



**Royal Commission**  
into Family Violence

**Volume V**

# Report and recommendations

March 2016



# Royal Commission into Family Violence

## Volume V

### Report and recommendations

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# Family violence and diversity

## Introduction

The Royal Commission's terms of reference require it to consider the needs and experiences of people affected by family violence, having particular regard to, among others:

- ▷ children
- ▷ seniors
- ▷ Aboriginal and Torres Strait Islander peoples
- ▷ people within culturally and linguistically diverse communities
- ▷ lesbian, gay, bisexual, transgender and intersex people
- ▷ people living in rural, regional and remote communities
- ▷ people with a disability.<sup>1</sup>

The Commission welcomed the opportunity to explore the experiences and needs of people in these communities. The terms of reference did not refer to male victims of family violence. Nor did they refer to women in prison or women working in the sex industry, both of which may have been victims of family violence. Nevertheless the Commission considered it important to take into account their experiences and needs as well.

## The Commission's approach

The Commission received many written submissions that dealt with the particular experiences and needs of people in these diverse communities. It also conducted a number of community consultations designed to explore these experiences and needs. These included consultations with:

- ▷ children and youth workers
- ▷ older women
- ▷ Aboriginal women and workers in their communities
- ▷ women from culturally and linguistically diverse backgrounds
- ▷ faith leaders, Muslim women and community leaders
- ▷ lesbian, gay, bisexual, transgender and intersex people, and workers in these communities
- ▷ women with disabilities
- ▷ male victims of family violence
- ▷ women in custody at the Dame Phyllis Frost Centre
- ▷ women who are or have previously worked in the sex industry.

Consultations were also held throughout regional and rural Victoria—in Bairnsdale, Benalla, Bendigo, Colac, Echuca, Geelong, Horsham, Maryborough, Mildura, Morwell, Sale, Shepparton, Traralgon and Warrnambool.

The Commission concluded that for people in some of these groups, family violence is less visible and less well understood than family violence in other parts of the Australian community.

While there can be similar dynamics to family violence across all communities, people from these diverse communities can also experience family violence differently.

In addition, some people in these diverse communities face barriers to reporting family violence and in finding appropriate help and support. A comprehensive family violence policy must address these barriers.

Of course many factors combine to create an individual's identity and experience, with a combination of different factors sometimes being described as 'intersectionality'. The Commission is conscious of this complexity and the importance of avoiding categorising people by simply referring to one aspect of their identity.

The entirety of the Commission's report is relevant to people from these diverse communities, and their experiences and needs are discussed across many chapters.

The following chapters seek to give specific consideration to the different experiences of people within these communities, and explore their distinct needs. The experiences and needs of children are discussed in Chapter 10. In doing so we recognise that the significance of the multiple and intersecting barriers many victims face cannot be adequately captured in these summaries.

The Commission hopes that its recommendations will result in better services for all people who experience family violence, regardless of their background, identity or membership of a particular community.

## The Commission's recommendations

The Commission's main objectives in the chapters that follow are to:

- ▷ build and ensure accessible, inclusive and non-discriminatory service delivery
- ▷ expand understandings of the different forms and complexity of family violence across a range of communities
- ▷ foster a recognition that family violence is a human rights issue and that responses to it must also be consistent with human rights.

The *Charter of Human Rights and Responsibilities Act 2006* (Vic) protects certain human rights, including:

- ▷ the right to recognition and equality before the law, encompassing the right to equal and effective protection against discrimination. It also specifically protects cultural rights, including those of Aboriginal and Torres Strait Islander peoples<sup>2</sup>
- ▷ the right to freedom of expression, including the right to seek, receive and impart information and ideas in various formats (for example, orally, in writing or in other selected mediums).<sup>3</sup> This would include accessible formats, such as AUSLAN (Australian sign language) and Braille, as well as in relevant languages.

The *Equal Opportunity Act 2010* (Vic) also creates legal obligations not to engage in discrimination and requires reasonable and proportionate measures to eliminate discrimination.<sup>4</sup>

In other parts of this report, we make recommendations that are relevant to these objectives. In Chapter 40, the Commission recommends the development of an industry plan for family violence prevention and response, covering all government and non-government agencies and services which are responsible for preventing and responding to family violence. This plan will require agencies and service providers to engage in learning and development to achieve inclusive and non-discriminatory practices. Agencies and service providers should also improve the diversity of their own workforces. This could be done by employing workers with diverse backgrounds and experiences, in both leadership and frontline positions.



## General recommendations

The Commission makes recommendations below that are relevant to all of the people considered in the following chapters and which seek to achieve these objectives.

The Commission recommends that the Department of Health and Human Services review and update standards for specialist family violence services (including men's behaviour change programs). The updated standards should be developed in consultation with relevant communities. In particular, these standards should:

- ▷ specify a requirement to deliver services that are culturally safe for Aboriginal and Torres Strait Islander peoples
- ▷ deal with culturally appropriate practice for working with children and young people, older Victorians, people with disabilities, and people from culturally and linguistically diverse communities, faith communities, and lesbian, gay, bisexual, transgender and intersex communities
- ▷ specify an obligation to make reasonable adjustments for people with disabilities
- ▷ recognise the flexibility required in delivering services in rural, regional and remote communities.

The Commission also recommends that the Victorian Equal Opportunity and Human Rights Commission issue a guideline under section 148 of the Equal Opportunity Act to guide service providers in meeting their obligations to act inclusively and avoid discrimination.

Finally, the Commission recommends that any family violence community awareness and prevention programs and activities are inclusive of the diversity of the Victorian community and that the proposed Victorian Family Violence Index measures (as far as possible) the extent and response to family violence within these diverse communities.

## Aboriginal and Torres Strait Islander communities

Aboriginal and Torres Strait Islander peoples should have the opportunity to participate in family violence prevention and response initiatives through Aboriginal controlled organisations. If people from these communities seek services through non-Aboriginal controlled organisations, such organisations should be capable of providing culturally safe services.

In Chapter 26 the Commission recommends that adequate resources be made available to enable Aboriginal controlled organisations to support family violence prevention and response initiatives and to enable mainstream family violence organisations to provide culturally safe services.

The Commission further recommends that current Indigenous family violence governance structures continue.

## Older people, people with disabilities and people from culturally and linguistically diverse and lesbian, gay, bisexual, transgender and intersex communities

In the case of older Victorians, people from culturally and linguistically diverse communities and people with disabilities, Seniors Rights Victoria, InTouch Multicultural Centre Against Family Violence and Women with Disabilities Victoria are specialist organisations that have relevant expertise in best practice responses to family violence within these communities. As recommended below, the Victorian Government should further fund these organisations to provide expert advice and training to all family violence service providers.

At present, there is no statewide organisation in Victoria that is solely focused on family violence within lesbian, gay, bisexual, transgender and intersex communities. In Chapter 30, the Commission recommends that the Victorian Government should fund the development of resources and programs to support family violence and LGBTI service providers in responding to the needs of people in these communities.

## Recommendations

The Commission makes the following recommendations, which apply to people in all of the communities identified above.

### Recommendation 139

The Victorian Government fund Seniors Rights Victoria, InTouch Multicultural Centre Against Family Violence and Women with Disabilities Victoria [within 12 months] to:

- ▷ provide training to equip specialist family violence service providers and providers of universal services to recognise and provide appropriate services to older Victorians, people from culturally and linguistically diverse communities and people with disabilities who experience family violence
- ▷ build partnerships with and provide advice to specialist family violence service providers and providers of universal services to enable them to respond effectively to the needs of people in these communities.

### Recommendation 140

The Department of Health and Human Services review and update standards for family violence service providers (including men's behaviour change programs) [within two years]. The standards should specify providers' obligation to develop suitable services for diverse communities, consistent with their obligation to provide non-discriminatory services under the *Charter of Human Rights and Responsibilities Act 2006* (Vic) and the *Equal Opportunity Act 2010* (Vic).

### Recommendation 141

The Victorian Equal Opportunity and Human Rights Commission issue a guideline under section 148 of the *Equal Opportunity Act 2010* (Vic) to guide service providers in meeting their obligation to act inclusively and avoid discrimination when delivering services to all people who are affected by family violence. The guideline should apply to family violence service providers (including men's behaviour change programs), as well as to universal and mainstream organisations [within 12 months].

## Recommendation 142

The Victorian Government ensure that family violence community awareness and prevention programs and activities use language, imagery and messaging that reflect the diversity of the Victorian community [within two years]. Prevention work should be developed in consultation with relevant communities and be evaluated in order to refine future practice. Inclusiveness of diversity should also be an important consideration for corporate and philanthropic funders of such programs and activities.

## Recommendation 143

The Victorian Government ensure that the proposed Victorian Family Violence Index measures, as far as possible, the extent of and response to family violence in different communities.

## Endnotes

- 1 Royal Commission into Family Violence, *Letters Patent—Terms of Reference* (22 February 2015) 3 <<http://www.rcfv.com.au/MediaLibraries/RCFamilyViolence/UploadedDocs/Terms-of-Reference.pdf>>.
- 2 *Charter of Human Rights and Responsibilities Act 2006* (Vic) ss 8, 19.
- 3 *Ibid* s 15.
- 4 *Equal Opportunity Act 2010* (Vic) s 15.

# 26 Aboriginal and Torres Strait Islander peoples

## Introduction

The Commission's terms of reference directed consideration to the needs and experiences of particular groups of people affected by family violence, including Aboriginal and Torres Strait Islander peoples.

Aboriginal and Torres Strait Islander peoples, especially women and children, are disproportionately affected by family violence. Not only are they more likely to be affected by family violence, they also face unique barriers to obtaining assistance—whether from a mainstream or culturally appropriate service. It is clear that the injustices experienced by Aboriginal and Torres Strait Islander peoples, including the dispossession of their land and traditional culture, and the grief and trauma associated with policies leading to the wrongful removal of children from their families, have had a profound impact on these communities.

In the first section of this chapter we discuss the prevalence and incidence of family violence within Aboriginal and Torres Strait Islander communities and the policy and service responses developed to address the unacceptable over-representation of Aboriginal and Torres Strait Islander peoples living with family violence. This includes community-based education and prevention initiatives, through to justice system responses. We also describe some of the devastating impacts that family violence has on women and children and the over-representation of children in out-of-home care.

The second section of this chapter explores the key challenges and opportunities relating to the experience of family violence in Aboriginal and Torres Strait Islander communities. We learn of some of the unique barriers experienced by Aboriginal people in accessing services and seeking help. The Commission heard of the understandable apprehension and reluctance many Aboriginal people have in seeking assistance from government agencies (particularly Child Protection) and the racism and lack of understanding some people experience when doing so.

The importance of Aboriginal community controlled organisations, and tailored justice system responses and perpetrator interventions that recognise the history and culture of Aboriginal people, was strongly emphasised. Stakeholders also emphasised the need for early intervention and prevention initiatives (particularly those targeting children and young people), and the necessity for greater investment in long-term service delivery and evaluations of Aboriginal family violence programs and support services.

Finally, the Commission discusses the way forward in addressing the overwhelming impact of family violence on Aboriginal and Torres Strait Islander peoples. The Commission's view builds on the comprehensive and considered report of the Indigenous Family Violence Task Force in 2003 and the Indigenous Family Violence 10 year plan *Strong Culture, Strong Peoples, Strong Families* (the 10 year plan),<sup>1</sup> both of which we support. It is disappointing that the evidence before the Commission revealed that the efforts applied to reducing the unacceptable levels of family violence and its devastating impacts in Aboriginal communities have not been realised over a decade later, despite these influential policy pronouncements. Recognising this, the Commission makes a number of recommendations for additional investment in targeted prevention and early intervention initiatives for Aboriginal communities, as well as culturally sensitive services to respond to Indigenous families in crisis.

The Commission is grateful for the assistance received from representatives of Aboriginal and Torres Strait Islander organisations, who have extensive experience in working within Indigenous communities to prevent and respond to family violence. We are also particularly indebted to the Aboriginal victims of family violence who shared their stories with us.

The information provided to the Commission relates mainly to family violence in Victorian Aboriginal communities. For this reason we usually refer to Aboriginal peoples and communities rather than to Aboriginal and Torres Strait Islander peoples. This also reflects the language of the majority of the submissions made to the Commission. In doing so we do not intend to exclude Torres Strait Islanders from our deliberations and recommendations.

## Acknowledgements

The Commission recognises that Aboriginal and Torres Strait Islander peoples have one of the oldest continuing living cultures on earth, and a unique status as Australia's First Peoples.

The Commission also recognises the ongoing impact of colonisation, dispossession and discrimination on Aboriginal and Torres Strait Islander peoples, and understands that the high rates of family violence within Aboriginal communities and the reluctance to report family violence reflect this traumatic history.

In preparing this part of the report the Commission has benefited from the comprehensive work performed by the Victorian Indigenous Family Violence Task Force in 2003. Their report was a landmark in Victorian Aboriginal policy, vividly describing the scale and impact of family violence in Aboriginal communities and establishing sound principles for prevention and response based on community ownership and action.<sup>2</sup> The Commission has drawn on the findings and principles contained in that report, and in the subsequent 10 year plan, to distil the key issues and inform our recommendations.

The Commission was also assisted by the many suggestions made to the Commission by Victorian elders based on their practical experience and knowledge of what works in their communities. Consultation with Aboriginal organisations; members of the Indigenous Family Violence Partnership Forum; members of various Indigenous Family Violence Regional Action Groups; and participation at the Aboriginal Justice Forum was also invaluable.

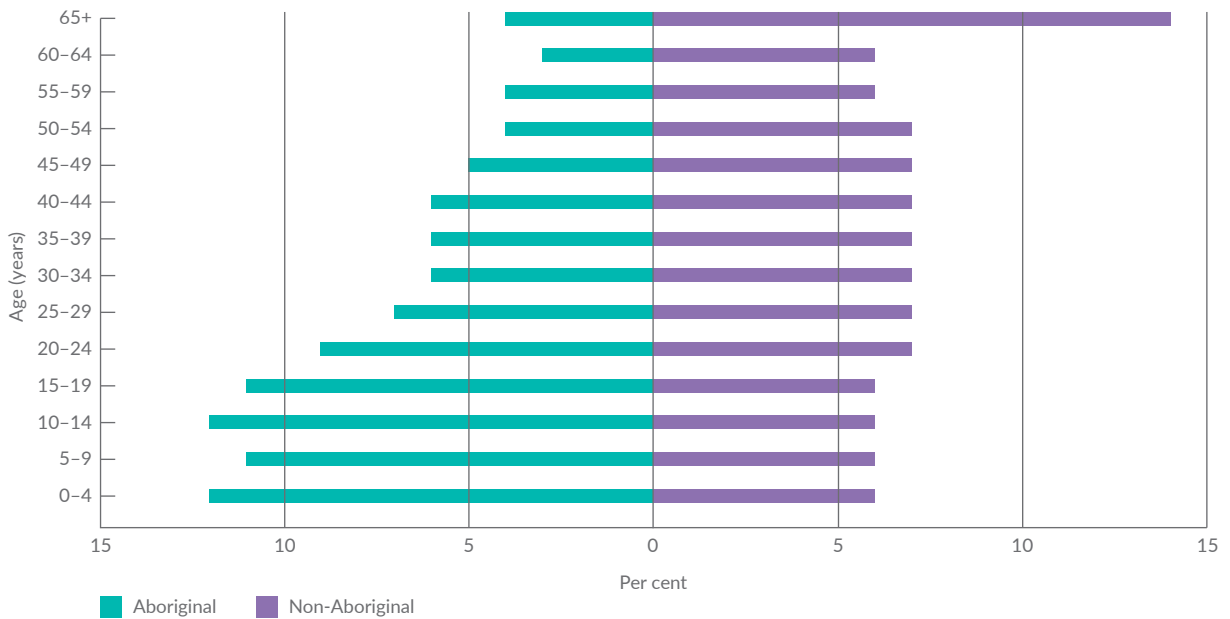
## Context and current policy

### Aboriginal and Torres Strait Islander peoples in Victoria

The 2011 census recorded 37,991 Aboriginal and Torres Strait Islander people living in Victoria: 0.7 per cent of the population.<sup>3</sup> Fifty-five per cent were under the age of 25 years, and the median age was 22 years (compared to 37 years for non-Indigenous Victorians).<sup>4</sup> Victoria's Aboriginal and Torres Strait Islander population is not only young but is growing fast: based on annual growth rates it is estimated that there will be over 80,000 Aboriginal and Torres Strait Islander people in Victoria by 2021.<sup>5</sup> Figure 26.1 illustrates the age distribution of Aboriginal and non-Aboriginal populations in Victoria.

The Victorian Aboriginal and Torres Strait Islander population is also highly urbanised, with almost half living in Melbourne (47.4 per cent).<sup>6</sup> These are important factors when considering the impact of family violence on communities, and in planning for prevention and response.

Figure 26.1 Aboriginal and non-Aboriginal people, by age group: Victoria, 2011



Source: Australian Bureau of Statistics Census of Population and Housing 2011, cited in Department of Planning and Community Development, 'Victorian Aboriginal Affairs Framework 2013-2018. Building for the Future: A Plan for 'Closing the Gap' in Victoria by 2031' (2012).

### Family violence in Victorian Aboriginal communities

Aboriginal communities' definitions of the 'nature and forms of family violence are broader and more encompassing than those used in the mainstream'.<sup>7</sup> The use of the term 'family violence' (rather than 'domestic violence') in the *Family Violence Protection Act 2008 (Vic)* reflects this, and includes violence within kinship networks and against extended family members, not just those living together.<sup>8</sup> 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.<sup>9</sup>

The Commission has also been informed by the definition of family violence offered by the Indigenous Family Violence Task Force (and incorporated into the 10 year plan). In that wide-reaching definition family violence is:

An issue focused around a wide range of physical, emotional, sexual, social, spiritual, cultural, psychological and economic abuses that occur within families, intimate relationships, extended families, kinship networks and communities. It extends to one on one fighting, abuse of Aboriginal community workers as well as self-harm, injury and suicide.<sup>10</sup>

For example, an individual can be both a perpetrator and a victim of family violence and the violence may take place in public and can involve a number of people.<sup>11</sup> There may be physical violence towards victims who report family violence.<sup>12</sup> Intergenerational violence and abuse involving violence against Elders has also been identified as an emerging issue, as has use of violence by young people (including Aboriginal young women) against older women and grandparents.<sup>13</sup>

## Context of family violence in Victorian Aboriginal communities

One of the 11 guiding principles set out in the Victorian Indigenous Family Violence Task Force report is the recognition that ‘from an Indigenous perspective the causes of family violence are located in the history and impacts of white settlement and the structural violence of race relations since then’.<sup>14</sup> This is consistent with the material presented to this Commission in consultations, submissions and evidence,<sup>15</sup> which highlights the importance of understanding family violence in Victorian Aboriginal communities within the context of:

- ▷ dispossession of land and traditional culture
- ▷ breakdown of community kinship systems and Aboriginal lore
- ▷ racism and vilification
- ▷ economic exclusion and entrenched poverty
- ▷ alcohol and drug abuse
- ▷ the effects of institutionalism and child removal policies
- ▷ inherited grief and trauma
- ▷ the loss of traditional Aboriginal male roles, female roles and status.<sup>16</sup>

As noted by the Victorian Aboriginal Legal Service in its submission:

Family violence within Indigenous communities is complex because Indigenous communities, family structures and the issues faced are complex. With a history of colonisation, dispossession, break down of cultural practices and language and denial of expressions of identity, this means that the traditional factors that feature in a person’s resilience (identity, family supports, kinship) are absent. The ‘normalising’ behaviours that are set out in Western nuclear families with traditional roles of a male and female parent does not apply neatly to Aboriginal families, where the importance of uncles, aunties and cousins (related by blood or not) are held paramount. There are often specific expectations of what relations are required to do for each other which clash with non-Aboriginal organisations and their method of service delivery.<sup>17</sup>

It is also important to recognise that a higher proportion of Aboriginal people in Victoria ‘have been directly affected by the Stolen Generations than in any other state or territory’:<sup>18</sup>

Aboriginal communities carry great trauma experiences that are transferred from one generation to the next. When the cumulative trauma of intergenerational poverty and marginalisation by society are untreated, other complexities such as drug and alcohol abuse and the violence experienced by the community escalate. These issues create particular challenges for addressing family violence in Aboriginal communities ...<sup>19</sup>

Overwhelmingly, the evidence to the Commission was that these traumatic experiences have contributed to the prevalence of family violence in Aboriginal and Torres Strait Islander communities:

There are multiple complex and diverse factors contributing to the high levels and severity of family violence in Aboriginal and Torres Strait Islander communities. It must be clearly understood that the causes do not derive from Aboriginal culture. Family violence is not part of Aboriginal culture. However, the disadvantage, dispossession and attempted destruction of Aboriginal cultures since colonisation have meant that family violence has proliferated in Aboriginal communities.<sup>20</sup>



## Prevalence and incidence

Family violence may not have been part of our traditional culture, but it is certainly part of our current culture. A very negative part, but still part. I say this based on the currency, regularity and commonality of practices across the state and across communities.<sup>21</sup>

The available data shows that Aboriginal peoples—women and children in particular—experience family violence at significantly higher levels than other Victorians.

### Police reports

Before discussing Victoria Police family violence incident data it is important to note that information on Indigenous status is not considered sufficiently reliable for general use because of the significant proportion of records where the Indigenous status is recorded as 'unknown'. It is important to be aware that low reliability in the recording of Indigenous status can mean that changes from year to year in the number of Indigenous people affected by family violence may be related to a change in the quality of recording of Indigenous status. With this in mind, the data shows that:

- ▷ Using Victoria Police data, the Department of Justice and Regulation reports that between 2008–09 and 2013–14 the number of police family violence incidents relating to those identifying as Aboriginal doubled from 1064 to 2135, an increase of 100.6 per cent, compared to a 53.6 per cent increase in non-Aboriginal family violence incident reports.<sup>22</sup>
- ▷ The number of family violence incidents where children were recorded as present is also increasing. Out of the 2135 family incident reports made by Aboriginal people in 2013–14, around a third ( $n=704$ ) had children recorded as present. The number of family violence incidents at which at least one child was recorded as present increased approximately 66 per cent between July 2008 and June 2014, from 424 to 704.<sup>23</sup>
- ▷ The number of family violence-related assaults involving an Aboriginal or Torres Strait Islander person as the offender increased by 243 per cent in the same period.<sup>24</sup>

While the rate of growth in family violence reports has increased for both Indigenous and non-Indigenous Victorians, the increase is much higher within Aboriginal and Torres Strait Islander communities. It is the Victorian Government's view that while this 'indicates further prevention and early intervention work needs to be done, it also reflects growing awareness and confidence in reporting of family violence by the community'.<sup>25</sup>

### Over-representation of Aboriginal and Torres Strait Islander people in family violence

Given that the Aboriginal and Torres Strait Islander population accounts for less than one per cent of the Victorian population, comparison of absolute numbers of family violence incidents with incidents involving non-Indigenous Victorians provides 'little insight into the relative magnitude of the problem'.<sup>26</sup> Prevalence data is more useful because it shows the extent of over-representation.

In 2006–07, there were 19 reported Aboriginal family members affected in family violence incidents for every 1000 of the Aboriginal and Torres Strait Islander population in Victoria. This increased to 43 per 1000 in 2013–14, compared to an increase from three to six per 1000 for non-Aboriginal Victorians. This means that an Aboriginal person was 7.3 times more likely than a non-Aboriginal person to be an affected family member in a family violence incident.<sup>27</sup>

Figure 26.2 Family violence incidents per 1000 population: Indigenous and non-Indigenous affected family members, 2006–07 to 2013–14



Source: Crime Statistics Agency, 'Affected Family Members in FDV incidents by Indigenous status by year'; Australian Bureau of Statistics, 'Estimates and Projections, Aboriginal and Torres Strait Islander Australians, 2001 to 2006' (Catalogue No 3238.0, 'Australian Bureau of Statistics', April 2014); Australian Bureau of Statistics, 'Australian Demographic Statistics' (Catalogue No 3101.1, Australian Bureau of Statistics, June 2015) cited in Department of Premier and Cabinet, 'Mid-term evaluation of the Indigenous Family Violence 10 Year Plan' (September 2015), 33, produced by the State of Victoria in response to the Commission's Notice to Produce dated 5 June 2015.

There is a similar over-representation in involvement as either an affected family member (victim) or other party (perpetrator): 91.4 Aboriginal persons per 1000 population, compared to 11.4 per 1000 non-Aboriginal population in 2013–14.<sup>28</sup> Thus, in that year, an Aboriginal person in Victoria was eight times more likely to be involved as either a victim or perpetrator in a reported family violence incident than a non-Indigenous person.

### Impacts of family violence on women and children

The effects of family violence in Aboriginal communities are far reaching.

The Commission heard that family violence is a leading contributor to Aboriginal child removal, homelessness, poverty, poor physical and mental health, drug and alcohol misuse and incarceration.<sup>29</sup> These issues were extensively canvassed in the report of the Indigenous Family Violence Task Force and are reflected in the 10 year plan.<sup>30</sup>

#### Aboriginal women and children are the primary victims

The evidence presented to the Commission was that Aboriginal women and children are the primary victims of family violence in Aboriginal communities.<sup>31</sup> The Aboriginal Family Violence Prevention and Legal Service Victoria is the only service set up to exclusively represent Aboriginal and Torres Strait Islander victims in Victoria. Its Chief Executive Officer, Ms Antoinette Braybrook, gave evidence that while that service is not gender exclusive, 93 per cent of its clients are women:<sup>32</sup>

While men can certainly be victims and their needs must not be overlooked, women and children represent the vast majority of victims/survivors within Aboriginal communities. It is vital that Aboriginal communities acknowledge this fact and ensure that sufficient resources are obtained and made available to keep women and children safe, and that Aboriginal communities support women in their decisions to leave a violent relationship, and to create safe but separated families, rather than bear the burden associated with keeping a violent family relationship together.<sup>33</sup>

It has been estimated that Victorian Aboriginal women are 45 times more likely to suffer family violence than non-Aboriginal women.<sup>34</sup> Nationally they are 35 times more likely to be hospitalised than non-Indigenous women due to family violence-related assaults. Indigenous males are 22 times more likely than non-Indigenous males to be hospitalised as a result of family violence-related assaults.<sup>35</sup>

Australian Indigenous respondents in the International Violence Against Women Survey reported three times as many incidents of sexual violence in the previous 12 months compared to non-Indigenous women.<sup>36</sup>

A recent study also found that, where violence occurs, Aboriginal children are much more likely to have witnessed physical violence against their mother or stepmother than non-Aboriginal children (42 per cent in that study compared to 23 per cent of all children).<sup>37</sup>

It was submitted that where violence occurs Aboriginal women are 25 times more likely to be killed or injured because of family violence than non-Aboriginal women.<sup>38</sup>

The Commission also heard that perpetrators of violence against Aboriginal women are both Aboriginal and non-Aboriginal men, for example the Aboriginal Family Violence Prevention and Legal Service Victoria reported that it:

... routinely sees Aboriginal clients, mostly women, who experience family violence at the hands of men from a range of different backgrounds and cultures, Aboriginal and non-Aboriginal. The only certainty in the existing data is that Aboriginal women are at disproportionately higher risk of family violence.<sup>39</sup>

### **Children and out-of-home care**

The impact of family violence on Aboriginal children is profound, with a clear connection between the high rates of family violence and the high numbers of Aboriginal children in out-of-home care. There is a much higher rate of removal of Aboriginal children from their families than of other Australian children. Productivity Commission data reveals that in 2014–15, there were 81.4 per 1000 Aboriginal and Torres Strait Islander children subject to care and protection orders, compared to 6.6 per 1000 for non-Indigenous children.<sup>40</sup>

According to the Victorian Commissioner for Aboriginal Children and Young People, Mr Andrew Jackomos, Aboriginal children now represent one in six Victorian children or young people being placed in care.<sup>41</sup> The Victorian Aboriginal Child Care Agency submitted to the Commission that family violence is 'one of the predominant contributing factors driving child protection intervention and the removal of children from family'.<sup>42</sup>

We discuss child removal in further detail below as this was a major issue identified in evidence before the Commission.

The link between exposure to family violence and the high incarceration rates of Aboriginal women is also becoming increasingly clear. A study of female prisoners examining drug use and offending found that of the 470 female prisoners surveyed, 87 per cent were victims of sexual, physical or emotional abuse, with most having suffered abuse in multiple forms.<sup>43</sup> A NSW study found that 69 per cent of Aboriginal women prisoners surveyed reported they were abused as children, and 73 per cent reported they were abused as adults, 42 per cent of whom experienced sexual assault. It also found that at least 80 per cent of the female prisoners surveyed said their victimisation was an indirect cause of their offending.<sup>44</sup> The Aboriginal Family Violence Prevention and Legal Service Victoria identified similar levels of victimisation through its experience of working with Aboriginal and Torres Strait Islander women prisoners in Victoria.<sup>45</sup> We discuss the link between family violence victimisation and imprisonment in more detail in Chapter 34.

## Aboriginal and Torres Strait Islander family violence policy in Victoria

In response to the unique historical context in which family violence occurs, the Indigenous community has called for a holistic approach to family violence that addresses the legacy of the past and seeks to heal individuals, families and communities. There is a shared recognition between the Victorian Government and the Indigenous community that solutions to family violence lie within Indigenous communities themselves and that Indigenous people must lead the strategy which will prevent and eliminate family violence in the Indigenous community.<sup>46</sup>

A considerable amount of work has already been done in Victoria, both by Aboriginal and Torres Strait Islander community leaders and the Victorian Government, to address family violence. In 2001, under the *Framework for the Development of the Victorian Indigenous Family Violence Strategy: a partnership approach between the Indigenous community and Government*, the Victorian Government appointed the Indigenous Family Violence Task Force.<sup>47</sup> The task force was chaired by Noongar woman Ms Daphne Yarram and included key Indigenous leaders. Its role was:

- ▷ to engage Indigenous communities throughout the state in the development of 'community-led' strategies for addressing Indigenous family violence issues
- ▷ to provide a final report to the Victorian Government making recommendations in relation to a culturally appropriate statewide strategy for addressing family violence issues in an integrated and holistic manner.<sup>48</sup>

### Indigenous Family Violence Task Force Report

The task force delivered its final report to the Victorian Government in 2003.<sup>49</sup> At the start of its report the task force acknowledged the challenge presented to it in breaking the 'silence of acceptance' about family violence in Aboriginal communities. The report sets out in detail the scale, nature and dynamics of family violence in Aboriginal communities in Victoria. It makes 28 recommendations, affirming the need to build on the strengths of Aboriginal communities and to encompass Aboriginal concepts of social, emotional, cultural and spiritual wellbeing. The Victorian Government was seen to have a role in developing an integrated policy framework to support a holistic, community-driven response. Ownership of the process and outcomes by Indigenous communities was considered essential. As stated in the report:

The work of the Task Force was not about directly addressing family violence with individuals and families but about facilitating a process whereby communities begin to take ownership of the issue of family violence through the establishment of Regional IFV Action Groups.<sup>50</sup>

As a result of the work of the task force, in 2005 the Victorian Government established the Indigenous Family Violence Partnership Forum which is informed by the work of the Indigenous Family Violence Regional Action Groups: see the box that follows.

## Governance of the Indigenous Family Violence Strategy

The Indigenous Family Violence Partnership Forum meets twice a year to oversee the coordination and implementation of the Indigenous Family Violence Strategy, including the 10 year plan. The forum is made up the Indigenous Family Violence Regional Action Group (IFVRAG) coordinators, along with chief executive officers or chairpersons of key Aboriginal organisations and senior representatives from Victorian government departments.

The regional IFVRAGs are the first contact point for community members, providing ‘an opportunity for individuals, families and groups in communities to receive the support they need to come together, discuss and develop solutions for family violence.’<sup>51</sup> There are 11 IFVRAGs across the state. Membership includes Elders, individual community members and local Aboriginal organisations and service providers. The IFVRAGs lead community efforts to address family violence, developing regional plans based on consultation within their local community about how best to reduce, prevent and respond to Aboriginal family violence.<sup>52</sup>

There are 10.5 IFVRAG coordinators employed by the Department of Health and Human Services and one statewide coordinator employed to support each of the regional coordinators.<sup>53</sup> Each IFVRAG also has an Aboriginal Chairperson.

Departmental responsibility for the 10 year plan is shared between the Department of Premier and Cabinet which has oversight of the plan, and the Department of Health and Human Services which has core responsibility for implementation.<sup>54</sup>

A major outcome of the forum is the 10 year plan discussed below.

### The 10 year plan

In 2008, the Indigenous Family Violence 10 year plan *Strong Culture, Strong Peoples, Strong Families* was signed by Aboriginal and Torres Strait Islander leaders, key Victorian Aboriginal agencies and government departments including five Ministers and the Deputy Premier. It ‘explicitly frames the understanding and response to family violence through an Aboriginal lens ... by acknowledging the influence of dispossession on Aboriginal people that occurred from European colonisation, and its inter-generational impacts.’<sup>55</sup>

The 10 year plan contains nine guiding principles, reproduced in the box on the next page.<sup>56</sup>

## Guiding principles of the Strong Culture, Strong Peoples, Strong Families 10 year plan

To guide all elements of the plan towards the vision, the Indigenous Family Violence Partnership Forum established nine principles for developing and implementing policies and programs:

1. **Family violence is not part of Indigenous culture.** As stated in our Vision: 'Families are our heart and soul. They generate dreams and values, ideals and visions for our children.' Family violence is a crime and is unacceptable within the Indigenous community. Safety and security for victims of violence is our number one priority.
2. **Complex nature of family violence within Indigenous communities.** In an Indigenous community context, family violence includes a wide range of physical, emotional, sexual, social, spiritual, cultural and economic abuses that can occur within families, extended families, kinship networks and communities.
3. **Indigenous culture.** Indigenous Victorians are the First Peoples of our state. We recognise the uniqueness and diversity of Indigenous culture, society and history in Victoria and promote reconciliation that gives proper recognition and respect to the Indigenous people of Victoria. We acknowledge Elders as the keepers of this rich history and we value, respect and protect them. The Indigenous community and the Victorian Government agencies work together in a respectful manner to effectively develop integrated and culturally competent responses to family violence in Indigenous communities that incorporate Indigenous history, values and parenting experience.
4. **Partnership, transparency and accountability.** Honesty, mutual respect, trust, accountability, transparency in decision making and shared recognition of each partner's role and responsibilities enables the partnership between the Victorian Government and Indigenous community. To maximise the effectiveness of all service provider and partnership arrangements, members of the Partnership Forum actively promote transparency and accountability in all work on Indigenous family violence.
5. **Adequate resources.** The provision of adequate funding and resources is an essential element in the prevention and elimination of family violence in the Indigenous community. We ensure these resources achieve long term, sustainable improvements in the Indigenous community and Victorian Government practice.
6. **Empowering Indigenous communities.** In recognition of the principle of Indigenous self management and self-determination, we recognise, advocate and promote the need for Indigenous people to lead the process at all levels.
7. **Local solutions to local problems.** We recognise the requirement to support, empower and enable communities to develop solutions to prevent, reduce and respond to family violence in Indigenous communities through the core leadership of the Indigenous Family Violence Regional Action Groups and the Partnership Forum.
8. **Holistic healing approach to family violence in Indigenous communities.** We appreciate the importance of a holistic healing approach to family violence in Indigenous communities based around family and Indigenous community strengthening, collaborative approaches, appropriate resources and flexible program and service delivery arrangements.
9. **Early intervention, prevention and education.** Indigenous community and Victorian Government responses to family violence in the Indigenous community are based on our support for early intervention, prevention and education.

The objectives of the 10 year plan were shaped by the Indigenous Family Violence Partnership Forum. These eight objectives are:

1. Cultural safety: make Victoria a safer place for all Indigenous Victorians.
2. Healthy families: support strong, robust and healthy families that provide a safe nurturing environment.
3. Education, awareness, prevention: intervene early to improve education, awareness and prevention of family violence.
4. Safety for victims: increase the safety of Indigenous families and individuals, especially women and children.
5. Accountability: Increase the accountability and personal responsibility of perpetrators of family violence within Indigenous communities.
6. Healing: increase opportunities for healing for victims and perpetrators.
7. Service capability: increase the cultural competency and capacity of the service system to improve responses to Indigenous family violence.
8. Research and evaluation: Improve the effectiveness and efficiency of responses to Indigenous family violence through ongoing research and evaluation.<sup>57</sup>

The plan then sets out a series of 17 key strategies and 45 actions against each of these objectives.

The *Victorian Aboriginal Affairs Framework 2013–2018* contains a commitment to the 10 year plan and to focus efforts on reducing Aboriginal family violence.<sup>58</sup> Other important policy documents include the Aboriginal Justice Agreement, now in its third phase, with its associated governance structure through the Aboriginal Justice Forum.<sup>59</sup>

### **Evaluation of progress under the 10 year plan**

The recent mid-term evaluation of the 10 year plan is generally positive, finding that '[t]he 10 Year Plan's objectives continue to be relevant in the current policy context' and that:

The community led, family centred holistic approach integral to the 10 Year Plan ... is an example of leading practice in reducing family violence. Such practice should inform broader system reforms.<sup>60</sup>

Among the achievements of the 10 year plan, the evaluation finds that the 11 IFVRAGs have been effective in breaking down the 'shame factor' in discussing family violence in Aboriginal and Torres Strait Islander communities.<sup>61</sup> The Community Initiatives Fund has assisted IFVRAGs to initiate small-scale family violence projects and establish partnerships within local communities which has raised awareness about family violence.

Since 2006–07, reporting of Aboriginal family violence incidents has increased at a higher rate than reporting in non-Aboriginal communities. The evaluation suggests that this may reflect the greater awareness of family violence in Aboriginal communities as a result of the work of the IFVRAGs, and/or greater confidence in reporting to police.<sup>62</sup> It also notes that the growth in reporting is likely to continue to increase, and that an explicit commitment from the Victorian Government, along with increased resourcing, is required to ensure the sector is able to respond.<sup>63</sup>

Other achievements of the 10 year plan include the development of a draft Aboriginal contextualised Family Violence Risk Assessment and Risk Management Framework (also known as the Common Risk Assessment Framework or the CRAF) discussed further in Chapter 6, continuation of the four healing services and four time out services,<sup>64</sup> and Koori Family Violence Police Protocols which have been piloted in three sites.<sup>65</sup> Cultural competency guidelines for family violence services have also been developed.<sup>66</sup>

Resourcing of the plan was identified as an area of concern, with the evaluation noting that:

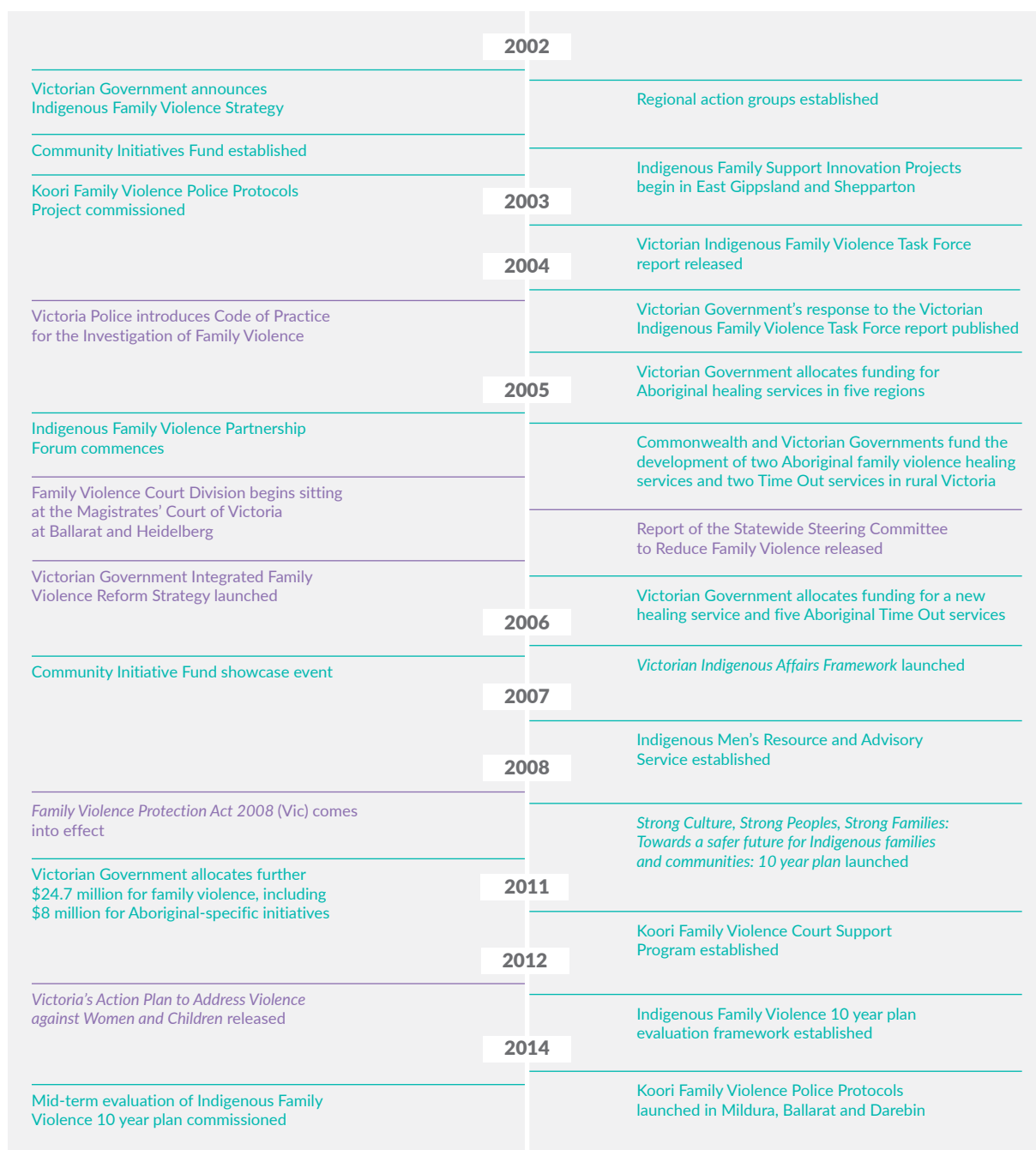
The implementation and oversight function has been significantly disadvantaged by a lack of allocated resources in comparison to other strategies resulting in limited capacity to leverage broader activities and influence better outcomes on behalf of the Victorian Aboriginal community.<sup>67</sup>

Governance is also an area requiring some attention, with the evaluation reporting that additional oversight is required by government and more resources are required to support the Victorian Government Secretariat.

The evaluation makes four recommendations, with subsets under each main recommendation. The four recommendations are:

- ▷ the Victorian Government commit to providing high level oversight of the implementation of the 10 year plan objectives and reporting on achievements annually to the Family Violence Cabinet Committee
- ▷ invest in the implementation, monitoring and oversight of the 10 year plan
- ▷ improve data collection and analysis mechanisms to drive system responses to Aboriginal family violence
- ▷ invest in the community-led approach to Aboriginal family violence.<sup>68</sup>

Figure 26.3 Family violence policy reform in Victoria: Aboriginal-specific and general, 2002 to 2014



■ Aboriginal-specific ■ General

Source: Based on Department of Premier and Cabinet, 'Mid-term Evaluation of the Indigenous Family Violence 10 Year Plan' (September 2015), 3, produced by the State of Victoria in response to the Commission's notice to produce dated 5 June 2015.



## Community education, prevention and early intervention

Family and Community is the cornerstone of Aboriginal people's way of life. Community education is the key to raising awareness of Family Violence and the impact it has on our families and community. We believe it is imperative to build a positive vision in Aboriginal communities, based on strong family values and cultural practices and to use holistic approaches to address family violence.<sup>69</sup>

The 2003 report of the Indigenous Family Violence Task Force begins with an acknowledgment of the challenge in speaking up, and breaking the 'silence of acceptance' about family violence in Aboriginal communities. Twelve years later, the mid-term evaluation of the 10 year plan identified the reduction of stigma through education and prevention programs as one of its key achievements.<sup>70</sup>

According to the evaluation, the education, awareness and prevention projects supported by the Community Initiative Fund and the Community Prevention Initiative Fund and administered by the IFVRAGs have been 'very effective at a local level to create awareness and understanding of family violence'.<sup>71</sup>

All partners identified that this was the strongest achievement since the commencement of the 10 year plan. The 10 year plan, and the work of agency stakeholders and Aboriginal communities, was seen as reducing the 'shame factor' associated with Aboriginal family violence.<sup>72</sup>

As the evaluation states, '[a] growth in awareness and concern about Aboriginal family violence is a critical foundation for change'.<sup>73</sup>

Also under the 10 year plan, an Indigenous-specific prevention framework was developed and released in 2012.<sup>74</sup> The *Indigenous Family Violence Primary Prevention Framework* identified the features of best practice in primary prevention in Indigenous communities: see the box that follows.

### Best practice in primary prevention activities in Indigenous communities

The activities must:

- ▷ be led by Aboriginal communities
- ▷ include a whole of community approach and community strengthening
- ▷ be grounded in cultural respect and cultural strengthening
- ▷ promote non-violent social norms and strengthen protective factors in communities
- ▷ improve access to resources and systems of support
- ▷ include time lines, accountability and evaluation.<sup>75</sup>

### Examples of successful education, prevention and early intervention initiatives

The Commission was presented with information about numerous education, prevention and early intervention programs. Ms Jill Gallagher AO, Chief Executive Officer, Victorian Aboriginal Community Controlled Health Organisation, echoed the sentiments of many when she stated:

These preventative and early intervention programs are actually the most important part, if we truly want to get violence out of our community, keep families together and give kids the best start in life that we can.<sup>76</sup>

This section discusses the evaluation findings of some of the more successful programs. They are grouped together as they have common aims, and the delineation between education, prevention and early intervention is not strongly made by services or communities.

## **Aboriginal Family Violence and Prevention Legal Service Victoria's Early Intervention Prevention Program**

Many people cited the 'Sisters Day Out', 'DillyBag' and 'DillyBag: The Journey' programs run by FVPLS Victoria as part of its Early Intervention Prevention Program as good examples of effective prevention and early intervention programs for women.<sup>77</sup> The Commission understands that these programs have reached over 6500 Aboriginal women since 2007.<sup>78</sup>

The Sisters Day Out is a one-day workshop for Aboriginal women to participate in a range of activities including beauty therapies, relaxation therapies, exercise activities and an information session about family violence prevention, presented by FVPLS Victoria.<sup>79</sup> The workshop is attended by a range of local service providers with the purpose of informally interacting and sharing information relating to family violence in a culturally welcoming and safe environment.<sup>80</sup> FVPLS Victoria lawyers and a counsellor are also in attendance to provide advice and support to participants.<sup>81</sup> The 100<sup>th</sup> Sisters Day Out was held in February 2016.

The Dilly Bag program is an intensive workshop delivering personal development and group activities to Aboriginal women that emphasise self-nurturing and healing from trauma, promote cultural identification, and assist women to strengthen their resolve and resilience.<sup>82</sup> The workshops are also intended to help reduce Aboriginal women's vulnerability to family violence, and enhance their capacity to take on a leadership role in their community regarding family violence prevention.<sup>83</sup> Dilly Bag is a one day program and Dilly Bag: The Journey is an extended program where participants stay together over three days at a private and culturally appropriate location.<sup>84</sup>

These three programs were evaluated in 2014. The evaluation reported that the programs had significant beneficial impacts on participants' immediate wellbeing and access to services,<sup>85</sup> and important medium and long-term impacts, including that 'participants feel motivated and empowered to make real and significant changes to their lives'.<sup>86</sup>

A further interim evaluation of these programs as a component of Koori Community Safety Projects by the Australian Institute of Criminology (discussed below) found that they demonstrated leading practice in design of Aboriginal family violence prevention programs such as cultural grounding, and inclusive community approaches.<sup>87</sup> For example, participant feedback from Sisters Day Out showed 'more than one-third of participants said the most valuable thing about the event was learning more about family violence services'.<sup>88</sup> Participants also reported 'increased awareness of the causes and impacts of family and community violence, and improved knowledge of legal assistance services'.<sup>89</sup> Dilly Bag participants reported that participation 'would help them make strong choices in their lives'.<sup>90</sup>

These programs have always been reliant on one-off funding. At the time of making its submission to this Commission in June 2015, FVPLS Victoria had not secured funding to staff these programs beyond 30 June 2015. In December 2015, the Victorian Government announced a funding contribution of \$50,000 which the Commission understands is non-recurrent funding.<sup>91</sup>

## **Koori Community Safety Grants**

In 2013 the Victorian Government granted \$2.4 million for four three-year projects in Koori communities (the Koori Community Safety Grants). This was part of an overall allocation of \$7.2 million under the *Reducing Violence against Women and their Children* grants program.<sup>92</sup> The grantees were the:

- ▷ Lakes Entrance Aboriginal Health Association—Strong Men, Strong Communities
- ▷ Mallee District Aboriginal Services—Family and Community Violence Prevention Project
- ▷ Rumbalara Aboriginal Cooperative—Aboriginal Family Harmony Project
- ▷ Victorian Aboriginal Health Service—Strong Relationships, Strong Community.

The Australian Institute of Criminology has reviewed progress to date on these four projects. There were a number of activities within each project, which included Dilly Bag programs, Sisters Day Out workshops, Dardi Munwurro youth camps, men's groups, harmony days and mediation training.<sup>93</sup> The evaluation (which is interim), highlighted that the projects demonstrated a number of elements of best practice.<sup>94</sup> The projects included close liaison and culturally appropriate engagement with Koori communities and their leaders, leading to keen community support and higher than expected levels of attendance at community events.<sup>95</sup>

## Mallee District Aboriginal Services' Community Safety Project TV advertisements

As part of the Family and Community Violence Prevention Project, a series of six television advertisements were developed and designed by community members from Mildura, Robinvale and Swan Hill. NBS Productions filmed and produced the commercials at locations across Mildura, Swan Hill, Mungo and Robinvale using local community members as actors and production assistants.<sup>96</sup>

The commercials were developed as part of Mallee District Aboriginal Services' Community Safety Project, and funded by a Koori Community Safety Grant.<sup>97</sup>

They can be viewed at <http://www.mdas.org.au/familyviolence>

## Healing programs

In its 2003 report the Indigenous Family Violence Task Force called for holistic family healing centres 'to strengthen and heal individuals, families and communities affected by family violence'.<sup>98</sup> It was envisaged that these centres would work with victims and families by providing a range of services, including referral to time out services for men.<sup>99</sup>

The Task Force also presented a strategy developed from Men's Forums, which called for Men's Resource Centres with crisis response teams, family violence intervention officers, time out centres, and integrated service provision. It also called for research into the causes of family violence, with a focus on causes and prevention strategies specific to Indigenous men.<sup>100</sup>

Healing for both victims and perpetrators is one of the eight objectives of the 10 year plan.<sup>101</sup> The focus in the plan on healing for all family members derives from the understanding that Indigenous male perpetrators have experienced inequity, violence and transgenerational trauma that contribute to the current levels of Indigenous family violence.<sup>102</sup>

Submissions to this Commission reiterated the importance of the principle of healing in working with perpetrators, as well as the importance of a whole-of-family approach to healing trauma.<sup>103</sup> Examples of integrated services for the whole family, including the male perpetrator, were also identified by witnesses as approaches that require further investment.<sup>104</sup>

The complexity that arises where perpetrators may themselves have been victims as children was described, where 'people with incredibly complex histories who now exhibit a behaviour that needs to be addressed'.<sup>105</sup> A number of submissions noted that despite some investment there remained a paucity of culturally safe, holistic and therapeutic interventions for Aboriginal men<sup>106</sup> and the inappropriateness of mainstream behaviour change programs for this community:

The foundation of our work is community and culture. The Aboriginal men we work with often feel disconnected from themselves and from their community and culture. It is critical that there are culturally appropriate programs for Aboriginal men as the vast majority don't want to access mainstream services.<sup>107</sup>

A number of submissions to the Commission stated a preference for healing and time out approaches.<sup>108</sup> Common themes underlying the healing approach included:

- ▷ the importance of pride in, and connection to, culture as protective factors<sup>109</sup>
- ▷ a recognition of the impacts of grief, trauma and dispossession<sup>110</sup>
- ▷ the importance of involving the whole family<sup>111</sup>
- ▷ a focus on respect for self and respect for family<sup>112</sup>
- ▷ an approach that deals with multiple complex issues, which can include entrenched poverty, drug and alcohol use and homelessness in addition to use of violence<sup>113</sup>
- ▷ an emphasis on increasing strength and resilience to deal with conflict
- ▷ a capacity to be flexible and responsive.<sup>114</sup>

The Commission heard evidence about a number of healing and time out programs that are running in various parts of Victoria. The Indigenous Men's Resource and Advisory Service stated that:

We provide a positive environment for Aboriginal men who want to learn how to actively show respect for the interests of women and children ... A culturally strong Aboriginal family exists when men are living fulfilling lives and are responsible for their actions as father and-or husbands [this] will nurture the success and wellbeing for the whole family.<sup>115</sup>

Other examples described in submissions and evidence included: Dardi Munwurro 'Strong Spirit' Building Strong Communities Program; Boorndawan Willam Aboriginal Healing Service; Wiimpatja Healing Centre; Victorian Aboriginal Health Service counselling (family violence groups and men's camps and the Minajalku Healing Centre); Yoowinna Wurnalung Healing Service (including a time out service); Aboriginal Centre for Males and Indigenous Men's Case Management Support Programs. This list is not exhaustive as there are a number of time out, healing services and family violence men's group provided by other organisations.<sup>116</sup>

In Victoria, there are only a few evaluations available examining Indigenous specific healing programs.<sup>117</sup> This reflects both the small number of programs and their recent emergence in a field which itself is only about ten years old.<sup>118</sup> However, despite limited published research, within the literature there is a growing body of evidence that 'healing centres and the practice of "healing" can be a sustainable vehicle to engaging Aboriginal men in behavioural change and taking greater accountability for their actions'.<sup>119</sup>

Issues regarding the cultural appropriateness of mainstream men's behaviour change programs are further discussed in Chapter 18.

## The justice response

There are a range of justice system policies, support services and interventions that have been specifically designed to recognise and support Aboriginal people in the justice system.

### Koori Family Violence Police Protocols

The Koori Family Violence Police Protocols are agreements between local Aboriginal communities and Victoria Police that document how local police must respond to family violence incidents. Their purpose is to strengthen the police response in the short-term, and to reduce the number of family violence incidents in Aboriginal communities in the longer term.<sup>120</sup>

The protocols guide police to determine whether the affected family member(s) or perpetrator identify as Aboriginal and, if so, to offer them the choice of referral to Aboriginal services or non-Aboriginal services. The protocols specify that police members should receive cultural awareness training delivered by members of the local Aboriginal community and that local communities, police and support services should develop and sustain strong local partnerships.<sup>121</sup>

Reflections on the protocols highlight that they have two main functions: most obviously they set out and explain the importance of the actions expected of police at the scene of family violence in the Aboriginal community. They also outline what needs to happen to make it normal for all front-line police to ask about Aboriginal identity in a culturally sensitive way and to respond appropriately to the answer. In other words, the protocols commit local police, local Aboriginal communities, and family violence networks and services to mutual engagement, steps towards better understanding, and strong, multifaceted working partnerships.<sup>122</sup>

### **Aboriginal legal services**

In Victoria, the major provider of legal services to Aboriginal victims of family violence is the Aboriginal Family Violence Prevention and Legal Service Victoria (FVPLS Victoria). In 2013–14 this organisation worked with approximately 4000 people, providing legal advice, casework and representation to more than 500 clients (involving more than 800 children) and provided community legal education, early intervention and prevention activities to around 1700 community members and over 1000 mainstream services staff.<sup>123</sup> Its systemic policy and law reform work is supported through philanthropic funding.<sup>124</sup>

The Victorian Aboriginal Legal Service provides legal advice, assistance and representation in the areas of criminal, civil and family law. It also undertakes community legal education, law reform and policy work.<sup>125</sup>

The vast majority of VALS' work (95 per cent in 2012–13) is in criminal law.<sup>126</sup> Every time an Aboriginal person is taken into custody by Victoria Police, VALS must be notified. Client services are available 24 hours a day seven days a week.<sup>127</sup>

VALS assists those who have been accused of family violence in criminal and/or civil proceedings, and can also assist victims. However, if a person comes to VALS and the other party is currently or has previously been assisted by VALS, they will be referred to another legal service (such as Victoria Legal Aid, community legal centres or FVPLS Victoria).<sup>128</sup>

### **Koori Family Violence and Victims Support Program**

The Koori Family Violence and Victims Support Program (formerly the Koori Family Violence Court Support Program) began as a 12-month pilot program in July 2011 at the Melbourne Magistrates' Court. The program employed a Program Manager, Aboriginal Men's Family Violence Support Worker and Aboriginal Women's Family Violence Support Worker to provide support and information about the court process and available family violence services. The program accepted referrals from court registry staff and magistrates, other court programs, Victoria Police, and external agencies.<sup>129</sup>

When the pilot was evaluated in 2012 it was found to have generally positive results although its client service function had only been operating for approximately nine months at the time. Clients reported an improved court experience and court staff reported that clients were more receptive to court orders and accepting of referrals to service providers. Service providers reported an enhanced ability to make timely referrals and progress cases. Increased cultural awareness among court staff was also reported.<sup>130</sup>

The main challenges identified in the evaluation related to retention of staff, the complexity associated with staff seeking to manage their dual role as both court staff and community members and the impact of uncertainty about ongoing program funding on client engagement.<sup>131</sup>

## Court-based programs

Submissions described one-off court-based initiatives that included Aboriginal-specific components. One example was the Family Violence Integration Project at Ringwood Magistrates' Court, which was funded by the Legal Services Board between 2011 and 2015. Boorndawan Willam Aboriginal Healing Service joined the partnership and arranged for a Koori Support Worker to provide culturally-specific advice, make referrals and conduct risk assessments for members of the Aboriginal community.<sup>132</sup> The evaluation of the project found that the initiative strengthened pathways for referrals across and between agencies for Aboriginal clients. Additionally, Boorndawan Willam successfully advised member agencies on culturally safe and respectful policies and practices, through information sessions and workshops.<sup>133</sup>

Eastern Community Legal Centre, which auspiced this project, stated that the pilot was 'critical in identifying and providing a holistic response to Aboriginal victims and perpetrators of family violence'.<sup>134</sup>

## Challenges and opportunities

This section describes the key issues raised in evidence and in submissions. The staggering over-representation of Aboriginal children in out-of-home care, and the correlation between child removal and family violence, were put to the Commission as matters of urgent concern. Prevention and early intervention initiatives, particularly those targeting children and young people, were identified priorities.

The Commission heard of the barriers Aboriginal and Torres Strait Islander people experience in accessing services (particularly safe accommodation) and the role that Aboriginal controlled organisations play in providing culturally sensitive services to their communities. However, the importance of mainstream organisations providing a culturally safe environment for Aboriginal people to access help was also emphasised.

The Commission heard the frustrations of Aboriginal service providers regarding the difficulties experienced in securing stable funding, which creates inefficiencies and limits the ability to consolidate successful interventions. While the existing data reveals a dramatic over-representation of Aboriginal and Torres Strait Islander people in the family violence system, limited and inconsistent data collection means that this proportion may be even greater.

## Family violence and child removal

... to Victoria's shame we have the highest overrepresentation of Aboriginal children in out-of-home care; not the numbers, but the overrepresentations. So 14 per cent of Aboriginal children are in the child protection system. That's far too many. We are struggling in Victoria.<sup>135</sup>

The link between family violence and child removal was consistently identified in submissions, consultations and evidence as an area where urgent attention is required.<sup>136</sup> The Victorian Aboriginal Childcare Agency submitted that family violence is 'one of the predominant contributing factors driving child protection intervention and the removal of children from family'.<sup>137</sup>

Commissioner Jackomos is currently investigating the circumstances of Victorian Aboriginal children in care through the Taskforce 1000 inquiry.<sup>138</sup> This has found a strong correlation between family violence and entry into out-of-home care:

Specific data on the drivers has been collected by the DHHS, but at this stage has not been made publically available. As an illustrative figure, approximately 80 per cent of children reviewed have experienced family violence, and this is often co-existing with other key factors such as alcohol and drug misuse, parental mental illness and neglect. In the cases reviewed by Taskforce 1000 to date, the majority of cases involve male perpetrated violence against women and children. Taskforce 1000 data also identifies family violence as a key reason why children cannot be reunified with their parents.<sup>139</sup>

From June 2013 to June 2014 there was a 42 per cent increase in the number of Victorian Aboriginal children in out-of-home care, which was the highest increase in an Australian state or territory for that period.<sup>140</sup> Commissioner Jackomos gave evidence that:

Aboriginal children and young people are significantly over-represented in Victoria's statutory child protection system and are around seven to eight times more likely to be the subject of a report to the DHHS than non-Aboriginal children. Aboriginal children now represent one in six Victorian children or young people being placed in care. Aboriginal children are ten times more likely to have an out of home care experience. I anticipate that without serious resources and effort being put into strengthening families and addressing the key drivers, 1500 Victorian Aboriginal children will be in State care by the end of 2015.<sup>141</sup>

Funding data provided by the Victorian Government shows that in 2013–14 around \$280,000 was allocated for Aboriginal-specific Integrated Family Services, which represents approximately 0.3 per cent of total funding for that program across Victoria.<sup>142</sup> These services work with vulnerable children and young people and those families including those at risk of becoming involved with Child Protection.<sup>143</sup>

The Commission also notes that while overall rates of entry of Victorian Aboriginal children into out-of-home care have been increasing year by year, the figures vary considerably between regions with some regions (Outer Gippsland, Mallee and Goulburn) experiencing substantial declines between the periods 2000–03 to 2009–12.<sup>144</sup> It was submitted that this may be due to the influence of established Aboriginal community controlled organisations in those regions.<sup>145</sup>

Other areas, such as Inner Gippsland, had rates of out-of-home placements for Aboriginal children that were much higher than the national average (55 per 1000); or even the Victorian average (62.5 per 1000) sitting at the highest Victorian rate of 116 per 1000.<sup>146</sup> Of the children in out-of-home care in this region, 86 per cent had been exposed to family violence.<sup>147</sup> The lack of adequate services (including strong Aboriginal community controlled organisations) in the Latrobe Valley, an area of such great need, was cited as a concern by multiple witnesses. Ms Jacquelyn Turfrey, Director of the Koori Justice Unit, Department of Justice and Regulation described the challenges for this region:

What we have noticed there from service mapping is that there's a big hole in service delivery across the board, including in family violence. What that creates then is there's no services to refer people to. So you end up getting courts tied up, police tied up; they just can't deal with their population in the way that you can when you have a good service provider. There is no strong Aboriginal community controlled organisation in the Latrobe Valley. The ones that service that area are outside.<sup>148</sup>

Deep concern was expressed by witnesses that without appropriate culturally sensitive and trauma-informed support for children in out-of-home care, the high rate of child removal will contribute to the next wave of family violence. Commissioner Jackomos gave evidence that:

... the current group of Koori children in the care of the State are potentially our next cohort of family [violence] offenders and victims, if we don't provide timely and appropriate counselling and support, if we don't provide them warm and loving homes in the interim whilst we work with their families for early reunification or, where that is not possible, to provide them with stability, preferably within the family network. We need to be working with our children so that they know what is a healthy, responsible and respected relationship. We need to be working with our young boys so that they are [respectful] of women, their mothers, their sisters and their partners.<sup>149</sup>



Commissioner Jackomos called for a dedicated strategy addressing the impact of family violence on Aboriginal children, to complement and support the 10 year plan.<sup>150</sup> He proposed:

... the development of a state-wide strategic response to improving the lives of vulnerable Aboriginal babies, children and young people with child protection, youth justice and child homelessness as well as children's trauma and mental health at its core ... The strategic response should be an initiative agreed between the broad Aboriginal community and government, with governance arrangements on par with the Aboriginal Justice Agreement. The response at a minimum should include; principles, protocols, targets and measureable outcomes monitored through a partnership forum.<sup>151</sup>

### **Victorian Aboriginal Child Forum**

In August 2015 participants at the Aboriginal Children's Summit, convened by Victorian Children and Families' Minister The Hon. Jenny Mikakos and co-chaired by Adjunct Professor Muriel Bamblett AM, Chief Executive Officer of Victorian Aboriginal Child Care Agency, resolved to establish the Victorian Aboriginal Child Forum to address the over-representation of Aboriginal children in out-of-home care. The forum provides ongoing policy direction and monitoring of outcomes for Aboriginal children in out-of-home care. It is based on a partnership between community and government and will meet quarterly. The terms of reference do not refer specifically to family violence but include:

- ▷ strengthening families' and communities' capacity to care for children to reduce the rates of entry into out-of-home care
- ▷ ensuring that every Aboriginal child and family, regardless of where they live in Victoria, has full access to a continuum of prevention, early intervention and placement services delivered through the Aboriginal community controlled organisation sector
- ▷ building the life skills and cultural identity of Aboriginal children in care.<sup>152</sup>

### **Fear of child protection authorities**

The Commission heard that these high rates of child removal and child protection intervention deter some Aboriginal women from disclosing family violence or seeking assistance:<sup>153</sup>

... I think we cannot underestimate the fear of Aboriginal communities, particularly members of our communities who live in poverty and disadvantage, their absolute paralysing fear of the government intervening and taking their children. This is just huge. Our people will not report when they should report.<sup>154</sup>

In particular there is a general 'mistrust in mainstream services because our women, our people see that they are the very organisations that take your children away'.<sup>155</sup>

The Commission heard that Aboriginal women's overwhelming fear of having their children removed was not sufficiently understood by child protection workers, who it was submitted 'adopted punitive and victim-blaming responses towards Indigenous women experiencing family violence'.<sup>156</sup>

What we see within the child protection system is there is a victim blaming mentality. We also see a competing interest where child protection workers are telling our women to leave, otherwise they risk losing their children, and community and family are asking our women to stay and do whatever it takes to make that work.<sup>157</sup>



FVPLS Victoria stated that a 'fundamental attitudinal shift is required within the Department [of Health and Human Services] to reform the way the system responds to Aboriginal victims-survivors of family violence.'<sup>158</sup> Specifically, it stated that 'workforce development must include wide-spread, compulsory training for all child protection workers in order to improve cultural respect and awareness along with family violence sensitivity training'.<sup>159</sup>

FVPLS Victoria also suggested implementing a Child Protection Notification Referral System for Aboriginal families whereby the primary parent is immediately referred to FVPLS Victoria or another appropriate legal provider.<sup>160</sup> We discuss this further in Chapter 11.

### **Disconnection from culture**

In a related issue, the Commission heard from a number of organisations that there is a widespread failure to abide by statutory obligations towards Aboriginal children in out-of-home care, leading to children becoming disconnected from their community and culture.<sup>161</sup>

Section 176 of the *Children, Youth and Families Act 2005* (Vic) requires the Secretary of the Department of Health and Human Services to prepare a cultural plan for each Aboriginal child placed in out-of-home care under a guardianship to Secretary order or long-term guardianship to Secretary order. Legislative amendments to this section, due to commence on 1 March 2016, will broaden this requirement to all Aboriginal children in out-of-home care.<sup>162</sup> The cultural plan must set out how the child will retain connection to their community and culture.<sup>163</sup> A joint submission to the Victorian Government from Aboriginal community controlled organisations, mainstream providers and the Centre for Excellence in Child and Family Welfare Inc. claimed that these statutory requirements were routinely not met.<sup>164</sup> It cites a 2013 audit showing that of those Aboriginal children to whom the statutory obligation applied only eight per cent ( $n=15$ ) had a completed cultural support plan.<sup>165</sup>

The Victorian Aboriginal Child Care Agency submitted:

For Aboriginal children placed in out of home care due to family violence this all too often results in removal from kinship groups, community, culture and land; these are factors that contribute to resilience and healing. Aboriginal children are also removed younger and for longer periods of time than non-Aboriginal children exacerbating loss and disconnection ... Given the high prevalence of children and young people in OOHC having experienced family violence, the State, as their parent, has a responsibility to implement strategies to support young people to recover from their experiences and to make healthier choices for themselves so as to reduce the incidence of violence and break the intergenerational patterns.<sup>166</sup>

The Commission also heard that there were many instances where Aboriginal children were not identified as such (and therefore, a cultural plan was not considered). The failure to identify Aboriginal children can occur because child protection workers fail to ask (or ask in an inappropriate manner or without providing adequate context for the question), or women are reluctant to disclose due to prior experiences with Child Protection.<sup>167</sup> The Commission notes that one of the priority issues for the newly formed Victorian Aboriginal Child Forum is to develop a comprehensive outcomes framework that is inclusive of cultural needs and rights of Aboriginal children and young people in out-of-home care, and to monitor accountability of outcomes.<sup>168</sup>

## Aboriginal people are less likely to access support services

The Commission heard that there are a number of reasons why many Aboriginal people who experience family violence do not access support services. These include the fear of the consequences of reporting, lack of access to support services and discrimination and racism.

### Reluctance to report

It can take someone, a victim or a perpetrator, a very long time to ask for help to deal with their experience of family violence. When that courage is found, the responses from service providers needs to be immediate, supportive, and above all, culturally appropriate to the needs of the individual, and their family.<sup>169</sup>

Some national studies indicate that as much as 90 per cent of family violence against Aboriginal and Torres Strait Islander people goes unreported.<sup>170</sup> The Victorian Government submission noted that Aboriginal people are less likely to report family violence than non-Aboriginal people for a range of reasons including 'fear about the consequences of disclosure, distrust of government agencies and service providers, historical and cultural factors and a lack of access to support services'.<sup>171</sup> As noted previously, the Commission heard that the fear of having children taken away is a huge impediment to reporting.

