple records within ... one system.¹⁸²

Specialist family violence services Bethany Community Support and Women's Health West Inc. explained that this situation forces them to double-handle information and prevents them from collating and sharing information effectively:

... Bethany currently uses two different client data management systems (IRIS and SHIP) in its work with men, women and children experiencing family violence. These systems do not link with other data management systems in use by other agencies, such as Victoria Police's LEAP database or the Courtlink case management system used by Victorian Courts. Without linkages or communication between these systems, we rely solely on the expressed communication between systems and [this] is highly subject to human error.¹⁸³

Effective integration and coordination 'on the ground' is supported by data systems that can hold the information needed for a family violence response in readily accessible places. Currently, specialist family violence services such as those provided by WHW are required to report against multiple data systems, which means information is often stored in different places and/or double handled. Basic collation of data is challenging; for example, police referrals must be counted by hand as the SHIP system does not allow collation. This runs counter to effective integration and coordination.¹⁸⁴

Mr Widmer noted that, 'in light of the disparate information technology systems, information sharing currently occurs through manual arrangements, with limited information sharing electronically'.¹⁸⁵ The Commission was also told of multiple examples of entering, retrieving and sharing information in or from different systems manually or inefficiently.

For example, organisations funded by the Department of Health and Human Services under the housing assistance output group use the SHIP (Specialist Homelessness Information Platform) system, whereas services funded by the child protection and family services output group use IRIS (Integrated Report and Information System). Where funding is provided under both streams, specialist family violence services are required to manually enter information into both databases; for example, a specialist family violence service may be required to use SHIP for its refuge service and IRIS for its family violence counselling services.¹⁸⁶

The Commission was also told that courts are unable to share information automatically. Magistrates Toohey and Hawkins provided evidence about the manual processes required in order to obtain information during intervention order hearings. Unless registrars or bench clerks search different databases and then physically hand the magistrate copies of related court documents, magistrates are unable to see whether there are concurrent criminal proceedings, previous family violence intervention orders, child protection orders or family law orders.¹⁸⁷ Such difficulties are discussed in Chapters 11 and 16.

The Commission also heard that '... there are currently no automated systems for the sharing of family violence information between Corrections and other agencies'.¹⁸⁸ As a result, Corrections Victoria has come to an arrangement with Victoria Police whereby Corrections Intelligence Unit staff manually examine individual prisoner or offender records in LEAP (the Victoria Police database) and conduct searches to determine whether a prisoner or offender is subject to or the victim of a current family violence intervention order, or whether they have been the victim or perpetrator in one or more historical intervention orders. This arrangement poses significant resourcing problems.¹⁸⁹

The inability to transmit information securely between agencies funded by the Department of Health and Human Services, Victoria Police and Corrections Victoria was emphasised by a number of witnesses. Mr Widmer explained, 'A key example of this is that police referrals, or L17 forms, are still faxed to family violence agencies'.¹⁹⁰ Assistant Commissioner Steendam and Senior Sergeant Howard explained that this is because of information privacy law and outdated IT systems on the part of some agencies:

L 17 reports are faxed to the referral organisations. The L 17 report is a digital form. Victoria Police's IT systems allow email transmission of the L 17 report. However, the SLEDS require that email transmission of law enforcement data, which the L 17 reports contain, is subject to suitable levels of encryption. Referral agencies on the Victoria Government Global Address List, such as the Victims Support Agency, have the capacity to receive encrypted emails. However, other referral agencies, funded by but not a part of government do not. In these circumstances Victoria Police must, in order to remain SLEDS compliant, revert to an alternative immediate transmissions system—digital facsimile.¹⁹¹

Assistant Commissioner Steendam elaborated on this during public hearings, explaining that in some cases Victoria Police must inspect family violence services or seek letters of attestation to ensure that their IT systems meet the appropriate encryption and data protection standards.¹⁹²

In its submission the Magistrates' Court of Victoria highlighted the importance of information sharing in the context of family violence, while noting the current technological limitations that inhibit this from occurring:

An effective, integrated family violence system must be built around timely, appropriate information and data sharing across agencies, if decision making is to be properly informed and evidence based. Specifically, in relation to family violence, if the inherent risks associated with these matters [are] to be properly assessed and managed then it is critical that there be effective communication across involved agencies, including courts ...

The capacity to share appropriate information quickly and securely across courts, police, and family violence legal and support services is a critical prerequisite for any systemic reform aimed at improving the efficiency and responsiveness of the court's approach to meeting the needs of families experiencing family violence.

Currently, even if the requisite legislative frameworks were in place to facilitate comprehensive information and data sharing across jurisdictions and agencies, the case management systems of [the Magistrates' Court of Victoria and the Children's Court of Victoria] do not have adequate functionality to support this aim.¹⁹³

Courtlink was first implemented in Victorian courts in the 1980s and is the main IT system used to hold information about court matters, including parties' details and hearing dates. During the public hearings the anachronistic nature of Courtlink was the subject of frequent comment.¹⁹⁴

The Commission notes that at present there is no effective way of using IT systems to identify recidivist perpetrators of family violence.¹⁹⁵

Current initiatives

The Commission was told of a number of initiatives that have occurred recently or are under way aimed at improving information technology in the family violence system. These include the following:

- ▶ The LEAP Electronic Direct Reporting Mk 2 (LEDR Mk 2) has been rolled out, which enables police to complete L17 forms electronically, automatically entering relevant information into LEAP and transmitting formal referrals to relevant support agencies—albeit largely by way of facsimile. Previously, L17 forms were filled out in hard copy and faxed to both the relevant support service and the Victoria Police Central Data Entry Bureau for entry into LEAP.¹⁹⁶
- ▶ Courtlink now interfaces directly with LEAP to enable family violence intervention order information to be accurately sent between the two organisations.¹⁹⁷
- ▶ Victoria Police is progressing the Policing Information Process and Practice Reform Program, with the dual focus of maintaining the performance of core information systems while planning for longer term reforms to IT systems.¹⁹⁸ This program is discussed in Chapter 15.

In relation to the Department of Health and Human Services, Mr Widmer said that work is under way to integrate the department's numerous IT systems:

We have been doing some exploration for some time now, and this is ongoing at the moment, in working out how we are able to get our systems to talk to each other, so looking at where there are opportunities for a software mechanism to sit over the top of databases with a set of permissions so that, if you log in as a worker, whether you are a disability worker or a child protection worker, you have permissions set around your access and that we seek to work out how we can get you access to the other information that sits around a client, where that's appropriate, where it's lawful and where that's relevant. That's ongoing work and that's certainly one of the avenues that we are pursuing at the moment.¹⁹⁹

The Magistrates' Court of Victoria and Children's Court of Victoria also identified current and planned work aimed at modernising their IT platforms:

In the short term, MCV and CCV are undertaking work to stabilise Courtlink, and create basic functionality that will enable e-services such as electronic document lodgement and increased automation and digitisation of current paper based and manual processing functions.

In the longer term, MCV and CCV will pursue partnerships to secure investment in the budget process for a case management system that will fundamentally re-shape the way in which IT can support a modern court and client service delivery model, enable fast and accurate information sharing between jurisdictions and justice agencies and ... unlock human capital from the delivery of manual administrative tasks to high value client based services and support. Government investment will be critical to achieving outcomes in this area.²⁰⁰

Mr Reaper told the Commission that work is under way to integrate key Corrections Victoria IT systems, including connectivity with other Justice portfolio entities:

We are currently certainly under active consideration of the development of a single database or IT system for all of the Corrections information, whether that would be a system that replaces all of our existing IT systems or certainly is able to connect them better and just replace those that are most aged is the work that is underway ... As we move forward, whatever we develop will be done being mindful of its ability to connect at the very least to our Justice entities going forward.²⁰¹

Ms Marisa De Cicco, Deputy Secretary, Criminal Justice Division, the Department of Justice and Regulation, gave evidence about work in progress to better integrate critical IT systems throughout the Justice portfolio, with a focus on improving information flow and exchange between Victoria Police, the Magistrates' Court of Victoria and Corrections Victoria, without necessarily waiting to renew legacy case-management systems:

What we are trying to do in the scoping of this particular project is to try and identify systems that can be used with a multiplicity of existing potentially quite out of date systems that can mine data from those systems to form some sort of comprehensive view of a particular family circumstance ...²⁰²

We are mindful that the development of systems that are end to end or that capture a whole range of data through, I suppose, created interfaces [is] very problematic. They are generally expensive, they take a long time to develop and in many respects you don't know until you are quite close to the end as to whether or not they will work.²⁰³

So we tried with this one to see if there weren't off-the-shelf systems that could be customised to actually mine the data. There are many that have been developed in the US. We are mindful of some of our law enforcement Commonwealth agencies that use similar sorts of systems to do intel and other sort of allied work. So we are hopeful that the market will be able to bring forward a solution that can be implemented in a timely fashion and that won't require years and years of product development.²⁰⁴

It is anticipated that the project will be completed by December 2016.²⁰⁵

In summary, the Commission heard that the primary organisations in the family violence system see IT system reform as a priority, as well as a major challenge. At present there is no way to track a particular victim or perpetrator through the system, provide feedback on the results of a referral or identify recidivist perpetrators. Similarly, opportunities for automated and proactive information sharing are limited. The consequences of inadequate IT systems are discussed further in the following section.

Proposals for reform

The Commission received evidence about using existing mechanisms or enacting reforms to Victorian legislation in order to remove barriers to information sharing in the family violence system. For example, Domestic Violence Victoria said:

Legislative change to exclude family violence where there is a risk of serious and imminent harm, and family violence exemptions across professional codes of practice, protocols and practice frameworks [are] urgently needed.²⁰⁶

Broadly, there are three options for dealing with information-sharing barriers: use the existing mechanisms under Victorian law; amend Victoria's information privacy legislation (the Privacy and Data Protection Act and the Health Records Act) to facilitate information sharing in the context of family violence; or create a new information-sharing regime based on approaches in other jurisdictions. In this section some of the suggested options are discussed.

Using existing mechanisms under Victorian law

As outlined above, the Department of Health and Human Services is seeking an information usage arrangement, or IUA, for the RAMP program. One possible reform option would be to implement IUAs for different programs throughout the family violence system. The Commissioner for Privacy and Data Protection observed, however, that there are problems both with implementing separate IUAs for different programs across the family violence system and with implementing one IUA for the entire system.²⁰⁷

The Commissioner noted that it is neither feasible nor desirable to conduct separate privacy impact assessments nor to have separate IUA applications across the many different family violence programs. To the extent possible there should be a single privacy impact assessment conducted across the whole of the system.²⁰⁸ On the other hand, the Commissioner acknowledged that having one IUA to cover the entire family violence system may be inappropriate given the number of participants in the family violence system: 'where too many parties are involved, IUAs can become unwieldy'.²⁰⁹

The Privacy and Data Protection Commissioner suggested that an alternative might be a sector-wide code of practice under the Privacy and Data Protection Act.²¹⁰ At present, however, codes of practice cannot reduce the minimum protections provided by the Information Privacy Principles; the Privacy and Data Protection Act would need to be amended to allow codes of practice to modify the IPPs.²¹¹ Even if such amendments were made, a code of practice would not apply to the Health Records Act or other subject-specific secrecy and confidentiality provisions. Further, the development of a code of practice would be an enormously time-consuming task.

Amending Victorian information privacy legislation

Submissions and witnesses suggested that Victoria's information privacy legislation be amended to enable information sharing throughout the family violence system.²¹²

The Commission heard evidence about removing the word 'imminent' from the serious and imminent threat test in the Privacy and Data Protection Act and the Health Records Act. The Commissioner for Privacy and Data Protection supports this idea:

I would support removing the word 'imminent'. That's what happened in New Zealand when they were faced with similar issues in relation to family violence, the difficulty I think that people had in working out what 'imminent' meant ...²¹³

Such an approach was also supported by the Australian and New South Wales Law Reform Commissions in *Family Violence—a National Legal Response* and subsequently enacted in the Australian Privacy Principles.²¹⁴

The Australian Law Reform Commission and New South Wales Law Reform Commission also made the following recommendations in that report:

Recommendation 30–11 State and territory family violence legislation should expressly authorise the use or disclosure of personal information for the purpose of ensuring the safety of a victim of family violence or an affected child.

Recommendation 30–13 State and territory family violence legislation and child protection legislation should expressly provide for information sharing among specified agencies in specified circumstances, and should include provision to allow information to be shared with specified private sector organisations.²¹⁵

However, the Commission notes that the Commissioner for Privacy and Data Protection has raised concerns about 'any broadly-framed legislative exemption for information sharing for the purposes of identifying and responding to the risk of family violence'.²¹⁶

Legislation in other jurisdictions

The Commission was referred to legislation in other jurisdictions that specifically authorises, or has been used to authorise, information sharing in the context of family violence.²¹⁷ Table 7.4 summarises several of the provisions the Commission considered.

Table 7.4 Family violence information-sharing legislation in other jurisdictions

Jurisdiction	Legislation	Description
Australian Capital Territory	s 18 <i>Domestic Violence Agencies Act 1986</i>	This section provides for a police officer or a staff member of the Australian Federal Police to disclose information to an approved crisis support organisation for the purpose of rendering assistance to victims of family violence or their children.
New South Wales	Part 13A <i>Crimes (Domestic and Personal Violence) Act 2007</i>	This part establishes an information-sharing regime for family violence. It specifically overrides NSW information privacy legislation by authorising the disclosure of personal information and health information relating to both victims and perpetrators of family violence. Because the information-sharing regime integrates with the NSW Safer Pathway reforms, information can be shared with a central referral point (to electronically manage and monitor family violence referrals) and a statewide network of local coordination points (non-government family violence services). Most information sharing requires the consent of the victim but not the consent of the perpetrator or alleged perpetrator. In situations of serious threat, the consent of the victim can be overridden. The legislation also expressly prevents perpetrators from gaining access to information collected about them under the regime.
	Chapter 16A <i>Children and Young Persons (Care and Protection) Act 1998</i>	This chapter establishes an information sharing regime to facilitate the provision of services to children and young persons by agencies that have responsibilities relating to their safety, welfare or wellbeing. The chapter authorises those agencies to share information and requires them to take reasonable steps to coordinate their services. The regime applies to certain prescribed bodies and provides protection from civil or criminal liability for persons, acting in good faith, who provide information in accordance with the legislation. Other laws prohibiting or restricting the disclosure of information are expressly overridden so as not to operate to prevent information sharing under the regime.
Tasmania	s 37 <i>Family Violence Act 2004</i>	This section provides that 'a personal information custodian, within the meaning of the <i>Personal Information Protection Act 2004</i> , acting in good faith, does not commit a breach of that Act by reason only of collecting, using, disclosing or otherwise dealing with personal information for the purpose of furthering the objects of this Act'. The effect of this provision is to override Tasmania's information privacy legislation where information is shared, in good faith, to further the 'safety, psychological wellbeing and interests of people affected by family violence'.

Jurisdiction	Legislation	Description
Western Australia	S 70A <i>Restraining Orders Act 1997</i> and r 15 <i>Restraining Orders Regulations 1997</i>	<p>This section provides for the exchange of 'prescribed information' between a limited number of 'interested parties' (government organisations). 'Prescribed information' is defined in regulations to mean:</p> <ul style="list-style-type: none"> ▶ the name, address, telephone number, age and ethnicity and other details of — ▶ the person or child; or ▶ a person who is bound by the violence restraining order; or ▶ an offender or alleged offender responsible for, or involved in, any offence relevant to the granting of the violence restraining order; ▶ a description of any offence relevant to the granting of the violence restraining order and an abridged description of the circumstances of its commission; ▶ any information about the grounds on which the violence restraining order was granted; ▶ the name, rank and any other relevant identifying information of any police officer in charge of investigating any offence relevant to the granting of the violence restraining order; ▶ the police station or office where information is held — ▶ about the investigation of any offence relevant to the granting of the violence restraining order or the breach of that order; or ▶ about the grounds on which the order was granted; ▶ the status of the investigation and prosecution of any offence relevant to the granting of the violence restraining order by a police officer. <p>An interested party may provide to another interested party prescribed information if the parties agree that the provision of such information is necessary to ensure the safety of a person protected by a violence restraining order or the wellbeing of a child affected by such an order. The information must be provided in confidence, and there are protections from exposure to civil or criminal liability, or professional standards if information is shared in accordance with the section.</p>
British Columbia	Ss 26(f) and 33.1(1)(m.1) <i>Freedom of Information and Protection of Privacy Act 1996</i>	These provisions specifically authorise public bodies to collect and disclose information if it is necessary for the purpose of 'reducing the risk that an individual will be a victim of domestic violence, if domestic violence is reasonably likely to occur'. The Act also enables public bodies to share personal information for delivering or evaluating a common or integrated program or activity such as those dealing with family violence.
New Zealand	Part 9A <i>Privacy Act 1993</i>	This part allows for the creation of an Approved Information Sharing Agreement similar to the information usage arrangement under the Privacy and Data Protection Act. The Commission considered the 'Information Sharing Agreement for Improving Public Services for Vulnerable Children' (dated 25 June 2015), which modifies relevant New Zealand privacy legislation.
The United Kingdom	<i>Data Protection Act 1998</i>	The Commission examined UK information-sharing arrangements such as Multi-Agency Safeguarding Hubs, or MASHs, which rely on specific statutory gateways in legislation. For example, some MASHs rely on the implied statutory gateway in section 11 of the <i>Children Act 2004</i> (UK), which obliges relevant agencies to ensure that their 'functions are discharged having regard to the need to safeguard and promote the welfare of children'. This duty is said to satisfy the condition in the Data Protection Act that states that information can be processed if 'the processing is necessary for the exercise of any functions conferred on any person by or under an enactment'.

The Commission notes the recent finding of the University of New South Wales Social Policy Research Centre, referring to Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998* (NSW), that: 'The introduction of specific legislative authority has clearly been helpful in the ongoing development of a culture of appropriate information sharing in NSW'.²¹⁸

The Commission also examined information-sharing arrangements in South Australia. South Australia does not have information privacy legislation equivalent to the Privacy and Data Protection Act or the Health Records Act. Instead, the South Australian Cabinet has issued an administrative instruction, requiring government agencies and contracted service providers to comply with a set of Information Privacy Principles.²¹⁹ Consistent with the administrative instruction, the South Australian Ombudsman has issued the Information Sharing Guidelines for Promoting Safety and Wellbeing, which 'provide [for] a consistent statewide approach to appropriate information sharing practice wherever there are threats to safety and wellbeing'.²²⁰ The guidelines are complementary to the Multi-Agency Protection Service (MAPs), discussed below.²²¹

The way forward

In the Commission's view, changes must be made to current information-sharing arrangements in order to ensure that victims and support organisations are aware of the actions of perpetrators of family violence. Evidence before the Commission consistently demonstrated that government agencies, specialist family violence services and others working to prevent family violence and support victims cannot adequately achieve their aims without sharing risk-related information about perpetrators. Improving information-sharing practices to focus on perpetrators is a vital next step in the development of Victoria's family violence system.

As Judge Gray stated, 'The fact is that the perpetrator ultimately controls the risks of family violence.'²²² Sharing necessary information about perpetrators—to keep them in view, engaged and accountable—will enhance victims' safety and help prevent family violence.

In this section the Commission sets out how it considers the barriers to information sharing in current legislation and policy, in organisational structures and cultures, and in IT systems might be overcome. The Victorian Government should accord the highest priority to removing the barriers identified in this chapter. Ultimately, we recommend that a new information-sharing regime be developed for the family violence system.

A new information-sharing regime

The various options

The Commission considered the existing mechanisms in the Privacy and Data Protection Act. We are of the view that none of these mechanisms offers a comprehensive answer to the information-sharing barriers described in this chapter. Apart from not applying to the Health Records Act or other secrecy and confidentiality provisions, the mechanisms are designed to allow information sharing to occur on discrete projects (for example, information collection or sharing by one or two organisations) rather than create systemic change.²²³

It is not acceptable that victims' safety and lives can be put at risk because of complex legislative provisions and confusing policies. The disappointing example of the extensive delay in rolling out the RAMPs to all of Victoria demonstrates that existing laws are not adequate.

As outlined above, the Commission heard evidence calling for the Privacy and Data Protection Act and Health Records Act to be amended to remove the requirement that a threat be imminent in order for an exemption to apply. However, we consider that this change alone would not remove all the barriers to information sharing (as demonstrated by the RAMP case study in this chapter) and nor would it necessarily overcome the complexity and confusion accompanying the current legislative framework.

We also contemplated recommending amendment of the Information Privacy Principles and Health Privacy Principles, as well as other secrecy and confidentiality provisions, to include specific family violence exemptions for the collection, use or disclosure of information. This approach is not appropriate, though: the IPPs and HPPs should retain, as far as possible, their general application. It would also require multiple amendments to multiple Acts containing secrecy and confidentiality provisions, which the Commission considers impractical and likely to lead to further confusion.

In the context of family violence it is vital that front-line workers can easily understand and implement best-practice information sharing. Amending default information privacy legislation and various secrecy and confidentiality provisions to include family violence is unlikely to provide the clear authority and reference point required to overcome the identified barriers to information sharing.

The Commission's preferred approach

On the basis of responses in Victoria (such as the information-sharing regime provided for in Part 3.2 of the Children, Youth and Families Act), and other jurisdictions such as New South Wales, Western Australia and South Australia, our preferred approach is to amend the Family Violence Protection Act to create a specific family violence information-sharing regime. This approach is preferable for a number of reasons:

- ▶ It will provide clear authority for organisations responding to family violence to share information.
- ▶ It will provide a single point of reference for the law relating to information sharing, cutting through the complexity of the current legislation and policy.
- ▶ It will offer a clear basis for workforce training and the development of protocols and procedures for putting the new regime into operation.
- ▶ It will enable professionals to confidently share information from other organisations and to take timely and decisive action to respond to family violence.
- ▶ It will probably take less time and involve less cost than preparing multiple information usage arrangements or a code of practice under the Privacy and Data Protection Act.

The Commission notes the recent finding of the University of New South Wales Social Policy Research Centre that, in the context of Chapter 16A of the NSW Children and Young Persons (Care and Protection) Act, the introduction of specific legislative authority was useful in developing a culture of appropriate information sharing. Our recommended information-sharing regime is partly modelled on Chapter 16A of the NSW Children and Young Persons (Care and Protection) Act, Part 13A of the *Crimes (Domestic and Personal Violence) Act 2007* (NSW) and Victoria's Children, Youth and Families Act. It is intended to be a comparable catalyst for change to information-sharing practice in Victoria.

The Commission also notes the recommendations of the Australian Law Reform Commission and New South Wales Law Reform Commission that support disclosure and sharing of personal information to ensure the safety of victims of family violence.²²⁴

While the Commission is alert to the concerns raised by the Commissioner for Privacy and Data Protection in relation to the operation of a broadly framed legislative exemption for information sharing,²²⁵ it makes this recommendation on the basis that information sharing will only be authorised when it is necessary for certain organisations to assess risk or to manage a risk to safety from family violence. We consider that the recommended regime strikes a suitable balance between information privacy rights and the need to keep victims safe.

The Commission is also mindful that Parliament will be required to consider the compatibility of the proposed new regime with the Charter of Human Rights and Responsibilities. In view of this, the new regime should be designed according to a number of guiding principles and should include specific design elements.

Guiding principles for legislative reform

In the Commission's view, the development of the new information-sharing regime should be guided by the following high-level principles:

- ▷ The legislation should be clear and succinct, so that it can be effectively applied by front-line workers.
- ▷ The balance between a victim's right to safety and a perpetrator's right to privacy should be recalibrated in the victim's favour.
- ▷ Notwithstanding this recalibration, the new regime should displace existing privacy protections only to the extent necessary and should also preserve victims' control over sharing their information.
- ▷ The potential for any unintended consequences—for example, concerning the willingness of victims to report family violence—should be given careful consideration.
- ▷ A broad range of interested parties—including the Commissioner for Privacy and Data Protection, government agencies, legal practitioners and the specialist family violence sector—should be consulted during development of the new regime to ensure that it is balanced, workable and effective.

Design elements

Although the final drafting of any legislative amendment is a matter for government, and ultimately Parliament, the Commission considers that the new regime should adhere to the following design elements, which are consistent with the guiding principles just listed.

Objective

The new information-sharing regime should have a clearly stated objective, which should be to support the intentions of the Family Violence Protection Act in two ways:

- ▷ by authorising specific organisations to share information when this is necessary for risk assessment or to protect safety
- ▷ by requiring these organisations to take reasonable steps to coordinate services and share information in accordance with the Family Violence Protection Act.²²⁶

Application

Prescribed organisations

The information-sharing provisions should apply to prescribed organisations that may provide services to victims of family violence or to perpetrators of such violence. Prescribing organisations by regulation will have several important effects:

- ▷ Organisations that can share information under the Family Violence Protection Act will be easily identifiable.
- ▷ Organisations can be added to or removed from the regime as necessary.
- ▷ Information sharing will be limited to a discrete number of organisations relevant to family violence.

The particular organisations to be prescribed should be determined by thorough analysis. The Commission considers, however, that they should be similar to the bodies currently able to share information under Part 3.2 of the Children, Youth and Families Act. These bodies include registered 'community services' such as homelessness, health care, aged care, disability, drug and alcohol and mental health services, as well as 'information holders', such as police officers, nurses, midwives, doctors and teachers.²²⁷

Broadly, community service organisations (including specialist family violence services, sexual assault services and other providers who come into contact with people experiencing family violence and who will need to assess family violence risks) should be prescribed organisations.

Each of the Support and Safety Hubs, Safe Steps Family Violence Response Centre, the Men's Referral Service and the Victims Support Agency should be prescribed organisations. Home and Community Care agencies and Aged Care Assessment Services are other bodies that could also be considered.

Additionally, relevant Commonwealth agencies should be prescribed, so that Victorian agencies can consult them. Because Victorian legislation cannot override Commonwealth legislation, however, it should be made clear that Commonwealth agencies are not required by Victorian law to share information.²²⁸

Courts

The Commission further considers that Victorian courts should also be prescribed organisations, to ensure that any actual or perceived legislative barriers that might exist to impair or constrain information sharing by the courts are overcome. Including courts as prescribed organisations will confirm the courts' ability to share information with another prescribed organisation (in accordance with the proposed new regime) without that organisation having to seek an order from the court to gain access to the information in question, as discussed in Chapter 16.

As part of this approach, changes will also be required to current court rules, practices and procedures to reflect their greater capacity to share information. While the courts are encouraged to actively share information to the greatest extent possible under this new regime, it will be important for courts to have an ability to refuse to share information in certain circumstances (for example, where it would prejudice an ongoing proceeding). This is discussed in greater detail below.

Individuals

Information sharing on family violence risk involves information about two main categories of people—people who are the victim of or are at risk of family violence (victims) and perpetrators.

To align with the current Family Violence Protection Act, the new information-sharing regime should authorise prescribed organisations to share information about a person who is protected by a family violence intervention order or a family violence safety notice ('protected persons') and individuals against whom such orders and notices have been issued. This provides an objective standard for engaging the regime and will allow prescribed organisations to clearly identify individuals named in such orders.

Not all victims of family violence will have family violence protection orders in operation, though: some victims will not have had contact with the police or the Magistrates' Court, and children might not be protected by orders or safety notices but might still be at risk of family violence. Information about these people will also need to be shared. The Commission therefore proposes that the new regime apply to any person a prescribed organisation reasonably believes is at risk of family violence ('person at risk'). Prescribed organisations should be able to share information about a person at risk and the person who is the source of the risk, in accordance with the new regime.

Part 13A of the NSW Crimes (Domestic and Personal Violence) Act uses the terms 'primary person' and 'associated respondent' to identify the individuals whose information may be shared. Adapting the definitions, the new regime should apply to the following individuals:

- ▶ a 'primary person'—meaning a protected person (as defined in the Family Violence Protection Act) or a person at risk
- ▶ an 'associated respondent'—meaning in relation to a protected person, the respondent (as defined in the Family Violence Protection Act, excluding subclause (a)(i) of the definition) and, in relation to a person at risk, the person who is the source of the risk.

The Commission considers that, in contrast with Part 13A of the New South Wales legislation, an application for a family violence intervention order should not automatically allow information about the parties to be shared. Before information can be shared, it is desirable that an order has been made or a safety notice has been issued or that a prescribed organisation reasonably believes there is a risk. This will prevent the regime from applying when there is a vexatious or frivolous application for an intervention order by a perpetrator of family violence. It is noted, however, that in cases where a genuine application has been made by a victim, the 'person at risk' test will most likely be satisfied.

The Commission emphasises that the new regime must also be capable of applying to information relating to multiple victims of the same perpetrator. For example, if an associated respondent has committed family violence against a person who is not the primary person (that is, they are a third party), information about that violence can be shared to protect the primary person. In most cases, however, the identity of the third party would not be shared with the primary person.

Information sharing under the new regime should also take into account situations where a victim (primary person) and perpetrator (associated respondent) have been incorrectly identified; where the perpetrator was previously the victim; or where both parties are or claim to be victims (for example, where two intervention orders are in operation). Responses to these situations need not be drafted into the Family Violence Protection Act, but they do need to be considered by prescribed organisations.

A requirement to respond to a request for information

When a prescribed organisation receives a request for information from another prescribed organisation, it should be required to comply with the request if it reasonably believes that the requested information should be disclosed under the relevant test. As discussed below, the test is whether an organisation reasonably believes that sharing the information is necessary to manage a risk to the safety of the primary person. If a prescribed organisation refuses to provide information in accordance with a request, it should provide written reasons for the refusal. A provision to this effect would send a clear message that Parliament intends that information be shared in the response to family violence.²²⁹

Such a requirement may play a clarifying role when secrecy or confidentiality provisions in other Acts might apply. For example, as discussed, the Police Act prohibits a member of the police force from gaining access to, using or disclosing police information if it is the duty of that member not to do so. The Family Violence Protection Act should override that prohibition in circumstances involving family violence so that the police member can share relevant information.

Defining 'information' and 'information sharing'

As noted, it might be necessary to share a wide variety of information in order to assess the risk of family violence and secure the safety of primary persons. This will include personal information and could include health information and other sensitive information. As a result, the definition of 'information' in the new regime should not be restricted.

The Commission also considers that the expression 'information sharing' is preferable to the separate concepts of 'collection', 'use' and 'disclosure': it is simpler to understand. In keeping with the approaches in the UK Data Protection Act and section 98M of the NSW Crimes (Domestic and Personal Violence) Act, 'information sharing' should be defined to include each of 'collection', 'use' and 'disclosure'. Such an approach is more appropriate in the context of multilateral information sharing, where information can be shared between several prescribed organisations simultaneously. Using the term 'information sharing' rather than 'disclosure' will also encourage continued communication and coordination between prescribed organisations, which is crucial to best-practice risk management, as opposed to one-off disclosures.

Interaction with other laws

The Family Violence Protection Act should clearly state that it does not prevent disclosure of information under any other law. This will ensure that the new regime cannot be interpreted as a barrier to sharing when there is other authority.

The new regime should specifically override the Privacy and Data Protection Act and the Health Records Act. The Commission notes that such an 'avoidance of doubt' provision, although not strictly required because these Acts are 'default legislation', would help to clarify that the Family Violence Protection Act takes precedence.

It is noted, however, that the Privacy and Data Protection Act and the Health Records Act should be overridden only when the collection, use and disclosure of, and access to and correction of, information is carried out in accordance with the new regime. That is, other Information Privacy Principles and Health Privacy Principles will continue to apply—including, for example, IPP 3 (Data Quality) and IPP 4 (Data Security).