This issue was well described by the Indigenous Family Violence Task Force in its report where it identified that:

... the community needs to be able to trust somebody to tell their "secrets" to. The community has identified that there is no safe way to disclose, so communities are fearful of the consequences and what the impact will be on people the disclosure is about. There is also concern about the current level of support available to individuals who do disclose and the guarantee of their safety. Those individuals that do disclose are also burdened with the concern that 'will they be blamed for family breakdown or will they be believed'.<sup>172</sup>

In relation to women's fears that they will be blamed for family breakdown, Ms Braybrook, from FVPLS Victoria, gave evidence that the multiple obligations women have within communities can prevent them from reporting family violence:

... because of this model of community and family, keeping community together, keeping family together, that does place enormous pressure on the women that are experiencing the violence and they are less likely to disclose and they are essentially silenced because of that.<sup>173</sup>

The Commission heard that reconciling these obligations may be enormously challenging given the many issues victims face, including fear of homelessness, fear of child removal, loss of relationship and the physical and psychological trauma of the violence itself:

Given the relationship between Aboriginal people and authority organisations such as the police or government welfare departments, it is understandable that Aboriginal people are wary of making reports that, whilst may have the immediate impact of safety, have the longer term of impact of breaking up a family, putting children into out of home care, sending someone into custody, becoming homeless or other impacts.<sup>174</sup>

## Access

The Commission heard that in some rural areas women cannot find either a mainstream or community-controlled service nearby. A participant in a community consultation reflected on meeting a woman in a workshop who had disclosed family violence and left the perpetrator, but she had to travel 200 kilometres to find help.<sup>175</sup>

Other practical barriers include the requirement that people attend a service, rather than services being delivered in the home when transport barriers limit access.<sup>176</sup> This was said to be exacerbated in rural areas where lack of public transport meant people cannot get into town to see a service.<sup>177</sup> Delays in getting an appointment can also lead to the moment of intervention or support being lost. The Victorian Aboriginal Legal Service reflected:

Immediate and prompt responses are more likely to be successful when dealing with victims of family violence. Aboriginal clients are less likely to engage with services if they do not receive a quick response. They are more inclined to let the matter go thinking that it is going to take considerable time to get an appointment.<sup>178</sup>

## Discrimination and racism

Evidence was given that when Aboriginal people do access mainstream services, they can be met with a number of impediments including actual and perceived discrimination by service providers; language and cultural barriers; lack of trust in services and organisations; and lack of awareness of and engagement with local Aboriginal communities.<sup>179</sup>

The Commission was informed that this can range from:

... anything from overt racism and being made to feel uncomfortable going to mainstream organisations, to simply feeling that, whilst good intentioned, non-Aboriginal service providers do not understand the cultural and social factors that impact upon and have very specific outcomes for Aboriginal people. This feeling is multiplied when interacting with complex systems in criminal, civil and family law.<sup>180</sup>

The importance of ensuring that mainstream organisations provide culturally safe services is discussed in more detail below.

The Commission heard that mainstream services sometimes assume that if a victim is an Aboriginal person they should use a community-specific service,<sup>181</sup> even though this may amount to discrimination under Victorian law:<sup>182</sup>

If you are a First Nations people, you are treated completely separately to any other cohort in government systems and processes, and I don't know why. But when people try and access a service, they can get blocked quite easily and then they will feel rejected and they won't try and reengage again. So we have to send our staff with people to mainstream appointments to make sure, if there is a blocker, we help that person work out their service delivery.<sup>183</sup>

The Commission was also asked to consider racism as a barrier to accessing mainstream services. For example, a 2012 survey of 755 Aboriginal Victorians found that 18 per cent witnessed racism against other Aboriginal Victorians almost every day.<sup>184</sup> Twenty six per cent witnessed racism at least once a week, and 97 per cent had experienced racism in the previous 12 months.<sup>185</sup> Sixty-two per cent of participants reported that they sometimes, often or very often avoided situations because of racism, while another 17 per cent avoided such situations on occasion.<sup>186</sup>

## Funding

### Current investment

As noted in Chapter 41, the Victorian Government has been unable to provide the Commission with an overall estimate of the cost of family violence across its programs, including universal services such as health. However, the Victorian Government submission advised that \$80.6 million was budgeted for 2014–15 for expenditure on programs and services addressing family violence.<sup>187</sup>

Separately, the Victorian Government advised that in relation to family violence involving Aboriginal people, 'approximately \$10 million was spent directly on Aboriginal family violence in 2014–15. Of this 25 per cent was for prevention through broader programs and 75 per cent on responses to family violence'.<sup>188</sup> It noted however that the majority of services accessed by Aboriginal people are available to all Victorians and that the direct cost of family violence-specific programs and services is an estimate, as it is difficult to isolate 'family violence' programs from broader programs.<sup>189</sup>

Funding for Aboriginal services in the 2015–16 Victorian Budget included \$1.3 million for projects that improve Victoria's immediate response to Aboriginal family violence, particularly in high risk communities, including targeted statewide and regional education and awareness campaigns. A further \$0.6 million was provided to Aboriginal support services and \$1.8 million was allocated to help Aboriginal community controlled organisations to respond to the findings of Taskforce 1000, including addressing some complex safety and wellbeing issues identified by the Taskforce. All funding was for 2015–16 only. The budget also announced that existing programs assisting vulnerable Aboriginal families will be reviewed in consultation with Aboriginal organisations and Aboriginal communities, to maximise placement prevention and reunification efforts.<sup>190</sup>

The Commission was told that an additional \$2.54 million was sourced from the National Partnership Agreement on Homelessness which expires on 30 June 2017. This includes funding for Aboriginal legal support, Indigenous men's case management and intensive case management for women and children.<sup>191</sup>

Funding is distributed across a large number of providers.<sup>192</sup>

As noted in Chapter 41, the overall amount of funding provided by the Victorian Government to address family violence is difficult to quantify. This is also the case in relation to Aboriginal family violence: see the box on this page. However, the Commission heard from key agencies and a number of witnesses that current funding levels for the main elements of Aboriginal family violence prevention and response are inadequate, and that the gap is widening as both population size and the rate of reporting increase.<sup>193</sup> The mid-term evaluation of the 10 year plan found that lack of resources had hampered the implementation and oversight of the plan, and recommended that funding be increased to improve governance and oversight, and support the Partnership Forum.<sup>194</sup> In addition, concerns were expressed in evidence about the short-term nature of funding and the lack of provision for evaluation of programs.

### Short-term funding

The Commission heard that funding for family violence is often one-off or short-term which does not allow for sustained approaches. A heavy emphasis on pilots was a common concern:

The problem is there's a lot of great pilots that happen across the State ... The problem is the lack of access to ongoing funding to deliver these programs on a much broader scale, such as the ad that was done by MDAS was done on the smell of an oily rag and with the assistance from the broadcasters who I think gave them free airtime, it was voluntary.<sup>195</sup>

They are fantastic. But you need for them to be delivered across the state and preferably with local players.<sup>196</sup>

Short-term funding has been described as disdainful to clients and as a disincentive for people in need of assistance to use services because of lack of continuity.<sup>197</sup> Adjunct Professor Bamblett, described it as follows:

I think it's short-term funding for communities to do very small things without visioning, and I think that we need to start to look at what are the bigger issues. I get concerned that that small bucket of money is seen by government as addressing the issue of Aboriginal family violence.<sup>198</sup>

In the absence of recurrent funding we were told that organisations use one-off grant money, then re-apply for funds year after year, or seek other sources:

So, we do talk about tiny little pieces of money. We do spend an enormous amount of time justifying why we should get that funding and then evaluating the output of that funding. Even when those two things work exceptionally well, as they do with the Sisters Day Out, the program itself still won't get picked up by government as core business to be funded permanently as they would with any other program.<sup>199</sup>

In some cases the stated purpose of funding is to trial new approaches. The Community Initiatives Fund is an example of this, under which IFVRAGs are allocated \$59,000 per annum to initiate small-scale projects.<sup>200</sup> The majority of these have focused on cultural strengthening and building awareness of family violence.<sup>201</sup> While it is important to have dedicated funds for innovation, there was frustration that these activities cannot be repeated, even when they are effective.<sup>202</sup> This limitation was also noted in the mid-term evaluation of the 10 year plan, where short-term funding was found to have 'limited the scope of innovation and weakened the reach and spread of promising initiatives.'<sup>203</sup> The evaluation proposed a review of the CIF guidelines and additional resources both for the CIF and for a new stream of funding to enable longer term projects and the continuation of successful programs piloted under the CIF.<sup>204</sup>

In some cases, three year funding has been provided for prevention projects. These Koori Community Safety Grant Projects are discussed earlier in this chapter.

### **Insufficient funding for evaluation**

An associated concern was that small amounts of funding on a one-off basis does not allow for evaluation of initiatives over time.

Broadly there is a lack of formal evaluation evidence on primary prevention programs targeted towards Aboriginal and Torres Strait Islander communities. The Australian Institute of Family Studies reports that the diversity of programs delivered, combined with the limited evidence base, makes it challenging to clearly articulate effective practice.<sup>205</sup> Australia's National Research Organisation for Women's Safety (ANROWS) makes a similar finding in a 2016 state of knowledge review which posits that:

Information sharing about positive progress made in Indigenous communities should be encouraged through the appropriate resourcing of program evaluation. Policies and interventions, as well as evidence building on the effectiveness of those approaches, need to involve Indigenous perspectives. In a time when evidence-based practice is necessary for funding, governments also need to be open-minded to evaluative approaches that include Indigenous viewpoints and the inappropriateness of randomised control trials for small scale culturally sensitive programs.<sup>206</sup>

In relation to service delivery to Aboriginal peoples generally, in 2014 the Victorian Auditor-General reported that there is 'significant scope' for departments to improve monitoring, evaluation and reporting of outcomes of Aboriginal service delivery strategies and programs. He found that save for the (then) Department of Health 'there is little evidence that departments undertake robust evaluations to assess the achievement of outcomes for Aboriginal Victorians'.<sup>207</sup>

It was also noted in submissions to this Commission that the absence of funding for research and evaluation means that organisations are being required to bear the financial burden for these activities.<sup>208</sup> This is particularly onerous for smaller organisations.<sup>209</sup>

The Commission notes that the cultural safety of practices used by consultants engaged in consultations with Aboriginal communities in relation to family violence (which might include evaluation) have previously been identified as an area for improvement and guidelines have been issued.<sup>210</sup>

## Inadequate data collection by mainstream agencies and departments

Another criticism frequently expressed was that while some progress has been made, collection of data about Aboriginal family violence by agencies is generally poor. This was an issue that was identified as a priority by the Indigenous Family Violence Task Force which recommended in 2003 that:

Government should consider the strategic advantages that can be achieved by putting in place integrated processes and mechanisms for gathering, compiling and distributing data and other useful information. This would create a common platform on which Departmental staff, Indigenous organisations and Regional Indigenous Family Violence Action Groups can make decisions about Indigenous family violence matters.<sup>211</sup>

Some 12 years later poor data collection was a strong theme in submissions to this Commission.<sup>212</sup> Adjunct Professor Bamblett recounted her experience:

I go to family violence forums and there's no data. DHS has no obligation to report on data, how many families are presenting with family violence, and we don't have a from-to. So how are you going to reduce family violence when you haven't got measurable targets?<sup>213</sup> ... So how do you actually address violence when you don't know what the data is saying?<sup>214</sup>

Others also noted the importance of specific attention on data collection and reporting of the disability status of Aboriginal clients using the family violence sector, as well as data on Aboriginal children affected by family violence.<sup>215</sup>

Problems with the collection of data regarding Indigenous status were also noted in evidence by Ms Fiona Dowsley, Chief Statistician at the Crime Statistics Agency, who reported that Aboriginal identification is 'quite often of reasonably poor quality'.<sup>216</sup> This is despite such information being highly desirable for policy making and to operations. The CSA further reports '... [T]here is significant room to improve the quality of Aboriginal and Torres Strait Islander data before coverage will be sufficient to enable robust statistical and research use across datasets'.<sup>217</sup>

The Australian Bureau of Statistics recommends that a person's Aboriginal and Torres Strait Islander status be sought each time they come into contact with a service provider (as their understanding of it, or their willingness to report it, may change), and that they be asked to specify whether they are Aboriginal, Torres Strait Islander, both Aboriginal and Torres Strait Islander or neither Aboriginal nor Torres Strait Islander.<sup>218</sup> However the CSA observed that these standards have not been uniformly adopted by agencies, departments and service providers. They were particularly concerned that a person's identification as an Aboriginal and/or Torres Strait Islander person should be confirmed by that person and not simply assumed by others.<sup>219</sup>

The mid-term evaluation of the 10 year plan also noted problems with data collection and recording of Indigenous status. Improving data collection and analysis was one of the four recommendations made in the evaluation, including that '[a]ll agencies and departments with implementation responsibilities develop a strategy to reduce the number and percentage of cases where Aboriginality is recorded as unknown or not stated'.<sup>220</sup>

At a national level, the Australian Bureau of Statistics' Personal Safety Survey which is the most comprehensive quantitative study of interpersonal violence in Australia, with over 17,000 women and men completing the 2012 survey, does not currently collect demographic information regarding Aboriginal and Torres Strait Islander peoples.<sup>221</sup> This limitation is discussed further in Chapter 39.

## Choice of organisation

### Aboriginal community controlled organisations

The Commission consistently heard that most Aboriginal people have a strong preference for receiving services from Aboriginal community controlled organisations because, among other things, they are much more likely to deliver services in a culturally appropriate way.<sup>222</sup>

The Victorian Aboriginal Child Care Agency submitted:

Our practice approaches incorporate understandings of the impact of past policies on families today, understand how intergenerational trauma and racism must be addressed as part of effective responses. We know that providing Aboriginal services for the Aboriginal community is what works.<sup>223</sup>

A 2015 Australian Institute of Families review of the literature identified the following common factors for successful community-managed programs:

- ▷ community has ownership of and control over decision-making
- ▷ culture is central to the program, including an understanding of local context, history and community leaders
- ▷ local Indigenous staff work on the program or in the organisation
- ▷ good corporate governance exists
- ▷ Indigenous staff are working on programs and existing capacity is harnessed
- ▷ trusting relationships with partners are established<sup>224</sup>
- ▷ there is flexibility in time lines.<sup>225</sup>

There was a very strong call for investment in Aboriginal services to address prevention of family violence, early intervention strategies and responses to violence. Aboriginal community controlled services were seen to be consistent with the policy intent behind the 10 year plan. It was argued that these services are well connected to communities, and are better able to engage community members and to understand and respond to trauma.<sup>226</sup>

People also spoke of the value of integrated, one-stop services where the various needs of families can be met.<sup>227</sup> This reflects the principle of healing for the whole family as well as an attempt to make services as easy to access and flexible as possible.

Ms Gallagher reiterated the value of one-stop shops for meeting primary health care and other needs, stating:

A client can come in and speak to the GP, the financial advisor and the housing officer all in one visit. I can see no better way of making sure that the Aboriginal community has access to, and actually uses, these kinds of critical services. If services are provided at multiple different locations, it is highly likely that the client will only access the service that they need immediately and will not seek out other services or will be lost between services.<sup>228</sup>

One-stop services were also called for to reduce fragmentation between different systems—for example drug and alcohol, family support and family violence:<sup>229</sup>

What we do know, talking more general, is that where we have strong Aboriginal community controlled organisations delivering one door programs is where we have the strongest outcomes.<sup>230</sup>



There was, however, some caution expressed about the one-stop shop approach that provides services to the whole family being the only service model. In her evidence Ms Braybrook outlines three reasons why women may not feel comfortable accessing Aboriginal-controlled services that work with both victims and perpetrators:

- ▷ lack of confidence that the service will support them to leave the perpetrator
- ▷ concerns about privacy and relationships between workers and the community, and resulting pressure to remain within the family unit
- ▷ lack of trust in a service that also works with perpetrators.<sup>231</sup>

Ms Braybrook stressed the importance of specialist Aboriginal women's family violence services that women can access safely and privately, and provide support to women, 'to ensure that they don't continue to be silenced and that they are kept safe.'<sup>232</sup>

### Accessing mainstream services

While the clear message was that most Aboriginal people prefer to use services established by and for their own community, the Commission heard that this was not always the case:

Whilst we believe that a holistic approach to Aboriginal and Torres Strait Islander client's issue based needs are the way forward. [O]ur research found that one of the primary reasons given for choosing to not use an Indigenous service was explained in the context of the interconnectedness of our families and communities confidentiality cannot be assured when using Indigenous services and this can compromise the safety of victims.<sup>233</sup>

It was acknowledged that not all Aboriginal people wish to use an Aboriginal-specific service for a range of reasons including privacy and confidentiality, or to minimise the 'shame' of disclosure.<sup>234</sup> Some women may feel that by reporting family violence to a community controlled organisation, they may experience community pressure to not report the violence in order to avoid criminalising the perpetrator, or be otherwise pressured to stay in the relationship.<sup>235</sup> These issues are not unique to Aboriginal communities, however for some women these are a deterrent to using an Aboriginal-specific service.

### Cultural safety within mainstream services

#### What is cultural safety?

A culturally safe environment is one where services are provided in manner that is respectful of a person's culture and beliefs, and that is free from discrimination.<sup>236</sup>

To ensure that an environment is culturally safe, mainstream service providers and governments are required to analyse their organisational culture and ensure that it does not have a negative impact on the cultural rights of Indigenous communities. This right is supported by Victorian, national and international legal instruments which uphold the rights of Indigenous people.<sup>237</sup>

Cultural safety has a very practical application when it comes to mainstream services delivering programs because 'understanding, working with and providing services to Aboriginal people requires ongoing communication and a willingness to work in different ways'.<sup>238</sup>



The Commission received submissions about the importance of ensuring that mainstream services provide culturally appropriate and safe services to those Aboriginal people who choose to access them. As noted by Ms Angela Singh, Executive Director, Office of Aboriginal Affairs Victoria:

We absolutely see the need for our Aboriginal organisations to be at the forefront in terms of delivering services because they are culturally appropriate, but we also acknowledge that where services are delivered by mainstream organisations they absolutely need to be culturally safe and culturally respectful ... So one of the things that we encourage mainstream services to do is to try to be culturally inclusive and culturally respectful of Aboriginal people, and that way when an Aboriginal person walks through the door they feel supported, they feel their needs are being identified and they feel that their needs can be addressed over the longterm.<sup>239</sup>

All DHHS funded organisations are required to be accredited against service standards which include requirements to improve cultural competence.<sup>240</sup>

However, an important distinction between cultural safety and cultural competency or awareness was highlighted in evidence. The Victorian Aboriginal Legal Service explained that 'while cultural awareness is not a new concept, cultural safety is not as widely known. It refers to an environment in which people feel safe and respected for who they are and what they need, and where their cultural identity is unchallenged.'<sup>241</sup>

There was clear frustration expressed in submissions that cultural competency was seen by many mainstream organisations as the required standard that service providers should be striving for, and that more is required:

Note that we do not use the term 'cultural competency'. This is because the term represents the idea that there is an endpoint of competency and the perception that if you've done training once, you don't need to do it again. The same as professional training for lawyers or health practitioners is accepted as ongoing, so too is cultural awareness.'<sup>242</sup>

We are forever talking about cultural awareness training to build trust for women in the services – particularly the police – it is not there at all. These need to be ongoing things, not just one off – need to work with judiciary, so they are more culturally aware.<sup>243</sup>

There was also a warning that care must be taken to avoid the risk of token or ineffective 'add-on' attempts to cater for Aboriginal clients: 'cultural safety cannot be achieved by simply employing a handful of Aboriginal staff', with concern expressed that Aboriginal staff can become over-burdened by expectations to 'represent 'Aboriginality' within the organisation, service Aboriginal clients and continually educate non-Aboriginal colleagues about cultural matters'.<sup>244</sup>

The Commission also heard that there is often a 'dichotomy of inaction or overreaction' to reports of violence involving Aboriginal people:

Whether it's a lack of follow up shown when reporting an instance of family violence, or a heavy handed response from a government agency when a family seeks help, Aboriginal people find they are either facing a lack of support in the most serious of cases, but excessive interventions in other situations.<sup>245</sup>

It was noted that Aboriginal community controlled organisations are already working cooperatively with mainstream organisations to assist them to improve and that this is done on top of already significant demands.<sup>246</sup> The Commission heard that there is little capacity for Aboriginal organisations to provide secondary consultations to mainstream services due to the high demand for their core services, and that developing and maintaining partnerships is demanding and time consuming.<sup>247</sup>

One option discussed was for Aboriginal family violence services to be given additional funding to provide secondary consultations, in the way that the Victorian Aboriginal Child Care Agency currently does through its Lakidjeka Aboriginal Child Specialist Advice and Support Service (ACSASS). This service provides culturally appropriate advice and consultation on decisions that determine the future of at-risk Aboriginal children.<sup>248</sup>

## Strengthening culture in the early years

### Early intervention initiatives

Focusing on families and particularly on children in their first five years of life was highlighted as key to preventing family violence. The Commission heard in evidence that there are approximately 800 Aboriginal children born in Victoria each year and that an 'intensive response'<sup>249</sup> is necessary to ensure they have every opportunity to develop in a positive, nurturing and respectful environment, free from family violence:<sup>250</sup> '[There's] no hope unless we can maintain who we are. What is right for our children and our people.'<sup>251</sup>

The Commission heard that a much more focused effort on programs for families with young children is required; programs that do not stigmatise but rather support and strengthen their sense of culture.<sup>252</sup> This is consistent with Victorian government policy which recognises how important being strong in culture is for Aboriginal people's wellbeing.<sup>253</sup> This is particularly so for young people.<sup>254</sup>

For example, Mallee District Aboriginal Services, a one-stop shop Aboriginal service in Mildura, made a conscious decision to invest in services focused on the first five years of life:

We consider that investing in children is key to interrupting and reversing the intergenerational nature of family violence as well as a whole range of other areas of health in which Indigenous people experience considerable and disproportionate disadvantage.<sup>255</sup>

There was a strong preference for investment in young families and families in general, 'to build their capacity to be good parents prior to even considering removal.'<sup>256</sup> Existing examples, such as the Bumps to Babes and Beyond program in Mildura, were cited as positive models.<sup>257</sup>

### Bumps to Babes and Beyond

The Bumps to Babes and Beyond program delivers a range of services to young expectant mothers from one central location. Services include family violence advocacy, accommodation, health, prenatal help and antismoking programs.<sup>258</sup> Consistency is an important part of the program, with the same staff member working with the mother from the time she first registers with the co-op until her child is a few years old.<sup>259</sup>

Other programs that have an intensive focus on infants and young children, such as Cradle to Kinder and Stronger Families, were described as working well but are not available in all areas. Adjunct Professor Bamblett gave evidence that there are 'only two Aboriginal Cradle to Kinders that are funded in Victoria.'<sup>260</sup> She also identified that while some Aboriginal-specific Child FIRST components have been developed, these are not offered consistently across the state.<sup>261</sup>

## Aboriginal Cradle to Kinder

Cradle to Kinder is a targeted antenatal and postnatal support service that provides intensive and long term parenting support to vulnerable mothers. The target groups for the Aboriginal Cradle to Kinder program are young pregnant Aboriginal women or women under 25 pregnant with an Aboriginal child.<sup>262</sup>

The rationale for focusing on younger mothers is 'intervening earlier in the life of the mother/parents provides an opportunity to break the intergenerational cycle of disadvantage before behaviours become entrenched'.

The program provides support to families from before birth up until the child reaches the age of four.<sup>263</sup>

Across the whole Cradle to Kinder program it is estimated that 65 per cent of women are currently or have recently experienced family violence.<sup>264</sup>

Cradle to Kinder, including Aboriginal Cradle to Kinder is currently being evaluated by the Australian Institute of Family Studies.<sup>265</sup>

## Young people

The Koorie Youth Council noted that strategies and services aimed at preventing Aboriginal family violence should not focus exclusively on infants and small children, but should also examine the needs of young people within the community.<sup>266</sup> Overall, the importance of young people being targeted in prevention and early intervention strategies was a key priority in submissions, not least because roughly one in three Aboriginal Victorians is under 15 years of age.<sup>267</sup> The 2013 National Community Attitudes Survey also provides evidence of the need to target early adulthood as a life stage involving particular vulnerability to violence for both young men and women.<sup>268</sup> Ms Gallagher stated:

... we need to run programs in our local schools that teach our young men and young women about what respectful relationships are. Already, as teenagers, we see that our young men are displaying behaviours that are disrespectful and we are seeing our young women accepting that behaviour, they think that it's normal but [it] is not part of Aboriginal culture.<sup>269</sup>

The Koorie Youth Council stressed that to be effective, strategies and services must be culturally relevant, taking into account the role that Koorie young people have within their families and communities.<sup>270</sup> It is important that Aboriginal young people lead the design of these prevention strategies, as well as strategies for responding to violence when it occurs. The Koorie Youth Council submitted that Aboriginal young people:

... need to be able to access 'youth friendly'-developmentally appropriate and accessible information about family violence and how to get support if they are experiencing family violence. When young people are experiencing family violence, the support services that they come into contact with (either as individuals or accompanying a parent) need to be well equipped to engage them in ways that are age-appropriate and address their specific needs. Any strategies, services or other responses to family violence, need to respect young people - as both holders of rights and as actively engaged in the development of solutions or mapping of pathways that impact upon them.<sup>271</sup>

In consultations and submissions there was a strong theme that 'sporting and cultural events and programs are critical to build strong communities, culture and families, and prevent domestic and family violence, but there is little funding for these events'.<sup>272</sup>

The value of sport as an activity which can influence young people's attitudes was also identified in research commissioned by the Commonwealth Government to inform a national primary prevention campaign to reduce violence against women. That research found that community leaders have influence over all younger Australians, but are particularly important for Aboriginal young people. Similarly, while sport, sporting coaches and sports people are important influencers generally for 10–14 year olds, they have a particularly strong impact on Aboriginal young people.<sup>273</sup>

## Sporting initiatives

The North-West IFVRAG in partnership with the Victorian Aboriginal Community Services Association Ltd and the Fitzroy Stars Football, Netball Club developed a project targeted at Aboriginal young people and their families living in the north-west metro region. The project supported five netball teams and four football teams from the north west metropolitan region to attend the VACSAL statewide junior football/netball carnival held in Shepparton on the 2nd and 3rd of October 2013.<sup>274</sup>

North-West IFVRAG was responsible for the delivery of the family violence/strengthening family messages throughout the duration of the project. The overwhelming participation in the event enabled sport to be used as a platform to deliver proactive family violence messages supporting cultural safety, positive parenting practices and strong families as the foundation for stronger communities.<sup>275</sup>

The Northern Metropolitan IFVRAG submission reported that while there was no formal evaluation or survey undertaken, the value of the project was 'clearly evident' through anecdotal evidence of community cohesion that had an emphasis on cultural safety; encouraging positive parenting practices through involvement from parents in their children's sporting activities and positive comments and praise given to the organisers regarding the success of the project in effectively supporting the engagement of Aboriginal young people and their families in family strengthening activities.<sup>276</sup>

## Responses to family violence

### Gender and family violence

The Commission heard a range of views regarding the primacy of gender in family violence in Aboriginal communities.

Throughout the literature the centrality of family and community is stressed. This 'fundamentally alters the desired approaches to caring for women who have been victims of violence and working with men who have been perpetrators'.<sup>277</sup> Many submissions placed primacy on keeping the family together, stating that 'a holistic approach to families is required, including the perpetrators—a gendered approach to domestic and family violence doesn't suit the Aboriginal community'.<sup>278</sup> A participant in a community consultation stated 'Our men need to be strong, we need to give power back to the men so they can make the decisions for their family. Men are no longer man of the house. The men have fallen away and the women have taken over'.<sup>279</sup>

The Northern Metropolitan Region Indigenous Family Violence Action Group submitted:

Our belief is the mainstream heavily gendered power and privilege approach does not fit for Aboriginal perpetrators of Family Violence and therefore it is no surprise that programs through this lens do not result in any change in those perpetrating Family Violence.<sup>280</sup>

The Victorian Aboriginal Community Services Association Ltd submission states that the safety of children and women is paramount and in its view 'isolating them from the perpetrators appears to have limited results'.<sup>281</sup> Other providers told us:

We provide a positive environment for Aboriginal men who want to learn how to actively show respect for the interests of women and children ... A culturally strong Aboriginal family exists when men are living fulfilling lives and are responsible for their actions as father and-or husbands [this] will nurture the success and wellbeing for the whole family.<sup>282</sup>

However, others told the Commission that family violence in Aboriginal communities is gendered, just as it is in non-Aboriginal communities, and that taking a gender neutral focus on the family and on the community's voice may overlook the 'lived experiences of women and children as the primary victims/survivors of male perpetrated violence' and lead to a silencing of women.<sup>283</sup> Ms Braybrook stated in her evidence:

Our organisation [FVPLS Victoria] strongly believes that we must have a gendered response to family violence. We must acknowledge this in our community if we have any chance of moving forward ... We see firsthand the systemic and racial discrimination and violence, the social disadvantage and gender inequity that our women experience every day in their life.<sup>284</sup>

She went on to say: 'There is a call in our community to keep family violence gender neutral, but we do not support that. I believe that the response has to be first and foremost the safety of Aboriginal women and children'.<sup>285</sup> Commissioner Jackomos stated 'I want to have it acknowledged, that by the evidence, Aboriginal children and their mothers, along with Aboriginal women, are the primary victims of family violence in our community'.<sup>286</sup> He further cautioned that:

... there is a falsehood in our culture that the black man has fallen from the top of the patriarchal tree and he needs to be re-installed before we can find balance in our community. I'm not in favour of initiatives or programs that promote a renaissance of young warriors and male alter egos. However, I am in favour of growing young and [respectful] men who are good boyfriends, good partners, good fathers and good grandfathers.<sup>287</sup>

## **The justice system**

### **Insufficient funding of legal services**

Concerns about the impact of insufficient or restrictive funding were raised by the two primary legal services representing victims and perpetrators of family violence: the Aboriginal Family Violence Prevention and Legal Service Victoria and the Victorian Aboriginal Legal Service.

VALS notes in its submission that 'there is significant under funding for legal services which address both the immediate and flow on legal impacts of family violence'.<sup>288</sup> It was particularly concerned that respondents have proper legal advice in order to understand their responsibilities under a family violence intervention order so that the victim is not put at further risk. It submitted that respondents often do not fully understand such orders.<sup>289</sup>

FVPLS Victoria stated that despite being the only specialist service for Aboriginal victims of family violence in the state, it has only one child protection lawyer (who experienced a 66 per cent increase in her caseload in the twelve months between 2013 and 2014) and two family violence lawyers for the whole of Melbourne.<sup>290</sup> The service is unable to extend its services to all parts of Victoria including major regional centres where rates of violence in Aboriginal communities are high; for example Shepparton, Echuca, Bendigo, Swan Hill, or are confined only to outreach services (such as in the case of Morwell in the Latrobe Valley).<sup>291</sup>

As a result, it was submitted, the service is unable to meet the growing demand, and 'many civil legal issues (such as family law and family violence matters) go unresolved and can escalate'.<sup>292</sup> A recent legal needs survey of Aboriginal women conducted by FVPLS Victoria found that almost half (46 per cent) of the participants had experienced a family violence-related legal issue in the previous 12 months. More than half of these women (53 per cent) had received no legal assistance for that issue.<sup>293</sup>

### **Victoria Police**

As described above, the Koori Family Violence Police Protocols were developed under the 10 year plan and were piloted in Mildura, Ballarat and Darebin between 2011-13. The Commission heard that the protocols had led to improvements including better communication between police and Aboriginal people and improved understanding and awareness by police of culturally appropriate services.<sup>294</sup> However there was also frustration expressed that the protocols were not always followed by police,<sup>295</sup> and that they have only been trialled in three of the six sites identified in 2008.<sup>296</sup> This was seen as a lost opportunity for improving responses to family violence and to community/police relationships generally.<sup>297</sup>

The 2015 evaluation of the protocols found that all three pilot regions faced barriers in putting the protocols into place, including police members failing to identify the Aboriginal status of affected family members and perpetrators when attending family violence incidents.<sup>298</sup> Additionally, the evaluation highlighted concerns about the availability and capacity of local Elders, specialist external trainers and Victoria Police Aboriginal Liaison Officers to deliver initial, regular and follow up training, and noted that the steering committees had not been sustained at the local level.<sup>299</sup>

The short to medium-term outcomes had been met, however, with police being more aware of Aboriginal culture and community, and having improved relationships with agencies. The evaluation also found that L17s are, with some variation across sites, reaching Aboriginal organisations, which indicates police are understanding and implementing processes under the protocols.<sup>300</sup>

An important issue raised in the evaluation was the resource implications for Aboriginal organisations who were receiving more L17 referrals due to increased reporting levels.<sup>301</sup>

Overall, the evaluation reported that 'protocols were still a necessary tool for improving and sustaining the relationship between the police and Aboriginal communities and an essential complement to standard practice guidelines'.<sup>302</sup>

Despite some positive developments arising from the Koori Family Violence Police Protocols, the Commission heard about numerous ongoing challenges in the relationship between Aboriginal and Torres Strait Islander peoples and Victoria Police. Examples were provided of police minimising violence, blaming the victim, and failing to issue family violence safety notices:

... one in particular stands out to me where a woman went to report the violence again and the police officer said to her, 'He's just whacked you in the head this time. It's getting better. Last time it was worse'.<sup>303</sup>

There's not enough support from police – they respond to women but are very judgemental. Their attitude is that 'every Aboriginal woman is a victim', 'it's normal', 'this has happened all your life – deal with it'.<sup>304</sup>

The Commission heard that poor treatment by police may be further exacerbated for those women who have become offenders in the criminal justice system as an indirect result of family violence. By way of example, Flat Out Inc submitted that:

At times, police have failed in their responsibility to investigate family violence reports and take appropriate steps to ensure the ongoing safety of these women because they view them as criminals rather than victims. In several case studies, women have been arrested for outstanding warrants when police have been called to respond to family violence. In many of these cases, police have taken no action in relation to the family violence that has clearly occurred.<sup>305</sup>

Some reported that the police take too long to respond to calls, and then fail to conduct themselves appropriately once they do attend.<sup>306</sup> Others said that in some cases 'police are reluctant to step in because they are trying to be culturally sensitive'.<sup>307</sup> There was concern that where protocols do exist they are not consistently followed. A community consultation in Mildura noted:

The police don't always follow the Koori Police protocol/code of conduct—they often speak to the respondent and ignore the applicant on the call out. The Koori Police protocol was launched in 2007 but is still not fully operational in 2015.<sup>308</sup>

Further concerns related to the operation of the L17 system, under which police make referrals to specialist family violence services, men's behaviour change providers, Child Protection or Child FIRST.<sup>309</sup> These are primarily mainstream/non-Aboriginal services, however a number of Aboriginal specific services, including men's services, are referral points for L17s. The Commission understands the process for these services receiving L17 referrals 'is working well in some places however work is still needed around getting police to question on Aboriginality'. It has also been reported that 'in places where cultural awareness training for police had been conducted there was an increase in L17 referrals to these services.'<sup>310</sup> The suggestion was also made that family violence L17s from police should always be referred directly to Aboriginal services for Aboriginal people.<sup>311</sup>

There was a particular criticism expressed about the large number of 'unknowns' in police data, and concern that police were not asking people if they identified as Aboriginal or Torres Strait Islander. This was a significant concern in a number of submissions because if the question does not get asked, then culturally appropriate practice cannot follow:<sup>312</sup>

Because the question has not been asked or it has not been asked in an appropriate manner we are having children spend much longer in outofhome care because we are missing opportunities for reunification. It also misses out us tapping those children into valuable culturally rich programs and culturally rich counselling programs for our children. So having children being identified through L17s and having child protection asking the question in a Koori friendly manner and explaining why they are asking will ensure that, one, our children hopefully won't go on to be further victims and offenders of family violence because we have tapped them into culturally rich programs right from the start.<sup>313</sup>

Police practices in relation to Aboriginal people and family violence are also discussed in Chapter 14.

#### **Court programs and Aboriginal liaison workers**

In its 2003 report, the Indigenous Family Violence Task Force noted substantial barriers for women dealing with the family law system, as well as poor experiences when seeking intervention orders in state courts. These concerns included:

- ▷ inadequate security for victims attending court, 'who may be harassed by the perpetrator and his supports'
- ▷ lack of confidential space at the registrar counter when making an application
- ▷ lack of confidentiality of the court hearing as a disincentive to taking legal action.<sup>314</sup>

As a result, the Task Force recommended research into the feasibility of establishing an Indigenous Family Violence Court to 'provide a culturally safe and secure environment'.<sup>315</sup> This is discussed further below.

The Task Force further reported concerns about the absence of support and information regarding intervention orders, inconsistencies in police and court responses to intervention order applications and enforcement, and the impact on victims of needing to re-apply for a full order after an interim order and to re-tell their story. Community members participating in the Task Force process suggested that there be a Koori support worker at court to explain the court processes to Aboriginal people.<sup>316</sup>

A number of submissions to this Commission similarly described the value of having Aboriginal liaison officers at court to assist people to understand the family violence intervention order process. The importance of understanding the details, conditions and the effect of orders was stressed by the Victorian Aboriginal Legal Service:

Where we find breaches of IVOs, more often than not it is because people didn't truly understand the nature of the IVO that was served against them ... So, having somebody who can explain that to somebody at the point they get the order served on them is really useful.<sup>317</sup>



Various submissions described the value of the Koori Family Violence and Victims Support program at the Melbourne Magistrates' Court.<sup>318</sup> The program was initially piloted in 2011 and positively evaluated in 2012.<sup>319</sup> In May 2013 program operations were suspended due to positions becoming vacant. Further funds were made available to re-establish the program, and services recommenced in December 2013. The program was revised to also include Koori VOCAT (Victims of Crime Assistance Tribunal) and became known as the Koori Family Violence and Victims Support Program.<sup>320</sup>

The program supported 196 Aboriginal clients at the Melbourne, Heidelberg, Ringwood and Sunshine Magistrates' Courts and the Neighbourhood Justice Centre between December 2013 and May 2015.<sup>321</sup>

The Commission was advised that funding for the program ceased on 30 June 2015.

### **The need for specialist family violence courts**

There were a number of suggestions made to the Commission about the benefits of specialist courts for family violence matters involving Aboriginal people. Some Aboriginal organisations submitted that community-based courts with enhanced cultural awareness and responsiveness to the nuances of Aboriginal family violence may be more effective at keeping victims safe.<sup>322</sup> For instance, orders endorsed by respected Elders may encourage perpetrators to take them more seriously and provide victims with the confidence to take orders out when necessary.<sup>323</sup> Some suggested the creation of specialist Aboriginal family violence courts (based on the Koori Courts model) with jurisdiction to deal with both civil and criminal family violence matters.<sup>324</sup> Alternatively, it was suggested to the Commission that the existing jurisdiction of the Koori Courts be extended to hear breaches of FVIOs.<sup>325</sup>

The Commission understands that in 2014 the Aboriginal Justice Forum requested that the Victorian Government investigate whether such breaches should be heard by the Magistrates' and County Koori Courts and whether sexual offences should be heard in the Children's Koori Court.<sup>326</sup> Over 300 consultations were undertaken and after analysis, it was recommended to the Courts Koori Reference Group that the jurisdiction of the Magistrates' and County Koori Courts be expanded to include breaches of FVIOs, but that sexual offences not be included. A proposed model to extend the jurisdiction to breaches of orders has been developed which includes legislative reform, organisational operation of the Koori Courts, working with community agencies and forums, and strengthening the Koori community.<sup>327</sup> The Commission understands the Aboriginal Justice Forum will consider this proposal in April 2016.<sup>328</sup>



## The Koori Court

The Koori Court is a division of the Magistrates' Court. It sentences Aboriginal and Torres Strait Islander defendants in all criminal matters other than those involving sexual offences or family violence. The aim of the Koori Court is to have more community involvement in sentencing, reduce recidivism and breaches of orders, and provide more culturally appropriate sentences.<sup>329</sup> Defendants can choose whether to have their cases heard by the Koori Court.

The Koori Court was piloted in 2002 and now operates from Bairnsdale, Broadmeadows, Latrobe Valley, Mildura, Shepparton, Swan Hill and Warrnambool Magistrates' Courts. The Children's Koori Court was established in 2005 and the County Koori Court in 2008, based on the original Koori Court model.<sup>330</sup> The Children's Koori Courts are located in Melbourne and Mildura, and the Koori County Court sits in the Melbourne County Court and in Gippsland at the Morwell Law Courts and Bairnsdale Law Courts.

Under the model, the court set up is less formal. The Magistrate sits at a large table with all other participants in the case, not at the bench. The defendant sits with his or her family at the table, not in the dock; and participants are encouraged to talk in 'plain' English rather than using technical legal language. Koori Elders or Respected Persons, the Koori Court Officer, Koori defendants and their families can contribute during the court hearing. This helps to reduce perceptions of cultural alienation and to ensure sentencing orders are appropriate to the cultural needs of Koori offenders. It also allows issues relating to their offending behaviour to be addressed.

The objectives of the Koori Court are to:

- ▷ increase Koori ownership of the administration of the law
- ▷ increase positive participation by Koori offenders
- ▷ increase the accountability of the Koori offenders, families, and community
- ▷ encourage defendants to appear in Court
- ▷ reduce the amount of breached court orders
- ▷ deter offenders from re-offending
- ▷ increase community awareness about community codes of conduct and standards of behaviour
- ▷ explore sentencing alternatives prior to imprisonment.<sup>331</sup>

## Family violence, homelessness and affordable housing

Family violence is a major cause of homelessness in Australia. Recent analysis by the Australian Institute of Health and Welfare of specialist homelessness service data over the three years to 30 June 2014 found that, across Australia, more than a third of all adults and children seeking assistance from homelessness services did so due to family violence.<sup>332</sup>

The Australian Institute of Health and Welfare found that, 'Indigenous domestic and family violence clients were more likely than non-Indigenous clients to be female (74 per cent) and live in a sole parent household (41 per cent)'. They were also more likely to be children than non-Indigenous clients, with 38 per cent being under the age of 15 (compared with 31 per cent for non-Indigenous clients).<sup>333</sup>

In 2013–14 approximately 10 per cent of female clients of specialist homelessness services in Victoria were Aboriginal or Torres Strait Islander, although Aboriginal and Torres Strait Islander people make up less than one per cent of the Victorian population.<sup>334</sup> Again, this is almost certainly an under-estimation, as Indigenous status may not always be recorded.

The Commission heard that there is also a shortage of affordable housing, with Victoria experiencing long public housing waiting lists and an inflated private rental market.<sup>335</sup>

I would like to state clearly that the housing shortage in Mildura is ridiculous ... we have had to resort to putting people in tents. MDAS currently pays \$300-400 per week for a tent site in local campgrounds. This situation is untenable, and more must be done to secure appropriate housing, especially for people fleeing family violence.<sup>336</sup>

As well as being an important issue for women and children, lack of appropriate housing can result in perpetrators staying in the family home. This is discussed later in this section.

### **Accommodation for women and children**

The evidence before the Commission was that housing unavailability and the prospect of homelessness acts as a 'dangerous deterrent' to leaving violent relationships.<sup>337</sup> Women may be more vulnerable to entering into or staying in relationships in order to keep a roof over their heads. It can also drive women back to a relationship when crisis accommodation is unsuitable, not available, unsupported or denied.<sup>338</sup>

Aboriginal Housing Victoria reported that:

... there may be as many as 10 to 30 percent of approximately 300 applicants who are on our priority waiting list who have identified that family violence is a direct or indirect cause of their current unsafe or insecure housing. However, with over 1100 clients on our waiting list, and an annual turnover of approximately 150 tenancies, and with no transitional housing, it is not possible for AHV to accommodate all applicants at risk of harm from family violence. There is no doubt that there are many Aboriginal people who are exposed to violence that AHV cannot accommodate. These victims may be in refuges, sleeping on couches, sleeping rough or remaining in volatile circumstances where they are at risk of harm. If they are fortunate they will be able to find safe and secure housing from other transitional housing providers ...

The situation is no better where it is our tenants that are experiencing family violence. With little turnover in tenancies, many ultimately may have no choice but to abandon their quest for tenancy with us in order to find safety ... Based on reports from Housing Officers it is estimated that approximately ten percent of our tenancies at some point in time involve severe family violence and that there are many more tenancies where there is some indications of family violence ... AHV's Housing Officers observe that many victims of family violence are survivors. They themselves have previously been victims and/or are merely surviving the violence without being able to move ahead. Some flee the violence to refuges or to other family members. Many stay, endure and survive.<sup>339</sup>

The Commission heard that for Aboriginal and Torres Strait Islander women and children, homelessness arising from family violence may be particularly devastating as it can also lead to dissociation from community, kin and a disconnection to country if a woman has to leave her local area. Despite this, 'culturally safe, Aboriginal and Torres Strait Islander specific crisis housing is very rare'.<sup>340</sup>

In Victoria there are 31 refuge sites made up of 54 individual properties.<sup>341</sup> Three of these refuges are specifically for Aboriginal women and their children.<sup>342</sup>

## Aboriginal-specific women's refuges in Victoria

**Elizabeth Morgan House Aboriginal Women's Service** is located in metropolitan Melbourne. Central to its work is 'the provision of support and advocacy for the empowerment of Aboriginal women. Along with providing safe and secure accommodation, support and counselling services to Aboriginal women and children experiencing family violence, this organisation undertakes advocacy and advisory work to other service providers, organisations and government.'<sup>343</sup>

Using National Partnership Agreement on Homelessness funding two new crisis accommodation and support services were established in recent years.

**Orana Gunyah** in Morwell started delivering services in January 2014. Run by the Victorian Aboriginal Child Care Agency, 'Gunyah is a best-practice model where women and children can stay and be connected into a range of services during their stay.'<sup>344</sup>

The Mildura facility, **Meminar Ngangg Gimba**, (meaning 'a group of women dwell here') was opened in September 2012 and forms part of a range of services delivered to Aboriginal families by Mallee District Aboriginal Services. It is a cluster style facility where women, children and sometimes other members of a woman's family, for example a mother or a sister, can be accommodated as a family unit. There is no limit to the length of time women and their children can stay at Meminar Ngangg Gimba. Services, such as health, housing and Centrelink, are provided on site and women and children are able to maintain relationships with external support organisations and caseworkers. The Commission visited Meminar as part of its community site visits.

Meminar Ngangg Gimba employs male staff. The Commission heard this was a deliberate choice; as Aunty Janine Wilson, family violence advocate at Mallee District Aboriginal Services explained:

When we first suggested this to DHS, they cringed. They said we couldn't do it, but we wanted to take this approach for important reasons. Firstly, we wanted to show women in crisis that there are men, both Indigenous and non-Indigenous, out there who don't condone violence in any way, shape or form. Secondly, we wanted them to be positive role models for children at Meminar Ngangg Gimba, because often the only male role model in the children's lives is the one hurting their mum. Having male staff builds trust and a sense of safety across the whole community. We have never regretted this decision.<sup>345</sup>

The Commission heard evidence in community consultations that the approach at Meminar Ngangg Gimba had been successful, but was unable to cope with demand:

One positive thing is Meminar. But it's overflowing at the moment. It takes women from all over Australia. Women are being turned away and sent to Mallee Housing now because Meminar is too full.<sup>346</sup>

Currently if there is no Aboriginal service available and mainstream refuges or other crisis accommodation options are full or otherwise inaccessible, Aboriginal women and their children will most likely be accommodated in hotels or caravans. These options may not be available for safety reasons, or due to discriminatory treatment. In a community consultation in Mildura it was noted that:

The use of hotels is a very vexed issue. Lots of motels and caravans won't accept Aboriginal clients. There's only one motel that does, and sometimes victims and perpetrators both get placed there.<sup>347</sup>

It was also submitted that homelessness associated with family violence has an additional layer of complexity because both can be catalysts for child protection intervention.<sup>348</sup> Further, the Commission heard that 'through Taskforce 1000 we know that homelessness of mothers is preventing children returning home'.<sup>349</sup> Finally, family violence was identified as a significant cause of Aboriginal women coming into contact with the criminal justice system, and lack of post-release accommodation and support for women who have experienced family violence was identified as a factor driving women back to violent relationships.<sup>350</sup>

### **Accommodation for perpetrators**

There was consensus that there is a need to increase efforts to keep women safely at home. Some submissions also raised the issue of accommodation for the perpetrator, pointing out that if there is nowhere for the perpetrator to go this increases the pressure on the victim to let him remain in the home, which may compromise her safety.<sup>351</sup>

Allowing the perpetrator to stay in the home also influences decisions about child protection. Commissioner Jackomos reported that '... 52 per cent of the children can't be returned home because the current perpetrator of family violence is still in the family home'.<sup>352</sup>

Ms Annette Vickery, Deputy Chief Executive Officer of the Victorian Aboriginal Legal Service, stated in evidence:

I believe a victim of family violence should be able to stay in their home and be safe. If that were the case, and we agree that that's the program response that's required, then the perpetrator of family violence needs to live somewhere where they can maintain contact with their children in a safe and secure way but also where they can have supported accommodation so that they can continue with employment or education or whatever else they have going on in their life in order to continue to contribute to their family's wellbeing. That's a really complex program build, but that would be the sort of thing that would be required.<sup>353</sup>

On the ground however, services reported major barriers to securing accommodation for perpetrators:

I had a client who wanted to offend to go back inside so he would have accommodation. He had an IO [intervention order] so he couldn't go to one part of town.<sup>354</sup>

The Commission heard that around 11 per cent of clients of specialist homelessness services are Aboriginal men,<sup>355</sup> but that many more are reliant on motels and rooming houses. These were described as inadequate for a number of reasons; for example, if the perpetrator is trying to maintain contact with children and a rooming house is a dangerous place, or if drugs and alcohol are present and this increases the risk of family violence.

Some other services will put men in motels. But we find that that's a little bit too risky for us because there's not really any supports around that, and he may well decide that he wants to go home, which would then breach the order which then causes a whole other heap of issues. So we actually have people who volunteer their houses and will give us a room, a spare bedroom in their house, where people can go and stay ... We call it the adult foster care support system ... It would be lovely if it was funded. It's not. It is done on goodwill at the moment.<sup>356</sup>

One suggestion offered by the Victorian Aboriginal Community Services Association Ltd was that time out programs be given an accommodation component by converting transitional housing stock to crisis accommodation for use as a time out facility.<sup>357</sup> It argued that this would provide Aboriginal 'men with meaningful time out whilst the family can be maintained and supported in their family home'.<sup>358</sup>

Lack of accommodation for men leaving prison was highlighted as another gap. A community consultation noted the importance of post-prison programs for men on release that synchronise with women's programs so that a whole of family approach is adopted:

Accommodation should be provided for the men after they get out of prison. The mother needs help too, help raising the kids. She calls up the bloke and asks him to come back and help.<sup>359</sup>

## Accommodation options for those affected by drugs or alcohol

The limited availability of culturally appropriate residential rehabilitation for Aboriginal and Torres Strait Islander people (both victims and perpetrators) who are affected by drugs or alcohol was identified as a 'big challenge in addressing family violence'.<sup>360</sup> Ms Turfrey stated in evidence: 'we need more options around the state because of the lack of those [detox] facilities that puts a lot of pressure on the family violence space'.<sup>361</sup>

The Commission heard evidence about some small scale examples of such facilities for women funded through phase three of the Aboriginal Justice Agreement. For example, Odyssey House Victoria was initially funded by the Department of Justice in a one-year pilot to provide diversion and alternative initiatives to imprisonment. The pilot provided four residential treatment beds targeted to Aboriginal women (and their children) who are referred from the Victorian justice system, with priority given to women who are at risk of incarceration. This includes women on remand, on community-based orders, completing the program prior to sentencing or as a transition option post-release from prison including on parole.<sup>362</sup> The Commission heard that:

There is already quite a good setup. Odyssey House is drug and alcohol rehabilitation, but they have a suite of about six units which looks a lot like Meminar, in that families can actually live together while they are receiving therapeutic intervention in the family situation. Then there's a community meeting room as well so that families can interact with each other. The joy I think of these particular setups is that children still get to play together. They still get to have something of a normal childhood, which is really where we are aiming our program and service delivery, or at least we would hope that we are.<sup>363</sup>

It was announced at the 40th Aboriginal Justice Forum that this program had been provided additional funding to continue and provide additional beds.<sup>364</sup>

## The way forward

The Commission recognises that family violence has far reaching, multiple and multi-generational effects on Aboriginal and Torres Strait Islander peoples in Victoria. It contributes to and is caused by individual, familial and community trauma and contributes to homelessness and physical and mental illness. Aboriginal women and children are the primary victims of family violence.

None of this is new. Aboriginal and Torres Strait Islander peoples in Victoria have been dealing with these issues for many years and the solutions have been articulated clearly and consistently through many inquiries and reports, most notably the report of the Indigenous Family Violence Task Force in 2003 and the subsequent 10 year plan. The Commission supports those findings and the recommendations and actions contained in those documents.

Given the depth of its analysis and scale of participation of Aboriginal and Torres Strait Islander peoples in its development, the Indigenous Family Violence Task Force report and the principles contained in it continue to be enormously influential in driving policy and practice. It is therefore sobering to reflect on the evidence provided to this Royal Commission some 12 years later.

At the time the Task Force delivered its final report to the Victorian Government in 2003 it estimated that one in three Indigenous people were the victim, had a relative who was the victim or witnessed an act of violence on a daily basis.<sup>365</sup> Today the numbers remain just as shocking, with Aboriginal Victorians nearly eight times more likely to be involved in a police family violence incident than non-Aboriginal Victorians.<sup>366</sup>

Further, while it is clear that progress has been made, particularly in relation to increasing awareness and reducing stigma in relation to family violence, the foundational issues identified by the Task Force remain. In particular the need for greater provision of culturally safe and comprehensive options for women, more responsive and respectful police and justice system practice, provision of healing-based options for perpetrators and an end to the trajectory of Aboriginal children and young people into out-of-home care.

Below we describe actions the Commission considers are necessary to make progress on these fundamental issues. In doing so we recognise that many of these are contained in the 10 year plan.

Our intention is not to repeat that work but to bring some of the key issues into sharper focus for government and for the non-Aboriginal community in Victoria.

The Commission also notes the findings of the mid-term evaluation of the 10 year plan and considers that the recommendations of that evaluation should be implemented.

We recognise that in attempting to address family violence within Aboriginal and Torres Strait Islander communities, it is crucial to understand family violence as emerging within the context of deep intergenerational trauma as a result of colonisation, dispossession and the destructive impact of policies and practices such as the forced removal of children. There is no doubt that for Aboriginal and Torres Strait Islander peoples, culture is the foundation upon which everything else is built and that strong cultural identity and connection is key to better outcomes. We have made our recommendations based on this understanding, informed by the following conclusions:

- ▷ Family violence has a disproportionate impact upon Aboriginal communities, in particular Aboriginal women and children.
- ▷ Family violence is driving the over-representation of Aboriginal children in child protection.
- ▷ Prevention and early intervention initiatives need sustained resourcing.
- ▷ Under-investment is jeopardising safety when women and children return to the perpetrator because of lack of suitable crisis and long term accommodation.
- ▷ Cultural safety is the foundation for an effective response.
- ▷ While progress has been made the justice response needs concerted effort.
- ▷ Lack of data and culturally appropriate evaluation is hampering effort.

## Recommendation 144

The Victorian Government implement the recommendations of the mid-term evaluation of the Indigenous Family Violence Ten Year Plan [within two years].

## Removal of children due to family violence

There is compelling evidence that family violence is one of the predominant drivers of over-representation of Aboriginal children in the Victorian child protection system. This causes harm and also leaves Aboriginal women with a 'paralysing fear' of reporting family violence out of concern that their children will be removed.<sup>367</sup>

This was the strongest theme from Aboriginal people participating in this Commission. Of particular note was the evidence provided by Commissioner Jackomos arising from the Taskforce 1000 inquiry. This found that eight out of 10 Aboriginal children whose cases had been reviewed had experienced family violence.<sup>368</sup>

The rate of Aboriginal child removal in Victoria is now higher than at any time since white settlement.<sup>369</sup> This is unacceptable. It is also preventable.

It is clear that there are greater opportunities for both government and community to work with young families and families in general, 'to build their capacity to be good parents prior to even considering removal'.<sup>370</sup> The emphasis must be on stopping the trajectory into child protection. This is the case across the community but particularly for Aboriginal communities given the devastating legacy of the Stolen Generations policies and the impact on Aboriginal children of being disconnected from family and culture.

Connection to culture is critical for Aboriginal children's emotional, physical and spiritual wellbeing. We share the concerns expressed by many who contributed to this Royal Commission that 'unless children and young people are able to heal from their own experiences of trauma, many will go on to recreate these conditions and the cycle of intergenerational trauma will continue'.<sup>371</sup>

The Commission accepts the evidence that where there are strong Aboriginal families with strong networks and a strong cultural base, children thrive.<sup>372</sup> This provides lessons for how to address the over-representation of Aboriginal children living with family violence.

The Commission also found that while overall rates of entry into Child Protection have been increasing year by year, there are regional variations in those patterns. In some areas there has been a reduction in the prevalence rate. We consider that an important step forward is to review actions taken in those local areas to contribute to our knowledge of what helps to reduce the number of children taken into care.<sup>373</sup>

### **Investing in children and families**

The future picture of family violence in Victorian Aboriginal communities is dependent on urgent action being taken now to ensure that Aboriginal children and young people grow up in strong families and communities free from violence. Accordingly we consider that a significant focus is required, particularly in the child's early years, to reduce the risk of family violence and turn the current trajectory into Child Protection around. This is a sound investment, with good examples of family programs already operating that could be expanded and adapted to local communities.

Examples include the Bumps to Babes and Beyond program and the Aboriginal Cradle to Kinder program, both of which work with young Aboriginal mothers and provide long term support across the child's early years.<sup>374</sup> Currently these types of programs that do have an intensive focus are only available in some areas. These types of programs should be scaled up and adapted to other local areas. Similarly, expanding Aboriginal-specific Child FIRST components to more locations would reflect needs in these communities and also enhance the cultural responsiveness of Child FIRST.<sup>375</sup>

The intensive, early years approach being taken by Mallee District Aboriginal Services through its one-stop shop model is also worthy of expansion based on local needs and preferences.

We also note the evidence of the Commissioner Jackomos that:

Given the prevalence and consequences of family violence in Aboriginal communities spending on Aboriginal family violence is minimal. There is value in locally led initiatives however a gap still remains in investment in whole of state strategic responses to what has become an entrenched issue. There needs to be a targeted response to children as victims of family violence, not just bystanders or witnesses.<sup>376</sup>

We consider there is value in the Commissioner's proposal that the Victorian Government, working in partnership with Aboriginal communities, develop, implement and resource a statewide strategic response addressing the impact of family violence on Aboriginal children to complement and support the 10 year plan.<sup>377</sup> We consider the establishment of the Aboriginal Child Forum as an important first step in that process and warmly welcome its establishment.<sup>378</sup>

### **Meeting obligations to children and young people in out-of-home care**

The Commission reflected on the scale and impact of family violence and child removal practices and the trauma this is causing communities. In doing so we recognise that Aboriginal children entering out-of-home care as a result of family violence can suffer trauma as a result of cultural loss.



We are therefore disturbed to hear evidence that the current statutory obligation to prepare a cultural plan for Aboriginal children under a guardianship to Secretary order or long-term guardianship to Secretary order is routinely not met.<sup>379</sup> In addition to this being potentially unlawful under the Children, Youth and Families Act, failing to prepare a cultural plan as required might also be unlawful under the *Charter of Human Rights and Responsibilities Act 2006* (Vic) if such failure were found to constitute the denial of Aboriginal persons' distinct cultural rights to enjoy their identity and culture and maintain their kinship ties.<sup>380</sup> The Commission expects that the new amendments, which will require all Aboriginal children in out-of-home care to have a cultural plan, will prompt greater compliance with, and commitment to, this important statutory requirement.

We encourage the Secretary of the Department of Health and Human Services to take urgent action to remedy this shortfall, noting the commitment made by the Victorian Government at the Aboriginal Children's Summit in August 2015 to ensure compliance with the Children, Youth and Families Act as it relates to Aboriginal children and young people and to make recommendations to strengthen the Act.<sup>381</sup>

## Recommendation 145

The Victorian Government [within two years]:

- ▷ continue to work in partnership with Aboriginal communities to develop a statewide strategic response to improving the lives of vulnerable Aboriginal children and young people
- ▷ increase investment in programs that provide 'wrap-around' support to parents and children, especially in the first five years of life, so that the trajectory into child protection for these vulnerable families is interrupted and reversed
- ▷ expand the Aboriginal component of Child FIRST to reduce the high rates of removal of Aboriginal children and provide consistency across Victoria
- ▷ examine factors that influenced the decline in admissions into out-of-home care in Outer Gippsland, Mallee, Goulburn and North Eastern Melbourne so that lessons can be learnt and applied to future policy and practice.

## Sustained and increased investment

Long standing under-investment, combined with increasing demand for services due to population growth and increased levels of reporting, means that Aboriginal organisations and communities are struggling to deliver their own solutions.

Currently the capacity of Aboriginal communities and organisations to take preventative action and to respond to need is hampered because of a lack of sustained resourcing for actions that have been shown to work. Positive initiatives that work in one area are not available in other places. This relates to the nature and uncertainty of funding which the Commission considers to be problematic in the whole area of family violence. Such uncertainty undermines the potential that can be gained by working in a sustained way on what are very complex issues. It is also inefficient, contributes to loss of staff and expertise, and increases the risk that clients will disengage with the services and supports that can assist because of lack of certainty.

In examining government funding data it is apparent that there is a pattern of relatively small allocations of funding spread widely across a number of organisations. This occurs both in short-term and ongoing funding streams.<sup>382</sup> This may reflect responsiveness on a geographic basis, the emergence of particular projects over time, a high degree of fragmentation or potentially all three.

Currently however, under-investment is jeopardising safety. There is a significant resource gap between demand for, and supply of, key family violence services, particularly at a time of crisis. Overall a far greater investment is required for culturally appropriate responses to family violence as foreshadowed in the Indigenous Family Violence Task Force report and the 10 year plan.



The Commission is concerned that the current shortage of services is leading to poor outcomes including entrenched homelessness, with victims and perpetrators returning to the family home when it is not safe to do so. We found through our site visits and observations that where examples of best practice in accommodation and support exist, such as cluster-style refuge accommodation for women and children escaping violence, these are small scale and heavily over-subscribed. We also found increasing demand for men to access culturally appropriate, long term healing support.

Disturbingly, legal services for victims are not funded to provide assistance in areas where there are large Aboriginal communities, and are stretched across metropolitan Melbourne with few resources and significant gaps in areas of high need, such as the Latrobe Valley. Unsurprisingly this leaves victims without advice which in turn may jeopardise their safety. Clearly we are failing these women and children.

Similarly, without timely and effective legal advice perpetrators may not fully understand the nature of orders, be fully engaged with the court process or take action to stop their use of violence, including through time out and healing programs.

Given the disproportionate effect of family violence upon Aboriginal and Torres Strait Islander women it is vital that investment decisions and the models of services available reflect their needs. Specialist services for Aboriginal and Torres Strait Islander women must be provided as well as one-stop-shop models that work with the whole family.

As the rate of family violence reporting in Aboriginal communities increases it can only be expected that this resource gap is likely to grow. We make recommendations regarding immediate priorities below, based on our findings.

In doing so it should be noted that we have recommended that all funding decisions in the medium-term regarding family violence should be determined through accurate demand forecasting so as to ensure a better fit between need and delivery. We have recommended that this demand forecasting be completed within two years. This is discussed in Chapter 41.

Consistent with the recommendations of the mid-term evaluation of the 10 year plan we also recommend that major elements of the response to Aboriginal family violence (healing and time out services) should be evaluated so that learnings can inform future investment.<sup>383</sup>

## Recommendation 146

The Victorian Government give priority to providing adequate funding to Aboriginal community controlled organisations [within 12 months] for:

- ▷ culturally appropriate family violence services for Aboriginal women and children
- ▷ family centred services and programs—including programs that focus on cultural strengthening—therapeutic child-centred programs, and one-door integrated services where family members can obtain a range of supports
- ▷ culturally appropriate legal services for victims and perpetrators, to meet the increased demand for services and the need for statewide coverage
- ▷ crisis accommodation and support options for Aboriginal women and children based on core and cluster-style and best practice models with access to longer term housing
- ▷ culturally appropriate services for Aboriginal men who perpetrate family violence—including access to suitable accommodation
- ▷ early intervention and prevention actions in Aboriginal communities—including whole-of-community activities and targeted programs.

## Recommendation 147

The Victorian Government, on the basis of the advice of the Indigenous Family Violence Partnership Forum, give priority to major service models for evaluation using culturally appropriate outcome measures, methodologies and providers [within three years]. The Victorian Government should also ensure that all Aboriginal family violence interventions are evaluated in a culturally appropriate manner and that this is adequately resourced to ensure that Aboriginal service providers have the capacity to support such an evaluation [within 12 months].

### Prevention and early intervention

The Commission is concerned that many positive prevention initiatives are not funded to scale, or are reliant on one-off or short-term funding. This diverts organisational effort into chasing what are relatively small amounts of funding compared to the costs of family violence to government overall. It also dilutes trust in the stated commitment the Victorian Government has made to working with Aboriginal communities to end family violence.

Various examples were provided in evidence. The most frequently mentioned were Sisters Day Out, Dilly Bag and Dilly Bag the Journey. The Commission observed a Dilly Bag session while conducting this inquiry and witnessed first-hand the value of this program. We note previous evaluations that have found positive results. It is of great concern that programs that clearly support women are left to such uncertainty.

The Commission is of the view that these sorts of programs show the way that family violence early intervention can be creative, non-judgemental and effective. These are the ways of working that we need to see more of, not less.

As a priority the Victorian Government should ensure that early intervention and prevention programs that have the confidence of the community and have been positively evaluated receive ongoing funding so that this work can be undertaken with certainty and scaled up to the level required.

We also note that while the Community Investment Fund currently provides funding of \$59,000 per year to each Indigenous Family Violence Regional Action Group (IFVRAG) and these groups have been creative in using those funds for whole-of-community prevention activities, feedback from the IFVRAGs and in the mid-term evaluation of the 10 year plan indicates that this model has some flaws. The most significant is the requirement that these funds be used for a new activity each year. The mid-term evaluation recommended that the Community Investment Fund guidelines should be reviewed to ensure alignment with the priorities of the 10 year plan; that the Community Investment Fund funding allocation be increased and that an additional stream of ongoing funding be established to support longer term investment in Aboriginal family violence responses including the continuation of projects that have been tested through the Community Investment Fund grant funding process. The Commission supports these recommendations.<sup>384</sup>

The Commission also notes that it is important that we, as a community, do not forget the children who have already been removed from their parents and placed in out-of-home care. We have a collective responsibility to ensure that their out-of-home care experience does not cause them further harm, including cultural harm, or contribute to their possible trajectory into the youth justice or adult justice systems as perpetrators of family violence. Out-of-home care also provides an important intervention opportunity to address the trauma that those children may have previously experienced. The Commission supports the work of Taskforce 1000 and the efforts of the Commissioner for Aboriginal Children and Young People in addressing the inadequacies of the current out-of-home care system. The broader need for improved services addressing the trauma of children who have experienced family violence is considered in Chapter 10.

## Cultural safety

The Commission supports the directions contained in the 10 year plan and agrees that efforts to prevent and respond to family violence in Aboriginal communities are best led by Aboriginal people. We consider that Aboriginal leadership in program planning, design and implementation is a critical factor for success.

The Commission also considers that current governance structures through the Indigenous Family Violence Partnership Forum and Indigenous Family Violence Regional Action Groups should continue and be strengthened in line with the recommendations contained in the mid-term evaluation of the 10 year plan.

The Commission finds that there are distinct barriers to Aboriginal and Torres Strait Islander community members reporting family violence. These include actual and perceived discrimination by service providers; language and cultural barriers; lack of trust in services and organisations; and low levels of engagement by mainstream agencies with local communities leading to lack of awareness of services by Aboriginal people. Day-to-day racism, experienced across all areas of life, contributes to mistrust in mainstream organisations.

It is clear the majority of Aboriginal people prefer to use an Aboriginal organisation as these are more likely to provide a culturally safe service. Providing Aboriginal services for the Aboriginal community is what works.<sup>365</sup> Accordingly, Aboriginal community controlled organisations should have primacy in response and prevention. As stated above, to respond to the scale of need, more investment will be required.

Some Aboriginal people may prefer not to use an Aboriginal organisation. The Commission believes that the minimum standard across the entire family violence system should be that culturally appropriate services are easy to access and people have a choice of provider. This means that mainstream services must ensure that all Aboriginal clients are provided with the option of having an Aboriginal service provider and facilitating referrals accordingly, and if not, that they deliver a culturally safe service to the person themselves.

Cultural safety means that Aboriginal clients, employees and stakeholders are treated with dignity and respect and that their culture is valued and understood by mainstream organisations. It not only includes cultural safety for service users, but also for Aboriginal employees and in relationships with Aboriginal organisations. This is not always the case at present.