As mentioned, other legislation contains secrecy and confidentiality provisions that might apply in the context of family violence. The new regime should override these provisions where necessary—for example, if the provision does not contain an exemption whereby disclosure is authorised by another law. This includes in relation to relevant provisions in the Children, Youth and Families Act and the Family Violence Protection Act itself, to the extent that these provisions prohibit or limit the power of courts to allow access to court documents. For example, the Magistrates' Court notes that it is prohibited by Part 8 of the Family Violence Protection Act from allowing access to final family violence intervention orders, other than by order of the court or with the consent of an adult victim.²³⁰ We refer to the discussion in Chapter 16 regarding the relevant provisions. The new regime should override these provisions to the extent necessary to ensure that courts, as prescribed bodies, can share information with other prescribed bodies under the new regime.

The Commission makes it clear, however, that nothing in the new regime should operate to enable the sharing of information where doing so is inconsistent with the underlying aims of the regime (namely, the safety and support of family violence victims) or any other legitimate policy objectives. For example, nothing in the new regime should apply to override the prohibition on disclosing the identity of a reporter or referrer to child protection, Child FIRST or family services under the Children, Youth and Families Act.

For reasons already explained, the new regime will not override the requirements of the Commonwealth Privacy Act. Prescribed organisations that are subject to Commonwealth laws must continue to comply with them.

A test for sharing information

The Family Violence Protection Act should clearly authorise a prescribed organisation to share information about a primary person or the associated respondent with another prescribed organisation if the prescribed organisation reasonably believes that sharing the information is necessary to manage a risk to the safety of the primary person. 'Safety' is defined in the Family Violence Protection Act as meaning 'safety from family violence'. Importantly, managing a risk to safety should not necessarily mean reducing the risk: in some circumstances it might mean simply ensuring that the risk does not escalate.

In the Commission's view, this test is appropriate because the primary purpose of information sharing should be to keep children and adults safe from family violence. The test also requires sharing to be necessary in order to manage risk. What is *necessary* will depend on the circumstances. As part of their practice, prescribed organisations have regard to various factors, including what the primary person has told the organisation, the level of risk as determined by the CRAF or the actuarial tool, and any internal practice manuals or policies.

For example, the Commission considers it will often be necessary to share information collected or included in a risk assessment in order to manage a risk to the safety of a primary person. If a prescribed organisation performs a risk assessment it should be able to share that information with other prescribed organisations. This will obviate the situation—revealed in evidence in the inquest into the death of Luke Batty—where 'risk assessment[s] undertaken by the various agencies were performed in "silos", not shared and not updated'.²³¹

Because 'information sharing' includes collection *and* disclosure, the same test applies to organisations that provide the information and those that receive the information. Both organisations should be satisfied that sharing the information is necessary so as to manage a risk to safety. Applying the same test will encourage organisations to consult each other and clearly explain why sharing is necessary.

Further, the same test should be applied to sharing information about an associated respondent with the primary person. If it is *necessary* to tell a primary person something about an associated respondent in order to manage a risk to their safety, the person should be told. Again, whether sharing is necessary will depend on the nature of the information and the nature of the risk.

The Commission considers that the situation identified by Judge Gray in his findings relating to the death of Luke Batty constitutes an example of when information sharing with a primary person is necessary:

FC Topham [a Victoria Police officer] telephoned Ms Batty and advised her that a magistrate had granted Mr Anderson bail. This was entirely appropriate information sharing. Constable Guenther's evidence was that the decision to contact Ms Batty was because of the:

need to notify the victim of the bail so she knows what to expect and she knows what he can and can't do, so she can notify us if she knows that he's breaching his bail conditions.

... The police officers' actions were completely appropriate. The approach they took should, in my view, be routine for all bail matters related to family violence.²³²

Risk assessment by intake organisations

A different test should apply to some organisations for the purposes of risk assessment and referral.

One of the main functions of the Support and Safety Hubs the Commission recommends be established, and of existing specialist family violence services including Safe Steps and the Men's Referral Service (referred to as 'intake organisations') is to conduct comprehensive family violence risk assessments. As a result, intake organisations should be specifically authorised to collect information from other prescribed organisations when it is necessary for them to do the following:

- ▷ conduct a family violence risk assessment
- ▷ determine which service(s) are appropriate to help a primary person or an associated respondent
- ▷ refer a primary person or an associated respondent to the appropriate service(s).

There should be no risk threshold for information sharing for the purposes of risk assessment and referral; that is, intake organisations will not need to be satisfied that a specific or identifiable risk exists. Determining whether a risk does exist is the purpose of the assessment. As noted, intake organisations will also need to be authorised to collect information about multiple victims of the same perpetrator. As with risk management, however, the information provided by the primary person, the CRAF (including a proposed actuarial tool within the CRAF), and internal practice manuals and policies will guide organisations in determining what information is necessary for risk assessment and should be collected by and disclosed to intake organisations. This will prevent the sharing of irrelevant information.

Prescribed organisations that are not intake organisations—for example, Corrections Victoria or a registered school teacher or principal—should also be authorised to disclose information to intake organisations for the purposes of risk assessment or referral, without having to reasonably believe such disclosure is necessary in order to manage a risk to the safety of a primary person.²³³

Victims' consent

Information sharing under the new regime must respect victims' right to choose whether information about them is shared. This is important for ensuring confidence in the family violence system. As a general principle, prescribed organisations must not share information about a primary person (victim) without their consent.

The Commission recognises, however, that there could be situations in which information should be shared without the consent of the primary person. Currently, information can be shared without consent under the serious and imminent threat exemption under the Privacy and Data Protection Act and the Health Records Act.

Such an exemption should continue to apply to enable prescribed organisations to share information about a primary person without their consent. Importantly, however, the test for the exemption should be that there is a serious **or** imminent threat to their life, health, safety or welfare, or that of their children, because of family violence.²³⁴

Perpetrator's consent

Information sharing, for either risk assessment or risk management, should not require the consent of the associated respondent (the perpetrator or alleged perpetrator). This should be clearly expressed in the Family Violence Protection Act.

In relation to risk assessed by intake organisations, the Commission considers that not requiring the consent of an associate respondent (the perpetrator) is justified because the information-sharing regime applies only when there is a current intervention order or family violence safety notice in force or an organisation reasonably believes there is a family violence risk. We also consider that managing risks to safety takes priority over associated respondents' privacy rights. The effect on privacy rights will be proportionate because information sharing must be *necessary* to conducting a family violence risk assessment, making an appropriate referral or managing a risk to safety in order to comply with the Family Violence Protection Act.

Consent to sharing information about children

Consistent with the principles just outlined, it is the Commission's view that when the primary person and associated respondent have children, consent should be sought only from the primary person when sharing information about the children. No consent should be required from the associated respondent.

Access to shared information

On request, primary persons should have access to and be able to correct any information about them that is shared. A prescribed organisation that obtains information under the regime should not, however, be required to take steps to make an associated respondent aware that information about them has been collected or provide access to such information.²³⁵

Even though a prescribed organisation need not take steps to provide access to associated respondents, the new regime should not prohibit information being provided to associated respondents if providing the information would not increase the risk to the safety of the primary person or a third party. This will allow cases in which errors have been made to be corrected, so that information remains accurate, complete and up-to-date.

Refusing to share information

Although information sharing under the new regime should be voluntary (subject to the requirement to respond to a request for information outlined above), it might be important to expressly define a limited number of situations in which a prescribed organisation can refuse to share information. This could include circumstances in which sharing information would prejudice an ongoing investigation or a proceeding, contravene legal professional privilege, prejudice a coronial inquest or inquiry, or increase the risk of family violence occurring.²³⁶ As mentioned earlier, this may be particularly important in the case of courts.

Protection for people sharing information

In order to encourage information sharing, people who share information in accordance with the Family Violence Protection Act should be protected. Information sharing in good faith should not amount to unprofessional conduct or a breach of professional ethics and should not expose the information sharer to any criminal or civil liability.

Reference could also be made to specific sections in legislation that impose confidentiality obligations—for example, section 346 of the Mental Health Act and section 141 of the Health Services Act—so that information sharing in accordance with the test proposed above does not contravene those Acts.²³⁷

Inappropriate information sharing

Prescribed organisations may share information only in accordance with the Family Violence Protection Act. A penalty should be applied to unauthorised information sharing. This could be similar to the provisions in section 36(5) of the Children, Youth and Families Act.²³⁸

Complaints about information sharing

An individual should be able to make a complaint to the Privacy and Data Protection Commissioner if they believe information about them has been shared by a prescribed organisation other than in accordance with the Family Violence Protection Act. The Privacy and Data Protection Commissioner should have powers of investigation and conciliation similar to those provided for in Division 8 of Part 3 of the Privacy and Data Protection Act.²³⁹

Guidelines

Some legislative information-sharing regimes explicitly provide for the creation of standards, protocols or guidelines, often by the responsible minister; others do not. If any standards, protocols or guidelines are developed to support the new regime, the Commission considers that they must have several important characteristics:

- ▷ They must be developed in consultation with all prescribed organisations or their representative bodies, the independent Family Violence Agency and the Commissioner for Privacy and Data Protection.
- ▷ They need to be clear and concise, so that they will be easily understood and applied by front-line workers in prescribed organisations.
- ▷ They should be reviewed as appropriate but at least at the same time as the new information-sharing regime is reviewed following implementation (as recommended below).

The Commission does not consider it necessary to provide for mandatory standards, protocols or guidelines for the new information-sharing regime. This is in contrast to section 98J of the NSW Crimes (Domestic and Personal Violence) Act, which requires compliance with the New South Wales Domestic Violence Information Sharing Protocol.²⁴⁰

Clear, simply drafted legislation is preferable to lengthy, complex guidance. Further, implementation of other recommendations put forward in this report will support best-practice information sharing. Among these are recommendations about the development of a revised common risk assessment framework, and the standardisation of that framework across all agencies (see Chapter 6). Mandatory standards, protocols or guidelines should therefore not be necessary.²⁴¹

Statutory review

The Family Violence Protection Act should contain a requirement that the Attorney-General, in consultation with the Privacy and Data Protection Commissioner, conduct a review of the new information-sharing regime within two years of the regime's introduction. Following implementation of the Commission's recommendations in Chapters 6 and 13, including in respect of the Support and Safety Hubs and the Central Information Point (discussed below), there should be another review within five years of the commencement of the fully operational system.

In light of its recommendation for a new information-sharing regime, the Commission notes that current high-level information-sharing arrangements and policies affecting prescribed organisations will need to be reviewed, updated and potentially consolidated once the new regime comes into force.

Recommendation 5

The Victorian Government amend the *Family Violence Protection Act 2008* (Vic) to create a specific family violence information-sharing regime [within 12 months]. The new regime should be consistent with the guiding principles and design elements described in this report.

Developing an information-sharing culture

Legislative change alone will not create a culture of information sharing throughout the family violence system. Legislative barriers are only one of many reasons for individuals to shy away from sharing information.

The proposed new information-sharing regime incorporated in the Family Violence Protection Act will send a clear signal to people working in prescribed organisations that they can share information in order to manage risks to safety. Such a change will go some way toward redressing the general culture of risk aversion identified by the Commission. Risk aversion and non-disclosure must be replaced by proactive, coordinated and timely information sharing. There is also a need for strong leadership in prescribed organisations so as to create a clear authorising environment for information sharing. Much work on improving the information-sharing culture will be necessary.

It is the Commission's view that the Victorian Secretaries Board Family Violence Sub-committee should oversee implementation of the new information-sharing regime and be responsible for developing an information-sharing culture throughout prescribed organisations.

The sub-committee should coordinate the production of any guidelines or guidance material created to support the new regime and be responsible for developing an awareness campaign to explain the new regime to prescribed organisations. Implementing the new framework—in terms of drafting and updating information-sharing protocols and memorandums of understanding, and delivering internal training—should, however, be the responsibility of prescribed organisations. The sub-committee should also be responsible for monitoring progress, holding organisations to account, disseminating information about good practice and resolving any emergent difficulties. It should work closely with the Commissioner for Privacy and Data Protection in performing these tasks.

Recommendation 6

The Victorian Secretaries Board Family Violence Sub-committee oversee a working group consisting of representatives of 'prescribed organisations' covered by the recommended information-sharing regime and the Office of the Privacy and Data Protection Commissioner [within 12 months of the legislative amendments]. The working group should:

- ▶ identify priority areas for the development of an information-sharing culture throughout the family violence system
- ▶ develop an awareness campaign to explain the new information-sharing regime to prescribed organisations
- ▶ coordinate the production of any guidelines or guidance material created to support the new information-sharing regime and help prescribed organisations put their information-sharing arrangements into operation
- ▶ help prescribed organisations update information-sharing protocols and memorandums of understanding and deliver internal training on information sharing.

Improving multi-agency information sharing

The Commission recognises that timely information sharing is crucial to effectively managing the risk posed by the perpetrator and to ensuring strategies are in place to keep victims safe. Further, it recognises that creating a more permissive information-sharing regime requires new system infrastructure, in addition to legislative and cultural reform.

The Commission recommends that a statewide Central Information Point be established to provide up-to-date information to assist risk assessment and risk management, in particular for medium to high-risk cases. Introduction of an actuarial risk assessment tool within the revised CRAF, as recommended by the Commission in Chapter 6, will help with determining medium to high-risk category cases. This model is loosely based on the existing South Australian Multi-Agency Protection Service model which is discussed in the box below.

The South Australian MAPS model: 'real time information sharing to reduce risk'²⁴²

In 2012, following a visit to the UK, the Chief Commissioner of Police recommended to government that they implement a UK 'MASH-type' model to support early intervention for family violence in the South Australian context. This model was also developed in response to criticism from the State Coroner following the death of Zahra Abrahamzadeh.

MAPS is a police led, co-located model, with the agencies involved including police; Corrections; Health; Housing; Office for Women; Education, and Families SA (Child Protection). The model operates as follows:

- ▶ all police family violence incident reports (both the criminal and the 'domestic abuse' reports) are automatically uploaded each morning into the MAPS system
- ▶ these are reviewed by the MAPS multi-agency research team, who search through for relevant information from their own agency databases (that they access from on-site)
- ▶ any concerns are selected for 'mapping' and referred to a twice daily taskforce meeting (the "tactical table") where agreed actions are referred back to local agencies for action.

Currently MAPS referrals come from South Australia Police only, but the intent is to include referrals about domestic violence and child protection concerns from all partner agencies.

This model is described as an 'an early warning system', intended to increase system accountability and provide an escalation point where there have been process flaws or gaps in the response to family violence.

South Australia Police has leadership of the response, which includes the power to instruct and hold other agencies to account in relation to identified cases. The information gathered is then automatically uploaded into each agencies database in real-time. The model is currently unfunded and is being reviewed.

The Central Information Point should consist of a co-located multi-department team led by Victoria Police and with representatives from the Departments of Justice and Regulation (including Corrections Victoria) and Health and Human Services (including health, drug and alcohol, mental health, child protection, housing and homelessness and youth justice services).

It should also include a representative from the registry staff of the Magistrates' Court of Victoria (and potentially from other Victorian courts as well). Information held by the court, such as final family violence intervention orders and risk assessments completed by the applicant support worker, should be shared consistent with the legislative regime we have proposed. The Commission recognises, however, that there are specific challenges that exist in respect of the Magistrates' Court inclusion in the Central Information Point, because of its outdated information technology system and difficulties associated with efficiently and effectively accessing information from its databases. However, the Magistrates' Court should provide information and participate as a member of the Central Information Point to the extent possible. As upgrades to the Magistrates' Court IT systems progress, the system should be used to more efficiently provide the required information, as well as providing a greater range of information.

Consideration should be given to any other agencies who could over time be included as additional members of the Central Information Point.

Each department represented at the Central Information Point should be a prescribed organisation under the new information sharing regime in the Family Violence Protection Act. This will allow information sharing between members of the Central Information Point, as well as with other prescribed organisations, such as the recommended Support and Safety Hubs described in Chapter 13.

As discussed above, the Commission notes that there may be limited situations in which an agency participating in the Central Information Point will not be able to share information. This may be particularly important in the case of courts and would include circumstances in which sharing information would prejudice an ongoing investigation or proceeding.

The Central Information Point will work closely with the 17 proposed Support and Safety Hubs. On a request from such a hub, each agency member of the Central Information Point will be authorised to have access to their own agency's databases and to provide any information that might be held in relation to nominated individuals. The information obtained from the Central Information Point will primarily be about the perpetrator; information about the victim may be obtained from the victim directly or from the Central Information Point with the victim's consent.

The agency databases might include information about criminal history, community correction orders, parole, child protection, mental health, drug and alcohol and other health services, as well as disability and housing services. The Central Information Point would consolidate the relevant information from each agency's database into one report and provide it to the Support and Safety Hub in question. As risk assessment forms part of the Support and Safety Hubs' intake process which is performed daily, the information would be consolidated on a daily basis.

The Central Information Point would also provide updated information to a hub each time such information is received in relation to a perpetrator who has already been the subject of a request for information. For example, the Central Information Point should provide information to a hub when a perpetrator is approaching release from prison or is the subject of an L17 referral with respect to a different victim. This means that the Central Information Point needs to have the capacity to run searches on individuals who have previously been the subject of a request for information, and to have a mechanism for flagging important dates such as the expiry of a family violence intervention order and the end of a prison sentence. The hub should in turn share this information with the agencies working with the victim(s) when it is necessary to manage risks to the victim's safety.

Unlike, for example, the Multi-Agency Protection Service model in South Australia, it is not envisaged that the members of the Central Information Point would undertake the process of risk assessment, or seek to make decisions as to how to manage the particular risk. They will, however, be required to make decisions as to which information is necessary (under the new legislative regime recommended by the Commission) to provide to the hubs or others. Accordingly, staff at the Central Information Point should have continuing training around family violence, as well as comprehensive and continuously updated knowledge of family violence risk, including a strong understanding of the CRAF.

RAMPs, the statewide 24-hour crisis service (Safe Steps), the Men's Referral Service and the Victims Support Agency should also have access to information from the Central Information Point. This is because the Men's Referral Service and Safe Steps will continue to be responsible for after-hours referrals and the Victims Support Agency for L17 referrals for male victims. As the mechanism for managing high-risk cases, RAMPs must also have easy access to risk information.

It is envisaged that other prescribed organisations such as specialist family violence services will be able to obtain information from the relevant Support and Safety Hub rather than dealing directly with the Central Information Point. We also note that the Central Information Point is not intended to replace information sharing at the local level. Police, courts, specialist family violence services and other prescribed organisations can and should communicate directly with each other as necessary (provided it is in accordance with the new legislative regime under the Family Violence Protection Act).

The Central Information Point will offer prompt access to comprehensive information in order to strengthen risk assessment and risk management and improve the quality of measures designed to keep victims safe. The establishment of this facility is a key reform on which many other actions rely. Accordingly, we recommend that the Central Information Point be established in advance of the Support and Safety Hubs, and no later than 1 July 2018 when the hubs are due to commence.

Recommendation 7

The Victorian Government establish a secure Central Information Point. Led by Victoria Police, it should consist of a co-located multi-disciplinary team with representatives from Victoria Police, the courts (registry staff), the Department of Health and Human Services and the Department of Justice and Regulation (Corrections Victoria) who are authorised to obtain information from their respective databases [by 1 July 2018]. A summary of this information should be available to the Risk Assessment and Management Panels, the recommended Support and Safety Hubs, the 24-hour crisis telephone service Safe Steps and the Men's Referral Service to permit effective assessment and management of risk in individual cases.

Updating IT systems

In order to support the Central Information Point, the Commission considers it imperative that there be joint planning between all prescribed organisations to ensure that upgraded or replacement IT platforms have adequate functionality for prompt, effective and appropriate information sharing. There is a pressing need for central oversight of this process in view of the once-in-a-generation opportunity associated with the overhaul or replacement of major case management platforms such as LEAP and Courtlink.

Equally, the Commission considers that government should not wait for major system changes before moving to improve technology-enabled information sharing in the family violence system. Building on the work being done by the Department of Justice and Regulation, a project should be started immediately to examine opportunities for purchasing off-the-shelf applications to integrate databases, without replacing legacy systems.

In the Commission's view, government should have as its aspiration the creation of an integrated case management system whereby relevant agencies can upload and access in real time the information they need to fulfil their roles and responsibilities as part of the family violence system. This will probably require significant scoping and planning because of the complexity of what is involved, and the broader policy implications of options such as adopting e-records in the human services field.

Recommendation 8

The Victorian Secretaries Board ensure that proposed upgrades to key Magistrates' Court of Victoria, Victoria Police, Corrections Victoria and Department of Health and Human Services information technology systems equip these systems [by 1 July 2018] to:

- ▶ share information for the purposes of risk assessment and management in individual cases of family violence
- ▶ permit the use of system data for the purpose of evaluating the effectiveness of outcomes from implementation of the Commission's recommendations and the recommended Statewide Family Violence Action Plan
- ▶ participate in the Central Information Point.

Recommendation 9

The Victorian Government examine options for the development of a single case management data system to enable relevant agencies to view and share risk information in real time [within 12 months].

Endnotes

- 1 See Transcript of McCartney, 14 August 2015, 3128 [23]–3131 [8].
- 2 Victoria Police, 'Code of Practice for the Investigation of Family Violence—Edition 3' (2014) 44 [6.1]–[6.2].
- 3 This summary is based on information provided to the Commission by a number of different sources throughout the course of its inquiries.
- 4 See Statement of Widmer, 31 July 2015, 2–3 [8].
- 5 See, eg, Statement of Steendam and Howard, 3 August 2015, 18 [67].
- 6 See, eg, Statement of Reaper, 4 August 2015, 5 [18].
- 7 See generally, Statement of Callister, 4 August 2015.
- 8 The Magistrates' Court produces transcripts for committal hearings only. It otherwise records proceedings and, subject to approval from the Chief Magistrate, will make audio recordings available on application. See Magistrates' Court of Victoria, *Practice Direction 1 of 2013—Audio Recordings*, 22 May 2013; Magistrates' Court of Victoria, 'Audio Recording Protocols—Fact Sheet' (May 2013).
- 9 There is no transcript service available in the Children's Court; it records proceedings and, subject to approval from a Judicial Officer, will make audio recordings available on application. See Children's Court of Victoria, *Practice Direction No 2 of 2012—Authority to provide digital recordings of proceedings*, 2 February 2012.
- 10 See Statement of Watts, 11 August 2015, 26–7 [116]–[119].
- 11 See Chapter 8 which discusses the fragmentation of the system in detail. See also, Coroners Court of Victoria, 'Finding into Death with Inquest: Luke Geoffrey Batty' (28 September 2015) 6 [19E].
- 12 See, eg, Transcript of Humphreys, 23 July 2015, 1274 [11]–[16]; Statement of Steendam and Howard, 3 August 2015, 3 [12]; Domestic Violence Victoria—03, Submission 943, 21; Women's Health West Inc, Submission 239, 42.
- 13 Statement of Widmer, 31 July 2015, 1–2 [5].
- 14 Department of Human Services, 'Family Violence Risk Assessment and Risk Management: Framework and Practice Guides 1-3 (Edition 2)' (April 2012) 46–7.
- 15 Transcript of McCartney, 14 August 2015, 3131 [15]–[16].
- 16 Coroners Court of Victoria, Submission 382, 18–19.
- 17 Coroners Court of Victoria, above n 11, 83 [457]–[458].
- 18 Ibid.
- 19 Premier of Victoria, The Hon Daniel Andrews, 'Victorian Government Response—Inquest into the Death of Luke Geoffrey Batty' (24 December 2015) <http://www.coronerscourt.vic.gov.au/resources/68cf6ac7-e998-468d-a4c4-5ae4b7461378/20140855+response+premier+of+vicoria_luke+batty.pdf>.
- 20 Department of Premier and Cabinet, 'Review of legislative and policy impediments to sharing relevant information between agencies in relation to a person at risk of family violence' (Request for Tender No 00519, 2016) <<http://www.tenders.vic.gov.au/tenders/tender/display/tender-details.do?id=7550&action=display-tender-details>>.
- 21 See, eg, Women's Health West Inc, Submission 239, 42.
- 22 Commissioner for Privacy and Data Protection, Submission 644, 1.
- 23 See Australian Law Reform Commission and New South Wales Law Reform Commission, 'Family Violence—A National Legal Response: Final Report' (ALRC Report No 114, NSWLRC Report No 128, Commonwealth of Australia, 2010) 1399; Statement of Widmer, 31 July 2015, 10 [42].
- 24 See, eg, Statement of Watts, 11 August 2015, 9 [44].
- 25 Statement of Watts, 11 August 2015, 29 [127].
- 26 *Charter of Human Rights and Responsibilities Act 2006* (Vic) s 13; Statement of Watts, 11 August 2015, 5 [19].
- 27 Commissioner for Privacy and Data Protection, Submission 644, 3.
- 28 Ibid 2.
- 29 *Privacy and Data Protection Act 2014* (Vic) s 6 and *Health Records Act 2001* (Vic) s 7; see also, Statement of Watts, 11 August 2015, 5 [20]–[23] and 6 [30].
- 30 *Privacy and Data Protection Act 2014* (Vic) s 3: 'personal information means information or an opinion (including information or an opinion forming part of a database), that is recorded in any form and whether true or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion, but does not include information of a kind to which the *Health Records Act 2001* applies'.
- 31 *Health Records Act 2001* (Vic) s 3 relevantly provides that health information means: information or an opinion about the physical, mental or psychological health (at any time) of an individual; or a disability (at any time) of an individual; or an individual's expressed wishes about the future provision of health services to him or her, or a health service provided, or to be provided, to an individual; that is also personal information. Health information is also any other personal information collected to provide, or in providing, a health service.
- 32 *Privacy and Data Protection Act 2014* (Vic) s 12 and *Health Records Act 2001* (Vic) s 15; see also, Statement of Watts, 11 August 2015, 12 [55].
- 33 *Privacy and Data Protection Act 2014* (Vic) s 20(1); *Health Records Act 2001* (Vic) s 21(1).
- 34 *Privacy and Data Protection Act 2014* (Vic) ss 10, 13 and 15; *Health Records Act 2001* (Vic) ss 10 and 12.
- 35 *Health Records Act 2001* (Vic) s 11.
- 36 Transcript of Watts, 14 August 2015, 3166 [3]–[17].
- 37 *Privacy and Data Protection Act 2014* (Vic) IPP 1 and *Health Records Act 2001* (Vic) HPP 1.
- 38 *Privacy and Data Protection Act 2014* (Vic) IPP 1 and *Health Records Act 2001* (Vic) HPP 1.
- 39 *Privacy and Data Protection Act 2014* (Vic) IPP 2.1 and *Health Records Act 2001* (Vic) HPP 2.2.
- 40 Statement of Watts, 11 August 2015, 13 [58].
- 41 Statement of Widmer, 31 July 2015, 3 [10]–[13]; Transcript of Widmer, 14 August 2015, 3137 [24]–3138 [23].
- 42 *Privacy and Data Protection Act 2014* (Vic) IPP 2.1(a) and *Health Records Act 2001* (Vic) HPP 2.2(a).
- 43 *Privacy and Data Protection Act 2014* (Vic) IPP 2.1(b) and *Health Records Act 2001* (Vic) HPP 2.2(b).
- 44 *Privacy and Data Protection Act 2014* (Vic) IPP 2.1(f) and *Health Records Act 2001* (Vic) HPP 2.2(c).
- 45 *Privacy and Data Protection Act 2014* (Vic) IPP 2.1(e) and *Health Records Act 2001* (Vic) HPP 2.2(i). Note however that the test in HPP 2.2(i) is higher than in IPP 2.1(e); if the organisation is a registered health service provider, the use or disclosure must not be a breach of confidence.
- 46 *Privacy and Data Protection Act 2014* (Vic) IPP 2.1(g) and *Health Records Act 2001* (Vic) HPP 2.2(j). Note however that the test in HPP 2.2(j) is higher than in IPP 2.1(g); if the organisation is a registered health service provider, the use or disclosure must not be a breach of confidence.
- 47 *Privacy and Data Protection Act 2014* (Vic) IPP 2.1(d)(i) and *Health Records Act 2001* (Vic) HPP 2.2(h)(i); see also Statement of Widmer, 31 July 2015, 4 [14].
- 48 *Privacy and Data Protection Act 2014* (Vic) s 15; see also, Statement of Watts, 11 August 2015, 12 [56]–[57]. Similar exemptions are built-in to the HPPs under the *Health Records Act 2001* (Vic).
- 49 Ibid.
- 50 *Privacy and Data Protection Act 2014* (Vic) s 20(3).
- 51 Ibid.
- 52 See Statement of Watts, 11 August 2015, 14–19 [63]–[84].