Creating a responsive service requires upholding and securing the cultural rights of Aboriginal people, protected through the Charter of Human Rights and Responsibilities, in a practical way. This requires systematically prioritising cultural values in policy, processes and the way programs are delivered as well as how staff interact with Aboriginal clients. Changing this requires a concerted commitment by each organisation in the areas of governance, policy, workforce, service delivery, practice and relationships with community.

To do this well, the Commission found that strong relationships need to be forged with Aboriginal providers, and time, effort and resources need to be dedicated to these relationships. We found that Aboriginal community controlled organisations are already doing this work on top of their funded role through secondary consultation and other support. The Commission considers that this work needs to be recognised by government and resourced effectively. This is a sound investment towards building a culturally appropriate mainstream service response that is not reliant on individual relationships to guide mainstream practitioners, but has this function built in.

### Recommendation 148

The Victorian Government ensure that funding agreements for mainstream family violence organisations incorporate a requirement for services to undertake cultural safety reviews and action plans in all areas of operations, governance, workforce and relationships with community. Investment in Aboriginal service providers will be necessary to support this [within 12 months].

## Effect of the Commission's other recommendations for mainstream family violence response

In Chapter 13 we recommend establishing 'Support and Safety Hubs' in the 17 local Department of Health and Human Services areas by 1 July 2018. These will be a new, area-based, entry point into family violence services and Integrated Family Services, consolidating the current L17 police referral points for victims, perpetrators and the Child FIRST intake points.

To be established by 1 July 2018, these hubs will provide:

- ▷ a single intake for specialist family violence services (for women and children and also perpetrator interventions) and Integrated Family Services. Intake includes triage, risk assessment and needs assessment
- ▷ case coordination for the women, children and perpetrator until each is placed into appropriate services (including booking and warm referral).

Each will have resources to access secondary consultation from Aboriginal community controlled organisations.

The Commission is mindful that Koori Family Violence Police Protocols need to be considered and honoured. Accordingly Support and Safety Hubs will need to make arrangements with local Aboriginal organisations to ensure where a person wishes to receive a service from an Aboriginal community controlled organisation, this occurs quickly and safely. Where a person does not, culturally safe services must be offered by the hub. This will require all Support and Safety Hubs to have in place:

- ▷ agreements with relevant local Aboriginal organisations to facilitate their involvement in intake and assessment, either as part of the centre intake team/joint triage or through consultation and warm referral
- ▷ secondary consultation arrangements with relevant Aboriginal organisations. We have recommended that this be built into the funding model in recognition that such work by Aboriginal organisations should be recognised and resourced
- ▷ the capacity to deliver a culturally safe service if the person does not wish to engage with an Aboriginal-specific agency.

In other parts of this report, the Commission also makes recommendations to improve the accessibility of specialist family violence services (for women and children and also perpetrator interventions) and other agencies, and to support organisations with the workforce learning and development required to achieve inclusion. Central to this is the provision of culturally safe services to Aboriginal and Torres Strait Islander people who wish to use mainstream services.

## Police and courts response

The Commission heard some disturbing evidence of poor attitudes and treatment by individual police. Such practices are contrary to the Victoria Police Code of Conduct on the Investigation of Family Violence, contradict the leadership shown elsewhere in the organisation and may amount to unlawful discrimination. They have no place in modern policing.

Where Koori Family Violence Police Protocols have been implemented these are beginning to make a difference to police practice.<sup>386</sup> The Commission is persuaded by the findings of a recent evaluation that these protocols are worthy of further support, and consideration should be given to enacting protocols in all police areas. In the meantime, we encourage the roll out of protocols in the remaining identified sites. In doing so, the recommendations of the evaluation to share the learnings from the pilots across the state and to effectively resource cultural awareness and ongoing development for police members should be implemented. It is unreasonable to expect local Elders and community members to provide this cultural education without adequate resources to meet the needs of Victoria Police in a sustainable way.

We also consider that the Koori Family Violence and Victims Support Program has the potential to make a 'significant contribution toward the long term goal of improved Koori community confidence in the courts and justice system'.<sup>387</sup> Based on the pilot evaluation of the program and recognising the specific barriers that Aboriginal people face engaging with the magistrates' courts, the Commission is of the view that this program should be resumed at the Melbourne Magistrates' Court. In order for this to occur funding issues need to be resolved.

As discussed in Chapter 16 applicant support workers and respondent support workers are now being rolled out to all headquarter magistrates' courts. We do not consider however, that this results in duplication for the following reasons. First, Melbourne Magistrates' Court is a high volume court. Having a specialist resource reflects this volume as well as the complexities of the issues to which workers need to respond. Secondly, a key finding of the pilot evaluation was that the Koori support workers did much more than work directly with clients. Crucially they built cultural awareness and confidence across the court, particularly with registry staff. This is of great value. Finally, Aboriginal people need a choice between an Aboriginal-specific and mainstream provider. This element of choice is as important in our courts as anywhere else in the family violence system.

In regard to the proposal to extend the jurisdiction of the Koori Court to hear breaches of FVIO matters, we note that this has recently been investigated by government, and that this review included a consultation process with over 300 people. We understand that a recommendation to extend the Koori Court's jurisdiction will soon be considered by the Aboriginal Justice Forum. Subject to that forum approving the proposal and to any safeguards the Aboriginal Justice Forum considers necessary to protect the safety and wellbeing of Aboriginal women and children who are victims of family violence, the Commission supports this proposal.

### **Recommendation 149**

The Melbourne Magistrates' Court resume the Koori Family Violence and Victims Support Program [within 12 months].

### **Recommendation 150**

The Victorian Government, subject to the approval of the Aboriginal Justice Forum and inclusion of any necessary safeguards, extend the jurisdiction of the Koori Magistrates and County Courts to include offences where it is alleged that the defendant has contravened a family violence intervention order [within 12 months].

### **Recommendation 151**

The Victorian Government ensure that Koori Family Violence Police Protocols are implemented in the remaining identified sites, with adequate resources and support provided to Elders and other community members providing cultural education to police in all sites (including those where protocols currently operate) [within two years].

## Better data collection

The Commission is concerned that there has been limited investment in evaluations of major elements of our current response to family violence in Aboriginal communities. For example healing services and time out services have not been evaluated although they form an important part of the community response.<sup>388</sup> In other cases programs have been evaluated with positive results but have not attracted ongoing investment.

Limited research and data on interventions—successful or otherwise—impedes effective and meaningful work. Evaluation of key programs and approaches needs to be undertaken as a priority to inform future investment decisions.

Research and evaluation comes at a cost and agencies, particularly small organisations, need to be resourced for this to occur. This should be built into funding for programs.

The Commission is of the firm view that evaluation methodologies need to be designed in true partnership with Aboriginal communities at all stages—including setting terms of reference, designing the evaluation framework and reviewing findings.

The Commission also finds that collection of data on Indigenous status is lacking in key areas, particularly in relation to police L17 reports. This is of significant concern as it has a direct flow-on effect to service provision: if a police member does not ask the question then this important information will not be included in the formal referral to a specialist family violence service, or to Child FIRST and/or Child Protection when children are present. This means that existing mechanisms to notify Aboriginal community organisations cannot be deployed, for example in locations where Koori Family Violence Police Protocols operate, or where joint triage of Child FIRST/Child Protection L17s is undertaken in partnership with the Victorian Aboriginal Child Care Agency, which currently occurs in the northern metropolitan region.

Measurement of outcomes for Aboriginal peoples in relation to family violence interventions and related human services also appears to be lacking. This information gap is working against effective service planning and weakens the capacity of local communities to develop solutions. The Commission is concerned that this chokes innovation and undermines shared effort between government and communities.<sup>389</sup>

Issues relating to data collection, including measures to improve the recording of Indigenous status across departments and agencies are discussed further in Chapter 39. We make a number of recommendations to improve statewide family violence data collection and research, including performance indicators on the collection of demographic information, in particular Indigenous status, for use across Victorian Government agencies. We also note the importance of national surveys including the ABS Personal Safety Survey and encourage the inclusion of demographic information and data capture in that instrument to support prevention and response policy and planning.

We also recommend that the proposed Victorian Government Family Violence Index includes measures that reflect family violence in different communities, including measures around Aboriginal experience of family violence.

In addition to those recommendations, we reiterate here that Victoria Police, the Department of Health and Human Services, the Department of Justice and Regulation, the Department of Education and Training and others should improve the collection of Indigenous specific data relating to family violence, including its impact on Child Protection, so that this can be shared with communities, organisations and governance forums to inform local, regional and statewide responses.

### Recommendation 152

Victoria Police, the Department of Health and Human Services, the Department of Justice and Regulation and the Department of Education and Training improve the collection of Indigenous-specific data relating to family violence so that this can be shared with communities, organisations and governance forums to inform local, regional and state-wide responses [within 12 months].

## Endnotes

- 1 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).
- 2 Victorian Indigenous Family Violence Task Force, 'Victorian Indigenous Family Violence Task Force: Final Report' (Department for Victorian Communities, December 2003).
- 3 Australian Bureau of Statistics, 'Census of Population and Housing – Counts of Aboriginal and Torres Strait Islander Australians, 2011' (Catalogue No 2075.0, Australian Bureau of Statistics, June 2012).
- 4 Department of Planning and Community Development, 'Victorian Aboriginal Affairs Framework 2013–2018—Building for the Future: A Plan for "Closing the Gap" in Victoria by 2031' (2012) 8, citing Australian Bureau of Statistics, above n 3.
- 5 Ibid.
- 6 The proportion of Aboriginal and Torres Strait Islander Victorians living in the rest of the state is 51.8 per cent, and those with no usual address is 0.7 per cent (out of the total Aboriginal population of 37,990 persons). The proportion of non-Aboriginal Victorians living in Greater Melbourne is 74.8 per cent, in the rest of the state is 25.1 per cent, and those with no usual address is 0.1 per cent (out of total non-Aboriginal population of 5,069,155). This excludes 246,895 people whose Indigenous status was not stated. Australian Bureau of Statistics, above n 3.
- 7 Aboriginal Affairs Victoria, above n 1, 11.
- 8 Department of Human Services, *What is Family Violence?* (13 January 2015) <<http://www.dhs.vic.gov.au/for-individuals/children,-families-and-young-people/family-violence/what-is-family-violence>>.
- 9 *Family Violence Protection Act 2008 (Vic)* ss 8, 10.
- 10 Victorian Indigenous Family Violence Task Force, above n 2, 123.
- 11 Janet Phillips and Penny Vandebroek, 'Domestic, Family and Sexual Violence in Australia: An Overview of the Issues' (Research Paper Series 2014–15, Parliament of Australia, Department of Parliamentary Services, 14 October 2014) 9.
- 12 Community consultation, Melbourne 1, 14 May 2015.
- 13 Koori Caucus, Submission 946, 7. In relation to Aboriginal girls, see Department of Health and Human Services 'Addressing Violence against Women and Their Children: Action Plan Consultation Framework—Status Update—Indigenous Family Violence Partnership Forum' (May 2012), 4, produced by the State of Victoria in response to the Commission's Notice to Produce dated 5 June 2015.
- 14 Victorian Indigenous Family Violence Task Force, above n 2, 6.
- 15 See, eg, Aboriginal Family Violence Prevention and Legal Service Victoria, Submission 941, 24; Victorian Aboriginal Child Care Agency, Submission 947, 9; Victorian Aboriginal Community Services Association Limited, Submission 837, 5; Victorian Aboriginal Legal Service, Submission 826, 3; Northern Metropolitan Region Indigenous Family Violence Action Group, Submission 934, 4.
- 16 Victorian Indigenous Family Violence Task Force, above n 2, 6.
- 17 Victorian Aboriginal Legal Service, Submission 826, 3.
- 18 Department of Planning and Community Development, above n 4, 7.
- 19 Commission for Children and Young People, Submission 790, 20.
- 20 Aboriginal Family Violence Prevention and Legal Service Victoria, Submission 941, 22.
- 21 Transcript of Jackomos, 14 July 2015, 169 [19]–[24].
- 22 Department of Justice and Regulation, 'Aboriginal Justice Forum Agenda Paper: How Does the Justice System Respond to Aboriginal Family Violence?' (23–24 April 2015), 3, produced by the State of Victoria in response to the Commission's Notice to Produce dated 5 June 2015.
- 23 Ibid.
- 24 Ibid 5.
- 25 Department of Premier and Cabinet, 'Mid-term evaluation of the Indigenous Family Violence 10 Year Plan' (September 2015), iii, produced by the State of Victoria in response to the Commission's Notice to produce dated 5 June 2015.
- 26 Ibid 32.
- 27 Even if all affected family members of 'unknown' Indigenous status were non-Aboriginal, an Aboriginal person was still four times more likely than a non-Aboriginal person to be reported as an affected family member in relation to a family incident in 2013–14: Department of Premier and Cabinet, above n 25, 32.
- 28 Department of Premier and Cabinet, above n 25, 36.
- 29 Aboriginal Family Violence Prevention and Legal Service Victoria, Submission 941, 15.
- 30 Aboriginal Affairs Victoria, above n 1, 12; Victorian Indigenous Family Violence Task Force, above n 2, 147–192.
- 31 Statement of Jackomos, 9 July 2015, 12 [56].
- 32 Transcript of Braybrook, 20 July 2015, 743 [18]–[20].
- 33 Statement of Braybrook, 16 July 2015, 2 [10].
- 34 Department of Human Services, 'Working with Families where an Adult is Violent: Best Interests Case Practice Model' (2014) 7. See also Aboriginal Family Violence Prevention and Legal Service Victoria, Submission 941, 13.
- 35 Fadwa Al-Yaman, Mieke Van Doeland and Michelle Wallis, 'Family Violence Among Aboriginal and Torres Strait Islander Peoples' (Cat No IHW 17, Australian Institute of Health and Welfare, November 2006) 71. Victorian Emergency Department Admissions data shows that the proportion of patients that presented with an injury deemed to be either 'Child neglect, maltreatment by parent, guardian' or 'Maltreatment, assault by domestic partner' that were recorded as Indigenous in each of the years from July 2010 to June 2014 remained stable at approximately five per cent: Crime Statistics Agency, 'An Overview of Family Violence in Victoria: Findings from the Victorian Family Violence Database 2009–10 to 2013–14' (January 2016), 82, 84, provided to the Commission by the Crime Statistics Agency, 8 January 2016.
- 36 Melanie Heenan, 'International Violence Against Women Study: Findings from the Australian Component' (Australian Institute of Family Studies (Cth), Australian Centre for the Study of Sexual Assault, Newsletter No 6, April 2005) 2. This data may include sexual assault outside of family violence, however as noted in Chapter 12, familial sexual assault is recognised as family violence. The survey was conducted in 2002–03.
- 37 Kelly Richards, 'Children's Exposure to Domestic Violence in Australia' (Trends & Issues in Crime and Criminal Justice No 419, Australian Institute of Criminology, June 2011) 2, citing Michael Flood and Lara Fergus, 'An Assault on our Future: The Impact of Violence on Young People and Their Relationships' (White Ribbon Foundation, 2008).
- 38 Victorian Aboriginal Child Care Agency, Submission 947, 8.
- 39 Aboriginal Family Violence Prevention and Legal Service Victoria, Submission 941, 22.
- 40 Steering Committee for the Review of Government Service Provision, 'Report on Government Services 2016' (Productivity Commission (Cth), 2016) Table 15A.8, 2.
- 41 Statement of Jackomos, 9 July 2015, 4 [21].
- 42 Victorian Aboriginal Child Care Agency, Submission 947, 10.
- 43 Indigenous women comprised 27 per cent of the offenders interviewed in the study: Holly Johnson, 'Drugs and Crime: A Study of Incarcerated Female Offenders' (Research and Public Policy Series No 63, Australian Institute of Criminology (Cth), 2004) xiv, 19.
- 44 New South Wales Aboriginal Justice Advisory Council, 'Holistic Community Justice: A Proposed Response to Aboriginal Family Violence' (2001) 7.



45 Aboriginal Family Violence Prevention and Legal Service Victoria, Submission 941, 19.

46 Aboriginal Affairs Victoria, above n 1, 10.

47 The Victorian Indigenous Family Violence Task Force held its inaugural meeting in October 2001 and was formally launched by the Minister for Aboriginal Affairs and Minister for Community Services at a meeting held at Parliament House in May 2002: Victorian Indigenous Family Violence Task Force, above n 2, 23.

48 Ibid 23.

49 Ibid.

50 Ibid.

51 Northern Metropolitan Region Indigenous Family Violence Action Group, Submission 934, 6.

52 Department of Premier and Cabinet, above n 25, 6.

53 Northern Metropolitan Region Indigenous Family Violence Action Group, Submission 934, 7.

54 Department of Premier and Cabinet, above n 25, 4.

55 Ibid 2.

56 Aboriginal Affairs Victoria, above n 1, 8–9.

57 Ibid 32.

58 See, eg, Department of Planning and Community Development, above n 4, 32.

59 See, eg, Koori Justice Unit, 'Victorian Aboriginal Justice Agreement Phase 3 (AJA3): A Partnership between the Victorian Government and the Koori Community' (2013), 9, produced by the State of Victoria in response to the Commission's Notice to Produce dated 5 June 2015.

60 Department of Premier and Cabinet, above n 25, iii.

61 Ibid iv.

62 Ibid iii.

63 Ibid iii.

64 Healing Services in Outer Gippsland, Loddon, North East Melbourne and Outer Eastern Melbourne. Time Out services in Outer Gippsland, Mallee, North East Melbourne and Goulburn areas. Men's Family Violence Group programs are also located in Inner Gippsland, Mallee and North East Melbourne. Department of Health and Human Services, 'DHHS Response in Relation to Part A: Items 2(a)(iii) and 2(a)(iii)', produced by the State of Victoria in response to the Commission's Notice to Produce dated 20 August 2015.

65 This 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 throughout 2013–14': Koori Caucus, Submission 946, 12, 19.

66 Department of Premier and Cabinet, above n 25, iii–iv.

67 Ibid iv.

68 Ibid v–viii.

69 Northern Metropolitan Indigenous Family Violence Regional Action Group, Submission 934, 11.

70 Department of Premier and Cabinet, above n 25, 24.

71 Ibid 71.

72 Ibid 24.

73 Ibid 73.

74 Department of Human Services, 'Indigenous Family Violence Primary Prevention Framework' (June 2012). In June 2015 it was noted 'It is now timely that in 2015 a review and update is undertaken on the framework to test: whether the framework has met the original aims and objectives in supporting primary prevention; capacity building, effective and sustainable activities; and assess its usefulness in understanding primary prevention': Department of Premier and Cabinet, '24th Indigenous Family Violence Partnership Forum: Projects Report' (June 2015), 1342, produced by the State of Victoria in response to the Commission's Notice to Produce dated 5 June 2015.

75 Department of Premier and Cabinet, above n 74, 11.

76 Statement of Gallagher, 10 August 2015, 7 [33].

77 See, eg, Transcript of Jackomos, 14 July 2015, 8 [38]; Statement of Turfrey, 16 July 2015, 16 [63]–[65].

78 Information about these programs is contained in Aboriginal Family Violence Prevention and Legal Service Victoria, Submission 941, 12, 35–36.

79 Aboriginal Family Violence Prevention and Legal Service Victoria, Prevention and Education (2016) <<http://www.fvpls.org/Prevention-and-Education.php>>.

80 Aboriginal Family Violence Prevention and Legal Service Victoria, Submission 941, 35.

81 Ibid.

82 Ibid 36.

83 Aboriginal Family Violence Prevention and Legal Service Victoria, above n 79.

84 Aboriginal Family Violence Prevention and Legal Service Victoria, Submission 941, 36.

85 Ibid 12.

86 Aboriginal Family Violence Prevention and Legal Service Victoria, 'Evaluation Report of the Aboriginal Family Violence Prevention and Legal Service Victoria's Early Intervention and Prevention Program' (July 2014) 24. Evaluations conducted for the (then) Department of Justice reported similar results: see Department of Justice and Regulation, above n 22, 15.

87 Department of Justice and Regulation, 'Reducing Violence Against Women and their Children, Victorian Grants Program: Review of Progress and Interim Evaluation Reports' (2014), 14–15, produced by the State of Victoria in response to the Commission's Notice to Produce dated 5 June 2015.

88 Ibid 15.

89 Ibid.

90 Ibid.

91 Fiona Richardson, 'Victoria Against Violence Campaign Spreads Across the State' (Media Release, 1 December 2015).

92 The grant recipients were: Lakes Entrance Aboriginal Health Association—Strong Men, Strong Communities; Mallee District Aboriginal Services—Family and Community Violence Prevention Project; Rumbalara Aboriginal Corporative—Aboriginal Family Harmony Project; Victorian Aboriginal Health Service—Strong Relationships, Strong Community: Department of Justice and Regulation, above n 87, 3.

93 Department of Justice and Regulation, above n 87, 13–14.

94 Ibid 14–15.

95 Ibid.

96 A review of documentation from the Victorian Government indicates that public awareness campaigns were developed in relation to sexual assault in other regions in partnerships between Victoria Police and Indigenous Family Violence Regional Action Groups and Regional Aboriginal Justice Advisory Committees. These were completed in 2012. Victoria Police, 'TV Campaign to show no room for violence' (23 May 2012), produced in response to the Commission's Notice to Produce dated 5 June 2015. See also Department of Premier and Cabinet, 'Interim Implementation Plan Snapshot for the Indigenous Family Violence Strategy' (27 April 2012), 7, produced by the State of Victoria in response to the Commission's Notice to Produce dated 5 June 2015.

97 MDAS: Mallee District Aboriginal Services, *Ending Family Violence* (2013) <<http://www.mdas.org.au/familyviolence>>.



- 98 Victorian Indigenous Family Violence Task Force, above n 2, 153, 176.
- 99 Ibid.
- 100 The Task Force recommended the establishment of Time Out Centres in communities 'to provide Indigenous males and others with a place to go to calm down so that they do not commit a violent act against another person': *ibid*.
- 101 'We appreciate the importance of a holistic healing approach to family violence in Indigenous communities based around family and Indigenous community strengthening, collaborative approaches, appropriate resources and flexible program and service delivery arrangements': Aboriginal Affairs Victoria, above n 1, 9, 45.
- 102 Aboriginal Affairs Victoria, above n 1, 12; Victorian Indigenous Family Violence Task Force, above n 2, 81, 145.
- 103 See, eg, Koori Caucus, Submission 946, 27; Indigenous Men's Resource and Advisory Service, Submission 771, 11; Victorian Aboriginal Child Care Agency, Submission 947, 3-4; Victorian Aboriginal Community Services Association Limited, Submission 837, 3.
- 104 Transcript of Bamblett, 20 July 2015, 799 [6]-800 [1]; Community consultation, Mildura, 2 July 2015; Statement of Kirby, 10 August 2015, 11 [47].
- 105 Transcript of Vickery, 20 July 2015, 814 [17]-[19].
- 106 Victorian Aboriginal Community Services Association Limited, Submission 837, 3, 5-6. See also Victorian Aboriginal Legal Service, Submission 826, 11-12.
- 107 Statement of Byrne and Brown, 22 July 2015, 4 [19].
- 108 See, eg, Koori Caucus, Submission 946, 27; Victorian Aboriginal Community Services Association Limited, Submission 837, 6-7.
- 109 Indigenous Men's Resource and Advisory Service, Submission 771, 2.
- 110 Indigenous Men's Resource and Advisory Service, Submission 771, 11; Victorian Aboriginal Community Services Association Limited, Submission 837, 3.
- 111 Koori Caucus, Submission 946, 13.
- 112 Statement of Byrne and Brown, 22 July 2015, 4 [20].
- 113 Aboriginal Family Violence Prevention and Legal Service Victoria, Submission 941, 11-12; Koori Caucus, Submission 946, 16.
- 114 See, eg, Statement of Byrne and Brown, 22 July 2015, 4 [20].
- 115 Indigenous Resource and Men's Advisory Service, Submission 771, 14. The Commission acknowledges that the Indigenous Men's Resource and Advisory Service and the Aboriginal Centre for Males are programs of the Victorian Aboriginal Community Services Association Ltd: Victorian Aboriginal Community Services Association Ltd, *Aboriginal Centre for Males Referral Service* (2014) <<http://www.vacsal.org.au/programs/aboriginal-centre-for-males-referral-service.aspx>>; Aboriginal Community Services Association Ltd, IMRAS (2014) <<http://www.vacsal.org.au/programs/indigenous-mens-resource-advisory-service.aspx>>.
- 116 Department of Premier and Cabinet, 'Royal Commission into Family Violence: Request for Information on Aboriginal Specific Program Funding' (18 August 2015), produced in response to the Commission's Notice to Produce dated 14 August 2015 (as varied on 20 August and 20 October 2015). See also Boorndawan Willam Aboriginal Healing Service, *Home* (2013) <<http://www.bwahs.org.au/>>; Miajalku Healing Centre, <<https://www.facebook.com/pages/Minajalku-Healing-Centre/444824155547532>>; Gippsland Lakes Community Health, *Yoowinna Wurnalong Healing Service* (2014) <<http://glch.org.au/aboriginal-services/yoowinna-wurnalong-healing-service/>>. See also Aboriginal Fathers Group at Minajalku: Children's Protection Society, Submission 505, 7.
- 117 The Dardi Munwurro Strong Spirit program is also delivered on behalf of Corrections Victoria to those on community correction orders and in prison. In 2010 the Koori Justice Unit funded the implementation of three program sessions run across Victoria over a period of 12 months. Each consisted of an initial one-day community introduction and engagement session, a three day live-in workshop, four half-day post workshops and four half-day monthly follow up sessions. An independent evaluation using a Most Significant Change methodology was commissioned to review the use of this program by Corrections Victoria in 2012. This included interviews with program participants to capture their personal stories of change and drawing themes from this data. The evaluation though small in scale identified positive results. Department of Justice and Regulation, 'Dardi Munwurro Most Significant Change Report' (2012), 13, produced in response to the Commission's Notice to Produce dated 5 June 2015.
- 118 A paper prepared for the Indigenous Family Violence Partnership Forum in 2014 described the key successes of Healing and Time Out Services as including partnership development with a range of services including health, mainstream family violence services and police; individual support and group work contributing to better outcomes for individuals and families and community strengthening; contributing to the development of regional prevention of violence against women action plans. Key challenges identified were the need for education about Aboriginal family violence with the broader service system; capacity take referrals after hours and accreditation processes and the impact on smaller organisations. Department of Premier and Cabinet, '23rd Indigenous Family Violence Partnership Forum: Time Out and Healing Services' (October 2014), produced by the State of Victoria in response to the Commission's Notice to Produce dated 5 June 2015.
- 119 Melbourne Research Alliance to end violence against women and their children (Prof Cathy Humphreys et al)-01, Submission 840, Briefing Paper 2, 8-9.
- 120 Victoria Police, 'Evaluation of the Koori Family Violence Police Protocols: Ballarat, Darebin and Mildura' (Clear Horizon Consulting) (2015), 1, produced by the State of Victoria in response to the Commission's Notice to Produce dated 5 June 2015.
- 121 Ibid.
- 122 Ibid.
- 123 Aboriginal Family Violence Prevention and Legal Service Victoria, Submission 941, 11.
- 124 They are also members of the Indigenous Family Violence Partnership Forum, Aboriginal Justice Forum and other state forums. In addition they host the National Secretariat of the National Family Violence Prevention Legal Services Forum and have special consultative status to the United Nations Economic and Social Council: Aboriginal Family Violence Prevention and Legal Service Victoria, Submission 941, 11.
- 125 Victorian Aboriginal Legal Service, 'VALS Annual Report 2012-2013' (December 2013) 3, 6.
- 126 In 2012-13 of 11,616 clients, 10,992 related to criminal matters: *ibid* 10.
- 127 Ibid 3.
- 128 Victorian Aboriginal Legal Service, Submission 826, 1.
- 129 Magistrates' Court of Victoria and Children's Court of Victoria, Submission 978, 12, 27.
- 130 Department of Justice and Regulation, 'Evaluation of the Koori Family Violence Court Support Program Pilot: Final Report' (Clear Horizon Consulting) (18 June 2012), 18-24, produced by the State of Victoria in response to the Commission's Notice to Produce dated 5 June 2015.
- 131 Ibid 28.
- 132 Eastern Community Legal Centre, Submission 582, Attachment 1, 17.
- 133 Ibid.
- 134 Ibid 11.
- 135 Transcript of Bamblett, 20 July 2015, 781 [29]-782 [3].
- 136 See, eg, Victorian Aboriginal Child Care Agency, Submission 947, 10; Aboriginal Family Violence Prevention and Legal Service Victoria, Submission 941, 18; Victorian Aboriginal Legal Service, Submission 826, 3; Transcript of Vickery, 20 July 2015, 803 [8]-[14].
- 137 Victorian Aboriginal Child Care Agency, Submission 947, 10.

- 138 Taskforce 1000 is a project between the Department of Health and Human Services and the Commission for Children and Young People. It commenced in 2014 and involves reviewing the current circumstances of the approximately 1000 Aboriginal children and young people in out-of-home care: Department of Human Services, *Taskforce 1000* (14 September 2015) <<http://www.dhs.vic.gov.au/about-the-department/plans,-programs-and-projects/projects-and-initiatives/children,-youth-and-family-services/taskforce-1000>>. A review of the Taskforce 1000 process found that it is 'successfully enabling immediate improvements for Aboriginal children and young people in care': Department of Health and Human Services, 'Review of Taskforce 1000 Process: Prepared for the Department of Health and Human Services' (KPMG) (26 February 2015), 5, produced by the State of Victoria in response to Commission's Notice to Produce 5 June 2015.
- 139 Statement of Jackomos, 9 July 2015, 5 [23]. Commissioner Jackomos subsequently advised the Commission this figure may be closer to 90 per cent.
- 140 Based on figures for the number of Aboriginal and Torres Strait Islanders in care at 30 June 2013 and 30 June 2014: Productivity Commission (Cth), 'Report on Government Services 2015' (2015) Chapter 15: Child Protection Services, Table 15A.18.
- 141 Statement of Jackomos, 9 July 2015, 4 [21].
- 142 Department of Health and Human Services, 'Royal Commission into Family Violence SAMS data request (2009–2014)' (1 July 2015), Tab 31245, Tab 31246, produced by the State of Victoria in response to the Commission's Notice to Produce dated 5 June 2015.
- 143 Victorian Auditor-General's Office, 'Early Intervention Services for Vulnerable Children and Families' (May 2015) 8.
- 144 Victorian Aboriginal Community Controlled Organisations and Community Service Organisations, 'Koorie Kids—Growing Strong in Their Culture: Five Year Plan for Aboriginal Children in Out of Home Care—Joint Submission from Victorian Aboriginal Community Controlled Organisations and Community Service Organisations' (November 2013) 15.
- 145 Ibid.
- 146 Statement of Jackomos, 9 July 2015, 4 [22].
- 147 Department of Health and Human Services, 'Taskforce 1000: Inner Gippsland Area Report' (May 2015), 10, produced by the State of Victoria in response to the Commission's Notice to Produce dated 5 June 2015.
- 148 Transcript of Turfrey, 20 July 2015, 885 [10]–[19].
- 149 Transcript of Jackomos, 14 July 2015, 171 [31]–172 [13].
- 150 'So my suggestion is that the Victorian Government needs to work with the local community, Aboriginal community, they need to work with agencies, statewide agencies such as VALS and VACCA and Aboriginal family violence, and local communities to develop a strategy as a highest priority of this government to address women being sexually abused and children in record numbers. Sadly, that's not on this government's agenda at the moment': Transcript of Jackomos, 20 July 2015, 804 [26]–805 [2]. See also Statement of Jackomos, 9 July 2015, 10 [47].
- 151 Andrew Jackomos, 'Open Letter in Response to 2015 Report on Government Services' (3 February 2015).
- 152 Victorian Aboriginal Children's Forum, 'Aboriginal Children's Summit: Communiqué' (August 2015) <<http://www.ccyp.vic.gov.au/downloads/aboriginal-childrens-forum-2015-communication.pdf>>. The Commission also notes that a number of programs have operated to support Aboriginal families in contact with the child protection system where removal may be imminent and/or to facilitate return home. Programs identified in documentation provided by the Victoria Government include Aboriginal Family Preservation and Restoration programs and Stronger Families services (including Aboriginal Stronger Families). See Department of Premier and Cabinet, '23rd Indigenous Family Violence Partnership Forum, Progress Updates against 10 Year Plan' (October 2014), 3, produced by the State of Victoria in response to the Commission's Notice to Produce dated 5 June 2015.
- 153 Aboriginal Family Violence Prevention and Legal Service Victoria, Submission 941, 17. See also Victorian Aboriginal Legal Service, Submission 826, 12.
- 154 Transcript of Vickery, 20 July 2015, 803 [10]–[15].
- 155 Transcript of Braybrook, 20 July 2015, 801 [1]–[3]. See also Statement of Gallagher, 10 August 2015, 7 [35].
- 156 Aboriginal Family Violence Prevention and Legal Service Victoria, Submission 941, 53.
- 157 Transcript of Braybrook, 20 July 2015, 783 [8]–[14].
- 158 Aboriginal Family Violence Prevention and Legal Service Victoria, Submission 941, 54.
- 159 Ibid.
- 160 Victorian Aboriginal Family Violence Prevention and Legal Service Victoria, Submission 941, 7.
- 161 Ibid 53; Koorie Youth Council, Submission 906, 12; Youth Affairs Council of Victoria Inc, Submission 938, 18.
- 162 *Children, Youth and Families Amendment (Permanent Care and Other Matters) Act 2014* (Vic) s 98.
- 163 *Children, Youth and Families Act 2005* (Vic) s 176(2).
- 164 Victorian Aboriginal Community Controlled Organisations and Community Service Organisations, above n 144, 3.
- 165 'An audit completed in August 2013 of 194 Aboriginal children in out-of-home care and subject to cultural support planning legislative requirements found that only 15 children (eight per cent) had a completed Cultural Support Plan. The data shows growing numbers of Aboriginal children in care, Aboriginal children staying in care longer and a failure to meet basic legislative and practice requirements. In blunt terms, the current approach to the protection of Aboriginal children in Victoria is failing': ibid.
- 166 Victorian Aboriginal Child Care Agency, Submission 947, 10–11.
- 167 Transcript of Jackomos, 14 July 2015, 175 [14]–[20].
- 168 See Victorian Aboriginal Children's Forum, above n 152.
- 169 Victorian Aboriginal Legal Service, Submission 826, 5.
- 170 Aboriginal Family Violence Prevention and Legal Service Victoria, Submission 941, 13; Matthew Willis, 'Non-disclosure of Violence in Australian Indigenous Communities' (Trends & Issues in Crime and Criminal Justice No 405, Australian Institute of Criminology, January 2011) 1.
- 171 State of Victoria, Submission 717, 14.
- 172 Victorian Indigenous Family Violence Task Force, above n 2, 142.
- 173 Transcript of Braybrook, 20 July 2015, 754 [20]–[24].
- 174 Victorian Aboriginal Legal Service, Submission 826, 3.
- 175 Community consultation, Bairnsdale, 28 May 2015.
- 176 Ibid.
- 177 Ibid.
- 178 Victorian Aboriginal Legal Service, Submission 826, 6.
- 179 'Many Indigenous women do not access mainstream domestic violence services because they do not feel comfortable with the organisation itself and don't feel that the staff understand their culture, values and needs': Aboriginal Family Violence Prevention and Legal Service Victoria, Submission 941, 25. See also Victorian Aboriginal Legal Service, Submission 826, 4–6; Victorian Auditor-General's Office, 'Accessibility of Mainstream Services for Aboriginal Victorians' (May 2014) 2.
- 180 Victorian Aboriginal Legal Service, Submission 826, 5.
- 181 Department of Premier and Cabinet, '23rd Indigenous Family Violence Partnership Forum: Social Housing Presentation' (October 2014), 18, produced by the State of Victoria in response to the Commission's Notice to Produce dated 5 June 2015.

182 Victorian Equal Opportunity and Human Rights Commission, 'Guideline for General Practices: Complying with the Equal Opportunity Act 2010 When Providing Services' (January 2014) 18, 22.

183 Transcript of Vickery, 20 July 2015, 763 [26]-764 [3].

184 VicHealth, 'Mental Health Impacts of Racial Discrimination in Victorian Aboriginal Communities: Experiences of Racism Survey—A Summary' (November 2012) 5.

185 Ibid 1, 5.

186 Ibid 6.

187 State of Victoria, Submission 717, Attachment 2, 3.

188 Department of Premier and Cabinet, above n 116, 1.

189 'The definition of Aboriginal family violence and nature of Aboriginal services increases this difficulty as, by their very nature, Aboriginal services seek to respond to clients in a holistic manner and are hence multifaceted': *ibid*.

190 Victorian Government, '2015-16 Budget Paper No 3: Service Delivery' (Department of Treasury and Finance, 2015) 10.

191 Department of Premier and Cabinet, above n 116, 2.

192 State of Victoria, Submission 717, Attachment 2, 12.

193 Aboriginal Family Violence Prevention and Legal Service Victoria, Submission 941, 28-32; Victorian Aboriginal Child Care Agency, Submission 947, 22-3; Northern Metropolitan Region Indigenous Family Violence Action Group, Submission 934, 14. See also Victorian Aboriginal Community Services Association Limited, Submission 837, 5; Aboriginal Family Violence Prevention and Legal Service Victoria, Submission 941, 32-3.

194 Department of Premier and Cabinet, above n 25, iv.

195 A participant in a community consultation reported that '[t]here was a series of six TV ads on local TV in Mildura. They used local people in Mildura, Robinvale, got the attention of those communities because people knew someone on TV. They were run during primetime. They were about elder abuse, younger relationships, early indicators, cyber abuse. They were funded by the Koori Justice Unit as a community safety grant. Makes the community proud. Like anti-smoking ads. There should be more ads on TV for community, posters': Community consultation, Melbourne 1, 14 May 2015.

196 Transcript of Jackomos, 20 July 2015, 756 [3]-[4], [12]-[19].

197 Department of Justice and Regulation, above n 130, 28.

198 Transcript of Bamblett, 20 July 2015, 769 [26]-[31].

199 Transcript of Vickery, 20 July 2015, 761 [25]-762 [1].

200 A total of \$650,000 is available under the fund. Thirty-nine projects were funded across the state in 2013-14. Guidelines for the program are published by the Department of Health and Human Services in each annual funding round. Department of Premier and Cabinet, '22nd Indigenous Family Violence Partnership Forum: Community Initiative Fund (CIF) 2014-15' (May 2014), produced by the State of Victoria in response to the Commission's Notice to Produce dated 5 June 2015.

201 Department of Premier and Cabinet, above n 25, iv.

202 'What the partnership forum has told us very clearly is that there are very good initiatives that are supported through the community initiative fund that if they want to be repeated have nowhere to go': Transcript of Singh, 20 July 2015, 864 [9]-[17].

203 Department of Premier and Cabinet, above n 25, iv.

204 Department of Premier and Cabinet, above n 25, vii.

205 Sarah Tayton et al, 'Groups and Communities at Risk of Domestic and Family Violence' (Australian Institute of Family Studies, 2014) 47.

206 Anna Olsen and Ray Lovett, 'Existing Knowledge, Practice and Responses to Violence Against Women in Australian Indigenous Communities' (Landscapes: State of Knowledge No 2, Australian National Research Organisation for Women's Safety, January 2016) 3.

207 Victorian Auditor-General, above n 179, x.

208 This criticism also applied in the case of funding for non-Aboriginal organisations.

209 National Aboriginal and Torres Strait Islander Women's Alliance, Submission 912, 6.

210 The 'Aboriginal Family Violence: Consultant's Guideline' was developed 'in response to concerns raised by Indigenous Family Violence Regional Action Group and Indigenous Family Violence Coordinators regarding the manner in which consultants are engaging with Aboriginal people around policy and programs relating to Aboriginal family violence': Victorian Government, 'Aboriginal Family Violence: Consultants' Guidelines' (May 2015) 2.

211 Victorian Indigenous Family Violence Task Force, above n 2, 237.

212 See eg, National Aboriginal and Torres Strait Islander Women's Alliance, Submission 912, 6; Victorian Aboriginal Legal Service, Submission 826, 7; Northern Metropolitan Region Indigenous Family Violence Action Group, Submission 934, 5; Koorie Youth Council, Submission 906, 5-6; Aboriginal Family Violence Prevention and Legal Service Victoria, Submission 941, 6; Victorian Aboriginal Child Care Agency, Submission 947, 29.

213 Transcript of Bamblett, 20 July 2015, 771 [19]-[23].

214 Ibid 771 [28]-[29].

215 Koori Women Mean Business, Submission 873, 3.

216 Transcript of Dowsley, 14 October 2015, 3582 [8]-[9].

217 Crime Statistics Agency, above n 35, 144.

218 Ibid.

219 Ibid.

220 Department of Premier and Cabinet, above n 25, vii.

221 Peta Cox, 'Violence Against Women in Australia: Additional Analysis of the Australian Bureau of Statistics' Personal Safety Survey, 2012' (Horizons: Research Paper No 01, Australia's National Research Organisation for Women's Safety, October 2015) 2, 4.

222 Victorian Aboriginal Legal Service, Submission 826, 5; Aboriginal Family Violence Prevention and Legal Service Victoria, Submission 941, 24-5; Victorian Aboriginal Child Care Agency, Submission 947, 28; Victorian Aboriginal Community Services Association Limited, Submission 837, 4, 6; Northern Metropolitan Region Indigenous Family Violence Action Group, Submission 934, 12.

223 Victorian Aboriginal Child Care Agency, Submission 947, 20.

224 For example between Indigenous and non-Indigenous organisations: Sam Morley, 'What Works in Effective Indigenous Community-Managed Programs and Organisations' (Paper No 32, Australian Institute of Family Studies, May 2015) 7.

225 Ibid 2.

226 Victorian Aboriginal Child Care Agency, Submission 947, 20.

227 Community consultation, Mildura, 2 July 2015.

228 Statement of Gallagher, 10 August 2015, 4 [22].

229 See eg, Transcript of Bamblett, 20 July 2015, 827 [27]-828 [2]; Statement of Kirby, 10 August 2015, 2 [14].

230 Transcript of Jackomos, 20 July 2015, 780 [12]-[15].

231 Statement of Braybrook, 16 July 2015, 4 [17]. See also Transcript of Braybrook, 20 July 2015, 833 [20]-[23].

232 Transcript of Braybrook, 20 July 2015, 833 [20]-[30].

233 Koori Women Mean Business, Submission 873, 4.

234 Community Consultation, Mildura, 2 July 2015.

235 Aboriginal Family Violence Prevention and Legal Service Victoria, Submission 941, 23.

- 236 See also National Aboriginal Community Controlled Health Organisation, 'Creating the NACCHO Cultural Safety Training Standards and Assessment Process: A Background Paper' (May 2011) 10–12.
- 237 Aboriginal Affairs Victoria, above n 1, 11.
- 238 Victorian Aboriginal Legal Service, Submission 826, 6.
- 239 Transcript of Singh, 20 July 2015, 857 [23]–[28], 858 [12]–[18].
- 240 In 2015 the Department of Human Services developed an addendum to the DHHS Standards evidence guide that 'is culturally informed, includes practice advice and examples to support improved service delivery to Aboriginal people': Department of Premier and Cabinet, '24th Indigenous Family Violence Partnership Forum: 10 Year Plan Departmental Progress Report' (June 2015), produced in response to the Commission's Notice to Produce dated 5 June 2015, 10. A copy of the guide can be found at Department of Health and Human Services, *Human Services Standards Evidence Guide and Resource Tool* (4 March 2016) <<http://www.dhs.vic.gov.au/about-the-department/documents-and-resources/policies,-guidelines-and-legislation/human-services-standards-evidence-guide-and-resource-tool>>.
- 241 Victorian Aboriginal Legal Service, Submission 826, 5–6.
- 242 Ibid 6.
- 243 Community consultation, Melbourne, 19 May 2015.
- 244 Aboriginal Family Violence Prevention and Legal Service Victoria, Submission 941, 26.
- 245 Victorian Aboriginal Legal Service, Submission 826, 4.
- 246 Department of Premier and Cabinet, above n 240, 2. See also Statement of Allen, 13 July 2015, Attachment 24, 20–1. The progress report on the 10 Year Plan to the 24th Indigenous Partnership Forum also notes that 'Indigenous Men's Resource and Advisory Service provides consultation to other organisations to provide more culturally sensitive and responsive information, advice and support to Indigenous workers. This helps to ensure organisations are up to date and linked with culturally appropriate referral options for Aboriginal perpetrators': Department of Premier and Cabinet, above n 240, 10.
- 247 Koori Women Mean Business, Submission 873, 4.
- 248 Victorian Aboriginal Child Care Agency, Submission 947, 4.
- 249 Transcript of Bamblett, 20 July 2015, 781 [16]–[20].
- 250 Ibid 781 [16]–[20]; Northern Metropolitan Region Indigenous Family Violence Action Group, Submission 934, 5.
- 251 Community consultation, Melbourne 1, 14 May 2015.
- 252 Transcript of Bamblett, 20 July 2015, 781 [16]–[20]; Northern Metropolitan Region Indigenous Family Violence Action Group, Submission 934, 3.
- 253 For example, in regards to early childhood services Aboriginal Best Start projects (in six sites) 'have been established to make sure that local Aboriginal communities and organisations are given every possible opportunity to influence outcomes for their children and families. These projects are designed to empower communities and families and develop broad cross-sectoral partnerships across all early years services to improve outcomes for Aboriginal children and their families': Department of Education and Training, *Aboriginal Best Start* (18 October 2015) <<http://www.education.vic.gov.au/about/programs/aboriginal/Pages/aboriginalbeststart.aspx>>.
- 254 'Being strong in culture builds the resilience, skills, participation and wellbeing of Aboriginal people, and is especially vital to young people, who make up a significant and growing part of the Aboriginal community': Department of Planning and Community Development, above n 4, 13.
- 255 Statement of Kirby, 10 August 2015, 3 [20].
- 256 Transcript of Jackomos, 20 July 2015, 830 [1]–[5].
- 257 Statement of Gallagher, 10 August 2015, 6 [31]. Ms Gallagher also noted 'lost opportunities', citing Bubup Wilam (meaning 'the children's place') creche and kindergarten, funded by the Commonwealth, was able to provide child care but due to funding limitations was not able to provide 'family violence screening and intensive case management: at 7–8 [36]. The National Partnership Agreement on Indigenous Early Childhood Development funded two Victorian Aboriginal Child and Family Centres one in Bairnsdale (Dala Yooro) and one in Whittlesea (Bubup Wilam). The agreement expired on 30 June 2014: Council of Australian Governments, 'National Partnership Agreement between the Commonwealth of Australia and the State and Territory Governments regarding Indigenous Early Childhood Development'; IECD, 'Evaluation of the National Partnership Agreement on Indigenous Early Childhood Development: Final Report' (July 2014) 62, 64; Department of Health (Cth), *National Partnership Agreement on Indigenous Early Childhood Development* (19 December 2014) <[http://www.health.gov.au/internet/main/publishing.nsf/Content/oatsih-npa\\_iecd](http://www.health.gov.au/internet/main/publishing.nsf/Content/oatsih-npa_iecd)>.
- 258 Transcript of Jackomos, 20 July 2015, 779 [26]–780 [7].
- 259 Ibid 780 [7]–[11].
- 260 Transcript of Bamblett, 20 July 2015, 781 [2]–[9].
- 261 Ibid 830 [25]–831 [5].
- 262 See also Department of Health and Human Services, 'Victorian Cradle to Kinder and Aboriginal Cradle to Kinder: Practice Guide' (October 2013).
- 263 Statement of Allen, 13 July 2015, 34 [174]–[179].
- 264 Ibid 35 [182].
- 265 See Australian Institute of Family Studies (Cth), *Cradle to Kinder Program Evaluation* (2016) <<https://aifs.gov.au/projects/cradle-kinder-program-evaluation>>.
- 266 Koorie Youth Council, Submission 906, 3.
- 267 That is, 35.2 per cent: Australian Bureau of Statistics, 'Census of Population and Housing—Counts of Aboriginal and Torres Strait Islander Australians' (Catalogue No 2075.0, Australian Bureau of Statistics, 2011).
- 268 VicHealth, 'Australians' Attitudes to Violence Against Women: Findings from the 2013 National Community Attitudes Towards Violence Against Women Survey' (September 2014) 90.
- 269 Statement of Gallagher, 10 August 2015, 7 [34].
- 270 Who is considered a 'young person' within Aboriginal communities may not always reflect the clear delineation between 'adolescents' and 'adults' accepted in mainstream western cultural frameworks: Koorie Youth Council, Submission 906, 4–5.
- 271 Koorie Youth Council, Submission 906, 7.
- 272 Community consultation, Melbourne 1, 14 May 2015. See also Northern Metropolitan Region Indigenous Family Violence Action Group, Submission 934, 9–10.
- 273 TNS Australia, 'Reducing Violence Against Women and Their Children: Research Informing the Development of a National Campaign' (Commonwealth of Australia, Department of Social Services, November 2015) 16–17.
- 274 Northern Metropolitan Region Indigenous Family Violence Action Group, Submission 934, 9.
- 275 Ibid 9–10.
- 276 Ibid 10.
- 277 Olsen and Lovett, above n 206, 4.
- 278 Community consultation, Melbourne 1, 14 May 2015. See also Northern Metropolitan Region Indigenous Family Violence Action Group, Submission 934, 7, 12–14.
- 279 Community consultation, Mildura, 2 July 2015.
- 280 Northern Metropolitan Region Indigenous Family Violence Action Group, Submission 934, 4.
- 281 Victorian Aboriginal Community Services Association Limited, Submission 837, 3.

282 Indigenous Men's Resource and Advisory Service, Submission 771, 14.

283 Aboriginal Family Violence Prevention and Legal Service Victoria, Submission 941, 22.

284 Transcript of Braybrook, 20 July 2015, 744 [1]–[12].

285 Ibid 744 [19]–[22].

286 Statement of Jackomos, 9 July 2015, 12 [56].

287 Transcript of Jackomos, 14 July 2015, 172 [16]–[24].

288 Victorian Aboriginal Legal Service, Submission 826, 7.

289 Ibid 6.

290 Aboriginal Family Violence Prevention and Legal Service Victoria, Submission 941, 30–1, 44.

291 Ibid 14, 32. For more detail about the history of funding, see ibid 28–31.

292 Ibid 24.

293 Ibid 24.

294 Northern Metropolitan Region Indigenous Family Violence Action Group, Submission 934, 13. See also Victoria Police, above n 120, 1–2.

295 'The police don't always follow the Koori police protocol—code of conduct—they often speak to the respondent and ignore the applicant on the call out': Community consultation, Mildura, 2 July 2015.

296 A stakeholder meeting in Bairnsdale to progress the protocols was held in February 2015. Consultation in additional sites (City of Shepparton and Dandenong/City of Casey) also took place in March 2015. Department of Premier and Cabinet, '24th Indigenous Family Violence Partnership Forum: Koori Family Violence Police Protocols' (June 2015), 1382, produced by the State of Victoria in response to the Commission's Notice to Produce dated 5 June 2015.

297 'The Koori Police protocol was launched in 2007 but is still not fully operational in 2015': Community consultation, Mildura, 2 July 2015.

298 Victoria Police, above n 120, 13–14, 18.

299 Ibid 9.

300 Ibid 2.

301 Ibid 8.

302 Ibid 2.

303 Transcript of Braybrook, 20 July 2015, 800 [26]–[29].

304 Community consultation, Mildura, 2 July 2015.

305 Flat Out Inc, Submission 980, 8.

306 Community consultation, Mildura, 2 July 2015.

307 Ibid.

308 Ibid.

309 Victoria Police, 'Code of Practice for the Investigation of Family Violence—Edition 3' (2014) 43–8. See Aboriginal Family Violence Prevention and Legal Service Victoria, Submission 941, 52 setting out concerns.

310 Other examples included: 'Boorndawan Willam Indigenous Healing Service highlighted the successful trial Eastern Domestic Violence Service is undertaking with police around asking the question of Aboriginality. The EDVOS worker is re-asking the question if missing from the L17 report. This is resulting in an increase in referrals to the Healing Service ... St Kilda Crisis Service has an Aboriginal worker and women are given the option of either an Aboriginal or mainstream service referral. This ensures women are offered a choice and it is the responsibility of the L17 provider to facilitate the referral pathway': Department of Premier and Cabinet, '24th Indigenous Family Violence Partnership Forum: Healing and Time Out Services' (June 2015), produced by the State of Victoria in response to the Commission's Notice to Produce dated 5 June 2015.

311 Northern Metropolitan Region Indigenous Family Violence Action Group, Submission 934, 13.

312 Victorian Aboriginal Child Care Agency, Submission 947, 29; Koori Caucus, Submission 946, 8.

313 Transcript of Jackomos, 20 July 2015, 798 [11]–[24].

314 Victorian Indigenous Family Violence Task Force, above n 2, 150.

315 See ibid 150, Recommendation 14.

316 Ibid 151 citing Elizabeth Hoffman House Inc and Victorian Aboriginal Health Service Mother and Children's Unit, 'Consultation Report on Aboriginal Women & Children's Experiences of Family Violence within Victorian Aboriginal Communities' (29 June 2003).

317 Transcript of Vickery, 20 July 2015, 823 [21]–[23], 823 [31]–824 [2].

318 Magistrates' Court of Victoria and Children's Court of Victoria, Submission 978, 41; Koori Caucus, Submission 946, 20. This program is distinct from the Court Integrated Services Program which currently operates at Latrobe Valley, Melbourne and Sunshine Magistrates' Courts: Magistrates' Court of Victoria, *Court Integrated Services Program* (CISP) (17 July 2013) <<https://www.magistratescourt.vic.gov.au/jurisdictions/specialist-jurisdictions/court-support-services/court-integrated-services-program-cisp>>.

319 Department of Justice and Regulation, above n 130, 18–24.

320 Magistrates' Court of Victoria and Children's Court of Victoria, Submission 978, 12.

321 Ibid 41.

322 Transcript of Vickery, 20 July 2015, 805 [12]–[30]; Aboriginal Housing Victoria, Submission 587, 5.

323 Aboriginal Housing Victoria, Submission 587, 5.

324 Law Institute of Victoria, Submission 832, 28.

325 Transcript of Vickery, 20 July 2015, 805 [12]–[30]; Law Institute of Victoria, Submission 832, 28.

326 Department of Premier and Cabinet, '23rd Indigenous Family Violence Partnership Forum: Koori Courts Access and Issues' (October 2014), 2, produced by the State of Victoria in response to the Commission's Notice to Produce dated 5 June 2015.

327 Department of Justice and Regulation, 'Jurisdiction Services: Minutes of Meeting—Courts Koori Reference Group' (10 December 2015), provided to the Commission by the Department of Justice and Regulation, 14 January 2016.

328 Ibid.

329 Department of Justice, 'Koori Court: Information for Legal Representatives' <[https://www.magistratescourt.vic.gov.au/sites/default/files/Default/kc\\_legal%2Bprac%2Bguid.pdf](https://www.magistratescourt.vic.gov.au/sites/default/files/Default/kc_legal%2Bprac%2Bguid.pdf)>.

330 County Court of Victoria, Court Services Victoria and Victorian Aboriginal Justice Agreement, 'Can My Matter Be Heard in the County Koori Court' <<http://www.countycourt.vic.gov.au/sites/default/files/forms/County%20Koori%20Court%20-%20Can%20my%20matter%20be%20heard%20%28February%202015%29.pdf>>.

331 Department of Justice, 'Koori Court: Information for Legal Representatives' <[https://www.magistratescourt.vic.gov.au/sites/default/files/Default/kc\\_legal%2Bprac%2Bguid.pdf](https://www.magistratescourt.vic.gov.au/sites/default/files/Default/kc_legal%2Bprac%2Bguid.pdf)>.

332 Australian Institute of Health and Welfare (Cth), *Domestic and Family Violence and Homelessness 2011–12 to 2013–14* (2016) <<http://www.aihw.gov.au/homelessness/domestic-violence-and-homelessness>>. See also Australian Institute of Health and Welfare (Cth), 'Over one-third of specialist homelessness clients seek domestic and family violence support' (Media Release, 3 February 2016).

333 Australian Institute of Health and Welfare (Cth), *The intersection of domestic violence and homelessness* (2016) <<http://www.aihw.gov.au/homelessness/domestic-violence-and-homelessness/intersection/>>.



- 334 'The proportion of female clients who identified as Indigenous is almost the same as that of male clients, with 10 per cent (n=5940) of female clients and 11 per cent (n=1293) of male clients identifying as Indigenous': Crime Statistics Agency, above n 35, 105; Department of Premier and Cabinet, 'above n 25, 16.
- 335 Council to Homeless Persons et al, Submission 920, 1.
- 336 Statement of Kirby, 10 August 2015, 13 [53].
- 337 Aboriginal Family Violence Prevention and Legal Service Victoria, Submission 941, 18.
- 338 Victorian Aboriginal Legal Service, Submission 826, 11; *ibid* 18.
- 339 Aboriginal Housing Victoria, Submission 587, 3–4. In 2014–15 the number of households on the Aboriginal Housing Victoria waiting list was 1143. In the same year 136 allocations were made: Department of Health and Human Services, 'Aboriginal Housing Victoria information' (5 August 2016), 2–3, 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).
- 340 Aboriginal Family Violence Prevention and Legal Service Victoria, Submission 941, 18.
- 341 Statement of Rogers, 20 July 2015, 12 [78].
- 342 *Ibid* 25 [152].
- 343 Northern Metropolitan Region Indigenous Family Violence Action Group, Submission 934, 9.
- 344 Victorian Aboriginal Child Care Agency, Submission 947, 27.
- 345 Statement of Wilson, 13 August 2015, 3 [15]. See also Transcript of Wilson, 13 August 2015, 2884 [4]–[11].
- 346 Community consultation, Mildura, 2 July 2015.
- 347 *Ibid*.
- 348 Aboriginal Family Violence Prevention and Legal Service Victoria, Submission 941, 18.
- 349 Transcript of Jackomos, 20 July 2015, 792 [12]–[13].
- 350 Victorian Equal Opportunity and Human Rights Commission, 'Unfinished Business: Koori Women and the Justice System' (August 2013) 23, cited in Victorian Aboriginal Legal Service, Submission 826, 11.
- 351 Victorian Aboriginal Legal Service, Submission 826, 11.
- 352 Transcript of Jackomos, 20 July 2015, 796 [25]–[27].
- 353 Transcript of Vickery, 20 July 2015, 796 [9]–[20].
- 354 Community consultation, Melbourne 1, 14 May 2015.
- 355 Crime Statistics Agency, above n 35, 101; Statement of Rogers, 20 July 2015, 27 [167].
- 356 Transcript of Vickery, 20 July 2015, 791 [3]–[11], [19]–[23].
- 357 Victorian Aboriginal Community Services Association Limited, Submission 837, 6; Confidential, Submission 730, 13.
- 358 Victorian Aboriginal Community Services Association Limited, Submission 837, 6. See also Victorian Aboriginal Child Care Agency, Submission 947, 23.
- 359 Community consultation, Bairnsdale, 28 May 2015.
- 360 Transcript of Turfrey, 20 July 2015, 881 [13]–[14].
- 361 *Ibid* 881 [20]–[22].
- 362 Victorian Aboriginal Legal Service, Submission 826, 10.
- 363 Transcript of Vickery, 20 July 2015, 797 [17]–[28].
- 364 Victorian Aboriginal Legal Service, Submission 826, 10.
- 365 Victorian Indigenous Family Violence Task Force, above n 2, 4.
- 366 Department of Premier and Cabinet, above n 25, 36.
- 367 Transcript of Vickery, 20 July 2015, 803 [9]–[15].
- 368 Statement of Jackomos, 9 July 2015, 5 [23]. Commissioner Jackomos subsequently advised the Commission this figure may now be closer to nine out of ten of this group of children.
- 369 Commission for Children and Young People, 'Commission for Children and Young People: Annual Report 2013–2014' (September 2014) 37.
- 370 Transcript of Jackomos, 20 July 2015, 830 [1]–[5].
- 371 Victorian Aboriginal Child Care Agency, Submission 947, 10.
- 372 *Ibid* 7.
- 373 Victorian Aboriginal Community Controlled Organisations and Community Service Organisations, above n 144; Koorie Youth Council, Submission 906, 17.
- 374 The Cradle to Kinder program is currently being evaluated with a report due in early 2016: Statement of Allen, 13 July 2015, 36 [80]–[81].
- 375 The target group for Integrated Family Services—Indigenous is 'vulnerable Aboriginal children and young people and their families who are: likely to experience greater challenges because the child or young person's development has been affected by the experience of risk factors and cumulative harm; at risk of concerns escalating and becoming involved with child protection if problems are not addressed. Integrated Family Services—Indigenous services may be provided by the local Aboriginal community controlled organisation or a mainstream funded community service organisation where an ACCO is not located in the catchment, or by agreement': Department of Health and Human Services, 'Integrated Family Services—Indigenous 31246' (July 2013), 2, produced by the State of Victoria in response to the Commission's Notice to Produce dated 5 June 2015. Documentation provided by the Victorian Government indicates that the proportion of new referrals to Child FIRST and family support services to Indigenous Integrated Family Services with an Aboriginal status in 2013–2014 was 7.1 per cent (an increase of 0.2 per cent): Department of Premier and Cabinet, above n 240, 4.
- 376 Statement of Jackomos, 9 July 2015, 10 [47].
- 377 Commissioner Jackomos called for 'the development of a statewide strategic response to improving the lives of vulnerable Aboriginal babies, children and young people with child protection, youth justice and child homelessness as well as children's trauma and mental health at its core ... The strategic response should be an initiative agreed between the broad Aboriginal community and government, with governance arrangements on par with the Aboriginal Justice Agreement. The response at a minimum should include; principles, protocols, targets and measureable outcomes monitored through a partnership forum': Jackomos, above n 151.
- 378 Victorian Aboriginal Children's Forum, above n 152.
- 379 *Children, Youth and Families Act 2005* (Vic) s 176.
- 380 Charter of Human Rights and Responsibilities Act 2006 (Vic) s 19(2).
- 381 Victorian Aboriginal Children's Forum, above n 152.
- 382 Department of Premier and Cabinet, above n 116.
- 383 The mid-term evaluation recommended that service fragmentation and consistency of access to culturally responsive programs should be addressed by expanding the following initiatives, informed by program evaluations: healing services (evaluation required); Time Out Services (evaluation required); Koori Family Violence Police Protocols (evaluation completed) and Koori Family Violence Court Support Model) evaluation completed): Department of Premier and Cabinet, above n 25, vii.
- 384 Department of Premier and Cabinet, above n 25, vii.
- 385 Victorian Aboriginal Child Care Agency, Submission 947, 21.
- 386 Victoria Police, above n 120, 1–2.

<sup>387</sup> Department of Justice and Regulation, above n 130, 6.

<sup>388</sup> The Commission understand that an evaluation of healing and Time Out services was planned to align with the mid-term evaluation of the Indigenous Family Violence Strategy: see Department of Premier and Cabinet, '22nd Indigenous Family Violence Partnership Forum: Healing and Time Out Services Update' (29 April 2014), produced by the State of Victoria in response to the Commission's Notice to Produce dated 5 June 2015. However, the evaluation states that these services have not been evaluated: Department of Premier and Cabinet, above n 25, vii.

<sup>389</sup> We make recommendations regarding improving data collection, data sharing, research and evaluation in Chapter 39 where we recommend that Victoria Police, Department of Health and Human Services, Department of Justice and Regulation, Department of Education and others should improve the collection of Indigenous specific data relating to family violence so that this can be shared with communities, organisations and governance forums to inform local, regional and statewide responses. We also recommend that the proposed Victorian Government Family Violence Index includes measures that reflect the lived experience of family violence in different communities, including Aboriginal communities.





# 27 Older people

## Introduction

The Commission's terms of reference require it to consider the needs and experiences of people affected by family violence, having particular regard to, among others, older people.

In some ways, family violence experienced by older people is no different to that experienced by younger people. It can be of a physical, sexual, emotional or psychological nature and be committed by an intimate partner or other family member. Like many other forms of family violence, women are over-represented as victims and men as perpetrators.

However, family violence against older people also has some unique characteristics, which warrant particular attention and a tailored response. While women are over-represented as victims in prevalence data, the proportion of older men who experience family violence is higher than for younger men. Older people can also be at particular risk of economic or financial abuse. The perpetrator is often the victim's son or daughter.

In the first part of this chapter, we explore the nature and prevalence of family violence experienced by older people, and existing service responses. The second part of this chapter considers in greater detail some of the specific issues faced by older people who experience family violence. These include barriers to reporting family violence. Older people may be reluctant to take action that may be to the detriment of a close family member, they may not know where to go for help or they may conform to generational expectations that family violence is a private matter. For some older people, reliance on others for care can also make them isolated and at risk of family violence.

In addition to this, there is a significant lack of understanding within the community and by service providers of the nature and dynamics of elder abuse, which can create missed opportunities to intervene and provide support to victims. Most existing family violence services and perpetrator interventions are not geared towards the unique dynamics of elder abuse, or to the needs of certain groups.

In the final part of this chapter, the Commission identifies ways to improve awareness of the responses to family violence perpetrated against older people and proposes improvements to the identification and reporting of family violence for this group. This includes improving education and prevention initiatives, strengthening service responses and improving alternative accommodation options for older people, recognising that aged care facilities are not an appropriate option for many people. Proposals to expand the definition of family violence to more explicitly capture elder abuse and mandatory reporting are also considered.

Our recommendations aim to overcome difficulties that arise in identifying and responding to abuse and to secure the safety and wellbeing of older people who are at risk of, or are experiencing, family violence.

## Context and current practice

This section outlines the limited data and information on the prevalence and nature of family violence and elder abuse experienced by older people. It goes on to describe the key service providers that support older people affected by family violence, the framework for reporting and investigating abuse in institutional and non-institutional settings, and the existing justice and health system responses to the specific experiences of older victims of family violence.

When referring to 'older people' the Commission uses the definition most commonly used in developed countries—a person aged 65 years or over.<sup>1</sup> However, some services for older people may start providing support and services to people below this threshold, particularly for Aboriginal and Torres Strait Islander people.<sup>2</sup>

It is important to understand the difference between family violence and elder abuse. Like family violence,<sup>3</sup> elder abuse can be physical, sexual, emotional, psychological, or economic in nature, and can also take the form of neglect.<sup>4</sup> Elder abuse occurs within a relationship where there is 'an expectation of trust which causes harm or distress to an older person',<sup>5</sup> but is broader than family violence as it can also occur outside the family context (for example, by a carer or a friend). Where the perpetrator is a family member (or in some circumstances a carer or other person who could reasonably be regarded as being like a family member), the abuse will constitute family violence under the *Family Violence Protection Act 2008 (Vic)*.<sup>6</sup> The terms elder abuse and family violence are, however, often used interchangeably in policy documents and statistics. We do so when referring to these documents.

### Older people in Victoria

In Victoria, approximately 761,580 people are aged 65 years and over, representing 14 per cent of the state population.<sup>7</sup> Of this group, 45 per cent are male and 55 per cent are female.<sup>8</sup>

The following data is useful to understand the circumstances and needs of older people in addressing family violence:

- ▶ Approximately 56 per cent ( $n=461,000$ ) of Victorians aged 65 years and over have a disability, compared with 13 per cent ( $n=653,900$ ) of those aged under 65 years.<sup>9</sup> Of the 461,000 older Victorians with a disability, 38 per cent ( $n=175,300$ ) have a profound or severe disability. This includes people who reach very old age.
- ▶ A further 33 per cent ( $n=268,200$ ) of Victorians aged 65 years and over have a long-term health condition, compared with 18 per cent ( $n=899,500$ ) of those aged under 65 years.<sup>10</sup>
- ▶ Approximately 46 per cent ( $n=381,600$ ) of Victorians aged 65 years and over need assistance with at least one activity. Approximately six per cent ( $n=50,600$ ) of older Victorians live in cared-accommodation.<sup>11</sup>
- ▶ Of 37,991 Victorians who identified as Aboriginal or Torres Strait Islander, only four per cent ( $n=1,626$ ) are aged 65 years or over.<sup>12</sup>

## The extent and nature of family violence against older people

This section outlines what the Commission heard about the nature and dynamics of family violence perpetrated against older people and how it can differ from family violence against younger people.

### Prevalence

The Commission was told that there is very limited evidence on the prevalence of elder abuse in Australia. It has been estimated to affect five to six per cent of older people in Australia, while international studies contain disparate estimates of between one to ten per cent of older people.<sup>13</sup> There is no prevalence data for Victoria.<sup>14</sup> As with many forms of family violence, some older people do not recognise their experience as constituting elder abuse or family violence and as a result there is considerable under-reporting.<sup>15</sup>

Victoria Police incident reporting data shows that in 2013–14, 1359 women and 878 men who were affected family members (that is, victims) in family violence incidents were over the age of 65. This represents 2.8 per cent of all female, and 5.5 per cent of all male, affected family members.<sup>16</sup> By comparison, in the general population as at the last census (2011) 15 per cent ( $n=417,033$ ) of all female Victorians and 13 per cent ( $n=344,547$ ) of all male Victorians were aged 65 years and over. It has been suggested that family violence may be reported at a lower rate by people over 65 years than by younger people. Factors that may contribute to this are discussed further below.

### Forms of family violence

In common with people of other age groups, family violence against older people can be physical, psychological, emotional or sexual. Older people can be at particular risk of economic or financial abuse, which is discussed in greater detail in Chapter 21.<sup>17</sup> When older people are reliant on others for care, they can be victims of neglect<sup>18</sup> and can be deprived of the basic necessities of life.<sup>19</sup> All these forms of abuse can constitute family violence under the *Family Violence Protection Act 2008 (Vic)*.