- 53 *Privacy and Data Protection Act 2014* (Vic) s 3: 'public sector data means any information (including personal information) obtained, received or held by an agency or body to which Part 4 applies, whether or not the agency or body obtained, received or holds that information in connection with the functions of that agency or body'.
- 54 *Ibid* s 86.
- 55 Statement of Watts, 11 August 2015, 10 [46]. See also, Commissioner for Privacy and Data Protection, *Data Security—What's New? Victorian Protective Data Security Standards* (VPDSS) (15 January 2016) <<https://www.cdp.vic.gov.au/menu-data-security/data-security-whats-new>>.
- 56 See Commissioner for Privacy and Data Protection, *Data Security—What's New? Victorian Protective Data Security Standards* (VPDSS) (15 January 2016) <<https://www.cdp.vic.gov.au/menu-data-security/data-security-whats-new>>.
- 57 *Privacy and Data Protection Act 2014* (Vic) ss 91–94.
- 58 *Ibids* 91; see also, Statement of Watts, 11 August 2015, 9 [42].
- 59 Statement of Watts, 11 August 2015, 11 [52].
- 60 Statement of Steendam and Howard, 3 August 2015, 9–11 [38]–[40].
- 61 Statement of Widmer, 31 July 2015, 11 [47].
- 62 Statement of Watts, 11 August 2015, 8 [38].
- 63 Statement of Widmer, 31 July 2015, 3 [11].
- 64 Statement of Reaper, 4 August 2015, 2–5 [9]–[17].
- 65 *Ibid* 2 [7].
- 66 Statement of Steendam and Howard, 3 August 2015, 4 [18].
- 67 *Ibid* 4 [17]–[19].
- 68 Victoria Police, 'Response to NTP Item 197—supplied by the Policy and Legislation Division—Corporate Strategy and Operational Improvement Department, Victoria Police', 6–8, produced by the State of Victoria in response to the Commission's Notice to Produce dated 5 June 2015.
- 69 Magistrates' Court of Victoria, 'Family Violence Operating Procedures' (August 2014), 110–112, produced in response to the Commission's request for information dated 5 June 2015; *Children, Youth and Families Act 2005* (Vic) ss 534 and 537.
- 70 *Corrections Act 1986* (Vic) s 104ZX: 'relevant persons' include prison governors, prison officers and certain other people working within prisons; regional managers and community corrections officers; members of the Adult Parole Board; and employees of the Department of Justice and Regulation.
- 71 Statement of Reaper, 4 August 2015, 3–4 [14]–[17].
- 72 Statement of Steendam and Howard, 3 August 2015, 5 [20.1].
- 73 *Children, Youth and Families Act 2006* (Vic) s 27.
- 74 *Ibid* s 36.
- 75 *Ibid* s 36(4).
- 76 *Children, Youth and Families Regulations 2007* (Vic) reg 6(a).
- 77 Human Services (Complex Needs) Act 2009 (Vic) s 14; Statement of Watts, 11 August 2015, 19 [87].
- 78 *Ibid*.
- 79 *Privacy Act 1998* (Cth) s 15 and Sch 1.
- 80 *Ibid* ss 6, 6C, 6D.
- 81 See Safe Steps Family Violence Response Centre, *Privacy Policy* <<http://www.safesteps.org.au/about-us/#PrivacyPolicy>>; Berry Street, *Privacy Statement* <<http://www.berrystreet.org.au/PrivacyStatement>>; St Vincent's Health Australia, *Privacy Policy* <<https://svha.org.au/home/privacy-policy>>.
- 82 See, eg, *Family Law Act 1975* (Cth) s 121; *Family Law Rules 2004* (Cth) r 24.13; *Federal Circuit Court Rules* (Cth) r 2.08.
- 83 The Commission received numerous examples of information-sharing protocols and memorandums of understanding from, for example, the Department of Health and Human Services, the Department of Education, the Department of Justice and Regulation, Victoria Police, Victoria Legal Aid and the Magistrates' Court of Victoria in response to the Commission's Notices to Produce and requests for information dated 5 June 2015.
- 84 Statement of Widmer, 31 July 2015, 5 [20]–[22].
- 85 Statement of Reaper, 4 August 2015, 7–8 [28].
- 86 Department of Justice and Regulation and Department of Education and Training, various documents, produced by the State of Victoria in response to the Commission's Notice to Produce dated 5 June 2015.
- 87 Department of Health and Human Services, 'Family Violence Referral Protocol Between the Department of Health and Human Services and Victoria Police—2015' (June 2015).
- 88 State of Victoria, 'Protecting Children: Protocol Between Department of Human Services—Child Protection and Victoria Police' (June 2012).
- 89 Statement of Steendam and Howard, 3 August 2015, 16 [59]; Statement of Widmer, 31 July 2015, 5–6 [23]–[25]. The Commission also received numerous other protocols, memorandums of understanding and agreements governing information sharing between Victoria Police and other bodies, produced by Victoria Police pursuant to the Commission's Notice to Produce dated 5 June 2015.
- 90 Transcript of Widmer, 14 August 2015, 3148 [5]–[24].
- 91 *Ibid* 3139 [29]–3140 [1].
- 92 Office of Women's Policy, 'Information Sharing in the context of family violence' (Factsheet, Department of Planning and Community Development, June 2009).
- 93 Statement of Widmer, 31 July 2015, 6 [26].
- 94 Domestic Violence Victoria, 'Code of Practice for Specialist Family Violence Services for Women and Children: Enhancing the Safety of Women and Children in Victoria' (2006) 53–54 [5.6.2].
- 95 *Ibid* 54–55 [5.6.5].
- 96 Statement of Widmer, 31 July 2015, 7 [28]–[29]; Statement of Steendam and Howard, 3 August 2015, 11–14 [41]–[54].
- 97 See, eg, Knox City Council, Submission 227, 16; City of Casey, Submission 354, 8; Bethany Community Support, Submission 434, 14; State of Victoria, Submission 717, 47.
- 98 Domestic Violence Victoria—03, Submission 943, 20–21.
- 99 No To Violence; Men's Referral Service, Submission 944, 16.
- 100 Statement of Widmer, 31 July 2015, 10 [41].
- 101 *Ibid* 10 [43].
- 102 Statement of Steendam and Howard, 3 August 2015, 19 [71].
- 103 *Ibid* 19 [72]–[73].
- 104 Victoria Police, Submission 923, 22.
- 105 Statement of Steendam and Howard, 3 August 2015, 28 [108].
- 106 Bethany Community Support, Submission 434, 15.
- 107 Plenty Valley Community Health Service, Submission 242, 6.
- 108 Transcript of Steendam, Reaper and Widmer, 14 August 2015, 3144 [24]–3147 [27].
- 109 Statement of Reaper, 4 August 2015, 6 [24]–[25].

110 Nexus Primary Health, Submission 781, 5.

111 See, eg, Statement of Eltringham, 17 July 2015, 4 [21]; Community consultation, Whittlesea, 29 April 2015; Department of Human Services, above n 14, 51.

112 See, eg, Anonymous, Submission 60, 1; Anonymous, Submission 120, 1–2.

113 Coroners Court of Victoria, above n 11, 54 [282]–[283].

114 Ibid 73 [408] and [414].

115 Transcript of Steendam, Reaper and Widmer, 14 August 2015, 3145 [31]–3146 [13].

116 *Corrections (Victims Register) Regulations 2004* (Vic) r 5.

117 See *Corrections Act 1986* (Vic) s 30A.

118 Statement of Morton, 3 August 2015, 16 [74].

119 *Corrections Act 1986* (Vic) s 30B. As at 30 June 2015, there were 792 victims registered. See Statement of Morton, 3 August 2015, 16 [73]. It is unclear how many of these victims are victims of family violence.

120 Transcript of Steendam, Reaper and Widmer, 14 August 2015, 3145 [5]–[7].

121 See ibid 3146 [20]–3147 [10].

122 See ibid 3145 [4]–3147 [26].

123 Statement of Wood, 24 July 2015, 13–14 [51].

124 See, eg, Statement of Field, 31 July 2015, 10 [42].

125 Matthew Keeley et al, 'Opportunities for Information Sharing: Case Studies—Report to the NSW Department of Premier and Cabinet' (University of New South Wales, Social Policy Research Centre, April 2015) 111, 17.

126 Statement of Widmer, 31 July 2015, 9 [39].

127 See, eg, ibid 11 [47].

128 See, eg, ibid 14 [58]; Transcript of Spriggs, 3 August 2015, 1621 [26]–[27]; Transcript of Schultze, 23 July 2015, 1381 [12]–[19]; Statement of McCormack, 29 July 2015, 11 [61]; Community consultation, Geelong 2, 28 April 2015; Community consultation, Whittlesea, 29 April 2015; Community consultation, Traralgon, 13 May 2015; Community consultation, Benalla 2, 19 May 2015; Chawla Family Submission 422, 13; The Hon Fiona Richardson MP Member for Northcote, Submission 815, 3; Victorian Aboriginal Community Services Association Limited, Submission 837, 6; Plenty Valley Community Health Service, Submission 242, 6; Quantum Support Services Incorporated, Submission 371, 12; Whittlesea Community Connections, Submission 375, 24; Maternal and Child Health Nurses Victoria—MCHN Vic Inc, Submission 454, 2; Opportunity Knocks—EDVOS; Safe Futures Foundation; Safe Steps; WISHIN; Victorian Women's Trust, Submission 898, 40; Australian Community Support Organisation (ACSO), Submission 900, 2; Domestic Violence Victoria—02, Submission 943, 38; Domestic Violence Victoria—03, Submission 943, 20–22.

129 Statement of Steendam and Howard, 3 August 2015, 3 [15].

130 Women's Health West Inc, Submission 239, 42.

131 Domestic Violence Victoria—03, Submission 943, 20.

132 Commissioner for Privacy and Data Protection, Submission 644, 1.

133 Statement of Widmer, 31 July 2015, 10 [41]; see also Transcript of Widmer, 14 August 2015, 3140 [8]–[23].

134 See, eg, Transcript of McCartney, 14 August 2015, 3127 [30]–3128 [16].

135 Transcript of Watts, 14 August 2015, 3178 [8]–3179 [7].

136 Statement of Widmer, 31 July 2015, 9 [36]–12 [47].

137 Ibid.

138 See also, ibid 30 [130].

139 Transcript of McCartney, 14 August 2015, 3132 [4]–3134 [13].

140 Transcript of Humphreys, 23 July 2015, 1274 [17]–[30].

141 Statement of Watts, 11 August 2015, 18 [80].

142 Statement of Widmer, 31 July 2015, 12–13 [49]–[50].

143 Statement of Widmer, 31 July 2015, 12–13 [50].

144 *Privacy and Data Protection Act 2014* (Vic) sch 1 IPP 1.3.

145 Ibid IPP 1.5.

146 Ibid IPP 1.2.

147 *Corrections Act 1986* (Vic) s 104ZY(2); Department of Health and Human Services, 'Privacy Impact Assessment', 14, produced by the State of Victoria in response to the Commission's Notice to Produce dated 27 November 2015.

148 Statement of Widmer, 31 July 2015, 13 [51]–[52]; Statement of Watts, 11 August 2015, 18 [79].

149 Statement of Watts, 11 August 2015, 16 [74]; *Privacy and Data Protection Act 2014* (Vic) s 44.

150 Statement of Watts, 11 August 2015, 16 [76]; *Privacy and Data Protection Act 2014* (Vic) s 45(2).

151 Statement of Watts, 11 August 2015, 17 [78.1].

152 Ibid 18 [78.2].

153 Department of Health and Human Services, 'RAMPs Information Usage Arrangement' (24 December 2015) and 'Privacy Impact Assessment' produced by the State of Victoria in response to the Commission's Notice to Produce dated 27 November 2015. The 'RAMPs Information Usage Arrangement' noted that the accompanying Human Rights Impact Assessment would be provided by the Department of Health and Human Services in January 2016.

154 Department of Health and Human Services, Letter from Commissioner for Privacy and Data Protection David Watts to Acting Secretary of the Department of Health and Human Services Kym Peake regarding Proposed RAMP IUA (27 October 2015), produced by the State of Victoria in response to the Commission's Notice to Produce dated 27 November 2015.

155 See Statement of Watts, 11 August 2015, 18 [79].

156 Statement of Widmer, 31 July 2015, 11 [45]–[46].

157 Statement of Steendam and Howard, 3 August 2015, 26 [112].

158 Transcript of Steendam, 14 August 2015, 3163 [17]–[28].

159 See Statement of Widmer, 31 July 2015, 11 [47].

160 See ibid 12 [47].

161 See, eg, *Children, Youth and Families Act 2005* (Vic) s 205(2).

162 Community consultation, Whittlesea, 29 April 2015.

163 Statement of Watts, 11 August 2015, 25 [114].

164 Transcript of Watts, 14 August 2015, 3171 [14]–[19].

165 Keeley et al, above n 125, 3, 5, 18, 51, 64, 83.

166 Transcript of Widmer, 14 August 2015, 3139 [3]–[7].

167 Commissioner for Privacy and Data Protection, Submission 644, 3–4.

168 Statement of Steendam and Howard, 3 August 2015, 28 [109].

169 Maternal and Child Health Nurses Victoria—MCHN Vic Inc, Submission 454, 2.

170 Quantum Support Services Incorporated, Submission 371, 12.

171 Bethany Community Support, Submission 434, 15.

172 Transcript of Watts, 14 August 2015, 3174 [29]–3175 [3].

173 Ibid 3175 [22]–[27].

174 Ibid 14 August 2015, 3175 [30]–[31]. See also, Commissioner for Privacy and Data Protection, 'Guidelines for Sharing Personal Information: Draft', produced by the Commissioner for Privacy and Data Protection in response to the Commission's Notice to Produce dated 14 August 2015 (as varied on 20 August and 20 October 2015).

175 Commissioner for Privacy and Data Protection, Submission 644, 1.

176 Keeley et al, above n 125, 111, 17–18.

177 LEAP and Interpose systems: Victoria Police, 'Family Violence Royal Commission Notice to Produce Response—Operational Systems Support Division ISSC' (22 June 2015), 1, produced in response to the Commission's Notice to Produce dated 5 June 2015.

178 Courtlink: see Magistrates' Court of Victoria and Children's Court of Victoria, 'Magistrates' and Children's Courts—Information Request Response', 1, and 'Magistrates' Court of Victoria: Family Violence Court Division Operating Procedures', 119, produced in response to the Commission's request for information dated 5 June 2015.

179 Corrections Victoria Intervention Management System: Department of Justice and Regulation, 'Offending Behaviour Programs: Service Delivery Model' (April 2015), 12, produced by the State of Victoria in response to the Commission's Notice to Produce dated 5 June 2015.

180 The Specialist Homelessness Information Platform (SHIP) for homelessness services: see Statement of Widmer, 31 July 2015, 8 [32]; the Client Relationship Information System (CRIS) for child protection, youth justice, disability services and early childhood intervention services: see Department of Health and Human Services, 'Protocol between Child Protection and Youth Justice' (September 2013), 27, produced by the State of Victoria in response to the Commission's Notice to Produce dated 5 June 2015; and the Integrated Reports and Information System (IRIS) for family violence services, Child FIRST/Family Services and sexual assault services: see Statement of Widmer, 31 July 2015, 8 [32].

181 Statement of Widmer, 31 July 2015, 7 [31].

182 Ibid 13–14 [53]–[54].

183 Bethany Community Support, Submission 434, 15.

184 Women's Health West Inc, Submission 239, 42.

185 Statement of Widmer, 31 July 2015, 8 [33].

186 Ibid 8 [32]; Transcript of Widmer, 14 August 2015, 3154 [29]–3155 [10].

187 See Transcript of Toohey and Hawkins, 4 August 2015, 1850 [27]–1854 [17].

188 Statement of Shuard, 27 July 2015, 5 [26].

189 Ibid 5–6 [26]–[35]; Transcript of Shuard and Howard, 6 August 2015, 2202 [24]–2204 [14].

190 Statement of Widmer, 31 July 2015, 14 [55].

191 Statement of Steendam and Howard, 3 August 2015, 19 [74], 29 [117].

192 Transcript of Steendam, 14 August 2015, 3143 [13]–3144 [21].

193 Magistrates' Court of Victoria and Children's Court of Victoria, Submission 978, 52.

194 See, eg, Transcript of Toohey and Hawkins, 4 August 2015, 1851 [15]–[27]; Transcript of Broughton, 2174 [9]–[18]; Transcript of Field, 1741 [21]–1742 [11].

195 Transcript of Toohey and Hawkins, 4 August 2015, 1850 [30]–1851 [5], 1851 [28]–1852 [14], 1853 [23]–[25].

196 Statement of Spriggs, 27 July 2015, 17 [72]; Transcript of Spriggs, 3 August 2015, 1597 [16]–[26].

197 Magistrates' Court of Victoria and Children's Court of Victoria, Submission 978, 14.

198 Victoria Police, 'Annual Report 2014–2015' (2015) 17, 54, 61.

199 Transcript of Widmer, 20 August 2015, 3154 [9]–[22]. The Commission was subsequently told by the Department of Health and Human Services that this work initially formed part of the 'Single Client View' project undertaken by the department which focused on technical barriers to information sharing. On review in early 2015, it considered that this project was no longer the best approach to deliver the department's future information sharing needs for reasons including that its focus on technical barriers (without also addressing cultural and practice issues) was too limited. Accordingly, the Department of Health and Human Services is currently developing a new business case that will identify challenges and propose options to address the complexities of information sharing. This is known as the 'Better Client Information' project: see Department of Health and Human Services, 'Information Sharing', provided in response to the Commission's Notice to Produce dated 14 August 2015 (as varied on 20 August and 20 October 2015).

200 Magistrates' Court of Victoria and Children's Court of Victoria, Submission 978, 53.

201 Transcript of Reaper, 20 August 2015, 3156 [4]–[10], [16]–[19].

202 Transcript of De Cicco, 14 August 2015, 3123 [31]–3124 [5]. See also, Statement of De Cicco, 7 August 2015, 16–18 [48]–[57].

203 Transcript of De Cicco, 14 August 2015, 3124 [30]–3125 [5].

204 Transcript of De Cicco, 14 August 2015, 3125 [6]–[14]. See also, Statement of De Cicco, 7 August 2015, 16–18 [48]–[57].

205 Premier of Victoria, The Hon Daniel Andrews, above n 19.

206 Domestic Violence Victoria—02, Submission 943, 38.

207 Statement of Watts, 11 August 2015, 27–28 [119]–[122].

208 Ibid 27 [119].

209 Ibid 28 [122].

210 Ibid 28 [122].

211 Statement of Watts, 11 August 2015, 28 [122]–[123]; see also Transcript of Watts, 14 August 2015, 3177 [14]–[23].

212 See Statement of Widmer, 31 July 2015, 14 [57]; Statement of Steendam and Howard, 3 August 2015, 29 [120]; Victoria Police, Submission 923, 24; Bethany Community Support, Submission 434, 16.

213 Transcript of Watts, 14 August 2015, 3170 [13]–[18]; Statement of Watts, 11 August 2015, 27 [121].

214 Australian Law Reform Commission and New South Wales Law Reform Commission, above n 23, 1429–32, 1442.

215 Ibid 1442–3.

216 Statement of Watts, 11 August 2015, 28 [126].

217 See Statement of Widmer, 31 July 2015, 15–17 [62]–[70]; Statement of Watts, 11 August 2015, 19–22 [88]–[99].

218 Keeley et al, above n 125, 8.

219 Department of Premier and Cabinet (SA), 'Information Privacy Principles Instruction' (Cabinet Administrative Instruction No 1/89, 6 September 2013).

220 Ombudsman of South Australia, 'Information Sharing Guidelines for Promoting Safety and Wellbeing' (Guidelines, November 2014) 5.

221 Ibid 39–41.

222 Coroners Court of Victoria, above n 11, 84 [467].

223 See Statement of Widmer, 31 July 2015, 15 [60].

224 Australian Law Reform Commission and New South Wales Law Reform Commission, above n 23, 1442–43.

225 Statement of Watts, 11 August 2015, 28 [126].

226 The Commission considers that section 254A of the *Children and Young Persons (Care and Protection) Act 1998* (NSW) provides a model for such a clause.

- 227 *Children, Youth and Families Act 2005* (Vic) ss 3, 35, 44, 46. See also, Department of Health and Human Services, *Registration requirements for community services* (12 January 2016) <<http://www.dhs.vic.gov.au/for-service-providers/children,-youth-and-families/Community-service-organisations/registration-requirements-for-community-services>>.
- 228 Section 245I of the *Children and Young Persons (Care and Protection) Act 1998* (NSW) provides an example of this approach.
- 229 The Commission considers that s 245D of the *Children and Young Persons (Care and Protection) Act 1998* (NSW) provides a model for such a requirement.
- 230 Magistrates' Court of Victoria, 'Family Violence Operating Procedures' (August 2014), 110–112, produced in response to the Commission's request for information dated 5 June 2015.
- 231 Coroners Court of Victoria, above n 11, 86 [479].
- 232 Ibid 31 [163], [165].
- 233 Section 14(1) of the *Human Services (Complex Needs) Act 2009* (Vic) provides an example of this kind of purposive approach to information sharing: the Secretary may collect information for the purposes of developing a care plan and a number of persons are authorised to disclose information for that purpose.
- 234 Division 3 of Part 13A of the *Crimes (Domestic and Personal Violence) Act 2007* (NSW) provides an example of when information may be shared without first obtaining the consent of the primary person.
- 235 Sections 98I and 98N of the *Crimes (Domestic and Personal Violence) Act 2007* (NSW) provide a model for refusing access to associated respondents.
- 236 Section 245D of the *Children and Young Persons (Care and Protection) Act 1998* (NSW) provides an example of a similar provision.
- 237 The Commission considers that section 40 of the *Children, Youth and Families Act 2005* (Vic) provides an appropriate example of such a provision.
- 238 See, eg, section 37(5) of the *Children, Youth and Families Act 2005* (Vic).
- 239 *Privacy and Data Protection Act 2014* (Vic).
- 240 *Crimes (Domestic and Personal Violence) Act 2007* (NSW) s 98J.
- 241 The Commission considers that the South Australian Information Sharing Guidelines for Promoting Safety and Wellbeing should be considered in the development of any whole-of-system guidelines under the new regime. See Ombudsman of South Australia, above n 220, 5.
- 242 See Department of Premier and Cabinet (SA), 'Taking a Stand: Responding to Domestic Violence' (October 2014) 11; South Australian Government, 'Social Development Committee: Inquiry into Domestic and Family Violence—Submission from the South Australian Government' (February 2015) 5; Information provided to the Commission during the Commission's site visit (30 June 2015, 1 July 2015).

Appendix A Letters Patent and terms of reference

**ELIZABETH THE SECOND, BY THE GRACE OF GOD
QUEEN OF AUSTRALIA AND HER OTHER REALMS AND TERRITORIES,
HEAD OF THE COMMONWEALTH:**

I, the Honourable Alex Chernov AC QC, the Governor of the State of Victoria, with the advice of the Premier, under section 5 of the *Inquiries Act 2014* and all other enabling powers, appoint you

the Honourable Marcia Ann Neave AO as Commissioner and Chairperson, and Patricia Mary Faulkner AO and Anthony Joseph Nicholson as Commissioners

to constitute a Royal Commission to inquire into and report on the matters specified in the terms of reference.

BACKGROUND

- Family violence is the most pervasive form of violence perpetrated against women in Victoria. While both men and women can be perpetrators or victims of family violence, overwhelmingly the majority of perpetrators are men and victims are women and children.
- The causes of family violence are complex and include gender inequality and community attitudes towards women. Contributing factors may include financial pressures, alcohol and drug abuse, mental illness and social and economic exclusion.
- The impacts of family violence are profound.
 - a. In 2013 there were 44 family violence related deaths in Victoria.
 - b. For women and children, family violence has extensive and often long term physical, psychological and emotional consequences. It creates homelessness, disrupts children's schooling and leads to social and economic isolation for women.
 - c. The estimated annual cost of family violence to the Victorian economy in 2009 was \$3.4 billion.
- The response to family violence is necessarily complex and requires coordinated and concerted effort across government and the community, including by

government departments, courts, police, correctional services, legal services, housing, child protection and family services, schools, health and community organisations.

- Many committed and dedicated persons are involved in the prevention of and response to family violence, given the challenges it presents. There were 65,393 family incidents reported to Victoria Police in 2013-14, an increase of 83 per cent since 2009-10. This increased reporting of traditionally under-reported incidents may signal a positive step towards encouraging victims to speak out and an increased awareness of family violence. However, the increase in reported family violence incidents presents a challenge for the family violence system and has had significant impacts on all parts of the system, including police, courts, legal services and specialist family violence services.
- Preventing and responding to family violence is a shared responsibility across government and local government, media, business, community organisations, communities, families and individuals.
- Victoria's response to family violence must reduce the incidence of family violence, hold perpetrators to account for their actions and support victims in an effective, efficient and sustainable way into the future.

TERMS OF REFERENCE

You are appointed to inquire into and report on how Victoria's response to family violence can be improved by providing practical recommendations to stop family violence. You are required to:

1. examine and evaluate strategies, frameworks, policies, programs and services across government and local government, media, business and community organisations and establish best practice for:
 - a. the prevention of family violence;
 - b. early intervention to identify and protect those at risk of family violence and prevent the escalation of violence;
 - c. support for victims of family violence and measures to address the impacts on victims, particularly on women and children; and
 - d. perpetrator accountability;

2. investigate the means of having systemic responses to family violence, particularly in the legal system and by police, corrections, child protection, legal and family violence support services, including reducing re-offending and changing violent and controlling behaviours;
3. investigate how government agencies and community organisations can better integrate and coordinate their efforts; and
4. provide recommendations on how best to evaluate and measure the success of strategies, frameworks, policies, programs and services put in place to stop family violence;

and inquire into and report on any other matters reasonably incidental to those set out in paragraphs 1-4 above.

You may make such recommendations arising out of your inquiry as you consider appropriate, having regard to any matters you consider relevant including:

5. the need to establish a culture of non-violence and gender equality, and to shape appropriate attitudes towards women and children;
6. the needs and experiences of people affected by family violence with particular regard to children, seniors, Aboriginal and Torres Strait Islander communities, culturally and linguistically diverse communities, gay, lesbian, bisexual, transgender and intersex communities, regional and rural communities and people with a disability and complex needs;
7. the need to identify and focus on practical short, medium and long term systemic improvements to Victoria's current response to family violence and the need for this response to be sustainable into the future;
8. the need for coordination across jurisdictions to provide the most effective response to family violence;
9. the systems and mechanisms to identify and appropriately prevent and respond to family violence, including information sharing and data systems; and
10. the expertise of professionals and academics working in the field of family violence, including any relevant international and Australian family violence research, past inquiries, reports and evaluations that may inform your inquiry and avoid unnecessary duplication.

You are required to report your findings and any recommendations to the Governor as soon as possible, and in any event, no later than 29 February 2016.

In these terms of reference,

family violence means family violence as defined in section 5 of the *Family Violence Protection Act 2008*.

community organisation means any non-government body, agency, association, institution, organisation or other entity or group of entities of any kind (whether incorporated or unincorporated) and however described, that provides services or conducts activities to prevent or respond to family violence in Victoria.

CONDUCT OF THE INQUIRY

You are directed to:

- conduct your inquiry as you consider appropriate, having regard to adopting informal and flexible procedures where desirable;
- have regard to the desirability of conducting your inquiry without unnecessary cost or delay;
- not prejudice, and to work cooperatively with, other inquiries and current investigations into any matter of family violence, including having regard to the need to treat any evidence received by you in a way that does not prejudice current or future criminal or civil proceedings or other contemporaneous inquiries; and
- conduct the inquiry in accordance with these letters patent, the *Inquiries Act 2014*, and all other relevant laws.

You may also consult with experts and engage persons to provide relevant advice and assistance, including persons who have experienced family violence and support providers.

The powers of the Royal Commission, at the discretion of the Chairperson may, at any time, be exercised by one or more Commissioners.

Appendix B Amendment to Letters Patent

**ELIZABETH THE SECOND, BY THE GRACE OF GOD
QUEEN OF AUSTRALIA AND HER OTHER REALMS AND TERRITORIES,
HEAD OF THE COMMONWEALTH:**

I, the Honourable Linda Dessau AM, the Governor of the State of Victoria, with the advice of the Premier, under section 5 of the *Inquiries Act 2014*, section 41A of the *Interpretation of Legislation Act 1984* and all other enabling powers, amend the Letters Patent entered into the Register of Patents Book No. 46 Page No. 33 on 22 February 2015, by fixing 29 March 2016 as the date by which the Royal Commission is required to report its findings and any recommendations.

These amended letters patent are issued under the Public Seal of the State.

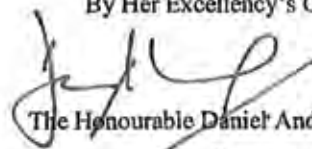
WITNESS

Her Excellency the Honourable
Linda Dessau, Member of the
Order of Australia, Governor of
the State of Victoria in the
Commonwealth of Australia at
Melbourne this 23rd day
of December
two thousand and fifteen.





By Her Excellency's Command


The Honourable Daniel Andrews MP
Premier of Victoria

Entered on the record by me in the Register of Patents Book No 46 Page No 77
on the 23rd day of December 20 15


Secretary, Department of Premier and Cabinet

Appendix C Statement of expenditure*

Expenditure for the period 22 February 2015 to 31 January 2016 ^{a,b}	\$
Commissioners and staff costs	3,030,860
General expenses ^c	168,678
Information technology	1,567,451
Other professional services and subscriptions ^d	645,590
Counsel Assisting	704,009
Lawyers	1,800,323
Document management	1,091,949
Hearings and community consultations	485,841
Occupancy	1,589,314
Total	11,084,015

Estimated expenditure 1 February 2016 to 29 April 2016 ^e	2,381,022
Estimated total expenditure 22 February 2015 to 29 April 2016	13,465,037

Notes:

* The Royal Commission into Family Violence (RCFV) discharged its terms of reference with the delivery of its report on 29 March 2016. The expenditure shown reflects actual costs incurred by the Commission to 31 January 2016, as well as an estimate of costs of the final two months of operation in February and March 2016; and expected wind-down and decommissioning costs to 29 April 2016.

a. Summary of costs incurred for the period 22 February 2015 to 31 January 2016 verified by Ernst & Young against the, Department of Premier and Cabinet's financial system through which all RCFV expenses were processed.

b. Depreciation and provisions are included in the relevant categories.

c. Including office infrastructure and equipment, travel and accommodation.

d. Including commissioned research and contracted professional services.

e. Including salaries, report editing, layout, design and printing, legal, information technology, document management and transfer of records to Public Records Office of Victoria.