### Gender of victims and perpetrators

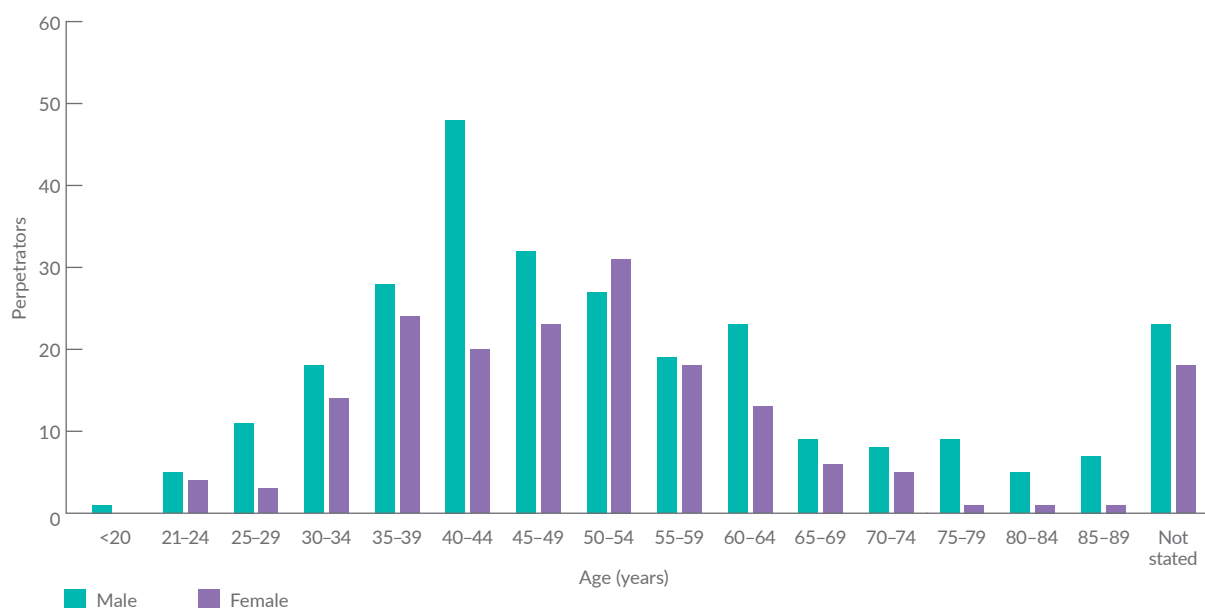
Seniors Rights Victoria data demonstrates that older women are more likely to be victims of family violence than men.<sup>20</sup> This is consistent with Victoria Police data which shows that more women than men are victims in the older age brackets, as is the case in all age brackets.<sup>21</sup>

Victoria Police data does, however, show that among people aged 65 and over, a higher proportion of victims are men than the proportion of male victims in the younger population: 39 per cent ( $n=878$ ) compared to 24 per cent ( $n=14,735$ ) in 2013–14.<sup>22</sup> This is also consistent with the Seniors Rights Victoria study results discussed in detail below.

The Commission was told that elder abuse can involve stereotypical assumptions that women, particularly older women, are less capable than men. As one person explained, '[s]ome children assume that an older woman, particularly a woman who has not been the family's breadwinner, is unable to manage her own finances after her husband dies'.<sup>23</sup> She concluded that '[m]y brothers' perspectives of power, entitlement and gender roles led them to financially abuse their mother'.<sup>24</sup>

In relation to perpetrators, Victoria Police data shows that men are the majority of perpetrators in each age bracket.<sup>25</sup> Data from a Seniors Rights Victoria study is similar. Seniors Rights Victoria analysed calls made to its helpline for advice by 755 older people over a two-year period (from 2012–2014). These calls covered both elder abuse and family violence. Figure 27.1 sets out information about the age and gender of the alleged perpetrators behind this elder abuse.

Figure 27.1 Elder abuse: age and gender of alleged perpetrator



Source: Profile of elder abuse in Victoria – Summary report.<sup>26</sup> Note: this data is based on victims to whom Seniors Rights Victoria provides services, who are people aged 60 years and above (or 45 years and above for Aboriginal and Torres Strait Islander people).

As Figure 27.1 shows, even taking into account that there are more women than men aged 65 years and over, the majority of perpetrators aged 65 years and over were men (38 men to 14 women). However the majority of perpetrators of elder abuse aged 50–54 years were women (31 women to 27 men).

### Family violence by adult children

The Commission received evidence that family violence against older people is often perpetrated by someone younger than the victim—most commonly their children.<sup>27</sup>

My son was a gambler from the age of 17. In 2009, my husband became ill and was placed in high-care, my son took control of every single aspect of my life. He always ran the business books. I never questioned my son, I never doubted him. He brought a friend to our home with a document saying the house was going to be sold and become his property. He stole my car. He also verbally abused me and later physically abused me—he nearly killed me—fractured my ribs, concussion.<sup>28</sup>

Ms Jenny Blakey, Manager, Seniors Rights Victoria, told the Commission that the ‘defining characteristic’ of family violence against older people is the difference in ages between the victim and perpetrator.<sup>29</sup>

Seniors Rights Victoria submitted that its study showed that over two-thirds of elder abuse incidents were perpetrated by a son or daughter of the older person.<sup>30</sup> Almost 28 per cent of older people reporting abuse stated they lived with their son or daughter, compared to less than seven per cent of older people overall.<sup>31</sup>

The Seniors Rights Victoria study showed that:

- ▷ the majority of elder abuse incidents were reported by people aged 70 to 84
- ▷ the majority of alleged perpetrators were aged 35 to 54 years
- ▷ 92.3 per cent of alleged perpetrators were related to the older person:
  - ▷ 40 per cent were sons and 26.8 per cent were daughters
  - ▷ 4.8 per cent were husbands, 3.3 per cent were wives and 3.1 per cent were de facto partners
  - ▷ 4.4 per cent were grandchildren
  - ▷ 3.3 per cent were sons-in-law and 3.1 per cent were daughters-in-law.<sup>32</sup>

A substantial number of perpetrators of all abuse types were described by the older person as having substance misuse, mental health or gambling issues.<sup>33</sup>

### **Unrelated carers or co-residents**

Older people may reside in a variety of settings, including living in their own home, living with family members, living in a retirement village or in an aged care facility. In each of these settings, they may receive care from and be exposed to violence perpetrated by family members or non-related carers. If living in a retirement village or an aged care facility, they may also be exposed to violence perpetrated by co-residents. As noted above, the Family Violence Protection Act 2008 (Vic) applies to instances of family violence committed where the victim and perpetrator are considered to be family members, including where family-like relationships exist.<sup>34</sup> The relationship dynamics between an older person and non-related carers or co-residents may give rise to a family-like relationship, due to the duration of the relationship, the social and emotional ties between the victim and perpetrator and the levels of dependence.<sup>35</sup> Whether such a family-like relationship exists and gives rise to the application of the Act will depend upon the facts of each individual case.<sup>36</sup>

### **Ageism as a contributing factor**

The Commission heard that ageism—stereotyping or discriminating against a person because of their age—can be an important factor in family violence against older people.

The Eastern Elder Abuse Network submitted:

There is no doubt that ageism is one of the fundamental social determinants of elder abuse. Ageist attitudes and behaviors cause older people to feel less valued, burdensome and intimidated. Ageist attitudes and behaviors also allow the younger person to feel a sense of righteousness, entitlement and/or control in ways which can easily turn into elder abuse.<sup>37</sup>

Ageism includes a lack of respect for older people or societal attitudes which view older people as incapable or a burden.<sup>38</sup> The World Health Organization observes that '[o]lder people are often depicted as being frail, weak and dependent, something that has made them appear less worthy of ... family care than other groups, and has presented them as ready targets for exploitation'.<sup>39</sup>

The Council on the Ageing points out that '[c]ommon myths about ageing – particularly assumptions around capacity – often ignore the economic and social contribution older people have made and continue to make as workers, as carers and in volunteering'.<sup>40</sup> Despite this, 'many [older people] encounter embedded and systemic inequalities in a pervasive culture of ageism'.<sup>41</sup> Some feel that '[t]here is ... criticism of older people, as if we are taking something from the community, rather than contributing as we do'.<sup>42</sup>

Older people can feel that they become 'invisible':

Once a person reaches a point in their life where they are perceived as 'older', they somehow seem to become transparent to younger people, as though they don't exist, don't matter, don't have anything important worth listening to, or it's out of date and irrelevant.<sup>43</sup>

Most older people become invisible after 60 ...<sup>44</sup>

Adult children may feel a sense of entitlement to their parent's assets.<sup>45</sup> Another submission explained that:

Financial elder abuse may begin with the best intentions – with a child acting as their mother's financial power of attorney thereby managing her finances. This can quickly progress to a sense of entitlement, particularly when adult children have mortgages or debts ... The children may justify their actions by saying: 'Mum doesn't need money now, and it's going to be mine anyway'.<sup>46</sup>

Referring to family violence against older people in the United States, one researcher questioned the near-invisibility of this type of family violence, asking:

Why has there been no public outrage? Perhaps the twin culprits of ageism and denial are to blame. Perhaps the constellation of phenomena that make up elder abuse ... are so disparate that the problem lacks a coherent public identity. Perhaps, although millions of Americans are grappling with the challenge of protecting themselves, their parents and others, elder abuse remains relegated to a family predicament rather than a national one. Which brings us to this question: How do we as individuals and as a nation measure the value of life in old age? And why have we not done more to protect and defend our most vulnerable elders?<sup>47</sup>

The Commission heard suggestions that the effect of an older person's poor health on family carers may give rise to 'caregiver stress'.<sup>48</sup> It is sometimes suggested that 'caregiver stress' can be a cause of elder abuse, but research has not found it to be a causative factor:

... an old person's dependency on the carer and resulting stress has not been found to predict the occurrence of elder abuse in most studies to date. Case-comparisons studies have failed to find either higher rates of dependency in the old person or greater carer stress in elder abuse situations.<sup>49</sup>

## Impact of family violence on older people

The consequences of family violence for older people can be severe. The Commission was told of the terrible impact that such violence can have:

In the last 18 months [my son] became violent. He sold his house to pay off debts and moved into my place. He had plans to get a power of attorney, telling people that I had dementia. He started becoming aggressive, throwing things at me, throwing me against the glass sliding doors in [the] kitchen, threw things everywhere, and I had to lie to the insurance agency 'because you just don't say anything' ... It became worse, he started getting angry, especially when he found out that I wanted to sell the house to downsize. Said he would do things if I did.<sup>50</sup>

[Her son] dragged her down 3 concrete steps into the garage where he threw her to the floor and proceeded to kick her and hit her with her walking stick. She said she "thought she was going to die". She begged him to stop promising not to call the police. After the assault was over he called the ambulance stating she had fallen. She ... suffered shock, extensive bruising, cuts and grazes. In hospital she remained adamant that the police, social workers and authorities were not to be informed. She said she was afraid of her son's reaction. She also divulged that she had been physically assaulted on many occasion by her son over many years. She said he also stole medications at times and regularly took her pension.<sup>51</sup>

The Commission was told by nurses from a Melbourne hospital's emergency department that over the last three years they had seen older people living at home present with a wide range of injuries, including:

Falls—due to pushing and assault by family members—causing fractured bones and exacerbating existing health conditions requiring hospital admissions.

Dog bites—an elderly man was set upon by his son's dog causing multiple bites to his legs.

Punches to the face—elderly wife assaulted by her husband whilst on the toilet.

An elderly woman with a fractured femur [had] been kept two weeks at home bedridden, covered in faeces and urine and been fed Weetabix with whiskey.

73yo lady punched and pinched by her daughter requiring wound dressings and IV antibiotics.

Elderly lady drugged by a "friend" and had her alter her will and bank details whilst influenced by diazepam (police informed with patients consent).

Elderly been 'stood over' for medications and pensions by family members.

Unexplained frequent falls with bruises and cuts—consistent with [being] assaulted.<sup>52</sup>

## Current supports and services for older people

### Service providers

#### Seniors Rights Victoria

Seniors Rights Victoria is the key statewide service that provides 'leadership across Victoria by addressing and responding to older people experiencing abuse, operating under principles of empowerment of older people and recognition of their rights'.<sup>53</sup>

Seniors Rights Victoria assist people who:

- ▷ are 60 years of age or older (45 years and over for Indigenous clients), or people approaching 60 years of age with age-related disabilities and illnesses
- ▷ are experiencing (or are at risk of experiencing) elder abuse, mistreatment and/or financial exploitation within a relationship of trust
- ▷ have issues relating to ageing
- ▷ have capacity to give legal instruction (capacity is presumed unless demonstrated otherwise).<sup>54</sup>

Seniors Rights Victoria's services include:

- ▷ a helpline
- ▷ specialist legal services
- ▷ short-term support and advocacy for individuals
- ▷ community education.<sup>55</sup>

Seniors Rights Victoria also provides 'leadership on policy, systemic advocacy and law reform and works with other organisations and groups to better identify, address and prevent elder abuse'.<sup>56</sup>

Seniors Rights Victoria is funded by the Department of Health and Human Services, the Commonwealth Attorney-General's Department and Victoria Legal Aid and works in partnership with Justice Connect, Eastern Community Legal Centre and Loddon Campaspe Community Legal Centre.<sup>57</sup>

The Department of Health and Human Services has provided Seniors Rights Victoria with \$0.64 million in 2014–15 to fund its Helpline and pro bono legal services. Seniors Rights Victoria will deliver information to at least 2000 callers over this period and provide over 550 pieces of legal and advocacy advice.<sup>58</sup>

## Justice Connect Seniors Law

Justice Connect Seniors Law provides free legal services to older people who are unable to afford it so they can make informed decisions and ensure that their rights are protected. The objective of Seniors Law is to 'improve the ability of older Victorians to age with dignity and respect'.<sup>59</sup>

Justice Connect Seniors Law assist clients with legal issues including guardianship and administration, powers of attorney and arrangements to live with family, including where these arise in the context of elder abuse.

It works closely with the health and community sector, providing free appointments at hospitals and health centres across Melbourne through pro bono lawyers, as well as training on elder abuse and other legal issues to health, community and legal professionals.<sup>60</sup> Seniors Law also has a project lawyer based at cohealth, a community health organisation, in Footscray.<sup>61</sup>

## Government initiatives and guidelines

The Victorian Government has sought to address family violence against older people in a number of ways. Following the 2005 *Strengthening Victoria's Response to Elder Abuse: Report of the Elder Abuse Prevention Project* report, the Victorian Government established the Elder Abuse Prevention Advisory Group and developed the *Elder Abuse Prevention Strategy* based on principles that enable and empower older people.<sup>62</sup>

The Department of Health and Human Services also produced guidelines about elder abuse, such as *With Respect to Age—2009: Victorian Government Practice Guidelines for Health Services and Community Agencies for the Prevention of Elder Abuse*<sup>63</sup> and *Elder Abuse Prevention and Response Guidelines for Action 2012–14*,<sup>64</sup> both of which are available online.

The *With Respect to Age* guidelines recommended that community education programs be developed to raise awareness of elder abuse, delivered on an ongoing basis and conducted sensitively.<sup>65</sup>

The Victorian Government's submission stated that DHHS has allocated funding for the following organisations and programs across the 2014–15 period:

- ▶ Seniors Rights Victoria's elder abuse prevention online professional education training, designed to build the capacity of the Victorian workforce to identify and respond to elder abuse<sup>66</sup>
- ▶ Raising Awareness of Elder Abuse in Culturally and Linguistically Diverse Communities, a program run by the Ethnic Communities Council of Victoria, focusing on elder abuse in six communities.<sup>67</sup>

Existing elder abuse training material has also been adapted to ensure that it is culturally safe for Aboriginal and Torres Strait Islander communities and culturally and linguistically diverse communities. For example, the DHHS elder abuse prevention training manuals have been revised to include 'more culturally specific information relating to Aboriginal communities'.<sup>68</sup>

A range of community education programs and resources have been developed, including elder abuse prevention awareness sessions delivered to over 2300 participants<sup>69</sup> and professional education and training involving 7000 participants statewide.<sup>70</sup>

Ms Frances Diver, Deputy Secretary of Health Service Performance and Programs at DHHS, gave evidence that the department has released an online version of the elder abuse prevention course which she reported has attracted strong participation from people working in aged care and general practice. The department is also working with the Royal Australian College of General Practitioners to develop training materials on elder abuse.<sup>71</sup>

Health care professional education and training is discussed in greater detail in Chapter 19.



## Reporting and investigating abuse

Many forms of elder abuse are crimes and require police investigation.<sup>72</sup> This is true both in institutional settings (for example, aged care facilities and hospitals) and non-institutional settings (for example, an older person's home). The *With Respect to Age* guidelines developed under the Elder Abuse Prevention Strategy apply to institutions and to workers within the home who may suspect or be told of abuse of an older person.

### Reporting elder abuse in institutional settings

The *With Respect to Age* guidelines encourages institutions to review or develop elder abuse (including family violence) policies and procedures aligned to the Victorian Government Elder Abuse Prevention Strategy.<sup>73</sup>

Under the strategy, service response frameworks are to be used by institutions to manage day-to-day care requirements of older people. These frameworks are to contain procedures for identifying, investigating and responding to reports or evidence of elder abuse.<sup>74</sup>

The strategy contemplates that once elder abuse has been identified, an interagency protocol for reporting and investigation in institutional settings is to be followed. The protocol, which is to be adapted to individual providers in their local setting, provides instruction on internal and external reporting and referral requirements, such as to management, police and Seniors Rights Victoria.<sup>75</sup>

The *With Respect to Age* guidelines advise that for reports of elder abuse requiring police investigation, the victim should first be consulted by the institution for consent to report the incident.<sup>76</sup> Where, however, there is a 'significant risk to the safety of the older person or others', the victim's confidentiality is not unconditional<sup>77</sup>—it may be necessary to report it to police despite the victim's wishes.

### Reporting elder abuse in non-institutional settings

An older person may experience family violence in their own home or in another non-institutional setting. They may report the abuse to family, friends or health care professionals such as general practitioners, or these professionals may identify it themselves.

#### In-home health services, community agencies or other service providers

The *With Respect to Age* guidelines are intended to apply when a worker from a health service, community agency or another relevant service visits the older person's home and suspects or is told of elder abuse.<sup>78</sup>

Those workers may include general practitioners and nurses, aged care assessment teams and community workers and volunteers, such as those providing meals on wheels.<sup>79</sup> The Commission was told that although home visitors make older people more visible, it was really the 'potential to build trust and relationships through regular contact that offered critical conduits' to eliciting disclosures of abuse. Without this, 'it's unlikely that [the victim will] just blurt out something'.<sup>80</sup>

There was an older woman and her husband accessing ... [home support] services over a period of years. The woman was frail and struggling to care for her husband who had dementia. Her own health issues and carer status meant her social withdrawal and weepiness was put down to stress and ill health by workers who saw her regularly. It was only when a new worker had started ... who probed a little further ... that the wife disclosed that she was being sexually assaulted by her husband. The dementia had rendered her husband incapable of determining her consent or willingness and she was afraid to tell anyone as she felt she needed to protect her husband.<sup>81</sup>

## Helplines and the community

Victims may also contact helplines such as the Seniors Rights Victoria helpline, or the police.<sup>82</sup> The Commission heard that often victims are reluctant to report abuse particularly to the police, and reports may instead be made by concerned family, members of the community or health care professionals.<sup>83</sup>

To encourage reporting by the community, Seniors Rights Victoria suggested that people reporting concerns about elder abuse be treated anonymously.<sup>84</sup> For example, the New South Wales Elder Abuse Helpline accepts anonymous reports, such as notifications from concerned neighbours and friends, and can then take appropriate steps to ensure that the older person is safe.<sup>85</sup>

## Justice system

When family violence is identified, there may be complexities surrounding information and evidence gathering. Substantiating and gathering information may occur over time and involve multiple service providers and resources.<sup>86</sup> Justice Connect Seniors Law submitted that investigations should always:

... proceed ... very carefully and where possible involve other health care professionals, drawing on their perceptions, judgement and experience ... Health care providers may not have the confidence, compounded by a lack of professional expertise, to take the matter further.<sup>87</sup>

## Victoria Police

The Victoria Police Code of Practice for the Investigation of Family Violence currently recognises that abuse of older people is 'insidious and easily concealed'.<sup>88</sup> The Code of Practice states that Victoria Police will take 'all reports of elder abuse seriously and will investigate all matters and make referrals where required'. Older people with dementia or neurological disease are noted as being particularly at risk of elder abuse. Where evidence is limited, the Code advises police officers to 'continue to search for other indicators to substantiate what has occurred'.<sup>89</sup> Behaviours that indicate elder abuse are listed as:

- ▷ withdrawal
- ▷ depression
- ▷ other hints of helplessness.

The Code identifies that carers may be considered family members under the Family Violence Protection Act, and that where an accused carer is also a guardian, the police should 'ensure that a reassessment of the guardianship order is facilitated through [the Victorian Civil and Administrative Tribunal]'.<sup>90</sup>

## The courts

The Judicial College of Victoria, which has the task of educating Victorian judicial officers, outlined in its submission a family violence core curriculum for judges and magistrates. One of the topics is 'understanding groups with specific needs'.<sup>91</sup>

Where elder abuse (including family violence) is considered by the courts, judges have the benefit of a Family Violence Benchbook which explains what elder abuse is and why it often goes unreported. Forms of elder abuse, the range of perpetrators and barriers to reporting are outlined.<sup>92</sup>

Attention is also given to the issue of 'caregiver stress'. The Benchbook advises that caregiver stress is often mistakenly relied upon by aged care professionals as an excuse for the perpetrator's behaviour, rather than recognising it as a 'choice motivated by issues of power and control'.<sup>93</sup>

## Health service responses

### St Vincent's Hospital model

St Vincent's Health Australia told the Commission about its new hospital-wide policy of care and education to respond to elder abuse (including family violence). Ms Meghan O'Brien, social work team leader at St Vincent's Hospital, Melbourne, conducted research into contemporary best practice from other jurisdictions and developed a model for the hospital with the following key features:<sup>94</sup>

- ▷ high-level governance arrangements—a senior Vulnerable Older People Coordination and Response Group reviews all data relating to suspected cases and advises on policy and continuous improvement
- ▷ a model of care which supports staff to identify pathways for intervention and escalation based on risk, patient choice and safety planning
- ▷ tiered education—the framework is underpinned by three levels of competency training for hospital staff
- ▷ data collection and notification—all cases of confirmed, witnessed or suspected elder abuse are notified to the Coordination and Response Group. The data informs performance measurement, service improvement and workforce training.<sup>95</sup>

The Commission heard that the framework has already delivered significant improvements to practice, and could be adapted for use in other hospitals and by other health-care and aged care service providers.<sup>96</sup>

Ms O'Brien also discussed risk assessments and safety planning that respected the wishes of older people who are experiencing family violence:

... we obviously have situations where we have got patients over 65 who are competent and very much their choice, their wish ... is to return to [living at home]. So in some situations discharge may not stop [the family violence], but what we may do is actually just implement a revised care plan based on the risk or what that older person actually wants and what the risk factors are.<sup>97</sup>

### Aboriginal community controlled health organisations

Ms Jill Gallagher AO, Chief Executive Officer, Victorian Aboriginal Community Controlled Health Organisation stated that '[t]o me, family violence is a health issue, so in my opinion we should absolutely have services at all of our [Aboriginal community controlled health organisations] that deal with it'.<sup>98</sup>

The Commission heard of compulsory family violence and elder abuse training run by Aboriginal Community Elders Services. Ms Gallagher stated that ACCHO workers:

should be trained and supported to be able to identify and respond to family violence issues. A number of our services have taken the initiative with this, for example, Aboriginal Community Elders Services (ACES) has made it compulsory for their staff to undertake training to address Elder abuse, annually.<sup>99</sup>

Ms Gallagher suggested that '[t]his sort of response to family violence should happen across the board at all services'.<sup>100</sup>

## Health-Justice Partnerships

Justice Connect Seniors Law's submission advocated the Health-Justice Partnership model of service, which has been used in both the United States and Australia.<sup>101</sup> In 2014, the Victorian Legal Services Board provided funding for nine such partnerships, including a three-year partnership involving Justice Connect Seniors Law and cohealth.<sup>102</sup> The stated aims of this were:

- improved collaboration between legal and health professionals and greater internal capacity to identify and respond to elder abuse
- provision of legal assistance with a focus on early intervention
- development of relationships with local communities and an increase in the capacity of those communities to identify and respond to elder abuse through facilitating the development of community-specific screening tools.<sup>103</sup>

Both the St Vincent's Hospital model and Health Justice Partnerships are discussed further in Chapter 19.

## Education, training and practice initiatives

The Commission was told of several initiatives which focus on education, training and practice. Some of these initiatives include:

- ▷ A professional training program—developed by Justice Connect Seniors Law, aimed at engaging and educating health and community organisations. The program is delivered in three phases: 'hidden' legal issues for older people, a legal health check and a training package. In 2013–14, the training was delivered to over 500 professionals.<sup>104</sup>
- ▷ Training videos—developed by the Eastern Elder Abuse Network one of which has won both international and local awards.<sup>105</sup> The Eastern Elder Abuse Network also established an electronic case-conferencing facility so that members of the network can collaborate and support one another with elder abuse cases.<sup>106</sup>
- ▷ An online elder abuse tool kit—developed by Seniors Rights Victoria, which addresses signs of abuse, how to work respectfully with older men and women and when and how to report elder abuse.<sup>107</sup> The Maroondah City Council has also developed an elder abuse tool kit, available for anyone working with older at-risk people which also comes with elder abuse prevention guidelines for staff in aged and disability services to assist with the identification and response to elder abuse.<sup>108</sup>
- ▷ A series of short films raising awareness of elder abuse—developed by the Bendigo District Aboriginal Cooperative, funded by Indigenous Family Violence-Community Initiative Fund.<sup>109</sup>

In addition, 'Norma's Project' was established in December 2011 as a research study into the sexual assault of older women. The study was conducted by the Australian Research Centre in Sex, Health and Society, La Trobe University, with the final report published in June 2014.

## Norma's Project

Norma's Project aims to increase awareness of sexual assault of older women 'within the community and amongst service providers, and to strengthen the community's ability to prevent, respond to and speak out about the sexual assault of older women'.<sup>110</sup> Norma's Project produced a research study into the sexual assault of older women in Australia involving surveys and interviews of older women who had experienced sexual assault, their friends, carers and service providers.<sup>111</sup>

The project found that despite a lack of prevalence data, there is sufficient evidence to suggest that women remain vulnerable to sexual assault into old age, with the impacts of sexual assault on older women remaining largely unexplored or documented.<sup>112</sup>

A framework for prevention of sexual assault of older women was proposed,<sup>113</sup> involving information, education and training and public policy development. Norma's Project found that education and training strategies should:

- promote sexual rights and access / avenues to support services
- promote gender equality and challenge pervasive ageism
- improve service responses to the needs of older women, particularly those with cognitive impairment.<sup>114</sup>

The report also recommended effective sector-wide responses, including strategies for aged care, health and welfare services and police and judicial responses.<sup>115</sup>

The study acknowledged that the *National Plan to Reduce Violence against Women and their Children 2010–2022*<sup>116</sup> envisages grants to assist diverse groups, including older women, although it does not expressly refer to their specific needs.<sup>117</sup>

## Challenges and opportunities

This section reviews some challenges many older people face when seeking to report family violence, as well as issues with the current system response. These include a lack of understanding and awareness about family violence and how it affects older people, and inadequacies in the current oversight regime.

### Definition of family violence

Some submissions suggested that the definition of family violence in the Family Violence Protection Act should specify that it covers neglect and more subtle forms of financial abuse; for example, refusing to contribute to living expenses when living with an older person.<sup>118</sup>

Neglect may be active (such as deliberately withholding basic care or necessities) or passive (failing to provide proper care).<sup>119</sup> It may be possible to address passive neglect through additional support for both the carer and the older person.<sup>120</sup>

Moreland Community Legal Service offered the following justifications for specifying neglect in the definition of family violence:

... there can be no doubt that there is an expectation that people in a marriage-like relationship have an obligation to care and support each other and so a failure to meet the standard should be properly described as family violence. In a similar way, it could be argued that if adult children live with parents, they thereby assume the obligations of support and care of a close relationship, and that falling short of the standard of support and care should also be defined as family violence.<sup>121</sup>

## Barriers to older people reporting family violence

Family violence against older people tends to be under-reported.<sup>122</sup> Some older people may not recognise their experience as family violence and may regard abusive behaviour as a 'normal' part of their intimate partner or family relationships or of ageing.<sup>123</sup>

In the past, women were not supported to report or leave abusive relationships:

[30 years ago] I don't think many women thought they had much choice ... they spoke to their minister or priest or they spoke to their doctor and none of those professionals had the appropriate response. They gave them advice about how to be a better wife or how to keep the peace ... And they were called things like difficult marriages or demanding husbands. There were all sorts of labels around what were obviously very violent and abusive relationships.<sup>124</sup>

Therefore, older people may not be culturally empowered to report family violence, because:

Societal/cultural and gender conditioning as well as different generational expectations mean that older victims may have a higher tolerance for some abusive behaviours or be less likely to seek help.<sup>125</sup>

Reliance on the abuser can make it difficult for an older person to seek help or leave their home; for example, they may be financially reliant upon the perpetrator or have concerns about who will care for them if they do leave. Other reasons for not reporting included concerns about stigma<sup>126</sup> and lack of knowledge about the organisations or services available to assist the victim.<sup>127</sup> A community consultation participant noted:

One of the things with elder abuse is knowledge ... a woman told somebody about what was happening to her. [T]hey told her [it] was called family violence. And she went on to access [relevant] services and they changed her life. She had put up with that abuse for 47 years. Older people don't know about services and they don't label what is happening as family violence.<sup>128</sup>

The Commission was told that older people are often reluctant to report abuse inflicted by an adult child, because they want to preserve family relationships.<sup>129</sup> Ms Blakey noted a reluctance to become involved in legal processes:

People say, 'I don't want the police involved. I don't want my son and daughter to be charged by the police.' There is a reluctance to engage in legal solutions. There is a sense of protecting and supporting the son or daughter in whatever way they can. So there's a sense, I guess, of ... what we call a protective love as a parent in being very reluctant to then take action against the family member, usually the adult child.<sup>130</sup>

For these reasons, the Eastern Elder Abuse Network submitted that 'a punitive or retaliatory approach is seldom the appropriate response'.<sup>131</sup> Such an approach could cause further anxiety and stress to the older victim.<sup>132</sup> Instead, 'responses to family violence against older victims should be sensitive to their familial relationships and their choices'.<sup>133</sup>

The Commission is aware that barriers to reporting could be addressed in a number of ways. Dr John Chesterman, Manager of Policy and Education at the Office of the Public Advocate, recommended the establishment of clear non-police contact points where older people (or members of the community concerned about the wellbeing of at-risk adults) can seek help, without the immediate connection to a criminal justice response.<sup>134</sup>

More broadly, if a range of other options were available to address family violence against older people, they might feel more comfortable seeking help. For example, in Canada members of the Waterloo Region Committee on Elder Abuse (which consists of both government and community partners<sup>135</sup>) designed a dual education and intervention approach, developed with input from older people and based on principles of restorative justice. Restorative justice seeks to 'restore social relationships rather than just to punish offenders', which was seen as important in cases of elder abuse where the victim wanted the abuse to stop, but also wanted to maintain a relationship with, for example, their adult child.<sup>136</sup>

A key element of restorative justice is the involvement of the victim and other members of the community ... Victims, who play a very limited role in the normal court system, are very involved in the restorative justice process. They are able to tell their story and describe the impact that the offense has had upon their lives in an environment where they are supported and protected. The restorative justice process is intended to ensure that the perpetrator is aware of the consequences of his or her actions and has the chance to acknowledge what he or she has done and to have the opportunity to apologize and make a commitment to change. While restitution is often a part of the process, the main purpose is to transform the relationship between the offender and the victim into a healthy and equal one.<sup>137</sup>

Restorative justice is discussed further in Chapter 22.

The Waterloo project evolved to include an Elder Abuse Response Team, or EART, which provides a victim-centred, coordinated community response. The EART comprises health care workers (for example, nurses and home therapists) and justice workers. The team works collaboratively via the Inter-Agency Elder Abuse Working Group, providing 'a forum for information sharing and problem-solving related to suspected and confirmed elder abuse situations'.<sup>138</sup> The assigned lawyer determines whether restorative justice is appropriate, on a case-by-case basis. The EART became part of the Waterloo Regional Police Service domestic violence unit and is co-located with other relevant agencies such as the Sexual Assault Domestic Violence Treatment Centre.<sup>139</sup>

## **Lack of understanding and awareness of family violence experienced by older people**

The Commission heard that there is a lack of understanding of older people's experiences of family violence among many mainstream service providers and within the community generally.

Various people may be able to refer victims to family violence services, including other family members, general practitioners, social workers, case managers, Centrelink, home and community care workers, police and court staff.<sup>140</sup> However, submissions identified the difficulty on the part of those providing services to older people in knowing how to identify and respond to older people who may be experiencing family violence.<sup>141</sup>

This lack of understanding limits the ability to identify indicators of family violence, to develop trusting relationships with older victims to encourage disclosures of violence and to provide support to those victims.<sup>142</sup>

The Commission heard that it is necessary to provide mainstream service providers including health and aged care professionals, lawyers and finance professionals with relevant information, including information about sources of support.<sup>143</sup>

Institutions such as aged care facilities and hospitals play ‘an important role in identifying, reporting and preventing elder abuse’.<sup>144</sup> This is especially true of health professionals as they are best placed to identify family violence since most older people trust them.<sup>145</sup> Despite this, the Commission was told that they ‘they often fail to recognise [cases of elder abuse]’, including because of:

- ▷ limited consensus and understanding of what constitutes elder abuse
- ▷ lack of knowledge of reporting or referral frameworks
- ▷ concerns about confidentiality
- ▷ concerns referral may compromise therapeutic relationships
- ▷ consequences for the older person
- ▷ impact of the legal process on the older person
- ▷ reluctance to become involved in legal process
- ▷ outside scope of professional responsibility
- ▷ dissatisfied with authorities response to elder abuse
- ▷ lack of conviction that referral would improve outcomes
- ▷ older person has denied mistreatment
- ▷ abuse only involved subtle signs
- ▷ difficulties in obtaining necessary evidence.<sup>146</sup>

The Commission heard examples of such lack of understanding of elder abuse and family violence amongst health care professionals:

A disturbing case in the eastern metropolitan region involved a 78 year old woman experiencing sexual abuse at the hands of her husband who had Alzheimer’s Disease. When encouraged to speak to her GP, he advised her that this was common and that in any case men with this disease who are exhibiting these behaviours usually pass through this stage “in a year or so”. No support or referral was offered.<sup>147</sup>

As a result, the Commission was told of the importance of training health care and other professionals specifically about elder abuse to increase detection rates.<sup>148</sup> One researcher found that health care professionals who had received some professional training relating to elder abuse were twice as likely to suspect physical abuse and were more likely to ‘record, report and discuss elder abuse’.<sup>149</sup>

Justice Connect Seniors Law told the Commission that health care professionals are more likely to detect elder abuse if they:

- ▷ routinely asked older people about abuse
- ▷ had an elder abuse protocol
- ▷ knew about the relevant law on abuse.<sup>150</sup>

Justice Connect Seniors Laws’ submission detailed the professional training programs it delivers to community and health organisations on elder abuse.<sup>151</sup>

Justice Connect Seniors Law submitted that one opportunity to improve identification of family violence is through a Health-Justice Partnership.<sup>152</sup> Based on the success of the Justice Connect Seniors Law and cohealth partnership and encouraging research from the United States, Justice Connect Seniors Law recommended government funding be provided for the expansion of the Health-Justice Partnership model of service.<sup>153</sup>

The Commission was also told about the importance of improving communication coordination and collaboration between various sectors (such as the aged care, health, family violence, legal and accommodation sectors).<sup>154</sup> Information sharing is discussed further in Chapter 7.



## Mandatory reporting

A number of submissions noted the lack of a mandatory requirement or framework to report the abuse of older people.<sup>155</sup> While there are reporting obligations in certain circumstances, these are not universal. For example, under the *Aged Care Act 1997* (Cth), aged care staff members are required to report a 'reportable assault' (which includes unlawful sexual contact and unreasonable use of force).<sup>156</sup> This obligation does not apply to older people who do not live in these facilities.<sup>157</sup>

Health care workers who encounter elder abuse can be placed in a difficult situation if the victim says that they do not want to report the abuse. Staff may be faced with deciding whether to breach medical confidentiality and disregard the patient's wishes or report the abuse.<sup>158</sup> The Commission was told there is a lack of guidance about what should be done to protect the patient in these circumstances.<sup>159</sup>

The dilemma for nurses and doctors in this case were frustrating. Because [the victim] clearly stated she did not want police or government agencies involved; they were conflicted about reporting this situation. There was no guideline or identified pathway that the staff could follow in order to ensure this event was clearly identified and services required; actioned. This caused confusion and uncertainty. No staff member was identified as who should do what – "is it my responsibility or someone else's". Are we breaking confidentiality, are we allowed to report this? Who do we refer this patient to for follow up?<sup>160</sup>

In that case, no report was made and the victim moved to an aged care facility while the perpetrator continued to live in her home. With proper community support, the victim could have remained at home for some years if the perpetrator been reported and removed.<sup>161</sup>

Knox City Council submitted that a statewide legislative mandatory reporting framework, similar to the child protection reporting system, would enhance the safety of older people experiencing abuse and would provide a better basis for assessing the extent of the problem.<sup>162</sup> Macedon Ranges Shire Council submitted that reports should only be made with the consent of the victim, and that if the victim did not have the capacity to consent, a report should only be made if it was in their best interests.<sup>163</sup>

Other organisations argued against a mandatory reporting requirement, except perhaps where physical or sexual violence is involved, to ensure that the rights and wishes of older people continue to be respected.<sup>164</sup>

Seniors Rights Victoria did not support mandatory reporting but acknowledged that there were ways in which the government could better assist older people experiencing family violence, such as by expanding the investigative powers of the Public Advocate in suspected cases of neglect,<sup>165</sup> and recognising scope to explore additional ways in which the government could assist older people. Similarly, the Victorian Government has previously not supported mandatory reporting.<sup>166</sup>

## Increasing public awareness

Prevention was identified as a key area of focus to reduce elder abuse. Many submissions suggested that education and raising public awareness is crucial to addressing family violence against older people.<sup>167</sup>

To address attitudes which may lead to elder abuse, several submissions pointed to school-based early intervention programs, similar to or expanding upon the current Respectful Relationships Education program.<sup>168</sup> One submission stated that '[i]t is vital to implement programs to educate children on the harmful effects of this violence, in both primary and secondary schools around Australia' particularly targeting 'negative attitude[s] toward elders'.<sup>169</sup>

Macedon Ranges Shire Council submitted that 'educational "respect" campaigns should begin in primary schools'.<sup>170</sup>

Community-wide awareness and education programs like media campaigns were also suggested. The Eastern Elder Abuse Network recommended that such a campaign could be 'aimed at long-term attitudinal changes so that ageism is seen as unacceptable in modern society'.<sup>171</sup>

It has been suggested that:<sup>172</sup>

Just as addressing gender inequality and ensuring respect for women are central to stopping violence against women, so is overcoming ageism. Promoting the dignity and inherent value of older people is a crucial component of elder abuse prevention.<sup>173</sup>

Norma's Project noted that the *National Plan to Reduce Violence against Women and their Children 2010–2022* focuses on primary prevention, aiming to achieve 'attitudinal and behavioural change', particularly among younger people.<sup>174</sup> While Norma's Project strongly supported primary prevention, it noted that this by itself does not address current abusive behaviours and the experience of victims today, meaning that a 'broader spectrum of actions is required that places greater emphasis on interventions'.<sup>175</sup>

## Risk assessment issues

The Commission was told that there are risk factors relevant to family violence against older people that are not covered by the Family Violence Risk Assessment and Risk Assessment Framework (known as the Common Risk Assessment Framework or the CRAF).<sup>176</sup> Moreland Community Legal Service noted that some risk factors are relevant to assessing risk to both older and younger cohorts (for example, previous violence) while others, such as 'recent pregnancy' are generally unhelpful to older people.<sup>177</sup>

Some risk factors that are more specific to older people include:

- ▷ the recent loss of a spouse<sup>178</sup>
- ▷ ongoing or resumed co-habitation with adult children<sup>179</sup>
- ▷ diminished capacity from age-related diseases (for example, dementia)<sup>180</sup>
- ▷ living alone, social isolation and dependence on others<sup>181</sup>
- ▷ poverty or, conversely, the accumulation of substantial assets<sup>182</sup>
- ▷ language or financial literacy barriers.<sup>183</sup>

The absence of appropriate risk factors in the CRAF may mean that some instances of family violence against older people are not identified. The value of family violence risk assessment as a lens through which to identify elder abuse was also noted. It was submitted that:

Understanding the power and control issues in regard to [e]lder [a]buse is essential in breaking down the barriers for fearful, isolated victims and to ensure that service system responses recognise these issues when confronted by them. Rather than responding how wonderful to an [elderly person's] statement of "oh I owe him everything", consider why would a person make that statement. For those of us who have worked within a Domestic Violence Framework they signal alarm bells. However for the less skilled or exposed systems such as Aged Care Services they may not recognise triggers, statements or cues of abuse for what they are.<sup>184</sup>

## Criminal investigations

Dr Chesterman has argued that police should have the expertise to investigate perpetrators of crimes against at-risk adults, including crimes involving financial abuse.<sup>185</sup> Victoria Police's Blue Paper recognises the need for changes to respond to growth in crimes such as fraud.<sup>186</sup>

Seniors Rights Victoria identified a promising initiative of the Seattle police department aimed at reducing instances of abuse of older people.<sup>187</sup> The department has two detectives who specialise in identifying and stopping abuse of at-risk adults. Investigations involve meeting victims and obtaining records, and can result in bank accounts being frozen or seized.<sup>188</sup> The department's website provides information on elder abuse, including information on financial exploitation.<sup>189</sup>

As discussed, one of the barriers to older victims reporting family violence is their relationship with the perpetrator and a potential desire to preserve family relationships. The Commission was told that older victims generally prefer informal or civil remedies, rather than police investigation and criminal proceedings where family members are concerned.<sup>190</sup> The Victoria Police Code of Practice does not directly address an older victim's possible preference for an alternative, non-criminal response.

Dr Chesterman highlighted one initiative in Nova Scotia, Canada that seeks to achieve a balance between criminal and alternative responses.<sup>191</sup> Under this approach, the sheriff must not make or enforce a protection order if the victim has not consented to the order or its enforcement. However, in some cases, this refusal may be overruled. This includes where the victim has been 'unduly pressured' or where there are no less restrictive means of responding to the abuse.<sup>192</sup> Justice Connect Seniors Law submitted that Victoria Police should engage in a similar approach in balancing whether or not to prosecute instances of elder abuse.<sup>193</sup>

## Oversight

The Commission heard that the current framework for investigating elder abuse is inadequate. Dr Chesterman observed:

When it comes to the investigation of situations of concern, Victoria's adult protection system has some notable gaps. As mentioned, Victoria's emergency services tend to play a limited role outside of situations where there is a medical emergency or where there is obvious evidence of a crime having been committed. Other agencies do have investigatory powers, but while in combination these can result in significant positive outcomes, many situations of concern do not automatically come within the purview of any particular agency.<sup>194</sup>

No single organisation has a general investigative role across the community.<sup>195</sup> The Victorian Ombudsman focuses on 'administrative actions' by public authorities. The Office of the Public Advocate focuses on circumstances where a guardianship or administration order may be appropriate.<sup>196</sup> The Office of the Public Advocate also oversees community visitors who visit:

- ▷ designated mental health services, residential services that provide 24-hour nursing care and other types of residential services (under the *Mental Health Act 2014 (Vic)*)<sup>197</sup>
- ▷ registered disability service providers and department-managed disability services where residential services are being provided (under the *Disability Act 2006 (Vic)*).<sup>198</sup>

In its 2012 *Guardianship* report, the Victorian Law Reform Commission found that the Office of the Public Advocate does not have a 'comprehensive range of powers to carry out these functions'.<sup>199</sup> Recommendations made by the VLRC, not yet implemented by the Victorian Government, include:

- ▷ that the Office of the Public Advocate should have the function of receiving and investigating complaints and conducting investigations on its own motion in relation to the abuse, neglect or exploitation of people with impaired decision-making ability due to a disability<sup>200</sup>
- ▷ that guardianship laws should be amended to allow for greater flexibility to accommodate different levels of cognitive ability and decision-making needs—rather than the current regime which contemplates only capacity and incapacity, it proposed that the regime should accommodate a spectrum of cognitive abilities, and allow different models of assistance depending on where the person sits on the spectrum<sup>201</sup>
- ▷ the introduction of 'supporters' and 'co-decision makers' who could be appointed to assist with decision-making, but would not become substitute decision makers
- ▷ investigations should be able to be undertaken in relation to supporters, co-decision makers and substitute decision makers, broadening the range of people over which the Office of the Public Advocate is able to undertake investigations beyond those who are the subject of a guardianship order.

Other initiatives to improve safeguards for people with disabilities (noting that older people are more likely to have a disability than younger people) include:

- ▷ the development of a national framework of quality and safety standards in the disability services sector as part of the National Disability Insurance Scheme, which will include services standards, complaint mechanisms and management of critical incidents<sup>202</sup>
- ▷ recent recommendations by the Victorian Ombudsman in relation to oversight of the disability sector, including the creation of an independent oversight body.<sup>203</sup>

These are discussed further in Chapter 31. The Victorian Government has said it will consider the Ombudsman's recommendation in the context of the Victorian Parliament Family and Community Development Committee's *Inquiry into Abuse in Disability Services* final report and development of the National Disability Insurance Scheme Quality and Safeguards Framework.<sup>204</sup>

While these recommendations and initiatives may go some way to assisting older Victorians with disabilities or impaired decision-making capacity, there is still a substantial number of older people who do not fall within these categories and so will not be assisted by the reforms.

## Accessing accommodation and services

### Barriers to access

A number of submissions referred to specific barriers faced by some groups of older people when trying to access relevant services.<sup>205</sup>

These include older people from Aboriginal and Torres Strait Islander communities, for whom culturally safe services are important. The Commission heard that barriers for this group include actual and perceived discrimination by service providers; language and cultural barriers; lack of trust in services and organisations; and lack of awareness of and engagement with local Aboriginal communities.<sup>206</sup>

Older people from culturally and linguistically diverse communities may also find it difficult to gain access to services in a relevant language and/or that are culturally appropriate.<sup>207</sup> Older women from CALD communities are at increased risk of elder abuse, especially financial abuse, because of limited English language skills and reliance on family members to help them navigate the service system.<sup>208</sup> In some CALD communities, there is a stigma attached to having a parent live in residential care, which may lead to people not disclosing elder abuse.<sup>209</sup>

The Commission was also told that family violence against older lesbian, gay, bisexual, transgender and intersex victims is likely to be under-reported.<sup>210</sup> Older lesbian, gay, bisexual and transgender people can be particularly at risk. Many have faced a lifetime of discrimination and feel reluctant to seek help from services for fear of further discrimination.<sup>211</sup>

Older people in rural, regional and remote communities also face difficulty in gaining access to services due to isolation and limited access to specialist family violence services, crisis accommodation, legal services and other general services.<sup>212</sup> In many rural, regional and remote communities the proportion of seniors is increasing as younger people leave to pursue study and employment opportunities elsewhere,<sup>213</sup> further compounding their isolation and social exclusion.

Finally, while experiences of older people who acquire a disability can be different from people with disabilities who are ageing, both groups may face some similar barriers in accessing services—such as a lack of wheelchair or mobility aide access.<sup>214</sup>

These experiences are discussed in greater detail in Chapters 26, 28, 30, 31 and 33.

## **Lack of accommodation for victims and perpetrators**

### **Homelessness and family violence**

Family violence can cause homelessness for older victims, particularly older women. A study by the Australian Domestic and Family Violence Clearinghouse and Older Women's Network NSW, which drew on 31 qualitative interviews with women who were homeless and over the age of 45, indicated that most older women who were homeless 'had endured relationships that were abusive and difficult'.<sup>215</sup> Many disclosed stories of abuse during their lifetime, including by family and partners.<sup>216</sup> A number were in poor physical health from causes including family violence-related injuries.<sup>217</sup>

Analysis of specialist homelessness service data undertaken by the Australia Institute of Health and Welfare confirms the link between family violence and homelessness of older women. They report that in the period 2010–11 to 2013–14, of 144,710 women accessing specialist homelessness services across Australia that were experiencing family violence, 16 per cent or 23,154 women were aged 45 years and over.<sup>218</sup> Data for Victoria is consistent with these findings.<sup>219</sup>

### **Remaining at home**

Many older people prefer to remain in their own homes and community.<sup>220</sup> This allows them to remain close to family and friends, upon whom they may be reliant for support. If an older person becomes a victim of family violence in these circumstances, especially if the family member providing the care is the perpetrator, they may not have ready access to alternative accommodation or care. Justice Connect Seniors Law explained that the 'availability of health and community services to support older people to remain in their home without having to rely on the abusive family member is critical'.<sup>221</sup>

The Victorian Government currently funds a number of services that support older people remaining in their homes, including the home and community care program.<sup>222</sup>

### **Economic gender inequality**

Seniors Rights Victoria observed that victims over 60 years of age were born before 1955, when 'lifestyles and values were different from what they are today'.<sup>223</sup> Relevantly, gender roles were more firmly entrenched, with 'traditional breadwinner/homemaker stereotype[s]'.<sup>224</sup> Accordingly, there were fewer paid employment opportunities for women, especially once they started a family. Older women live with the consequences of this economic gender inequality.

The gender gap in retirement savings and retirement incomes is a consequence of events across a woman's lifecycle. It stems from deep and systemic gender inequality – ingrained attitudes towards gender roles and caring; women's vulnerability to violence; the gender pay gap; constrained choices and decisions about paid work and care; the impact of divorce; discrimination and harassment. Each of these experiences affects subsequent opportunities and finally leads to women accumulating poverty instead of financial security.<sup>225</sup>

Older, single women are one of the most disadvantaged population groups in Australia.<sup>226</sup> Such women can include victims of intimate partner violence who may have left the relationship. It can also include women who have been exposed to the violence of adult children. Many may have limited savings and earning capacity.

### **Accessing the private rental market**

Older victims who seek to leave their home are likely to find that the private rental market is beyond their reach, putting them at risk of homelessness.<sup>227</sup>

Older people experience a range of difficulties accessing the rental market, including discrimination and limited means. The Housing for the Aged Action Group identify that:

... in addition to the age related discrimination that is faced by all older people in the private rental market, [older people must also] compete for a limited number of affordable properties with younger people who may have one or two full incomes.<sup>228</sup>

The history of economic gender inequality makes this particularly difficult for older women, especially those also fleeing family violence and seeking alternative accommodation.

### **Crisis accommodation**

The Commission was told that there was a need for better crisis accommodation options for both older victims and perpetrators of family violence.<sup>229</sup> Ms Colleen Pearce, the Victorian Public Advocate, as well as Ms Blakey, noted that the current family violence system (including crisis accommodation) was designed for women and children and may not recognise the specific needs of older people; for example, most refuges are not fully accessible to people with mobility difficulties.<sup>230</sup> The Commission was told this was especially true in rural, regional and remote areas.<sup>231</sup>

Similarly, a need for suitable accommodation for perpetrators was also identified.<sup>232</sup> This includes older perpetrators of intimate partner violence who may have mobility issues as well as younger perpetrators, such as adult children.<sup>233</sup>

The Commission heard that older people may be at risk when an adult child, who has been excluded from their own home, possibly because of intimate partner violence, seeks to return to their parents' home:

Their adult child has gone through some crisis. They have separated from their partner. Maybe there has been family violence within that relationship. Maybe there are alcohol and drug issues or financial problems, they have lost their job, their business has gone broke, and they turn up and they need somewhere to live. So they return home. There is no accommodation for them, and it comes to the family and mum and dad to take them back. For a lot of families that works really well; families manage that. But for some families it's just not appropriate and there is not alternative accommodation for the perpetrator or the person who may become the perpetrator.<sup>234</sup>

The Commission was also told about violence experienced by older parents who live with an adult child with a mental illness.<sup>235</sup>

Ms Blakey suggested that access to safe crisis housing within more appropriate facilities, such as aged care facilities, would better meet the needs of older victims.<sup>236</sup> However, the Public Advocate noted that not all older people want to end up in an aged care facility, particularly those who are active and competent.<sup>237</sup> As discussed, elder abuse can also occur in aged care facilities, perpetrated either by family members or non-related carers and co-residents.

### **Lack of support and perpetrator programs**

The Eastern Elder Abuse Network have stated that:

The absence of age-specific services for older people experiencing elder abuse means that the abuse will continue to go unnoticed, unreported and unaddressed.<sup>238</sup>

It submitted that '[t]his is a significant gap in the government's response to family violence'.<sup>239</sup> No To Violence submitted this also requires appropriate responses from the family violence sector.<sup>240</sup>

Although older male victims can and do seek help from men's services, these:

... generally concentrate on change-behaviour programs or counseling, which are not relevant to older men who are victims of elder abuse, most of whom are from a culture of "keeping quiet" about their personal problems, particularly outside the family.<sup>241</sup>

The Commission discusses the support services for male victims in Chapter 32.

The Commission was also told there were very few services for perpetrators of family violence against older victims,<sup>242</sup> with most programs designed for men committing violence against their intimate partner. As perpetrators are often adult children, programs which are suitable for these perpetrators are needed. Seniors Rights Victoria suggested that because similar themes underlie family violence and elder abuse (such as power and control), behaviour change programs could be developed to assist perpetrators of elder abuse.<sup>243</sup> No To Violence recommended that consultation should occur to develop minimum standards for perpetrator programs to address issues such as elder abuse.<sup>244</sup>

Seniors Rights Victoria suggested that counselling and behavioural-change programs to address situations of family violence against older people should be made available to the broader community.<sup>245</sup>

## The way forward

It is clear that there is a lack of understanding of older people's experiences of family violence among mainstream service providers and within the community generally. People who work in services who come into contact with older victims of family violence often have difficulty identifying and responding to family violence, particularly when the older person is reluctant to report the violence to police. Older victims can be reluctant to report family violence for a range of reasons. They may want to retain their relationship with the perpetrator, who may be an intimate partner or adult child, or they may fear the loss of a carer, even though they want and need the violence to stop.

The Commission believes that responses to older people who have experienced family violence should be informed by key principles, which recognise the particular experiences and needs of older victims. These key principles are:

- ▷ Public awareness of family violence against older people must increase, so that family and friends can identify abuse and provide support.
- ▷ Older victims should be encouraged to seek help and know where it can be found.
- ▷ All service providers who may come into contact with older victims should be able to identify when family violence is occurring and know what to do in response. Aged care and health care workers should be able to obtain advice and support to resolve the ethical tension between patient/client wishes and protecting their safety.
- ▷ Older victims should be supported to remain in their homes. If they choose to leave, they should be supported to obtain appropriate accommodation.
- ▷ Older victims from Aboriginal or Torres Strait Islander backgrounds should be able to receive culturally safe services.
- ▷ Older victims from particular communities—including culturally and linguistically diverse communities, lesbian, gay, bisexual, transgender communities and people with disabilities—should be able to access services that understand and can respond to their different experiences and needs.
- ▷ When responding to family violence against older people, the response should be sensitive to their choices about family relationships; for example, instead of relying on a criminal justice response, greater support could be given to parents who are carers of adult children with mental health issues.
- ▷ Responses between various sectors (and particularly aged care, health and family violence services) should be coordinated and collaborative.

The Commission's recommended priority areas for action are set out below. These recommendations should be read together with the general recommendations in 'Family violence and diversity', located at the start of this volume of the report.



## Education to increase awareness and prevention

The Commission recognises the need to increase public awareness of family violence against older people. This needs to extend to older people themselves to help them find assistance.

One way of increasing awareness would be to include information on elder abuse, family violence and available support services as part of existing information distribution processes; for example, when information is sent out with Victorian Seniors Cards. We recognise that some material on elder abuse (including the recognition that it is a form of family violence) is already included on the Seniors online website. However, some older Australians have limited access to or familiarity with use of online resources. This means that it is important to continue to provide hardcopy information to this community.

There is a need for expansion of existing awareness and preventative strategies. Just as prevention of family violence requires a focus on gender, prevention of family violence against older people also needs to expose and address ageism. For as long as older people are viewed as less capable and dependent, and are not valued for their contribution to our community, this form of abuse will continue. Sometimes it will be disguised as 'caregiver stress' or justified as actions taken in the 'best interest' of the older person.

The Commission recognises that the existing Respectful Relationships Education program in Victorian schools seeks to educate students on gender, violence and respectful relationships to prevent violence against women. There is scope to ensure this program addresses violence against older people (for example, mothers, fathers and grandparents) as well as addressing ageism more generally, as part of preventing family violence.

### Recommendation 153

The Victorian Government resource the development and delivery of information on family violence using channels such as seniorsonline, information distributed with Victorian Seniors Cards, Seniors Week and the Seniors Information Centre [within 12 months].

## Building the service response

Work already done by the Commonwealth and Victorian Governments and others including Seniors Rights Victoria, Justice Connect Seniors Law, the Royal Australian College of General Practitioners and other service providers, to increase knowledge about elder abuse among service providers, is an important step towards improving the response to family violence directed at older people. The Commission recognises that more needs to be done to ensure that relevant policies are put into practice and that the reach of current programs is extended.

The Victorian Government should continue to develop and implement policies directed at ensuring that people who work with older victims are able to identify elder abuse and know what to do in response. Training on the issue should be made available for:

- ▷ health professionals
- ▷ home and community care workers
- ▷ the aged care workforce, including aged care assessment teams
- ▷ the Office of the Public Advocate's community visitors
- ▷ Victoria Police
- ▷ other service providers
- ▷ banking and financial services staff
- ▷ lawyers
- ▷ counsellors.



Ensuring that the aged care workforce, including Aged Care Assessment Services, receives training in family violence and the Common Risk Assessment Framework would greatly strengthen identification of and response to family violence against older people.

Professionals who work with older people should be supported with guidelines and procedures to resolve ethical dilemmas where elder abuse is identified but the victim does not wish to report it.

It is necessary that people providing aged care services in all settings, including an older person's family home, are equipped to identify and respond to family violence. The Commission notes that a new Community Service Training Package was released in December 2015.<sup>246</sup> The training package includes courses on disability, ageing and individual support (for example, Certificate IV in Disability, Certificate IV in Ageing Support and Certificate III in Individual Support). Each of these courses has as an elective unit titled 'respond to suspected abuse'.<sup>247</sup> This unit covers a broad range of abuse but could be developed to cover family violence. Alternatively, the relevant courses could be mandated to include a unit or units on family violence. Units on family violence currently exist as either mandatory or elective units in other courses, such as community services, social housing, alcohol and other drugs, mental health and family dispute resolution.<sup>248</sup>

The Victorian Government should work with the Commonwealth Government to ensure that a unit addressing family violence is made a core, rather than elective unit in these courses. The Victorian Government should also require through its accreditation, contracting and funding arrangements with relevant aged care service providers that all of their workers, both current and future, have undertaken appropriate family violence training. As the Victorian and the Commonwealth Governments have a dual role in relation to different service providers, the Victorian Government should work with the Commonwealth Government to encourage it to adopt a similar approach to its accreditation, contracting and funding arrangements with those aged care service providers for which it has responsibility.

We make recommendations on general and targeted training on family violence against older people as part of an industry plan in Chapter 40.

In order to more accurately identify and manage family violence risks, service providers will need to improve their sharing of information. In Chapter 7, it is envisioned that certain organisations (including those providing services to older people) will be prescribed in order to empower them to share information to manage the risk of family violence. This is also described in Chapter 6. For this to be effective, staff in these organisations will require training on family violence.

In Chapter 6 we recommend a review and development of the Common Risk Assessment Framework, or CRAF. As part of this review, research and consultation should be undertaken to ensure that the CRAF can respond effectively to the risks of family violence against older people. As discussed, prescribed organisations, such as those that provide home and community care programs and aged care assessment services, will need to use this revised CRAF (or a CRAF consistent tool).

The Commission also notes and supports initiatives such as the St Vincent's Hospital model. A model such as this should be adapted for use in other hospitals and other environments, such as aged care facilities.

## Recommendation 154

The Victorian Government, through the Council of Australian Governments, encourage the Commonwealth Government [within 12 months] to:

- ▷ ensure that the Human Resource Management Standard in the Community Care Common Standards Guide specifies that workers delivering services must have successfully completed certified training in identifying family violence and responding to it
- ▷ review the existing Community Services Training Package courses relevant to providing ageing support to ensure that each course has a core, rather than elective, unit that adequately covers all manifestations of family violence.

### Building the capacity of specialist family violence services

Although better training of service providers will improve their response to family violence against older people, education programs are not a complete solution. There is a need for increased government investment in workforce development and greater support for statewide services that are currently seeking to address these needs, for example, by building the capacity of Seniors Rights Victoria to provide expertise to support other service providers including family violence services. This would facilitate better referrals, mutual learning and ultimately better outcomes for older people who are experiencing family violence. In 'Family violence and diversity', we recommend that Seniors Rights Victoria should be supported with ongoing additional funding, to reflect Victoria's ageing population.

In Chapter 22 we recommend that the Victorian Government develop a restorative justice pilot program for victims of family violence. This may be of particular benefit to older victims of family violence, who wish to preserve their family relationships or avoid a criminal justice response.

In Chapter 32 we discuss male victims, who include older men who are victims of elder abuse. Older male victims should have access to appropriate help and support.

In 'Family violence and diversity', we recommend that the Department of Health and Human Services should review and update standards for family violence (including men's behaviour change programs). In particular, standards should address the behaviour of perpetrators of family violence against older people, including where these perpetrators are older and may be affected by age-related issues. In addressing the behaviour of men and women who abuse an older family member, behaviour change programs should take into account the attitudes and behaviours which contribute to it, including ageism.

### Accommodation

There is a need for more accommodation options for older victims of family violence. Crisis accommodation designed for women and children may not be appropriate to meet the needs of older victims. Consideration must be given to the needs of older victims. It cannot be assumed that their needs can simply be met by accommodation in aged care facilities. The preference of many older victims to remain in their homes and community must be respected. With appropriate support they should be empowered to stay at home safely, if they choose.

Meeting the accommodation needs of older women (and some older men) with limited financial resources may be the only effective way of protecting them from violence. For those who choose to leave their homes, an increase in appropriate and affordable housing is needed.

In Chapter 9, we make recommendations to improve crisis accommodation and to address the longer-term housing needs of family violence victims, including a proposal for individual packages of support, encompassing long-term rental subsidies and other supports. This proposal may be particularly appropriate for older women who are economically disadvantaged and currently face the dual barriers of age discrimination and unaffordable rents in the private rental market. Part of our proposal is for support around employment assistance, which will be relevant to older people of working age who again face age discrimination. For those of non-working age, or otherwise are on a low income, the Commission notes that where private rental is not affordable, other housing options, including social housing, will be required.

## Strengthening investigation processes

While there are gaps in investigative processes for family violence perpetrated against older people, we do not consider that a mandatory reporting regime is the best way to deal with this problem. Mandatory reporting would impinge upon the autonomy of older people to make decisions about what is in their own best interests and would be inconsistent with the idea that people should have choices about the types of care and services they wish to receive. It may also make victims more reticent to disclose violence. Any mandatory reporting regime would have to be supported by a comprehensive system to investigate and respond to reports.

In relation to abuse in aged care facilities, we note that providers should have mechanisms in place to prevent and identify abuse of residents and take action promptly to address any that occurs. The culture and processes must support identification and reporting of abuse by carers and co-residents. Where a family-like relationship exists, the Family Violence Protection Act may apply. Otherwise, the *Personal Safety Intervention Orders Act 2010* (Vic) and the criminal and civil law are available. In all circumstances, however, the aged care provider remains responsible for the care of the victim and should adopt victim-centred responses.

In Chapter 31, we discuss the Ombudsman's recommendation that an independent oversight body be established. This oversight body would not be relevant to the substantial number of older people who do not have a disability.

To this end, we recommend that Victoria Police should increase its capacity to address family violence against older people. This should encompass strengthening its capacity to respond to allegations of elder abuse, including investigating financial abuse. In order to achieve this increased capability, greater training for police on family violence against older people will be important.

### Recommendation 155

Victoria Police, with advice from the Priority Community Division, scope options for a trial of a dedicated family violence and elder abuse response team in one Victoria Police local service area. The team should have the capacity to investigate financial abuse [within 2 years].

## Expanding the definition

While neglect can be a form of family violence, we do not consider that the Family Violence Protection Act needs to expressly refer to it. Many forms of neglect, such as withholding an older person's medication or restricting their mobility, would be caught by the current definition of family violence (which includes behaviour that is physically abusive, coercive or in any other way controls or dominates a family member).<sup>249</sup> Such behaviour may also be covered by the criminal law; for example, offences of causing injury intentionally or recklessly.<sup>250</sup> In our view, making explicit reference to neglect in the Act is not necessary.

## Endnotes

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- 2 For example, Seniors Rights Victoria assists people aged 60 years or over, or people approaching that age if they have age-related disabilities or illnesses and assists Aboriginal and Torres Strait Islander people from the age of 45: Seniors Rights Victoria, Submission 915, 11.
- 3 *Family Violence Protection Act 2008* (Vic), s 5(1).
- 4 Seniors Rights Victoria, Submission 915, 12–15.
- 5 Justice Connect Seniors Law, Submission 566, 9.
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- 9 Australian Bureau of Statistics, above n 1, Victoria Table 3.1.
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- 19 Seniors Rights Victoria, Submission 915, 13.
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- 26 Statement of Blakey, 10 July 2015, Attachment 2, 35.
- 27 Transcript of Blakey, 16 July 2015, 463 [16]–[23], [28]–464 [1].
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- 31 National Ageing Research Institute in partnership with Seniors Rights Victoria, 'Profile of Elder Abuse in Victoria: Analysis of Data about People Seeking Help from Seniors Rights Victoria—Summary Report' (June 2015) 12.
- 32 The remaining 3.5 per cent were by other family members: Statement of Blakey, 10 July 2015, 7 [25]–8 [28].
- 33 National Ageing Research Institute in partnership with Seniors Rights Victoria, above n 31, 14.
- 34 *Family Violence Protection Act 2008* (Vic) ss 5, 8.
- 35 Ibid s 8(3)(a), (e) and (g).
- 36 Ibid s 8(3).
- 37 Eastern Elder Abuse Network, Submission 379, 7.
- 38 Community consultation, Melbourne, 30 April 2015; National Ageing Research Institute, Submission 79, 1; Justice Connect Seniors Law, Submission 566, 12–13.
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- 40 Myfan Jordan, 'Inequality and Older Victorians' (May 2015) Autumn, *Community Information and Support Victoria*.
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- 43 COTA, 'Voices of Older People: Feeling Invisible—You Really Start to Look in the Mirror and Ask 'Am I Really Here?'' (2015) 2.
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- 75 Ibid 42–8.
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- 83 Justice Connect Seniors Law, Submission 566, 21; Seniors Rights Victoria, Submission 915, 39; John Clarkson and Joanne McArthur, Submission 119, 11–12.
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# 28 Culturally and linguistically diverse communities

## Introduction

The Commission's terms of reference require it to consider the needs and experiences of people affected by family violence, having particular regard to, among others, people from culturally and linguistically diverse communities.

Although family violence occurs across all cultural and socio-economic groups, the experience of violence and the service response to it can vary markedly for different ethnic and cultural communities. This chapter provides an overview of the information the Commission received about the experiences of people from culturally and linguistically diverse communities and makes recommendations to improve responses to people affected by family violence in these communities. In doing so we recognise that there is a diversity of communities within the broad umbrella term of 'CALD'. The experiences of CALD children and young people are discussed in Chapter 10.

The literature shows that people from CALD communities are disproportionately affected by family violence and are more likely than people of Anglo-Australian background to face barriers to obtaining help. Evidence before the Commission supports the view that the social and economic marginalisation experienced by many people from CALD backgrounds and especially those who have recently arrived in Australia, adds a further layer of complexity to their experience of family violence.

Faith can also play an important role in the experiences of family violence for some people in CALD communities, and can affect their access to services. The Commission explores the role of faith communities in preventing and responding to family violence in Chapter 29.

Women from CALD backgrounds experience the same forms of family violence as the broader community, namely violence based on domination and control by their intimate partners. Family violence can also manifest differently and can have different effects in specific cultural settings.

The risk of people from CALD backgrounds experiencing family violence can also be exacerbated if they live in rural, regional and remote areas where they are isolated and there is a lack of appropriate support services.

### **The meaning of 'culturally and linguistically diverse'**

The term 'culturally and linguistically diverse', or 'CALD', refers to people from a range of countries and ethnic and cultural groups. It includes people of non-English speaking background as well as people born outside Australia but whose first language is English. For the purposes of this report, CALD refers to 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.

The first section of this chapter explores the prevalence of family violence in CALD communities. This section also considers prevention programs in CALD communities.

The second section of this chapter recounts the experiences of CALD victims, including experiences of social isolation and cultural attitudes that facilitate family violence in their communities. Particular forms of family violence experienced by some CALD women, including forced marriage, female genital mutilation and dowry-related abuse, are considered. The impacts of a lack of knowledge and understanding of the Australian legal and support systems, trauma associated with pre-arrival experiences and immigration status vulnerabilities are explored. Issues with accessing services and interpreters are also considered.