Appendix D Witness list

Name	Role
Abbott, Ms Judith	Director, Drugs, Primary Care and Community Programs Branch, Department of Health and Human Services
Adams, Ms Lucy	Manager and Principal Lawyer, Justice Connect Homeless Law
Aleksanders, Mr Gabriel	Social worker and consultant, Brotherhood of St Laurence
Alexander, Senior Sergeant Fiona	Senior Sergeant and Officer in Charge, Integrated Response Team Initiative, Taskforce Alexis, Victoria Police
Allen, Ms Beth	Assistant Director, Child Protection Unit, Statutory and Forensic Services Design Branch, Department of Health and Human Services
Allen, Superintendent Charles	Superintendent, Priority Communities Division, Victoria Police
Antoine, Mr Jethro	Director of Technology and Director of New Jersey Programs, Center for Court Innovation (US)
Aos, Mr Steven	Director, Washington State Institute for Public Policy
Ashton, Chief Commissioner Graham	Chief Commissioner, Victoria Police
Atmore, Dr Chris	Senior Policy Adviser, Federation of Community Legal Centres
Avdibegovic, Ms Maya	Chief Executive Officer, InTouch Multicultural Centre Against Family Violence
Bamblett AM, Adjunct Professor Muriel	Chief Executive Officer, Victorian Aboriginal Child Care Agency
Bateson, Superintendent Stuart	Superintendent, Divisional Commander for North West Metro Division 2, Victoria Police
Batty, Ms Rosie	Domestic violence victim advocate, Luke Batty Foundation
Beagley, Ms Leanne	Director of Mental Health, Department of Health and Human Services
Beaton, Ms Tracy	Chief Practitioner and Director, Office of Professional Practice, Department of Health and Human Services
Becker, Ms Elizabeth	Principal Lawyer, InTouch Multicultural Centre Against Family Violence
Bignold, Ms Jocelyn	Chief Executive Officer, McAuley Community Services for Women
Bishop, Mr Drew	Senior Social Worker, North West Area Mental Health Service
Blakey, Ms Jenny	Manager, Seniors Rights Victoria
Boland, Ms Brenda	Chief Executive Officer, Commission for Children and Young People
Bolton, Ms Helen	Chief Executive Officer, Barwon Centre Against Sexual Assault
Brandenburg, Mr Michael	Manager, Family Violence, Family Relationship Services and Housing, Child and Family Services Ballarat
Braybrook, Ms Antoinette	Chief Executive Officer, Aboriginal Family Violence Prevention and Legal Service Victoria
Brennan, Ms Julianne	Director, Community Crime Prevention Unit, Department of Justice and Regulation
Bromfield, Professor Leah	Deputy Director, Australian Centre for Child Protection, University of South Australia and Professional Fellow at the Royal Commission into Institutional Responses to Child Sexual Abuse

Name	Role
Broughton, Deputy Chief Magistrate Felicity	Deputy Chief Magistrate and Joint Supervising Family Violence Magistrate, Magistrates' Court of Victoria
Brown, Ms Anna	Co-convenor, Victorian Gay & Lesbian Rights Lobby
'Brown, Ms Melissa'	Lay witness
Brown, Dr Patricia	Director, Children's Court Clinic, Children's Court of Victoria
Brown, Associate Professor Stephanie	Associate Professor, Head of Healthy Mothers Healthy Families research group, Murdoch Children's Research Institute, The Royal Children's Hospital
Brown, Professor Thea	Professor Emeritus, Department of Social Work, Monash University
Bugeja, Dr Lyndal	Manager, Prevention Unit, Coroners Court of Victoria
Bunston, Ms Wendy	Senior clinical mental health social worker, family therapist, infant mental health specialist and PhD candidate, La Trobe University
Byrne, Mr John	Men's health counsellor, Dardi Munwurro
Calafiore, Mr Joe	Chief Executive Officer, Transport Accident Commission
Calkin, Ms Fiona	Leading Senior Constable, Victoria Police
Callister, Ms Gill	Secretary, Department of Education and Training
Campbell, Ms Helen	Chair, Eastern Metropolitan Region Regional Family Violence Partnership
Carr, Ms Ailsa	Executive Manager, Family, Youth and Children's Services Unit, Gippsland Lakes Community Health
Carr, Ms Cate	Executive Director, Office of Liquor, Gaming and Racing, Department of Justice and Regulation
Carter, Councillor Sarah	Councillor, Maribyrnong City Council
Casey, Mr Chris	Senior Lawyer, Loddon Campaspe Community Legal Centre
Chambers, President Amanda	President, Children's Court of Victoria
Champion SC, Mr John	Director, Office of Public Prosecutions
Chesterman, Dr John	Manager of Policy and Education, Office of the Public Advocate
Clark, Commissioner Belinda	Commissioner, Victorian Public Sector Commission
'Collins, Mr James'	Lay witness
Comrie AO APM, Mr Neil	Implementation Monitor, Hazelwood Mine Fire Inquiry
Cooney, Ms Alice	Parole Coordinator, Victoria Police
Cornelius, Assistant Commissioner Luke	Assistant Commissioner, Southern Metropolitan Region, Victoria Police
Counsel, Ms Caroline	Accredited Family Law Specialist and Founding Partner, Counsel Family Law
Cumberland, Dr Rhonda	Chief Executive Officer, Good Shepherd Australia New Zealand
Davies, Ms Julie	Family violence respondent support worker, Ballarat Magistrates' Court
Day, Professor Andrew	Registered psychologist and Professor of Psychology, Deakin University
De Cicco, Ms Marisa	Deputy Secretary, Criminal Justice Division, Department of Justice and Regulation

Name	Role
de Lacy, Ms Joanne	Team leader, Court Integrated Services Program, Sunshine Magistrates' Court
Diemer, Dr Kristin	Senior Research Fellow, Department of Social Work, University of Melbourne
Diver, Ms Frances	Deputy Secretary, Health Service Performance and Programs, Department of Health and Human Services
Dotchin, Magistrate Peter	Regional Coordinating Magistrate, Moorabbin Children's Court
Douglas, Professor Heather	Professor of Law, University of Queensland
Dowsley, Ms Fiona	Chief Statistician, Crime Statistics Agency
Dunlop, Ms Lisa	Executive Director, Clinical Operations, Royal Women's Hospital
Dyson, Dr Sue	Associate Professor and Principal Research Fellow at the Australian Research Centre in Sex, Health and Society, La Trobe University
Easton, Dr Caroline	Professor of Forensic Psychology, College of Health Sciences and Technology, Rochester Institute of Technology
Eccles, Mr Chris	Secretary, Department of Premier and Cabinet
El Matrah, Ms Joumanah	Executive Director, Australian Muslim Women's Centre for Human Rights
Eltringham, Ms Libby	Policy and Legal Worker, Domestic Violence Resource Centre Victoria
Fatouros, Ms Helen	Director, Criminal Law Services, Victoria Legal Aid
Feinberg, Professor Mark	Research Professor, Prevention Research Centre, Pennsylvania State University
Fergus, Dr Lara	Director of Policy and Evaluation, Our Watch
Fernbacher, Dr Sabin	Women's Mental Health Consultant, Aboriginal Mental Health Project Manager and Families where a Parent has a Mental Illness Coordinator, Northern Area Mental Health Service
Field, Ms Karen	Specialist Family Violence Service Registrar, Sunshine Magistrates' Court
Fitzsimon, Ms Emma	Executive Officer, Inner North West Primary Care Partnership
Fletcher, Dr Richard	Senior Lecturer, Family Action Centre, and Head of the Fathers and Families Research Program, University of Newcastle
Flood, Dr Michael	Australian Research Council Future Fellow and Senior Lecturer in Sociology, University of Wollongong
Fonzi, Mr Rocco	Director, Client Outcomes and Service Improvement, East Division, Department of Health and Human Services
Formica, Ms Lee	Accredited family law specialist and practising consultant, Taussig Cherrie Fildes Lawyers
Fraser, Ms Helen	Portfolio Manager, Ministry of Health, New Zealand
Fraser, Ms Sharon	General Manager, Go Goldfields
Frederico, Professor Margarita	Associate Professor and Graduate Research Coordinator Social Work and Policy, La Trobe University
Freiberg AM, Emeritus Professor Arie	Emeritus Professor, Monash University
Gartlan, Mr Peter	Executive Director, Financial and Consumer Rights Council
Gassner, Dr Leigh	Director, Reos Partners, Australia

Name	Role
Geary OAM, Commissioner Bernie	Commissioner, Commission for Children and Young People
Gillespie, Ms Annette	Chief Executive Officer, Safe Steps Family Violence Response Centre
Goddard, Professor Chris	Director, Child Abuse Prevention Research, Monash University
Goodmark, Professor Leigh	Professor of Law, Francis King Carey School of Law, University of Maryland, US
Grayson, Mx Ren	Key worker, North East Services Connect
Gregory, Dr Robyn	Chief Executive Officer, Women's Health West
Gruenert, Dr Stefan	Chief Executive Officer, Odyssey House
Gyorki, Ms Linda	Senior Project Manager and Lawyer, Inner Melbourne Community Legal
Hagias, Ms Maria	Executive Director, Central Domestic Violence Service South Australia
Hann, Ms Sheryl	Lead Advisor Quality Programmes and Practice for Community Investment, Ministry of Social Development, New Zealand
Hanna, Ms Alice	Clinical Manager, Jarrah House
Hansen, Superintendent Timothy	Community Safety Division, Corporate Strategy and Operational Improvement Department, Victoria Police
Hargrave, Ms Jen	Policy officer, Women with Disabilities Victoria
Harrison, Ms Bernadette	Maternal and Child Health Coordinator, City of Greater Dandenong
Hawkins, Magistrate Kate	Joint Supervising Family Violence Magistrate, Magistrates' Court of Victoria
Hearne, Mr Jeremy	Manager Prevention North and Inner North, cohealth
Heatley, Mr Dave	Principal Advisor, New Zealand Productivity Commission
Heenan, Dr Melanie	Executive Director, Court Network
Hegarty, Professor Kelsey	Professor of General Practice, University of Melbourne
Higgins, Mr Garry	Memberships Director, The Rotary Club of Maryborough
Holmes, Mr Scott	Project Manager, Health Promotion, YMCA Victoria
Holst, Dr Heather	Deputy Chief Executive Officer and Director of Services and Housing, Launch Housing
Horsley, Dr Philomena	Research Fellow and Senior Trainer, Gay and Lesbian Health Victoria, Australian Research Centre in Sex, Health and Society, La Trobe University
Howard, Senior Sergeant Ailsa	Senior Supervisor, Security Incident Register, Victoria Police
Howard, Assistant Commissioner Craig	Assistant Commissioner for Security Intelligence, Corrections Victoria, Department of Justice and Regulation
Howard, Ms Jo	Executive Manager Child, Youth and Family Services, Kildonan UnitingCare
Howe, Ms Keran	Executive Director, Women with Disabilities Victoria
Humphreys, Professor Cathy	Professor of Social Work, University of Melbourne
Hyman, Judge Eugene	Judge (retired), Superior Court of California
Imbesi, Ms Renee	Acting Manager, Mental Wellbeing, Victorian Health Promotion Foundation (VicHealth)

Name	Role
Jackomos PSM, Commissioner Andrew	Commissioner, Commission for Aboriginal Children and Young People
Jaffe, Ms Ilana	Project Coordinator, Inner North West Primary Care Partnership
'Jayde, Ms Sarah'	Lay witness
Jenkins, Commissioner Kate	Commissioner, Victorian Equal Opportunity and Human Rights Commission
Johnson, Ms Sarah	Regional Integration Coordinator, Women's Health in the North
'Jones, Ms Anna'	Lay witness
'Jones, Ms Susan'	Lay witness
Kearney, Ms Ged	President, Australian Council of Trade Unions
Kinnersly, Ms Patricia	Director, Practice Leadership, Our Watch
Kirby, Mr Rudolph	Chief Executive Officer, Mallee District Aboriginal Services
Kirkham, Mayor Ricky	Mayor, Whittlesea City Council
Kulkarni, Professor Jayashri	Consultant psychiatrist and Professor of Psychiatry, Monash Alfred Psychiatry Research Centre
Kun, Ms Julie	Deputy Chief Executive Officer and Business Development Manager, Women's Information and Referral Exchange
Lay APM, Mr Ken	Chair, Council of Australian Governments Advisory Panel on Reducing Violence against Women and their Children
Lillie, Mr Stephen	Men's Health Coordinator, Hawkesbury District Health Service
Maguire, Ms Emily	Chief Executive Officer, Domestic Violence Resource Centre Victoria
Mahoney, Ms Janine	Chief Executive Officer, Safe Futures Foundation
Matthews, Ms Helen	Accredited family law specialist and principal lawyer, Women's Legal Service Victoria
McCartney, Ms Bernadette	Executive Manager, Community Support, Bethany Community Support
McCaw, Dr Brigid	Medical Director, Family Violence Prevention Program, Kaiser Permanente (US)
McCormack, Ms Fiona	Chief Executive Officer, Domestic Violence Victoria
McDonald, Ms Alison	Policy and Program Manager, Domestic Violence Victoria
McGorry AO, Professor Patrick	Executive Director, Orygen National Centre of Excellence in Youth Mental Health
McGregor, Mr Andrew	Principal, Dowling McGregor Pty Ltd
McNamara, Ms Lorna	Director, Education Centre Against Violence, NSW
McWhirter, Assistant Commissioner Dean	Assistant Commissioner for Family Violence Command, Victoria Police
Micallef, Ms Mary	Key worker, North East Services Connect
Miller, Ms Leeanne	Director, Child Protection West Division, Department of Health and Human Services
Miller, Associate Professor Peter	Principal Research Fellow, School of Psychology, Deakin University
Miller, Dr Robyn	Social worker and family therapist

Name	Role
Mooney, Mr Adam	Chief Executive Officer, Good Shepherd Micro-Finance
Morris, Ms Anita	PhD candidate, University of Melbourne
'Morris, Ms Jessica'	Lay witness
Mort, Ms Fiona	Director, Office of Women, South Australia
Morton, Ms Pam	Acting Principal Lawyer, Seniors Rights Victoria
Nagle, Ms Kellie	Policy advisor in prevention of violence against women, Municipal Association of Victoria
Naylor, Superintendent Paul	Divisional Superintendent for North-West Victoria, Victoria Police
Nelthorpe AM, Mr Denis	Chief Executive Officer, Western Community Legal Centre
Newman, Ms Abbey	Family Violence Applicant Support Worker, Sunshine Magistrates' Court
Newman AM, Professor Louise	Director, Centre for Women's Mental Health, Royal Woman's Hospital
O'Brien, Ms Angela	Operations Manager, WISHIN (Women's Information, Support and Housing in the North)
O'Brien, Ms Meghan	Social work team leader, St Vincent's Hospital, Melbourne
O'Donohue, Ms Trish	Chief Executive Officer, WISHIN (Women's Information, Support and Housing in the North)
Oakley Browne, Dr Mark	Chief Psychiatrist, Department of Health and Human Services
Oberklaid, Professor Frank	Foundation Director, Centre for Community Child Health, Murdoch Children's Research Institute, The Royal Children's Hospital
Ogloff AM, Professor Jim	Professor, Forensic Behavioural Science, and Director, Centre for Forensic Behavioural Science, Swinburne University of Technology
Paroz, Ms Katherine	Chief Talent Officer, Human Resources Department, Telstra
Peake, Ms Kym	Acting Secretary, Department of Health and Human Services
Pearce, Ms Colleen	Victorian Public Advocate, Office of the Public Advocate
Pettett, Detective Senior Sergeant Bryce	Officer in Charge, Dandenong Sexual Offence and Child Abuse Investigation Team, Victoria Police
Philip, Dr Pradeep	Secretary, Department of Health and Human Services
Plunkett, Ms Catherine	RAMP Development Officer, Domestic Violence Victoria
Pomeroy, Ms Teresa	Team Leader, Social Action, Ministry of Social Development, New Zealand
Prior, Ms Kathy	Deputy Director, Berry Street, North East Services Connect
Rankin, Ms Seri	Chief Executive Officer, ten20 Foundation
Reaper, Deputy Commissioner Andrew	Deputy Commissioner Offender Management, Corrections Victoria, Department of Justice and Regulation
Rechter, Ms Jerril	Chief Executive Officer, Victorian Health Promotion Foundation (VicHealth)
Rennie, Dr Susan	Manager Policy and Strategy, Victorian Primary Care Partnerships
Ricardo, Sergeant Deryn	Family Violence Advisor, Eastern Region Divisions 5 and 6, Victoria Police
Rich, Ms Nicole	Director, Family, Youth and Children's Law Services, Victoria Legal Aid

Name	Role
Ritchie, Ms Miranda	National Violence Intervention Program Manager, District Health Boards, Ministry of Health, New Zealand
Robinson, Dr Kim	Lecturer, Deakin University
Rogers, Mr Arthur	Deputy Secretary, Social Housing and NDIS Reform, and Director of Housing, Department of Health and Human Services
Rudd, Acting Inspector Paul	Officer in Charge, Melbourne Prosecutions Unit, Victoria Police
Russo, Ms Antoinette	Social worker, Women's Homelessness Prevention Project, Justice Connect Homeless Law
Rutter, Mr Glenn	Manager, Court Support and Diversion Services, Magistrates' Court of Victoria
'Ryan, Ms Lyndal'	Lay witness
Sardo, Mr Serge	Chief Executive Officer, Victorian Responsible Gambling Foundation
Schultze, Mr Steve	Senior Partner and Executive Director (Operations), Protective Services Pty Ltd
Scott, Dr Katreena	Associate Professor and Canada Research Chair, Department of Applied Psychology and Human Development, University of Toronto, Canada
Shuard, Commissioner Jan	Commissioner of Corrections Victoria, Department of Justice and Regulation
Sinclair, Ms Leanne	Family Violence Program Manager, Victoria Legal Aid
Singh, Ms Angela	Executive Director, Office of Aboriginal Affairs Victoria, Department of Premier and Cabinet
Skilbeck, Ms Melissa	Deputy Secretary, Budget and Finance Division, Department of Treasury and Finance
Smallwood, Ms Emma	Lawyer and Economic Well-being Project Research Coordinator, Women's Legal Service Victoria
Smith, Ms Jenny	Chief Executive Officer, Council to Homeless Persons
'Smith, Ms Rebecca'	Lay witness
Smith, Ms Tammy	Regional Integration Coordinator, Ovens Murray Goulburn Integrated Family Violence Network
Spinney, Dr Angela	Research fellow and lecturer, Institute for Social Research, Swinburne University of Technology
Spriggs, Sergeant Mark	Family Violence Advisor for North West Metro Division 5, Victoria Police
Springall, Ms Robyn	Accommodation Services Manager, Northern Community Hub, VincentCare Victoria
Steendam, Assistant Commissioner Wendy	Assistant Commissioner, Information, Systems and Security Command, Victoria Police
Stracke, Ms Wil	Industrial and campaigns officer, Victorian Trades Hall Council
Taft, Professor Angela	Director, Judith Lumley Centre, La Trobe University
Thorn, Mr Michael	Chief Executive, Foundation for Alcohol Research and Education
Toohey, Magistrate Noreen	Lead Magistrate, Ballarat Family Violence Division, Magistrates' Court of Victoria

Name	Role
Toohy, Ms Sarah	Manager of Policy and Communications, Council to Homeless Persons
Toone, Ms Emma	Senior Clinician, Turtle Program, Northern Family and Domestic Violence Service, Berry Street
Tucker, Ms Jacky	Family Violence Services Manager, Women's Health West
Turfrey, Ms Jacquelyn	Director, Koori Justice Unit, Department of Justice and Regulation
Turnbull, Mr David	Chief Executive Officer, City of Whittlesea
Vickery, Ms Annette	Deputy Chief Executive Officer, Victorian Aboriginal Legal Service
Vinson, Professor Tony	Emeritus Professor, University of New South Wales
Vlais, Mr Rodney	Registered psychologist and Manager, No To Violence
Walker, Ms Kerry	Director, Neighbourhood Justice Centre
Walker, Ms Melinda	Accredited specialist in criminal law, sole practitioner
Wansbrough, Mr Horace	Manager, Youth Support and Advocacy Service
Watson, Ms Amy	Associate Nurse Unit Manager, Women's Emergency Care, Royal Women's Hospital
Watt, Ms Jacqui	Chief Executive Officer, No To Violence and Men's Referral Service
Watts, Commissioner David	Commissioner for Privacy and Data Protection, Commission for Privacy and Data Protection
Widmer, Mr Scott	Executive Director, Service Design and Operations Division, Department of Health and Human Services
Williams, Ms Jane	Partnerships Manager, North East Services Connect
Wilson, Mr Greg	Secretary, Department of Justice and Regulation
Wilson, Ms Ingrid	PhD candidate, Judith Lumley Centre, La Trobe University
Wilson, Ms Janine	Chairperson, Northern Loddon Mallee Indigenous Family Violence Regional Action Group
Wood, Dr Melisa	Senior Clinical and Forensic Psychologist, Forensicare

Appendix E Hearing modules

Module	Topic	Date
1	What is family violence and who experiences it—including causes and contributing factors	13 July 2015
2	Children—introduction and early intervention	14 Jul 2015
3	Children—intervention and response	15 July 2015
4	Financial abuse and empowerment	16 July 2015
5	Alcohol and drugs	17 July 2015
6	Aboriginal and Torres Strait Islanders—experiences and opportunities	20 July 2015
7	Housing and homelessness	21 July 2015
8	Mental health	22 July 2015
9	Risk assessment and risk management	23 July 2015
10	Perpetrator interventions	24 July 2015
11	Initial police response	3 August 2015
12	Family violence intervention orders—application process	4 August 2015
13	Family violence intervention orders—monitoring and enforcement	5 August 2015
14	Criminal justice response	6 August 2015
15	Overlapping jurisdictions—the role of family law and child protection law	7 August 2015
16	Culture change in workplaces and the community	10 August 2015
17	Diversity of experiences, community attitudes and structural impediments	11 August 2015
18	Role of the health system	12 August 2015
19	Integrating services and information sharing	13 August 2015 14 August 2015
20	Engaging the community	12 October 2015
21	Developing the workforce	13 October 2015
22	Evaluating, reporting and reviewing	14 October 2015
23	What the family violence system should look like and how it should be funded	15 October 2015 16 October 2015

Appendix F Lay witnesses

The Commission invited eight individuals who had direct experience of family violence, either as a victim or, in one instance, as someone who had used violence, to give evidence about their experiences of current responses to family violence. A ninth person provided a written statement. Eight of the witness statements are presented here. For safety reasons, one of the statements remains unpublished. The Commission is very grateful to all people who provided statements and appeared as witnesses.

Witness statement of ‘Susan Jones’

I, Susan Jones,¹ say as follows:

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

Background

2. In 2000 while living overseas, I eloped to marry a man who did not have the approval of my family or community. As such, I was cut off from all family and community support. My father is Australian.
3. The sexual, physical and verbal assault began almost immediately. In the first week of our marriage, after having intercourse, my husband threw me on the concrete floor, which is where he made me sleep on nights he was not pleased with me. He said that he should have married a whore instead of me because a whore would ‘know how to pleasure her man.’
4. Over the first few weeks of marriage, he repeatedly had sexual intercourse with me and made me sleep on the floor if I could not keep up with his sexual needs. He told me ‘the floor is where sluts sleep.’ He made me feel insecure by telling me I couldn’t do anything right.
5. It was during these early weeks of marriage that I learnt the hard way that I was not allowed to say ‘no’ to my husband. Physical and sexually demeaning behaviour would occur towards me, which made me fearful and anxious around my husband. His wishes and needs were met at every request and I was not allowed to express my opinion or preference for anything, whether it be what we ate, where we went or anything that is otherwise normal in a relationship, companionship or marriage.
6. I became pregnant within the first month of marriage, which made him angry as he implied I had broken an agreement that ‘we are supposed to have fun for a while, and not get pregnant straight away.’ No such agreement was ever discussed, but he did put the blame on me for becoming pregnant. One night, he kicked me in the stomach while I was sleeping. I had to prove that my becoming pregnant would not make me less obedient. Examples of this behaviour was when he made me carry all the grocery bags, push start his car while he sat in it and have sex any time he demanded it. He had no concern for my state of pregnancy.
7. During the pregnancy, I suffered morning sickness and I could only eat oranges. My husband wouldn’t let me leave the house, even to get oranges to ease my morning sickness. When I asked his relatives who visited if they could buy me some oranges and gave them money to do so, he took the money and said he would purchase the oranges. When his relatives had left, he became furious that I had asked his family to run errands for me, and didn’t buy the oranges.
8. In October 2000, when I was eight months pregnant with our first child, I flew, with my father’s assistance, to Australia, with the intention of leaving my husband due to his abusive behaviour. My siblings were all living in Australia at that time.
9. He followed me to Australia one week later to my surprise, and the abuse continued. I had nowhere to go as my family didn’t realise the extent of the abuse, and I didn’t have any further support networks. Any connections I had in Australia didn’t know what had been happening behind closed doors so they therefore continued to encourage me to stay with him.

10. At some point in our marriage I went to speak to our religious leader and ask advice about my husband's abusive behaviour. The religious leader advised me that perhaps if the house was cleaner when my husband got home, or if I cooked better, he might not be so angry. As a result of confiding to my religious leader, I was referred to a counselling service that advised me on how to be a more obliging and obedient wife.
11. The abuse intensified every time I became pregnant. During our marriage, I became pregnant four times and I now have four sons.

Initial contact with the health system

12. In 2001 I had attended a medical clinic due to injuries sustained from rape. The female GP did discuss the severity of my injuries and had asked if it was rape. I told her 'no, it was my husband.' She told me she would keep this incident on record, but these records were lost by the time I went to the police in 2011. She gave me a pamphlet for a women's helpline, I thanked her for it, but disposed of the pamphlet in case my husband found me in possession of it. At the time, I did not know the significance of this helpline.
13. Again in 2004 while pregnant with my third child, I sustained such significant injuries from my husband's sexual assault that I had to attend a hospital. I was bleeding and thought I might be losing the baby. The doctor that treated my injuries identified that the cause must have been sexual assault. The doctor asked if I wanted to press charges for rape. I was confused by the suggestion as my understanding of 'rape' was that the rapist had to be a stranger or an intruder, not a husband.
14. I thought that the role of wife meant that when you sign the marriage contract, you sign over the rights to your body. Any time your husband wants your body, it belongs to him. The doctor informed me that this information was not correct, that when your husband signs the marriage contract, he agrees to love and protect. This doctor's statement had a huge impact on my understanding of what rape and consent meant. The doctor told me that my body belonged to me and explained that any form of non-consensual sex was rape, regardless of whether you were married to the perpetrator or not.
15. This doctor referred me to a counsellor and enlightened me to the opportunity of learning more about my rights through discussion. I did attend these counselling sessions. I walked to my counselling sessions, children in tow, while my husband was at work. Although learning about my rights was insightful, putting that learning into practice was not so easy.
16. On a separate occasion, a GP had asked me if I was being 'abused'. My understanding of the word 'abuse' was being beaten with a closed fist. My husband had told me that through his job, he had learned that if you hit someone with an open palm, it's not considered 'abuse'. As my husband would hit me with an open palm, I told the doctor that I was not being abused.
17. Throughout the 10 years of marriage, I had no idea that financial control, social control, manipulation, fear tactics, threats of hurting me or the children were all forms of abuse. I even laughed when someone told me about emotional abuse—how can anyone cause pain to feelings? I now know this to be true and very possible.

Police response

18. The doctor at the hospital referred me to a counsellor, who told me that I could call the police when my husband's behaviour was making me feel unsafe, scared, or resulted in the injuries that I had when I attended the hospital. Before this time, I thought the police only dealt with car accidents or other emergencies. I didn't realise that they could come to our house for the behaviour my husband was displaying to me. At the time I did not understand domestic violence to be an emergency.
19. The first time I phoned the police, I felt the threat of violence as I could tell he was angry. He was exhibiting erratic and frightening behaviour such as slamming doors and cupboards and flicking the lights on and off in the children's bedroom while they were sleeping. This frightened me and I did not know what he was going to do. The police attended and separated us to different sides of the house. As my husband worked as a [REMOVED], he later told me that he had had interactions with these specific officers through his work. He told me all he had to say was that I was taking anti-depressants and hadn't been taking my medication, and that there was no threat of violence. I heard him tell the officers 'women, they over exaggerate you know.' The police officers laughed with him and no further action was taken.

20. The second time I phoned the police, they attended again and again no action was taken. As soon as the police arrived, my husband pretended to be calm and friendly. One of the officers asked me what I wanted them to do, but I didn't know what my options were. They didn't tell me that I could take out an intervention order against him, which would mean he couldn't continue hurting me. If that had been explained to me, I would have asked them to make him leave.

Isolating and controlling behaviours

21. My husband locked the phone and computer in a padlocked room every time he left the house. I was only able to use them when he was home and with his permission. He would sit next to me when I made any phone calls to family. This was both intimidating and frightening. I could not speak freely while he monitored my phone calls. He controlled which friends and family members I was allowed to speak to. For example, he learnt that one of my friends was divorced. He told me I wasn't allowed to associate with divorced women as they would corrupt a God-sanctioned marriage.
22. He didn't allow me my own mobile phone. In 2001, my sister had provided me with my own mobile, as she was concerned about me. He threw it against the wall and smashed it.
23. My husband held my bankcard so I couldn't spend any money without approval. He allocated me \$20 a week to provide for me and our four children. If I needed more money for nappies or any extras for the kids I had to beg him for extra money. If he approved of the extras that I requested he would ask exactly how much I needed, and count out that precise amount in coins. He used my card freely to buy expensive gym equipment, clothes and overseas holidays. I was never allowed to question his spending.
24. In order to have control over my whereabouts, he would often take me to work with him. Sometimes he worked night shift. He would demand I come with him so he knew where I was at all times. I had to sleep in the car all night without access to a toilet. The children were small at the time. My anxiety rose dramatically; I had to ensure they were warm and comfortable as we all slept in a small car.
25. I was restricted to the house. When my father gave me access to a car, my husband took the keys with him to work and wouldn't let me drive it. If I needed the car for any reason I had to beg and promise exactly where I was going and what time I would be back.
26. He was very controlling about being on time. If he had to pick me up from somewhere (for example, picking me up from an ultrasound appointment) he was often late to pick me up. On one occasion I waited up to three hours and I was not permitted to ask what delayed him. I was only allowed to say 'thank you' when he arrived. But if he needed to be picked up from somewhere (a train station) I would cop it if I was three minutes late.

Role of the education system in identifying the abuse

27. When I was pregnant with my fourth child, a teacher from my children's school made contact with me to ask about my five year old who was in prep. He had stopped talking during class and the teacher wasn't sure if he was learning the material being taught. The teacher asked my permission for him to see a counsellor, which I of course approved. Once the counselling session had been completed, the teacher phoned again and asked if they could interview his older brother. After this session, the school asked me to come to speak to them. At this point, I assumed it was in relation to strategies within both of the boys' education to assist my younger child to speak and learn in the classroom. When I attended the school, the counsellor started asking me questions based on answers the children had given during counselling and some pictures my children had drawn which depicted family violence. The counsellor asked me if my children had witnessed family violence in our house, such as my husband pulling me by the hair, or throwing food at me.
28. The children had given detailed descriptions of what they had witnessed and as it was being relayed to me I felt my sad secret was now not only about me. I then realised that they had been witnessing the violent behaviour that my husband was perpetrating and it was affecting them. I broke down in tears as I felt I had let the children down, as it was my role as a mother to provide for and protect these children. I felt I had let them down, that I had failed to some degree. I realised that whilst my husband only occasionally hit our children, they were also affected emotionally by the abuse that was occurring to me.

29. The school counsellor referred me to a refuge, and told me that it was likely that if we went to a refuge, we would stay there for two weeks before moving into more permanent housing. I didn't have an understanding of what a refuge was as no one had ever explained it to me. I had an expectation that it would be a facility as depicted in the news, surrounded by barbed wire like an internment camp. I didn't want to take my children to a facility like that.
30. The school counsellor also referred me to a women's information service helpline, which I was unable to use as I didn't have access to a phone.
31. At that time, I was attending counselling as referred by the doctor at the hospital. I found it emotionally exhausting to bring up the issues I'd been facing and felt embarrassed to talk about the abuse. How can talking about a horrible past help the future? I still had to go home to this man. Talking about it felt silly and futile.

Access to a women's refuge

32. Between 2000 and 2009, I tried to leave my husband on five occasions with the children and stayed with family or friends. When I was at my sister's house with the boys, my husband would call incessantly, including to my sister's mobile or home phone, or would simply come around and demand that he have access to his children. Using the children as a need for reuniting his family, he would ask, 'who else would love you and the children more than me?' I felt my presence at my sister's house was an inconvenience to her and her family. When I fled to a friend's home, I felt that I was equally inconvenient to them.
33. In October 2009, I planned to attend a woman's refuge by telling my husband I was babysitting my sister's children for two weeks, when the reality was that we only needed to babysit for one week. I planned to leave for the refuge after the first week. Through advice of the women's helpline I packed my children's things, including their passports and birth certificates, a few articles of clothing and a small toy without my husband becoming suspicious.
34. The refuge organised for a taxi to transport me and the children back to the refuge at the start of the second week. As we were leaving, my sister was confused about my husband not collecting us from her driveway and asked where we were going. I told her we were going to a refuge which upset her because she had the same understanding of what a refuge was that I did, which is similar to a prison or internment camp. My sister tried to stop us from going to the refuge. I phoned the refuge and told them that we were reconsidering coming to stay there, based on both mine and my sister's understanding of what sort of facility it was.
35. The refuge made it clear that if we didn't come, that we would not receive counselling or housing support.

Homelessness and access to housing

36. The incident with the refuge began the next 12 months of homelessness for myself and my children. From time to time, we were able to stay with my sister and various friends and family. All four of my children would sleep in one bed and I would sleep on the floor next to them, or on lounge room floors.
37. We also spent periods of time in a tent in local parks when the weather was warm enough. We started sleeping in the car when it was too cold.
38. When we slept in the car, it had to be near enough to the children's school that they could walk, as I didn't have enough money for petrol to drive them to school every day. The car couldn't be too close to school as there was a chance that their school friends might see our living conditions. We selected a park that had a toilet facility that we could wash up in before the kids went to school.
39. During this time, whilst my children attended school, I began looking for permanent accommodation for myself and my children.

Housing Service (Department of Human Services)

40. I filled out an application with a housing service. They informed me there that I should expect a long wait for housing (up to two years for emergency housing, and 20 years for non-emergency housing). They asked me if I had an address to put on the form. I said that I didn't have an address as we were living in a car. They then informed me that if I didn't have an address to put on the form, they couldn't process my application. I asked them if I should put my sister's address on the form, to which they said I wouldn't qualify for emergency housing as I already had accommodation at my sister's house. I told them that we didn't have accommodation and that I would provide my sister's address to be eligible to apply for housing. After the conundrum of this issue was settled they finally agreed to process the application and told me that I would be contacted within two months.
41. After two months, I hadn't heard from the housing service. After three months, the housing service still hadn't contacted me, so I phoned them to check on the progress of my application. The service informed me that there was no application in my name and that I would need to fill out another form. I told them I had already filled out a form and they said 'sorry, we don't have a record of your application'. I attended the service and filled out another application form. This time, I requested that the housing service photocopy the dated and stamped application so I could have proof, which they did under protest. The service then told me I would be contacted within another two months.
42. After another two months, I still hadn't heard from the service. After three months, or six months in total from the first time I filled out an application, I phoned them again. They informed me again they didn't have an application in my name. I attended the housing service office and showed them the stamped dated copy of my second application. It wasn't until I produced this copy of my application that they acknowledged that they did in fact have my application. I was always very polite and patient in dealing with services as it is my nature to be so, but to me I couldn't help but feel that this service had a system of losing forms, or making it difficult to complete forms as a deliberate strategy to deter people.
43. It was also at this point, they referred me to crisis accommodation housing. It was six months after initially walking into the housing service office that they referred me to a private crisis accommodation.