In the final section of this chapter, the Commission recommends that the capacity of universal and specialist services to respond to family violence in CALD communities be improved. This should include ensuring professional and independent interpreting services. The Commission further recommends that there be legislative reform to better recognise the ways in which the current definition of ‘family violence’ encompasses forms of family violence that may be experienced by people from CALD backgrounds.

## Context

This section briefly explores Victoria’s cultural diversity and the prevalence of family violence in CALD communities. It then considers current family violence prevention and early intervention programs targeted to CALD communities.

### Cultural diversity in Victoria

Victoria has one of the most culturally diverse populations in Australia. The 2011 census found:

- ▷ 26.2 per cent of Victorians were born overseas in one of more than 200 countries—an increase from 23.8 per cent in 2006<sup>1</sup>
- ▷ 46.8 per cent of Victorians were either born overseas or had at least one parent born overseas—an increase from 43.6 per cent in 2006<sup>2</sup>
- ▷ 23.1 per cent of Victorians spoke a language other than English at home—an increase from 20.4 per cent in 2006.<sup>3</sup>

The table below shows the top 10 languages other than English spoken at home in Victoria.

Table 28.1 Top 10 languages other than English spoken at home: Victoria, 2006 and 2011

Language	2006			2011			Change 2006 to 2011
	No.	(%)	Australia (%)	No.	(%)	Australia (%)	
Italian	133,328	2.7	1.6	124,857	2.3	1.4	-8,471
Greek	117,871	2.4	1.3	116,825	2.2	1.2	-1,046
Mandarin	64,384	1.3	1.1	103,793	1.9	1.6	+39,409
Vietnamese	72,154	1.5	1.0	86,596	1.6	1.1	+14,442
Cantonese	66,858	1.4	1.2	72,904	1.4	1.2	+6,046
Arabic	55,927	1.1	1.2	68,416	1.3	1.3	+12,489
Turkish	29,748	0.6	0.3	32,849	0.6	0.3	+3,101
Hindi	18,175	0.4	0.4	32,739	0.6	0.5	+14,564
Punjabi	8,212	0.2	0.1	31,052	0.6	0.3	+22,840
Filipino/Tagalog	21,942	0.4	0.5	30,995	0.6	0.6	+9,053

Note: profile.id uses data collected from the Australian Bureau of Statistics census.  
 Source: Victoria: Language Spoken at Home (21 January 2016), profile.id,  
<http://profile.id.com.au/australia/language?WebID=110>

Within Victoria and nationally there is considerable diversity between different CALD communities, including the length of time people have been established in Australia, their pre-arrival experiences, and the conditions in their countries of origin.

Categories of immigration entry also vary, along with immigration experiences before permanent settlement, particularly for asylum seekers subject to detention.

Birthplace data also masks important differences within communities, including factors such as social status or background, education level, gender, age, disability, sexuality and faith.<sup>4</sup>

## Prevalence of family violence in CALD communities

Evidence regarding the prevalence of family violence in CALD communities is inconclusive.<sup>5</sup> There is no reliable data available to provide a clear picture of the scale of the problem.<sup>6</sup> The deficiencies in prevalence and incidence data<sup>7</sup> (discussed in Chapter 3) are exacerbated in CALD communities. As noted in a recent paper by Australia's National Research Organisations for Women's Safety (ANROWS), 'the available large-scale, population-based data sets rarely enable analysis of the specific [family violence] experiences of immigrant and refugee women as compared to other women in countries of resettlement'.<sup>8</sup> Furthermore, family violence data is likely to significantly understate the extent of the problem as conceptions of what constitutes family violence differ and language barriers often inhibit communication and disclosure.<sup>9</sup>

On 7 August 2015 the Commonwealth Government announced \$160,000 in funding for a 'diversity data' project to be carried out by ANROWS.<sup>10</sup> The project will examine how CALD women, Aboriginal and Torres Strait Islander women and women with disabilities experience violence and identify options for improving future data collection.<sup>11</sup>

### Survey data

Survey data suggests there is a slightly higher rate of violence in the Australian born population. The 2012 Australian Bureau of Statistics' Personal Safety Survey found that Australian-born women were more likely to report experiencing violence since the age of 15 years than those born overseas.<sup>12</sup> In the Australian component of the 2004 International Violence against Women Survey, women from English-speaking backgrounds reported higher levels of violence compared with women from non-English speaking backgrounds.<sup>13</sup> It is, however, important to note the limitations of this survey: CALD women might be both less likely to participate in a survey and less likely to openly discuss violence with a survey interviewer.<sup>14</sup>

### Specialist family violence services data

There is inconsistent data regarding the representation of CALD women in the client group of specialist family violence services in Victoria. This may reflect access barriers as well as limitations of and differences in data sets.

Demographic data from the Integrated Reporting Information System (IRIS) on clients accessing women and children's family violence services in 2013–14 shows that 84 per cent of clients were born in Australia and 13 per cent identified that they were born in another country. In three per cent of cases the client's country of birth could not be ascertained.<sup>15</sup>

Individual service data, however, paints a different picture and more closely reflects patterns of settlement on a regional and local basis. For example, Women's Health West Inc. reports that in 2013–14, 47 per cent of women who received case management support identified themselves as coming from a CALD background and 44 per cent of residents in their crisis accommodation service did not speak English as their first language and required an interpreter to communicate.<sup>16</sup>

### Safe Steps Family Violence Response Centre data

At a statewide service level, Safe Steps data indicates that in 2014:

- ▷ one third of all supported clients were born outside Australia
- ▷ twenty-one per cent identified as culturally and linguistically diverse
- ▷ five per cent required an interpreter.<sup>17</sup>

The Safe Steps submission further advised the Commission that in the period January–April 2015 eleven per cent of their clients did not have permanent residency.<sup>18</sup>

Statistics collated by the Domestic and Family Violence Crisis Lines of Australia Network captured the number of calls received by the network's member services (including Safe Steps in Victoria) from women without permanent residency. The member services recorded contact from 421 women without permanent residency from October to December 2014; 328 of these cases involved children.<sup>19</sup> The network reported that the patterns of abuse among women without permanent residency were broadly consistent with those among women who do have permanent residency, although instances of economic abuse were proportionally higher, as were death threats.<sup>20</sup>

## Preventing family violence in CALD communities

The need for a focus on preventing family violence was identified in both the *Second Action Plan of the National Plan to Reduce Violence against Women and their Children 2010–2022* and the National Community Attitudes towards Violence Against Women Survey report.

The Commission heard that a 'one-size-fits-all' approach to preventing family violence is not successful for CALD communities. As the Whittlesea Community Futures Partnership submission noted, 'The experience of family violence in CALD communities is complex and requires an appropriate mix of tailored prevention and early intervention strategies to be adopted'.<sup>21</sup> This includes strengthening the capacity of CALD communities themselves to identify and respond to family violence. For example, a recent paper published by ANROWS highlighted the importance of consulting and involving community elders and leaders in developing culturally appropriate prevention strategies.<sup>22</sup>

### AMES report

AMES Australia and VicHealth recently published a report focusing on actions to prevent violence against women in CALD communities. Based on national community consultations, the report noted:

This focus is important to ensure the safety and wellbeing of women from CALD backgrounds, to meet policy commitments to multiculturalism, access and equity, gender equality and human rights, and to ensure that the economic and social benefits of migration for all are realised.<sup>23</sup>

The report argued that redressing social exclusion, stigma, and racism affecting CALD communities is a crucial foundation for prevention:

These conditions can increase the risk of violence against women in CALD communities by isolating communities, working against acculturation and negatively affecting responses to and by CALD women affected by violence. This in turn undermines the prospects of men being held accountable for violence and therefore of establishing social norms against this behaviour.<sup>24</sup>

The report found that, although many CALD communities will be effectively reached by initiatives delivered to the population as a whole, the communities and groups most likely to require tailored approaches and needing to be given priority in prevention efforts, are CALD groups with large proportions of recent arrivals, new and emerging communities, and longstanding migrant groups affected by social exclusion.<sup>25</sup>

The importance of involving CALD men is also noted:

The majority of CALD men do not use violence, and they are important allies and partners in prevention. Engaging non-violent men can help prevent 'backlash' and deal more effectively with it should it arise ... In most forms of [violence against women] the majority of perpetrators are men and certain aspects of masculine roles, identities and peer associations are well established risk factors for this violence. Addressing these by working with CALD men and boys, and the contexts shaping their responses to violence is a critical component of prevention efforts.<sup>26</sup>

The report concludes that prevention in CALD communities involves a two-pronged approach:

- ... activities tailored to and engaging specific communities and the contexts affecting their practices and norms
- ensuring that approaches designed to reach the general population are relevant to people from CALD backgrounds.<sup>27</sup>

The report also reviewed projects conducted between 2004 and 2014 with the aim of preventing violence against women. It found few such projects in the years up until 2007. The report stated:

CALD communities responded to campaigns that are run at community levels, developed within a cultural framework they understand, and rather than having a particular focus on violence, are positive about families and the behaviours and conditions likely to support healthy family relationships.<sup>28</sup>

### Prevention initiatives

The Commission was also told about a number of important prevention and early intervention initiatives in CALD communities in Victoria. Some examples are set out in the box below.

#### Prevention and early intervention initiatives in CALD communities in Victoria

- ▷ The CALD Communities Leading the Way to Respectful Relationships project has sought to raise awareness about gender equality and respectful relationships in Croatian, Indian, Sudanese and Vietnamese communities.<sup>29</sup>
- ▷ The Whittlesea CALD Communities Family Violence Project has brought together a range of local agencies to design, deliver and evaluate an integrated place-based model for reducing and preventing family violence in Whittlesea's CALD communities.<sup>30</sup>
- ▷ The Stronger Healthier Indian Families Together, or SHIFT, project, implemented by cohealth in partnership with the Jagriti Forum, works with Indian men and women living in Wyndham and Brimbank.<sup>31</sup>
- ▷ The CALD Community Engagement Project led by Minerva Community Services works to empower the Karen and Karenni communities to deal with family violence from within the community.<sup>32</sup>
- ▷ The Living in Harmony project, auspiced by cohealth, provides training to CALD community members living in Collingwood's housing estates so that they can facilitate respectful relationships events in their communities.<sup>33</sup>
- ▷ The Health Justice Partnership between InTouch Multicultural Centre Against Family Violence and Dandenong Hospital will see InTouch establish an outreach clinic at Dandenong Hospital and provide hospital staff with training in identifying and helping CALD victims of family violence.<sup>34</sup> Chapter 19 discusses health justice partnerships.
- ▷ With funding from the Legal Services Board, Victoria Legal Aid delivered the Settled and Safe community education program, providing training to settlement workers on family violence, plus community education with newly arrived communities.<sup>35</sup>

### Community awareness and information

A number of submissions noted the importance of involving community media, such as local newspapers, radio and television.<sup>36</sup> Information about family violence and support services should be delivered by means of community networks, culturally-specific media services, and other familiar sources of information and assistance in CALD communities.<sup>37</sup>

The vital role that culturally-specific media can play in disseminating family violence information has previously been acknowledged.<sup>38</sup> One consultation participant stated:

Use AMES and other English language programs. You have a captive audience. You can talk about family violence laws, child protection laws. We can't let 'I didn't know that was against the law' be an excuse.<sup>39</sup>

Another matter raised in the community consultations and submissions concerned the provision of information to women before their arrival in Australia. On 7 August 2015 the Australian Government launched a pre-departure information pack for women moving to Australia to be with their partner.<sup>40</sup> The pack contains information about family violence, sexual assault, forced and early marriage, and family violence associated with partner visas. It also gives women information about their rights under Australian law and provides details of who to contact if a woman needs assistance.<sup>41</sup>

Women told the Commission there should be follow-up by case workers as part of settlement programs.<sup>42</sup> The Commission also heard that the Department of Immigration and Border Protection should offer its front-line officers training in identifying and responding to family violence, so that they can refer women to suitable services.<sup>43</sup>

## Helping victims recover

As discussed in Chapters 20 and 21, because of the serious and long-term effects of family violence, it is important that support is provided to all victims to help them recover after the immediate crisis.

An InTouch initiative offers culturally appropriate group counselling for CALD women. The counselling program is developed in response to the needs of the specific community and is delivered by bilingual workers (with interpreters where necessary) together with partner agencies in the community.<sup>44</sup>

The Commission was advised that InTouch also provides opportunities for CALD women to participate in the community and enjoy time with friends and family in a supportive environment. It recently ran a three-day camp for Turkish women and their children with the aim of offering families who had experienced family violence an 'opportunity to spend an enjoyable and therapeutic time together in a safe and engaging environment'.<sup>45</sup> It reported that the camp allowed women to re-connect with their children, make friends, realise they 'were not alone' and that the violence was not their fault.<sup>46</sup>

Economic participation through education and employment is also an important part of successful migrant settlement. Helping CALD women move towards economic recovery and preventing the violence from occurring in the first place have both personal and social benefits:

Violence against CALD women undermines their economic and civic participation both within communities and in the wider community. This ultimately compromises the strength of CALD communities, and the broader social and economic benefits of migration for Australia. This is of particular concern given Australia's increasing dependence on women migrants to fill certain skill gaps such as in the caring sector.<sup>47</sup>

## Challenges

The Commission received a variety of evidence recounting the specific experience and challenges that CALD victims face. This section explores these issues and challenges.

### CALD people's experiences

Although each person has a different experience of family violence, there were consistent themes in the evidence presented to the Commission about the particular challenges CALD victims face.

## Social isolation

Isolation from family and community was a common feature of many CALD people's experience. One woman told the Commission, 'I felt that all of Australia belonged to my husband and I didn't belong'.<sup>48</sup>

CALD women might be living far from their family and have limited access to support within the community because they are dependent on their partner for money, transport and language. This is especially the case if a person's partner has been in Australia for some time and so has better English language skills, greater knowledge of culture, and more contacts in the community. As one woman said, 'The men are so clever in making a gap between the girl and the community'.<sup>49</sup>

In many cases men deliberately isolated their partners from contact with their family and friends.<sup>50</sup> Victims spoke of their partners and extended family denying them access to telephones, the internet, employment opportunities and transport:

I was abused not just by my husband but also by my mother-in-law and sister-in-law and my father-in-law. Initially they stopped me from getting out of the house. I wasn't aware that I could apply for a bank account by myself. He said that because he was a resident and I was a 'visitor' ... I wasn't allowed and I believed him. I wasn't allowed to talk to anyone. He wouldn't let me use the phone and I didn't know what I could do.<sup>51</sup>

In particular, some men exerted control over their partners by not allowing them to attend English language classes; in this way the men remain the 'gatekeepers' of all information. Such a situation compounded the victim's isolation and greatly restricted their access to information and support in the community.<sup>52</sup>

Social isolation—especially lack of access to transport—made it difficult for those seeking to leave an abusive relationship:

One woman called the police and her husband was taken away. After three days where she hadn't been able to take her kids to school, she couldn't do the shopping. She ended up calling up and asking her husband to come home.<sup>53</sup>

Deciding to leave an abusive relationship also resulted in some people, particularly women, being ostracised by their family and community, exacerbating their distress and leading some to return to violent relationships. After being granted a family violence intervention order designed to exclude her husband from the family home, one woman had the following experience:

X came to Australia ... to live with her new husband. Since coming to Australia she has very rarely left the house. She knows very little English and doesn't know how to drive or use public transport. After the birth of their son, her husband has become increasingly violent towards her. During the most recent incident, her husband punched her repeatedly in the head. A neighbour heard screaming and called the police. They attended and assisted X to take out an intervention order against her husband which excluded him from the property. X presented at [a legal service] seeking assistance to have the order removed. She was worried about having adequate financial support and was struggling to look after her son on her own. Her husband had always driven her to the supermarket, the doctor and other services and she did not know how to get to these services by herself. She felt isolated and alone as neighbours from her community had stopped speaking to her. She said it would just be easier if he could come home, even if it meant that she would be subjected to further violence.<sup>54</sup>



## Attitudes to family violence and the role of culture

Factors influencing attitudes to family violence in CALD communities include broader social norms relating to both gender and violence.<sup>55</sup> The 2013 National Community Attitudes toward Violence Against Women Survey found that people born overseas in non-main English speaking countries are among the groups which have a lower understanding of violence against women and are less likely to reject violence-supportive attitudes.<sup>56</sup> The survey report noted, 'This is most likely to be due to differences in beliefs and practices regarding violence and relationships between men and women in the countries people come from'.<sup>57</sup> VicHealth, AMES Australia and Lyn Walker and Associates further stated:

Among respondents from non-English speaking countries, country of birth had a stronger influence on attitudes than factors such as education, employment or living in a disadvantaged area ... These differences were still apparent when other factors such as occupation and education were taken into account. However ... both knowledge and attitudes improved with length of time in Australia.<sup>58</sup>

The Commission notes that culture is 'neither fixed nor an inherent feature of particular individuals or groups. Rather it is shaped and therefore can be changed by social and economic forces'.<sup>59</sup>

Ms Joumanah El Matrah, Executive Director of the Australian Muslim Women's Centre for Human Rights, gave the following evidence:

... men who are violent against their spouses and children ... often themselves use the cultural defence. It's really typical for men who are violent to have excuses for their violence, anything else other than accepting responsibility. So it's really important at that point that people are well versed in exactly what violence is about and that it's not about culture.<sup>60</sup>

One woman commented, 'It was, and still is, unhelpful when people just dismiss [the violence] as "that's just his cultural background". Dad's behaviour was abusive and I believe it needs to be named as so ...'<sup>61</sup>

There is also concern that citing 'culture' as a factor in CALD women's experience of family violence can lead to stereotyping and a 'failure to recognise the existence of diversity of views and beliefs about family violence between and within cultures'.<sup>62</sup>

Cultural attitudes and practices—such as respect for elders and an obligation to assist community members—can also protect against violence.<sup>63</sup>

While different cultural backgrounds may not be a cause of family violence, it remains relevant to understanding and responding to family violence within CALD communities.<sup>64</sup>

## Reluctance to disclose

The Commission notes that people from CALD backgrounds are generally less likely than members of other groups to speak out about family violence.<sup>65</sup> Among the main reasons for this are the following:

- ▷ language and literacy barriers<sup>66</sup>
- ▷ social isolation and financial dependence resulting from the absence of established social networks, primary carer responsibilities, unemployment and social, emotional and economic control exercised by their spouse or other family members<sup>67</sup>
- ▷ cultural norms relating to gender roles, sexuality, marriage and divorce<sup>68</sup>
- ▷ shame and stigma associated with seeking help outside the family and community—including contacting police and having them attend at home<sup>69</sup>
- ▷ lack of knowledge about the legal services and support available in Australia<sup>70</sup>
- ▷ fear and mistrust of government, the police and the justice system, as a result of experiences in their country of origin or negative past experiences in Australia—including actual or perceived racism<sup>71</sup>



- ▷ a perception that mainstream services will not understand their situation and so will fail to respond appropriately<sup>72</sup>
- ▷ lack of culturally-specific support services including access to and availability of interpreters<sup>73</sup>
- ▷ fear of cultural, ethnic or religious misrepresentation, leading to negative stereotyping of their community and culture<sup>74</sup>
- ▷ pre-existing trauma<sup>75</sup>
- ▷ immigration status—for example, women who are living in Australia on Contributor Aged Parent visas may fear deportation<sup>76</sup>
- ▷ logistical difficulties associated with finding a path through what is already a complex system—for example, difficulties caused by having no birth certificate or not knowing one's birth date.

Research by InTouch into barriers for CALD women seeking access to support services found a 'tendency to minimise the seriousness of family violence': one participant said she thought yelling and sexual abuse were 'part of being married ... [he] kept telling me I am his property'.<sup>77</sup>

People from a CALD background might not feel empowered to speak out about the abuse they have suffered because there is a perception that family violence is a 'private' matter and should be kept within the home.<sup>78</sup> One woman told the Commission, 'If there is a big hit or blood this is out of family—you have to call the police. But if it is a small problem it is better to solve it within the family'.<sup>79</sup>

Research indicates that some CALD people may be less inclined to disclose family violence for 'fear of escalating racist responses' to their communities.<sup>80</sup> The Commission heard that some women felt judged and not listened to when the violence they had experienced was 'blamed' on their culture and that there was a common perception among police, lawyers and judges that family violence was the 'norm' in some cultures when it is not.<sup>81</sup> For example, a recent report from the Department of Social Services noted, 'Some Muslim women do not want to discuss or report family violence or sexual assault in case the issues are framed as specifically Muslim problems and increase prejudice against them'.<sup>82</sup>

Economic dependence was cited as another reason for failing to speak out: 'If we separate from our husbands, how will we survive financially? We don't have any choice but to stay in silence'.<sup>83</sup>

A recent paper published by ANROWS reported that CALD women tend to endure family violence for many years. If they eventually seek help this is usually because of the increased severity of the violence, their coping strategies no longer being effective and growing concerns for the welfare of children.<sup>84</sup>

### **Difficulties with leaving a violent relationship**

A number of women told the Commission of the difficulties they experienced when leaving a violent relationship because divorce was not acceptable in their community.<sup>85</sup>

Because in my culture if you are separated from your husband your family members will disown you ... they don't want to help you. They say go back to your husband. So in that case, women just keep themselves quiet.<sup>86</sup>

Women who have been raised in patriarchal societies in which traditional gender roles are upheld can have little autonomy and can be subject to the decision making of their husbands, fathers or other male members of the community. One woman told the Commission:

I've been in an abusive relationship all my life, from childhood. Mine was more culture because I come from Afghanistan and it's normal that men have the power and you should just be quiet.<sup>87</sup>

Shakti Australia noted, 'Asian, African and Middle Eastern cultures are honour-based cultures and as such seeking access to family violence services and leaving marital relationships is seen as bringing shame on the family'.<sup>88</sup>

Ms El Matrah told the Commission:

... some women they do experience a range of restrictions that are tied to their cultural [identity]. One may be a generalised prohibition within their community around not breaking the family apart and the blame that targets women when they try and leave a violent situation. Often their families actively try to restrict them from accessing assistance and help.<sup>89</sup>

During a community consultation the Commission was told that one woman had been married since the age of 14 years, and each of her sexual encounters had amounted to rape. She said she hoped her husband would marry someone else without having to divorce her, so that she could 'avoid the shame and loss of status'.<sup>90</sup> She added that 'women are going to choose violence every time rather than being shamed by their community'.<sup>91</sup>

Some women also experienced difficulty leaving because of attitudes towards divorce in their faith community; this is discussed in Chapter 29.

In addition, the Commission heard that leaving a violent home can be especially difficult for young CALD people because alternative accommodation options such as refuges and foster care might not be culturally appropriate and there might be a lack of culturally competent staff.<sup>92</sup> The absence of viable alternatives can aggravate the isolation these young people already feel and cause them to return to their violent home.<sup>93</sup>

Some CALD women might also be fearful of separating from their violent partner if they come from a culture in which the father traditionally takes sole custody of the children after a separation. They might fear that their ex-partner will remove the children from Australia or that a court may order that the children live with their father.<sup>94</sup>

### **Lack of information**

CALD victims often lack knowledge of what constitutes family violence and the support services available for victims. Organisations that provide services for newly arrived communities reported it was not commonly understood that family violence is prohibited in Australia and that such violence includes psychological, sexual and financial abuse as well as physical abuse.<sup>95</sup>

Some CALD women come from countries where family violence is not a crime or where there are weak legal sanctions. Indeed, there remains a perception in some communities that a husband has a 'right' to discipline his wife.

Research with CALD women indicates that the concept of sexual assault within marriage is not widely understood in some communities.<sup>96</sup> Many CALD women believe it is their duty as wives to engage in sexual intercourse with their partner and are unaware that they can consent to some sexual activities and refuse others.<sup>97</sup>

A lack of understanding about their rights and limited knowledge of the availability of support services and the ability of police and the courts to intervene in family violence matters present barriers to CALD victims seeking safety. In particular, CALD women often do not know who to contact after experiencing family violence, even if they have been living in Australia for many years:<sup>98</sup>

And when [women experiencing family violence] approach the legal system, it is not cultural and they get another knock back and then they go back to their husbands and get more family violence. They don't know anything. Not even to know how to ring 000. The boy is often living here for five years and he knows Australia and the girls don't know anything.<sup>99</sup>

As noted, some husbands can deliberately isolate their wives and contribute to their ignorance about the law: 'He knew too much about the law ... here. I lived in fear because I knew nothing'.<sup>100</sup>

## Pre-arrival trauma

Pre-migration experiences have [a] big impact on issues around family violence and when they happen once families arrive in Australia.<sup>101</sup>

Settlement is not a moment in time, or a period in time, it is a life long journey and even if a person has a very smooth migration experience, it is still traumatic.<sup>102</sup>

Among the traumatic pre-arrival experiences of members of CALD communities—especially refugees and asylum seekers—can be the following:

- ▷ exposure to violence and abuses of human rights—including death, torture and sexual violence
- ▷ forced displacement
- ▷ prolonged periods in refugee camps
- ▷ loss and separation from family members
- ▷ deprivation of cultural and religious institutions and practices
- ▷ periods of extreme poverty—including limited access to shelter, food and safe drinking water
- ▷ prolonged uncertainty about the future
- ▷ severe constraints on access to health services, education, employment and income support.<sup>103</sup>

The trauma can be exacerbated by difficulties encountered on arrival in a new country—including adjusting to different values and expectations, financial pressures, lack of social networks and supports, and changes in family dynamics, such as young people shouldering more responsibility and advocating on behalf of their family because they have better English language skills.<sup>104</sup>

Pre-arrival experiences can increase the incidence of family violence. Some CALD families come to Australia to escape war and other violence in their home countries.<sup>105</sup> Foundation House's work with refugees led it to submit that 'the psychological effects of experiencing the normalization of violence in countries at war may be contributing factors for intimate partner violence'.<sup>106</sup> Frustration, anxiety and anger arising from traumatic pre-arrival experiences can be directed at family members, including children.<sup>107</sup>

These experiences can also prevent victims from reporting the violence to police and gaining access to support services.

Refugees and asylum seekers have often experienced ill-treatment or have been inadequately protected from authorities in their country of origin and so can be apprehensive about reporting matters to the police or seeking assistance from other authorities.<sup>108</sup>

## Immigration status

Many submissions the Commission received emphasised the particular vulnerability of CALD victims who do not have permanent residency.<sup>109</sup> They can be dependent on their partner for their visa status—for example, women on partner visas or those whose partners are the primary visa holder on working, student or tourist visas.<sup>110</sup> Uncertainty about visa status can increase the risk of violence in a number of ways.

People from CALD backgrounds without permanent residency can feel they are unable to leave an abusive relationship because doing so will have consequences for their visa status—for example, possible deportation to their country of origin and loss of their children. Uncertain visa status can be used by abusive partners or other family members to threaten and control women: a considerable power differential arises when a woman's partner has permanent residency and she does not.<sup>111</sup> A CALD victim can also be threatened by potential withdrawal of sponsorship of their permanent residency application, having their visa cancelled or having other family members deported. Additionally, they can face harm or ostracism from their family and community if they leave their relationship and return to their country of origin.<sup>112</sup>

Some women who sponsored their male partners reported that their partners became abusive once they had obtained permanent residence and no longer required sponsorship.<sup>113</sup>

The situation is aggravated by the fact that those without permanent residency have limited access to crisis accommodation, Centrelink benefits, and some health and education services.<sup>114</sup>

Immigration-related policies that restrict eligibility for welfare support create significant barriers for women seeking to leave situations of family violence, as they have few options for supporting themselves and their children, or to pay for legal and other services that may be required.<sup>115</sup>

The Commission heard that some refuges are unable to support women who do not have permanent residency because of the cost of full support.<sup>116</sup> Although it is Victorian Government policy that women who do not have permanent residency status are eligible for refuge, crisis and transitional accommodation, the cost of providing such support to these women presents significant difficulties.<sup>117</sup> The Commission understands that funding of refuges covers operational costs and some basics but does not cover food and other consumables.

As Safe Steps explained, it accommodates women without permanent residency and their children for much longer than other clients because of the difficulties they have gaining access to other services.<sup>118</sup> The Commission was told that services with the capacity to support women who do not have an income (such as women without permanent residency status) are 'overburdened and cannot meet the level of demand'.<sup>119</sup> In many cases, agreeing to accept these clients imposes significant costs on already-stretched support services.<sup>120</sup>

The Commission also heard that some women who seek and gain refuge accommodation can be required for safety reasons to discontinue study and work while at the refuge, which can result in them breaching the requirements of their visa and facing possible deportation.<sup>121</sup>

Furthermore, because of the complexities of migration law, women might need intensive specialist support to prepare visa applications, and such support is limited and available only in urban areas, compounding the disadvantage CALD women living in rural and regional areas can experience.<sup>122</sup>

Another problematic area identified in submissions concerns those people on Contributory Aged Parent visas, which allow older parents to live in Australia for two years if their children are Australian citizens or permanent residents.<sup>123</sup> Older parents may be brought to Australia under these visas to look after grandchildren.<sup>124</sup> Men and women holding this type of visa are ineligible for Centrelink assistance for 10 years after their arrival and can be dependent on abusive family members because they have no alternative source of income.<sup>125</sup>

### **Family violence exception for visa applicants**

Under the *Migration Regulations 1994* (Cth), a woman may be granted permanent residency even if the marriage or de facto relationship on which her immigration status depends has ended, if she can prove that:

- ▷ she and/or a member of her family unit (such as her child) have been victims of family violence<sup>126</sup>
- ▷ she was married to or in a de facto relationship with the perpetrator at the time the violence occurred.<sup>127</sup>

The purpose of these provisions is to ensure that a person does not have to stay in a violent relationship to remain in Australia.<sup>128</sup>

Applicants under this family violence exception must provide evidence to support their claim of violence,<sup>129</sup> such as an intervention order or criminal conviction or a statutory declaration from the victim or another person on their behalf—for example, a general practitioner, social worker or psychologist.

A review by the Department of Immigration found that the majority of applicants seeking to rely on the exception were in genuine need of assistance.<sup>130</sup>

The family violence exception applies only to specific visa classes; in particular, it does not apply to holders of Prospective Marriage visas. In its report entitled *Family Violence and Commonwealth Laws—improving legal frameworks*, the Australian Law Reform Commission recommended an extension of the family violence exception to account for vulnerability in various visa streams, including Prospective Marriage visa holders and secondary applicants for onshore permanent visas.<sup>131</sup>

A woman is also unable to invoke the family violence exception if the violence is perpetrated by a family member other than her partner. The InTouch submission noted that violence committed by members of the extended family is 'particularly prevalent' in CALD communities; it has had clients who are ineligible for permanent residency under this exception because the violence against them was perpetrated by their mother-in-law, father-in-law, sister-in-law or brother-in-law—even in cases where their partner was aware of and facilitated the violence.<sup>132</sup>

## Specific forms of family violence

The Commission heard that women in some CALD communities experience specific forms of family violence, among them '[d]owry-associated violence, forced marriage, honour killings and, female genital mutilation' and dowry-related violence.<sup>133</sup> Some CALD women are also more likely than women from non-immigrant backgrounds to experience violence at the hands of members of their husband's extended family.<sup>134</sup> In some cultural groups, the expectation that a couple will live with the husband's family and that the wife will be subservient to her in-laws, increases exposure to a wider range of familial violence (beyond intimate partner violence).<sup>135</sup> Gender inequality and the assertion of male privilege in some cultures can also mean that violence is intergenerational, with boys being socialised to act in controlling and coercive ways towards their mothers and sisters: 'My son is in his 20s. He exactly copies his dad—he says to me most of the time 'shut up'—he treats his sister the same as me.'<sup>136</sup>

A particular concern raised in a number of submissions was elder abuse in CALD communities.<sup>137</sup> Older women from CALD communities may be at increased risk of elder abuse, especially financial abuse, because of a lack of English language skills and consequent reliance on family members to translate documents and help them negotiate their way through the service system.<sup>138</sup> In some CALD communities, there is particular stigma attached to residential aged care, which may lead to a refusal to disclose family violence.<sup>139</sup> Family violence against older people is discussed in Chapter 27.

Religious law and practice, such as a refusal to grant a divorce, can also be vehicles for abuse. This is discussed in Chapter 29.

### Forced marriage

Forced marriage occurs when a person marries without free and full consent. It can happen both in Australia (including when a person is brought into the country in order to be married) and when a person is taken to an overseas country for the purpose of a forced marriage.<sup>140</sup> Forced marriages can represent an 'intersection between family violence, sexual exploitation and child protection'.<sup>141</sup>

The Centre for Multicultural Youth described the practice as a 'unique and important' form of family violence for some young CALD women.<sup>142</sup> People also spoke about forced marriage during the Commission's community consultations:

It's so common here among my relatives to not even ask the young people and to go to Afghanistan and get a person to marry them.<sup>143</sup>

Forced marriage is to be distinguished from arranged marriage, in which a marriage is organised by the families, but the individuals concerned have the right to accept or reject the arrangement.<sup>144</sup>

Although it has been reported that 42 cases of forced marriage were referred to the Australian Federal Police between March 2013 and May 2015,<sup>145</sup> little is known about the prevalence of this practice in Australia.

The Centre for Multicultural Youth submitted that 'young women are extremely fearful of refusing [to marry] for fear of losing their family's love and support'.<sup>146</sup> It said women involved in forced marriages are at high risk of mental health problems and suicide, as well as family violence perpetrated by fathers, brothers and mothers to force the woman to cooperate with the marriage.<sup>147</sup>

The Commission heard that some young women facing forced marriages who turned to the authorities or professionals for help did not receive appropriate assistance because those from whom it was sought lacked knowledge of the law and the support that is available.<sup>148</sup>

The InTouch submission reported:

... an increase in human trafficking for sexual and domestic servitude in recent years, especially in regional areas. Typically, a foreign woman enters into what she believes is an arranged marriage with an Australian citizen, but upon arrival is treated as a slave by her husband, and repeatedly subjected to physical, sexual and other forms of abuse.<sup>149</sup>

In Australia, human trafficking, slavery and slavery-like offences (including a specific forced marriage offence) are prohibited under Divisions 270 and 271 of the *Criminal Code 1995* (Cth).

A recent report by the Australian Institute of Criminology confirmed that 'marriage and partner migration have been used to facilitate the trafficking of people into Australia', which has resulted not just in labour and sexual exploitation of women but also in exploitation of their 'very personhood'.<sup>150</sup>

### **Female genital mutilation**

Female genital mutilation refers to 'all procedures involving partial or total removal of the external female genitalia or other injury to the female genital organs for non-medical reasons'.<sup>151</sup> It is sometimes called 'female cutting' or 'female circumcision'.

The practice has been documented in 28 countries in Africa and a few countries in Asia and the Middle East.<sup>152</sup> Migration has led to an increase in the number of women and girls living outside their country of origin who have undergone FGM or are at risk of being subjected to it.<sup>153</sup> It is known to be harmful and to have both immediate and long-term health impacts.<sup>154</sup>

FGM has been illegal in Victoria since 1996.<sup>155</sup> There is no data on its prevalence in the state, although it has been reported that between 600 and 700 women each year seek the assistance of the Royal Women's Hospital de-infibulation clinic because they have been subjected to some form of FGM.<sup>156</sup> Some research suggests a decline in support for, and the relevance of, FGM in migrant and refugee communities who have resettled in Victoria.<sup>157</sup>

No FGM Australia told the Commission that the practice is a form of family violence that is culturally motivated and used as a means of controlling women and girls.<sup>158</sup> However, a recent paper published by ANROWS noted that 'while some women who have experienced genital cutting would describe it as a form of family violence many others would not'.<sup>159</sup> Evidence before the Commission suggests that parents are sometimes pressured to subject their daughters to FGM for a variety of reasons, among them to curb a girl's sexual feelings, a belief that a girl will not be able to marry without undergoing FGM, the notion that a girl subjected to the practice will be 'pure' and not bring shame on her family, and a belief that the procedure constitutes an 'initiation' into the community.<sup>160</sup>

The need to raise awareness in CALD communities about the negative health and legal consequence of FGM was raised with the Commission. Participants in the Department of Social Services' 'kitchen table conversations' identified the need to raise awareness in CALD communities that FGM is an illegal practice with negative health consequences, including obstetric, gynaecological and mental health problems.<sup>161</sup> Similarly, No FGM Australia called for public education, safeguards for children and support for survivors so that the practice is not hidden as a cultural practice and should be taken out from 'behind closed doors within communities'.<sup>162</sup>

### **Financial abuse**

The Commission heard that financial abuse was of particular concern in CALD communities. The social isolation some people from CALD backgrounds experience can create an environment in which financial abuse is more likely to occur and have a disproportionate impact on a woman's ability to support herself.<sup>163</sup>

The Commission was told of instances of men controlling all household finances (including Centrelink payments), not allowing a woman to open a bank account in her own name or use a jointly held account, coercing women into signing loan and other bank documents they do not understand, and forcing a woman to work for other family members without payment. In one case, a woman was forced to deposit all her wages into her husband's bank account, to which she had no access. Her husband decided to leave his job and she became the sole income earner, but he remained in control of her access to her money. He later spent it, despite her efforts to save, so she could retrain as a nurse.<sup>164</sup>

### **Dowry-related violence**

'Dowry' refers to money, property or gifts transferred by a woman's family to her husband upon marriage. Sometimes, dowry demands can be for substantial amounts of money which are multiple times the annual income of a bride or the groom's family.<sup>165</sup> The Commission heard that misuse of dowry was a 'substantial problem'<sup>166</sup> and a particular concern in Indian, Pakistani, Sri Lankan and, increasingly, Middle Eastern communities.<sup>167</sup> The Commission also heard that a demand for dowry is unlawful in some of these overseas jurisdictions.<sup>168</sup> Socio-economic status affects the amount of dowry to be paid.

Dowry-related violence commonly involves claims that dowry was not paid and coercive demands for further money or gifts from a woman and her extended family.<sup>169</sup> In some cases a man will use a prospective entitlement to permanent residency in Australia as a bargaining tool to attract a higher dowry price from his future spouse and her family.<sup>170</sup>

This abuse can be aggravated by a woman's uncertain visa status. Good Shepherd Australia New Zealand and Wyndham Legal Service noted that dowry-related violence 'typically co-existed with visa and migration challenges for women who were often in Australia on spousal visas and more limited in their options'.<sup>171</sup>

During the community consultations the Commission heard directly from women who had experienced dowry-related abuse.

One woman said her husband had threatened to report her to immigration authorities if she did not give him money from her parents:

The fact was I was being [pressured] to get money from my parents. He said he needs some dowry. He had a huge house but because I couldn't work because of visa restrictions, I was told to get money from my parents. I have some photos of how much gifts my parents gave—the rings, the gold ... All these gifts were exchanged during the marriage ceremony but they were not happy with this. When I said my parents couldn't afford it and he said then he'd write to the Department of Immigration and I'd be asked to go back to India.<sup>172</sup>

Women who sought assistance experienced difficulty because there was a lack of understanding about dowry and its misuse:

Dowry is a main issue and it's not being recognised here. You go to the police and they have no idea what you're talking about ... here it's hard because the police don't know what it means.<sup>173</sup>

For some women the money their families have spent on dowry also acts as a barrier to their leaving their abusive partners.<sup>174</sup>

The Australasian Centre for Human Rights and Health submitted that dowry plays a 'significant adverse role' in leading to emotional and physical abuse<sup>175</sup> and has harmful impacts on mental health.<sup>176</sup> The centre highlighted the need for greater awareness and education<sup>177</sup> and called for the *Family Violence Protection Act 2008* (Vic) to be amended to include misuse of dowry as an example of economic abuse<sup>178</sup> or to make the 'taking and giving of dowry illegal'.<sup>179</sup>



## Access to services

Chapter 40 describes current workforce gaps that are holding Victoria back from having an effective approach to preventing and responding to family violence. This includes shortcomings in bicultural and culturally-appropriate practice that have been caused by demand pressures, skills gaps and in some cases discriminatory practice.

The Commission heard that people from CALD communities face cultural and linguistic barriers when seeking access to both specialist family violence services and mainstream universal services that intersect with family violence, such as health, Child Protection, police, legal services and the courts.

### Universal services

Health clinicians have a valuable role to play in identifying family violence;<sup>180</sup> more than one in five women experiencing family violence will make their first disclosure about it to a health professional.<sup>181</sup> Apart from appointments with general practitioners, CALD women are rarely alone with a professional in whom they can confide.<sup>182</sup> The Commission heard that services, including general practitioners, maternal and child health nurses and hospitals and others, need to be equipped to recognise family violence in CALD communities and respond in culturally appropriate ways.<sup>183</sup>

It is expected that maternity and early childhood services can provide a setting within which women can disclose if they are subject to family violence which may adversely affect their health and that of their babies. However a recent study of new Afghan mothers and fathers undertaken by Murdoch Children's Research Institute and Foundation House found that there were a number of barriers to this occurring. For example, 'Some providers had limited awareness of the experiences that refugees may have had prior to and after settling in Australia, and the impact of those experiences on their capacity to voice their concerns, or ability to access services' ... Each of these findings has strong implications regarding a woman's willingness and ability to disclose family violence to a health care provider.<sup>184</sup>

The Centre for Multicultural Youth submitted that fears about the role and powers of Child Protection in the context of family violence were often amplified in migrant and refugee families, which resulted in families preferring to keep professional help at a distance.<sup>185</sup> The Centre for Multicultural Youth discussed the complexity of child protection involvement with CALD families:

Family support and child protection workers are often ill-equipped or not confident in working with families from migrant and refugee backgrounds. A lack of understanding around language barriers, correct use of interpreters, the centrality of building trust and rapport before meaningful work can be achieved, and a lack of knowledge around cultural issues which may require a different approach or intervention are some of the key areas that need to be addressed.<sup>186</sup>

The Commission was told of examples of mainstream services successfully running programs for CALD women. Merri Community Health Services ran an Arabic Speaking Women's Family Violence Program facilitated by an Arabic-speaking counsellor and a family violence counsellor.<sup>187</sup> It reported that the program was promoted and facilitated in a culturally-appropriate way that attracted women who would not have attended a mainstream group. The women who participated in the program reported that they developed an awareness of their rights and a knowledge of community support options. They appreciated the opportunity to have 'a culturally safe space to interact socially' and to just 'be together and share experiences and stories'.<sup>188</sup>



Another example is the Safe from Harm project run by the Moonee Valley Legal Service; it aims to raise awareness about family violence in CALD communities living in public housing estates in Flemington and Ascot Vale through the provision of legal advice, assistance and education.<sup>189</sup>

Submissions noted that CALD-specific community organisations also need support to build their response to family violence and to work in the community to respond to it:

Government and other funding bodies should, at a minimum, make funding available to community organizations, ethno-specific and multicultural organization[s] to train and develop staff to improve responses to clients presenting with issues relating to family violence. Many services, for established and new and emerging communities, are the first and sometimes the only contact a person may make on this serious issue.<sup>190</sup>

Clients and workers from Australia's settlement services have suggested that family violence awareness-raising could also be reinforced through settlement services:

[O]rientation programmes for new arrivals and the Adult Migrant English Program could provide an appropriate setting to further explain Australian law and cultural norms in relation to family violence and sexual assault. Programmes could also support discussion of differing expectations regarding gender roles and ensure that clients understand how to access support services.<sup>191</sup>

### **Specialist family violence services**

Shakti Australia told the Commission the 'culture neutral' stance of specialist family violence services was problematic and did not adequately respond to the particular needs of CALD women.<sup>192</sup> The Commission also heard directly from CALD victims, including refugees, about the difficulties they had experienced when trying to gain access to services. Some women encountered discriminatory or unhelpful attitudes; for example, in one refuge a staff member repeatedly asked one woman why she 'didn't just go back to India'.<sup>193</sup>

Mainstream services face serious challenges in effectively addressing family violence in immigrant communities. Multiple factors have contributed in creating these challenges, but primarily the differences in the conceptualization of violence against women between mainstream services and immigrant communities. Mainstream service providers, based on a model of individual rights, perceive violence and abuse against women as non-negotiable, and the safety of abused women is the priority in these situations. While immigrant cultures also see abuse as unacceptable, the approach tends to differ. Family violence against women is often seen as a family matter, which implies that only family can and should resolve it without intervention from anyone outside the family. There are particular challenges facing communities from collective societies. There is an expectation that personal needs will be subordinated to those of the collective. Women are expected to maintain harmony in order to uphold the family's status and reputation. In summary, there are many barriers that prevent women from CALD backgrounds from accessing services or assistance relating to family and domestic violence.<sup>194</sup>

Many submissions emphasised that specialist family violence services need further support to strengthen their capacity to identify and respond to the needs of CALD communities.

The additional needs and complex presentations among many victims and perpetrators of family violence are widely understood as challenges for the service system. The multiplicity of issues represented here across a range of incident types means that no single prevention strategy is likely to prove effective in this area. However, it reflects the need for both mainstream and specialist services to give adequate weight to the contributions of vulnerability factors (i.e. CALD background, disability, mental health issue or substance dependence) when assessing risk, undertaking safety planning or formulating intervention strategies.<sup>195</sup>

There is a general need for all service providers to be culturally sensitive to the community and their needs ... There needs to be culturally sensitive support for victims prior to seeking an intervention order, and once the intervention order is given, the woman needs to be supported to feel safe. There is insufficient housing and help available to women in emergency situations ... More refuges are needed along with a reassessment of how refuges are used and help to provide support. CALD communities in particular are not comfortable sharing houses with multiple families as is the model in the west. Lack of refuge housing often means that women will return to the abusive situation rather than seek help. Domestic violence in this community is severely under reported because of the public knowledge of violence and death that women have suffered for separating or reporting violence in the community.<sup>196</sup>

The failure of specialist family violence services to provide culturally appropriate information and assistance can cause CALD victims to disengage from such services at an early stage.<sup>197</sup>

### **CALD-specific family violence services**

Studies have found that CALD women would prefer 'ethno-specific' family violence services.<sup>198</sup> Currently, InTouch is the only family violence service in Victoria that provides services specifically for CALD women. It provides case management and access to legal advice, migration advice, counselling and court support. Ms Maya Avdibegovic, Chief Executive Officer of InTouch, gave evidence that 12 case workers provide services in 25 different languages across Victoria. She added that the case workers' ability to directly develop a trusting rapport with clients without the need for an interpreter makes 'a huge difference':<sup>199</sup>

... making that first initial contact with a client, it makes [an] enormous difference when it's done in a language by someone who understands the culture and the whole understanding of family violence in that culture.<sup>200</sup>

Although the availability of CALD-specific services and community supports is crucial, there are also benefits to be gained if CALD communities use mainstream family violence services. Mainstream services may offer benefits such as neutrality, a greater assurance of confidentiality and an 'outside' perspective in situations of family violence, sexual assault, community pressure and harassment:<sup>201</sup>

... there are also risks associated with [CALD] services that serve specific cultural groups. These include safeguarding service recipients' privacy and confidentiality and ensuring that prominent community members do not exert undue influence in organisations in ways that privilege men over the safety and rights of women.<sup>202</sup>

### **Culturally appropriate programs for men**

A number of submissions referred to the lack of culturally appropriate men's behaviour change programs for perpetrators of family violence.<sup>203</sup> In particular, perpetrators who do not speak English have limited access to such programs.

At present very few culturally specific men's behaviour change programs are offered—Kildonan Uniting Care runs a program delivered in English for men from South Asia and Relationships Australia delivers a program for Vietnamese-speaking men. A behaviour-change program for Arabic-speaking men is being developed.<sup>204</sup> Each of these programs is designed in accordance with the No To Violence minimum standards and quality practice guidelines (see Chapter 18).

Kildonan Uniting Care submitted that its general program failed to take into account the 'cultural norms, beliefs and identity of men from South Asia, the social and economic implications of the migration and resettlement experience, and the lived experience of their communities'.<sup>205</sup> Some men participating in the program viewed 'disciplining' their partner as appropriate and their responsibility, did not understand what family violence meant in Australia, and used the threat of deportation as a means of controlling their partner.<sup>206</sup>

The programs currently offered for South Asian and Vietnamese men cover pre-migration and settlement experiences, gender equality in Australia, understanding attitudes, values and behaviours that underpin family violence, and understanding that family violence consists not just of physical violence and that family violence is a crime.<sup>207</sup>

A number of submissions expressed support for the development of specific behaviour-change programs for CALD communities that are delivered in the relevant language and respond to the needs of that community, including dealing with family dynamics, pre-migration experiences and trauma.<sup>208</sup> Others highlighted the need for further research into effective strategies for engaging with perpetrators of family violence from CALD communities,<sup>209</sup> including directly engaging with these communities.<sup>210</sup>

## Overcoming language barriers

Many submissions noted the lack of interpreters throughout the family violence system and in intersecting health, and justice services as a major barrier for CALD communities.<sup>211</sup>

Failure to provide an interpreter may constitute discrimination and amount to a breach of the *Equal Opportunity Act 2010* (Vic) and the *Charter of Human Rights and Responsibilities Act 2006* (Vic).

Accordingly, the Victorian Government's policy on the use of interpreters states that clients who cannot communicate through spoken or written English should have access to professional interpreting services in three situations:

- ▷ when required to make significant decisions concerning their lives
- ▷ when being informed of their rights
- ▷ when essential information needs to be communicated to aid decision-making—including obtaining informed consent.<sup>212</sup>

The policy also provides that family members or friends (including children) should not be used to interpret in situations involving critical information and decision making.<sup>213</sup> Particular risks arise when this occurs in the context of family violence, especially in the case of children.

The Commission was informed that this policy is not being consistently applied. For example, the Federation of Chinese Associations submitted:

It is important for women and their children in a life threatening situation for their calls for help [to be] dealt with immediately. Unfortunately, a number of our clients have expressed their disappointment with the system as they have had problems in find[ing] an online interpreter or person to help with the lifesaving call. During our day to day work we have found that [the] TIS service for Chinese especially for Mandarin speaking services have a long wait times, ... [I]magine people who have been subjected to domestic violence desperately needing help having to struggle to find an interpreter to connect them with crisis services at the same time in fear of their safety.<sup>214</sup>

## The Translating and Interpreting Service

The **Translating and Interpreting Service** is a national 24-hour, seven-days-a-week service operated by the Department of Immigration and Border Protection. TIS provides services to government agencies as well as businesses. It provides immediate, voice-prompted and pre-booked phone interpreting services and onsite interpreting services.

The **Victorian Interpreting and Translating Service** is a professional interpreting and translating service which provides services to businesses and government departments across Australia, 24-hours a day, seven-days-a-week. VITS provides certified translators and interpreters for a range of services including document translation, telephone translation and onsite interpretation. A telephone interpreter is provided for 95 per cent of all calls within three minutes.

### Emergency responses

The Commission heard that 000 and crisis hotlines do not use interpreters as a matter of course, which can have tragic consequences for victims. As the Coroners Court of Victoria submitted:

A broad range of cultural groups have been represented among the fatal incidents investigated by the Coroners Court of Victoria, and cultural and linguistic diversity has been a particularly salient feature. Here, cultural and language barriers; traditional views of marriage; social isolation and a reluctance to speak out about abuse due to the negative perceptions of others were identified as relevant factors that shaped the victim's experience of violence. By way of example is Judge Gray's recent comments made in his finding into the death of Ms Marzieh Rahimi[:]

"With respect to Ms Rahimi's inability to make contact with police when she telephoned 000 on 1 November 2007, I reiterate the concerns raised by Her Honour Justice King and note that, currently, the 000 emergency call service does not have the facilities to translate different languages at the point of answer. If a caller to 000 is unable to speak English, their call is transferred to the capital city police in the state they are calling from, and an interpreter will then be arranged. In Ms Rahimi's case, it appears that she ended the call before this could occur."<sup>215</sup>

### Victoria Police

The Victoria Police Code of Practice for the Investigation of Family Violence states '[T]he police response to CALD communities needs to be sensitive to their diverse needs' and should involve 'interpreters being used at the earliest opportunity and at every stage while providing assistance'.<sup>216</sup> The Commission received evidence about initiatives designed to improve Victoria Police's response to family violence in CALD communities—among them cross-cultural training, the provision of cultural awareness guidelines, and the use of multicultural liaison officers who are full-time, sworn police officers located in areas with particularly large populations of CALD people.<sup>217</sup>

Although some submissions commended Victoria Police for the improvements in its response to family violence in CALD communities,<sup>218</sup> the Commission did hear of cases in which police officers failed to respond to family violence incidents in a culturally sensitive way.

The Commission heard of problems with police practices in relation to interpreters, including not using interpreters, not notifying the court of the need for an interpreter when the police are applying for a family violence intervention order, relying on an interpreter from a different language group and inappropriately using children, people known to the perpetrator or the perpetrator themselves.<sup>219</sup> The Code of Practice expressly contemplates using an independent interpreter as soon as practicable following an incident.<sup>220</sup> Children can be further traumatised by acting as interpreters after witnessing family violence.<sup>221</sup>

As Superintendent Charles Allen, Priority Communities Division, explained, police can have difficulty arranging a face-to-face interpreter, especially if called out late at night or early in the morning, and so will make use of telephone interpreting services:

[It is] ... difficult to get an interpreter on their feet at a scene in a timely manner. So second best is telephone interpreting services or reliance on networks, which is less than best because that could be bringing another community member which could create a barrier to a safe place to have a conversation.<sup>222</sup>

Superintendent Allen went on to say that police sometimes use family members as interpreters if no other options are immediately available and information needs to be obtained quickly:

[Use of family members as interpreters is] not ideal ... [but] if the situation is very dynamic, police need to be able to draw out information quickly to be able to deal with the dynamics of a situation, hence why on occasions other approaches will be taken to try to get a sense of the issues at play.<sup>223</sup>

The Commission was also told that policing approaches in non-family violence-related matters can lead to general mistrust, such that community members, including victims, will not contact police for assistance with family violence. An example was that poor police relationships with young African Australian people have affected their parents' confidence in police.<sup>224</sup>

Former Victoria Police Chief Commissioner Mr Ken Lay APM noted in his foreword to Victoria Police's *Equality is not the Same* report and action plan:

We understand that public confidence is significantly impacted by both the experience and perception that police perform their duties in a manner that is procedurally just and fair, and that at all times we uphold individual rights and treat all persons with dignity and respect. Every interaction between a member of Victoria Police and a member of the community therefore matters, whether as a victim, offender, participant in community activities or in the course of routine daily activities. Therefore, where actions that so critically undermine confidence in policing such as racism or racial profiling remain a concern for communities, it is incumbent on us to be explicit in our zero tolerance of these and to demonstrate this commitment through action.<sup>225</sup>

### **At court**

The difficulties victims of family violence can experience in the courts are discussed in Chapter 16. The situation is even more difficult for members of CALD communities, particularly if a person does not speak English, is unfamiliar with the Australian legal system, or has had negative experiences with government agencies in their country of origin.

The Commission was told that, although there have been some positive developments—for example, a full-time Vietnamese interpreter at Sunshine Magistrates' Court and translated directional signs at Heidelberg Magistrates' Court—the magistrates' courts remain 'highly inaccessible and disorientating for CALD women, which often exacerbates their trauma'.<sup>226</sup>

The Neighbourhood Justice Centre has developed an audio guide for making family violence intervention order applications that is available in various languages.<sup>227</sup>

Problems with access to interpreters at court was a strong theme. The Magistrates' Court currently arranges and pays for interpreters for accused persons in criminal proceedings (including paying for appointments with support services), applicants and respondents in intervention order proceedings and applicants in Victims of Crime Assistance Tribunal proceedings.<sup>228</sup>

In 2013–14 there were 1210 cases in which interpreters were requested by applicants and respondents in family violence intervention order applications.<sup>229</sup> The number of respondents requesting interpreters in the Magistrates' Court has nearly doubled since 2004–05 from 235 to 417 in 2013–14.<sup>230</sup> Requests for interpreters for family violence intervention order proceedings now account for about half of the Magistrates' Courts' total interpreter expenditure.<sup>231</sup>

It was reported that interpreters sometimes had not been booked at court in advance of hearings or only one interpreter had been booked, resulting in long waiting times for an available interpreter.<sup>232</sup> The Magistrates' Court and the Children's Court described the problems in their submission:

Sometimes courts will only be able to secure one interpreter for a case, meaning that interpreter must provide assistance to both the applicant and respondent to an intervention order. This is highly unsatisfactory.<sup>233</sup>

Court Network submitted that generally interpreters are booked only until 1.00 pm, which can result in matters being rushed through before the interpreter leaves or the matter being adjourned.<sup>234</sup> Other submissions noted that magistrates' courts are not uniformly equipped with multilingual signage and that forms, orders and information provided to parties may be unavailable in languages other than English. Family violence intervention orders are provided in English only, increasing the possibility that the parties will not understand what the orders mean.

The Magistrates' Court and the Children's Court called for additional funding to be provided to courts for adequately qualified legal interpreters for all family violence cases, and for information and materials on family violence to be available in a range of languages and delivered using modern best-practice communication approaches in a culturally appropriate manner.<sup>235</sup>

Women's Legal Service Victoria and Court Network submitted specific funding should be allocated for family violence interpreters in the Magistrates' Court and court guidelines should be developed that set out the process for booking interpreters in family violence matters—including:<sup>236</sup>

- a practice of booking two interpreters if both parties require an interpreter
- a presumption that a female interpreter be booked for a female party.<sup>237</sup>

These matters are discussed further in Chapter 16.

### **Improving family violence competency of interpreters**

Professionals Australia's submission, made on behalf of the National Association of Translators and Interpreters Australia, reported a range of acute problems, among them the following:

- ▷ interpreters representing both parties to a family violence intervention order application because a second interpreter was not available
- ▷ interpreters displaying a lack of impartiality—including trying to persuade applicants to withdraw their application or return to a violent relationship, and criticising applicants for drawing negative attention to a particular community
- ▷ ad hoc use of family members and friends to act as interpreters
- ▷ use of interpreters with a history of family violence.<sup>238</sup>

An associated concern is lateral violence that female interpreters can face if they do family violence-related work in their own community and it is a community where such violence is tolerated, condoned or regarded as community business.

The Magistrates' Court and the Children's Court submitted:

Competent, ethical and highly skilled interpreters are an essential element in meeting some of the significant safety risks which exist for families from CALD communities living with family violence. An independent governance structure for interpreters, such as an improved accreditation process, would give the court greater confidence.<sup>239</sup>

The Commission is not aware of any compulsory training in relation to family violence being provided as part of the process of gaining a qualification as an interpreter. Professionals Australia submitted that interpreters should be provided with specialised training and support to deal with unique issues in the family violence context.<sup>240</sup>

## The way forward

Conceptions of what constitutes family violence can differ across cultures. In some cultures, there can be a lack of institutional prohibition of the use of violence within families. It is clear, however, from the evidence presented to the Commission that attitudes, values and practices that at some level fail to recognise or condemn, or that promote, family violence exist in all cultures including Anglo-Australian culture. When considering the interplay between 'culture' and family violence, it is important to note that culture is not a cause of family violence. Nor does culture excuse violent and abusive behaviour. Culture is multi-layered, and the ways people view themselves through their cultural background can differ.

The effects of family violence experienced by people from culturally and linguistically diverse communities including recent arrivals, are compounded by a range of factors associated with the experience of migration and resettlement, as well as systemic barriers to seeking and obtaining help. The impact of family violence on CALD women who do not have permanent residency is particularly severe because they may have very limited or no access to support and can be at greater risk of coercion and control by sponsoring spouses and other family members.

In addition to forms of family violence experienced in all communities, women in some CALD communities experience some specific forms—for example, forced marriage, female genital mutilation, and dowry-related violence. These forms of abuse are not readily recognised as family violence by some within these communities.

Both mainstream universal services and specialist family violence services struggle to provide culturally appropriate services for victims. The services designed specifically for victims from CALD backgrounds are limited. There are also limited opportunities for men from CALD communities to participate in behaviour change programs that are culturally specific or in their own language. While exposure to pre-arrival violence and trauma does not excuse the perpetration of family violence in relationships, it does reveal the importance of understanding the experiences of some CALD communities and developing appropriate behaviour-change programs.

Mainstream universal and specialist services must be more responsive to the needs of people from CALD communities who are affected by family violence. They should be supported by organisations with the requisite expertise to build the services' capacity to respond appropriately.

The availability of professional and independent interpreting and translating services is inadequate. Professional accreditation standards for interpreters should be amended to incorporate minimum requirements relating to understanding the nature and dynamics of family violence. This will require a national effort.

The Commission acknowledges and agrees that more needs to be done to improve the prevention and response to family violence in CALD communities. Initiatives aimed at promoting the prevention of family violence should reflect the diversity of the Victorian community and be tailored in consultation with CALD communities to meet their specific needs. It is important to encourage and support women in these communities to express their views.

The Commission's recommended priority areas for action are set out below. These are in addition to the recommendations we make elsewhere in this report to improve the responsiveness of the family violence system to the diverse experiences of victims.



## Strengthening mainstream services

CALD communities face difficulties gaining access to mainstream services. These services need to develop their capacity to provide adequate culturally-specific services to meet demand.

Service providers such as general practitioners, maternal and child health nurses, and hospitals need to improve their capacity to recognise family violence in CALD communities—including female genital mutilation, forced marriage and dowry-related abuse—and to respond in a culturally appropriate way. This may be assisted if the Family Violence Protection Act were to contain statutory examples of such abuse.

CALD-specific community organisations need support in building their response to family violence and in working within communities to redress it. In particular, settlement services require greater Commonwealth government support in working with people affected by family violence.

### Recommendation 156

The Victorian Government amend section 6 of the *Family Violence Protection Act 2008 (Vic)* to expand the statutory examples of family violence to include forced marriage and dowry related abuse [within 12 months].

## Strengthening specialist family violence practices

Specialist family violence services need support in strengthening their capacity to identify and respond to the needs of CALD communities and providing culturally appropriate services.

There are two important elements to developing this capacity. First, services should seek to employ workers with relevant bicultural and bilingual skills to meet the needs of specific communities. There are many people in CALD communities whose skills and expertise could be drawn upon. The industry plan recommended in Chapter 40 will facilitate this.

Secondly, the secondary consultation model should be strengthened. As a dedicated statewide CALD-specific family violence organisation, InTouch is ideally placed to offer its expertise (and if required, a secondary referral pathway) to other specialist family violence services, as well as mainstream services. The Commission understands this service is already offered but is overstretched.

This approach encourages specialist family violence services to build their own culturally-appropriate practice, with the ability to call on specialist help where required, without having to establish multiple new organisations and services. In view of the increased demand for such services, InTouch will require increased investment and support from government if it is to do this effectively.

There should be greater collaboration between mainstream, specialist family violence and ethno-specific services to respond to the needs of population groups at the local level; this entails, among other things, direct engagement with new and emerging communities in order to improve responses to them, and the inclusion of CALD community members on the boards, and in the management and staff of service providers. Similarly, organisations providing services to CALD communities, for example refugee support organisations, should seek to develop their understanding of and capacity to address family violence through such collaboration.



## Overcoming language barriers

Access to interpreting services must be improved throughout the family violence system and in intersecting health, human and justice services.

As a front-line responder to family violence, Victoria Police needs to improve compliance with its Code of Practice in relation to the use of interpreters and avoid using perpetrators, children or other family members as interpreters, or using the same interpreter for both perpetrator and victim.

Victoria Police should continue its cross-cultural training to improve its response to family violence incidents in CALD communities as well as to build the confidence of and relationship with these communities generally.

The number of adequately qualified legal interpreters for family violence cases must be increased to ensure access to justice for CALD communities. The Commission agrees with the submissions from Court Network and the Magistrates' Court and Children's Court calling for additional funding in this regard. Listing and other administrative practices could also be improved to promote as much efficiency as possible in the use of interpreting services. In addition, information and materials on family violence should be made available in a range of languages and delivered using modern best-practice communication approaches in a culturally appropriate manner. The Neighbourhood Justice Centre's audio guide should be used more widely.

In view of the special vulnerabilities of CALD communities, the Commission is concerned that there is no compulsory family violence training for interpreters. Interpreters should receive training in the dynamics of family violence.

### Recommendation 157

The Victorian Government update its guidelines on policy and procedures in using interpretative services to specifically deal with family violence—in particular, the risks of using perpetrators, children and other family members as interpreters, as well as using the same interpreter for both perpetrator and victim [within 12 months].

### Recommendation 158

The Magistrates' Court of Victoria allocate specific funding for family violence interpreters and develop court guidelines for booking interpreters in family violence matters [within 12 months]. Among other things, the guidelines should take account of the following:

- ▷ an early process for checking whether parties require an interpreter
- ▷ a practice of booking two interpreters if both parties require an interpreter
- ▷ a presumption that wherever possible a female interpreter will be booked for a female party.

## Recommendation 159

Victoria Police [within 12 months]:

- ▷ amend the Code of Practice for the Investigation of Family Violence to emphasise the risks associated with using children as interpreters and using the same interpreter for both perpetrator and victim, as well as to provide practical guidance to officers on the use of interpreters
- ▷ provide training at all appropriate levels on the amended Code of Practice requirements relating to interpreters.

## Recommendation 160

The Victorian Government, as a member of the National Accreditation Authority for Translators and Interpreters Ltd, work with the other members of the authority to ensure that accreditation and testing processes and approval of translator and interpreter courses require an understanding of the nature and dynamics of family violence [within two years].

### Assisting recovery

Culturally appropriate therapeutic programs and counselling—for both individuals and groups—should be supported. It is especially important that these programs are sensitive to any previous trauma people from CALD backgrounds might have experienced as a consequence of pre-migration events and settlement in their new country. Recovery is not just limited to counselling: it also calls for opportunities to participate in the community and enjoy time with friends and family in a supportive environment.

Initiatives such as those organised by InTouch are an important part of the healing process and should be supported, as should dedicated efforts to facilitate financial recovery and economic security through education and employment support, financial literacy and debt recovery initiatives.

### Prevention and early intervention

A sustained focus on prevention and early intervention is as important in CALD communities as it is in other communities. Prevention work in communities requires a rights-based approach that gives priority to safety, choices and empowerment of victims and responds to the increasing diversity in the composition and geographic settlement patterns of migrants in Australia. Prevention of family violence in CALD communities requires targeted initiatives with particular communities and sub-populations.

The Commission supports initiatives that are designed in collaboration with CALD communities themselves, involve women and respond to the particular community's needs. This should form part of a prevention strategy for Victoria.

The Commission is encouraged by the role that school-based respectful relationship programs can play in preventing family violence in CALD populations, if the programs are tailored to meet the needs of specific communities. This is discussed further in Chapter 36.

## Community awareness and information

The greater use of audio material to explain and provide family violence intervention orders, should be explored.

Most order conditions are standard and could be pre-recorded in a number of languages. Access to audio information that accommodates differing literacy levels would allow for a better understanding of orders for all parties and potentially reduce the number of breaches resulting from misunderstanding what an order entails. An audio format would also be of use for people with poor literacy (who could additionally benefit from access to Easy English resources) and those with visual impairments.

The Commission welcomes the Commonwealth Government's initiative to provide information packs to migrants, although it recognises that migrants can be overwhelmed with information when they arrive. Consideration should be given to developing pre-arrival packs for migrants, covering Australian laws and expectations around family violence, including the potential for criminal sanctions and deportation.

The Commission agrees that there is a need to develop a strategy to raise awareness in some CALD communities that female genital mutilation is an illegal practice with negative health consequences.

### Recommendation 161

The Department of Health and Human Services, in collaboration with the Victorian Multicultural Commission, community organisations and other relevant bodies, develop a strategy for informing service providers, specialist family violence services and other community organisations about the health impacts of female genital mutilation, emphasising that it can be a form of family violence and a criminal offence [within 12 months].

## Family violence exception for visa applicants

The Commission considers that the Migration Regulations 1994 (Cth) should be amended to allow a person who experiences violence perpetrated by a family member other than the person's spouse to apply for the family violence exception. Unlike the Family Violence Protection Act and other equivalent state and territory legislation, the current approach does not encompass other forms of family violence (for example, parent-on-child, child-on-parent and sibling-on-sibling violence).

The range of people entitled to Commonwealth crisis payments on account of family violence should be enlarged to reflect all forms of family violence (and be available regardless of their visa status).

### Recommendation 162

The Victorian Government, through the Council of Australian Governments, encourage the Commonwealth Government to broaden the definition of family violence in the *Migrations Regulations 1994* (Cth) so that it is consistent with the *Family Violence Protection Act 2008* (Vic) and to ensure that people seeking to escape violence are entitled to crisis payments (regardless of their visa status) [within 12 months].