Salvation Army

44. During the 12 months of homelessness I attempted multiple avenues of looking for stable accommodation. One of these avenues was reaching out to the Salvation Army and asking if they had any accommodation options for myself and my four sons. They informed me that they didn't have housing for more than one mother and two children together, and asked if there was somewhere else my 'other' two children could go. There was a moment's desperation of contemplating which of my two children would benefit from separating from me for a bit while I got on my feet. That moment did not last long as I could not bear the thought of splitting the brothers up during this difficult time. We didn't have much, but we had each other and I felt it would be horrible to choose which children to send elsewhere. I didn't want to separate my children, or be faced with the choice of which two to take with me, and which other two to put in another form of accommodation or care.
45. I asked if they could refer me to another service where a mother could stay with all four of her children. The Salvation Army said that they only knew about the housing in their own area and didn't know about what housing was available in other areas. They didn't know where to refer me.
46. I kept cold calling various housing options I found using the internet on the local library computer. I ran out of phone credit before I could get hold of anyone who could offer any other housing options.

Crisis Accommodation Centre

47. The centre offered short-term crisis accommodation to single women, as well as women with children, with a restriction on boys over 12 years of age. My eldest son was 11 at the time, so there was a finite amount of time we would be able to stay. In the end, we were there for about four months.
48. They charged a lot. For \$400 per week, we had one room with two sets of bunks for myself and all four boys. It had a communal bathroom in a dismal state, tiny communal kitchen, communal dining and TV room to share with the other people at the centre. There was only one key for the room so if one needed to use the toilet or shower we all moved about in a group together. We felt unsafe there and my children were anxious and unhappy. It was the only time my eldest son cried. It was worse than camping or sleeping in the car for him.

49. I recall reiterating to my children at the time we were staying at the centre of the importance of their education. I couldn't promise that they would never be homeless again, but if they concentrated on their studies, and worked hard, and made the most of opportunities that come their way, there would be less likelihood that they would ever have to be homeless again. I also took the time to teach my boys that it is better to live like this than to live in fear from my husband and how very important it was to me that they never harm their wives/partners. I told them when they find a companion to share their life with that they should cherish them, and never harm them, ever. I felt it was important, as they will be men one day to teach them what kind of men I expected them to be and why it was we were living like this. The children didn't miss any school (still attending their original school) during the 12 months of homelessness.

Rental accommodation

50. I attended numerous rental properties to find somewhere safer and more permanent for us to live. At one inspection, I was told by a local real estate agent that as a single unemployed mother with four children, my application would be at the bottom of the pile. She implied that I was wasting her time. I felt it was unfair for my hopes to be dismissed so carelessly. I was hurt but not deterred and kept politely attending open days. I was never offered anything, despite an impeccable rental history.
51. I attended open for inspections on Saturdays, as each weekday, I needed to drive my children 45 minutes each way to school. I didn't have enough petrol money to drive back to the crisis accommodation centre while the boys were at school. Having very limited funds I had to be conscious of fuel use and limit my driving. I spent my time while the kids were in school volunteering around the school, reading with the children, helping with weeding and other odd jobs.
52. The Chaplain at the school noticed me and asked what I was doing at the school every day. I explained that our current accommodation was too far away for me to drive the car back and forth, so I stayed at the school to pass the time until I could pick the boys up again.
53. The Chaplain made enquiries on our behalf and found a rental property, which was made available to those needing temporary housing after the bushfires. As those affected by the fires were moving back to their homes, the Chaplain knew of some houses that were becoming available and was able to refer me to some home owners that were willing to rent to us. It was much closer to the school and we moved into one as soon as it was available to us. We have since secured a more permanent rental option.

Intervention Order

54. My husband was still in contact with our children and would spend time with them every Saturday. I gave him \$200 per week to take the children to the cinema, go bowling, or swimming. It was important for me that they build better memories of their father than the ones surrounding our departure. It was also important that they build a positive relationship with him, as I knew this would reflect on what kind of men they would grow to become.
55. The money also went towards a loan for the seven seater car that my husband was driving, but I did not have access to.
56. I didn't want my husband to find out where our rental property was for safety reasons, so I would take the children to the local McDonalds for my husband to collect them from there. I knew McDonalds has security cameras so I felt safe in making the change over there. He asked our children to show him where we were living and they did.
57. He began attending our rental property and asking for money and sex, threatening to take our children away if I didn't provide him with either. If I didn't come out to see him, he would sit in the car and lean on the car horn until I did.
58. I asked my friend, whose husband is a police officer, if there was anything I could do to stop him from coming to the house. She told me about Intervention Orders. I was able to ask her in detail what an Intervention Order meant. How can a piece of paper stop him from actually coming to my house? If I got an Intervention Order does that mean he'll lose his job and the children would suffer? I had so many questions on what an Intervention Order meant.

Financial abuse

59. When my husband became angry, he would drive the car erratically and speed through red lights. The car was in my name and so the red light and speeding fines would also be in my name, and I would have to pay the fine. Although I knew about nominating another driver at that time, the circumstances of a violent relationship meant it was not possible for me to nominate him as the other driver.
60. After I had left my husband, I was still forced to pay half of the loan for a car that he continued to drive and in which he continued to incur fines in my name. Even though I had attempted to live free from his violence, I was not free from his control and the financial strain of meeting the needs of four children, paying rent, and the occasional fine incurred by him having the family car.

Further family violence

61. In 2010, my husband asked if the family could spend Christmas together at his new house. The children were excited about the idea. I said we could all go, provided that I could pitch a tent in the back yard of the property for myself and the children. I didn't want myself and my husband to sleep under the same roof.
62. He didn't have any clothes, food or furniture for our children at his house, even though when I'd moved out in 2009, we left with only backpacks. He had access to all the furniture and clothes from the house we had shared. I was not aware that when the kids had weekends with their father, that they had no beds. As a result of learning the living conditions I later purchased some bunk beds from Savers to give the boys somewhere to sleep and brought some clothes from our home.
63. The night before Christmas 2010, he came into the tent I had pitched in the backyard and raped me while the children were asleep in front of the television inside the house. I did not consent in any way.
64. On New Year's Eve a week later, I entered the house to install the bunk beds for the children, as there was nowhere for them to sleep. This was the only time the children weren't with me when I went to his house. I had to fit the bunk beds in the back of the car and so I had left the children with a friend. I was there to provide for the children while they were in his care. I had no reason to suspect he would attack me at this time. My husband approached from behind while I was assembling bunk beds with his [REMOVED] handcuffs. After a brief scuffle he secured the handcuff to my right hand and the other link to the furniture and proceeded to brutally rape me. I tried to break my wrist to get out of the handcuffs but could not. After the sexual assault, he left me locked there for a further 45 minutes before releasing me.
65. I was extremely hurt, physically and emotionally, as I had only agreed to be at the house over the holiday period for the sake of the children, and my husband violently and repeatedly abused me.

Criminal Justice System

66. As a direct result of these attacks, I applied (with the advice of the friend mentioned above) for the Intervention Order against my husband in April 2011. The form required that I provide information on what the most recent incident of family violence was, and whether there had been other incidents of family violence in the past. I looked at the small area on the form that asked to list harm caused and realised that I would require significantly more space than was allocated. I started writing out more and more pages to attach to the form, which made me reflect on the extent of the abuse.
67. The friend that had answered my questions about what an Intervention Order meant accompanied me to the Court to apply for an Order. There was a moment during the proceedings that the Magistrate was going to dismiss my application as 'historical' since all I was showing him was hospital records from prior to 2009 and the children's school counsellor report also prior to 2009. As it was already 2011 when I was applying for this Intervention Order, he didn't see the need for one. I pleaded with the Magistrate that I don't want there to be another violent event and begged his assistance to keep us safe. I told him that 'I don't have any records of any recent events as I haven't told any professionals' his reply is significant when he said, 'you are their mother, what more qualifications do you need to speak on their behalf?' This was very empowering for me, as I felt the only records that could be seen in court are documents written by doctors, teachers, or other professionals. To stand there and speak for myself of my own experiences was very liberating. I did not know I was allowed to do that. He granted an Interim Order.

68. Although I did have the Order, I still did not feel safe. I knew my ex-husband was furious with me and that the threat against me could escalate. I also knew that he was dating a young lady and felt responsible for her not knowing his manipulative ways. There were many reasons to go to the police to press charges for the harm caused but mainly so that he would not do it to me or anyone else again.
69. I initially (and for a long time later) thought that I could not report the father of my children to the police. The granting of the Intervention Order gave me real courage, as did the assistance of the friend. I am very conscious that many women in my position have no access to such knowledge and support. I finally walked into the police station and by appointment was interviewed by the Sexual Offences and Child Abuse Investigation Team officer there. It took three days in total to get a record of 10 years of abuse towards me. As I was raising boys, I felt it was important that they know the behaviour they had witnessed their father harm their mother was not ok, and that he take responsibility for his actions.
70. After my report to the police, it took four months until his house was searched and further investigations began. He now had notice that I was serious about talking.
71. This was an extremely high-risk time for me and I felt an imminent threat.
72. It took so long to finalise the police brief that he left the country and married another woman whom he had met and with whom he had built a relationship on the Internet. He has had another child.
73. When he returned to Australia, he was apprehended at the airport, arrested and charged. He had his passport confiscated by police and was placed on remand. He was released on bail and I was not notified. I later learnt that he was back in the country and immediately called the investigating officer who told me that he was apprehended and released two weeks after I had learned that he was back in the country. I felt this was an extremely scary time for me to learn that he had been living close by without me knowing, that he knew where the kids went to school and I wasn't alerted. I had no idea why he was back in the country and if I allowed my thoughts to wander, my fears would never end. I was afraid that he wanted to take at least one of the kids. I was also afraid that for the sake of his pride, it was better for him to say his wife was dead rather than divorced.
74. He was finally tried on seven counts of aggravated rape in June this year. The trial was extraordinarily difficult for me, as court proceedings are very intimidating in all ways. Thankfully, he was convicted. To give you some idea of the seriousness of what he had done, he was sentenced to 13 years imprisonment, with a 10 year non-parole period.

Integrating services and structural impediments

Access to drug and alcohol services

75. While living at the crisis accommodation centre, I met and heard the story of a mother who had substance abuse issues. She said that her mother had the same substance abuse issues and felt, fatalistically, that her daughter would grow up to inherit the same abuse issues. She said she wanted to be a better mum to her daughter. I spoke with her about seeking treatment so she could be a better mum to her daughter and she was open to the idea of getting help. I offered to look after her children while she attended rehab.
76. We attended the local Council who told us that there were no free drug and alcohol treatment services available for her in the area. We were then referred to a GP who told us that drug and alcohol treatment of this kind has the starting price of \$2000. The GP said that the only place he knew that provided longer term treatment for drug and alcohol addiction was prison.
77. Neither the Council nor the GP could refer us to any further appropriate support services.

Centrelink

78. When I had decided to leave my husband, I attended Centrelink to try to find someone to assist me in understanding my entitlement to payments for myself and my children. The Centrelink representative I spoke to was unhelpful and confusing when asking me what payments I was entitled to. I did not know the answers and was worried I was applying for the wrong one. I became anxious and distressed. I was referred to a Centrelink social worker who identified that I required assistance and helpfully talked me through the appropriate payments.
79. Prior to this time, I didn't know that Centrelink offered the service of a social worker to people in distress and who didn't know the system. I would have found it helpful if a Centrelink representative had told me about this service earlier.

Child Support Payments

80. When I considered the option of child support payments for the four children, I thought I would have to have contact with my husband again for him to hand over the money. Child support services did not make it clear that I could receive these payments electronically, so I chose to forego the payments rather than risk seeing my husband again.
81. It would have been helpful if any of the services, whether it be Centrelink, a GP, a housing service, a counsellor or police, were able to provide me with this information.

Recommendations

82. Changing the name of Women's Refuges to Safe Houses would greatly ease the confusion as to what sort of facility it is. A distressed woman in fear and confusion would be more likely to run towards a Safe House purely because of its name.
83. Women who are isolated have very limited windows of opportunities to reach out. It is crucial when that first brave step is made that they are supported to keep going for themselves, and especially if there are children involved. The anxiety about whether or not she is making the right choice can be greatly alleviated if clear information is offered about the options a person has when they are subject to family violence. Many of the entry points that I tried to connect with on my journey didn't advise about the full scope of options available for victims of abuse.
84. There should be a fully funded community engagement program which can educate all people about avenues to services that are able to provide help. I think there should be other services, such as a GP, police, Salvation Army, Centrelink, teacher, or counsellor that can refer women to a service that can answer what an Intervention Order means, and can offer support when filling out legal forms or attend court with her. A service that knows what options are available, from the big issues (legal rights and medical help, housing) to all the little hurdles along the way (child support, changing schools, and the basics, food and clothing for women on the run). This one service would be responsible for both support and follow up so that police, GPs, counsellors and courts can be freed up to allow the one service to attend to these details.
85. There should be education in schools about healthy relationships so that children can understand concepts of abuse and healthy homes from a young age. Teenagers can learn more complex intricacies of relationships such as coercion, consent and companionship. This will assist in an understanding of how all people in all relationships should be treated, and how you should allow yourself to be treated.
86. The support services need to talk to each other as there needs to be a reliable referral system in place to assist victims/survivors with multiple needs. For example, I attended a White Ribbon day event in 2014 where the mainstream services had set up information booths. I asked each of the services if they knew where a single mother with four young children could find accommodation after experiencing family violence. It had taken me six months to find this form of housing myself three years earlier and I was interested to see if the system had changed. None of the services knew the answer, or knew where to refer me.

87. I think there is a place in the criminal justice system for restorative justice, where, in some cases, a victim can face their perpetrator and the perpetrator can apologise for their destructive and damaging behaviour. The perpetrator could make it clear that they will never repeat the actions which have led to the offence. They could be forced, in a closely monitored way, to do courses, programs, practical active things that could help to change their thinking for good. The victim could explain the effect that the family violence has had on them so that the perpetrator can have some understanding of the consequences of their actions. This might even take the place of a lengthy prison term, providing no further abuse occurs. Of course, if the abuse occurred again, none of this could apply. In a case like mine, there was never so much as a hint of contrition, so it would probably not be possible.

Accepted into evidence at the Royal Commission into Family Violence public hearing on Monday, 13 July 2015.

Witness statement of 'Anjali Jana'

I, Anjali Jana,² say as follows:

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

Background

2. I was born in India and lived there for most of my life. Several years ago my parents arranged a marriage for me, to a man who was already living in Australia. We got married and I moved to Australia on a temporary visa.
3. My husband was working here as a civil engineer at the time and supported me for the first month or so that I was in the country, as I learnt about the new culture and the place where I was living. Initially everything was good within my marriage and he treated me really well.
4. I told him that I wanted to pursue my dream of working as a nurse in Australia. However, my qualifications were not recognised here. I found that to become qualified I would have to undertake a training course that would cost several thousand dollars. I asked my husband if I could have the money to pay for it, but he also said that he had no money and soon after that he stopped paying my expenses as well. It was at that point that he told me that I had to work, and he arranged with someone he knew at a major retailer to get me a job there. I thought that this would be OK as it would allow me to save up enough money for the training course. My husband never really gave me an answer but I thought that it would be OK if I gave him some of the money to help with my expenses as well.

My new job at a major retailer

5. I got the job with that major retailer and I have been employed there for over two years now. Initially, my husband was supportive of me working at the major retailer. We opened a joint bank account together and my wages went into that account but his wages went into his personal account, which I didn't have access to. I was able to save a few thousand dollars, half of what I needed for the course. However, he started to work less and less. Then, one day, I realised that he had spent all of the money that I had saved in just one month. I had no idea that he would spend it, he knew that was my savings for my course.
6. I was devastated and when I tried to talk to him about it he just told me that I was only allowed to work with my current employer, whether I liked it or not. He said that I wasn't allowed to become a nurse. I was so upset—that was my dream. I didn't want to argue with him, I was prepared to accept that this would be my life and I would never be able to achieve my dreams.
7. I was doing really well at work and I was given more shifts than I was contracted for, meaning that I was earning quite a bit of money. It was around about this time when I realised that he had stopped working altogether and was completely relying on me for money. There was no reason for this, as he had good qualifications and could have worked if he had wanted to. He started to make me put all of my money that I was earning directly into his personal bank account, so that I had nothing. I had to rely on him for access to my money, but he always spent it and said that we had no money for anything.

My husband's change in behaviour

8. When my husband stopped working, this is when his behaviour really started to change. I wasn't allowed to answer my phone after work or to call the other people I was working with to discuss shifts and if I did he would scream and yell at me. He knew what time my shifts at work were and if I was one minute late from work, I would have to call him to tell him, otherwise he would get really angry and yell at me. He didn't let me go out with my friends, I was only allowed to talk to his friends and their wives. When I first moved here, I used to visit my sister a lot, as she lived nearby but now I was hardly allowed to see her either. He wouldn't even let me talk to my parents, who still lived in India. I felt isolated and alone because of this.
9. He refused to do some things for himself, he told me it was my job, as his wife. For example, he needed medicine everyday but unless I stopped preparing dinner or what I was doing at the time and put the tablet in his hand, he would not take it, even if I left it right in front of him, he would just keep sitting there, watching TV. Later, he would blame me in front of the GP when he was told that his results were bad.
10. Even though I was the one working and he did nothing all day, I still had to come home and cook the dinner and clean up afterwards as well as doing all of the other cleaning and other housework. He did absolutely nothing. I also had to do everything when he wanted me to do it, I had to cook as soon as I got home because he was hungry even though I wasn't. He would complain if any little thing was wrong, like if there was too much salt in his dinner, he would scream at me about it. He never picked me up from work even though he had a car and I did not. I always had to catch the train even when I had shifts early in the morning and late at night, even when he was nearby or doing nothing. On top of that, I wasn't allowed to do anything, I wasn't allowed to watch TV unless he was, and it was only what he wanted to watch. There were lots of things like this that he did, small things really but which added up over time and made living intolerable. He was always controlling and I wasn't allowed to do anything but work, though he took all of the money anyway. I didn't know why he was doing this to me, what I had done.
11. All of these things continued to happen over a period of about a year and a half. My husband had isolated me, taken away my dream of being a nurse in Australia, forced me to work and left me with no money. It felt inescapable.
12. Because of all of this, I began to feel sad all of the time, and it was hard to feel motivated, particularly in terms of my work. Previously I had been an excellent employee but now I was having trouble concentrating and I found it hard to do a good job, like I used to. I found that I would make lots of mistakes at work. They started giving me less shifts as a result.

Realisation that my husband's behaviour was wrong

13. People at work had noticed the drop in my performance and I think that they were privately concerned for me but I didn't talk about my life at home with them. I didn't understand at the time that a marriage was supposed to be any different to what I was experiencing. I thought that this is just how marriage is supposed to be. However, when I spoke to the other people that I worked with, I began to see that they were really happy in their marriages and their lives. In contrast, I grew to realise that the marriage that I was living in was like being in hell. I knew that there was something wrong with my marriage, that the way that my husband was treating me was not right.
14. My manager had noticed that something wasn't right with me. She spoke to me and asked what was wrong. She was worried that it was something that was wrong in the workplace. I said no it wasn't, but I didn't want to say what the real problem was.

Seeking help in a time of crisis

15. Eventually, my manager spoke to me privately. By then, I knew that something was not right in my marriage so I told her about my home life and what was happening. She told me to see a GP, as I was feeling really down all of the time, and to get a referral to see a family counsellor. This happened around two months before I finally left my husband.

16. When I went to see the family counsellor with my husband, to try and fix our problems, he didn't let me talk at all. He told the counsellor all of these things about me that weren't true, to make me look bad. I cried the whole time. When the counsellor asked me about what was happening, I told her that I didn't feel that I was able to say anything after what my husband had said, that I needed another appointment. We arranged a new appointment and my husband drove us there. I went in alone, and he was supposed to go in after me but he never did. The counsellor gave me advice about how to change his behaviour. However, he refused to change his behaviour or to even try to improve things between us. I began to see that things were never going to change, that our marriage was never going to improve and that this is what my life would always be like.
17. It was around this time when my father had a stroke. I was really worried about him as he was really sick. I spoke to my sister and we decided that we would fly home to India to see him and help to look after him, which was our duty as daughters. I told my husband that I wanted to go and initially he was supportive of the idea. However, he changed his mind and said that I could not go because I would lose my job. I explained that I wouldn't, that I could get leave but he wouldn't listen. He said no. I thought about telling my sister everything then as she knew that something was going on, but I didn't.
18. I decided that if I couldn't go to India, at least I could save up some money and send it to my father for the special medicine he needed, which was very expensive. I saved \$950 and because I didn't know how to get it to India I gave it to my husband to send to him. I thought that he would send it, but I found out later that he didn't.
19. Then, my mother was involved in a car accident. It was a real shock. I told my husband that I definitely had to go back now. My father even phoned my husband and asked if I could go back to see them. He picked me up from work that night after my father had called him. He was so angry that my father had called. He told me that he had booked my flights to go home. He told me that he had used the money that I had saved. That was the money for the medicine for my father. I would never have spent that money on the flights. I was so angry. I couldn't believe that he had done this. He just said that he had not sent it to India as we had no money, that I wasn't allowed to give money to my parents. This was unbelievable to me, that he would act in this way.
20. It was then that I knew that I definitely had to go to see my parents in India. I spoke to my employer about getting leave because my parents were sick and they were completely fine with it—just like my sister said they would be. They said that it was no problem. They just said that I should try to get a medical certificate but if I couldn't that would be OK too. I told my husband this but he told me I couldn't unless I was taking annual leave, not unpaid leave. I didn't care about the money, I was just so happy to be able to go. In the end I got half of the time as annual leave and the other half as unpaid leave.
21. He then refused to drive me to the airport. He said that since it was my idea to go that I had to figure it all out myself. I had never been before and I had no idea how to get there, I was never allowed to do anything, like catching a taxi. I asked my sister how to get there and she arranged to give me the money, she was very helpful. She couldn't drive me as her and her husband didn't want to get caught up in the problems I was having, as it would affect them too, especially as she was pregnant. He then told me that he had changed his mind, that he would drive me, but only if I transferred all of my money to him that I would receive for my annual leave. He then told me as well that I had to ask my parents for money and bring it back for him, to cover the two weeks that I didn't have paid leave for. He made me give him his pin number so that he could take the money as it came into my account. I did it so that he would let me go.
22. I finally left and saw my parents. I didn't tell them anything about my marriage. While I was there he would call me every day, and yell at me for all of these things that I didn't have control over. Even if I tried to talk to him nicely he would just yell. Eventually I stopped even answering the phone.

Escalating abuse

23. When I got back it was worse than before. We were sleeping in separate rooms, living like two strangers living in one house. It was too much. This is when I gave up on our marriage.

24. It was around this time that I had been feeling sad all of the time, like everything was hopeless, that I couldn't escape. It was like my mind had stopped working properly, I felt like I didn't know what I was doing, and what was happening. Sometimes I thought about committing suicide, there was the train track near where I lived and I thought about just jumping in front of it. I didn't know what to do, I had no one to talk to, both of my parents were sick and overseas, I had no friends and no money. My sister was pregnant and her husband didn't want to get involved. All I had were his friends but they didn't want to get involved either. I had no way to get out, no one to ask for help.
25. I realised eventually that when I was going to the train station to go to work he was following me there and watching. He would know exactly what seat I had been sitting on and what time my train came. When I asked him about it he admitted it and told me he was making sure I was going to work and not somewhere else. This made me really confused and angry because he always went out without telling me where, who with or when he would be back. I thought, why was he doing this to me then?
26. He was also hacking into my Skype, Facebook and email account as well as my phone to see who I had been calling and what I was saying. He would often yell at me and ask me why I was calling my sister or mother when I wasn't allowed to, and providing details that I had never told him, that's how I knew.
27. I asked him why he was following me and listening to all of my calls. I told him that I wanted some privacy in my life and since I couldn't have it, I didn't want the phone anymore. I gave it to him and he threw it at me. I moved and it smashed against the wall. I couldn't afford a new one. I was worried that if I was ever running late to work that I wouldn't be able to let my work know that I would be late. I felt completely alone and scared.
28. It was around this time that I received in the mail a traffic fine. I asked my husband why it had been sent to me as I don't have an Australian drivers licence as he had never helped me to learn or let me have lessons. I tried to learn by paying for my own lessons but he stopped me from going and said we didn't have enough money for that. He told me that he had transferred the fine to me, to say that I had been driving the car so that he would not lose the points. He said that if I didn't pay it I would get a second notice and then the Sheriff would come around.
29. I got the second notice but I decided that I wasn't going to accept this. I went to the police station and I spoke to the police officers there about the situation. They did a search and said that there was indeed no record of a driver's licence existing in my name. To prove then that I could not have been driving the car, I spoke to my work and they provided me with a letter confirming that I was at work at that time. After this, they said that I did not have to pay. This made me angry, it wasn't fair that he did this to me.

Escape

30. Soon after, on a hot day, we were at home and I was getting ready to go to sleep. I had an early shift the next day but it was too hot to sleep. My husband had the cooler in the lounge room and wouldn't let me move it into my bedroom so that I could sleep. I said that I would sleep out there in that room so that we could share it. But when I lay down to go to sleep he turned the TV on and put the volume up really loud so that I could not sleep, even though he was using the computer and not even watching it. I asked him to turn it down but he just yelled and told me to go if I didn't like it. I asked him again and he became furious. We had a huge fight. I have never been involved in such a huge argument before. He said to get out of the room or to get out of the house. I had nowhere else to go so I went into the other room—I was really scared, I didn't sleep at all.

31. The next day, without really knowing why, I took my passport and phone charger with me when I went to work. Maybe I thought that he would burn them. I went into work but I couldn't concentrate, I couldn't talk to anyone, it was all too much. My manager spoke to me and I admitted to her what was going on, that it was really bad. I knew that if I went back I would do something that I would regret, to myself, because this was not the life that I wanted. One of my colleagues was there and she gave me a 1800 number to call, I think it was the Woman's Domestic Violence Hotline. I called them but they said that they couldn't help me because I had a job. They told me to call WAYYS in Dandenong instead, so I did. WAYYS told me to come and see them in person. I asked my manager and she said that was absolutely fine, that I needed to go and sort this out and get my life in order because I couldn't work like this. She said that she would look after my shift and that I should take as long as I needed. My manager spoke to the area manager and he said that this was OK as well. Normally you have to give four days' notice for leave but they were great about letting me go with no notice at all. They were so supportive and lovely throughout the whole process.
32. I stayed at WAYYS for one night but then they refused me after that as I had a job, and they said it was for women that did not. I called my sister and told her the situation that I had left my husband. My husband had been around to her house accusing her of letting me stay there, threatening them. My brother-in-law said that I couldn't stay there more than one night, as he didn't want to get involved.
33. WAYYS gave me another number to call for a woman's refuge service. They said that they couldn't help me because I was working. I stayed at a friend's house from work and then they found me a room in a boarding house as my friend was afraid my husband would turn up at her house. He showed up at my work one time and created a disturbance but I wasn't there. I wasn't going back.
34. I called InTouch and they were able to help me. I had a social worker that was helping me with everything. She helped me to apply for an intervention order against my husband. This included a condition that he couldn't call me, my friends or my parents, as he had called them and threatened them. He also had to stay 200m away from me. The order lasted a year. She was my guardian angel. He stayed away from me after that and I haven't been in contact with him. They were also very helpful in helping me with my visa.
35. My husband called my parents and told them I had left, and they tried to pressure me to go back, because it is not socially acceptable in India to get divorced. I refused. I said I that I would not do it. My parents do not treat me the same anymore, not as a daughter. I hope though over time things will return to how they were.

A fresh start with the help of my employer

36. I am starting to get my life back on track after all of this. It has been about a year since I left. He took everything, every penny in my account, however I have been able to save up by working hard and my manager helped me to find extra shifts. In addition, the people at work have been so amazing in helping me get all of the basics that I needed. They gave me money to help me when I had first left my husband. They were like my family, when I had no one else to turn to. My employer has been so supportive, they did things like making sure that I was never rostered on alone until my intervention order was in place, in case my husband turned up at work, so that I was safe. They have been amazing.
37. I have saved enough money and I have started my training to be a nurse. I am so happy. However, I will still keep working one shift with my employer so I can stay in contact with all of my friends there.

Accepted into evidence at the Royal Commission into Family Violence public hearing on Thursday, 16 July 2015.

Witness statement of 'Melissa Brown'

I, Melissa Brown,³ say as follows:

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

Background

2. I am a mother of two, living with a physical disability. I am a survivor of domestic violence.
3. For about 10 years I was abused by my husband, Henry. He was also my sole carer.
4. I met Henry through disability sports. He is also physically disabled. We married in 2007 and have one son together, now aged 11. I also have a son from my previous marriage who is now 17 years old.
5. Henry started abusing me not long after the birth of our son. The abuse was sexual in nature and continued for many years. I tried to seek support for Henry, but he refused to accept help. I confided in one friend during this period of time as to what was going on at home.
6. Henry's behaviour got increasingly worse over the years. I confided in my psychiatrist and other mental health care workers. I was being treated for anorexia nervosa, which I have suffered on and off since I was a teenager. It also worsened as Henry's abuse escalated. He didn't see that his behaviour contributed to it.
7. My situation was further complicated by the fact that Henry was also my carer. I use a wheelchair and I relied on Henry for physical and practical support. This put me in a difficult position. I was too afraid to be on my own. I didn't think I could look after myself and my children due to my physical disabilities. Also, like everyone else, I was living in hope that he would change. So there was the emotional side of an abusive relationship, along with of course the financial. And then you compound it with the physical disability.
8. The abuse ended about a year ago when Henry was finally charged for various assaults I had sustained. He pleaded guilty to all charges and is currently serving a gaol sentence.

Events leading up to charges

9. I made one of many suicide attempts to get out of the abusive situation I was in. I thought that was the only way out. The last suicide attempt was roughly 11 months ago. When I presented at the Hospital's Emergency Department, the staff asked me why. I told them that Henry had raped me four times in one week. They asked me whether I wanted to go to a shelter, but I couldn't. I didn't want to leave my children. I returned home the next day.
10. The Emergency Department was the first one to report the abuse, finally. They reported it to the Child Protection Service.
11. I would have begged them not to say anything had I known as I would have been afraid of the repercussions. In hindsight I was relieved they didn't tell me they would report it.
12. No one asked me if I wanted it reported, I found out about it when a note was left in our letterbox asking that we contact Child Protection because when they first visited our house, we were not home.

Child Protection services

13. Child Protection came back to our house and spoke to Henry and I. They spoke to us together in the same room. They asked about the incidents that led to me telling the Emergency Department that he had raped me. They asked him bluntly. He was in such a huge amount of denial about what he was doing being a criminal offence. He was upfront with them. He said, yes, I have done that, and that he had done it before and would likely do it again. He said he had been violent, because he had to be. He tried to explain it as a couple arguing. I think Child Protection was very shocked. They were not expecting that.