## Endnotes

- 1 See Victorian Multicultural Commission, *2011 Census: A Snapshot of Our Diversity* <<http://www.multicultural.vic.gov.au/population-and-migration/victorias-diversity/2011-census-a-snapshot-of-our-diversity>>.
- 2 Ibid.
- 3 Ibid.
- 4 VicHealth, AMES Australia and Lyn Walker and Associates, 'Understandings and Actions to Prevent Violence Against Women in CALD Communities' (2015) (unpublished, copy on file with author) 37–8.
- 5 Cathy Vaughan et al, 'Promoting Community-led Responses to Violence Against Immigrant and Refugee Women in Metropolitan and Regional Australia: The ASPIRE Project' (Landscapes: State of Knowledge No 12, Australia's National Research Organisation for Women's Safety, October 2015) 6; Department of Social Services (Cth), 'Hearing Her Voice: Report from the Kitchen Table Conversations with Culturally and Linguistically Diverse Women on Violence Against Women and Their Children' (September 2015) 9.
- 6 See, eg, Department of Social Services (Cth), above n 5, 9.
- 7 As discussed in Chapter 3.
- 8 Vaughan et al, above n 5, 20.
- 9 In the Australian Bureau of Statistics' Personal Safety Survey, the notes on data collection indicate that restricted access to bi-lingual interviewers make it likely that the survey 'may under represent those from a non-English speaking background': Australian Bureau of Statistics, 'Personal Safety, Australia, 2012' (Catalogue No 4906.0, Australia Bureau of Statistics, 2013); Vaughan et al, above n 5, 6.
- 10 Minister for Social Services, the Hon Scott Morrison MP, Minister Assisting the Prime Minister for Women, Senator The Hon Michaelia Cash, Parliamentary Secretary to the Minister for Social Services, Senator The Hon Concetta Fierravanti-Wells, 'National Roundtable To Discuss Violence Against Culturally Diverse Women' (Media Release, 7 August 2015).
- 11 Ibid.
- 12 Janet Phillips and Penny Vandenbroek, 'Domestic, Family and Sexual Violence in Australia: An Overview of the Issues' (Research Paper Series, 2014–15, Parliamentary Library, Parliament of Australia, 14 October 2014) 12.
- 13 Ibid 32.
- 14 Vaughan et al, above n 5, 13.
- 15 Crime Statistics Agency, *An Overview of Family Violence in Victoria: Findings from the Victorian Family Violence Database 2009–10 to 2013–14* (January 2016), 80.
- 16 Women's Health West Inc, Submission 239, 34.
- 17 Safe Steps Family Violence Response Centre, Submission 942, Appendix 2, 6.
- 18 Ibid.
- 19 Alison Howarth, 'Domestic and Family Violence Crisis Lines of Australia Network (DFVCLAN)—Statistics Report 2015: An Examination and Analysis of Female Victims of Domestic and Family Violence in Australia without Australian Permanent Residency Contacting the State-wide Crisis Lines of Australia for the Period October to December 2014' (Domestic and Family Violence Crisis Lines of Australia Network, April 2015) 5.
- 20 Ibid.
- 21 Whittlesea Community Futures Partnership, Submission 392, 10.
- 22 Vaughan et al, above n 5, 2.
- 23 VicHealth, AMES Australia and Lyn Walker and Associates, above n 4, 8.
- 24 Ibid 10.
- 25 Ibid 12.
- 26 Ibid.
- 27 Ibid.
- 28 'Of the 44 specific projects identified, the majority were located in Victoria. The work conducted and supported by VicHealth during this ten-year period is likely to have contributed to the higher level of activity in primary prevention with CALD communities. Of the projects in Victoria, the primary strategies in descending order were: 1) community strengthening, 2) communications using multimedia, 3) individual-level change, 4) research and 5) policy reform': Ibid 31.
- 29 InTouch Multicultural Centre Against Family Violence, Submission 612, 18.
- 30 See, eg, Whittlesea Community Connections, Submission 375, 15.
- 31 See, eg, cohealth, Submission 852, 42.
- 32 Barwon Area Integrated Family Violence Committee, Submission 893, 11.
- 33 cohealth, Submission 852, 39.
- 34 InTouch Multicultural Centre Against Family Violence, Submission 612, 21.
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- 36 Department of Social Services (Cth), above n 5, 18.
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- 138 Ethnic Communities' Council of Victoria, Submission 879, 8.
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# 29 Faith communities

## Introduction

Faith-based communities and organisations play an important role in the lives of many Victorians. These communities and organisations offer a vital opportunity to reach people who are affected by family violence, many of whom might not use formal family violence service pathways to seek help. It is therefore important that faith-based communities address barriers to the disclosure, prevention of or recovery from family violence and make it clear that religion cannot be used by perpetrators and others to condone or excuse abusive behaviour.

The first section of this chapter discusses evidence before the Royal Commission about the importance of faith communities in interacting with people affected by family violence; these communities are well placed to educate their members, influence attitudes and individuals' behaviours, respond to violence, provide support to victims, and facilitate referrals.

In its community consultations the Commission heard from leaders of a number of faith communities—as well as from women and from people working in the family violence field—about the support that faith communities can provide to people affected by family violence. The Commission also heard, however, that women experiencing family violence can face barriers to seeking help within their faith communities as a result of particular religious beliefs and practices.

The second section of this chapter outlines some of the issues leaders and members of faith communities raised. Spiritual abuse and the use of faith to support or condone violence are concerns in some communities. The Commission also heard that training for faith leaders in recognising and responding to family violence is inadequate. This lack of awareness of and knowledge about how to respond to disclosures of family violence limits communities' ability to support those experiencing such violence. Several examples of initiatives led by different faith communities, with the aim of preventing and responding to family violence, are also documented.

The chapter concludes with the Commission's views and recommendations relating to the need to facilitate and resource a multi-faith approach to improving information, training and responses to family violence in all faith communities and to ensure that family violence services take account of the needs of women from faith communities who seek their support.

## Context and current practice

A wide range of faiths are practised by people in Victoria. In the 2011 census 67.7 per cent of Victorians indicated a religious affiliation. In terms of numbers, the most prominent faith communities are Western Catholic (26.6 per cent), the Anglican Church of Australia (12.3 per cent), the Uniting Church (4.7 per cent), Buddhism and Greek Orthodox (both 3.1 per cent) and Islam (2.9 per cent).

A comparison of census data for 2006 and 2011 reveals different trends for the top-ranking religions: the predominance of Christian faiths has declined slightly, whereas the number of Victorians of non-Christian faith has increased considerably. For example, the number of adherents of Buddhism increased by 27.1 per cent; the number of those adhering to Islam increased by 39.7 per cent; the number of Hindus increased by 96.5 per cent, and the number of Sikhs increased by 224.6 per cent.<sup>1</sup>

Although there is no data on the prevalence of family violence in particular faith communities, anecdotal evidence suggests that such violence is causing increasing concern among those communities and their leaders.<sup>2</sup>

As noted in Chapter 28, both culture and faith can add complexity to a victim's experience of family violence and their ability to gain access to services. Importantly, however, the difficulties culturally and linguistically diverse communities and faith communities face are often distinct. People might share the same cultural practice yet come from different faith traditions.

The role of faith and faith-based responses to family violence was mentioned at a number of community consultations with women and people working in the family violence field and in submissions to the Commission. The comments predominantly related to the Christian, Jewish and Muslim faiths.

With the assistance of the Office for Multicultural Affairs and Citizenship, the Commission arranged a faith leaders consultation that was attended by representatives of the Anglican, Catholic, Jewish, Hindu, Muslim, Coptic Orthodox and Russian Orthodox communities.<sup>3</sup> The consultation provided valuable insights into the experiences of faith leaders. All the leaders recognised that no faith community is immune from family violence by reason of their particular faith. The consultation also afforded the Commission an opportunity to hear about work being done in some communities to prevent and respond to such violence.

## The importance of faith-based responses to family violence

Faith communities are 'vital settings' for dealing with family violence for a number of reasons:<sup>4</sup>

- ▷ They have an ability to reach and engage people who might not approach formal service providers in the family violence system.<sup>5</sup>
- ▷ They are places where people can go to find 'solace, meaning, comfort and support',<sup>6</sup> and they can create supportive social networks for their members who are affected by family violence.
- ▷ They can provide education to their members about family violence.<sup>7</sup>
- ▷ Faith leaders occupy a position of authority in their community and have the ability to influence the behaviour of community members.<sup>8</sup>
- ▷ They can sensitively introduce ways of seeing the roles of men and women in society to members of their own communities, without being seen as 'outsiders'.<sup>9</sup>

Along with friends, family members and work colleagues, ministers of religion feature among the groups of people identified as the most common source of support following a woman's most recent physical assault by her cohabiting partner and in cases of assault generally.<sup>10</sup>

An international study commissioned by the United Kingdom's Department for International Development looked at the available literature and held consultations with a variety of experts from around the world on the topic of faith-based prevention and response activities. While noting that the existing literature primarily focuses on particular regions and particular religions,<sup>11</sup> the report stated:

The literature and experts agree ... that faith communities are present at grassroots level, all over the world, have existed for generations, are present before, during and after political unrest, and are insiders within the communities they serve. They are thus an integral part of a holistic response to SGBV [sexual and gender-based violence], able to carry out long-term interventions that aim to impact the root causes of SGBV. Particularly faith leaders, as moral authorities, have the potential to influence an entire community.<sup>12</sup>

In view of the authority faith leaders possess and the trust their communities place in them, these leaders are ideally positioned to influence community attitudes and provide strong leadership in relation to family violence:

The influential and respected position held by community and religious leaders provides an opportunity to foster genuine leadership on family violence, particularly in CALD communities. Religious leaders are in the unique position of being asked to provide spiritual guidance and support both to survivors and perpetrators of family violence.<sup>13</sup>

Our experience has shown that congregants who are victims of abuse often disclose to their rabbi; therefore, rabbis play a vital role in enabling vulnerable community members to move forward to create positive change in their lives and the lives of their families.<sup>14</sup>

Many faith-based organisations also deliver important services to victims and perpetrators of family violence through their community service agencies. In some instances, however, the beliefs of certain faith groups can become barriers to gaining access to those services.<sup>15</sup>

## Faith-based initiatives

The faith leaders who participated in the Commission's consultation acknowledged that family violence is a problem facing all faith communities. They also agreed that much could be learnt from the experience of responding to family violence across faith traditions and by drawing on common teachings about compassion, respect and dignity.<sup>16</sup> In relation to Islam, the Australian Muslim Women's Centre for Human Rights stated that the faith is 'a powerful and effective framework towards [family violence's] eradication'.<sup>17</sup>

Faith leaders spoke of the diversity that exists between and within faith communities and acknowledged the need to tailor responses to family violence to meet the requirements of their particular communities.<sup>18</sup>

Experience suggests that the most effective way of dealing with family violence in faith communities is on a faith-by-faith basis. Drawing on his experience working on the Northern Interfaith Respectful Relationships Project, Mr Scott Holmes, Project Manager, Health Promotion at YMCA Victoria, gave evidence that:

... it is probably much more productive to actually work from a faith by faith basis so that each of those faith traditions can be dealing with the issue in the context of their sacred text, their cultural backgrounds, their world views and so forth.<sup>19</sup>

A number of faith communities have been doing important work on preventing and responding to family violence. The Commission was told about the following initiatives:

- ▷ Anglicans Helping to Prevent Violence against Women, launched in October 2011, is a model of primary prevention that seeks to reduce the prevalence of violence by building a culture of equal and respectful gender relationships in Anglican organisations and local churches. The Anglican community has delivered active bystander training, peer mentoring and training in violence prevention in a number of parishes.<sup>20</sup>
- ▷ The CHALLENGE Family Violence project, a partnership between the City of Casey, Cardinia Shire Council, the City of Greater Dandenong and Monash Health, provided training to local faith leaders and supported them in producing a resource entitled *Creating Equality and Respect: An Interfaith Collaboration on Preventing Family Violence*, which is designed to assist faith leaders in preventing family violence in their communities.<sup>21</sup>
- ▷ The Northern Interfaith Respectful Relationships project was a partnership between Darebin City Council and VicHealth and involved initiatives such as forums and workshops for faith leaders to raise awareness of family violence, production of a manual and tool kit, promotion of White Ribbon Day activities among the faith communities, and a peer mentoring program.<sup>22</sup>
- ▷ In partnership with the Rabbinical Council of Victoria, the Jewish Taskforce Against Family Violence published *Will My Rabbi Believe Me? Will He Understand? Responding to Disclosures of Family Violence in a Rabbinic Context*, which is designed to help rabbis respond appropriately to disclosures of family violence.<sup>23</sup> The taskforce also provides training for rabbis about family violence and training to Victoria Police, Domestic Violence Victoria and maternal and child health nurses about Jewish cultural and religious traditions.<sup>24</sup> Faith leaders told us this training has been very useful in helping mainstream services respond more sensitively to Jewish women experiencing family violence.<sup>25</sup>
- ▷ The Islamic Council of Victoria has assigned an imam to visit a different mosque each week to speak about family violence and stress that it is not acceptable.<sup>26</sup>

## Challenges and opportunities

This section outlines some of the challenges and other matters leaders and members of faith communities raised with the Commission and provides several examples of initiatives led by different faith communities with the aim of preventing and responding to family violence.

### Faith leaders' views on family violence

In the majority of cases where women had sought assistance from faith communities in which the leaders, the commission was told the leaders were predominantly or exclusively men.

Some women received valuable support after they had disclosed family violence.<sup>27</sup> For example, one woman told us her priest helped her secure sole custody of her children and was of great emotional support to her, which was particularly important since she had no family in Australia.<sup>28</sup>

For many women, however, the response was inadequate. The Commission heard that some faith leaders were uninformed and ill-equipped to respond to such disclosures: 'often the advice given wasn't helpful because the faith leader didn't know what kind of advice to give.'<sup>29</sup>

My mother was repeatedly advised by elders in our church that she should stay with my father when she approached them for advice or when things at home had become intolerable.<sup>30</sup>

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.<sup>31</sup>

In other examples provided to the Commission, faith leaders colluded with perpetrators of family violence:

I was manipulated to stay within my marriage by five different ministers and respective congregations ... One church assisted my ex-husband to hide assets. Another minister phoned my friends and warned them to have nothing to do with me, [and] reveal where I was hiding. Another declared I was protected by God because I didn't die in the assault and to drop the AVO and return to my marriage because I married in sickness and in health, and he was only 'sick'. I was told I am my husband's property ... to be obedient so he wouldn't have to hit me, don't place demands, allow him to try and be a man, and be more loving etc, to the point of one congregation member coaching him in how to respond/act regarding psych evaluations and questioning ... I am gravely concerned about the lack of skills for lay ministers, counsellors and psychologist in the area of family violence counselling. One church-sponsored counsellor said 'Be gentle with him, he's trying to be a man'.<sup>32</sup>

Some women felt pressured to remain in abusive relationships because of attitudes towards marriage and divorce:

[Family violence] was never, ever spoken of in my church. All that was spoken of was that a wife should submit to her husband. That women should submit to men. That women were not to speak in church. Not to lead prayer or deliver Scripture ... Divorce was considered unacceptable. Abuse was never spoken of so I have no idea whether it would have been an acceptable reason for someone to leave a marriage. I doubt that it would have been. Marriage vows were taken for better or worse. No matter what. You should just pray harder if things were difficult.<sup>33</sup>

There was also a perception that ‘religious leaders simply reinforce the patriarchy’.<sup>34</sup> This view, which was expressed during the community consultations, has also been noted in recent research:

Most of the faith leaders are male and their reading and interpretation of holy scriptures often carry a decidedly patriarchal bias. Many participants argue that it is because there is an interweaving and cross-contamination of religion and patriarchal culture. Thus religion, and the way faith leaders interpret and teach it, echoes the patriarchal cultural ideas of male and female roles and power dynamics ... The way it is done actually at times facilitates and justifies [sexual and gender-based violence], for beliefs that justify and enable violence are preached and condoned. These include beliefs such as that wives should be submissive, and that women are the property of men.<sup>35</sup>

In some faith communities the decision not to inform a secular authority of family violence is based on the stigma and shame associated with such a disclosure. The Commission heard that women can be pressured to ‘keep everything in the community’ and that if they seek outside help they are ‘shunned, stigmatised, isolated’.<sup>36</sup> One woman said that, although she was brought up to believe her faith leader would help in a time of crisis, she felt she could not turn to him because ‘if you spoke out you were committing a sin’.<sup>37</sup>

The Casey Multi-Faith Network reported:

We have felt that faith communities often don’t want to be associated with issues related to family violence for fear of stigma or other such apprehensions. We have often found that faith communities want to brush such issues as family violence under the carpet and either do not want to deal with the problems, or want to hide them.<sup>38</sup>

The Commission heard that in parts of the Jewish community there is ‘heavy reliance on keeping individual problems, such as family violence and child sexual abuse, within the community itself so as not to be seen to bring shame onto the community for exposing these problems to the non-Jewish community’.<sup>39</sup>

## Equipping faith leaders

The Commission heard that many faith leaders have received no training in dealing with family violence or were trained long ago. Mr Holmes noted during his evidence:

... the faith leader might think that they can care for both the victim and the perpetrator equally and not understand that there’s differences of power going on in those relationships and that they may not be the best person to care for both the victim and perpetrator, or indeed either, and need to refer elsewhere. So there is a role there to try to ensure that faith communities have best practice in terms of how to deal with their members who are experiencing family violence.<sup>40</sup>

Some faith leaders were trained in countries where the understanding of relationships and gender roles was different from that in Australia.<sup>41</sup> As a result of increased migration, some faith communities are now more culturally diverse, and faith leaders might not be properly equipped to understand the cultural practices of new communities aligned with a particular faith and where these practices might be misused. As was noted during the Commission’s consultation with faith leaders:

We also need to improve the cultural competence of the clergy to understand these issues [cultural dimensions of family violence, such as dowry]. Many clergy also come from other cultures and don’t fully understand what the issues are. More education and more opportunities for upskilling within the clergy are needed. We also need to have women in pastoral leadership roles as sometimes women won’t feel comfortable coming to a priest in what they perceive to be a very patriarchal system. Access to appropriate pastoral carers is really important.<sup>42</sup>

In addition, a reluctance in some communities to discuss sex and related matters can inhibit discussion about sexual and family violence:

Addressing SGBV [sexual and gender-based violence] within and through faith communities is thus challenging, for one has first to deal with the refusal to even mention the topic. This refusal to mention or discuss SGBV often extends to the underlying causes of SGBV as well such as patriarchy, power and gender inequality.<sup>43</sup>

Ms Joumanah El Matrah, Australian Muslim Women's Centre for Human Rights gave evidence about the importance of attitudes to gender equality among faith leaders and suggested this should be the focus of further training:

... while religious leaders may not agree with violence against women, a great number of religious leaders do see men and women as unequal and the idea of men being superior to women is one of the lead contributors to violence against women. Unless that shifts, no amount of support to them to eradicate violence is going to work.<sup>44</sup>

Faith leaders also emphasised the importance of theological training to aid with contemporary interpretation of religious texts that might otherwise be seen to condone violent and controlling behaviour.<sup>45</sup>

## Using faith to support or condone the use of violence

The Commission heard that some men use faith to excuse their behaviour. Ms El Matrah gave evidence about the concept of 'spiritual abuse', which she explained as 'the use of religion to justify gender inequality and to justify violence against women'.<sup>46</sup> Spiritual abuse can occur in all faith communities and can include the following:

- ▷ using religion to dominate, exercise authority and claim superiority
- ▷ using someone's religious or spiritual beliefs to manipulate the person
- ▷ providing to someone incorrect religious information in order to promote the provider's own interests and needs
- ▷ preventing someone from practising their religious and spiritual beliefs
- ▷ ridiculing someone's religious or spiritual beliefs
- ▷ refusing a religious divorce.<sup>47</sup>

The Commission heard that refusing a religious divorce is a particular concern in the Jewish and Muslim communities. Some men use their capacity to refuse a religious divorce as a means of manipulating or otherwise exerting control over women.

In the Orthodox Jewish community religious divorces are arranged by a rabbinic tribunal and entail the delivery of a divorce document called a *gett* from the husband to the wife.<sup>48</sup> Jewish Care Victoria told the Commission:

A woman who is refused a [gett] is referred to as an *agunah* (a chained woman). Gett refusal is often another form of abuse as it enables one party (the man) to exercise inappropriate power and control over the other. Without a [g]ett, the divorce is not recognised under Jewish law even if Australian courts grant the divorce.<sup>49</sup>

If a man refuses to give his wife a *get*, she will be prevented from remarrying according to Jewish Law and from subsequently having children who can participate fully in the religious community.<sup>50</sup>

In connection with the Muslim community, the Commission heard the following:

In some communities [polygamy] occurs more than others. They just get a second wife who is often from Australia too. It's just a religious marriage, after the first civil one. There's no way the first wife can challenge it. If the man doesn't want to give her a divorce she just has to live with it. The second wife doesn't have any rights either. It then sets up two women for abuse instead of one.<sup>51</sup>

Even having a civil divorce doesn't ensure the man will agree to an Islamic [religious] divorce ... Another woman got her Islamic divorce but now he has disappeared and she can't get her civil divorce.<sup>52</sup>

## Isolation from mainstream support services

As noted, faith communities can reach people who might not approach formal service providers in the family violence system. Women from some faith communities can feel isolated from mainstream services such as specialist family violence services, legal services and police. As described in Chapter 28, social isolation is a barrier for many women of culturally and linguistically diverse backgrounds. In the context of faith communities, the following are perceived barriers for women seeking access to mainstream services:

- ▷ lack of knowledge about their rights and about the service system as a whole—especially in communities that do not use mainstream media and communication networks
- ▷ reluctance to seek help outside their own community
- ▷ a belief that mainstream services are not sensitive to their needs and, in particular, that refuge and crisis accommodation will not provide for or support the continuation of their religious and cultural practices. For example, women might be concerned they will not be able to satisfy kosher dietary requirements in a refuge or continue to send their children to the same school and attend the same place of worship.<sup>53</sup>

These barriers can force women to feel they must choose between their safety and their faith.<sup>54</sup>

## The way forward

Despite the challenges experienced in faith-based responses to family violence, faith settings are an integral part of the community response to family violence. Faith leaders and organisations have direct and influential contact with many members of the Victorian community, and their guidance and intervention are often sought when family violence is being experienced. The trust communities have in their faith leaders enables these leaders to play an important role in educating communities about family violence, reinforcing community standards in relation to respect, dignity and non-violence, and providing practical advice and assistance to people in need.

The faith leaders the Commission consulted demonstrated a strong commitment to addressing the family violence that occurs in their communities. They also acknowledged, however, that they and their colleagues and communities require assistance to understand how to prevent, recognise and respond appropriately. Training for faith leaders in recognising and responding to family violence is generally inadequate. This lack of awareness and knowledge of how to respond to disclosures of family violence limits their ability to support women experiencing such violence.

As was evident in the personal accounts the Commission received, some attitudes and practices, and inadequate or ill-informed responses by faith leaders, risk exposing victims to further and sustained abuse by their family members. Women experiencing family violence can face barriers to seeking help within their faith community because of particular religious beliefs (for example, about divorce or gender roles). These barriers can force women into making a choice between their safety and their faith.



The Commission welcomes the different initiatives by faith communities, as outlined above. These communities should be supported in strengthening and building on this work and be equipped to respond sensitively and appropriately to disclosures of family violence, to maximise victims' safety, to refer victims and perpetrators to relevant services, and to challenge violence-supporting attitudes and behaviours. Faith communities should consider how to record the existence of these programs and to regularly assess how well they are working.

The Victorian Multicultural Commission is established under the *Multicultural Victoria Act 2011 (Vic)*, and its functions include promoting full participation by Victoria's diverse communities in the social, cultural, economic and political life of the state and access by the state's diverse communities to services made available by governments and other bodies.<sup>55</sup> 'Diversity' is defined to include religious diversity, as well as cultural, racial and linguistic diversity.<sup>56</sup> The Commission notes the work done by the Victorian Multicultural Commission in developing responses to family violence.

The Office of Multicultural Affairs and Citizenship has a continuing role in supporting faith communities in Victoria, including supporting them in developing responses to family violence. It convenes the OMAC Multifaith Advisory Group, which facilitates continuing dialogue between the Victorian Government and Victoria's faith leaders and communities. The Advisory Group consists of about 25 senior representatives of Victoria's diverse faith communities—including various Christian, Jewish, Muslim, Sikh, Hindu, Buddhist and Baha'i communities.<sup>57</sup>

The Victorian Multicultural Commission and the OMAC Multifaith Advisory Group are well placed to assist faith communities in their efforts to prevent and respond to family violence. In light of this, we make a recommendation for these bodies to work in partnership with family violence practitioners and women from faith communities to develop training packages on family violence and sexual assault for faith leaders and communities.

We also acknowledge the importance of mainstream family violence services understanding and being sensitive to people's religious and cultural needs. It therefore proposes that the recommended review of practice standards for specialist family violence services and men's behaviour change programs be informed by representatives of, and women from, faith communities.

### Recommendation 163

The Office of Multicultural Affairs and Citizenship Multifaith Advisory Group and the Victorian Multicultural Commission, in partnership with expert family violence practitioners, develop training packages on family violence and sexual assault for faith leaders and communities [within three years]. These packages should build on existing work, reflect leading practice in responding to family violence, and include information about referral pathways for victims and perpetrators. The training should be suitable for inclusion as part of the pre-service learning in various faith training institutes, as well as the ongoing professional development of faith leaders.

### Recommendation 164

The Department of Health and Human Services consult with the Office of Multicultural Affairs and Citizenship Multifaith Advisory Group, the Victorian Multicultural Commission and women from faith communities as part of its review of standards for specialist family violence service providers (including men's behaviour change programs), to ensure that these standards and the associated services take account of the needs of people in faith communities who experience family violence [within two years].



## Recommendation 165

Faith leaders and communities establish processes for examining the ways in which they currently respond to family violence in their communities and whether any of their practices operate as deterrents to the prevention or reporting of, or recovery from, family violence or are used by perpetrators to excuse or condone abusive behaviour.

## Endnotes

- 1 Office of Multicultural Affairs and Citizenship, 'Victoria's Diverse Population: 2011 Census' (2013).
- 2 Faith leader consultation, Melbourne, 2 September 2015.
- 3 A number of invitees from other faith communities were unable to attend the consultation on the day.
- 4 Transcript of Holmes, 10 August 2015, 2439 [26].
- 5 Jewish Taskforce Against Family Violence, Submission 820, 2.
- 6 Statement of Holmes, 26 June 2015, 13 [64].
- 7 See, eg, Anglican Diocese of Melbourne, Submission 173, 5–8.
- 8 Statement of Holmes, 26 June 2015, 13 [65].
- 9 Elisabet le Roux, 'A Scoping Study on the Role of Faith Communities and Organisations in Prevention and Response to Sexual and Gender-based Violence: Implications for Policy and Practice' (Stellenbosch University, Unit for Religion and Development Research, September 2015) 53.
- 10 Peta Cox, 'Violence Against Women: Additional Analysis of the Australian Bureau of Statistics' Personal Safety Survey, 2012' (Horizons Research Paper No 01, Australia's National Research Organisation for Women's Safety, October 2015) 113.
- 11 le Roux, above n 9, 7.
- 12 Ibid 8.
- 13 Brotherhood of St Laurence, Submission 818, 13, (citations omitted).
- 14 Jewish Taskforce Against Family Violence, Submission 820, 20.
- 15 For example, the barriers that can arise for lesbian, gay, bisexual, transgender and intersex people seeking to access these services are discussed in Chapter 30.
- 16 Faith leader consultation, Melbourne, 2 September 2015.
- 17 Australian Muslim Women's Centre for Human Rights, Submission 728, 11.
- 18 Faith leader consultation, Melbourne, 2 September 2015.
- 19 Transcript of Holmes, 10 August 2015, 2440 [21]–[25].
- 20 Anglican Diocese of Melbourne, Submission 173, 7. See also, Faith leader consultation, Melbourne, 2 September 2015.
- 21 City of Casey, Submission 354, 4; Borderlands Cooperative, 'Challenge Family Violence Project: Making Things Happen to Prevent Violence Against Women--Interim Evaluation Report (4), November 2014 to May 2015' (1 May 2015), produced by the State of Victoria in response to the Commission's Notice to Produce dated 5 June 2015.
- 22 Statement of Holmes, 26 June 2015, 14 [71]–[72], 15 [75].
- 23 Jewish Taskforce Against Family Violence, Submission 820, 2.
- 24 Ibid.
- 25 Faith leader consultation, Melbourne, 2 September 2015.
- 26 Ibid.
- 27 Department of Social Services (Cth), 'Hearing Her Voice: Report from the Kitchen Table Conversations with Culturally and Linguistically Diverse Women on Violence Against Women and Their Children' (September 2015) 36.
- 28 Community consultation, Melbourne, 6 May 2015.
- 29 Community consultation, Sandringham, 29 April 2015.
- 30 Anonymous, Submission 263, 1.
- 31 Statement of Jones', 13 July 2015, 2 [10].
- 32 Anonymous, Submission 230, 1.
- 33 Anonymous, Submission 200, 5.
- 34 Community consultation, Morwell, 13 May 2015.
- 35 le Roux, above n 9, 47–8.
- 36 Community consultation, Geelong 2, 28 April 2015.
- 37 Community consultation, Morwell, 13 May 2015.
- 38 Casey Multi-Faith Network, Submission 400, 2.
- 39 Jewish Care Victoria, Submission 761, 2.
- 40 Transcript of Holmes, 10 August 2015, 2439 [15]–[24].
- 41 Faith leader consultation, Melbourne, 2 September 2015.
- 42 Ibid.
- 43 le Roux, above n 9, 48.
- 44 Transcript of El Matrah, 11 August 2015, 2639 [31]–2640 [6].
- 45 Faith leader consultation, Melbourne, 2 September 2015.
- 46 Transcript of El Matrah, 11 August 2015, 2638 [12]–[14].
- 47 Australian Muslim Women's Centre for Human Rights, Submission 728, 12–13.
- 48 Jewish Care Victoria, Submission 761, 6.
- 49 Ibid.
- 50 Tayla Faigenbaum and Ann Wollner, Submission 484, 2.
- 51 Community consultation, Northcote 2, 6 July 2015.
- 52 Ibid.
- 53 Jewish Care Victoria, Submission 761, 2, 4.
- 54 Ibid 7.
- 55 *Multicultural Victoria Act 2011* (Vic) s 7.
- 56 Ibid s 3.
- 57 Victorian Multicultural Commission, *Consultative Structures* <<http://www.multicultural.vic.gov.au/projectsand-initiatives/promoting-harmony/consultative-structures>>.

# 30 Lesbian, gay, bisexual, transgender and intersex communities

## Introduction

The Commission's terms of reference require it to consider the needs and experiences of people affected by family violence, having particular regard to, among others, people from gay, lesbian, bisexual, transgender and intersex communities.

This chapter outlines the diverse experiences of lesbian, gay, bisexual, transgender and intersex people affected by family violence. Although transgender and intersex communities are often grouped together with gay and lesbian and bisexual communities because of a shared history of discrimination, we recognise that each of these communities and the barriers they face are distinct. It is for convenience only that this chapter refers collectively to 'LGBTI communities'.

This chapter examines the unique forms of family violence that can be experienced by LGBTI people. This can include such forms of family violence as threatening to 'out' a person, using homophobia as a tool of control, refusing to acknowledge or recognise a person's sexuality or gender identity, withholding medication such as hormones or HIV medication, or threatening to disclose HIV status. LGBTI people are less likely to report family violence to police or seek help from services, due to mistrust, fear of discrimination or simply due to a lack of appropriate services being available to assist them. LGBTI people may experience additional disadvantage associated with other identities or attributes they may have—as an Aboriginal or Torres Strait Islander, a person from a culturally or linguistically diverse background, an older person, a person living in a rural, regional or remote area or as a person with a disability.

The family violence experience of LGBTI people are often invisible to the broader community. This chapter considers some of the key challenges for LGBTI people—including a lack of information, data and education within the community. The failure of a number of services and programs to recognise the unique experiences of people in LGBTI communities can lead to services being inaccessible or inappropriate for both victims and perpetrators. The potential for lawful discrimination against LGBTI people, including by providers of family violence services and other related services, also adversely affects LGBTI people.

The Commission recognises the need for greater community awareness of the needs of LGBTI people in relation to family violence. Greater attention by police, the courts and family violence services is also needed. We recommend the development of LGBTI-specific resources, programs and community education campaigns to improve awareness and understanding of family violence in this context. The Commission also recommends improvements to family violence services to respond to the needs of people in these communities.

## Context and current practice

### LGBTI communities in Victoria

In discussing the experiences of people in LGBTI communities, the Commission recognises that there are both diverse sexualities and gender identities. Sexuality is about a person being attracted to a person. Gay and lesbian people are attracted to people of the same sex, while bisexual people are attracted to people of a variety of sexes. Gender identity is about whether someone identifies as a woman, man or another form of gender identity. A transgender person is someone who was assigned a sex at birth that they do not feel reflects how they understand their gender identity. An intersex person is described by the *Sex Discrimination Act 1984* (Cth) as someone with physical, hormonal or genetic features that are considered neither wholly female or wholly male, are a combination of female or male or are neither female or male.<sup>1</sup> Others define an intersex person to be someone 'born with physical sex characteristics that don't fit medical norms for female or male bodies.'<sup>2</sup> A person can identify as a gay, lesbian or bisexual (sexuality), as well as transgender or intersex (gender identity). The concept of gender identity is discussed in more detail in the box on this page.

#### Understanding gender identity

Although our society has historically treated gender as a binary concept—that is, either male or female—there is a spectrum of gender, resulting in gender diversity.<sup>3</sup>

Affirming gender and transitioning between genders are deeply personal decisions that involve a person seeking to redress a mismatch between their sex and their gender identity. They do not necessarily entail gender-reassignment surgery; they simply mean that a person is living their affirmed gender.<sup>4</sup>

The Commission was told that while attitudes are gradually changing, discrimination towards LGBTI people is still prevalent.<sup>5</sup> Gay and Lesbian Health Victoria told us that:

...Recent research indicates that, while Australians' attitudes to sexual diversity have improved in the last ten years, still 1 in 8 women and 1 in 4 men think sex between two men is 'always wrong', and 1 in 6 men and 1 in 8 women think sex between two women is always wrong.<sup>6</sup>

Similarly, No To Violence and Safe Steps Family Violence Response Centre note in their submission that:

the prevalence of violence, harassment and discrimination experienced generally by LGBTIQ people, is proportionally higher than that experienced in the broader community.<sup>7</sup>

In recent years, there has been progress in societal recognition of LGBTI people, particularly in our understanding of diverse relationships and family composition. This has been reflected in legislative changes to be more inclusive of people in these communities.

In 2000, gender identity and sexual orientation were recognised as attributes on the basis of which discrimination is prohibited under Victoria's equal opportunity legislation.<sup>8</sup> In 2001, a series of legislative reforms amended a variety of pieces of legislation to recognise the rights and obligations of partners in domestic relationships, irrespective of the gender of each partner.<sup>9</sup>

The *Relationships Act 2008* (Vic) allowed Victorian couples in domestic relationships, irrespective of their genders, to register their relationship with the Registrar of Births, Deaths and Marriages.<sup>10</sup> This mechanism was intended to make it easier for domestic partners to access rights afforded to other couples under Victorian law.<sup>11</sup>

In 2015, the Victorian Parliament amended the *Adoption Act 1984* (Vic) to allow same-sex couples to adopt children.<sup>12</sup>

In addition to Victorian developments, the Commission notes the ongoing debate regarding Commonwealth law reform to recognise same-sex marriage.

The definition of family violence in the *Family Violence Protection Act 2008* (Vic) is 'expansive, non-exhaustive and ... gender neutral'.<sup>13</sup> The definitions of 'domestic partner' and 'family member' are applicable to members of the LGBTI community.<sup>14</sup> In determining whether a person is a domestic partner of another person, the genders of the persons are irrelevant.<sup>15</sup> Further, one of the statutory examples of emotional or psychological abuse set out in the Act specifically relates to a person's sexual orientation.<sup>16</sup>

Based on the 2011 Census, in Victoria there were 1,160,880 heterosexual couples, 4666 male same-sex couples and 4056 female same-sex couples.<sup>17</sup> While the number of same-sex couples is likely to be under-reported—including for reasons discussed elsewhere in this chapter such as a fear of homophobia and discrimination if such relationships are identified—this data suggests that same-sex couples ( $n=8722$ ) represent 0.7 per cent of all couples in Victoria. Data regarding the number of transgender and intersex people in Victoria is not readily available.

## Prevalence of family violence in LGBTI communities

There has been little research into family violence in LGBTI relationships, in Australia or elsewhere. The Australian Bureau of Statistics' Personal Safety Survey does not collect data on lesbian, gay, bisexual, transgender and intersex identity.

However, the research that has been done suggests that intimate partner violence is as prevalent in LGBTI communities as it is in the general population:

- ▷ A 2008 study of 390 LGBTI Victorians reported that almost one-third of respondents had been in a same-sex relationship in which they were subjected to abuse by their partner.<sup>18</sup>
- ▷ Similarly, almost 33 per cent of the 5476 respondents in the Private Lives study—one of the largest surveys of LGBTI people ever conducted—reported experiencing intimate partner abuse.<sup>19</sup>
- ▷ In that study, 41 per cent of females and 28 per cent of males reported experiencing abuse within an intimate partner relationship, while 25 per cent of females and 20 per cent of males reported forced sex within such relationships.<sup>20</sup>
- ▷ Only 18 per cent of those who had experienced forced sex and 20 per cent of those who were physically injured reported this to police.<sup>21</sup>

Victoria Police data also reveals that between 2013 and 2014, there were 373 incidents involving a male affected family member (that is, victim) and a current or former male partner as the other party (that is, perpetrator). This represents 8.3 per cent of all family violence incidents involving a male other party and 5.2 per cent of all male victim incidents involving a current or former partner and three per cent of all male victim incidents.<sup>22</sup>

There were 308 incidents involving a female affected family member and a current or former female partner as the other party, representing 10 per cent of all incidents involving a female other party, one per cent of all female victim incidents involving a current or former partner and 0.7 per cent of all female victim incidents.<sup>23</sup>

As a subset of family violence incidents recorded, those involving a current or former same-sex partner accounted for 1.7 per cent of all incidents involving a current or former partner and 1.1 per cent of all incidents.<sup>24</sup>

Research from the Victorian Family Violence Database shows that of some 29,978 original applications for a family violence intervention order between 2013 and 2014, 68 per cent involved a current or former domestic partner or intimate personal relationship ( $n=20,284$ ).<sup>25</sup> Applications involving an affected family member in a same-sex relationship ( $n=639$ ) accounted for 3.2 per cent of all applications involving a current or former domestic partner or intimate personal relationship and 2.1 per cent of all applications.<sup>26</sup>

A systematic literature review of intimate partner violence among US men who have sex with men found that all forms of intimate partner violence (physical, sexual and psychological) occur at 'alarming rates'—similar to or higher than those measured in populations of women.<sup>27</sup>

Australian research data has identified high incidences of intimate partner violence experienced by transgender and intersex people as compared to non-transgender and non-intersex gay, lesbian and bisexual people.<sup>28</sup> The Commission heard that transgender people experience higher levels of violence in their lives than lesbian, gay and bisexual people.<sup>29</sup> Transgender women, in particular, are at greater risk of hate crime and sexual assault than others in the LGBTI community.<sup>30</sup>

Little information is available about the experiences of intersex Australians who suffer family violence, but anecdotal evidence suggests that, because of society's poor understanding of intersex people and the associated social stigma, such people are highly vulnerable to discrimination and family violence.<sup>31</sup>

Gay and Lesbian Health Victoria's submission explained that some aspects of identity—such as a person's age, race, cultural and linguistic background, disability, and living in rural, regional and remote areas—might put LGBTI people at greater risk of experiencing family violence and make it less likely that they can gain access to appropriate services.<sup>32</sup>

## LGBTI experiences of family violence

Members of LGBTI communities can experience the same forms of family violence as the general population. For example, family violence in gay and lesbian relationships, as in heterosexual relationships, ranges from physical or sexual violence to psychological, emotional or economic abuse. Like family violence in heterosexual relationships, family violence in gay and lesbian relationships can include a pattern of behaviour, involving one partner using and maintaining power and control over the other.<sup>33</sup>

### Unique forms of family violence for LGBTI people

Experiences of intimate partner violence within LGBTI communities can also be different to the experiences of heterosexual people. Drummond Street Services submitted to the Commission that it has been 'struck by the complexity' of intimate partner violence in LGBTI members of the community who present at counselling services. For example:

IPV assessment is very specialist to understand both sex and gender identity issues and identify victim, perpetrator in relationships where clinically we see high rates of mutual violence. This tends to be common in LGBTIQ couples where both experience or have histories of child abuse, victimisation and bullying, lack of family supports, difficult experienced of coming out or gender affirmation/disclosure and lack of supports.<sup>34</sup>

The Family Violence Protection Act defines ‘emotional or psychological abuse’ as including the specific example of ‘threatening to disclose a person’s sexual orientation to the person’s friends or family against the person’s wishes’.<sup>35</sup> ‘Outing’ a person is a common form of family violence in LGBTI communities.<sup>36</sup> The following are other kinds of violence:

- ▷ telling a partner they will lose custody of children as a result of being outed
- ▷ using homophobia as a tool of control—for example, through telling a partner they will be unable to gain access to police or other support services because the system is homophobic
- ▷ telling a partner they deserve the violence because they are lesbian, gay, bisexual, transgender or intersex
- ▷ telling a partner they are not a real woman, man or lesbian, gay or bisexual person
- ▷ disclosing or threatening to disclose HIV status
- ▷ hiding, withholding or otherwise preventing a partner from taking medication or treatment such as hormones or HIV medication.<sup>37</sup>

Challenging sexual and gender norms can be a major trigger of violence in some families:

LGBTI people may be at greater risk than heterosexual people from abuse, harassment and violence from family members such as parents, siblings and offspring due to entrenched homophobia ... For older people, there may be a heightened risk of homophobic-related family violence, particularly as they become more dependant or frail.<sup>38</sup>

At a community consultation the Commission was told:

Too often family violence is referred to as ‘difference in values’. We need to recognise abuse against children because they don’t fit in. Often children who come out are at risk of being abused by their parents and family.<sup>39</sup>

### **Barriers to reporting violence**

The Commission heard that people who experience homophobia and transphobia face particular barriers when it comes to reporting family violence. A recent Sydney study found that 53.5 per cent of 116 female respondents and 67.1 per cent of 70 male respondents who had experienced abuse in a current or previous LGBTI relationship did not seek any form of assistance.<sup>40</sup>

People from LGBTI communities are less likely to report violence, to seek support or to identify experiences of family violence and abuse, partly because of a fear of ‘outing’, as well as actual or perceived discrimination and harassment.<sup>41</sup>

In addition, people from LGBTI communities may have less support from family when experiencing violent relationships. The joint submission of No To Violence and Safe Steps explained:

Therefore some LGBTIQ people leaving a violent partner may be doing so without the support of biological family, who may have alienated them due to their intersex status or sexual and gender identity. This creates another layer of disadvantage, particularly if they are experiencing poverty, unemployment or under employment.<sup>42</sup>

Transgender people report specific forms of family violence that might not be experienced by others; for example, a transgender person’s partner might cease recognising the victim’s gender as a man, woman or non-binary gender as a form of emotional abuse.<sup>43</sup>

Intersex people can experience family violence in unique ways—for example, when family members do not accept a person identifying with a gender different from that which their parents attributed to them:

Intersex youth can also experience strong reactions from biological relatives if they have physical characteristics that may challenge their fundamental perception about the young person’s place and role within the family. Intersex organisations have stated that these reactions can be, and sometimes are, violent.<sup>44</sup>

The Commission was informed that the justice system as well as service providers are not always supportive of intersex individuals. Police, specialist family violence services and other sources of assistance 'should be aware that a client could be intersex, and that many intersex people identify as women or men and not as a "third gender" or "third sex"'.<sup>45</sup>

### **Intersection of different aspects of identity**

Different aspects of identity can intersect to make family violence different for each individual in the LGBTI community.

Aboriginal people can experience family violence that is informed by both race and sexuality:

Indigenous Victorians witness or experience high[er] levels of family violence within their own communities than the general population as well as racially-based violence from the broader community. For those who identify as Indigenous and LGBTI the effects of this exposure [to] violence can be compounded by violence that might occur in their own partner relationships or be directed towards them by family members because of their sexuality or gender identity.<sup>46</sup>

The Commission heard that LGBTI people from culturally and linguistically diverse communities can be subject to prejudice on the part of family members who have cultural or religious objections to their sexuality or gender identification:

More recently arrived migrant groups and refugee communities often come from countries where homosexuality remains a criminal offence punishable by imprisonment (79 countries) or death (in 9 countries including Iran, Iraq, Somalia and Sudan) ... Lesbian, gay, bisexual and trans\* people within such families can be at significant risk in terms of their loss of liberty and personal safety ... LGB individuals have reported situations where family have physically assaulted them, locked them in their rooms, confiscated their bankcards and mobile phones, refused access to more sympathetic family members, and been subjected to 'interventions' by community elders.<sup>47</sup>

For same-sex attracted and gender diverse young people from refugee and newly arrived communities, feeling unsafe at home is a common experience.<sup>48</sup>

Older lesbian, gay and bisexual people also face particular risks and mainstream understandings of elder abuse and family violence may not be attuned to these risks:

The vast majority of older LGBT people have experienced a long life history of social exclusion, family rejection, community-sanctioned violence and discrimination, and in some cases for men, a criminal record for having consensual adult sex. As they move into their final decades of life, their increasing vulnerability and frailty leaves them exposed to emotional and economic abuse, social isolation and physical violence perpetrated by family members and carers. After a life-long habitual need to conceal their sexual identities, older lesbian and gay people can be particularly vulnerable to violence from family members who threaten to 'out' them.<sup>49</sup>

Older transgender people can be extremely vulnerable:

Most older trans\* people have only had the opportunity to transition when they reached their 50s and 60s and many are estranged from their parents, siblings and children because of their transition. Consequently there are genuine concerns (founded in stories of what has happened to other trans\* people), that family members will re-enter their lives as they become frail and dependant, and attempt to reverse their gender change process by controlling their medication, their income and their lives.<sup>50</sup>



LGBTI people living in rural, regional and remote areas can also be at risk of further marginalisation as a result of social isolation, homophobia and transphobia<sup>51</sup> and a lack of appropriate support services.<sup>52</sup> Ms Anna Brown, Co-convenor of the Victorian Gay & Lesbian Rights Lobby, gave evidence that:

... we do have some very limited specialist LGBTI providers or mainstream providers with some LGBTI understanding and competency in the metro areas, very, very limited as set out in the submissions. But this obviously is deeply lacking when it comes to regional and rural Victoria and also in those areas that's coupled with the real likelihood of higher rates of discrimination, homophobia and transphobia and more likely that LGBTI people will be in the closet and fearful of seeking help. So those experiences are very much compounded in those geographical areas.<sup>53</sup>

Such discrimination and lack of support can have a devastating effect on an already traumatised person:

One of our colleagues, a counsellor of family violence victims, told us of a recent case where a gay male victim of intimate partner violence was denied support by a rural domestic violence support service because of his gender. This meant that at the time of the court hearing about his assault he was forced to sit outside a small rural courthouse in close proximity to the perpetrator. He was denied access to the 'women's safe room' because of his gender. He was also denied the support of the domestic violence support worker at the court. The court process and lack of services re-victimised this man, causing him immense distress and compounded the quite significant post-traumatic stress disorder he was already suffering.<sup>54</sup>

Gay and Lesbian Health Victoria submitted that 21 per cent of LGBTI people have a disability and that these people experience higher levels of violence than people without a disability.<sup>55</sup> The organisation noted that given the high levels of family violence experienced by people with disabilities generally, 'it is likely that LGBTI people face similar or greater risks due to the compounding factors of disability and sexual/gender diversity'.<sup>56</sup>

## Current prevention strategies

The *National Plan to Reduce Violence against Women and their Children 2010–2022*, is an initiative of the Council of Australian Governments with a vision to ensure that 'Australian women and their children live free from violence in safe communities'.<sup>57</sup> The National Plan aims to achieve 'attitudinal and behavioural change at the cultural, institutional and individual levels, with a particular focus on young people'.<sup>58</sup> The National Plan is supported by three-year action plans.<sup>59</sup>

The National Plan contemplates grants to encourage primary prevention with priority given to 'women with disabilities, older women, culturally and linguistically diverse communities and gay and lesbian communities'.<sup>60</sup>

The First Action Plan *Building a Strong Foundation 2010–2013* sought to address the needs of these diverse communities,<sup>61</sup> though LGBTI communities do not appear to have been a focus.

While the Second Action Plan *Moving Ahead 2013–2016* addresses family violence in some diverse communities—Indigenous and culturally and linguistically diverse communities and people with disabilities<sup>62</sup>—it does not specifically refer to LGBTI communities.

In Victoria, Building Respectful Relationships education programs are run in secondary schools, educating students on 'gender, violence and respectful relationships' to 'prevent violence against women'.<sup>63</sup> Ms Gill Callister, Secretary of the Department of Education and Training, told the Commission that the curriculum contains 'themes relevant to preventing family violence' and the importance of 'challenging attitudes and behaviours such as homophobia and sexism, including discrimination and harassment'.<sup>64</sup> The materials used to teach the curriculum discuss relationships and gender based violence, including same-sex relationships, diverse experiences of sexuality and homophobia.<sup>65</sup> They also recognise that '[v]iolence happens in same-sex relationships as well as heterosexual relationships'.<sup>66</sup>

Dr Sue Dyson, Associate Professor and Principal Research Fellow at the Australian Research Centre in Sex, Health and Society, La Trobe University commended the program as a 'really good [example] of sexuality education that also address violence prevention' and is one of the 'best practice examples that we need to be building on'.<sup>67</sup>

Ms Brown suggested that the program might also provide 'a useful model to expand ... for an adult context for LGBTI communities',<sup>68</sup> allowing community-wide education to occur.

The Commission heard that the Healthy Equal Youth Funding project has been a successful initiative.<sup>69</sup> It aims to build a same-sex attracted and sex and gender diverse (SSASGD) youth platform within the mainstream youth sector and improving the quality of mental health and support services provided to these young people.<sup>70</sup> Funded by the Department of Health and Human Services and jointly managed by Gay and Lesbian Health Victoria and the Youth Affairs Council of Victoria Inc., it provides one-off small grants for SSASGD youth projects.

### **Safe Schools Coalition**

The Healthy Equal Youth Project funds the Safe Schools Coalition Australia, which provides training and resources to schools to become free of homophobia and transphobia. There are 490 member schools across Australia who work in coalition with partner organisations to offer:

a suite of free resources and support to equip staff and students with skills, practical ideas and greater confidence to lead positive change and be safe and inclusive for same sex attracted, intersex and gender diverse students, staff and families.<sup>71</sup>

The training and resources provided as part of the program include professional development and training for teachers and other school staff. Staff and student surveys are accessible online to measure perceptions, knowledge and experience, guidance and consultation. There are also printed and digital resources for teachers, and resources to support student engagement.<sup>72</sup>

In a recent United Nations report into school bullying, violence and discrimination which covered the Asia-Pacific region, it was noted that Australia was the only country in the review that had a national whole school program that addresses school bullying, violence and discrimination based on sexual orientation, gender identity and expression or intersex characteristics.<sup>73</sup>

## **Challenges and opportunities**

Many submissions discussed the particular challenges experienced by those in LGBTI communities. Some of the themes which emerged from the evidence were that issues relevant to LGBTI communities are largely absent from the discourse around family violence (including in relation to awareness and education campaigns and the collection of data), LGBTI people face particular difficulties in reporting family violence to police and in accessing support services, and that discrimination against LGBTI people remains lawful in some instances.

### **The invisibility of family violence in LGBTI communities**

The Victorian Gay & Lesbian Rights Lobby argued that LGBTI communities are rendered invisible in awareness campaigns and that this limits recognition of family violence among LGBTI communities and acts as a barrier to reporting.<sup>74</sup>

The Commission heard that community awareness of family violence usually involves the assumption that violence is invariably perpetrated by heterosexual men against heterosexual women and therefore the majority of intimate partner violence discourse is constructed according to gendered assumptions and 'heteronormativity' (the assumption of heterosexuality). Moreover, 'misconceptions exist which suggest that those who perpetrate domestic violence must be men, or 'bitches' and those who are victims of domestic violence must be women or 'femmes', essentially emulating assumptions about domestic violence in heterosexual relationships.' These misconceptions contribute to the hesitancy of people in same-sex relationships to disclose family violence, 'mask the reality of same-sex domestic violence' and also fail 'to account for the complexities arising in same-sex relationships.'<sup>75</sup>

Dr Philomena Horsley, Research Fellow and Senior Trainer, Gay and Lesbian Health Victoria, Australian Research Centre in Sex, Health and Society, La Trobe University, told the Commission these assumptions can mean that LGBTI victims lack the language to recognise that what is happening to them is family violence:

I think one of the key things is it is often more difficult to recognise domestic violence and family violence from the perspective of being the victim or indeed the offender, that because the language has been extensively relating only to heterosexual couples or in fact families that are all heterosexual, there is an invisibility and exclusion over this whole issue so people don't necessarily have the vocabulary or the sense of recognition around the dynamics that occur.<sup>76</sup>

The Commission was told this was a particular problem in relationships between gay men, who might see family violence as something that happens to heterosexual women. Even if the violence is identified as family violence, there is a degree of shame associated with being a male victim of family violence.<sup>77</sup> As one commentator has noted, 'The lack of resources available for men in same-sex relationships mirrors the societal belief that abuse is something that only happens to heterosexual women'.<sup>78</sup>

One submission to the Commission commented on the lack of understanding and support in relation to family violence in the gay community:

For gay men who are subjected to family violence, they will often be met with disbelief by others in the gay community or at worse disparaged. The reason for this I think is that the issue of family violence within gay relationships isn't discussed or raised prominently. This has the potential to reinforce that family violence within a gay relationship doesn't exist. Subsequently, when it does occur, the victim is less likely to disclose, thinking that he won't be believed or that the disclosure will be actively dismissed. Community education and awareness raising has a vital role to play in breaking down this response and reinforcing that family violence within gay relationships is unacceptable and that there is help available for those who are being abused or mistreated.<sup>79</sup>

The Safe Steps and No To Violence joint submission noted that the gender-based analysis of violence within the family violence system has led to 'systemic and institutionalised marginalisation of LGBTIQ people'. Some service providers have themselves recognised this as a problem.<sup>80</sup>

Gay and Lesbian Health Victoria further submitted that LGBTI people's 'long-lived experience of abuse, violence and discrimination' from the broader community, can result in 'a high tolerance of violence in personal relationships and an unwillingness to seek help from services':

This is likely to be particularly true for older LGBT people, most of whom who have endured many decades of rejection and/or violence from family members, and are also more likely to be isolated.<sup>81</sup>

The Commission also heard that the silence around violence in same-sex relationships may be 'reinforced by the fear that acknowledging it may feed societal homophobia and contribute to prejudice about gay or lesbian relationships'.<sup>82</sup>

## Lack of information

The Commission was informed that, although some family violence online resources provide a degree of support for lesbian, bisexual or 'same-sex attracted' women,<sup>83</sup> there is a general lack of relevant information and advice available to LGBTI family violence victims in Victoria. As a consequence, people in LGBTI communities are using interstate resources for information about sources of help for family violence:

There have been some broader campaigns run by the Victorian Aids Council (VAC) and the Aids Council of New South Wales (ACNSW), but nothing specific to Family Violence. Victorian people are referring to the NSW resources as the key resource because there's nothing specific for the Victorian LGBTIQ community.<sup>84</sup>

*Another Closet*, a website developed by the New South Wales LGBTIQ Domestic Violence Interagency, provides comprehensive information and referrals for people experiencing family violence in LGBTIQ relationships.<sup>85</sup>

The Commission was informed that promoting education about family violence in LGBTI communities and the broader community is an important part of preventing family violence.<sup>86</sup> Limited prevention strategies specific to LGBTI communities exist. Many prevention strategies focus solely on heterosexual intimate partner relationships.<sup>87</sup> Gay and Lesbian Health Victoria submitted that 'education initiatives need to be developed and resourced that specifically target the LGBTI community' as '[t]he need to address the gaps that exist in current prevention education programs available to the general community is urgent'.<sup>88</sup> This would require increased funding of inclusive family violence awareness campaigns and early intervention programs.<sup>89</sup>

Such an education campaign could include running shared campaigns between LGBTI and family violence services so as to encourage people to make use of family violence services. The Stronger Safer Together campaign in Alice Springs was cited as an example of a successful campaign.<sup>90</sup> It could also include conducting targeted education campaigns for family violence services about their obligations under anti-discrimination and human rights legislation and about working with same-sex attracted and gender diverse people.<sup>91</sup>

The Commission was also told that there is a need to develop legal and non-legal resources for LGBTI communities to support the identification and reporting of family violence, along with information about safe, LGBTI-accessible sources of support.<sup>92</sup> The online resource *Another Closet* provided by the LGBTIQ Domestic Violence Interagency and discussed above was cited as a useful model.<sup>93</sup>

The Commission was also told that education of judges and magistrates about family violence in LGBTI communities would 'improve the culture of the justice system, including enhancing the sense of safety, confidentiality and respect for those who have experienced violence'.<sup>94</sup> Gay and Lesbian Health Victoria noted that in some cases, same-sex partner violence has been treated as less important or less serious in nature than heterosexual violence.<sup>95</sup>

## Lack of data

As discussed earlier, family violence in LGBTI communities remains poorly understood, partly because of a lack of research and poor data collection.<sup>96</sup> Data on sexuality is not captured by the Australian Bureau of Statistics, Personal Safety Survey, and may also not be captured by Victoria Police data. The limited state of research regarding the prevalence of family violence in LGBTI communities means it is difficult to understand the scope of the problem. Consequently, it is difficult to identify appropriate and effective policy responses, recognising that these may be different to those that apply to heterosexual people.

It was suggested to the Commission that one of the ways in which this could be addressed would be to improve existing data collection systems and mandate the collection of information about LGBTI status, type of violence, and outcomes and actions in order to refine future service delivery and monitor equality performance.<sup>97</sup> This would necessitate minor, but important, changes to existing forms and processes; for example, the Victoria Police L17 form should include a field to record 'other' gender for transgender or intersex people. Other measures could include amending the Family Violence Risk Assessment and Risk management Framework (also known as the Common Risk Assessment Framework, or the CRAF) to incorporate risk assessment indicators for specific communities—including LGBTI people<sup>98</sup>—and including LGBTI indicators in the Victorian Government's proposed Family Violence Index.<sup>99</sup> Finally, the Commission was told that funding research aimed at gaining a better understanding of the nature and prevalence of and most effective responses to family violence in LGBTI communities is key.<sup>100</sup> The lack of data in relation to LGBTI people and family violence is discussed further in Chapter 39.

## Reporting violence to police

Police data reveals that of the 65,154 family violence incidences recorded in 2013 to 2014<sup>101</sup> there were 741 recorded family violence incidents in which the parties were in a current or former same-sex relationship.<sup>102</sup>

The Commission was told that LGBTI communities have a deep historical mistrust of the police and the legal system.<sup>103</sup> The past criminalisation of homosexuality has contributed to this mistrust,<sup>104</sup> which can lead to a reluctance in LGBTI communities to report violence.<sup>105</sup> We heard that this is especially the case among older members of LGBTI communities.<sup>106</sup>

In one survey, more than half the respondents who cited homophobia and heterosexism as barriers to reporting referred to difficulties with the police. A large number cited fear of the police engaging in 'hetero male ridicule' or said the police would make their gender history public, out them to their parents, or be indifferent to the specific needs of LGBTI people.<sup>107</sup>

The Commission was also told of examples of family violence where the police did not realise the people involved were in a relationship:

Police in an outer metropolitan Melbourne suburb received a call-out from neighbours to attend what sounds like a violent argument in the flat next door. When they arrived they found two men inside the flat. The men appeared to the police to be flatmates ... They were assured by the taller man that the two men had simply had an argument about something trivial but that it was all over. Later that night the same police were called to the local hospital's Emergency Department to discover the shorter man had been severely beaten and was being moved to the ICU with serious injuries. On investigation it was confirmed that the two men had been in a relationship for some years. One of the attending officers reflected with great regret that, on arrival at the flat, they did not implement the standard procedure in relation to suspected domestic violence, which required that the two people involved be interviewed separately to ascertain if they felt safe. He recognised that he did not entertain the idea of the men as a gay couple at the time.<sup>108</sup>

An LGBTI worker participating in one of the Commission's community consultations said that police 'don't ever' identify a situation as family violence when it involves a same-sex relationship and that 'there's a lot of assumptions and stereotypes'.<sup>109</sup> Another participant in the consultation commented that 'some police stations respond well [to LGBTI family violence incidents] where there has been training'.

In recent years, Victoria Police has sought to build trust between police and LGBTI communities. The establishment of the Police LGBTIQ Portfolio Reference Group and the implementation of a network of gay and lesbian liaison officers, along with important symbolic efforts, have had an important cultural impact in the organisation.<sup>110</sup> Gay and Lesbian Health Victoria submitted:

The role of [gay and lesbian liaison officers] is critical for those who wish to report family violence. However, their numbers and their availability are somewhat limited. It is therefore critical that training on family violence [is] provided to both new recruits and current VicPol staff incorporates issues relevant to the LGBTI community.<sup>111</sup>

During its consultations the Commission was told that some gay and lesbian liaison officers were more effective than others.<sup>112</sup>

The Victoria Police Code of Practice for the Investigation of Family Violence currently recognises that same-sex intimate partner abuse may involve:

- ▷ threatening to out their partner or someone for whom their partner cares (for example, a friend)
- ▷ telling their partner that no one will help them as the police and the justice system are homophobic
- ▷ telling a partner that they will not be believed because homosexuals do not abuse their lovers
- ▷ telling a partner that they deserve it because they are homosexual
- ▷ telling a partner that they are not a 'real' homosexual
- ▷ withholding of medication for those transitioning to another gender.<sup>113</sup>

Victoria Police recommended that the CRAF be updated 'to reflect the range of relationships, harms and risks now under the definition of family violence'.<sup>114</sup> This includes incorporating risk assessment indicators for specific communities in the framework, including for LGBTI people.<sup>115</sup>

The Commission heard that there was support for training to be made available to police so that they could more effectively respond to family violence experienced by LGBTI people.<sup>116</sup>

## Access to support services

The joint submission from Drummond Street Services and the Victorian Aids Council noted:

...there are no hot lines, no shelters, no support groups, no advocacy and no public campaigns for individuals in same sex relationships, or who identify as LGBTIQ who are subjected to intimate partner or family violence.<sup>117</sup>

The Commission was told LGBTI victims have difficulty gaining access to mainstream family violence services because of the lack of availability of these services,<sup>118</sup> as well as a fear on their part that the systemic discrimination, homophobia and transphobia they experience in daily life will similarly occur when they try to make use of these services.<sup>119</sup>

Gay and Lesbian Health Victoria reported that 50 per cent of LGBTI people 'usually or occasionally' hid their sexuality or gender identity for fear of heterosexist violence or abuse when in public places, at work, and at social and community events.<sup>120</sup> Living in fear of discrimination damages victims' trust in service providers and creates apprehension at the prospect of using mainstream services.<sup>121</sup>

The Commission was told that mainstream family violence services might not have the requisite level of understanding of and sensitivity to respond to LGBTI victims and their needs. In a consultation with LGBTI workers it was said that within both mainstream and LGBTI services training in relation to family violence within LGBTI communities is largely non-existent:

When LGBTIQ people are looking for assistance in Victoria it's a real cycle of hit and miss, but generally miss. There's been no specific training in either mainstream or LGBTIQ-specific agencies, and that has contributed to the myth that there is no family violence in LGBTIQ communities, or that family violence is more applicable to straight relationships.<sup>122</sup>

The Commission is aware of a variety of ways in which the capacity of mainstream and family violence services to respond to LGBTI victims might be improved.

In 2012, Gay and Lesbian Health Victoria developed what are now nationally recognised standards for LGBTI-inclusive practices in services.<sup>123</sup> This included a training program called the How2 Program package, which is designed to help organisations develop their practices in order to provide a safe and inclusive environment for LGBTI people.<sup>124</sup>

Others identified the Rainbow Tick as another way of encouraging family violence services to better accommodate the needs of LGBTI people. Organisations that successfully pass through an accreditation process are awarded a Rainbow Tick to show that they offer a safe and inclusive place for LGBTI people to seek help. There are six standards against which a service can be formally accredited to demonstrate LGBTI-inclusive practice and service delivery:

- ▷ organisational capability
- ▷ consumer consultation
- ▷ LGBTI cultural safety
- ▷ disclosure and documentation
- ▷ professional development
- ▷ access and intake.<sup>125</sup>

According to Gay and Lesbian Health Victoria, the Rainbow Tick is currently under-used among family violence services:

While mainstream services are showing increased interest in undertaking this workplace process, it remains the case that the family services sector remains significantly underrepresented among such organisations, and generally under-resourced to undertake such work.<sup>126</sup>

Drummond Street Services and the Victorian Aids Council submitted:

It is becoming more evident that the LGBTIQ community both require and want LGBTIQ specialist rather than mainstream services to better understand and meet their complex needs. We would argue that ... LGBTIQ specific support services may well be more effective and provide safety.<sup>127</sup>

Several organisations operating in Victoria assist people from LGBTI communities, including in relation to family violence. For example, Gay and Lesbian Health Victoria, the Victorian Gay & Lesbian Rights Lobby and Drummond Street Services all provide some information to do with family violence. Fitzroy Legal Service runs a free LGBTIQ legal service every second Thursday night, focusing particularly on family law matters. Mensline also provides information for male victims of family violence, including those in same-sex relationships.<sup>128</sup>



The Commission was told, however, that the limited LGBTI-specific family violence support services that do exist are fragmented, have inadequate funding, and are limited or non-existent in rural, regional and remote areas.<sup>129</sup> Accordingly, the Commission was told, there is a need for specialist LGBTI family violence services<sup>130</sup> and capability building in existing services.<sup>131</sup> It was submitted that there is an 'urgent and on-going need to provide professional education on LGBTI-related issues to the Victorian services sector that have responsibility for, or intersect with, family violence'.<sup>132</sup>

### **Lack of accommodation options**

Homelessness is a serious risk for people who are coming out about their sexuality or gender identity to their family if the family does not accept that identification. A literature review carried out for the University of Adelaide reported that LGBTI people are over-represented in homeless populations, often experience homophobia or transphobia in accommodation services, and suffer more adverse outcomes associated with homelessness.<sup>133</sup>

The Commission was told that LGBTI people regularly experience homophobia and transphobia in housing and accommodation services.<sup>134</sup> A participant in the Commission's consultation with LGBTI workers said, 'There's no safe place ... assumptions are made, there's transphobia in agencies and refuges (trans being refused services)—and all that is re-traumatising'.<sup>135</sup> Another commented:

There is no access to suitable crisis accommodation, and LGBTIQ people experience not being taken seriously by agencies. In one instance same-sex family violence was not in the frame of reference for a worker from one agency who laughed it off thinking it was a joke.<sup>136</sup>

The Victorian Gay & Lesbian Rights Lobby submitted that there are limited, if any, appropriate emergency accommodation options available to LGBTI victims. It was unaware of any emergency accommodation for gay men experiencing family violence. It also observed that transgender women are refused crisis accommodation set aside for women if they have not had gender-reassignment surgery.<sup>137</sup> The Safe Steps and No To Violence submission provided an example of a transgender man who was required to live as a woman in order to obtain services.<sup>138</sup> The Commission was told that Kara House, which includes a women's refuge, has provided support to several transgender clients.<sup>139</sup>

Same-sex attracted and gender diverse young people are particularly vulnerable to family violence and face specific barriers to finding a safe place to call home.<sup>140</sup> They often express concern about experiencing violence in the home if they come out and might leave home early for fear that violence will occur.<sup>141</sup> Young LGBTI people can have greater difficulty gaining access to support services because of discrimination or because staff are not adequately trained to be sensitive to the person's experiences and needs.<sup>142</sup> In addition, some young people might not feel comfortable in youth or family violence refuges as a result of the homophobic or transphobic views of other residents.<sup>143</sup>

The lack of safe emergency housing for these communities is a huge impediment. It's a massive issue. Especially for young trans people who have been kicked out of home, it leaves them open to exploitation. They end up sleeping around or going to saunas just to have a roof over their head.<sup>144</sup>

### **Alsorts**

Alsorts is run by Family Access Network and provides case-managed transitional housing for same-sex attracted and gender diverse young people who are homeless. Launched in 2006, the service was the first of its kind in Victoria. It offers access to transitional accommodation (with support) for young people aged 15 to 25 years in two properties and an outreach service. In addition, it helps link young people to other housing options (including private rental), provides assistance with or referrals to other support services, and offers one-on-one support through its volunteer mentors.



Discrimination against transgender and intersex people in relation to accommodation is considered further in this chapter.

### **Lack of access to perpetrator programs**

The Commission heard that heterosexual assumptions were also a problem with perpetrator programs. The Victorian Gay & Lesbian Rights Lobby submitted that current government funding is allocated only to behaviour change programs for heterosexual male perpetrators.<sup>145</sup> This is discussed further in Chapter 18. Gay and Lesbian Health Victoria pointed out that the Men's Referral Service website focuses exclusively on heterosexual men and does not recognise gay, bisexual or transgender men.<sup>146</sup> No To Violence has prepared practice guidelines which state that programs should challenge homophobia and recommend referrals, information and resources for men who are in same-sex relationships.<sup>147</sup> This is not the same as providing programs which are targeted towards LGBTI perpetrators.

Historically, there have been no government-funded behaviour change programs at the state or national level appropriate for people in same-sex relationships.<sup>148</sup> The Victorian AIDS Council has run a behaviour change program called ReVisioning for gay or bisexual men, without support by government.<sup>149</sup> On 24 February 2016, the Victorian Government announced \$145,000 for the Victorian AIDS Council to deliver behaviour change programs.<sup>150</sup>

The Commission was told that specific behaviour change programs for LGBTI people who use violence against family members should be developed.<sup>151</sup>

In the context of recognising the need to tailor behaviour change programs for specific groups, the Victorian Government has acknowledged the lack of programs specific to LGBTI perpetrators is a 'service gap' which needs to be considered in the future.<sup>152</sup>

## **Concerns about discrimination against LGBTI people**

### **Discrimination by faith-based service providers**

Faith-based organisations play an important role in the delivery of services such as crisis accommodation, counselling and health services, all of which are essential for victims escaping and recovering from family violence.<sup>153</sup> Many of these organisations receive government funding to deliver such services.

Section 84 of the *Equal Opportunity Act 2010* (Vic) allows a person to discriminate on the basis of another person's religious belief or activity, sex, sexual orientation, lawful sexual activity, marital status, parental status or gender identity if the discrimination is reasonably necessary in order for the person to comply with the doctrines, beliefs or principles of their religion.<sup>154</sup>

Concern was expressed that this exception is 'extraordinarily broad' and represents a barrier to LGBTI victims seeking access to services that would otherwise be provided by government in a non-discriminatory manner.<sup>155</sup>

The Commission was told that, although there is no 'concrete data' on the use of section 84 to exclude LGBTI victims from services, there is anecdotal evidence that this does happen. Ms Brown stated:

We have anecdotal stories from people, particularly, for instance, transgender women, that have experienced difficulties and we know from work we did around federal discrimination reforms that LGBTI people experience discrimination from faith based providers in a whole range of settings.<sup>156</sup>

The Commission was told that a victim's perception that a faith-based provider might discriminate against them because of their sexuality or gender identity can be a powerful deterrent to seeking help. Ms Brown said:

I think a really important point to make is that it's the fear of discrimination. Even if faith based providers are doing the right thing, and I think more than often they are, it's that fear and apprehension that will stop someone from accessing those services or indeed disclosing the nature of their relationship and getting the help that they need.<sup>157</sup>

One consultation participant commented, 'While there is state sanctioned discrimination it doesn't create [an] environment ... of inclusivity'.<sup>158</sup> The Commission was therefore told:

... we would strongly recommend that in this forum we explore possible amendments to discrimination laws and limiting or removing those religious exemptions when it comes to these service providers, but indeed any service provider that's delivering services to vulnerable communities.<sup>159</sup>

In other contexts some religious organisations have supported confining the scope of religious anti-discrimination exemptions—for example, to religious ordination.<sup>160</sup>

The Victorian Court of Appeal has previously considered the statutory precursor to section 84. In *Christian Youth Camps Ltd v Cobaw Community Health Services Ltd* ('Cobaw') it held that the exemption applies only to individuals (not corporate bodies)<sup>161</sup> and adopted a narrow interpretation of what is 'necessary' to comply with a person's religious belief.<sup>162</sup> In that case, the Christian owners of a campground denied access to a 'same-sex attracted young people's' group. The majority of the court held that it was not necessary for the Christian owners, who were in substance operating a commercial venture, to deny access to the group under this exemption in order for the owners to comply with their religious beliefs. Such an approach would generally prevent corporate bodies from relying on section 84 to refuse services to particular people on the basis of religious belief.<sup>163</sup>

Although *Cobaw* might constrain the ability of a faith-based organisation to refuse services to people on the basis of their sexuality or gender identity, given what the Commission was told in written submissions and consultations, it appears few people are aware of the potential application of *Cobaw*. As a consequence, the fear of discrimination by faith-based providers of family violence services might still discourage victims with diverse sexualities or gender identities from seeking help.

The Victorian Government has promised to review Victorian legislation with a view to amending any provisions that 'unfairly discriminate' against LGBTI people:

We will modernise Victorian laws. We will start by reviewing all Victorian legislation to identify provisions that unfairly discriminate against LGBTI Victorians, and act to change them. Equal opportunity laws should exist to promote recognition and acceptance of the rights of every person. Victorians want their laws to be modern and reflect community attitudes. We will amend the Equal Opportunity Act 2010 to restore greater balance to the right to be free from discrimination.<sup>164</sup>

It has also created a whole-of-government LGBTI Taskforce with two working groups to support it—the Justice Working Group and the Health and Human Services Working Group. The taskforce was established to provide advice to the Victorian Minister for Equality, The Hon. Martin Foley. It will work closely with the Commissioner for Gender and Sexuality, Ms Rowena Allen.

As at the date of this report, the Commission understands that the contemplated review of Victorian legislation (including the Equal Opportunity Act) is not yet under way.

## **Discrimination against intersex people**

The Equal Opportunity Act does not list 'intersex' as an attribute on the basis of which discrimination is prohibited. In contrast, the *Sex Discrimination Act 1984* (Cth) and the *Anti-Discrimination Act 1998* (Tas) do so.<sup>165</sup> The Sex Discrimination Act specifically prohibits discrimination on the basis of intersex status;<sup>166</sup> the Tasmanian Act lists protected attributes including gender, gender identity, sexual orientation and intersex.<sup>167</sup>

The Victorian Act does list 'gender identity' as a protected attribute. It defines this to include the bona fide identification by a person of indeterminate sex as being a member of a particular sex (whether or not the person is recognised as such) by assuming characteristics of that sex (whether by means of medical intervention, style of dressing or otherwise) or by living or seeking to live as a member of that sex.<sup>168</sup>

In his Second Reading Speech for the Equal Opportunity (Gender Identity and Sexual Orientation) Bill 2000 (Vic), which amended the Equal Opportunity Act to prohibit discrimination on the basis of sexual orientation and gender identity, the then Victorian Attorney-General explained:

The term 'gender identity' is used in the bill ... because the amendment is designed to protect not only transgender people but also people born of indeterminate sex who seek to live as a member of a particular sex.<sup>169</sup>

Although the government might have intended to protect intersex people from discrimination, the adopted definition of 'gender identity'—contrary to recognising a spectrum of genders—might be interpreted to assume that sex, whether biological, affirmed or re-assigned, is binary and so does not encompass any gender other than male or female. As a consequence, an intersex person who chooses not to affirm a binary sex (for example, because they want to identify as intersex or of no particular sex) might not be protected from discrimination. This uncertainty could be resolved by including 'intersex' as a protected attribute in section 6 of the Equal Opportunity Act.

### **Transgender and intersex people and accommodation**

Section 60 of the Equal Opportunity Act allows providers of accommodation in a hostel or similar institution to discriminate on the basis of sex, age, race or religious belief if the institution was established wholly or mainly for the welfare of a particular sex, age, race or religious belief.<sup>170</sup>

The Act does not define 'sex'. It could be interpreted narrowly to assume that sex is binary (that is, either male or female) and/or that sex refers to the biological birth sex, rather than a broader concept of 'gender identity'. As discussed, the definition of 'gender identity' as the law stands could also be interpreted to assume that sex is binary.

Therefore, if a family violence refuge is established for women it might be possible for it to lawfully discriminate against a pre-operative transgender woman who is biologically male (even if she has affirmed her gender in accordance with the Act, for example, by living or seeking to live as a woman) or an intersex person (depending on their biological characteristics). Accordingly, even if a transgender woman has lived in her affirmed gender for decades, if she has not had gender re-assignment surgery, it may be lawful to refuse her refuge accommodation. In contrast, it would not be possible to lawfully discriminate against a pre-operative transgender man who was biologically a woman, even if he was living his affirmed gender as a man.

As the Victorian Gay & Lesbian Rights Lobby submitted, transgender women have experienced difficulty gaining access to women-only shelters unless they have had re-assignment surgery. The Safe Steps submission expressed concern about these difficulties and recommended as follows:

That the Victorian Equal Opportunity and Human Rights Commission clarifies the application of exceptions under the Equal Opportunity Act 2010 with regard to transgender women's usage of women's services.<sup>171</sup>

The Victorian Equal Opportunity and Human Rights Commission submission noted:

Transgender women and men (from homosexual or heterosexual relationships) who are also victim/survivors of family violence also face particular barriers in escaping family violence and accessing housing support services and accommodation. This is partly based on a lack of services designed to assist this group of victim/survivors, but may also be partly caused by discriminatory attitudes and stereotypes towards these groups. More work needs to be undertaken to assist these groups of victim/survivors to safely leave violent relationships and access the supports that they require.<sup>172</sup>

Determining a person's legal sex can be 'complex, contextual and contested'.<sup>173</sup> In the case of transgender and intersex people, their legal identity often does not align with their self-identity.<sup>174</sup> This 'disconnect' can have serious consequences for victims and perpetrators of family violence.

When interpreting the *Gender Reassignment Act 2000* (WA), the High Court of Australia found that the definition of ‘gender characteristics’ in the Act required consideration of social recognition rather than merely biological characteristics.<sup>175</sup> The court has also accepted that sex is not binary and there may be gradated changes between gender identities.<sup>176</sup> The Victorian Equal Opportunity and Human Rights Commission guideline entitled *Transgender People and Sport* is presumably referring to these cases when it says:

Sex refers to a person’s physical sex characteristics. Traditionally this has been read as being either male or female, but courts are now recognising that ‘sex’ can have a broader meaning to specifically apply to people who are intersex, those who may be a combination, or on a spectrum, of being male and female or identify as being physically indeterminate.<sup>177</sup>

Accordingly, such authorities might support a broad interpretation of ‘sex’ for the purposes of section 60, which encompasses a person’s self-affirmed gender (that is, not merely their birth sex or their post-sex affirmation surgery sex), including intersex. Such a broad interpretation would prevent a refuge established for women from lawfully discriminating against a pre-operative transgender woman, or at least some intersex people.

It remains a concern, however, that only a person who has undergone sex-affirmation surgery may apply to the Registrar of Births, Deaths and Marriages to have their birth sex altered.<sup>178</sup> This could be seen as supporting a narrower interpretation of sex for the purposes of section 60—namely, that sex means a person’s birth sex, unless altered by sex-affirmation surgery alone. The current Victorian Government has previously identified this as a problem and has also promised to ‘[r]emove barriers to new birth certificates for transgender and intersex Victorians’.<sup>179</sup>

In a letter to the Commission, the Victorian Equal Opportunity and Human Rights Commissioner, Ms Kate Jenkins, recommended a human rights-based approach that would:

... require services to actively consider the human rights that may be engaged or limited by any overarching policies or individual decisions to exclude ... transgender [or intersex] people from accessing services. Ensuring that the safety of those both currently receiving, and seeking to receive services, is maintained should be the primary objective in these considerations.<sup>180</sup>

As noted, there remains some doubt about whether the Equal Opportunity Act does prevent all such discrimination in the context of section 60.

## The way forward

Family violence in lesbian, gay, bisexual, transgender and intersex communities is under-reported and not well understood. It is an invisible problem within both the broader community and the family violence system.

In addition to intimate partner violence, some LGBTI victims experience homophobic or transphobic violence from family members as a response to their sexual and gender identity. Young people and older people are particularly vulnerable to this form of violence as they may be more dependent on their family. Existing models of family violence prevention and response (including elder abuse) often do not recognise homophobia and transphobia as motivations for family violence.

LGBTI victims might have experienced discrimination when seeking access to services: they might fear and mistrust services such as the police, the courts, and health and community organisations. If victims seek help and this is denied because of their sexuality or gender identity, or the violence is not taken seriously because it does not fit social expectations of what family violence is, they may remain in or return to the relationship rather than expose themselves to such treatment. All parts of the family violence system—including the police, the courts and specialist family violence services—must improve their responses to LGBTI communities.

The Commission's recommended priority areas for action are set out below. These are in addition to the recommendations we make elsewhere in this report to improve the responsiveness of the family violence system to the diverse experiences of victims.

## Overcoming barriers to reporting

In view of the current barriers to reporting, information and referral avenues should be developed for LGBTI communities in Victoria. Online and hard copy material should continue to raise awareness of family violence in LGBTI communities and identify appropriate support services for victims.

The Commission supports the development of specific LGBTI resources such as those that have been developed in New South Wales.<sup>181</sup> We also support the proposal that the CRAF guidance materials need to be amended to incorporate a greater focus on risk assessment indicators for specific communities—including LGBTI people.<sup>182</sup> For example, a risk factor for the LGBTI community might include threats to 'out' a person or denying their affirmed gender. Providing practitioners across sectors with greater guidance on how to ask questions about and recognise these forms of emotional abuse will in turn improve risk assessment practice.

If family violence is portrayed in a way that does not reflect the different relationship contexts in which it occurs, LGBTI victims will be further marginalised and will continue to remain invisible within the system. Prevention activities and community awareness campaigns, such as those being considered by the Council of Australian Governments, need to be developed in consultation with LGBTI communities; they should use imagery and language that reflect these communities and highlight the problem of family violence in all its forms.

## Building capacity for and commitment to inclusive practice

Various submissions identified useful programs for helping implement LGBTI-inclusive policies, principles and practices.

One option is to devise training packages that help organisations develop their practice and so ensure a safe and inclusive service for LGBTI people. The How2Program, run by Gay and Lesbian Health Victoria, is a good example of this.

Another option is for service providers to become accredited Rainbow Tick organisations. Services that receive the Rainbow Tick are listed in a national register of LGBTI-accredited organisations. Apart from being a promotional tool, this initiative offers a structured, practical approach to helping organisations be more inclusive and responsive. Achieving such accreditation would, however, consume resources in an already overstretched service system. In the Commission's view, additional funding should be provided to enable family violence organisations to achieve this accreditation.

Further, the Commission considers that the whole-of-government LGBTI Taskforce should play an advisory role in the Commission's recommended review of the standards for family violence service providers (including men's behaviour change programs) and should also inform the revised policy and practice frameworks that will be required to establish the Commission's recommended Support and Safety Hubs (Chapter 13). Similarly, learning and development around family violence for universal services, judiciary and police (including family violence risk assessment) will need to include a strong focus on family violence experienced by LGBTI communities and the principles of inclusive practice with these communities.

## Recommendation 166

The Victorian LGBTI Taskforce, supported by relevant experts, provide advice [within two years] on the following:

- ▷ research priorities relating to the nature and prevalence of and the most effective responses to family violence in LGBTI communities
- ▷ effective prevention strategies
- ▷ the review of the standards for family violence service providers—including men’s behaviour change programs
- ▷ intersections between family violence and health and wellbeing initiatives.

## Recommendation 167

The Victorian Government require all funded family violence services to achieve Rainbow Tick accreditation [by 31 December 2018]. This should be achieved by means of a staged approach, using workforce training and LGBTI equity auditing followed by full accreditation. An evaluation should be conducted to determine whether all family violence services are suitably responsive to and inclusive of LGBTI people [by 31 December 2019].

## Targeted services

A number of parties alerted the Commission to the need for specialist services that provide support specifically for LGBTI communities.

The family violence system has historically focused on women and their children, and people outside of heterosexual intimate partnerships have been inadequately supported by service providers. This is particularly the case with accommodation services. Transgender women and gender diverse young people can face specific barriers in gaining access to accommodation. This places people at risk and goes against the human rights principles that should lie at the heart of our society’s response to family violence.

At present, there is no statewide organisation or centre of expertise that is solely focused on family violence services for LGBTI communities. Such organisations or centres do exist for other communities who experience barriers in finding support for family violence, for example the Aboriginal Family Violence Prevention Legal Service Victoria; InTouch Multicultural Centre against Family Violence; Seniors Rights Victoria and Women with Disabilities Victoria.

The Commission favours building the capability and inclusivity of existing organisations among both specialist family violence and LGBTI organisations so that they can provide adequate services and support for people from LGBTI communities experiencing family violence. As discussed, there are a range of existing LGBTI organisations who provide statewide services and advocacy, including Gay and Lesbian Health Victoria and the Victoria Gay & Lesbian Rights Lobby. There are also existing family violence services which have LGBTI capability including Safe Steps, Domestic Violence Resource Centre Victoria, Kara House and Drummond Street Services (Carlton, Werribee and Geelong).

In order to develop the necessary statewide LGBTI capacity the Victorian Government will need to fund and support the development of specific resources and programs for LGBTI communities, including for LGBTI perpetrators.

## Recommendation 168

The Victorian Government provide funding [within 12 months] for the following:

- ▷ development and maintenance of legal and other resources for lesbian, gay, bisexual, transgender and intersex communities to support the identification and reporting of family violence, along with information about safe, accessible sources of support
- ▷ shared community education campaigns via LGBTI and family violence services to encourage LGBTI people who are experiencing family violence to seek help
- ▷ provision of training and advice to specialist family violence services
- ▷ for those LGBTI victims who cannot remain in their home, assistance with obtaining safe accommodation.

### Relevant legislation

A number of options are available to the Victorian Government in seeking to remedy the problems transgender and intersex victims of family violence have in gaining access to crisis accommodation and other services.

One option is for the Victorian Equal Opportunity and Human Rights Commission to issue guidelines under section 148 of the Equal Opportunity Act<sup>163</sup> to enable specialist family violence service providers to develop their organisational policies to make it clear that staff should not rely on the statutory exemptions to discriminate against transgender or intersex victims. The Victorian Equal Opportunity and Human Rights Commission told the Royal Commission it has the expertise and willingness to assist with the drafting of these guidelines.

The current state of the law is complex and indeterminate. The Commission supports the idea of the Victorian Government proceeding with a review of the Equal Opportunity Act with a view to better protecting LGBTI communities against discrimination. Any such review should consider the following:

- ▷ including 'intersex' as a protected attribute without requiring intersex people to affirm any particular sex in order to be entitled to protection under the Act—consistent with the position in both Commonwealth and Tasmanian law
- ▷ ensuring that transgender and intersex people have their self-affirmed gender recognised and protected—without the requirement to undergo sex-affirmation surgery
- ▷ allaying the concerns expressed to the Commission about the availability of exceptions offered by the Equal Opportunity Act and the chilling effect that fear of discrimination can have on LGBTI victims seeking help.

Whether the Equal Opportunity Act is amended or not, any guidelines that are developed would be most effective if combined with support for implementing non-discriminatory practices. Some accommodation providers, for example, might feel pressure to exclude transgender people from refuges because of the communal setting and the transphobic attitudes of some residents. In cases such as this, implementation of non-discriminatory practices might be best effected by moving away from a communal service model. The Commission supports the Victorian Equal Opportunity and Human Rights Commission's recommendation that a human rights approach be adopted, which seeks to balance the rights of those currently receiving and those seeking to receive support.

In Chapter 9 we recommend that the communal refuge model be phased out over the next five years and replaced with a core and cluster model of self contained units. This may not relieve all the problems that arise from homophobia and transphobia but may assist with those that occur in a shared living environment.



## Recommendation 169

The Victorian Government, in the context of its commitment to review equal opportunity and birth certificate laws, examine the need to clarify relevant provisions of the *Equal Opportunity Act 2010* (Vic) to remove any capacity for family violence accommodation and service providers to discriminate against lesbian, gay, bisexual, transgender and intersex Victorians [within 12 months].

### Prevention

Education about respectful relationships and diverse sexualities and genders is important to combat the homophobic and transphobic attitudes and beliefs that underlie some family violence. Such programs are also valuable in raising awareness that family violence occurs in LGBTI communities and reinforcing that relationships of all kinds should be free from violence. This builds a basis for better identification and response to family violence in all its forms across the community. For these reasons we strongly support the continuation and development of the Building Respectful Relationships program in all schools.

The Commission also supports the Victorian Government, through the Council of Australian Governments, seeking to ensure that the *National Plan to Reduce Violence against Women and their Children 2010-2022* and the third and fourth action plans take account of and seek to address family violence in LGBTI communities.



## Endnotes

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- 10 *Relationships Act 2008* (Vic).
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- 19 Marian Pitts et al, 'Private Lives: A Report on the Health and Wellbeing of GLBTI Australians' (Monograph Series No 57, The Australian Research Centre in Sex, Health and Society, La Trobe University, March 2006) 51–2.
- 20 *Ibid*.
- 21 *Ibid*.
- 22 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 10, Table 10: Family incidents where the affected family member and other party were in a current or former same-sex relationships, July 2009–June 2014, provided the Commission by the Crime Statistics Agency, 30 September 2015; Victoria Police data source, Tab 40, Table 40: Relationships between Affected Family Member and Other Party where the AFM is male and the OTH is Male; Tab 41, Table 41: Relationship between Affected Family Member and Other Party where the AFM is Female and the OTH is Female, provided to the Commission by the Crime Statistics Agency, 10 February 2016.
- 23 *Ibid*.
- 24 *Ibid*.
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- 35 *Family Violence Protection Act 2008* (Vic) s 7.
- 36 Community consultation, Melbourne, 7 July 2015; Commission for Children and Young People, Submission 790, 18.
- 37 Victorian Gay & Lesbian Rights Lobby, Submission 684, 2.
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- 85 LGBTIQ Domestic Violence Interagency, *Another Closet: Domestic and Family Violence in LGBTIQ Relationships* <<http://www.anothercloset.com.au/>> (8 October 2015).
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- 87 Gay and Lesbian Health Victoria; Australian Research Centre in Sex, Health and Society—La Trobe University, Submission 821, 15.
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- 93 Ibid 23–24. See LGBTIQ Domestic Violence Interagency, above n 85. In September 2015, the New South Wales Government announced a further \$115,000 towards a campaign to be delivered by the AIDS Council of NSW and targeted towards LGBTI communities to 'identify the early signs of domestic violence among LGBTI people, and also to specifically increase awareness of healthy relationships among lesbians': Matt Akersten, *NSW Pledges \$115k to Tackle LGBTI Domestic Violence* (9 September 2015) Same Same <<http://www.samesame.com.au/news/12731/NSW-pledges-115k-to-tackle-LGBTI-domestic-violence>>.
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140 Youth Affairs Council of Victoria Inc, Submission 938, 21.

141 No To Violence; Safe Steps Family Violence Response Centre, Submission 933, 14. See also Noto, Leonard and Mitchell, above n 48, 12–13.

142 Community consultation, Melbourne, 7 July 2015.

143 Youth Affairs Council of Victoria Inc, Submission 938, 21.

144 Community consultation, Melbourne, 7 July 2015.

145 Victorian Gay & Lesbian Rights Lobby, Submission 684, 11 citing ACON, Submission No 46 to Social Issues Committee, Parliament of NSW, *Inquiry into Domestic Violence Trends and Issues in NSW*, 23 September 2011, 7.

146 Gay and Lesbian Health Victoria; Australian Research Centre in Sex, Health and Society—La Trobe University, Submission 821, 14.

147 The Commission understands that these guidelines are voluntarily adopted, in full or in part, by some service providers: No To Violence, *Men’s Behaviour Change Group Work: Resources for Quality Practise*, 128, 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); No To Violence, *Men’s Behaviour Change Group Work: Minimum Standards and Quality Practice*, 74, 92–3, 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).

148 Victorian Gay & Lesbian Rights Lobby, Submission 684, 11 quoting ACON, Submission No 46 to Legislative Council Standing Committee on Social Issues, *Inquiry into Domestic Violence Trends and Issues in NSW*, 23 September 2011, 7.

149 Drummond Street Services, Submission 685, 1–2.

150 Minister for Equality, The Hon Jenny Mikakos, ‘Boosting Men’s Behaviour Change Support to End the Cycle of Family Violence’ (Media Release, 24 February 2016).

151 The development of perpetrator programs is discussed in Chapter 18.

152 Department of Health and Human Services, Question 5—Men’s behaviour change programs (MBCPS) (29 January 2016), 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 and 20 October 2015).

153 Victorian Gay & Lesbian Rights Lobby, Submission 684, 7.

154 *Equal Opportunity Act 2010* (Vic) s 84.

155 Victorian Gay & Lesbian Rights Lobby, Submission 684, 8.

156 Transcript of Brown, 11 August 2015, 2543 [10]–[15].

157 *Ibid* 2543 [18]–[24].

158 Community consultation, Melbourne, 7 July 2015.

159 Transcript of Brown, 11 August 2015, 2542 [30]–2543 [4].

160 Senate Standing Committee on Legal and Constitutional Affairs, Parliament of Australia, *Exposure Draft of the Human Rights and Anti-Discrimination Bill 2012* (2013) 58 [5.25].

- 161 (2014) 308 ALR 615, 651 [162], 680–4 [307]–[325] (Maxwell P), 706–8 [411]–[420] (Neave JA), 721–4 [473]–[488] (Redlich JA in dissent).
- 162 Ibid 684 [327]–[330] (Maxwell P), 708–12 [422]–[435] (Neave JA), 730–5 [511]–[532] (Redlich JA in dissent).
- 163 After *Cobaw*, section 84 was amended to require not merely that discrimination is necessary but that it is ‘reasonably necessary’.
- 164 Victorian Labor, ‘Equality Back on the Agenda: Labor’s LGBTI Policy’ (2014) 3.
- 165 *Sex Discrimination Act 1984* (Cth) s 5C; *Anti-Discrimination Act 1998* (Tas) s 16(eb).
- 166 *Sex Discrimination Act 1984* (Cth) s 5C.
- 167 *Anti-Discrimination Act 1998* (Tas) s 16.
- 168 *Equal Opportunity Act 2010* (Vic), s 4(1), definition of ‘gender identity’.
- 169 Victoria, *Parliamentary Debates*, Legislative Assembly, 13 April 2000, 1015 (Rob Hulls, Attorney-General).
- 170 *Equal Opportunity Act 2010* (Vic) s 60.
- 171 Safe Steps Family Violence Response Centre, Submission 942, 43.
- 172 Victorian Equal Opportunity and Human Rights Commission, Submission 609, 17.
- 173 Letter from Kate Jenkins, Commissioner, Victorian Equal Opportunity and Human Rights Commission to The Hon Marcia Neave AO, Commissioner, Royal Commission into Family Violence, 1 December 2015, 2.
- 174 Ibid.
- 175 *AB v Western Australia* (2011) 244 CLR 390, 405 [34]–[35] (French CJ, Gummow, Hayne, Kiefel and Bell JJ).
- 176 *Registrar of Births, Deaths and Marriages v Norrie* (2014) 250 CLR 490, 492 [1] (French CJ, Hayne, Kiefel, Bell and Keane JJ); *AB v Western Australia* (2011) 244 CLR 390, 402 [23] (French CJ, Gummow, Hayne, Kiefel and Bell JJ).
- 177 Victorian Equal Opportunity & Human Rights Commission, above n 1, 6.
- 178 *Births, Deaths and Marriages Registration Act 1996* (Vic) s 30A(a).
- 179 Victorian Labor, ‘Platform 2014’ (2014) 70.
- 180 Jenkins, above n 173, 3.
- 181 LGBTIQ Domestic Violence Interagency, above n 85.
- 182 Victoria Police, Submission 923, 16.
- 183 Jenkins, above n 173, 2–3.

# 31 People with disabilities

## Introduction

It is estimated that 1.1 million Victorians have a disability,<sup>1</sup> of whom 32.7 per cent have a 'profound or severe disability'.<sup>2</sup> While there is no consistent data on the prevalence and incidence of family violence or sexual assault on people with disabilities, the Commission heard that women with disabilities are at higher risk than men with disabilities, and are more likely to experience family violence than women without disabilities.<sup>3</sup> This reflects a disturbing culture of acceptance of violence against people with disabilities, which was highlighted in the recent Victorian Ombudsman's report into allegations of abuse in the disability services sector.<sup>4</sup>

The first section of this chapter considers the meaning of 'disability', reflects on the experience of people with disabilities, and sets out their human rights protections under domestic and international law. The Commission notes that restrictions on people with disabilities participating fully and effectively in society are a result of environmental and attitudinal barriers—including entrenched multiple disadvantages and pervasive negative attitudes toward people with disabilities.

The Commission consulted directly with women with disabilities, their carers and their families about their experiences and understanding of family violence. For some of these women, their disabilities had been caused by their partner's violence against them. In other cases the perpetrator had targeted them because of their disability. We appreciate the generosity these women showed in sharing their experiences.

The Commission also spoke to workers and advocates, including representatives of Women with Disabilities Victoria, Domestic Violence Resource Centre Victoria and the Office of the Public Advocate. Many submissions to the Commission raised the question of disability and family violence and put forward recommendations to improve the situation for people with disabilities. Evidence at the public hearings also canvassed the difficulties faced by victims of family violence who have disabilities.

While violence against people with disabilities living in residential settings has been identified as a serious issue, both in Victoria and nationally, the Commission's terms of reference require us to focus on family violence. In relation to people with disabilities, this includes violence against them by their family members or relatives, as well as violence by paid carers (either home-based or in a residential setting) or co-residents in disability services who have a 'family-like' relationship with the victim.

Victorian and Commonwealth reports and inquiries into violence against people with disabilities are summarised in this section in order to provide a broader context of the issues at both state and national levels.

The second section of this chapter explores issues of concern considered by the Commission. There is a notable lack of systematic data collection on family violence against people with disabilities—as a result, reliable and consistent data on this issue is not available. In community consultations, the lack of data about acquired brain injuries (ABIs) and family violence was also identified. This section then explains how people with disabilities may experience family violence from intimate partners, other family members, non-related carers and co-residents in residential facilities, and how the *Family Violence Protection Act 2008* (Vic) includes an extended definition of 'family member'. Inconsistencies in police and others applying this extended definition are discussed. Barriers to people with disabilities reporting family violence and the lack of a positive reporting culture among those working in the disability support sector are noted. The particular barriers to support and recovery experienced by women with disabilities and the lack of perpetrator programs for men with disabilities are also discussed.

In the third section of this chapter, the Commission provides its opinions and proposes a way forward. Key recommendations include ensuring greater and more accurate data collection and initiatives to enhance the inclusiveness, capability and effectiveness of the system which supports victims with disabilities and intervenes with perpetrators, as well as education and training to develop the capacity of those who come into contact with people with disabilities to identify and respond to family violence.

The Commission considered calls to extend the definition of family member to include all paid carers and co-residents, but has declined to do so as we consider other mechanisms to be more appropriate.

While mental illness is a disability and so is encompassed by the discussion in this chapter, the Commission specifically addresses the mental health system in Chapter 19. Chapter 20 discusses the effect on victims of mental illness and ABIs associated with family violence. Mental illness is also discussed in Chapter 18.

## Current context and practice

### What do we mean by 'disability'?

Definitions of what constitutes a 'disability' vary, as do people's experiences of disability. The Department of Health and Human Services describes a disability as:

any physical, sensory, intellectual, cognitive or psychiatric impairment that affects a person's ability to undertake everyday activities.<sup>5</sup>

It acknowledges that people can be born with a disability or acquire a disability suddenly through an accident. Some disabilities are episodic; others temporary, and not all are visible.<sup>6</sup>

The Commission has adopted the approach of the United Nations that disability is a social construct, and that 'disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others'.<sup>7</sup>

As the World Health Organization explains, '[o]vercoming the difficulties faced by people with disabilities requires interventions to remove environmental and social barriers'.<sup>8</sup> The removal of these barriers empowers people with a disability to live their lives with greater independence, self-direction and dignity.

### People with disabilities in Victoria

The 2011 census shows that almost one in five Victorians have a disability (19.4 per cent). Around a third of Victorians with disabilities (or 6.4 per cent of the state population) have a profound or severe disability, and almost 40 per cent (7.6 per cent of the state population) have a schooling or employment restriction. Of those 1.1 million people with disabilities, approximately 905,926 (81.3 per cent) have a physical condition and approximately 209,488 (18.8 per cent) have a mental or behavioural disorder.<sup>9</sup>

The prevalence of disability in Victoria is higher in older age groups, rising from 18.6 per cent in the 45 to 54 age group to 86.8 per cent in the 90 and over age group. Women are slightly more likely to have a disability than men (20.3 per cent of all Victorian females compared with 18.5 per cent of all Victorian males). Nationally, Aboriginal and Torres Strait Islander people are 1.7 times as likely as non-Indigenous people to have a disability.<sup>10</sup>

Almost 94 per cent of all Victorians with a disability live in a private dwelling, either alone (19.3 per cent) or with others (74.5 per cent), and 4.6 per cent live in 'cared accommodation'.<sup>11</sup> The remaining 1.7 per cent live in another non-private dwelling (including hostels, motels and rooming houses).



The Commission heard that people with disabilities are at greater risk of poverty, with Melbourne City Mission submitting:

... the relative income of people with disabilities in Australia is approximately 70 per cent of those without disability (the lowest in the OECD) and ... 45 per cent of Australians with disabilities live in poverty or near poverty, a situation that has worsened since the mid-1990s.<sup>12</sup>

Emerson and colleagues have reported that Australian young people with disabilities were five times more likely to experience entrenched multiple disadvantage and long term unemployment than people without disabilities. They are also less likely to be engaged in full-time work and more likely to experience mental illness, homelessness and be victims of crime.<sup>13</sup>

The Commission was told that a poll of 761 Australians with a disability found that 'negative attitudes towards disability were the single biggest cause of disadvantage'.<sup>14</sup> Pervasive negative attitudes towards people with disabilities mean that women who have grown up with disabilities may have experienced 'discrimination, or been ignored and devalued' over the course of their entire lives.<sup>15</sup>

## The human rights of people with disabilities

The human rights of people with disabilities—including equality before the law and freedom from violence—are protected under international and domestic law.

Australia has international obligations under the UN *Convention on the Rights of Persons with Disabilities*, which creates a duty for Australian governments to ensure that the rights of people with disabilities are protected.<sup>16</sup> In particular, Article 16 of the convention protects the rights of persons with disabilities to freedom from exploitation, violence and abuse. This is especially relevant in the context of family violence, including in disability service settings.<sup>17</sup> Further rights are contained in the *International Covenant on Civil and Political Rights*, the *Convention on the Rights of the Child* and the *Convention on the Elimination of All Forms of Discrimination against Women*.<sup>18</sup>

In addition to the general protections under the *Charter of Human Rights and Responsibilities Act 2006* (Vic) as discussed in the introductory 'Family violence and diversity', the *Equal Opportunity Act 2010* (Vic) expressly requires organisations to make reasonable adjustments to accommodate people with disabilities when delivering services.<sup>19</sup> In addition, the federal *Disability Discrimination Act 1992* (Cth) makes it unlawful to discriminate against people with disabilities in the provision of services.<sup>20</sup>

## Current protections for people with disabilities in Victoria

There are a number of bodies that oversee the disability sector in Victoria, and provide people with disabilities with avenues for complaint about abuse or violence. These include:

- ▷ The Disability Services Commissioner, appointed to resolve complaints raised by or on behalf of people who receive disability services, about their providers.<sup>21</sup>
- ▷ Office for the Public Advocate which acts as the adult guardian of last resort for people with disabilities, with responsibilities including advocacy and oversight of the Community Visitors Program.<sup>22</sup>
- ▷ Community visitors, volunteers appointed by the Governor in Council to visit residential services, monitor and report on the adequacy of the services provided and raise concerns about the treatment of residents with staff and management.<sup>23</sup> Since 2010, community visitors have been required to notify the OPA of matters concerning sexual assault, serious abuse or unexplained injuries in facilities they visit. The majority of notifications have been from disability residential services (67 per cent).<sup>24</sup>
- ▷ The Senior Practitioner (Disability), appointed by the Secretary of DHHS under the *Disability Act 2006* (Vic) and responsible for protecting the rights of people subject to restrictive interventions and compulsory treatment. The Senior Practitioner also reviews some incident reports from disability service providers about allegations of staff-to-client assault involving a serious outcome.<sup>25</sup>

The Victorian Ombudsman has jurisdiction over each of these, but does not often receive allegations about people with disabilities. It is also unclear whether its jurisdiction is limited to state-run facilities, or whether it extends to funded providers.<sup>26</sup>

In addition, Victoria Police investigates and prosecutes allegations of abuse or violence which may amount to a criminal offence.

The complexity of the system, under which no single agency is responsible for dealing with reports of abuse or violence against people with disabilities, is noted in the recent Ombudsman's report into reporting of abuse against people with disabilities.<sup>27</sup> The report stated that:

[D]espite areas of good practice, oversight arrangements in Victoria are fragmented, complicated and confusing, even to those who work in the field. As a result there is a lack of ownership of the problem and little clarity about who is responsible for what.<sup>28</sup>

As a result, it concluded that the current system is 'fundamentally failing to deliver protection in a coherent and consistent way'.<sup>29</sup> Its recommendations included the creation of an independent oversight body to which all serious incidents must be reported. This is discussed further below.<sup>30</sup>

The Commission also notes that the National Disability Insurance Scheme (NDIS) will be implemented from July 2016 to July 2019, and will provide a uniform framework for much of the disability service system.<sup>31</sup> This includes a quality and safeguards framework that includes safeguards against abuse of clients by service providers.

The Commission notes that the Office of the Public Advocate has produced the Interagency Guideline for Addressing Violence, Neglect and Abuse (IGUANA) which provides response guidance, including reporting and investigation guidelines. However, these are guidelines only and are not mandatory.<sup>32</sup>



## The Interagency Guideline for Addressing Violence, Neglect and Abuse

IGUANA, the Interagency Guideline for Addressing Violence, Neglect and Abuse produced by the Office of the Public Advocate in consultation with a number of organisations, provides useful information for organisations, staff members and volunteers working with adults who are at risk of violence, including family violence, neglect or abuse. It sets out a process for staff reporting abuse, the basic principles of which are to:

- ▷ protect the person
- ▷ support the person
- ▷ report the matter immediately
- ▷ encourage the person to take part in any investigation
- ▷ preserve any evidence
- ▷ contact the family or carer
- ▷ take further action if the person reporting has doubts or concerns.

IGUANA also sets out the process for managers and heads of organisations to ensure compliance within their organisations.<sup>33</sup>

## The National Disability Insurance Scheme

The first stage of the National Disability Insurance Scheme (NDIS) in Victoria commenced in the Barwon region in 2013. From 1 July 2016 the scheme will be progressively rolled out across the rest of Victoria, with completion due in 2019.<sup>34</sup>

The Commonwealth and all states and territories have agreed to the development of a national approach to quality and safeguards as part of the NDIS, which will include service standards, complaint mechanisms and management of critical incidents.<sup>35</sup> The Council of Australian Governments (COAG) released a consultation paper in early 2015 on options for the national framework. Those consulted supported the following measures to prevent and respond to family violence by disability service providers:

- ▷ a statutory-based, independent complaints body
- ▷ a nationally-consistent approach to staff screening
- ▷ other workplace practices and policies to prevent abuse, for example:
  - ▷ effective recruitment practices
  - ▷ the development of organisational cultures that do not tolerate abuse, neglect and exploitation
  - ▷ ongoing staff training and supervision
  - ▷ the involvement of people with disabilities in selecting staff
- ▷ an independent oversight body and/or community visitor role.<sup>36</sup>

Family violence was identified as a potential risk for clients of the NDIS, and training and learning in specialist violence prevention was identified as a key element of building a capable workforce for the NDIS.<sup>37</sup> This includes consultation with relevant organisations and advocacy groups, and developing cultural competency including understanding the gendered nature of violence and abuse and issues relating to lesbian, gay, bisexual, transgender, queer and intersex communities.<sup>38</sup>

The Commission understands that work is under way to develop a Decision Regulation Impact Statement for consideration by Ministers in early 2016.<sup>39</sup>

The Family and Community Development Committee of the Victorian Parliament has also commenced an inquiry into abuse in disability services, the terms of reference of which include informing Victoria's position on an appropriate quality and safeguarding framework for the NDIS.<sup>40</sup> This is discussed further below.

## Experiences of family violence

### The extent and nature of violence against people with disabilities

The lack of systematic and disaggregated data on violence against people with disabilities makes it difficult to be precise about the extent of family violence involving people with disabilities – even more so than in relation to the general population. This is discussed further below.

In addition, the Commission heard that people with disabilities experiencing family violence are less likely than people without disabilities to report it. Victoria Police notes in its submission that only a 'small proportion' of family violence incidents in 2014 involved people with disabilities, and suggests that this is a result of the significant barriers to reporting that they may face.<sup>41</sup> These barriers, and the issues of reporting generally, are discussed further in this chapter.

Despite the lack of data, the evidence before the Commission was that women with disabilities experience all kinds of violence at higher rates than women who do not have disabilities<sup>42</sup> and that this violence is more severe and lasts longer than for other women.<sup>43</sup> The Public Advocate, Ms Colleen Pearce, gave evidence that some research suggests that women with disabilities are 40 per cent more likely to be victims of domestic violence than women without disabilities.<sup>44</sup> Women with disabilities are at higher risk of violence, abuse and exploitation than men with disabilities,<sup>45</sup> and most interpersonal violence towards women with disabilities is perpetrated by men,<sup>46</sup> highlighting the salience of gender.

As the Public Advocate said in her statement to the Commission ‘violence against women with disabilities must be understood in the context of the intersections between gender and disability, power and marginalisation’.<sup>47</sup>

Women with disabilities are also more likely to experience violence from a broader range of perpetrators than women without disabilities.<sup>48</sup>

### **Family violence**

In relation to family violence, the Commission was told that women with disabilities experience many of the same kinds of family violence as women without disabilities, including that perpetrated by male intimate partners and sexual violence.<sup>49</sup> Women with intellectual disabilities are at a ‘considerably heightened risk’ of experiencing sexual assault compared with other women with disabilities, according to the *Voices against Violence* study.<sup>50</sup> Women with disabilities may also experience ‘disability-based violence’; that is, violence which is unique to their disability, for example, the withholding of a mobility aide or medication.<sup>51</sup>

International research shows that acquired brain injuries can be a risk factor for being a victim of family violence. A victim may also experience an ABI as a consequence of family violence.<sup>52</sup> ABIs and family violence are discussed further in Chapter 20.

The Commission heard that family violence may begin or worsen when women acquire a disability:

Many women who acquire disabilities describe how their status changes. In family relationships their power changes. It may change in all kinds of ways including physically, economically and socially. Similar to what we know about pregnancy, the life change of acquiring a disability can be accompanied by an increase in, or even the commencement of family violence.<sup>53</sup>

Disability may also overlap with other forms of identity to place women at even greater risk of experiencing family violence, or of not being able to access appropriate services:

The risks are further heightened for women who are indigenous, from culturally and linguistically diverse backgrounds, and living in isolated – rural or institutional – communities.<sup>54</sup>

So, for women with disabilities we experience poorer socioeconomic status, poorer economic and social participation than both men with disabilities and other women. So that gives us what we might call a double disadvantage. If you are an Aboriginal woman, that’s again compounded and this disadvantage compounds itself and significantly increases the risk that women with disabilities, and particularly women from other disadvantaged groups, experience.<sup>55</sup>

The research shows that women with disabilities who live in rural, regional and remote communities are particularly vulnerable:

In the Australian context, women and girls with disabilities living in rural and remote communities are particularly disadvantaged as a result of the inaccessible environments and lack of services, information, awareness and education.<sup>56</sup>

During a community consultation, the Commission heard that family violence against women with disabilities in rural, regional and remote areas is increasing and that it is 'extra hard when you're in a remote area and living with family violence'.<sup>57</sup> One worker gave the example of a woman in a wheelchair who was pushed against a wall by her husband and left all day while he worked on the farm.<sup>58</sup>

Although older people experience some similar barriers to some women with disabilities (particularly where they have complex care and communication needs), the experience of family violence by these groups is distinct. The experiences of older women who acquire a disability can be different to women with disabilities who are ageing.

## **Settings**

People with disabilities can experience family violence in a range of settings. People with disabilities may live in their own home, with family members or in a facility. Facilities include supported accommodation, day care services, aged care residences, respite care facilities, detention centres and psychiatric care facilities.<sup>59</sup> The vast majority of Victorians with a disability live at home.<sup>60</sup>

Whether they live at home or in a residential/institutional setting, violence towards them by a family member constitutes family violence.

While a 'family member' generally means a partner, relative, child or someone with whom they are in an intimate personal relationship, violence committed by non-related carers (either in the home or in an institutional setting) or by co-residents in residential facilities may also constitute family violence where the relationship can be said to be 'family-like': see box.

## Extended definition of ‘family member’

The definition of ‘family violence’ in the *Family Violence Protection Act 2008* (Vic) involves violent behaviour by a person towards a ‘family member’ of that person.<sup>61</sup> For the purposes of the Act, the definition of ‘family member’ extends beyond intimate partners and relatives and includes:

... any other person whom the relevant person regards or regarded as being like a family member if it is or was reasonable to regard the other person as being like a family member having regard to the circumstances of the relationship.<sup>62</sup>

The Family Violence Protection Act sets out a range of matters to be considered in determining whether it is reasonable to regard the person as being ‘like a family member’, including:

- ▷ the nature of the social and emotional ties between the relevant person and the other person
- ▷ whether the relevant person and the other person live together or relate together in a home environment
- ▷ the duration of the relationship between the relevant person and the other person and the frequency of contact
- ▷ any financial dependence or interdependence between the relevant person or other person
- ▷ any other form of dependence or interdependence between the relevant person and the other person
- ▷ the provision of any responsibility or care, whether paid or unpaid, between the relevant person and the other person
- ▷ the provision of sustenance or support between the relevant person and the other person.<sup>63</sup>

In deciding whether a person is like a family member, the ‘relationship between the persons must be considered in its entirety’.<sup>64</sup>

The Act includes an example of where a person might be like a family member, namely:

[a] relationship between a person with a disability and the person’s carer may over time ... come to approximate the type of relationship that would exist between family members.<sup>65</sup>

## Who commits family violence against people with disabilities?

### Intimate partners

The most common manifestation of family violence suffered by women with disabilities is intimate partner violence.<sup>66</sup> The Commission heard from women with disabilities who have experienced family violence perpetrated by intimate partners:

My husband was my carer. I didn’t think I could physically support myself. Family violence can result in emotional, physical and financial difficulties but with a disability you also struggle to live independently. I didn’t know there were services available to help me ... My husband told me ‘I didn’t sign up to be your carer. I signed up to be your husband’.<sup>67</sup>

Some had also suffered family violence throughout their childhoods, which continued into adulthood:

I suffered abuse from my real parents and adopted parents ... [My] foster family took advantage of me, sexually abused me and my baby ... Men take advantage of me because of my disability.<sup>68</sup>

Another participant in the Commission's community consultations spoke of how she 'managed' her husband's moods throughout their long marriage, but that this was no longer possible after she was injured at work and acquired a disability:

I had a workplace accident [and] ended up with spinal injuries with chronic pain with depression and anxiety ... He supported me for the first three months – then it went downhill – he then got more violent and more verbal. If we were driving and I made a mistake he would bash me. Kids in the car. Then you get home and you think this is terrible, but you keep going and going.<sup>69</sup>

Intimate partner violence may take on different forms in the context of disability. As the Public Advocate explained:

... we were the guardian for a woman. She had had a stroke. She was in hospital. She told the guardian that she wanted to go into care because her husband hit her. Now, she was in that relationship for 40 years. It was a very difficult decision for her, but her choices were very limited and she expressed the desire to go into care rather than return home. But she said, 'Please don't tell him that I've told you that he hits me.'

The power dynamic continued when she was in fact placed in care and he was continually at her bedside and interfering with the care that was being provided to her, and particularly around feeding time, insisting on—he controlled even her feeding. So, this control that we see is really a very common pattern.<sup>70</sup>

Intimate partner violence can also involve perpetrators with a disability. In another case presented to the Commission by the Office of the Public Advocate, the guardian of a woman with an intellectual disability sought an intervention order against the woman's partner who also had an intellectual disability:

Ms Na was a young woman with an intellectual disability and a life-threatening eating disorder living independently in community housing with case management support. Ms Na's eating disorder was so serious that food cupboards in the house needed to be locked and her food intake was severely restricted by support workers. Ms Na became involved with Mr O who also had an intellectual disability. He did not have the cognitive capacity to understand that Ms Na's eating disorder was life threatening and so he would bring large amounts of food into the house, ignoring the guardian's instructions not to do so.

The guardian attempted to reach an agreement with Mr O for him not to bring food into the house. However, Mr O became violent and abusive towards Ms Na and assaulted a neighbouring resident and ongoing contact with Mr O was considered unsafe for Ms Na. The guardian approached the police who agreed to apply for an intervention order against Mr O that was limited to preventing Mr O from committing family violence.<sup>71</sup>

### **Other perpetrators**

As a group, women with disabilities experience family violence from a broader range of perpetrators than women without a disability. Ms Keran Howe, Executive Director of Women with Disabilities Victoria, told the Commission during the public hearings that:

What we find from our research and also from listening to women with disabilities as our members is that ... [t]hey experience violence from intimate partners, but also from other family members. In addition to that, [they] experience violence from a broader range of perpetrators of violence than other women. So that can also take in paid carers and service workers such as transport workers.<sup>72</sup>

Other research also confirms these findings. In 2010, the Office of the Public Advocate analysed 86 reported cases of physical, sexual, psychological or emotional violence and financial abuse and neglect of clients with a cognitive impairment: 66 of these victims were women, and 20 men. The Office found that the perpetrator was a partner or relative in 64 cases, a staff member of a disability service in nine cases and a co-resident in four cases (the remainder involved neighbours or strangers).<sup>73</sup>

The 2012 *Voices against Violence* study, which was a joint research project undertaken by Women with Disabilities Victoria, the Victorian Office for the Public Advocate and Domestic Violence Resource Centre Victoria, found that, although intimate partners were the most common perpetrators of violence against women with disabilities, other potential perpetrators are personal carers, support staff, service providers, medical and transport staff (such as taxi drivers) and male co-residents. Once again, it also found that women may be subjected to violence by multiple perpetrators, often over a period of many years.<sup>74</sup>

### Carers

Carers can be intimate partners, other relatives, in-home carers and staff at relevant facilities.

As discussed above, under the Family Violence Protection Act, non-related carers can commit family violence if they are in a family-like relationship with the victim.

The Commission was told that women with disabilities are particularly vulnerable to violence, especially when perpetrators are carers who are in a position to exert control and power.<sup>75</sup>

Victoria Police acknowledged the problem of family violence committed by carers in its submission:

Carer [to] patient family violence is a unique subset of family violence that is heavily underreported. A small percentage of all family violence incidents in 2014 identified a carer as the perpetrator, possibly due to few being aware that a disability carer can be considered a perpetrator of family violence under the *Family Violence Protection Act 2008*. In addition to being in a privileged position to perpetrate violence against their patients, carers can also commit unique forms of family violence, including withholding support or medication, and threatening institutionalisation.<sup>76</sup>

A recent survey conducted by the Health and Community Services Union found that nearly half of all Victoria's disability sector employees have witnessed co-workers perpetrating acts of abuse, violence or neglect towards people with disabilities who are in their care.<sup>77</sup>

The Office for the Public Advocate submission notes that there appears to be a culture of denial in some services:

Violence perpetrated by staff towards residents is reported to OPA and Community Visitors in many forms ranging from bullying and disrespectful behaviour to rough handling, physical and sexual violence. In some services there is an implicit acceptance of behaviours that cause harm and a reluctance to name this as violence.<sup>78</sup>

Due to the often highly dependent nature of their relationship with their carers, people with disabilities may suffer unique forms of family violence at the hands of carers. Some examples of abuse by carers are:

- ▷ threatening to withdraw care
- ▷ controlling access to medication
- ▷ controlling access to mobility and transport
- ▷ threatening to institutionalise the person
- ▷ controlling access to tampons and sanitary pads
- ▷ controlling access to pregnancy termination.<sup>79</sup>

Powers of Attorney, guardianship orders and other forms of decision-making power give carers the right to make financial, medical and other decisions about their clients. Some carers use such powers to financially abuse victims.<sup>80</sup>

In its submission to the Commission, the Victorian Civil and Administrative Tribunal (VCAT) noted:

The Guardianship List deals with victims of family and domestic violence. Elder abuse, carer abuse and issues related to the care of those with a disability are complaints that arise often in the context of physical, mental and economic abuse. The existence of family violence is not immediately evident in guardianship proceedings and often does not emerge until the parties are well into a hearing.<sup>81</sup>

In its submission, VCAT expressed concern that the Guardianship List is not adequately funded to identify and respond to family violence, potentially endangering witnesses and staff:

Currently, the Guardianship List at VCAT is not fully funded and does not have the resources to adequately case manage prior to a hearing. Case management of applications involves contacting the parties, ensuring that all relevant people are aware of the application and the hearing, and identifying any issues of concern, including any background of abuse, violence or exploitation.<sup>82</sup>

It suggested that the Guardianship List should be adequately funded to enable case management of Guardianship and Power of Attorney matters and provision of essential and specialised support for victims of family violence.<sup>83</sup>

The Commission notes that VCAT has a family violence support worker who is available to work across all lists,<sup>84</sup> but it is not clear to what extent they have the role or capacity to assist with this function.

### **Co-residents**

People with disabilities who live in supported accommodation, such as group homes or supported residential services, may live with other residents for extended periods of time in a home-like environment and come to regard each other as 'family'. Once again, under the Family Violence Protection Act, co-residents can commit family violence if they are in a 'family-like' relationship with the victim.

People with disabilities may have varying abilities to cope with family violence perpetrated by co-residents. The Commission was told of one example of increasing physical assaults by a 21-year-old man with mental health issues on other co-residents who:

... were described as having extremely impaired ability to defend themselves from the perpetrator's attacks. Residents were reported to be remaining in their rooms after returning from day programs, even eating and urinating in their rooms.<sup>85</sup>

In this case, despite the escalating violence, he was not promptly re-located.

### **Disability and perpetration of family violence**

The Commission also heard evidence about perpetrators of family violence with disabilities. For example, Ms Helen Fatouros, Director, Criminal Law Services of Victoria Legal Aid, explained that:

Our client data reveals that 15 percent of our clients who breach family violence intervention orders have disclosed a disability. Of that group, over half had a mental health issue. Seven percent had an intellectual disability and four percent had an acquired brain injury.<sup>86</sup>

One study showed that in a relationship where the man has an ABI the chances of 'marital aggression' (the author's term) are increased sixfold.<sup>87</sup> A New Zealand study found that in a group of 206 mothers identified as being at high risk of committing child abuse, over 36 per cent had suffered at least one traumatic brain injury over their lifetime, with around a third experiencing multiple such injuries.<sup>88</sup>



The Office of the Public Advocate expressed concern that perpetrators with cognitive impairments are subjected to intervention orders when they may not have the capacity to understand them. More generally, they may have limited capacity to understand and learn from their actions.<sup>89</sup> The OPA submission included the following example:

While intervention orders have been reasonably effective in keeping him away from certain properties and people there is little indication that Mr S has understood them or they will be effective in determining future violent behaviour. It is a concern that Mr S's breaches could lead to him being imprisoned for up to two years. Long term secure accommodation with a high level of support is needed to circumvent the cycle he is in.<sup>90</sup>

The Victoria Police Code of Practice for the Investigation of Family Violence instructs that if police suspect a perpetrator to have a cognitive impairment, police should not issue a family violence safety notice, however they remain responsible for ensuring the victim's safety.<sup>91</sup>

In another example, a perpetrator with a disability was excluded from a facility following the issue of a personal safety intervention order, resulting in him returning to his family home from which he had previously been removed because of suspected family violence.<sup>92</sup> The Office of the Public Advocate recommended that the government fund emergency accommodation with appropriate intensive support for perpetrators evicted from disability residential settings.<sup>93</sup>

## Inquiries into violence against people with disabilities

There have been several government inquiries and reports into violence against people with disabilities at a state and national level in recent years.

### Victoria

In 2012, the Victorian Law Reform Commission conducted a review into the *Guardianship and Administration Act 1986* (Vic), the purpose of which is to enable persons with a disability to have a guardian or administrator appointed.<sup>94</sup>

The scope of the review was broad. It considered, among a range of other things, the functions, powers and duties of the Public Advocate, including its investigatory powers when a person is under inappropriate guardianship, is being exploited or abused, or is in need of guardianship.<sup>95</sup> It recommended expansion of the Office of the Public Advocate's investigatory role beyond its current ability to investigate only in circumstances where a guardianship or administration order might be appropriate.<sup>96</sup> This is discussed in more detail in Chapter 27.

In 2015, the Victorian Ombudsman conducted an investigation into how allegations of abuse in the disability sector are reported and investigated.<sup>97</sup>

The investigation looked at:

- ▷ services including residential, respite and day programs funded by the Victorian Government
- ▷ the oversight responsibilities of agencies including the Department of Health and Human Services and the Disability Services Commissioner.<sup>98</sup>

It found that the current system of oversight and accountability reporting is fragmented and disjointed, a positive reporting culture does not exist, that there is a systemic failure by those working in the system to report abuse and inadequate oversight by DHHS of incidents in supported residential services.<sup>99</sup> Its recommendations included mandatory reporting, by all service providers, of all serious incidents relating to people with disabilities to an independent oversight body.<sup>100</sup>

In 2015, the Victorian Parliament Family and Community Development Committee commenced an *Inquiry into Abuse in Disability Services*, examining the reasons abuse is not reported or acted upon, and how it can be prevented.<sup>101</sup> The terms of reference asked the Committee to consider these broad issues in two stages: the first stage is to inform Victoria's position on appropriate quality and safeguards for the NDIS, while the second is to consider systemic issues and measures to strengthen the disability services system prior to transition to the NDIS. The terms of reference contemplated that the Committee will work with the Ombudsman to avoid unnecessary duplication of the Ombudsman's work. It is due to report on 30 April 2016.<sup>102</sup>

The Committee released an interim report in August 2015, which identified a number of concerns about the current system of oversight of disability services in Victoria, and made recommendations on the development of a quality and safeguarding framework to ensure the safety of people who access disability services. It endorsed the recommendation in the Ombudsman's report that an independent oversight body should be created. It also identified a number of questions to inform Stage 2 of the review.<sup>103</sup>

The Victorian State Disability Plan 2013–2016 articulates the government's plan to achieve its vision of an 'inclusive Victorian society that enables people with a disability, their families and carers to fulfil their potential as equal citizens'.<sup>104</sup> The plan aims to achieve a number of outcomes in four key areas: a strong foundation in life; upholding rights and promoting participation; accessing information, transport, buildings and places; and a contemporary approach through disability system reform. One of the outcomes of the current plan is the better protection of human rights. One of the strategies to achieve this outcome is to improve responses to violence and sexual assault. The plan does not specifically deal with family violence.<sup>105</sup>

## Commonwealth

In 2014, the National Cross-Disability Disabled People's Organisations made a submission to the Commonwealth Senate Standing Committee's *Inquiry into Domestic Violence in Australia*.<sup>106</sup> It stated that:

Violence against people with disability in institutions is Australia's hidden shame. It is an urgent, unaddressed national crisis, of epidemic proportions, yet is excluded from national policy responses relating to domestic/family violence and sexual assault, and from national policy responses relating to advancing the human rights of people with disability.<sup>107</sup>

It submitted that the overwhelming majority of perpetrators are male residential care workers, some of whom deliberately target those least able to resist or complain.<sup>108</sup>

The Senate Committee's report acknowledged the issue of violence against people with disabilities, including by family members and support workers.<sup>109</sup> It also acknowledged the problems with data collection in relation to family violence generally, and specifically in relation to violence against people with disabilities, and made recommendations to improve data collection at a national level.<sup>110</sup>

The federal Parliament's Senate Community Affairs References Committee also recently conducted an inquiry into violence, abuse and neglect against people with disabilities in institutional and residential settings. The Committee's report, containing 30 recommendations and tabled in November 2015, acknowledged that family violence occurs both outside and within institutions and residential settings and identified the need for people with disabilities to have improved access to a range of mainstream family violence support services.<sup>111</sup> Some of the Committee's recommendations were relevant to family violence, including that:

- ▷ all accommodation and service delivery funding agreements should have a mandatory gender-sensitivity requirement<sup>112</sup>
- ▷ the Australian Government should consider amending the *National Disability Strategy*, the *National Plan to Reduce Violence against Women and their Children* and the *National Framework for Protecting Australia's Children* to include specific needs of people with disabilities and, in order to give effect to these frameworks, increase funding to support women with disabilities escaping family violence<sup>113</sup>
- ▷ the Australian Bureau of Statistics should ensure all of its surveys are inclusive of people with disabilities and that the Australian Government commit additional funding to ensure that data is collected on the prevalence of violence, abuse and neglect against people with disabilities in certain surveys, including the Personal Safety Survey<sup>114</sup>

- ▷ the Australian Government should establish a scheme to ensure national consistency in disability worker training, including mandatory rights based training to develop core competency skills in recognising and responding to violence, abuse and neglect of people with disabilities.<sup>115</sup>

## Challenges and opportunities

This section highlights a number of areas of concern raised with the Commission, including the lack of data available on family violence against people with disabilities, the issue of inconsistent interpretation by police and others of whether carers and co-residents in disability residential services fit within the extended definition of ‘family member’ under the Family Violence Protection Act, and the barriers people with disabilities face when speaking up about or reporting family violence. The reasons why some workers may not report abuse of a client, and the response of specialist family violence services, the police and the courts to victims who have a disability are also discussed.

### Lack of data and knowledge

The lack of data on violence (including family violence) against people with disabilities has been noted in the literature, and in the recent inquiries. As noted in the *Voices against Violence* study:

[T]here is no systematic collection of data in Australia or within the states and territories that enables the determination of the prevalence of violence against women with disabilities ... Nor has there been any national scale research into the prevalence of violence against women and girls with disabilities, to date ...<sup>116</sup>

In relation to family violence:

There is no consistent and inclusive national data available on the intersection of gender, disability and violence that enables reliable ongoing trend analysis into prevalence rates, for either family violence or sexual assault ... The Australian Bureau of Statistics (ABS) has no standard national data collection recording the experiences of violence among adults with disabilities although it has been working on this issue.<sup>117</sup>

The Senate Community Affairs References Committee’s inquiry into violence, abuse and neglect against people with disabilities in institutional and residential settings (discussed above) also found that there was a concerning lack of data:

The committee notes with great concern, the lack of reliable and consistent data on violence, abuse and neglect of people with disability, and the complete lack of data on the outcomes of reporting and investigations. It is impossible to adequately address an issue that has not properly been identified. Part of the work to eliminate violence and abuse of people with disability must surely include quantifying the precise nature of the problem.<sup>118</sup>

As discussed above, it recommended that the Australian Bureau of Statistics should ensure all of its surveys are inclusive of people with disabilities and that the Australian Government commits additional funding to ensure that data is collected on the prevalence of violence, abuse and neglect against people with disabilities in certain surveys, including the Personal Safety Survey.<sup>119</sup>

The Senate Standing Committee’s *Inquiry into Domestic Violence in Australia* also acknowledged the problems with data collection in relation to family violence generally, noting that there is a lack of reliable disaggregated quantitative data regarding family violence experienced by people with a disability and that ‘most methodologies used in Australia systematically [exclude] many people with a disability’.<sup>120</sup> It made recommendations to improve data collection at a national level.<sup>121</sup>

One example of the lack of data in this area is in respect of ABIs. The Commission learned that ABIs may be a consequence of family violence as well as being a risk factor both for being a victim of family violence and for using violence. However, during a community consultation, the Commission was told that there is no 'comprehensive database' that provides information on family violence cases involving ABIs and that this is a 'sleeper' issue.<sup>122</sup>

## Difficulties in applying the extended definition of family member

Submissions identified that the extended definition of 'family member' in the Family Violence Protection Act can be difficult for police and others to interpret and apply, and this is not done consistently.<sup>123</sup>

The Victoria Police Code of Practice for the Investigation of Family Violence identifies that a 'paid or unpaid carer may, on a case by case basis, be regarded as being like a family member',<sup>124</sup> but does not refer to co-residents as possible 'family members'.