14. Child Protection then talked with the children individually while they were at school. They asked about life at home. The children said they had seen Henry assault me on a couple of occasions, and that they had heard the arguing and that they were scared of him. That was a surprise to me. Even I was in denial about the impact it was having on the kids.
15. The second time they came to visit us at home, after they had spoken to the children, they again placed us in the same room together. That meeting lasted about two minutes. Henry lost his temper with them and left. It was scary. I had never seen him explode like that in front of other adults.
16. From there, Child Protection went to the Police.

Police involvement

17. When the Police became involved they firstly came and spoke to me one-on-one to discuss the options before they went any further, which I felt was good.
18. Henry and I were then called into the station together, by the Sexual Offences and Child Abuse Investigation Team (SOCIT). I was not expecting the outcome that happened that day. I did not see it coming.
19. They took Henry one way and asked me to come in the other direction. They asked me to make a statement but I wasn't ready. I was told that I would be going home on my own. They said he was being questioned in relation to what Child Protection had told them (the abuse and the rapes). They made sure I could get home safely by myself.
20. Henry was questioned. He confessed to everything because he believed it was what husbands do. He thought they would feel sorry for him. He fully believed all men did this but just didn't talk about it. He also blamed my mental health issues as an excuse for his behaviour. Not once did he realise his actions were contributing to the deterioration of my mental health. When you are being raped every four weeks, constantly harassed every night, yelled at, hit, called all sorts of names, you end up with no self-esteem and no confidence as a person.
21. At that point I was told the Police were seeking a family violence intervention order against him because I was not capable of protecting myself. They said words to the effect that, 'If you won't do it, we will.' It was not what I wanted at the time, but in hindsight, I'm grateful. I wish someone had done it years ago when I first spoke about it. I wish someone had stepped in like that a long time ago.

Intervention order

22. I was required to attend the first court hearing for the order. I felt supported because my Police contact, who stayed my point of contact throughout the whole ordeal, was there but I was also very nervous and anxious about having to be in the same room as Henry. I didn't want to see him. The matter ended up being adjourned because Henry didn't turn up. An interim order was made at this time.
23. Henry continued to breach that order by contacting me via social media and through text messages from his parents' mobiles. I reported it to the Police and they then took proceedings against Henry for breach of the order.
24. Henry's justification was, 'She can't survive without me.' To be honest, I didn't think I could either. That's the nature of family violence. It took me a while to understand how much control he had over my emotions and my ability to cope on my own.
25. Henry pleaded guilty which was a huge relief for me because it meant that I didn't have to attend the hearing and see him. He received a \$400 fine and was required to undertake a 12 month behaviour change program for breaching the intervention order.
26. I refused to make a statement in the hope he would go to the behavioural change program and would change. I was hoping we could see it as a positive thing and that he would realise all the things I have been telling him all these years were true, and that his actions were wrong and had to stop. Finally, I thought someone else would back up what I had been telling him. All I ever wanted was for him to get help and to stop.

27. He was referred to the men's behavioural change program at Kildonan. He went twice. He was also asked to see a forensic psychologist.
28. The day he told Kildonan where to stick their program, he called me to abuse me, and that was the day I made a statement to the Police. A few days after the statement, he was arrested and charged and released on bail. It was a condition of his bail that he was not to make contact with me and yet he was still able to fight the intervention order and he had legal aid which supported him to continue to fight this losing battle.
29. I didn't hear from him for a couple of weeks until we had to go to the Children's Court because the Department of Human Services (DHS) sought a supervision order for the kids (which I discuss separately below).
30. After seeing him at the Children's Court Henry started making contact with me again through social media.
31. Eventually I contacted the Police to let them know he was breaching the order again, and his bail. He was arrested and remanded into custody and has been there ever since.
32. The Police took further breach proceedings for a persistent contravention of an intervention order. I again had to attend court for the hearing. The court was going to transfer him so he could attend but the hearing was again adjourned and because of this I didn't have to see him. After that, the Police told me not to come to the next hearing where his intervention order was ultimately extended by two years.

Children's Court

33. My eldest son and I had to attend the hearing for the supervision order. My youngest son was still under 10 so fortunately did not need to attend. We had to sit waiting in the same area as Henry and try not to look at him. It was very hard being in the same corridor waiting to be heard.
34. I didn't have a lawyer so Henry's lawyer spoke to me. I said I didn't want to hear what he had to say.
35. In the early stages, we attended a mediation as agreement couldn't be reached around supervision orders. DHS was there to represent themselves and Henry had his Legal Aid lawyer. No one was there to support me.
36. The support provided by the Salvation Army at the court was the only support I received.
37. When it went to a hearing, I was still required to turn up even though I was not contesting the orders. I wasn't allowed Legal Aid because of this. I was expected to sit at the same table as the lawyers and address the court. This was very intimidating for me.
38. Prior to hearing, I had to request that I did not see him on video link to the prison. I was assured by the court staff that my request would be granted, but it wasn't. I had to sit up the front with all the other lawyers and with Henry's image projected on the screen, all of which was very intimidating.
39. I wasn't given an opportunity to speak until close to the end of the hearing. When I finally did, I let the Judge know that I had requested he not be able to see me and had been assured of this. The Judge looked through the intervention order and apologised—he said he would take full responsibility for the mistake. Unfortunately at the Courts they can't keep you separate from the perpetrator.
40. Henry's lawyers were also very abrupt and very rude to me. They treated me as if I was an idiot. His Legal Aid lawyer said, 'Henry wants you to know he really loves you' and because I had been in hospital, referred to me being so used to being institutionalised. Henry wanted me to retract my statement. He even asked the kids that in his supervised access. I was dumbfounded. I was amazed at the ways in which 'no contact' can be broken. I told the Police.

County Court

41. By contrast, the County Court process was less stressful on me. Henry pleaded guilty so I didn't have to go through the trial.

42. I also received assistance from the witness assistance program. They helped me with a victim impact statement and sat with me through the hearings. They came to my house and made sure my statement was what I wanted to say. I found this process helpful.
43. During the hearing, I was kept in a remote witness room so I wouldn't have to see Henry. They also had a covered camera so I couldn't be seen. When the defence team started to try to blame me for Henry's conduct the Judge quickly shut them down.
44. I also attended sentencing via remote access in 2015. I heard the Judge handing down the sentence. Henry received several years with no parole period, further time on community corrections and intense therapy with community service. The prison sentence doesn't justify what he did to me. He pleaded guilty because he wanted a lighter sentence. I was disappointed that the courts could take that into account in favour of a lighter sentence. He showed no signs of remorse.

Gaps and downfalls

Legal support for victims

45. Amazingly, through the whole process the justice system allowed Henry to fight the supervision order. He was allowed to contest the intervention order even though he was charged and on bail. He was also allowed to contest the supervision orders with DHS. They gave him supervised access after he made suicide threats. He didn't understand that you couldn't make threats about your own life, and then a few days later apologise. It showed a pattern of instability. One second he'd be angry, then when there were repercussions he'd be sorry. He was still allowed to contest supervised access, even though there was no chance of him winning. I felt it was crazy. I wasted so many hours in court. Lawyers' time, court resources, legal aid resources were all ridiculously wasted during these processes.
46. Victims also need to be represented in the court process. I had no legal representation whatsoever throughout all processes. The intervention order was made by the Police. In the criminal matter, I was represented by the Police. In the Children's Court there was no representation for me because I wasn't contesting what DHS was asking for.
47. Henry on the other hand was given Legal Aid to contest the different orders, including the family violence order and the child supervision order. That made things very hard for me. It meant that every small court date, I had to attend. It also meant I had to liaise directly with Henry's lawyers in person, not knowing what I was doing. I also had to liaise directly with the lawyers my children were given through Legal Aid.

Magistrates' and Children's Court

48. There was no formal support services at the court. Emotional support would have been better than nothing. Being able to access someone with some advocacy skills would have also assisted me.
49. Fathers, mothers and children should all be kept separate from each other. My oldest son had to attend court because he was over 10 years old. At the very least, he should have been in a separate area to his dad.
50. Videolink services should also be available for people like myself not just prisoners. I had to attend most court dates in person.
51. I found the victim assistance program in the County Court really helpful. I wish I had received the same sort of support in the other courts.

Disability assistance

52. When Henry was removed from the house it took eight weeks to get someone to come in and do something as basic as give me a shower. They removed my carer but didn't put anything in place to back that up. For eight weeks, all I wanted was for Henry to come home. I was struggling to look after my kids. If I didn't have my oldest son, it would have been a lot worse. But it's not my son's job to give me a shower. I didn't want him to do that.
53. When he was removed, they should have asked me what my physical needs were. The Disability and Family Violence fund through DHS took eight weeks to be initiated. It should have happened straight away.

54. When I first met with SOCIT I talked to them about my dependence on him and that he was effectively my carer and they reiterated he can't return to home. I wished the Police had made that referral back then.
55. Child Protection eventually made the referral after I kept complaining. I then received 12 weeks of funding.
56. It has taken 12 months but I now have a disability worker through DHS.

Mandatory reporting

57. For me, unfortunately, there was no mandatory reporting. Because I am not under the age of 18, sexual assaults did not have to be reported. My psychiatrist and other mental health workers I sought assistance from knew about the abuse, but they did not have to report it nor did they ask me if I wanted it reported. I was not in a state where I would have been ready to report it to the Police.
58. I think mandatory reporting, no matter the person's age, should be implemented, across the healthcare field. They should have a duty of care to the patient and be compelled to report it. If that had of happened, this would have stopped 3, 4, or 5 years ago.
59. The reason behind mental health professionals not reporting it is because my actions were not impacting on anyone, so it was not their job to take action. Because it was Henry raping me, no one was under any obligation to help me. Nobody did anything.
60. When I was an inpatient in hospital, we had family therapy with Henry. Just the two of us. The issue of the rapes came out. When the therapist didn't agree with what Henry was saying, Henry got aggressive and the session was shut down and he was asked to leave. I was offered help to leave my marriage. But it was the same thing, I couldn't leave my children. Where would I go? What money would I go with? How do I tell my family? So, of course, I said no. If it had of been reported, that's two years I would have saved living with this. It shouldn't have taken a suicide attempt for someone to finally step in and stop it. The only way I would have stopped it is by me killing myself or him killing me. You start to believe the things that you are told—that you are stupid, that you are incapable of looking after yourself and that you need that person to survive. You hear it often enough, you are petrified to leave. I believed it. I didn't think I could look after myself.

Child support services

61. Whilst my sons received assistance from Legal Aid lawyers, they could have benefited from a carer or worker to help explain what their lawyers were saying to them. My eldest son has a language delay and I felt his lawyer was not well skilled in dealing with children with learning disabilities.
62. It would have also been helpful for the kids to have emergency counselling. One moment they had a Dad, the next he was gone. It was very hard on them. My youngest blames himself because he spoke to Child Protection. He thought he got his Dad into trouble. To this day he wants his Dad to come home. Dealing with my own issues, while hearing my child cry, 'I want Daddy to come home' is hard. My 10 year old is having extreme mood swings and has been diagnosed with severe depression. The life he knew was all of a sudden gone.
63. Because of the nature of the offences, Henry is not allowed any visitors under 18 years of age. The prison won't allow it. For the children, it is like their Dad has died. It is like he is dead. They are grieving for the loss of the family; they are grieving for the loss of their Dad. They don't know how to tell their friends that their Dad is in prison. They needed and still do need counselling. They should have had it in the beginning when they were brought home by Child Protection.
64. Berry Street has a six month waitlist for kids counselling. After nine months, he has finally been referred to counselling. I was able to get counselling through CASA, but they do not have kids counselling. CASA has gone well over their sixteen week support. Their support has been amazing.
65. And for my 17 year old, there is nothing. He has been referred to Headspace, but there is a waitlist.
66. We have had good workers at Child Protection. I was worried about my mental health issues causing trouble, but they have been very supportive. Even with a hospital admission for my anorexia, they have been supportive. We now have monthly Care Team meetings which include Child Protection, DHS, a disability support worker, the Principal from the kids' school, myself and one of my outreach workers.

Other matters

67. Maybe if there were better disability services while we were together, rather than the responsibility being on my partner to be a carer, I would have felt more confident to leave earlier. I was regularly told, 'We can't provide that, your husband can do it.' That puts a lot of pressure on any relationship. Our relationship became one of invalid and carer.
68. There's a lot of stigma involved with the kind of violence that was happening, especially with the sexual assault. No one wants to talk about that. Not many people understand it. A friend asked whether it was sex games gone wrong. Others blamed me for Henry's actions: 'You've been in hospital. You've got a mental health problem'. Or, 'You pushed him to do this'. It's almost like it was OK because I suffer with mental illness. It made his actions understandable. Justifiable.
69. The fact we were both disabled also presented issues. Henry was constantly put on an 'inspiration pedestal'. There was pressure to live up to that in people's eyes.
70. I have had very little privacy. Everything about my life, everyone knows. It is placed in reports. But because Henry is in prison, his privacy is fully protected.
71. I found the book *Real Rape, Real Pain* very helpful. It explains the hurdles and the way society justifies it. I am not the only one who has come up against these same things. I recommend it to the Commission. (*Real Rape, Real Pain: Help for Women Sexually Assaulted by Male Partners* by Patricia Eastal and Louise McOrmond-Plummer, published by Hybrid Publishers, Melbourne, 2006.)

Accepted into evidence at the Royal Commission into Family Violence public hearing on Wednesday, 22 July 2015.

Witness statement of 'Lyndal Ryan'

I, Lyndal Ryan,⁴ say as follows:

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

Introduction

2. I am 42 years old and have a Masters degree. I have spent most of my career with the Federal Government in Canberra but now live in Melbourne.
3. I have lived in very high-risk countries and experienced situations there where I was fearful for my safety. Nothing prepared me, however, for the fear of domestic violence. It's entirely different being frightened of someone you love, yet who is so unpredictable; someone who knows where you live, what your patterns are, what your vulnerabilities are; someone who knows how to manipulate you; and someone who is specifically targeting you.

Background

4. I have two children to my first husband, and met my violent ex-partner ('X') a year later. After a year with X we had a child together. During the pregnancy in 2012 I experienced escalating controlling, abusive and bullying behaviour, particularly towards my children (who were 8 and 5 at the time). For example, he would threaten to beat my son, deliberately run over the children's toys with his car and throw their belongings in the bin. My son in particular was terrified of X and would walk around the house with his head down avoiding any eye contact so he would not get into trouble.
5. Our home became a place of fear and intimidation. As I became desensitised to his behaviour throughout 2012 and 2013—and he convinced me what he was doing was OK—I became confused about my parenting and judgement of values and safety. As a result of his anti-social behaviour, I became increasingly socially isolated, which further removed me from benchmarks of acceptable behaviour.

Application for intervention order

6. In 2013 as part of their wellbeing curriculum at school, my children were asked how they resolved conflict at home. My son disclosed what was happening at home, and the Deputy Principal, who was also the student wellbeing coordinator, contacted me.
7. The way the school dealt with the situation was excellent. They didn't undermine me or make me feel like a bad parent. At that stage, I didn't realise what was happening to us was domestic violence. I needed someone else to say that what X was doing was not OK.
8. The school suggested that Child First become involved. X refused to engage with Child First, and when I provided them with a detailed list of things X had done, they organised a consultation meeting with a representative from Child Protection and a second meeting with a representative from the NGO Safe Futures and a police member from the local domestic violence unit.
9. When the police heard about the kinds of behaviour X had engaged in, I was told that on a scale of one to 10, what we were experiencing was eight out of 10. I was advised that the nature of the abuse required an intervention order (IVO) and either I would need to take that out, or the police would. I applied for the IVO in January 2014 listing the three children as protected people, which was granted for a year.
10. I didn't list myself as a protected person on the IVO application form because I thought that if I controlled the IVO process I could at least help X and keep him from getting more angry.
11. I have since learnt that we cannot help perpetrators of violence—as Rosie Batty clearly said when Luke died. Back then I believed I could, but when it became apparent I couldn't after two months of a dramatic escalation in threatening and abusive behaviour, the police subsequently took out a second IVO in March 2014 for one year listing me as a protected person.
12. Safe Futures were invaluable in providing me with advice, linking me with resources, and supporting me in person—particularly in navigating the court system, which was so daunting. They paid to have the locks changed on my house and installed switch lights. In addition, my mother flew over from London to live with me for four months because I was too frightened to live on my own in the house; and when she left I often had friends spend the night. This support, along with that of a psychologist, are what I attribute to me making it through the most terrifying and confusing year of my life.

X's conduct after the first IVO

13. Over the next nine months from the start of the IVO (January–September 2014), I supported X to attend a behaviour change program, which he commenced in February 2014 (but dropped out of) and organised ongoing visitation in public places with our daughter. I did this because I was advised by a private family lawyer that X would be granted access to her anyway through the Family Court. At this stage, I understood that X had a 'right' to see our daughter and didn't feel in a position to refuse access. I wrote a Parenting Plan with legal advice that set up the framework for these visits.
14. X's behaviour escalated and increasingly targeted me. He was incredibly abusive, would come to the house regularly in breach of the IVO and destroy property, he managed to fiddle the locks and enter the house, he turned the power off one night while I was inside, he smashed a window trying to break into the house, he would follow me around in his car trying to run me off the road—and indeed tried forcing me into his car on one occasion, he took our daughter from daycare also in breach of the IVO and Parenting Plan, and used his visitation access with her as opportunities to abuse me in front of her, often ignoring her entirely.
15. He would email me constantly and would phone me incessantly, sometimes using different numbers so I wouldn't recognise it was him. There were numerous terrifying incidents—and our daughter was present during almost all of them. X timed his visits to the house (in breach of the IVO) when my older children were with their father, so I was somehow able to protect them from what was occurring and maintain a level of normalcy for them.

16. During this time I largely locked myself in my home, too afraid to walk down my local street, go to my local shops, sit outside in my garden, or drive normal routes to and from school pickups. I was frightened to go to sleep, or even have a shower. I would drive around the block before going home, looking for his parked car or signs that he was at or near the house. At one point I lived out of my car, staying with friends that would have us because I was too frightened to return home. And when I did return home, I arranged for a friend to stay. I felt like a 'sitting duck' just waiting for him to come, helpless—with my only course of action to call 000 if X came. It was terrifying and my anxiety was severe, I slept with one hand on my mobile phone and one on the home phone. But yet I only reported a small fraction of these breaches because I was frightened of the repercussions from him and Child Protection. X was charged with some of the breaches, and served two weeks in prison in April 2014. Child Protection contacted me twice during this period, but did not open a case file as I was able to demonstrate I was acting protectively of my children. X started a second behaviour change program at my insistence following his release from prison.
17. As X continued to breach the IVO following his release from prison, I was advised I may need to relocate to a refuge. But this was a last resort for me as the upheaval would be dire with the three children, and I was fearful my ex-husband would seek full custody of my two eldest children. Staying safe in my own home was my priority.
18. During the most serious incident in September 2014, X tried to smash his way into the house. As I ran for the phone to call 000 he went to the front of the house and cut the phone line. Thankfully my mobile was charged and I managed to get to my mobile phone and dial 000. As I went through the (lengthy) questioning in this horrific ordeal, X attempted to climb in, cutting himself severely in the process. Glass was flying everywhere. I kept begging 000 to 'please just send the police' instead of questioning me—which I do understand is required, but when you feel you are about to be murdered, seems superfluous. Eventually X cut himself so badly he fled. The police arrived 10 minutes later. X was on the run for a week and eventually handed himself in to police. He served a second prison sentence of five weeks with a two month suspended sentence.
19. I was advised by X's behaviour change program that, during this incident, I was in a position where I could have been killed. They advised me that X was not out of control, but was choosing to behave in a violent and controlling way with no regard for his impact on us, and that I should cut all contact with X. I found the ongoing contact with X's behaviour change program facilitators invaluable. He helped me realize that X wasn't going to change and that I could, and should, stop all contact with X immediately, including stopping him from seeing our daughter.
20. I was contacted again by Child Protection who agreed that I should not allow X to see our daughter and that he would have to apply for court orders to arrange access. For the first time I felt I was in a position where I would be fully supported to draw a line with him—where I could keep my children and not allow him to see our daughter (and thus me). It was only with this complete cessation of all contact that I felt safer to report all breaches of the IVO. I wrote a letter to X while he was in prison in October 2014 advising him that I would no longer allow him to see our daughter and that I would now report every breach of the IVO.
21. At this time Safe Futures included me in a trial program of the SafeTCard. I made sure (via a friend) X knew I had the card and that he would be recorded if I pressed the alert button during a breach, and thus would not be able to counter my testimony. After receiving the card, and following his release from prison, X did not physically breach the IVO, although he continued to send me text messages, emails, and attempted to call me from unknown numbers. The card gave me increasing confidence to go out again, to feel safe in my own home, and indeed to sleep again at night.
22. Using the alert button on the SafeTCard can be done subtly so as not to alert and inflame the perpetrator, as well as circumventing the lengthy questioning required of the 000 process. These were significant issues the night X broke in to my house. While I do see benefits of a GPS ankle bracelet for the perpetrator, the SafeTCard provided me with an essential sense of safety and immediate (and discrete) access to help.

23. In January this year the children's IVO was extended by the police for another year, and I applied for mine to be extended in March, which it was, indefinitely. I plan to apply for an indefinite extension to the children's IVO in January 2016 as well. X has now been charged with the email, phone, and text message breaches to the IVO and will go to court in September 2015. I hope X will not be granted access to his daughter should he apply, as she will not be safe with him physically or psychologically, and he will use her to get access to me.
24. In May this year I was interviewed by SBS and ABC on my experience. As I wrapped up the ABC interview detailing the incidents, a parcel of presents arrived from X along with a letter begging me to reconsider our relationship and the IVO. It perfectly illustrated the emotional and psychological complexity of domestic violence and how perpetrators are able to keep convincing their partners to forgive them and give them another chance. Without full system support and a complete feeling of safety, it is an incredibly difficult situation to extract oneself from.
25. I have since learnt X has a long history of family violence. X fits perfectly with the description of a sociopath; and thankfully the early intervention alerted me to the pattern of escalation that inevitably ensued.
26. I gave back my SafeTCard in January 2015 after I heard that X had left the country. I have since got it back because I learnt that X never left the country, and am feeling frightened again knowing he has been charged for further breaches of the IVO and may act violently in desperation prior to his court hearing in September.

Reporting breaches of the intervention order

27. I am often asked why I did not report all of X's breaches of the IVO. I probably only reported about 10 of over 50 breaches. On occasions other people reported his breaches. The reasons I didn't were because:
- 27.1 I had to see him in order to arrange for him to see our daughter (which a family lawyer had told me he would have rights to do under family law). If I reported all his breaches I was fearful of antagonising him further and placing me and our daughter at increased risk.
- 27.2 I felt sorry for him—during the remorseful phases of domestic violence his pleas of love and desire for personal change were compelling.
- 27.3 The police had on occasions told X it was me that reported him, which I felt compromised my safety.
- 27.4 I was frightened that if Child Protection knew how frequently X was breaching the IVO they would determine I could not protect my children and I would lose custody. In my first meeting with Child Protection, they told me explicitly that they were not interested in me or my circumstances, their only concern was whether my children were protected by me or not. This made me feel highly anxious.
- 27.5 X would often counter my breach reports with statements that I had agreed for him to be at the house.

What I felt 'worked' in my situation

28. The things that I felt worked for me were:
- 28.1 Early intervention by the school and domestic violence unit of the police that informed yet didn't undermine me.
- 28.2 Support from Safe Futures. I felt initially that I was on my own and that the only people completely on my side were Safe Futures. They supported me to manage the risk that X posed to me and my children. They understood the complexity of domestic violence and the complexity of my situation where I was trying desperately to keep X non-violent while protecting myself and my children at the same time. I felt judged by almost everyone else—the police, Child Protection, and even friends and family.

- 28.3 Engagement by the behaviour change program staff that worked with X. Both programs engaged with me regularly (and are in fact still in contact) and their insightful and informed advice was invaluable. As with Safe Futures, they genuinely understood the complex situation I was in.
- 28.4 The SafeTCard intervention. This changed my life dramatically. I felt I had the confidence to go out again and it made me feel safer in my own home.
- 28.5 The close proximity of the police to my home. They were able to respond quickly and became familiar with me and my situation (and thus became less judgemental over time).
- 28.6 The dedicated domestic violence unit of the police and staff that I became familiar with. I particularly appreciated their 'home visit' on one occasion.
- 28.7 Courts taking IVOs increasingly seriously.

What I felt could be improved

29. The matters which I feel could be improved are:

- 29.1 Family law allowing access by the perpetrator to their children. This placed me at ongoing and severely increased risk, as well as risk to our daughter. I would say that this was the primary cause of my protracted experience with fear and violence. This is a rights vs responsibilities debate; but why does X have a right to see his daughter when he is such a threat to her and me, and takes no responsibility for his role as a safe father. She is not safe with him, either physically or psychologically due to his sociopathic character. He used access to her as an opportunity to get to me.
- 29.2 The role and approach of Child Protection. I felt they actually worked against me initially by demanding to know how I was protecting my children. I understand this is their role, but I was desperately doing everything I could to protect them, and I felt threatened I could lose them. If I had felt supported earlier on by Child Protection, I would have reported X's breaches much more readily. I welcomed the moment they told me I could stop X from seeing our daughter, and if he went to court I could subpoena their files showing their advice to cease contact. I wish I had received this support from Child Protection earlier.
- 29.3 Police awareness of how what they say or do may place the victim at increased risk. Our protection needs to be paramount and they need to be careful what they reveal to the perpetrator.
- 29.4 There needs to be some consideration as to the type of incarceration. When X went to jail he rallied with his fellow inmates about how they were OK and the system worked against them; they justified themselves as the victims. X's prison sentences were too short to result in behaviour change, it did not deter him from breaching the IVO. Perhaps some sort of secure rehabilitation centre with compulsory behaviour change program and community service might be an alternative.

30. My experience of domestic violence is not the sort that has been making headlines. I may not have had black eyes, but I did experience domestic violence that left me terrified and at times fearful for my life. Also, X's controlling and abusive behaviour was not fuelled by alcohol or drugs. The words of the behaviour change staff ring through here—men perpetrate domestic violence a) because they choose to; and b) because they can.

31. I do agree the roots of domestic violence lie in stereotypical attitudes towards women. We need to seriously address these issues, particularly how women are portrayed in our society. How are we raising our girls to value themselves, and how are we raising our boys to value girls? However, it is due to tertiary intervention that I am here today.

Accepted into evidence at the Royal Commission into Family Violence public hearing on Thursday, 23 July 2015.

Witness statement of 'James Collins'

I, James Collins,⁵ say as follows:

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

Background

2. I grew up in a country town where the ideal of a man was someone macho, gruff, strong and silent. You had to be a drinker, you had to be one of the boys. I always put on a persona of being a tough guy. I am a big guy so it was easy to carry on this bluff. But underneath, I was a wimp.
3. I was quite isolated when I was a kid. My family was quite remote and my brother and sister and I were often left at home by ourselves. I was always a bit of a bully. There were a few times when I got called out on my behaviour. The guys at school would do the freeze out thing. They would cut me out and make me think about my behaviour for a little while, but I would always go back to what I was doing before. I was always alone, as a kid. It was the way I went through life.
4. The ultimatum to change my behaviour or leave came from my wife about five years ago. My wife and I had been married for about 15 years at this point. Throughout our entire marriage I had been psychologically abusive, manipulative and underhanded. I would be threatening and intimidating towards my wife and my family, yelling and screaming and punching walls. I kept my wife off balance all the time. I would hide things from her.
5. Around five years ago, my wife got to a point where she wasn't willing to put up with it any longer. As they were growing up, our kids, both boys, had started to mimic my behaviour and disrespect her. They would take my side on things. She was becoming isolated in our own home. She told me that I had to do something about my behaviour, or our marriage was over.
6. It was crunch time. It really made me think—I purport to be a father and a husband and to love my family. But what is the real truth?

Getting in touch with services

7. My wife had a friend who worked for Men's Referral Service. She contacted him and he agreed that what I was doing was abusive. He gave her some details which she passed onto me. I called Men's Referral Service, who referred me to an organisation called Kildonan UnitingCare (Kildonan). I rang Kildonan but they didn't have any openings in any of their programs for three months. It was coming up to Christmas time and all the programs were finishing up for the year.
8. While I was waiting to start one of the programs at Kildonan, I was trying to improve my behaviour myself. I was buying books so I could read up on passive aggression and those kind of issues. I read a couple of different books and these were consistent with what I saw myself as doing. In the meantime, I was going through a cycle of violence and remorse. I couldn't identify this pattern of behaviour at the time, but I later realised what I had been doing.
9. In February, I had four weeks of one-on-one sessions at Kildonan with one of the counsellors. I started to feel changes in myself at that stage, from talking to someone and receiving feedback on what I was saying.
10. Then I had the opportunity to start participating in some of the programs Kildonan offered.

Men's behavioural change programs

11. The first program I participated in was a Men's Behavioural Change program. This initially ran for eight weeks but was extended to 12 weeks. Within the broader Men's Behavioural Change program, I did several other programs including programs relating specifically to parenting. Overall, I participated in about four programs over a 12 month period. I refer to these programs collectively as MBC programs.

12. The MBC programs helped me to understand my own behaviour. I realised throughout the program that anxiety and depression had a big impact on my behaviour and my reactions to situations. I was able to recognise that my main issue was that, when people raised an issue with me, I thought they were having a go at me. Previously I used to feel very anxious when my wife would raise issues with me. It might be issues with the house, or with me or things I had done. I felt confronted, like I was being called out on it.
13. I got really defensive and anxious and I felt like I was being attacked. My response to the increased anxiety was to deny the issue, fight and get out. That would result in me becoming aggressive, angry and threatening in my behaviour. I would yell and scream and stomp around.
14. The MBC programs helped me to reflect on my behaviour and showed me how damaging that kind of behaviour was. The MBC programs made me realise I'm not the only person in the world with this problem. I was educated about the typical cycle of violence. This was mind blowing. We also did role playing. I put myself in my wife's position, which was a real eye-opener. I understood what she was going through, to a degree. I felt much more compassion for my wife after that.
15. The MBC programs also taught me techniques to deal with that depression and anxiety. One of the techniques that was suggested is to look out the window and breathe. I took up meditation which helped with recognising how to breathe and keep control.
16. I also learned to persevere in conversations where previously I would have become very anxious and exploded and left. On one occasion, I decided to sit through a whole conversation with my wife where we were discussing an issue. I forced myself to sit through it, despite the anxiety I was feeling. That was terrifying, sitting there talking to my wife. The first time I felt like my heart was going to stop. But I got through it—I didn't stomp off or yell and scream. I listened to my wife and I thought to myself, 'I'm not dead.' It was a breakthrough. Once I broke through that fear, it got better and better. We talk openly all the time now.
17. It was a mind-blowing experience for me. It helped me to see what was truly happening and gave me ways to stop falling back into the patterns of my old behaviour. If I'm not feeling right, I will lie in bed and go through where my mind is at and where I felt my best during the day and where I am struggling.
18. I am not as angry as I used to be. I am not abusive anymore, I don't yell and scream and intimidate my wife and family. I can calmly go through discussions instead of getting upset and stomping around and being a bully.
19. The MBC programs turned around the way I thought. The changes I experienced I will carry for the rest of my life; I have had a complete turnaround in the last five or six years. It is a wonderful gift to be given. My relationship with my wife is the best it has ever been, since our first year of marriage. My relationship with my boys has also improved dramatically. I can give them a hug now. We are a much warmer and closer family.

My perspective on MBC programs

Voluntary versus non-voluntary involvement

20. When I started doing the MBC programs, I was really motivated to change. Before I started, I had decided I was going to do something about myself and my behaviour. I didn't want to lose everything I had. I went in there the first day with the intention of being honest and open with what my experiences were and what I saw myself as being.
21. I don't know how effective the programs are when men are there involuntarily. Of the 12 men I started the first MBC program with, there were only four that were doing the program voluntarily. Once the guys had done the minimum that was required of them by the court, most of them disappeared and didn't stay involved any further. There was only one man (of those that were not there voluntarily) who continued involvement with the services after his court-ordered program finished. He started going to a support group.

22. If men are there because they are forced to be there, I'm not sure how they can confront the issues and start dealing with them and making changes. I was motivated compared with most men and I noted a big difference between my experience and those of men who were there involuntarily. A lot of them seemed to view themselves as victims. I think one key thing was that in order to change they needed to see themselves for who they truly are—the perpetrator, not the victim.

Support offered to women and children

23. Kildonan was very proactive about offering support to my wife and children as well. My wife attended a support group along the way that was for women whose partners were doing the MBC programs. I think these groups, and this support, is really important.

Increased demand

24. I understand that it is currently not possible, or at least it is very difficult, to voluntarily attend an MBC program. There is so much demand coming from court-ordered attendees that those who would voluntarily attend can't get a spot.
25. I think this is a real shame. Given how helpful the MBC programs were for me, I think there should be opportunities to participate for men who identify in themselves a need for change, as well as those who are ordered to do so by the court.

Ongoing supports

26. I am now part of a men's group, through my interfaith church community, that meets monthly. The men in the group are all older than me. It is good to hear the maturity and common sense that these men have by virtue of being older than me. They will listen and give feedback on what I have to say. We do working bees and other activities together.
27. I have had some treatment for my depression, but nothing ongoing. I am not on any medication at the moment. I also attend meditation sessions through my church.
28. About 12 months after I completed the MBC programs I got in touch with Men's Referral Service and No to Violence to see what other avenues were available to give something back. I started doing phone counselling but I had to stop in the end; I couldn't deal with it because it brought back too many memories. But I still touch base with these sorts of services occasionally. If I feel things aren't right, I will ring up and have a chat and get back on track. This sort of thing is not a fast process; you take three steps forward then a step back.
29. I think having had a mentor or someone I could talk to and be appreciated by would have made a big difference. There are people I meet now that I wish I had known 30 or 40 years ago. It might have made a big difference to my life.

The impact on my children

30. My two boys are 23 and 21. They are very aware of what I've done. I think it is important to talk about it, given what I've been through and what can happen. If their behaviour is not up to scratch then I help them make changes and be there with them. I am trying to help them as much as I can. I am trying to lead by example as to what can be done and what the outcomes can be.
31. My sons are lucky though. My sons have lots of friends who are both girls and boys. When I was growing up, the boys only spent time with the boys and you basically didn't talk to girls. I think this is important to have relationships with the opposite sex from a young age.

Message to other men

32. My message to other men in this situation would be that no matter what, you can still make a difference. Things aren't lost. Even if the relationship is gone, you can still be better than what you are. However, you have to be open to it and willing to be raw and honest and face some hard truths.

Accepted into evidence at the Royal Commission into Family Violence public hearing on Friday, 24 July 2015.

Witness statement of 'Jessica Morris'

I, Jessica Morris,⁶ say as follows:

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

Background

2. From a young age I was brought up, with my sister, by a foster family; our grandparents. I had a really beautiful upbringing; my grandparents were amazing. I had never experienced family violence during my childhood.
3. I am currently working as a receptionist for a financial company. I also work as a waitress on weekends.

My relationship with Sam

4. Sam and I got together in about February of 2014. We had been in a relationship for about seven months before the incident occurred which led to the police getting involved, and to me leaving the relationship.
5. Our relationship had been OK for a while, but slowly, it started to become violent. I wasn't living with Sam but I was with him nearly every night, at his parents' house. When he got kicked out at one stage and was living with some friends, I stayed with him there too.
6. Looking back now, the first signs of his violent behaviour were violence towards himself. He would get really angry but then be able to calm himself down. Slowly, he started to turn his anger onto me and blame me for things and that's when the violence towards me started.
7. Sam was verbally violent in the beginning but then became physically violent. There were probably six or seven times when he was physically violent towards me, over about four months.
8. He used to self-harm, and tell me that I could never leave him or he would kill himself. Once, he cut his leg in front of me to show me what he would do if I left him. He tried to hang himself once when I drove off on him. Another time, he actually had a gun and put it to his head.
9. One of the first times he was physically violent, he locked me in the shed and threw sawdust at me. The sawdust had a nail in it which hit me in the eye and left my eye bruised.
10. Another time, the day after my birthday, I left him and said the relationship was over. He called me and said he was about to commit suicide. I called the police and they came to my house. I explained what had happened and I said, "I can't deal with it." I didn't tell the police I had ended it because of violence, I just said he was out there, suicidal. The police didn't really ask questions about our relationship. They tried to ask one or two questions, but they didn't press me at all. I didn't want to tell them about the violence at that time anyway; I wasn't concerned about the violence then, I was more worried about Sam. At the time, I believed that he really would kill himself, and that it would be my fault because I made him feel that low.
11. I tried to call the police on another occasion. Sam was really angry with me and I was scared of him. We were at my foster parents' house, but no one was home. He had taken my car, my phone and everything else. I ran and hid and called the police on the home phone, but he found me on the phone before I was able to get through. He threw me down in the living room, and was punching me and hitting me. He threatened to kill my family.
12. I didn't try to call the police again after that. He was violent again towards me a couple more times before the incident where the police intervened.

The incident that led to police intervention

13. In September of last year, Sam had picked me up from work in his car. It was about 9:00 pm when he picked me up. He locked the doors and assaulted me in his car. It went for a few hours. This time felt very different to previous times. Before, there had always been remorse and he would realise what he was doing and stop and apologise. This time, it felt really dark. I honestly didn't know if I would get out alive. The abuse was constant, it wouldn't end.
14. We were driving around an industrial area with lots of factories so there was no one around. I couldn't get out of the car. I said to myself, 'Once we see the main road, I will scream for help.' It was about 11 o'clock at night by this time. We got close to the main road. Sam had pinned me down but I kicked out the windscreen and screamed my lungs out. A lady who was driving past heard me. I found out later she was only a week off giving birth. I jumped out of the car. She drove her car towards me and I just ran into her car, she put me in it and we drove away.
15. Sam latched on to the side of the car and tried to pull me out. The lady was freaking out. She couldn't call the police because she was driving, but someone else saw what was happening, pulled over and called the police.

Police response

16. The police arrived at the scene. They put Sam in the police car and they took me down to the police station. One of the police officers was driving me back to the station. He was lovely. He was saying to me during the drive, 'You don't have to make a statement, you don't have to do anything, but you have to realise that it's not OK.'
17. When I arrived at the police station, they left me with a female police officer and I told her what happened and she took a statement from me. I didn't want to sign it, to make it official. Ben, the constable who ended up taking on the case, then came in. I didn't like Ben at first. He really wanted me to sign my statement to help him to lay charges against Sam. Looking back, I realise now he had my best interests at heart.
18. Ben talked to me about intervention orders and what that meant. I decided I wanted to make an application for an intervention order but that I didn't want to make a statement. I loved Sam and I didn't want to get him in trouble. I didn't want to feel guilty. I thought it would be my fault if he was in gaol.
19. The police were really good. They didn't pressure me, but they did talk about why they thought it was important for me to make a statement. Ben said things to me like, 'It's not fair, it's not right. You shouldn't have to deal with this, he shouldn't get away with this.' They tried to make me understand that this behaviour was not real love. They asked me to read my statement out loud. After I read it, they said, 'Do you think this is OK?' I knew it wasn't OK.
20. They also told me that they knew about another girl who had been abused by Sam. I didn't know about this previous girl. I knew she was an ex-girlfriend of Sam's, and I remember asking his mum what happened between them. His mum lied to me about it, and Sam would always lie to me about it too. I realised she had gone to the police for family violence too.
21. Finding out that someone else had been through what I had been through made a big difference to me. It really made me think about the fact that, if I didn't do something, another girl might have to go through the same thing.
22. I decided I would sign my statement.
23. Up until the time the police got involved, I hadn't told anyone in my family how Sam was treating me. I think I was ashamed. I also didn't know myself what was even happening; I was numb, I was in survival mode. I didn't think it was his fault and I was always trying to help him through stuff. I knew that if my family found out, they would think badly of him and I didn't want that.

The impact of the police response

24. If someone hadn't pulled over and involved the police, Sam might have eventually stopped and apologised and begged me for forgiveness. If he had, I would have forgiven him. You just want the violence to stop, your head is numb, you can't even think.
25. Looking back, that day in the station, if the police had not encouraged me to make a statement, I think I would have stayed in the relationship and, honestly, I think I would have died in that relationship. That's where it was headed. I am so grateful that the police encouraged me to make that statement, and took the time to help me understand that what Sam was doing was not right and that I didn't deserve it.
26. A big part of what the police did was make me feel like I had the power to stand up for myself and that I didn't have to put up with what had been happening. They helped me realise that it wasn't up to me to take care of Sam or protect him, that justice should take its course and that they wanted to help me by charging him.
27. Their support was amazing. I can imagine that they would speak to so many women, go to so many women's houses and tell those women to take a stand.
28. I feel really positive about my experience with the police. They have taken the whole journey with me, they didn't just take the statement and leave me to deal with the aftermath. I still email Ben, the constable who was there on that awful night.
29. He worked really hard on my case. He asked my sister and my aunty to come down to the station and give witness statements. He got me to write a victim impact statement. He was the one who told me about the work the Royal Commission was doing. He emailed me the details of the Royal Commission's community consultations and said I should go. I emailed him afterwards to thank him for his support. He emailed me back saying, 'You should be proud of yourself.' He has supported me through everything.

Intervention order and criminal proceedings

30. After the incident, the police charged Sam with various offences, including false imprisonment. I think Sam went straight to gaol for a month because his lawyer said not to apply for bail. While he was in gaol, the police applied for an intervention order (IVO) on my behalf. I went to court when we applied for the IVO and I saw him on the video screen, from gaol. The application was successful and the IVO said he couldn't come near me at all.
31. He got out on bail after a month, but had to stick to some conditions, including to do a rehabilitation program. He went to rehab, then moved to a place in St Kilda. He had some drug and alcohol issues, although he never told me about them and I didn't really realise at the time. I still don't know what he was into. His mum had her suspicions as well and she would try to talk to me about it. There was definitely ice involved. I think his drug use did add to the violence and there was a definite cycle in his behaviour. However, at the same time, he made his own decision to be violent.
32. Before the IVO had been put into place he sent me a note through his mum. However, after he got out on bail, he obeyed the IVO.
33. He pleaded guilty to the criminal charges and was sentenced a couple of weeks ago. I didn't have to give evidence but I went to the hearing and I saw him in person for the first time since the incident. I read my victim impact statement aloud in court.
34. He was sentenced to six months in gaol. He has appealed that sentence, so I am waiting to see what the final outcome is. The case is going from the Magistrates' Court to the County Court. The case will be heard in September 2015, exactly a year since the incident that night. I am not focussing on the outcome of the appeal though. He can't control me anymore.
35. The IVO will be in place until October. At that point, I will consider whether I need to extend it or not. I think that by that time, he will either have learned or, unfortunately, he will be on to his next victim.

36. At some stages during the process, after the charges had been laid, I changed my mind about wanting the charges to proceed. I saw the whole process ahead of me and I didn't want to go through it. I felt like it was my fault and I was still wanting to help Sam. The police played a role in that shift in my decision making. I would talk to Ben about my concerns, and say I was worried about Sam, and Ben would say, 'He will get what he needs, it is not up to you to look after him.' I feel glad now that Ben encouraged me.
37. When I went to court for the sentencing hearing Ben drove me in and sat next to me in court. He will be with me at the next court case in September. He really did support me through the whole process.

Reflecting on the court process

38. It's hard leaving the relationship. What's even harder is making a statement and going through a long court process. I am unsure how other court cases have gone, but mine has been a long process where he has played victim to the courts, including making excuses based on his drug use and unstable upbringing. Why would any women want to go through that? She wants to leave the violent relationship, but it doesn't end; she has to remain linked to him through a long court process and watch him plead victim. At the end of it, he eventually gets off with a light sentence. She has suffered for a long time and to an extent she is not taken seriously. What message does that send to the offenders? How is that encouraging the victim to speak up?

Events after the police response

39. The police linked me into WAYSS Domestic Violence Outreach Program (WAYSS) straight away. I went there with my aunty. That was the first time I realised I had been in a domestic violent relationship.
40. The worker from WAYSS had a questionnaire which had a series of questions about our relationship, with healthy and unhealthy factors set out in two columns. All of my answers were factors that appeared in the unhealthy column.
41. After completing the questionnaire, the worker said I was in a domestic violent relationship. She said that in seven years of working, she had never seen a relationship become so violent so quickly. Sam and I had only been together for seven months. The worker said that if I had stayed in the relationship, I would have died. That's when it really sunk in.
42. From there, the worker referred me to Windermere, where I started to see a counsellor. That has been amazing. I have learnt so much about family violence and relationships. It's incredible.
43. My counsellor has been one of the most important supports I have had throughout this whole process. She is amazing. I now see things from a completely different perspective. I am on the lookout now, too. Next time I am in a relationship, I will be able to recognise the signs of domestic violence and I won't let myself get stuck in that sort of position again. I now see other women and I know when they are in a relationship of domestic violence, I can tell from body language and other signs. The way these men work is very calculated. They don't beat you in public but in private. I made excuses for Sam and I believed him when he told me that it was my actions that led him to do this. Over time, with the manipulation and control, you believe this. My counsellor pointed out that Sam knew what he was doing and that he made the conscious decision to beat me behind closed doors.
44. After the incident happened, Sam's mum said to me, 'I've been there too, it's fine, you'll get through it.' That makes me so angry now. She didn't take a stand when it was happening to her and then she let her son do it to me. She is enabling this to continue. He obviously saw this kind of violence in his own childhood and understood that it was OK or that it was love, or something. Sam's mother now hides it for him and is letting him hide it. If he could bring it to the surface and understand that what he did was wrong and that he can change, he would be able to change.
45. I also understand that, regardless of his childhood, or the drugs, behaving in this way is a choice that he makes. He is his own person and can make his own choices.

Victim versus survivor

46. I don't like the label of 'victim'. Throughout the whole process I was referred to as a victim—'victim's assistance', a 'victim impact statement'. Once a woman leaves that relationship, it should be about survival. I was a victim, and I can label myself as that, but I am not a victim anymore. I am now a survivor.
47. I think the language we use is important, and I think people should be really conscious of how they label people who have experienced domestic violence.

Message to other women

48. My message to other women in this situation is that you do not deserve that kind of treatment. Women are so loving and nurturing and it's in our nature to put up with this kind of behaviour. But no one deserves it, and it's not OK at all. They say the worst part is leaving the relationship, and I think that's right.
49. You need to realise that you deserve real love, a relationship where you aren't in fear, where you are free to live your life. That's true love.
50. It is not going to be easy when you leave that relationship; but it will get easier. If you reach out for help, the help will be there.

Accepted into evidence at the Royal Commission into Family Violence public hearing on Monday, 3 August 2015.

Witness statement of 'Rebecca Smith'

I, Rebecca Smith,⁷ say as follows:

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

The relationship

2. In 2001, when I turned 22, I entered a relationship which became abusive; physically, emotionally and financially. I was in that relationship for three and a half years.
3. The violence escalated over the three and a half years and I tried to leave several times. Incidents included having my finger broken, being choked and, on a number of occasions, having a knife held up to my throat whilst being told that if I left, not only would I be killed and buried in the backyard, but that he would go after my family and friends.
4. The first time I involved the police was when my ex-partner held me hostage at gunpoint on my birthday one year. However, the response I got from the police was very much a boys' club response which deterred me from calling again. My ex-partner then used that lack of response from the police against me, and it became part of his controlling and abusive behaviour. He would do something, and then taunt me with the fact that there was no point calling the police because they wouldn't do anything anyway.
5. At the same time, he became involved in criminal behaviour. He was dealing drugs from our home. His brothers had also moved in and were involved. I was scared that if the police got involved, they wouldn't believe that I had nothing to do with the drug dealing. There were all these different levels of fear that stopped me from calling the police again.
6. It took three and a half years, and several attempts, before I left for the final time. The tipping point for leaving was not what an outsider might have expected. It came when my ex-partner refused to visit my brother, when my brother had to go into hospital. For me, that was the lightbulb moment. I realised that I did not want to spend another moment with someone who was not only so disrespectful to me, but also treated my family so badly. Had the situation been reversed, and one of his siblings been in hospital, I would have been there in a second.

7. We had stopped living together a little while earlier. I asked him to come and pick up his things that were at my house, and said we should end things. A week later, he started stalking me. This was in 2005. The stalking continued up until last year.

Events after the relationship

8. We were both living in the same suburb, at the time I ended the relationship. As a result, I continued to see him around that suburb when I was out on weekends or after work. Late in 2005, an incident occurred when I was out one night. My ex-partner was very threatening towards me and I became too scared to go home, I thought he would be there waiting for me. I stayed out because I didn't want to go home. That night, I was raped by a stranger. It was a traumatising experience, but I am also really angry about it. I feel like it would never have happened had I felt safe to go home.
9. In around 2006, I saw my ex-partner at our local pub one evening. He was being horrible towards me. The barman happened to be a friend of his, and witnessed what happened. This friend said to me, 'You need to take out an intervention order against him'. That gave me a lot of courage.
10. Later that night, my ex-partner sent me a text message with a threat to kill me. This, combined with the comment from his friend, gave me the courage to go to the local police station to find out how I could go about getting an intervention order.

The first attempt to seek an intervention order

Police response

11. I went to the local police station and told the police officer in charge about the violence I had experienced from my ex-partner, about the current events, and that I had received a threat to kill. I showed him the text message that contained the threat. I told the police officer that I wanted to apply for an intervention order, and asked him what the process was. I had no idea how to go about it. I had never had an experience of family violence in my upbringing and very little exposure to the justice system at all.
12. The response from the police office was, 'Go to the Magistrates' Court and speak to the Registrar.' That was it. He didn't give me any referrals or ask any further questions. He also did not take a statement from me about the threat to kill or the other conduct I had disclosed to him.

Magistrates' Court

13. Shortly after that, I went to the Magistrates' Court and applied for an interim intervention order. I didn't know where my ex-partner lived at that time. I got two extensions to the interim order because on the first two times I attended court the police had not been able to find my ex-partner to serve him and so the matter could not proceed. Having the interim order extended while the police kept trying to find him was a relatively straightforward process and on each occasion I had my older brother and my best friend there as my support people and as witnesses if necessary. The Magistrates I had appeared before were all reasonably sympathetic.
14. In January 2007, I received another Notice of Hearing and assumed that this too would not go ahead because I had never been told that he had been served with my application. I thought that, as on the two previous occasions, it would just be a case of me applying to extend the interim intervention order until he could be served. Given my previous experiences, I decided I didn't need my older brother or best friend with me. They had previously taken time off work so they could come with me and I didn't want to inconvenience them anymore. I said to my family and friends, 'Don't worry about coming, I am just doing the same thing again and I will be fine.'
15. However, as it turned out, my ex-partner had been served with my application and so this hearing was for the final order. I didn't realise this was the case, and there was no assistance provided to explain what it meant. I had no legal advice.

16. On the day of the hearing I was driving to the court and I saw my ex-partner standing out the front having a cigarette with an ex-housemate of mine. This ex- housemate was a friend of my ex-partner's, who had witnessed the violence. He had seen my ex-partner bang my head repeatedly on the kitchen table and had done nothing. I went into shock at seeing them.
17. When I got inside the court I went to the Registrar and asked what I should do. I told the Registrar I didn't realise my ex-partner was coming to the hearing, I didn't have any support people and I didn't know what to do. I was crying and shaking. He asked me if I wanted to see the applicant support worker, and shortly afterwards pointed towards someone who I assumed to be that person. I went over to her and said, 'Are you the applicant support worker?' and she said, 'Yes, I am'. I had a conversation with her where I told her the events that had occurred since the interim order had been in place. She tried to get me to agree to an undertaking. She seemed very cold and I started becoming concerned. In fact, as I found out when we were in court, she was not the applicant support worker at all, but my ex-partner's lawyer.
18. After having spoken with this person who I thought was the applicant support worker, I called my Dad who, on hearing how upset I was, told me to try to get the hearing adjourned to the afternoon and that he would drive down to attend with me. He lives quite far away and I knew it would be at least two hours before he arrived. When we got into the hearing I explained to the Magistrate what had happened. The Magistrate eventually agreed to adjourn the hearing until the afternoon but he was not pleased about it.
19. In the break I called everyone I knew, but no one could get out of work to come down to help me. After lunch, the hearing was called back on and Dad still wasn't there. I had to stand up and represent myself. I didn't have any support people present. I wasn't prepared at all. Stupidly, I had deleted the text message which contained the threat to kill, just three days earlier. I didn't have any witnesses present. I then had to cross-examine my ex-partner. I don't even know what came out of my mouth. I was like jelly the whole time. It was horrible. At the end, the Magistrate was not convinced I had enough proof and said it was a case of 'He said, she said.' The final intervention order was not granted.
20. I walked out. I was in a flood of tears at that point, I felt so numb. The applicant support worker then finally located me. As she was taking me into her office I saw my ex-partner, his lawyer and the ex-housemate coming out of the court high- fiving and laughing, and I could hear my ex-partner making comments about me. My Dad then arrived.
21. It was a totally disempowering, traumatising experience.

Events after my experience at the Magistrates' Court

22. The harassing and threatening behaviour from my ex-partner continued at a relatively low level from then on, including hang up phone calls, clothes that had been hanging on the clothes line being cut up and being menacing towards me whenever we were out at the same place together.
23. After the rape, I had made an application to the Victims of Crime Assistance Tribunal (VOCAT). Through VOCAT, I had been able to access counselling services. Through these counselling sessions, I had been made more aware of other services that were available to me to support me with the family violence I had experienced and was continuing to experience. For the first time, I started to become aware that there were people who could help me. Previously, I had disclosed the family violence to GPs who would minimise the violence or didn't respond.
24. In mid-2007, I saw an ad for the safe steps Volunteer Survivor Advocate Program. This program empowers women who have experienced family violence to break their silence and have a voice in the prevention of violence against women and children. Women who have survived family violence are trained and supported on how to use their personal story to change society's attitudes and beliefs that fuel and enable violence against women.
25. This was an amazing program to be involved in, and really had a significant impact on me. The program has given me the ability to do something with those negative experiences—to help me channel change processes to ensure people experiencing those things now don't have to go through what I have gone through.

The second attempt to seek an intervention order

26. In the period following the rape, I had gone through the VOCAT processes and received an outcome. As part of this process I had participated in a closed VOCAT hearing. I had the experience of speaking to a Magistrate, who believed what I had to say, and I felt validated. Even though the person who raped me had left the country and was not prosecuted, I felt satisfied with having spoken about my experience and having been believed.
27. As a result, when the harassment by my ex-partner escalated again in 2010, I had the confidence to decide to try again to seek an intervention order. I felt empowered enough and removed from the relationship enough to proceed. The escalation of the harassment in 2010 involved harassing phone calls and threats when we were out and about.
28. I reported this behaviour to the police and on this occasion the police took a statement from me and heard the whole history of the relationship. The police then made the application for the intervention order on my behalf. The hearing was also held at the Family Violence Division of the Heidelberg Magistrates' Court. I felt a huge difference walking into the court knowing that the police were on my side. I also felt comfortable with the court itself, because the VOCAT proceeding had been held at Heidelberg Magistrates' Court too.
29. I located the applicant support worker and asked to see identification. In the hearing itself, I had the police, the applicant support worker and a support person present to assist me. I didn't have to stand up to represent myself. I didn't even have to give evidence because he didn't oppose the order. I was conscious of the fact that it was a specialist family violence division. I walked in knowing the Magistrate had a higher level of understanding of family violence. It was also a closed court which made me feel a lot better.
30. The intervention order was put into place for a 12 month period. The entire process was the complete opposite of the first experience I had at the first Magistrates' Court. I felt like I had been listened to, believed and supported. I felt so much more confident and empowered. I couldn't believe the difference.
31. After having reported the family violence to the police, I also received a call from Berry Street offering me counselling and support. I was adequately supported at that stage, as a result of my experience through VOCAT, and didn't need to take up their offer, but I was so grateful that it had occurred. It would have made a huge difference had this referral been made the first time.

Current circumstances

32. I haven't felt the need to extend the intervention order since it lapsed in 2011. Over the last four years there has been the odd attempt to contact me but I have now blocked his number and I am using the tactic of ignoring him completely. I am treating him as completely insignificant. I am very secure and happy with my current partner and feel I am getting on with my life.

Reflections on my experiences

33. One of the most distressing aspects of the violence I experienced was the way, after the relationship ended, my ex-partner was able to use the system against me. My first experience at the Magistrates' Court was very disempowering and re-traumatised me to an even greater extent than before. It made things so much worse.
34. As I stated above, I submitted a claim through VOCAT for the rape I experienced in 2005. I received \$10,000 compensation. I later also submitted a claim for the family violence and received \$1000 compensation. I found that interesting. The rape was horrible, it had really affected my life—but it was one night of my life. The family violence affected my life for years and was damaging on so many levels. I couldn't work out how they came to those figures. Given the extent to which you are emotionally and psychologically damaged by the family violence conduct, it is odd that it weighed less on the scale.
35. The police and the Centre Against Sexual Assault were very proactive in providing me with information and referrals to services in relation to the rape, but there was far less information provided to me in relation to the family violence.

36. The key differences between my experience in 2007 at the Magistrates' Court and the experience at Heidelberg in 2010, included the following.
- 36.1 The initial police response: when I walked into the police station and explained my story, I was taken seriously by police as someone who was reporting criminal conduct. They believed what I had to say.
 - 36.2 Police taking up the application for the intervention order on my behalf: having the police in court, on my side, made me feel so much more confident. I didn't feel like I was by myself and having to be my own advocate.
 - 36.3 Clearly identified applicant support workers: not being able to locate the applicant support worker, and having my ex-partner's lawyer wrongly identify herself as the applicant support worker, made the first experience at the Magistrates' Court even worse. It is important that the applicant support worker is clearly and easily identified.
 - 36.4 Better understanding of the process: I had a support person and was not caught unprepared. I knew what the hearing would involve.
 - 36.5 Having the hearing in the specialist family violence division of the Heidelberg Magistrates' Court: the way the Magistrate behaved was respectful and compassionate and he clearly had a much greater understanding of family violence than the Magistrate in the first Magistrates' Court. This made a huge difference.
 - 36.6 Having a closed court: the first hearing was humiliating in that members of the public were able to witness the entire thing. It made representing myself so much harder as I was conscious of all the people watching. I felt much more comfortable in the second hearing when the court was closed to the public.
7. I realised, after having gone through the process of seeking an intervention order on these two separate occasions, it is possible to have very different experiences of the same process. I hope that women in my situation in the future don't have to experience what I went through at the first Magistrates' Court.

Accepted into evidence at the Royal Commission into Family Violence public hearing on Tuesday, 4 August 2015.

Witness statement of 'Anna Jones'

I, Anna Jones,⁸ say as follows:

- 1. I make this statement on the basis of my own knowledge, save where otherwise stated. Where I make statements based on information provided by others, I believe such information to be true.
- 2. Based on my experience, I aim to highlight what I see to be some of the greatest challenges affecting victims of family violence who are seeking protection via the legal system. As a private person, sharing my story and matters of my private life in a court room has proved to be incredibly difficult for me and, like many women, was almost reason enough to not take legal action against my ex-husband in the first place.

My experience of family violence

- 3. After a time living together interstate my ex-husband and I sold our family home in 2013 and commenced a road trip around Australia with our son, then aged five. We made this decision after an escalation in his violent outbursts and a string of marital difficulties. Most alarmingly for me at this time was that my ex-husband had begun to direct violence at my son. I was becoming aware of significant changes in my son's behaviour, most notably anxiety around his father and nightmares about his father.

4. Our trip was intended to be the last attempt at salvaging the marriage, particularly as my ex-husband blamed a lot of his behaviour on the stress of running a small business. He also blamed a lot of his behaviour on me and this 'red-flag' was never far from my mind. In 2013, my ex-husband drove the vehicle we were travelling in toward my son and I on a crossing. This was the moment that I knew I had to get out of the relationship for the safety of my son and myself. Later when drafting an affidavit for the family court I realised that this incident of violence had occurred after a pattern of monthly, and at times more frequent, acts of family violence.
5. Although I knew the Police were in walking distance, I did not go. I felt certain that if I did go to the Police, I would give a statement but then would be in the predicament of returning to the same vehicle with my ex-husband. I knew him to be a man who could be beyond irate yet had the capacity to present as perfectly calm and reasonable in an instant if it was in his interest. I had no faith that I could gain protection at that time, so I instead chose to return to the vehicle with my son and attempt to calm his father down.
6. I then made up my mind to leave him two weeks later when we were scheduled to be with my entire extended family at my parent's house marking the end of our trip. As we no longer shared a family home and the proceeds of our house sale were in the bank, I felt we were in a situation that would make the separation reasonably easy. I was wrong.
7. My ex-husband left in the van we had been travelling in and headed north with no regard for our welfare, evading contact from me for several days so I was unsure of his whereabouts. This was distressing because I knew he had access to an unregistered firearm and had previously threatened to kill me and my son if I ever left him.
8. My son and I were left standing with only the basic possessions we were travelling with. With my family rallying around me, I drove from interstate to my sister's house in Victoria. We decided this to be the safest alternative, as my ex-husband had not previously attempted to use threatening behaviour with my brother-in-law, though he had done with my mother and sister.

Initial attempts to obtain advice and assistance

9. From the point my ex-husband drove away in the van I was effectively homeless. As a result, I moved, with my son, to Victoria to be with my family. I was fortunate to have family support during this transition. Many mothers and children without such a family would be placed in an even more vulnerable predicament.
10. I contacted a solicitor to obtain legal advice regarding property separation and custody arrangements. I asked her advice on what I should do if the violence escalated. She instructed me to obtain a family violence intervention order (Intervention Order). At the time, I had no idea what an Intervention Order was and contacted the Magistrates' Court for advice. The first woman I spoke to asked: 'Did your lawyer put you up to this?' This was the first, but not the last, time that the notion that I was a 'scorned wife' who was being deliberately vengeful toward her ex-husband was implied. Considering the woman had just spent less than 30 seconds on the phone to me, the lump in my throat obvious through my speech, her behaviour was out of line.
11. Based on this experience, I suggest that the Royal Commission should consider implementing standardised first response communication for peripheral support people.

12. Obviously in emergency situations our emergency personnel are well trained in the manner in which to handle victims and attend to domestic violence situations appropriately. I am referring here to the many other roles in our community where staff may inadvertently find themselves handling a very early enquiry for a victim of domestic violence, such as the courts, General Practitioners, teachers, etc. A standardised script could be formulated and implemented with suggestions as to how to recognise indicators that a person may be a victim of family violence, how to delicately handle this situation and know what services and support could be recommended. I think that such training could be implemented without great expense. It could be a self-perpetuating campaign with tools available online and implemented in workplaces, similar to how workplaces implement Occupational Health and Safety training. I have concerns that the manner in which many women are treated presently in early requests for help leads them to give up and not pursue the matter further. I refer to the statistic that 64 per cent of women who experienced physical assault and 81.1 per cent of women who experienced sexual assault still did not report it to police.

Recovery order proceedings

13. Knowing that his son was now to reside with me in Victoria, my ex-husband commenced legal proceedings interstate for a recovery order with the assistance of a lawyer in his family. He did this despite my offer to attend to legalities rationally and amicably in Victoria.
14. The recovery order application was heard in the Federal Circuit Court interstate. The judge dismissed the recovery order on the basis of evidence of our joint decision to sell our house and leave that state almost one year earlier. However, despite this outcome, my experience of the court system has been wholly unsatisfactory in many respects. This day in court was my first introduction to what would become a 'He-said, She-said' case in the eyes of the legal system.
15. In my experience, the first problem with the recovery order proceeding was that there was insufficient time to establish a clear background of family violence. In what is effectively a 'mentions' hearing, I found it virtually impossible to tell my story. Having heard a handful of details in the limited time available, the judge quickly set her attention to the question of 'access', a word that is thrown around frequently in custodial and family violence matters. Rather than considering the best outcome for my son, I found that the judge's focus centred on the father's rights. She expressed concern that he had not had contact with his son for approximately two months. This fact was given precedence over my son's safety. The father of my child had previously threatened to kill him, had made a potential attempt to kill the day he drove towards us both and had the means to kill with his firearm. Yet here I was being forced to accept his 'right' to see his son, denying my son the right to safety.
16. My fear is that after generations of inequitable custodial settlements disadvantaging positive paternal relationships, the pendulum has now swung too far the other way. The short term risk here was blatant. My 'story', my 'case' had the hallmarks of becoming a family violence statistic in the future. Under current legislation, the courts are impeded in their ability to respond preventatively and are forced to function reactively. Given the appalling statistics of women and children who are killed each year by a parent or intimate partner, this must change. It must change effectively and intelligently and not at the glacial pace we have come to expect and accept of our judicial system.
17. The Magistrate stood the matter down so that my barrister and my ex-husband's lawyer could confer and reach a custody arrangement. The starting point of that conferral between the lawyers was 50/50 custody. I considered this completely unacceptable. I wanted a no contact arrangement, but my barrister advised me not to ask the judge for no contact, implying that I would never be successful because my case was not 'bad' enough. I was advised that the consequences could be severe if I asked for no contact, including a result that my ex-husband would be awarded majority custody. I felt that not only was I battling the court system, but I was battling my own barrister. I refused to agree to 50/50 custody but constantly felt that I was pushing my barrister to follow my instructions.
18. We were unable to agree to a position outside of Court so we went back before the judge. The judge ordered supervised access, but only for a limited time. Therefore, I still felt that her focus was very much about ensuring that my ex-husband had access to his child.

19. After this hearing, my ex-husband continued to pursue 50/50 custody. The proceeding was resolved by mediation in 2014. This was only because I had run out of money by this stage, and could not fund a full contested trial. I thought the mediator was appalling. I found him to be very arrogant and he lacked sensitivity with regard to the family violence issues I tried to explain to him. The mediator treated my case as if it was just another custody hearing, without regard to the safety risks to my son. He seemed to just assume we would meet in the middle of our respective positions as if it was a commercial dispute. At the mediation, I was very firm that I would not agree to 50/50 custody. I would not budge from this position and the mediator became very frustrated with me. At one point, he said 'This is moving at a glacial pace, I am not happy with this.' The efficiency of the mediation was more important to the mediator than coming to an agreement that would protect my son.
20. As a result of the mediation, my ex-husband has two-thirds of holidays and two weekends every school term. He also has scheduled half hour Skype phone calls with my son once a week. My ex-husband is required to pay for half of the cost of the flights interstate for my son.
21. I have felt that, through my dealings with the courts, my son was rarely mentioned. His experience and his wellbeing was not at the centre of the custody proceedings, nor was he given proper consideration at the Intervention Order proceedings. The court's primary focus was ensuring that his father's right to see him was protected. We should be focusing on what is best for the child.

Family Court Report process

22. In the recovery order proceedings, the Court ordered that a Family Report be prepared. My experience of the Family Report process, and in particular the reporter himself, was appalling.
23. The reporter was around the same age as me, and he had spoken to my ex-husband first. I felt that they had struck up a rapport, because they were both young men and seemed to get along well. Already, I felt at a disadvantage. The reporter was a counsellor with limited professional experience, and not a trained psychologist. Throughout the day, based on how the reporter conducted the interviews, I felt that he was extremely underqualified and inexperienced. He was also consistently dismissive of my recount of the violence I had experienced, instead proposing that it was a matter of my own 'perception'.
24. For example, during my interview with the reporter, I raised concerns to him about my ex-husband's prior drug use. I have genuine concerns that my ex-husband shows signs of a medical condition and felt it important to raise this with the reporter. I did not do so maliciously or as a tactic to badmouth my ex-husband to the reporter. I told the reporter that I lacked knowledge about drugs. The reporter said to me, 'If this was a different environment, I could really educate you with a few stories about drugs'. I was speechless and completely shocked by this comment. It is indicative of how completely unprofessional the reporter was.
25. Another example from this day was that my ex-husband showed up with two presents for my son, for Christmas and his birthday, which had been four months earlier and which had both passed without acknowledgement from him. The reporter asked me if I was happy for my ex-husband to give the presents to my son. I said yes, of course he can have the presents, but said too that I thought it was very contrived that my ex-husband had brought these presents today, four months after Christmas and my son's birthday and on the day his relationship with his son was being assessed. When I read the Family Report, the reporter stated in the report that I had 'wondered if there was a sinister reason for doing this'. This comment was a blatant misquote and left out all of the context. It painted me in a bad light, which continued on a theme already introduced by my ex-husband that questioned my mental stability. I suggest that it should be standard practice that gifts are not allowed to be exchanged during a family court assessment.
26. The court reporter also stated in his report that 'Whether or not there was family violence rests on disputed facts, but if there is a court determination that it occurred, it was likely situational violence'. I felt that the court reporter's use of the phrase 'situational violence' excused and trivialised the family violence that my son and I had experienced. In my opinion, it is not the court reporter's role to provide an expert opinion (especially when the reporter is underqualified and inexperienced) about the court's likely determination regarding the violence I had experienced. I think that this is an abuse of his role and is morally and professionally reprehensible.

27. I am very concerned about how much weight the Family Report carries in custody proceedings. The examples I have included of what happened on the day show that there are too many variables, such as, who the reporter is and what the reporter chooses to include in the report. The Family Report is too subjective and does not take into account all of the circumstances. I am concerned that Family Report interviews are not recorded, and are only written based on the reporter's notes. I was misquoted a number of times in the Family Report. I think there should be some form of check on what is written in the report, to ensure that what is said in the interview is not taken out of context.
28. Most significantly, the Family Report did not adequately address the safety of my son. There was little discussion in the report about the violence that my son had been exposed to and experienced. I thought that the report completely missed the point in terms of determining what would be safe circumstances for my son.
29. I found the Family Report process very confronting and very draining. My barrister had told me that it was a very important day and that the Court would put a lot of weight on the Family Report. Naturally, I was anxious and I worried that this would affect how I was perceived in the report. This was already a very stressful situation for me, having to see my ex-husband and recount to the report writer my experience of family violence, but I felt that the way the Family Report process was managed only made my stress worse.
It was so confronting to even just describe to the reporter the violence, but especially so to a person who I felt was inexperienced and not considerate of my experiences.
30. I was also very concerned about what the process expected of my son. I had to send him into a room to talk to a stranger and I was not allowed to take him into the room and settle him as I would do—as any parent would do—in any other circumstance where a child of his age was going somewhere for the first time. I had to hand him over at the door and was not allowed to tell him about what was about to happen as it would be seen as influencing him. It is obvious from the report that once inside my son was very anxious and took some time to settle.

Supervised contact centres

31. I made a request that at least initially, my child spend time with his father in supervised contact centres only. I was told by my legal team that this 'could not be a long term solution', which the Magistrate reiterated. I was very frustrated that my ex-husband was not considered a long term risk. At what point is a person who has threatened to kill their own child no longer a risk? I know that my ex-husband has access to an unregistered firearm, about which I have tried to alert authorities. After contacting Crime Stoppers numerous times regarding his weapon, I received no response. My local police informed me that they could only act if he 'arrived at my house with weapon in hand'. If my son's father wanted to carry out his threat to kill, I felt that he was being spoon fed the opportunities by the same people I was appealing to for help. In these circumstances, please consider whether the risk to my son is any less and if our courts truly have any power to function preventatively.
32. Following the supervised access order, I signed up immediately to both interstate and Victorian government placements. My ex-husband signed up after four months, which I consider is indicative of his desire, or lack thereof, to see his son.
33. During this period, I was continually harassed by his legal team offering ludicrous alternative suggestions, including offering for a senior member of his legal team to supervise the contact between my ex-husband and my son. This harassment was bullying, and at times demeaning, expensive to respond to and undermining of what had been approved by the judge. I think my ex-husband's actions were tactics for when we re-appeared for a further mentions hearing, at which my ex-husband attempted to use the lack of time spent with his son as leverage to override the allegations of violence. Although my lawyer told the Court he had refused to sign up to the contact centres, my ex-husband still managed to gain some sympathy for his lack of contact. We left that hearing with new interim orders which again approved my request for supervised contact. However, the supervised contact was only for a limited time, after which my ex-husband was allowed overnight visits from my son.
34. At this time a placement became available in the interstate supervised contact centre. However, I was shortly advised that the centre was ceasing operations due to funding.

35. Sufficient funding is critical so that these centres can remain open as a viable option for children who have experienced family violence. These centres are particularly important in the early stages of separation from a violent partner, when that partner's behaviour is likely to be very unpredictable and irrational. Contact centres provide an environment that protects the child's safety. It seems obvious to keep these centres open to protect the child's welfare, but sadly this is not the case, with several government supervised contact centres being closed. Access to this vital service is now unreliable and, for most people, completely inaccessible. In the end, I paid for the contact centre visits with my ex-husband and son. It was very expensive and cost even more to receive a report of the visit.
36. There also needs to be a consistent standard applied across government contact centres. I made numerous enquiries to various centres and found that the safety standards for each centre was very different. As my ex-husband had access to firearms, I asked each of them if they had metal detectors or a pat-down security procedure. None of them did. This may seem overly cautious, but I consider it necessary. Allocating funding to the security of these centres to ensure a safe and well-managed system for contact to occur, with as little risk to children's safety as possible, is crucial.
37. Although I was informed that the supervision would be careful and that there would be no chance of any problems, the visit between my ex-husband and son was supervised by a very petite woman, who would not have been able to physically stop my husband from walking out with my son.
38. Keeping in mind that I had initially sought no contact, and felt that I had been bullied into contact arrangements that I was not happy about, it was not acceptable that the supervised contact centres could not even provide a safe environment for my child. If supervised contact centres were properly funded and operated with adequate safety measures, I think they would be a good way to provide access to the other party, without labelling a parent who feels they are acting protectively as a 'no-contact parent', inferring that they are acting maliciously. Supervised contact should not just be limited to a short term solution.
39. Following the occasions that my son visited his father interstate, I have noticed significant behavioural changes. I find that it takes weeks for him to re-stabilise after the visits with his father. My son's school has also reported that they have noticed changes in his behaviour when he returns from visits with his father. I am very concerned about sending my son into this environment, where it is mentally distressing for him and affecting his life both in the short and long term. At the present time for a variety of reasons my son is not having any contact with his father.

Jurisdictional barriers

40. There have been jurisdictional difficulties because of the fact that I live in Victoria and my ex-husband lives interstate. I have discovered the lack of communication between State government departments to be particularly difficult. For instance, I only came to learn recently that the Department of Human Services is state operated and as such, does not produce reports or implement safety plans to effectively deal with children of interstate parents, where family violence is an issue.
41. I think that jurisdictional difficulties will have affected many separated families and it is a prime example of how children can 'fall through the cracks' of the system and be overlooked. One way to address this problem could be standardised reporting. I also think that an inquiry into what constitutes a 'thorough' report from the Department of Human Services would likely prove very revealing. There needs to be an effective way for State government departments to communicate, or better yet, consider the implementation of policies and procedures that would be applied nationally in circumstances of family violence.
42. Related to this need for better communication, I think there could be better communication from schools where children have experienced family violence. I think that schools could play an important role in monitoring children's behaviour, particularly of changes that may be indicative of exposure to family violence. I wanted my son's school to monitor his behaviour and take notes about changes after he returned from visits with his father, so that I could use this as evidence in Court. The school said that they could not do this, as they did not want the information being used as evidence, exposing them to cross-examination. I think there is a clear gap here, where the school has a lot of contact with my son, and other children in similar situations, during the week, but don't feel they have an effective means of providing this information to the courts.

Legal funding

43. At the start of my legal proceedings, I was ineligible for legal aid because I had some savings in the bank. Legal Aid interstate would not represent me in the recovery order proceedings because I am now a Victorian resident. When my funds were exhausted and the recovery order proceedings were approaching a final, contested hearing, I was informed that Victoria Legal Aid does not fund any final trials. I find it a sad irony that after stepping forward and negotiating through over 12 months of legal proceedings, the opportunity to have my case heard and finally determined by a Magistrate was out of reach. Up to this point, I had spent over \$50,000 of my own money and was then told it would cost a further \$50,000 to have the matter 'heard'. As noted above, we reached final orders through the Court ordered mediation process. However, I felt let down by the legal system, in that a judge would not hear the full details of my case to make an informed judgement on my son's behalf. Perhaps, with all of the facts at hand, the judge would not consider my instinctive desire for 'no-contact' excessive. Perhaps the judge would consider it to be the safest and fairest outcome for my son, in which case, I would be in a very different position today.
44. I have been very frustrated by the legal representation I have had, especially considering how expensive it is. I have found that I am constantly battling my legal representatives because they do not agree with the outcome that I want or think that I am being unreasonable by insisting that the custody terms take into account the family violence issues. It has seemed to me that even my own legal team would prefer to ignore the issue of family violence to negotiate on simpler terms for the custody arrangements. Now that I am more experienced with the process of the legal system, I would like to represent myself because I know my story better and I can no longer afford private legal representation. I find it very frustrating that I have to pay someone to talk about my personal life. However, I continue to experience that courts have a negative attitude towards self-represented parties. In an earlier mentioned hearing, a Magistrate at the Magistrates' Court commented to me that 'everyone wants their 15 minutes'. I found this comment so demeaning. Speaking about my experience of family violence in court is not about getting my '15 minutes', but about making sure the details and history of my case are properly and accurately told.

Current Intervention Order proceedings

45. I wrote my submission to the Royal Commission into Family Violence while I was at court, waiting for an Intervention Order hearing at the Magistrates' Court. That day, despite all parties being summonsed for appearance at 9.30 am, I spent most of the day waiting for the hearing which ended up being adjourned. At that hearing, I sought an extension of the Intervention Order made against my ex-husband last year, which had expired. In the initial Intervention Order proceedings, I privately briefed a barrister for the hearing, which cost more than \$5000.
46. The contested Intervention Order proceeding was finally heard in 2015. For this hearing, I engaged Legal Aid for the purpose of cross-examination, but I represented myself in all other matters that came to hand in that trial as I could not afford further legal representation.
47. Although I had previously been advised that contested Intervention Order hearings are very rare, I pursued the contested Intervention Order hearing, which was heard at the Magistrates' Court. In previous hearings, I have been pressured by my own lawyers and also by the duty lawyer at the Magistrates' Court to come to a negotiated outcome on the day, instead of seeking an Intervention Order that applies to both me and my son. The current Intervention Order applies only to me, but the conditions are such that it also covers my son.
48. The result of the contested hearing in 2015 was that the Magistrate granted a 12 month extension of the existing Intervention Order. The Magistrate declared a number of times throughout the hearing that he was 'not really prepared to adjudicate' the matter and that he would leave it to my Legal Aid representative to direct the process. Although I was technically 'successful', I am very disappointed by the Magistrate's conduct of the proceeding.

49. As noted above, I know that my ex-husband has access to an unregistered firearm, which is very concerning to me as he has previously made threats to kill me and my son. The original Intervention Order (the subject of the contested hearing) included a weapons restriction, however there was some debate about the restriction on the Intervention Order, given that the interim Intervention Order included a firearms restriction. I have consistently requested that the Intervention Order include a restriction on the ownership of firearms, and specifically, that my ex-husband be required to hand in his gun. In court, I attempted to establish that his refusal to do this was a breach of the Intervention Order. The Magistrate did not agree and ruled that the weapons restriction (as included in the original Intervention Order) did not cover ownership of an unregistered firearm. The Magistrate said that there was a difference between a weapon and a firearm 'in the Act'. He also said 'so it never covered a gun, oh well', and then literally put up his hands, indicating a complete lack of concern. I felt as though he spoke to me as if I was a child. At this hearing, like the previous hearings I have attended, my son's safety was not taken into consideration. The Magistrate did not acknowledge my son's position at all.
50. I reiterated to the Magistrate that I had consistently sought that the Intervention Order include a restriction on firearms. I stated that the Court should not regard the seriousness of the risk any less, simply because there had been some kind of administrative error in processing the restrictions on the interim Intervention Order compared to the original Intervention Order. While I was speaking to the Magistrate about this point, the Magistrate made a derogatory comment to me to the effect that I was pretending to be a lawyer, and remarked that 'everyone wants their day in court'. This Magistrate has made comments to me of this nature several times, such as saying to me that 'everyone wants their 15 minutes', as noted above at paragraph 44. Throughout the hearing, the Magistrate and my ex-husband's barrister spoke to me in a belittling way. They were unnecessarily rude and insensitive. I felt that I was penalised for being confident and articulate, and the fact that I did not fit the Magistrate's preconceived idea of a victim of family violence.
51. I felt as though the Magistrate was sympathetic to my ex-husband. When granting the extension to the Intervention Order, the Magistrate acknowledged that it was 'tough' for my ex-husband because the Intervention Order 'enforces pleasant behaviour' and that the 'repercussions are quite serious if you don't'. At no point did the Magistrate acknowledge the seriousness of the violence that led to the Intervention Order in the first place. Even though I was 'successful' in the eyes of the law, I felt cheated in that I had listened to the Magistrate's ruling on the matter, which was so sympathetic to my ex-husband that I felt he almost apologised to my ex-husband for granting the extension. Of all the court appearances and hearings I have now attended, the Magistrate that heard this contested Intervention Order was the worst I have encountered.
52. Experiencing family violence altered my course in life and career path significantly. Last year I commenced studies at university to undertake a double major, Journalism being one of them. Throughout 2014, despite having around a dozen court appearances and all of the upheaval that comes with separating from a violent partner with a child, I maintained a high distinction average. I have intentions to put my skills to good use in the area of justice, women's rights and areas of community significance.

Accepted into evidence at the Royal Commission into Family Violence public hearing on Friday, 7 August 2015.

Endnotes

- ¹ The name and other details of the witness (and others) referred to in this statement have been changed to protect her identity and to comply with the Royal Commission into Family Violence Restricted Publication Order dated 10 July 2015.
- ² The name and other details of the witness referred to in this statement have been changed to protect her identity.
- ³ The name and other details of the witness referred to in this statement have been changed to protect her identity and to comply with the Royal Commission into Family Violence Restricted Publication Order dated 22 July 2015.
- ⁴ The name and other details of the witness (and others) referred to in this statement have been changed to protect her identity and to comply with the Royal Commission into Family Violence Restricted Publication Order dated 23 July 2015.
- ⁵ The name and other details of the witness referred to in this statement have been changed to protect his identity and to comply with the Royal Commission into Family Violence Restricted Publication Order dated 24 July 2015.
- ⁶ The name and other details of the witness (and others) referred to in this statement have been changed to protect her identity and to comply with the Royal Commission into Family Violence Restricted Publication Order dated 3 August 2015.
- ⁷ The name and other details of the witness referred to in this statement have been changed to protect her identity and to comply with the Royal Commission into Family Violence Restricted Publication Order dated 4 August 2015.
- ⁸ The name and other details of the witness (and others) referred to in this statement have been changed to protect her identity and to comply with the Royal Commission into Family Violence Restricted Publication Order dated 7 August 2015.

Appendix G Roundtable discussions: topics and participants

Relationship between family law system and Victorian family violence system

Monday 21 September 2015

Title	Name	Organisation	Role
Chief Justice	Diana Bryant AO	Family Court of Australia	Chief Justice
Chief Judge	John Pascoe AO CVO	Federal Circuit Court	Chief Judge
Judge	Evelyn Bender	Federal Circuit Court	Judge
Deputy Chief Magistrate	Felicity Broughton	Magistrates' Court	Deputy Chief Magistrate
Magistrate	Anne Goldsbrough	Magistrates' Court	Magistrate
Ms	Manuela Galvao	Family Court of Australia/ Federal Circuit Court	Regional Coordinator, Child Dispute Services
Professor	Helen Rhoades	Family Law Council / Melbourne University	Chair of the Family Law Council, Professor of Law
Ms	Nicole Rich	Victoria Legal Aid	Director, Family, Youth and Children's Law Services
Dr	Andrew Bickerdike	Relationships Australia Victoria	Chief Executive Officer

Exploring perpetrator interventions

Monday 21 September 2015

Title	Name	Organisation	Role
Ms	Elena Campbell	Centre for Innovative Justice	Manager, Policy and Research
Emeritus Professor	Arie Freiberg AM	Sentencing Advisory Council/ Monash University	Chair of the Sentencing Advisory Council, Emeritus Professor
Ms	Helen Fatouros	Victoria Legal Aid	Director, Criminal Law Services
Ms	Carina Holmquist	Anglicare Victoria	Program Co-ordinator, Dads Putting Kids First
Mr	Glenn Rutter	Magistrates' Court	Manager, Court Support and Diversion Services
Ms	Shaymaa Elkadi	Department of Justice and Regulation	General Manager Offending Behaviour Programs, Corrections Victoria
Mr	Rodney Vlasis	No To Violence and Men's Referral Service	Manager, Men's Referral Service
Dr	Astrid Birgden	Deakin University	Consultant forensic psychologist, Adjunct Clinical Associate Professor
Acting Inspector	Wes Lawson	Victoria Police	Acting Inspector, Prosecutions Division, Legal Services Department
Superintendent	Russell Barrett	Victoria Police	Superintendent, Southern Region

Sustainable reform

Tuesday 22 September 2015

Title	Name	Organisation	Role
Mr	John Thwaites		Former Deputy Premier
Mr	Rob Knowles AO		Former Minister for Health
Mr	Terry Moran AC		Former senior bureaucrat
Ms	Christine Nixon APM		Former Chief Commissioner of Police
Mr	Terry Healy		Former senior bureaucrat
Professor	Mark Considine	Melbourne University	Dean, Faculty of Arts
Professor	Gary Banks AO	Australia and New Zealand School of Government	Chief Executive and Dean
Dr	Peter Bragge	BehaviourWorks Australia, Monash Sustainability Institute	Senior Research Fellow

Magistrates' roundtable

Wednesday 23 September 2015

Title	Name	Organisation	Role
Chief Magistrate	Peter Lauritsen	Magistrates' Court	Chief Magistrate
Deputy Chief Magistrate	Felicity Broughton	Magistrates' Court	Deputy Chief Magistrate
Acting President	Kay MacPherson	Children's Court	Acting President
Magistrate	Fiona Hayes	Magistrates' Court	Coordinating Magistrate
Magistrate	Anne Goldsbrough	Magistrates' Court	Magistrate
Magistrate	Pauline Spencer	Magistrates' Court	Magistrate
Magistrate	David Fanning	Neighbourhood Justice Centre	Magistrate
Ms	Alison Paton	Magistrates' Court	Project Manager, Response to Royal Commission into Family Violence
Mr	Andrew Tenni	Magistrates' Court	Chief Executive Officer
Ms	Lisa Grey	Magistrates' Court	Registry Manager, Broadmeadows Magistrates' Court
Ms	Kate Ryan	Children's Court	General Manager, Governance and Planning

Victim restoration and the justice system

Friday 25 September 2015

Title	Name	Organisation	Role
Ms	Dymphna Lowrey	Defence Abuse Response Taskforce	Manager Restorative Justice Unit, ACT Government
Ms	Carolyn Worth	South East Centre Against Sexual Assault	Manager
Aunty	Pam Pedersen	Koori Courts	Elder
Ms	Freia Carlton	Victoria Legal Aid Victoria	Manager, Family Dispute Resolution Service
Ms	Joanna Fletcher	Women's Legal Service Victoria	Chief Executive Officer
Ms	Bonnie Renou	ARC Justice	Community lawyer
Mr	David Moore	Victorian Association for Restorative Justice	President

Governance

Tuesday 6 October 2015

Title	Name	Organisation	Role
Mr	Chris Eccles	Department of Premier and Cabinet	Secretary
Ms	Kym Peake	Department of Health and Human Services	Acting Secretary
Mr	Greg Wilson	Department of Justice and Regulation	Secretary
Ms	Gill Callister	Department of Education and Training	Secretary
Ms	Melissa Skillbeck	Department of Treasury and Finance	Deputy Secretary
Chief Commissioner	Graham Ashton	Victoria Police	Chief Commissioner

Glossary

Affected family member	A person who is to be protected by a family violence intervention order. This terminology is also used by Victoria Police to describe victims of family violence.
Affidavit	A written statement made under oath or affirmation.
Applicant	A person who applies for a family violence intervention order (or other court process). This can be the affected family member or a Victoria Police member acting on behalf of the affected family member.
Applicant support worker	A worker at some magistrates' courts who advises and assists an applicant with court procedures (for example, applying for a family violence intervention order).
Bail	The release of a person from legal custody into the community on condition that they promise to re-appear later for a court hearing to answer the charges. The person may have to agree to certain conditions, such as reporting to the police or living at a particular place.
Breach	A failure to comply with a legal obligation, for example the conditions of a family violence safety notice or family violence intervention order. Breaching a notice or order is a criminal offence. In this report the terms 'breach' and 'contravention' are used interchangeably.
Brokerage	A pool of funds allocated to a service provider to purchase goods and/or services for its clients according to relevant guidelines. For example, brokerage funds could be used to pay for rental accommodation, health services and other community services.
Child	A person under the age of 18 years.
CISP	The Court Integrated Services Program is a case-management and referral service operating in certain magistrates' courts for people who are on bail or summons and are accused of criminal offences.
Cold referral	A referral to a service where it is up to the client to make contact, rather than a third party. For example, where a phone number or address is provided to a victim.
Committal proceeding	A hearing in the Magistrates' Court of Victoria, to determine if there is sufficient evidence for a person charged with a crime to be required to stand trial.
Contravention	A breach, as defined above. In this report, the terms 'breach' and 'contravention' are used interchangeably.
Criminogenic	Producing or leading to crime or criminality.
Culturally and linguistically diverse	People from a range of different countries or ethnic and cultural groups. Includes people from non-English speaking backgrounds as well as those born outside Australia whose first language is English. In the context of this report, CALD includes migrants, refugees and humanitarian entrants, international students, unaccompanied minors, 'trafficked' women and tourists. Far from suggesting a homogenous group, it encompasses a wide range of experiences and needs.
Culturally safe	An approach to service delivery that is respectful of a person's culture and beliefs, is free from discrimination and does not question their cultural identity. Cultural safety is often used in relation to Aboriginal and Torres Strait Islander peoples.
Directions hearing	A court hearing to resolve procedural matters before a substantive hearing.

Duty lawyer	A lawyer who advises and assists people who do not have their own lawyer on the day of their court hearing and can represent them for free in court.
Ex parte hearing	A court hearing conducted in the absence of one of the parties.
Expert witness	A witness who is an expert or has special knowledge on a particular topic.
Family violence intervention order	An order made by either the Magistrates' Court of Victoria or the Children's Court of Victoria, to protect an affected family member from family violence.
Family violence safety notice	A notice issued by Victoria Police to protect a family member from violence. It is valid for a maximum of five working days. A notice constitutes an application by the relevant police officer for a family violence intervention order.
Federal Circuit Court	A lower level federal court (formerly known as the Federal Magistrates' Court). The court's jurisdiction includes family law and child support, administrative law, admiralty law, bankruptcy, copyright, human rights, industrial law, migration, privacy and trade practices. The court shares those jurisdictions with the Family Court of Australia and the Federal Court of Australia.
First mention	The first court hearing date on which a matter is listed before a court.
Genograms	A graphic representation of a family tree that includes information about the history of, and relationship between, different family members. It goes beyond a traditional family tree by allowing repetitive patterns to be analysed.
Headquarter court	In the Magistrates' Court of Victoria, there is a headquarter court for each of its 12 regions at which most, if not all, of the court's important functions are performed. All Magistrates' Court headquarter courts have family violence intervention order lists.
Heteronormative/heteronormatism	The assumption or belief that heterosexuality is the only normal sexual orientation.
Indictable offence	A serious offence heard before a judge in a higher court. Some indictable offences may be triable summarily.
Informant	The Victoria Police officer who prepares the information in respect of a criminal charge. The informant may be called to give evidence in the court hearing about what they did, heard or saw.
Intake	A point of entry or 'doorway' into a service or set of services.
Interim order	A temporary order made pending a final order.
L17	The Victoria Police family violence risk assessment and risk management report. The L17 form records risks identified at family violence incidents and is completed when a report of family violence is made. It also forms the basis for referrals to specialist family violence services.
Lay witness	A witness who does not testify as an expert witness.
Mandatory sentence	A sentence set by legislation (for example, a minimum penalty) which does not permit the court to exercise its discretion to impose a different sentence.
Other party	A term used by Victoria Police to describe the person against whom an allegation of family violence has been made (the alleged perpetrator).

Prescribed organisation	An organisation empowered to share information relevant to risk assessment and risk management under the Commission's recommended information-sharing regime to be established under the <i>Family Violence Protection Act 2008</i> (Vic). Such organisations could include, for example, Support and Safety Hubs, specialist family violence services, drug and alcohol services, mental health services, courts, general practitioners and nurses. The proposed regime is discussed in Chapter 7.
Protected person	A person who is protected by a family violence intervention order or a family violence safety notice.
Recidivist	A repeat offender who continues to commit crimes despite previous findings of guilt and punishment. In this report this term is also used to describe perpetrators against whom more than one report of family violence has been made to Victoria Police, including where no criminal charge has been brought.
Registrar	An administrative court official.
Respondent	A person who responds to an application for a family violence intervention orders (or other court process). This includes a person against whom a family violence safety notice has been issued.
Respondent support worker	A worker based at some magistrates' courts who advises and assists respondents with court procedures, (for example, a family violence intervention order proceeding).
Risk assessment and risk management report	A Victoria Police referral L17 form, completed for every family violence incident reported to police.
Risk Assessment and Management Panels	Also known as RAMPs, these are multi-agency partnerships that manage high-risk cases where victims are at risk of serious injury or death. These are described in Chapter 6.
Summary offence	A less serious offence than an indictable offence, which is usually heard by a magistrate.
Summons	A document issued by a court requiring a person to attend a hearing at a particular time and place.
Triable summarily	Specific indictable offences that can be prosecuted in the Magistrates' Court of Victoria, subject to the consent of the accused and the magistrate.
Universal services	A service provider to the entire community, such as health services in public hospitals or education in public schools.
Warm referral	A referral to a service where the person making the referral facilitates the contact—for example, by introducing and making an appointment for the client.
Young person	A person up to the age of 25 years.

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