The Office of the Public Advocate's submission to the Commission notes that violence by staff towards residents and between residents in disability residential services are the 'top two types of notifications to the Public Advocate' and that both 'potentially meet the definition of family violence'.<sup>125</sup>

However the Public Advocate stated that she was unaware of the Act ever being used to seek a family violence intervention order against a paid carer or co-resident.<sup>126</sup>

The Office of the Public Advocate submitted that the Family Violence Protection Act should be amended to make clear that people in disability residential settings are regarded as being in family-like relationships.<sup>127</sup> They also recommended that the Victorian Government and Victoria Police establish a special taskforce to develop protocols for responding to family violence in disability residential settings.<sup>128</sup>

An intervention order under the *Personal Safety Intervention Orders Act 2010 (Vic)* may be sought against a carer or co-resident who commits violence, regardless of whether they are considered a family member under the Family Violence Protection Act. As the OPA notes, however:

... in practice in group [home] settings, there appears to be little knowledge or understanding of the application of either [the Family Violence Protection Act or the Personal Safety Intervention Orders Act].<sup>129</sup>

The Office of the Public Advocate also notes that police have no code of practice for personal safety intervention orders and as a result 'there is likely to be a less consistent approach by police'.<sup>130</sup>

## Speaking up about violence

### People with disabilities may not report family violence

In 2015, the Victorian Ombudsman's investigation into reports of abuse in the disability sector highlighted the low levels of reporting of violence against people with disabilities. It stated:

Whether or not they ever have the need to report abuse, it is vital that everyone has confidence in the systems that exist to protect them. Yet reports and research consistently show that many people with a disability will not report abuse, for fear they will either not be believed, that nothing will happen, or that they will suffer repercussions. If no single agency carries overall responsibility for building people's confidence, including in fair and robust outcomes, this sorry state of affairs will continue.<sup>131</sup>

The Commission heard that there are a number of reasons why people with disabilities do not report family violence. Fear of retribution or a loss of support can prevent people with disabilities from reporting family violence:

Like all people who have experienced violence and abuse, people with disabilities may feel shame in reporting, and may fear that if abuse is made known to outside parties there will be violent repercussions and other consequences, such as family breakdown. There may also be other obstacles to reporting experienced by people with disabilities, such as a fear that support services will cease, and reliance on abusers for transport or communication assistance that impedes access to support services and police ...<sup>132</sup>

For someone with a disability, the fear of reporting violence may be compounded if the perpetrator is a carer or someone on whom the person is dependent. For some the choice is between enduring the violence or the indignity of being left without assistance for personal things such as showering and toileting. A witness providing evidence at the public hearings explained that:

I use a wheelchair and I relied on [my husband] 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.<sup>133</sup>

The witness recounted that after her husband was ultimately removed from the house by police due to his violence she was physically unable to shower for weeks and wanted him to come home because she felt she could not care for herself.<sup>134</sup>

For people with disabilities in residential accommodation, there can be a culture of acceptance of abuse and an atmosphere of fear that can be a barrier to people reporting violence.<sup>135</sup> The Ombudsman noted that there are fewer safeguards for people living at home to report abuse by their paid carers as they do not receive visits by community visitors and may not have contact with other support workers.<sup>136</sup>

The Commission also heard that women with disabilities fear losing custody of their children if Child Protection is notified of the violence. While many women have this fear, evidence suggested that it has special relevance for mothers with disabilities, because of the prevailing stereotypes about their capability as parents and, perhaps, because removal of children from parents with disabilities happens at a much higher rate than for parents without disabilities.<sup>137</sup> Ms Howe spoke about this:

There is a strong belief in our community, an unfounded belief that women with disabilities are not able to provide adequately for their children. In fact, it's very common, when a woman reports family violence, that the child can be removed from her care because the belief is if the partner isn't around that she's not able to provide adequate care. There is nothing in the research that suggests that women with disabilities are less able to provide effective parenting and to be good mothers.<sup>138</sup>

The Voices against Violence research study found that some women with disabilities may not perceive that what is occurring is violence:

A lifetime of cumulative discrimination and demeaning experiences can result in some women seeing their experiences of violence as normal and an everyday occurrence. Women then felt that what was happening to them was to be expected, and that they have to live with the violence. Women spoke of perpetrators reinforcing this idea by telling them they deserved the violence they were experiencing.<sup>139</sup>

Experiencing discrimination day-to-day can also lead victims to blame themselves, which itself creates a barrier to reporting. Ms Howe told the Commission:

... women with disabilities ... often have talked about internalising this experience and believing when they do experience violence that maybe it's their fault and perhaps they deserve it.<sup>140</sup>

The Commission was told of cases where women believed that family violence was ‘what I deserved’, and ‘I just thought that’s what it is like in families.’<sup>141</sup>

Finally, the Commission heard that people with disabilities may not report family violence because they do not think they will be believed. People with disabilities may be the subject of negative stereotypes about disabilities—including mental health disabilities—that can cause family, friends, carers and police not to believe them when they report violence:

People may be reliant on family, carers or staff to assist them to report. If these ‘gatekeepers’ do not recognise that a crime has occurred, do not want to see what happened as a crime, or if they do not know how to report, crimes go unreported.<sup>142</sup>

The Commission was informed that women with disabilities are variously stereotyped as ‘incompetent, voiceless, hypersexualised or inherently vulnerable.’<sup>143</sup> These stereotypes become barriers when women seek help or disclose family violence because they contribute to perceptions that women with disabilities are not credible witnesses:<sup>144</sup>

... tolerance of violence against people with disability is high and often one of the greatest difficulties people with disabilities face is the reluctance of others to recognise and believe that abuse has taken place.<sup>145</sup>

The Victoria Police Code of Practice for the Investigation of Family Violence acknowledges that people with disabilities who report family violence, are ‘more likely to be disbelieved and the impact of the violence is more likely to be underestimated.’<sup>146</sup> It goes on:

It is important that the police approach to a person with a disability is not informed by negative stereotypes; but that police take the time to listen, acknowledge and respect even if there is insufficient evidence to prosecute.<sup>147</sup>

## **Workers may not report violence**

### **Absence of a positive reporting culture**

The Ombudsman’s investigation into the disability sector recently identified a ‘systemic failure by those working in the system to report abuse.’<sup>148</sup> Some reasons given for this reluctance to report abuse include:

- ▷ intimidation
- ▷ fear of reprisal against the reporting staff member, the client and/or their family
- ▷ concern about the reputation of the service provider
- ▷ unease about the impact on the subject of the allegation
- ▷ frustration with the significant paperwork associated with reporting.<sup>149</sup>

This lack of a positive reporting culture may in part be due to an acceptance of violence against people with disabilities. The Public Advocate gave evidence that:

The tolerance of violence against people with disabilities is high and often one of the greatest difficulties people with disabilities face is the reluctance of others to recognise and believe that abuse has taken place.<sup>150</sup>

She reports that in some residential services:

... there is an implicit acceptance of behaviours that cause harm and a reluctance to name this as violence. This type of culture may also include the bullying of staff, which is intended to discourage reporting.<sup>151</sup>

The reluctance to name violence as such can lead to inaction on the part of providers. The Public Advocate described how she had written to the Department of Health and Human Services expressing her concern about a number of physical and sexual assaults at a particular facility. She said the department treated the matter as an issue of 'resident incompatibility', despite the fact that nearly 30 incidents had been reported in 12 months.<sup>152</sup> The Public Advocate told the Commission:

It's got nothing to do with resident compatibility. It's got to do with violence. One of the things that the family violence sector has fought for for many years is to have violence and abuse named as that. What we see in disability services calling it 'behaviours of concern' or 'resident compatibility' and not naming it as violence and abuse means that it remains hidden, we are not getting the cultural change or the policy change that's required to in fact address what's happening in these houses, it remains hidden and if it's not named and it's hidden, we can't address it.<sup>153</sup>

The Ombudsman also documented a number of instances of intimidation of disability workers who reported violence or abuse by their colleagues, contributing to a culture of fear around reporting.<sup>154</sup> The protected disclosure legislation designed to protect whistleblowers currently extends to some but not all workers, and the Ombudsman recommended that it extended to all disability workers across the sector in order to support a culture of reporting.<sup>155</sup>

### **Lack of training**

The Ombudsman's report identified that disability service staff are not always trained to identify, and act on, incidents of violence or abuse against their clients. The report cited a departmental review stating that 'staff consistently reported that they do not feel confident in their ability to recognise the indicators of abuse and neglect and have not received training on the topic ...'<sup>156</sup>

One of the recommendations of the Ombudsman's report was that there be mandatory training for the department's disability workers, with a focus on incident reporting, identifying abuse and respect for human rights.<sup>157</sup> The Victorian Equal Opportunity and Human Rights Commission also recommended, in its *Beyond Doubt* report, that DHHS should deliver training for departmental and funded services staff on preventing, recognising, responding to, and reporting violence, abuse and family violence, including focused efforts to support management to strengthen supervision and recruitment processes.<sup>158</sup>

The Commission requested information from the Victorian Government regarding the availability of professional development opportunities in respect of family violence for practitioners in disability services it either manages or funds. Documentation prepared by the Department of Health and Human Services indicates that family violence is identified in the *Introduction to Disability Practice* course. The Commission understands that this training is provided to Department of Health and Human Services disability workers.<sup>159</sup> The *Ready4work Disability Support Work Induction Resource Kit*, which is available to government and non-government disability workers, also considers family violence, including that which may occur in disability settings as well as other forms of violence or abuse in such settings. It describes a number of scenarios as relevant examples, including some that are specific to family violence, as well as information about the Interagency Guidelines for Addressing Violence, Neglect and Abuse.<sup>160</sup>

The Commission notes that some disability practitioners also participate in training on the statewide Family Violence Risk Assessment and Risk Management Framework (also known as the Common Risk Assessment Framework or CRAF). The CRAF provides guidance on identifying family violence for both family violence and non-family violence practitioners. However, compared to other sectors their participation was relatively low in the roll-out of training during the period November 2011 to December 2014. Documentation indicates that of 1985 attendees at the first level Family Violence Risk Assessment Training, approximately 77 were disability workers (3.9 per cent). Their participation was higher in the 'train the trainer' course, with 8.9 per cent of participants recording that they worked primarily in the disability sector.<sup>161</sup>

Proposed minimum standards to support the delivery of accessible domestic violence services to women with disabilities are also identified in *Inclusive Domestic Violence Standards: Strategies to Improve Interventions for Women With Disabilities*.<sup>162</sup>



The Commission notes that a new Community Service Training Package (a set of nationally endorsed standards, qualifications and guidelines developed by the Community Services and Health Industry Skills Council) was released in December 2015.<sup>163</sup> The Training Package includes courses on disability, ageing and individual support (for example, Certificate IV in Disability, Certificate IV in Ageing Support and Certificate III in Individual Support). Each of these units has as an elective component of the course a unit titled 'respond to suspected abuse'.<sup>164</sup> This unit covers a broad range of abuse but could be developed to cover family violence. Alternatively, the relevant courses could be mandated to include a unit or units on family violence. Units on family violence currently exist as either mandatory or elective units in other courses such as Community Services, Social Housing, Alcohol and Other Drugs, Mental Health and Family Dispute Resolution.<sup>165</sup>

## Responding to reports of family violence

### Access to specialist family violence services

Access needs to be understood in the broadest sense of the word—where women with disabilities not only know about services but are also able to make use of them and obtain benefit from them ...<sup>166</sup>

### Useful resources

The Commission was told of the following resources that help women with disabilities experiencing family violence access information and support:

- ▷ the Daisy app, which gives victims an easy way to locate a wide range of family violence support services.<sup>167</sup> It provides information into 28 languages, has text-to-voice functionality for women with a vision impairment or poor literacy and an SMS function for women living in rural or remote areas<sup>168</sup>
- ▷ Easy English translations of materials for victims of crime by the Victorian Victims Support Agency<sup>169</sup>
- ▷ The Tell Someone website developed by the Southern Integrated Family Violence Executive in consultation with people with disabilities and disability services. It provides information videos on family violence for people with mild intellectual disability.<sup>170</sup>

The recent ANROWS State of Knowledge report into best practice responses to women with disabilities experiencing family violence notes a lack of awareness among disability services of the needs of women and girls with disabilities who have experienced family violence, and a lack of appropriate responses of family violence services and sexual assault services to people with disabilities.<sup>171</sup>

A key finding of this review is that effective, accessible services for women and girls with disabilities must be built on multi-agency collaborations.<sup>172</sup>

### Lack of accessible accommodation

Women with Disabilities Victoria submitted that women with disabilities fleeing family violence can be forced to return home because they have been unable to obtain appropriate accommodation.<sup>173</sup> This is the case both for women with physical and mental health disabilities.<sup>174</sup>

The Commission visited two refuges that were designed and built to be fully accessible for people with disabilities. However, currently, not all Victorian refuges are fully accessible for people with disabilities:

In talking about disability access we should recognise that there are many different types of disability which require different types of access. For women requiring, for example, ramps or handrails or wider doorways we have on record from the Department of Health and Human Services and Safe Steps that there are up to nine refuges with those facilities across Victoria. Appropriately three of those are for Aboriginal women because nationally 51 per cent of Aboriginal women have a disability.<sup>175</sup>



This is also a source of frustration for services. McAuley Community Services for Women submitted:

Currently we are unable to accommodate women and children with physical disabilities as our refuges are not accessible. We have requested assistance to upgrade our facilities from the state government; however, to date no funding is available for physical upgrades.<sup>176</sup>

Women with disabilities may also be unable to obtain crisis accommodation because there is not enough room for their carers to accompany them. They might have to move long distances for safety reasons and for some women leaving home means leaving essential supports such as assistance with showering.<sup>177</sup>

Seeking help was said to be especially difficult for women with children who have disabilities. A community consultation participant told the Commission:

In families where the child or parent has a disability, it becomes very difficult to leave a violent situation. There is very limited access to services. How can you leave quickly? What refuges are set up for children (including adult children) with disabilities? How do you get the transport you need? How do you get the supplies you need? People need to know what they will need in order to leave safely.<sup>178</sup>

The Commission heard that without adequate crisis accommodation for both themselves and their children, women might choose to stay in a violent relationship rather than leave their children behind.<sup>179</sup> This also leaves children at risk of family violence.

Ms Howe said in her evidence that there was an urgent need for funding of the Safe at Home/Safe in the Community program which allows women with disabilities to stay in the home. She told the Commission:

These programs allow women and children to remain where they live safely and to maintain their existing disability supports and social supports. This is an essential option for women with disabilities who may rely on local infrastructure, services or house adaptations.<sup>180</sup>

The Commission received evidence about the Department of Health and Human Services' Disability and Family Violence Crisis Response Initiative which provides 12 weeks funding (up to \$9000 per person) for women with disabilities and their children experiencing family violence to access crisis accommodation or disability support to remain safe in their own home.<sup>181</sup> The program extends to women (and their children) who are eligible for services under the Disability Act, which does not include people with a mental health disability or a disability related to ageing.<sup>182</sup>

The Commission heard that while initial interest in the program was low, there has been a steady increase in demand following promotion of the program, and in April 2013 the Victorian Government announced that the initiative would be funded on a continuing basis.<sup>183</sup>

## **The police response**

### **Previous findings**

In 2014 in its *Beyond Doubt* report, the Victorian Equal Opportunity and Human Rights Commission documented a number of concerns by individuals and organisations about the police response to people with disabilities. It concluded that building police capacity is an 'urgent priority', and that '[p]olice members told us unequivocally that they need more support to know how to identify, respond to and support people with disabilities reporting crime'.<sup>184</sup> VEOHRC recommended that Victoria Police develop a 'comprehensive, career-long learning strategy' to equip members at all levels to respond equitably to people with disabilities. This includes being able to identify and understand disability, and make adjustments.<sup>185</sup>

Victoria Police agreed in July 2014 to implement VEOHRC's recommendations. This Commission received evidence on the progress of these, which include:

- ▷ a review of the *Victoria Police Manual* (under way)
- ▷ a Community and Cultural Diversity Education Strategy to improve and strengthen police education on human rights and the principles of equality (completed)
- ▷ Easy English translations of documents on making a complaint to police and reporting a sexual assault and an Easy English resource for Reporting Crime (under way)
- ▷ development of a bystander response for police members who witness discrimination (under way)
- ▷ development of an Independent Third Person 'Ready Reckoner' to improve the identification of people who have disabilities and uptake of Independent Third Persons for victims of crime (under way).<sup>186</sup>

VEOHRC also recommended that the Department of Health and Human Services issue comprehensive practice guidelines around reporting to police, including where the victim has a disability.<sup>187</sup> The Commission understands that the development of these guidelines is in progress.<sup>188</sup>

### What this Commission heard

The Commission was told that victims of family violence who have disabilities can experience additional barriers to reporting family violence to police.

Many women and children with disability face barriers to accessing support when they seek it because ... [t]here is poor understanding of disability among police, with police often considering women with disability unreliable witnesses, or disregarding their reports of abuse in favour of the perpetrator.<sup>189</sup>

We were told that the 'diverse living circumstances of women with disabilities requiring assistance for the most basic and intimate activities of daily living present challenges' for many services, including police.<sup>190</sup> Further, in relation to victims of sexual assault, Western Region Centre Against Sexual Assault told us that:

Victims of sexual assault with a mental health issue or an intellectual disability when reporting matters to the police have difficulties making statements in formats required by the court. Their medical or physical conditions are easily used to discredit evidence.<sup>191</sup>

The Victoria Police submission acknowledged that Victoria Police data does not reflect the true picture of violence against people with disabilities. In 2013–14, Victoria Police recorded the presence of a disability in only three per cent of family violence incidents.<sup>192</sup> Victoria Police acknowledged that this does not reflect the prevalence of violence against people with disabilities:

Although research indicates people with disabilities are almost twice as likely to experience family violence as those without, Victoria Police statistics do not reflect this prevalence. 18.5% of Australians identify as having a disability, but only a small proportion of family violence incidents in 2014 were marked with a 'presence of a disability' flag.<sup>193</sup>

This was attributed to the 'significant reporting barriers' faced by people with disabilities:

The low number of family violence incidents involving an individual with a disability likely results from the significant reporting barriers they may face (including communication, sensory and intellectual barriers, feelings of shame and deservedness, and fears that a change in circumstances will lead to worse living conditions such as institutionalisation).<sup>194</sup>

The Victoria Police submission also noted the importance of:

- ▷ interpreters and independent third parties to help people communicate effectively
- ▷ physically accessible services such as police stations and interview rooms
- ▷ services that can provide support or facilitate access from the point of initial contact until the conclusion of the justice process, rather than the victim having to re-tell their story at each point in the system.<sup>195</sup>

While under-reporting is undeniably an issue, as discussed earlier, the Victorian Equal Opportunity and Human Rights Commission also noted in its *Beyond Doubt* report that it had received reports of police members failing to take family violence reports from victims with disabilities.<sup>196</sup>

Victoria Police's Code of Practice for the Investigation of Family Violence states that police should engage the services of a support person or independent third person as soon as possible in an investigation involving people with disabilities.<sup>197</sup> However the Commission received evidence from the Public Advocate that police do not always do so, and that there is a disparity in the use of the independent third person program across Victoria.<sup>198</sup>

The Women with Disabilities Victoria submission recommended that the Office of the Public Advocate be funded to develop an advocacy and referral scheme for the independent third person program that provides 'holistic support to people who are at risk of having repeat contact with crime, including women with cognitive impairments and mental ill-health who have been victims of violence'.<sup>199</sup>

## How the courts respond

### Previous findings

The *Beyond Doubt* report found that while some progress has been made in court accessibility, basic adjustments to accommodate people with a disability are not always made and court practices and procedures do not always meet the access needs of witnesses with sensory, physical, learning or communication disabilities.<sup>200</sup> For example, courts lack hearing loop technology and the paper-based information provided by courts can pose challenges for people with low literacy levels.<sup>201</sup>

The Voices Against Violence research study also described the problems women with disabilities experience in accessing court services. For example:

Women described the humiliation of having to get out of their wheelchair to climb steps up to the witness stand and having to negotiate their wheelchairs around where the perpetrator was sitting.<sup>202</sup>

Similarly, the *Beyond Doubt* report cited examples of people with disabilities not being appropriately accommodated in courts (although these were not family violence cases):

We had the example of a person with cerebral palsy, who had a cramped hand being told to lie it flat on the bible rather than curled – just no understanding of disability at all.<sup>203</sup>

When I entered the courtroom I accidentally ran over the defence solicitor's feet. There are many problems with courtroom accessibility. My friend who gave evidence had had a stroke and wasn't able to sit in the witness stand, he kept falling off the seat – it was terrible. The access to the actual courts is pathetic. This was the biggest challenge for me. There needs to be a ramp installed instead of the stairs. The whole court environment needs to be re-evaluated to support the needs [of] people with disabilities, to make it more accessible.<sup>204</sup>

The *Beyond Doubt* report recommended that Victoria Police and the Department of Justice establish a centralised booking system for augmentative and alternative communication for use by Victoria Police, the Office of Public Prosecutions, Victoria Legal Aid, Victorian courts and tribunals, the Victims Support Agency and other justice agencies. To date, however there has been limited progress in implementing this recommendation.<sup>205</sup>

### What this Commission heard

Another recommendation by VEOHRC was to give priority to disability access to courts and to have this consistently implemented across jurisdictions by Court Services Victoria.<sup>206</sup> The Commission notes the requirements under the Disability Discrimination to ensure that persons of disabilities are not discriminated against in relation to access to premises.<sup>207</sup>

The Commission makes a recommendation on court accessibility in Chapter 16.

The Commission was told that people with disabilities—especially those which affect oral communication—are at a disadvantage when appearing in court.<sup>208</sup> This is consistent with the *Beyond Doubt* report’s finding that successful prosecutions in cases where victims have disabilities are uncommon.<sup>209</sup>

The *Evidence Act 2008* (Vic) allows courts to make adjustments to the way they receive evidence from witnesses with disabilities. For example, a witness who cannot hear or be understood may give evidence by any appropriate means, and the court may give directions on the way and means by which a witness may be questioned.<sup>210</sup> The *Beyond Doubt* report notes that the Act does not give any guidance on this, which means that courts may vary in their approaches to accommodating witnesses with disabilities.<sup>211</sup>

The process of giving evidence in family violence matters can be challenging for people with disabilities. People with disabilities, especially those with a cognitive impairment, may face difficulties in understanding proceedings. Family violence proceedings can involve the victim giving evidence about a person with whom they have or have had a personal relationship. This can also be distressing, particularly for people with certain disabilities (such as a cognitive impairment).<sup>212</sup>

The Magistrates’ Court and Children’s Court submission commented on the need for a vulnerable witnesses service or other support for people with cognitive impairments:

Applicants with a cognitive impairment are particularly vulnerable as witnesses and require assistance in obtaining, framing and understanding orders. This support, as well as individualised services, are required at the time of application, to prevent attrition of cases and to ensure that these vulnerable witnesses are appropriately supported throughout their engagement with the court. Given the complexity of issues facing witnesses involved in family violence related matters (including the distress involved in giving evidence and additional challenges for people with cognitive disabilities), it may be useful to explore the introduction of a vulnerable witness service to provide support similar to that provided by the [Child Witness Service], throughout the court experience.<sup>213</sup>

The Commission heard that the provision of an independent third person for police interviews and court appearances was a part of the Making Rights a Reality project (see box) for adults with an intellectual disability who have been sexually assaulted. Women with Disabilities Victoria called for funding for a statewide roll-out of this program.<sup>214</sup>

### **Making Rights a Reality program**

This program was a pilot funded jointly by philanthropic trusts and the Victorian Government and delivered by the South Eastern Centre Against Sexual Assault (SECASA), in conjunction with the Springvale Monash Legal Service. It is currently running at reduced capacity due to lack of funding into the future. It helps adults who have been sexually assaulted and who have an intellectual disability, acquired brain injury or who use aids to communicate, by providing counselling, organising an independent third person, communication support worker or an attendant carer to be with them in interviews with police and at court, and helping with applications for compensation from the Victims of Crime Assistance Tribunal. The program was positively evaluated in 2014.

### **Judicial education**

The Judicial College of Victoria, which has the task of educating Victorian judicial officers, outlined in its submission a family violence core curriculum for judges and magistrates. One of the topics is ‘understanding groups with specific needs’ and this includes ‘people (predominantly women) with disabilities’.<sup>215</sup>

Such education may be complemented by materials that assist judicial officers to meet the diverse needs of people with disabilities. The Commission is aware that a resource is being developed by the Judicial College of Victoria, with assistance from the Victorian Equal Opportunity and Human Rights Commission<sup>216</sup> in line with its *Beyond Doubt* report recommendations that the College should collaborate with the Commission to develop educative resources that specifically address making adjustments for people with disabilities.<sup>217</sup>

### **Responses to perpetrators with disabilities**

The Commission heard that there are no behaviour change programs for perpetrators with learning or mental health disabilities, that restrict their capacity to learn in a group setting. The evidence before the Commission was that they are currently screened out of mainstream men's behaviour change programs.<sup>218</sup>

[Men's behaviour change programs] are currently not well-equipped to work with men with intellectual disabilities. Current levels of funding for MBCP work limit their capacity to offer anything more than standard groupwork interventions, which do not suit some men with intellectual disabilities who require more of an individualised approach. As a result, very few men with intellectual disabilities are referred to MBCPs. Furthermore, little attempt has been made to adapt MBCP curricula or intervention methods for men with intellectual disabilities. This is despite a significant volume of work over the past 35 years focusing on intervention programs for men with intellectual disabilities who commit sexualised offences, which could be adapted for the family violence field.<sup>219</sup>

The Commission understands that the No To Violence standards for men's behavioural change programs are silent on the making of reasonable adjustments to allow men with disabilities to participate in men's behaviour change programs.<sup>220</sup> The standards for men's behaviour change programs do require that interpreters be provided 'for assessment, groups and contact with men's families wherever possible.'<sup>221</sup> However the Commission was unable to determine whether the use of AUSLAN (Australian sign language) interpreters is routine because program providers are not audited for performance.<sup>222</sup>

The Commission makes recommendations relating to standards for men's behaviour change programs in 'Family violence and diversity' located at the start of this volume.

## **The way forward**

The picture that has emerged in recent years about the extent of violence against people with disabilities—and particularly women with disabilities—is disturbing. While the Commission's focus is on family violence, the evidence before this Commission indicates that family violence is one part of a wider picture of violence and abuse against people with disabilities. This includes violence by paid carers and other workers, both within home and service settings, and by people living together in group settings. In some circumstances, this violence can constitute family violence.

The Victorian Ombudsman's investigation identified a culture within disability services that deters reporting of violence and abuse against people with disabilities. Her recommendations seek to address this by providing independent oversight of the system and mandatory reporting of violence within it. Her suggested reforms should provide greater protection for people experiencing violence, including family violence. The Commission supports her recommendations.

The Commission heard that intimate partner violence (including sexual violence) is the main form of family violence against women with disabilities and that the dynamics between women with disabilities and their partners can be complicated because of the dual roles of partner and carer. This dynamic can make it even more difficult for women to consider reporting violence and leaving the relationship as they rely on the relationship for practical support. We also heard about the ways in which reliance on other carers can leave women at risk of violence, with women in rural, regional or remote areas and those who have limited English more at risk.

The Commission understands the current difficulties in interpreting and applying the extended definition of 'family member' under the Family Violence Protection Act to cover violence by paid carers and co-residents who are in a 'family-like' relationship with the victim. Ultimately we have decided against recommending an expansion of that definition as we consider that strengthening access to other legal remedies (such as personal safety intervention orders) is a more appropriate mechanism. The Commission supports the recommendation of the Ombudsman for an independent oversight body and for other measures to encourage reporting of violence and abuse against people with disabilities, noting that the entire disabilities services landscape will change with the roll-out of the National Disability Insurance Scheme. Accordingly, a rigorous and independent oversight function will be needed to ensure that the rights of people with disabilities are protected under this scheme.

The Commission is concerned by the significant barriers that women with disabilities face in accessing services, particularly crisis accommodation. We have made a number of recommendations including recommending that refuge accommodation be fully accessible within five years.

We are also concerned that disability service workers are not always aware of the nature and dynamics of family violence and may not be in a position to identify or intervene appropriately. The uptake of previous statewide training on the CRAF by disability workers was quite low. Disability service workers' lack of ability to identify family violence or intervene appropriately leaves many women with disabilities without any recourse. We consider workforce training a priority and have supported the Ombudsman's call for mandatory training for disability workers at all levels. We recommend that family violence be specifically addressed as part of this training.

The aim of those providing services to people with disabilities should be to support their independence, self-determination and dignity. This applies equally in the context of family violence and related services.

To achieve this a much stronger recognition of and response to disability violence as a manifestation of family violence is needed by family violence services, the justice system and across disability and health services.

The Victorian Government is currently developing the Victorian State Disability Plan 2017–2020.<sup>223</sup> The Commission encourages the Victorian Government to place greater emphasis in this plan on violence experienced by people with disabilities in recognition of the concerning evidence that has emerged over recent years regarding this issue. In particular, we encourage the government to specifically consider family violence experienced by people with disabilities and to include greater detail around the ways in which responses to violence (including family violence) will be improved. The State Disability Plan needs to contain family violence prevention actions linked with the broader state family violence prevention strategy we recommend in Chapter 36.

Understanding the unique experience of family violence for people with disabilities means that family violence and gender must be prominent in disability policy and practice frameworks, including the State Disability Plan, the NDIS Quality and Safeguarding Framework and across disability service standards and protocols. Similarly family violence codes of practice, standards and professional guidelines need to reflect the broad range of family violence experienced by people with disabilities and the range of settings and relationships in which this violence occurs.

Underpinning all this must be strengthened collection, analysis and availability of data so that family violence against people with disabilities comes out from the shadows and sits at the heart of our planning and prioritising of prevention and response.

The Commission's recommended priority areas for action are set out below. These are in addition to the recommendations we make elsewhere in this report to improve the responsiveness of the family violence system to the diverse experiences of victims.

## Ensuring accurate data and knowledge

The Commission notes the current lack of data available in relation to violence (including family violence) against people with disabilities, and that lack of data has been a significant and recurring finding in recent state and commonwealth inquiries.

A consistent and comprehensive approach to collecting data regarding people with disabilities who experience family violence (and other forms of violence) is vital to obtaining an accurate understanding of the extent and scope of the problem. The Commission makes a number of recommendations to ensure greater and more accurate data collection in future, including in relation to information gathered by the Victorian Government, by Victoria Police through its L17 form and by the Australian Bureau of Statistics through its Personal Safety Survey.

The Commission also notes the limited Australian research into acquired brain injuries and family violence. The Victorian Government and other funders should consider supporting research into acquired brain injuries among both victims and perpetrators of family violence. Subject to this research, there is scope for policy and practice development, including to ensure identification of acquired brain injuries by family violence services, crisis accommodation services and health services.

### Recommendation 170

The Victorian Government adopt a consistent and comprehensive approach to the collection of data on people with disabilities who experience or perpetrate family violence. This should include collecting data from relevant services—for example, incident reports made to the Department of Health and Human Services by disability services when family violence has occurred [within two years].

### Recommendation 171

The Victorian Government fund research into the prevalence of acquired brain injury among family violence victims and perpetrators [within two years].

## Defining ‘family member’

The Commission acknowledges the difficulties in applying the extended definition of family member in the Family Violence Protection Act, as well as the call for amendments to the Act to recognise the relationship between paid carers and their clients, and co-residents in residential settings.

We have considered whether amendments to this Act might assist. One option might be to amend the definition of ‘family member’ to expressly state that it encompasses non-related carers and co-residents. The Commission determined that this is not desirable. The Family Violence Protection Act is concerned with a specific form of violence, namely that which arises in the context of ‘family-like’ relationships. Where the elements of a ‘family-like’ relationship do exist in relation to non-related carers and co-residents, then the Act should be applied. In other cases, seeking to define a ‘family-like’ relationship to exist in all circumstances involving carers and co-residents risks confusing the purpose of this Act. In these cases, the *Personal Safety Intervention Orders Act 2010 (Vic)*, and the criminal and civil law generally, are available and the approach should be to ensure that these other legal mechanisms are applied. In the case of either a family violence intervention order or a personal safety intervention order, it remains the responsibility of the police to properly investigate the abuse and any criminal offences. We consider that the creation of an independent oversight body, as recommended by the Ombudsman, would provide important additional safeguards in regards to institutional abuse.



Service providers are responsible for ensuring that those whom they serve are safe. In the case of paid carers, providers should ensure there are appropriate reporting and supervision processes in place to monitor staff and clear consequences in the event of abuse, including the involvement of law enforcement. In the case of co-residents, providers should have mechanisms in place to prevent and identify abuse between residents and take action promptly to address any that occurs, including removing the resident who is a risk to others to alternative supported accommodation. Ultimately, the solution requires operational and cultural change more than any changes to the definition of family violence. Systemic oversight of disability services and a prompt response by DHHS where problems are identified is imperative.

The Commission is sensitive to the fact that the dynamics between a person with a disability and paid carers may give rise to 'family-like' relationships very quickly, given the often intimate nature of the care, the social and emotional ties and the levels of 'dependence' (as referenced in the Family Violence Protection Act). The duration of those relationships may be a less critical factor. The Commission considered whether the example in the Family Violence Protection Act, which acknowledges that the relationship between a person with a disability and their paid carer may over time come to approximate a 'family-like' relationship should be amended to remove the reference to 'over time'.

Again, the Commission determined this is unnecessary, as the amendment to the statutory example is unlikely to provide much greater clarity to paid carers, police and the courts.

## Encouraging reporting and investigation

The Commission received considerable evidence about the lack of reporting of family violence both by victims and by disability workers. The reasons are numerous and include a culture of acceptance of violence against people with disabilities and a fear of reprisal.

Another reason that was identified in the Ombudsman's report and subsequently also addressed in the Victorian Parliamentary Inquiry report was that the 'existing oversight arrangements for dealing with incidents of abuse in the disability sector are complex, fragmented and confusing' and 'no one body has specific responsibility for receiving abuse allegations/incident reports or for reviewing incidents, reporting on deficiencies and addressing systemic issues to prevent abuse in the disability sector'.<sup>224</sup>

The Ombudsman, and the Victorian Parliamentary inquiry in its interim report, recommend establishment of a single, independent oversight body with powers and responsibility for, among other things, handling complaints and managing and investigating incidents.<sup>225</sup> The Victorian Government has said that it will 'consider the recommendation within the context of the final Parliamentary Inquiry report and development of the National Disability Insurance Scheme Quality and Safeguards Framework'.<sup>226</sup> Similarly, in its 2012 *Guardianship* report, the Victorian Law Reform Commission recommends that the Public Advocate be given a stronger 'supervisory, regulatory and investigative role' in order to better 'protect and promote the rights of people with disabilities'.<sup>227</sup>

The Commission encourages the Victorian Government to settle on and begin implementation of a model to improve oversight of the disability services sector (including independent complaints handling and investigations where people with disabilities are at risk), whether this be through expansion of the powers of an existing body such as the Office of the Public Advocate, a newly created independent oversight body, or through mechanisms under the National Disability Insurance Scheme Quality and Safeguards Framework.

The Commission considers that in order for the framework or any oversight body to be effective, it must address current inadequacies in the monitoring, reporting and response described throughout this chapter. In particular, disability workers must be supported to recognise and respond to such abuse, including where this amounts to family violence; feel able to report such violence to their superiors; be able to rely upon police or the independent body to investigate it thoroughly; and safely share information with others to protect the safety of the victim.



The Commission supports the Ombudsman's recommendation to extend the protected disclosure legislation to all disability workers across the sector to encourage reporting. Additional training is also needed to ensure that all those providing services to people with disabilities are equipped to identify and respond to family violence. The Commission supports the Ombudsman's call for mandatory training of disability workers and service providers in preventing, identifying and responding to abuse. The Commission also notes the recommendations in the Commonwealth Senate Community Affairs References Committee in respect of national regulation in disability services, including establishing a national scheme to ensure consistency in disability worker training.<sup>228</sup>

Whether such training is ultimately carried out through a state or a national scheme, it must include family violence. As most people with disabilities live at home (rather than supported accommodation being their home), such training must also extend to disability workers who provide services in the home. This will equip workers to better identify when family members are perpetrating family violence (including intimate partner violence and financial abuse) by recognising risk factors articulated in the CRAF, as well as being alert to violence committed by colleagues or family members of the person with a disability.

Alongside, or as part of any broader scheme that is implemented, the Victorian Government should fund training and education programs for disability workers—including residential workers, home and community care workers, interpreters and communication assistants and attendant carers—to encourage identification and reporting of family violence among people with disabilities. It should also require, through its accreditation, contracting and funding arrangements with relevant service providers, that all disability service workers, both current and future, have undertaken appropriate training.

As the Victorian Government and the Commonwealth Government (including through the National Disability Insurance Agency) have a dual role in relation to different service providers, and given the recommendation made by the Commonwealth Senate Community Affairs References Committee regarding a national scheme for disability worker training, the Victorian Government should work with the Commonwealth Government to ensure all disability services workers involved in assessing needs and in delivering services are expected to have successfully completed certified training in identifying family violence and responding to it. This could include further developing the units regarding family violence and responding to suspected abuse in the Community Service Training Package. The disability workforce should also be a priority for CRAF training.

In relation to other accommodation settings, the Commission notes the Office of the Public Advocate's call for a special taskforce, set up by the Victorian Government and Victoria Police, to develop protocols for responding to family violence in disability residential settings.<sup>229</sup> This would be a positive first step to address the current situation, and complement the existing work of the Victorian Government in establishing the Disability Workers Exclusion Scheme in residential settings.<sup>230</sup> Consideration should, however, be given as to whether the development of such protocols could be undertaken by the independent oversight body recommended by the Ombudsman. The functions of the independent body, as recommended by the Ombudsman, would include preparing and publicising best practice guides for complaint handling.

The Commission welcomes the Office of the Public Advocate's Interagency Guidelines for Addressing Violence, Neglect and Abuse (IGUANA), but notes these are only guidelines. In addition to supporting mandatory training, the Department of Health and Human Services should adopt IGUANA for its workforce and the Victorian Government should also require, through its accreditation, contracting and funding arrangements with relevant service providers, that they adopt IGUANA or develop and enforce an equivalent code to address the principles and processes for reporting family violence against people with disabilities.

## Recommendation 172

The Victorian Government fund training and education programs for disability workers—including residential workers, home and community care workers, interpreters and communication assistants and attendant carers—to encourage identification and reporting of family violence among people with disabilities [within two years].

## Recommendation 173

The Victorian Government, through the Council of Australian Governments Disability Reform Council, encourage the Commonwealth Government and the National Disability Insurance Agency to ensure that all disability services workers involved in assessing needs and delivering services have successfully completed certified training in identifying family violence and responding to it. This could include further developing and mandating the units on family violence and responding to suspected abuse in the Community Service Training Package [within five years].

## Access to justice

The Commission supports the efforts by Victoria Police to improve its response to people with disabilities reporting family violence following the recommendations in the VEOHRC report. However, more can and should be done. Victoria Police serves as the entry point to the family violence system for many victims. Accordingly, if police do not take a report of family violence seriously, do not conduct a risk assessment and do not complete the associated L17 form—regardless of whether any family violence intervention order or criminal justice process follows—those victims may very well remain unassisted by anyone.

The Commission considers that Victoria Police must improve the collection of disability information. We do not consider that the low numbers of recorded reports of family violence by people with disabilities can be fully explained by barriers to reporting, but consider that there is a lack of consistency in identifying and recording information about disability. While including a disability question on the L17 form is useful, Victoria Police needs to require this field to be completed and should also specify the nature of the disability and/or any assistance (reasonable adjustments) required. We are also concerned about the lack of consistent application of the Code of Practice in relation to the provision of an independent third party for victims with a cognitive disability or mental illness.

Ultimately, Victoria Police must ensure that its practices are non-discriminatory and that it makes reasonable adjustments for people with disabilities, including through supporting the use of AUSLAN interpreters and any communications support that may be required.

Similar considerations apply in relation to the courts.

The Commission welcomes the fact that the Victorian Civil and Administrative Tribunal has a family violence support worker to assist people with family violence matters across all lists. The Commission agrees that more could be done to improve the management of cases within the Guardianship List that may involve people with disabilities experiencing family violence. VCAT is encouraged to develop that capacity.

The Commission welcomes the initiative of the Judicial College of Victoria in developing a core curriculum for judges and magistrates, which addresses family violence, including the specific needs of people with disabilities. We further welcome the development of specific resources for judicial members on disability to be released later in 2016.

The Commission notes that the Judicial College has amended the Uniform Evidence Manual to highlight that people with communication disabilities are encompassed by the definition of a vulnerable witness, in relation to whom a court must disallow improper questioning in cross-examination (section 41(2), (4) of the *Evidence Act 2008* (Vic)) and that augmentative and alternative communication may be used by a witness to give evidence (section 31(2) of the Evidence Act). Against this background, the Commission encourages the Judicial College to provide further training to judicial officers on these matters.

The Commission supports the Magistrates' Court and Children's Court submission suggesting the establishment of a vulnerable witness service, similar to the existing statewide Child Witness Service, for people with cognitive impairments or significant communication impairments.

The Commission also supports the proposal that the Victorian Government provide funding to roll out programs, such as the Making Rights a Reality Program, which seek to assist people with disabilities experiencing family violence (including sexual violence) to exercise their legal rights effectively within the justice system.

### Recommendation 174

Victoria Police, in the redesign of the police referral (L17) form, ensure that disability data is collected, including on the type of disability and the support required. Training should be provided to help police members identify how and when to make adjustments for people with disabilities [within 12 months].

### Recommendation 175

The Judicial College of Victoria provide training to judicial officers in order to raise awareness and encourage consistent application of section 31 of the *Evidence Act 2008* (Vic), which allows courts to make adjustments to the way people with disabilities may be questioned and give evidence [within 12 months].

## Access to family violence services and accommodation

People with disabilities experiencing family violence must be able to access necessary services, including appropriate and accessible accommodation. Accessibility should not be regarded as something aspirational or special; rather, it should be considered the norm.

In Chapter 9, the Commission recommended that all refuge accommodation should be converted to a core and cluster model by 31 December 2020. This model will also address some very practical issues, such as the accommodation being fully accessible to people with disabilities and including carer accommodation, which should alleviate some of the major barriers women with disabilities face when they need to leave their home because they are unable to safely stay.

The Commission also recommends a concerted move towards increased use of individualised and flexible packages of funding, which include funding to meet costs associated with improving the safety of homes, relocation, purchase of essential household furnishings and the provision of rental or mortgage subsidies. These packages should also be used to fund adaptations to private rental properties, with the approval of the landlord, to improve accessibility. In designing and delivering rental subsidies, the Commission is aware that a challenge will be locating private rental properties that are accessible and avoiding landlord discrimination so that women and children with disabilities can take advantage of these additional packages. Another key component of the package is assistance with education and workforce participation, in recognition of the fact that people with disabilities make a valuable contribution to the workforce but face specific barriers to employment due to discrimination.

The Commission emphasises that in recommending expansion of Flexible Family Violence Packages this expansion should be in addition to the support available under the Disability and Family Violence Crisis Response Initiative, which was described above. The Commission supports the continued funding of the Disability and Family Violence Crisis Response Initiative. The initiative is only available to those eligible for services under the Disability Act. The Commission considers it should be available to other victims of family violence with disabilities, even if they are not eligible under this Act.

The Commission believes that the roll-out of the National Disability Insurance Scheme also presents important opportunities to improve the response to family violence by ensuring that the national quality and safeguarding framework provides individual flexible packages that incorporate provisions for crisis and longer term accommodation for women with disabilities experiencing family violence. The Victorian Government should pursue these opportunities through the Council of Australian Governments and the National Disability Insurance Agency.

The Equal Opportunity Act requires that all service providers (including family violence services) make reasonable adjustments for people with disabilities. We are concerned this is not currently occurring, and that standards and practices do not clearly reflect this obligation. In the introduction to this volume, we recommend that the Victorian Equal Opportunity and Human Rights Commission issue a guideline under the Equal Opportunity Act to guide service providers in meeting their obligations.

Similarly, the standards and practices around men's behaviour change programs must also be developed to address the different needs of men with intellectual disabilities or other cognitive impairments. Once again, this includes making reasonable adjustments to such programs, for example, through the use of AUSLAN and other communication supports where required. Also in the introduction to this volume, we recommend that the Department of Health and Human Services should review and update standards for family violence service providers (including men's behaviour change programs). In particular, we recommend that these standards specify an obligation to make reasonable adjustments for people with disabilities.

### Recommendation 176

The Department of Health and Human Services review the funding model for crisis supported accommodation to remove barriers for women and children with disabilities [within 12 months].

### Recommendation 177

The Victorian Government, in phasing out communal refuges, ensure that replacement accommodation contains disability-accessible units (universal design), where carers can be accommodated as needed and adaptations for children with disabilities are made [within five years].

### Recommendation 178

The Victorian Government extend eligibility for the Victorian Disability Family Violence Crisis Response to assist people with disabilities who are victims of family violence and are not eligible for services under the *Disability Act 2006 (Vic)* but who nevertheless require assistance. Such eligibility should apply when these individuals do not have access to alternative supports [within 12 months].

### Recommendation 179

The Victorian Government encourage the National Disability Insurance Agency, in the transition to the National Disability Insurance Scheme, to provide flexible packages that are responsive to people with disabilities experiencing family violence. These packages should incorporate crisis supports and assistance for rebuilding and recovering from family violence [within two years].

## Endnotes

- 1 Australian Bureau of Statistics, 'Disability, Ageing and Carers, Australia: Victoria 2012' (Catalogue No 4433.0, Australian Bureau of Statistics, November 2013), Table 3.1. In this survey a person had a disability if they reported a 'limitation, restriction or impairment, which has lasted, or is likely to last, for at least six months and restricts everyday activities'. This included shortness of breath or breathing difficulties causing restriction, mental illness or conditions requiring help or supervision and blackouts, seizures, or loss of consciousness: Australian Bureau of Statistics, 'Disability, Ageing and Carers, Australia: Summary of Findings, 2012' (Catalogue No 4433.0, Australian Bureau of Statistics, November 2013), Explanatory Notes: Glossary.
- 2 Australian Bureau of Statistics, Disability, Ageing and Carers Australia: Victoria 2012, above n 1, Table 3.1.
- 3 Delanie Woodlock et al, 'Voices Against Violence: Paper One: Summary Report and Recommendations' (Women with Disabilities Victoria, Office of the Public Advocate and Domestic Violence Resource Centre Victoria, 2014) 14; Statement of Pearce, 10 August 2015, 8 [35].
- 4 Victorian Ombudsman, 'Reporting and Investigation of Allegations of Abuse in the Disability Sector: Phase 1—The Effectiveness of Statutory Oversight' (25 June 2015).
- 5 Department of Health and Human Services, *People with a disability in the community: Disability in Victoria—About Disability* (2 April 2013) <<http://www.dhs.vic.gov.au/for-business-and-community/community-involvement/people-with-a-disability-in-the-community/disability-in-victoria/about-disability>>.
- 6 Ibid.
- 7 Convention on the Rights of Persons with Disabilities, opened for signature 30 March 2007, 2515 UNTS 3 (entered into force 3 May 2008).
- 8 World Health Organization, *Disabilities* (2016) <<http://www.who.int/topics/disabilities/en/>>.
- 9 Australian Bureau of Statistics, Disability, Ageing and Carers Australia: Victoria 2012, above n 1, Tables 3.1, 3.2, 4, 6. All data in this section is from this source, unless otherwise indicated.
- 10 Australian Bureau of Statistics, 'Profiles of Disability, Australia, 2009' (Catalogue No 4429.0, Australian Bureau of Statistics, 27 June 2012). This is after adjusting for differences in the age structure of the two populations.
- 11 This term refers to accommodation within establishments, such as hospitals, nursing homes, aged care hostels, care components of retirement villages, and other 'homes', such as group homes for people with disability. The accommodation must include all meals for its occupants and provide 24-hour access to assistance for personal and/or medical needs. To be included in this survey a person must have been a resident—or expected to be a resident—of the cared-accommodation establishment for three months or more.
- 12 Melbourne City Mission, Submission 812, 14 citing VicHealth, 'Disability and Health Inequalities in Australia: Research Summary' (August 2012) 5.
- 13 Eric Emerson, Anne Honey and Gwynnyth Llewellyn, 'Left Behind: 2013—Monitoring the Social Inclusion of Young Australians with Self Reported Long Term Health Conditions, Impairments or Disabilities 2001–2011' (Technical Report 1, Centre for Disability Research and Policy, University of Sydney, February 2013) 1.
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# 32 Male victims

## Introduction

In this chapter, we discuss the challenges faced by male victims of family violence. Men can be victims of violence inflicted by an intimate partner, a parent, a sibling, an adolescent or adult child or another family member. As is the case for all victims, family violence can have a profound and enduring effect on the lives of men who experience it and they should have their experiences acknowledged and their needs taken into account and addressed.

The first section of this chapter reviews the data on male victims of family violence and outlines men's experience of family violence and current responses to male victims. The Australian data shows that when men are victims, they are likely to be victims of violence perpetrated by either female partners or another male family member (for example, brother, son, father). Men make up around one quarter of victims of violence by intimate partners within heterosexual relationships. Violence by women towards male partners is generally less severe than that of men towards their female partners.

The second section of this chapter explores the issues and challenges related to support services for men. It identifies a lack of information and services for male victims, which can create barriers to men seeking help. It also discusses the problems caused by assumptions and misperceptions about male victims.

The final section of this chapter sets out the Commission's recommendations to promote and strengthen the services available to male victims.

The data considered in this chapter includes all men, unless otherwise indicated, but focuses predominantly on the experiences of heterosexual men. The specific experiences of gay, bisexual and transgender men who experience violence are discussed in Chapter 30.

## Context

In order to understand the extent and nature of family violence against men and develop an evidence-based policy response, the Commission has carefully analysed the data on this topic.

We acknowledge that interpreting this data is complicated by the possible under-reporting of family violence by both male and female victims.<sup>1</sup> On this point, there is disagreement about whether men are less likely to report family violence. Some of the material we examined supports this proposition,<sup>2</sup> while other research suggested that reporting may be further complicated because some men may play down the violence they perpetrate, and play up violence used by women.<sup>3</sup>

Quantitative studies also tend to record discrete incidents of violence rather than tracking the context of the incident and the history of a relationship, which may contain repeated violent incidents.<sup>4</sup>

## Estimated prevalence of family violence against men

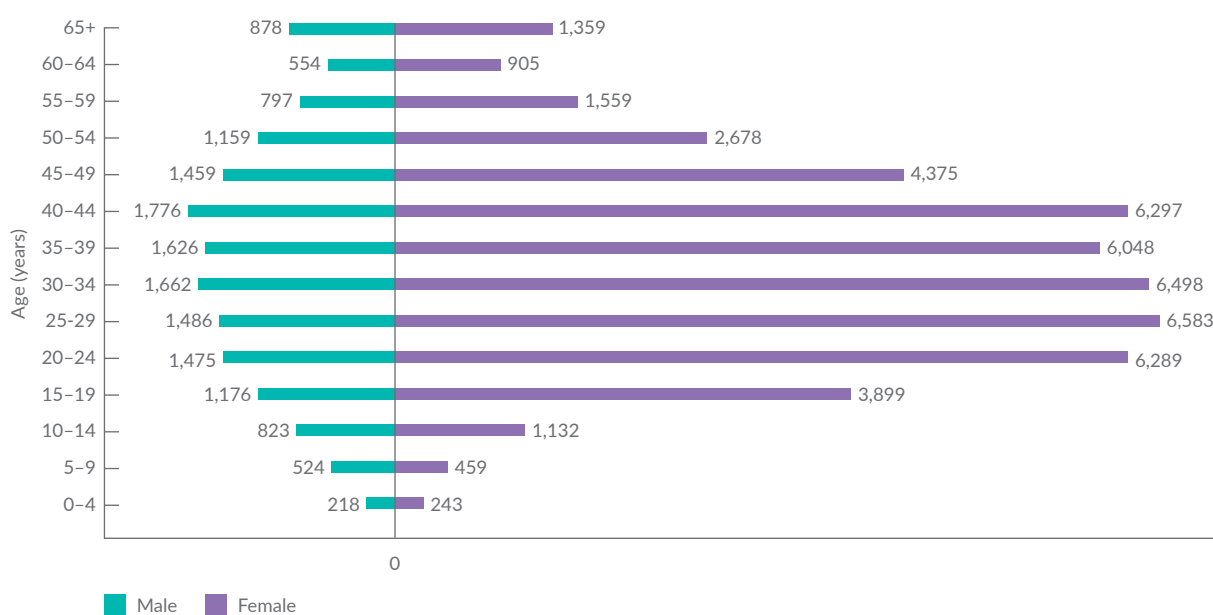
The Australian Bureau of Statistics' Personal Safety Survey estimates that 5.3 per cent of men (that is, one in 19) and 16.9 per cent of women (one in six) have experienced physical or sexual violence perpetrated by a current or previous partner since the age of 15.<sup>5</sup> Further, the survey estimates that 14 per cent of men and 25 per cent of women aged 18 or over have experienced emotional abuse by a partner since the age of 15.<sup>6</sup>

The ABS Personal Safety Survey also provides information about the estimated prevalence of other types of family violence against men.

- ▷ 2.1 per cent of men (since the age of 15) have experienced violence perpetrated by a parent against them, compared with 3.5 per cent of women—with men making up 37 per cent of victims of parent-on-child violence.<sup>7</sup>
- ▷ 0.9 per cent of men (since the age of 15) have experienced violence perpetrated by a sibling against them, compared with 1.9 per cent of women, with men making up 32 per cent of victims of sibling violence.<sup>8</sup>
- ▷ 0.2 per cent of men (since the age of 15) have experienced violence used by their children against them, compared with 0.5 per cent of women, with men making up 26 per cent of victims of child-on-parent violence.<sup>9</sup>
- ▷ 1.2 per cent of men (since the age of 15) have experienced violence used by other relatives or in-laws against them, compared with 2.4 per cent of women, with men making up 32 per cent of victims of violence perpetrated by other relatives or in-laws.<sup>10</sup>

Police data on family violence incidents shows that the proportion of affected family members who are male remained relatively stable in the five years from July 2009, with an average 24 per cent of affected family members being male.<sup>11</sup> Figure 32.1, which is based on family violence incidents reported to police, shows the data for 2013–14.

Figure 32.1 Affected family members, by age and sex: Victoria Police, 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), Figure 4: Sex and age of affected family members – Victoria Police, July 2013 to June 2014, 27, provided to the Commission by the Crime Statistics Agency, 8 January 2016.

## Gender of victims

The Commission heard many claims concerning the prevalence of male victims of family violence. One such proposition was that one in three victims of family violence are men.<sup>12</sup> Across Australia, men are estimated to comprise approximately one in three victims of physical and/or sexual violence by a current cohabiting partner of the opposite sex.<sup>13</sup> However, examining violence experienced since the age of 15 and including previous cohabiting partners and boyfriends, girlfriends and dates, men are estimated to comprise approximately one in four victims (24 per cent) of physical and/or sexual violence by intimate partners of the opposite sex.<sup>14</sup>

## Gender of perpetrators

Perpetrators of family violence against adult males tend to be both male and female, whereas perpetrators of family violence against adult females are mostly male. Research from the Victorian Family Violence Database (which examined court and police data from July 2009 to June 2014)<sup>15</sup> showed that in original applications for a family violence intervention order:

- ▷ Adult perpetrators of family violence against adult males were 43 per cent male ( $n=3111$ ) and 57 per cent female ( $n=4119$ ).<sup>16</sup>
- ▷ On the other hand, adult perpetrators of family violence against adult females were 90 per cent male ( $n=19,900$ ).<sup>17</sup>
- ▷ For both genders, the majority of adult perpetrators of the opposite sex were a current or former partner, whereas the majority of adult perpetrators of the same sex were another family member (that is, not a same-sex current or former partner).<sup>18</sup>

Overall, women are most likely to be victims of intimate partner violence perpetrated by male partners (rather than by any other family member). In contrast, when men are victims, they are likely to be victims of violence either perpetrated by female partners, or by another male family member (brother, son, father).<sup>19</sup>

While this quantitative information is the best indicator of the incidence of family violence, it may not capture certain nuances. Quantitative studies tend to assign people to distinct categories of 'victim' or 'perpetrator', which might not always reflect the complexity of family violence incidents—for instance, in determining who is the primary aggressor. A perpetrator can simultaneously receive and inflict injuries (if, say a victim defends himself or herself).<sup>20</sup> This can obscure the identity of the primary aggressor.<sup>21</sup> By way of example, Ms Jacky Tucker, Family Violence Services Manager, Women's Health West, gave evidence that of the 57 referrals her organisation received from police in June 2015 that identified the female as the perpetrator of family violence, after conversations with and assessments of these women, only six were actually found to be perpetrators.<sup>22</sup> We examine issues regarding the identification of the primary aggressor in Chapter 14.

## Family violence deaths

Data from the Victorian Systemic Review of Family Violence Deaths shows that, of the 288 deaths of relevance to the review between 2000 and 2010, 138 were men and 150 were women (that is, 48 per cent male).<sup>23</sup>

The review revealed that there were 136 intimate partner homicides, with approximately 76 per cent ( $n=103$ ) resulting in the death of a woman and 73 per cent ( $n=97$ ) involving male offenders.<sup>24</sup> Similarly, the National Homicide Monitoring Program data showed that between July 2010 and June 2012 there were 109 intimate partner homicides across Australia, with 76 per cent ( $n=83$ ) of these victims being women.<sup>25</sup>

The Victorian System Review of Family Violence Deaths also identified 81 intimate partner homicides where there was a history of family violence, which can be further broken down as follows:

- ▷ 61 of those who died had been the victims of continuing family violence, with six being male victims (9.8 per cent) and 55 being female victims (90.2 per cent)<sup>26</sup>
- ▷ 18 of those who died had been the perpetrator of violence, with 15 being male perpetrators (83.3 per cent)<sup>27</sup>
- ▷ two of those who died had been both a victim and perpetrator.<sup>28</sup>

As discussed, the Victorian Family Violence Database information shows that adult male victims were more likely to experience violence from non-intimate family members than were adult female victims.<sup>29</sup> Nationally, between July 2002 and June 2012, when each group of non-intimate partner victim is considered separately, men were more likely than women to be victims of parricides (the killing of a parent—54 per cent,  $n=73$ ), filicides (the killing of a child—56 per cent,  $n=132$ ), siblicides (the killing of a brother or sister—80 per cent,  $n=32$ ) and homicides in other non-intimate partner family relationships (70 per cent,  $n=64$ ).<sup>30</sup>

In total, of 467 family homicides with male victims, 64 per cent ( $n=301$ ) involved a non-intimate partner perpetrator, whereas of 690 family homicides with female victims, 71 per cent ( $n=488$ ) involved an intimate partner perpetrator.

Therefore, the data suggests that policy responses seeking to address the highest risks to men should focus on the risk posed by parents, siblings and other family members, rather than female intimate partners.

## Men's experiences of family violence

Male victims can be subject to physical violence, threats, sexual, emotional, psychological, verbal and financial abuse, property damage and social isolation.<sup>31</sup> As well as physical injuries, the impact of family violence can include psychological distress, suicidal ideation and loss of work.<sup>32</sup> The children of male victims can also suffer these effects.<sup>33</sup>

Unlike what you may read, the violence in my household was perpetrated by my mother towards my father. I would routinely see physical assaults of him, either with her hands, punching him, or with her feet, kicking him. She would use weapons, cooking implements, such as saucepans, utensils or furniture. I recall as well where she tried to kill him, running behind him with a garden fork directed at his back. If my sister had not screamed, he would have been seriously injured or killed.<sup>34</sup>

I think that if you're talking about family violence, even though it's a really small percentage, you've gotta be aware that it's not always a hundred percent directed from the male to the female, it could be the other way around. My dad was very cool and very calm and very placid ... as my sisters and I were, but we copped the full brunt of pretty savage violence directed from the woman, i.e. my mum. That was an ongoing nightmare and it's a difficult one.<sup>35</sup>

Although heterosexual men are less likely than women to be assaulted by an intimate partner, the Commission received submissions from a number of male victims who had experienced intimate partner violence in a heterosexual relationship.

The Commission was also told about intimate partner violence in circumstances where the woman who used violence had a suspected mental illness or problems with misuse of alcohol and drugs.<sup>36</sup> We discuss issues regarding mental health and drug and alcohol misuse in more detail in Chapter 19.

## Current responses

The Victims Support Agency is the primary provider of services for male victims of family violence. The Victims of Crime Helpline, a telephone contact service funded by the Department of Justice and Regulation, acts as the 'gateway' to services.<sup>37</sup> Most male victims who come into contact with the Helpline have been referred by police through the L17 form (a family violence risk assessment and management report) following police attendance at a family violence incident.<sup>38</sup>

Of the Helpline's 1143 referrals who identified themselves as a family violence victim in 2013–14, 48 per cent were male and 52 per cent were female.<sup>39</sup>

The Helpline conducts initial assessments and determines eligibility for referral to the statewide Victims Assistance Program and other services.<sup>40</sup> The referral pathway through the Helpline depends on a victim's needs and eligibility for services.<sup>41</sup> The Victims Assistance Program helps victims gain access to information, therapeutic interventions and counselling.<sup>42</sup> Short-term counselling can be provided through in-house counsellors and private providers.<sup>43</sup> There is also a case management service that offers assistance with security and finding accommodation.<sup>44</sup> In addition, the program receives brokerage funding that can be used to provide practical support or therapeutic interventions (including paying for counselling).<sup>45</sup>

The Helpline also makes referrals to Mensline,<sup>46</sup> which appears to be the only referral point specifically for male victims of family violence. The Mensline website provides some information for male victims.<sup>47</sup>

## Challenges and opportunities

### Lack of services for male victims

A lack of data makes it difficult to determine the extent of the service gap for male victims of family violence. The Commission was, however, told about the following barriers and shortcomings in services and interventions for men:

- ▷ lack of services for men affected by family violence, and services' limited awareness of the problems experienced by male victims<sup>48</sup>
- ▷ male victims' lack of knowledge of available support<sup>49</sup>
- ▷ lack of online resources for male victims<sup>50</sup>
- ▷ lack of services for male victims of family violence who have children.<sup>51</sup>

Some submissions also identified that there are no behaviour change programs for women.<sup>52</sup>

The Commission was told a number of times about the lack of services designed to respond to family violence against men and the adverse effect this has on male victims.<sup>53</sup> The One in Three Campaign submitted that:

It doesn't matter whether males make up 5 per cent, 15 per cent, 35 per cent or 50 per cent of victims of family violence, the fact is that there are few services currently available to assist them.<sup>54</sup>

Other individual submissions noted:

I was unable to access any support and very little reading material to help me whilst I was directly a victim of [family violence]. Any support available was directed towards female victims and the only support services offered to men were for behaviour change programs assuming they were the perpetrator. This immediately negates that I am a victim, showing no acknowledgment of my needs and certainly does not help me remove myself from the situation.<sup>55</sup>

After reporting being knocked out and choked to a [female] GP, she arranged contact with a Domestic Violence support group. A meeting was arranged and I talked to a [counsellor], describing my feelings and what was happening. At the end of the session, the [counsellor] said they do not offer support for men and the meeting [had been] arranged because someone they knew was doing research about male victims. I was utterly devastated, the hard part is asking for help, the harder part is finding it.<sup>56</sup>

The Commission was told that men who seek to leave the family home to escape family violence find that there are few, if any, crisis accommodation options for them, including where they are accompanied by their children.<sup>57</sup> The Commission was not made aware of any refuges catering only to male victims. General homelessness services can provide accommodation to male victims or provide housing establishment fund assistance with accommodation costs.

National data from specialist homelessness services identified 144,710 female clients and 42,507 male clients who were experiencing family violence.<sup>58</sup> Importantly, this data does not identify whether the client is a victim or perpetrator of family violence and the data set includes general homelessness services for men which are likely to be a primary source of accommodation for perpetrators when excluded from the home.

In addition, 60 per cent (n=21,254) of these male clients were aged 0–14 years. There were 112,874 female clients aged over 18 years, with 13,602 male clients. Once again, this demonstrates the importance of providing accommodation for children exposed to family violence, including boys and young adult males.

## Assumptions and perceptions

The Commission was told of community attitudes that lead to toleration of family violence against men,<sup>59</sup> including that men should accept violence against them and that men cannot be victims of violence.<sup>60</sup> The Commission heard that complaints by men about family violence were sometimes disbelieved, not taken seriously or treated with indifference.<sup>61</sup>

My first point of contact was the police. It was indifferent. They were trying to play down the situation.<sup>62</sup>

There were a few outcomes. One of the devastating ones for me was when I went into the police station and told them I had had death threats and had been assaulted. I told them I feared for my life. The police wouldn't investigate because nothing had happened yet. That devastated me. I went for help and they didn't help.<sup>63</sup>

I went to Men's Helpline and found it atrocious. It's one of the motivators that brought me here. The man [on the phone] said, 'Do you want me to come and hold your hand for you?' He later called back to apologise.<sup>64</sup>

One consequence of this is the difficulties male victims face in proving their victim status to police, courts and services.<sup>65</sup> Male victims explained that they felt they had to demonstrate that there was more than violence simply perpetrated against them—for example, they could be required to show that their partner had directed her violent behaviour at their children or that she suffered from mental ill-health.<sup>66</sup>

We were also told that in some cases where the man was the victim, it was assumed that he was the perpetrator of the violence:

After the first time I called the police and they attended, I received a letter from Relationships Victoria [sic] asking me if I'd come to a [family violence] program. My wife didn't get a letter. I was the complainant. They presumed I was the perpetrator.<sup>67</sup>

As noted, identifying the 'victim' or 'perpetrator' in a family violence situation can be difficult. The Commission was informed of family violence incidents where the police found both parties were 'equally violent' to each other but charged only the male party.<sup>68</sup> Ms Annette Vickery, Deputy Chief Executive Officer of the Victorian Aboriginal Legal Service, suggested that this can be traced back to the assumptions sometimes made about men in family violence situations:

I have looked at these things from a range of different experiences and I think we as a society struggle to identify women as being able to be violent and struggle to identify men as being victims in a particular situation. Because we do that, we stumble across an equal and equitable way to deal with people who don't fit into the dominant role.<sup>69</sup>

A number of men expressed a particular sense of injustice in connection with family violence intervention orders. In particular, some said the justice system was unable to differentiate between 'true perpetrators' of family violence and those men who were 'set up' by a female partner.<sup>70</sup>

Conversely, the Commission heard that it was common for male perpetrators of family violence to blame their situation on unfair legal processes, rather than accepting responsibility for their own behaviour.<sup>71</sup>



The Commission heard that responses to family violence should be flexible enough to accommodate the experiences of all victims:

So the majority of women, yes, they are victims of family violence. The majority of men may well be perpetrators, but there is that crossover. We need a system that's flexible enough to be able to encompass that experience rather than deny somebody the ability to voice that part of them that is not readily recognised or readily recognisable.<sup>72</sup>

The Commission heard that any public campaign aiming to reduce family violence needs to reflect the diversity of victims (including gay, bisexual and transgender men). At the same time, campaigns focusing on specific cohorts need to complement and not undermine awareness-raising in relation to family violence against women and children, who remain the majority of victims.<sup>73</sup>

## The way forward

Men and women have different experiences as victims of family violence. It is important to understand these differences. Men are more likely to be the perpetrators of family violence in intimate partner relationships. However, men can also be victims of family violence in these relationships. The data suggests that one in four victims of heterosexual intimate partner violence is male.

Men can also be victims of violence when they are children or as older people, and violence can be used against them by adolescent or adult children, siblings and other family members. The data suggests that responses seeking to address the highest risks to men (including homicide) should focus on the risk posed by parents, siblings and other family members, rather than female intimate partners.

Like all victims, male victims should have their experiences acknowledged and their needs taken into account and addressed. There are opportunities to improve our understanding of male victims and the services available to them.

Below we set out our recommended priority areas for action. These are in addition to the recommendations we make elsewhere in this report to improve the responsiveness of the family violence system to the diverse experiences of victims.

### Addressing assumptions and misperceptions

Assumptions about victims and perpetrators can result in a failure to identify both male and female victims of family violence. This can increase the risks for victims and any children involved. It can also make it difficult for some male victims to report their experiences and gain support. Assumptions also create challenges for policy makers seeking to determine the level of service provision required.

One of the purposes of any family violence information strategy should be to improve people's understanding of where suitable support can be found. As part of this, the information needs of specific cohorts, including men (whether heterosexual, homosexual, bisexual and transgender), should be taken into account.

### Building services' capacity

The principles the Commission applies in its approach to victims of family violence who are women and children—for example, minimising the duration of crisis, ensuring their safety, improving access to quality accommodation and promoting recovery—apply equally to male victims. Although resources should not be diverted from women and children, who constitute the majority of victims, the family violence system needs to respond better to male victims of family violence.

In identifying and responding to the needs of family violence victims, the Victorian Government should take steps to identify and take account of the needs of male victims—including male children, older men who are victims of elder abuse by family members, and gay, bisexual and transgender men.

Any response should be sufficiently flexible to meet the needs of male victims. For example:

- ▷ Responses should build on existing capacities—for instance, the capacity of the Victims of Crime Helpline to provide counselling or other support.
- ▷ Male victims who cannot remain in their home should continue to be provided with assistance to obtain safe accommodation.
- ▷ Other services that could be enhanced to support male victims of family violence include men's or community health services and services that currently support male perpetrators of family violence, such as Mensline.

As part of the industry plan recommended in Chapter 40, the Commission encourages the Victorian Government to develop and implement a corresponding workforce strategy to ensure the effectiveness of services for male victims. Consideration should be given to the gender composition of the workforce and whether a greater number of male counsellors should be employed in male victim services.<sup>74</sup>

As part of the Commission's recommendations relating to strengthening universal services' response to family violence in Chapter 19, the health system's ability to identify and respond to male victims should also be enhanced.

## Recommendations

The following recommendations should be read together with the general recommendations in 'Family violence and diversity', located at the start of this part of the report.

### Recommendation 180

The Victorian Government publicise and promote the Victims Support Agency in any information campaign relating to family violence as the primary source of assistance for male victims. The agency should also provide appropriate online resources for male victims [within 12 months].

### Recommendation 181

The Victims Support Agency continue to receive all police referrals (L17 forms) relating to male victims, including after the establishment of the Support and Safety Hubs. The agency and all other relevant support services should develop joint arrangements to ensure that male victims of family violence are supported in obtaining the help they need [within two years].

## Endnotes

- 1 Rochelle Braaf and Isobelle Barrett Meyering, 'The Gender Debate in Domestic Violence: The Role of Data' (Issues Paper 25, Australian Domestic and Family Violence Clearinghouse, May 2013) 5.
- 2 See, eg, Dads in Distress Support Services, Submission 493, 3–4; *ibid*.
- 3 Braaf and Meyering, above n 1, 5.
- 4 *Ibid*.
- 5 Australian Bureau of Statistics, 'Personal Safety, Australia, 2012' (Catalogue No 4906.0, Australian Bureau of Statistics, December 2013) Table 4.
- 6 *Ibid* Table 32.
- 7 *Ibid* Table 4.
- 8 *Ibid*.
- 9 *Ibid*. The figure for men experiencing violence by son/daughter (0.2) has a 25–50 per cent relative standard error, and so this figure should be used with caution.
- 10 Australian Bureau of Statistics, above n 5.
- 11 Crime Statistics Agency, 'An Overview of Family Violence in Victoria: Findings from the Victorian Family Violence Database 2009–10 to 2013–14' (January 2016), 26, provided to the Commission by the Crime Statistics Agency, 8 January 2016.
- 12 See generally, One in Three Campaign, Submission 584.
- 13 Peta Cox, Violence Against Women in Australia: 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) Table A1: Men and Women's experience of violence since the age of 15, Type of violence by relationship to perpetrator and sex of perpetrator.
- 14 *Ibid*.
- 15 Crime Statistics Agency, above n 11, Magistrates' Court data source, Tab 10, Table 10: Gender of adult respondents on original applications when affected family member is an adult Female, July 2009 to June 2014; Tab 11, Table 11: Gender of adult respondent on original applications when affected family member is an adult Male, July 2009 to June 2014; Victoria Police data source, Tab 11, Table 11: Sex of adult other party by sex of the adult affected family member, July 2009 to June 2014, provided to the Commission by the Crime Statistics Agency, 30 September 2015.
- 16 *Ibid* Magistrates' Court data source, Tab 11, Table 11: Gender of adult respondent on original applications when affected family member is an adult Male, July 2009 to June 2014, provided to the Commission by the Crime Statistics Agency, 30 September 2015.
- 17 *Ibid* Magistrates' Court data source, Magistrates' Court data source, Tab 10, Table 10: Gender of adult respondents on original applications when affected family member is an adult Female, July 2009 to June 2014, provided to the Commission by the Crime Statistics Agency, 30 September 2015.
- 18 *Ibid* Victoria Police data source, Tab 40, Table 40: Relationship between Affected Family Member and Other Party where the AFM is Male and the OTH is Male; Tab 41, Table 41: Relationship between Affected Family Member and Other Party where the AFM is Female and the OTH is Female, provided to the Commission by the Crime Statistics Agency, 10 February 2016.
- 19 *Ibid* Victoria Police data source, Tab 42, Table 42: Relationship between Affected Family Member and Other Party where the AFM is Female and the OTH is Male; Tab 39, Table 39: Relationship between Affected Family Member and Other Party where the AFM is Male and the OTH is Female, provided to the Commission by the Crime Statistics Agency, 10 February 2016.
- 20 Department of Justice, 'Measuring Family Violence in Victoria—Victorian Family Violence Database Volume 5: Eleven Year Trend Analysis 1999–2010' (2012) 77.
- 21 *Ibid*.
- 22 Transcript of Tucker, 3 August 2015, 1557 [27]–[31].
- 23 Coroners Court of Victoria, 'Victorian Systemic Review of Family Violence Deaths: First Report' (November 2012) 20.
- 24 *Ibid* 25.
- 25 Willow Bryant and Tracy Cussen, 'Homicide in Australia: 2010–11 to 2011–12: National Homicide Monitoring Program Report' (AIC Reports Monitoring Reports No.23, 2015) 17.
- 26 Coroners Court of Victoria, above n 23, 26.
- 27 *Ibid*.
- 28 *Ibid*.
- 29 Department of Justice, above n 20, 18.
- 30 Tracy Cussen and Willow Bryant, 'Domestic/Family Homicide in Australia' (Research in Practice No.38, May 2015) 3–4.
- 31 One in Three, *Male Victims of Family Violence (2015)* <<http://www.oneinthree.com.au/malevictims>>.
- 32 One in Three Campaign, Submission 584, 4; Dads in Distress, Submission 493, 3.
- 33 See Chapter 10.
- 34 Anonymous, Submission 35, 1.
- 35 Fitzroy Legal Service and Homeless Persons' Union, Submission 702, 17.
- 36 Anonymous, Submission 35, 4; One in Three Campaign, Submission 584, 14. See generally, Community consultation, Melbourne 2, 22 May 2015.
- 37 Department of Justice and Regulation, 'Victims of Crime Helpline Practice Manual', 2015, 19, produced by the State in response to the Commission's Notice to Produce dated 5 June 2015.
- 38 *Ibid* 46.
- 39 Crime Statistics Agency, above n 11, 91.
- 40 Department of Justice and Regulation, above n 37, 19.
- 41 *Ibid* 70.
- 42 *Ibid* 86.
- 43 *Ibid* 88.
- 44 *Ibid*.
- 45 *Ibid*.
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- 47 MensLine, *Are you experiencing violence or abuse in your relationship?* (2014) <<https://www.mensline.org.au/improvingrelationships/are-you-experiencing-violence-or-abuse-in-your-relationship>>.
- 48 Anonymous, Submission 378, 2.
- 49 Paul Rogers, Submission 103, 2.
- 50 Anonymous, Submission 241, 3.
- 51 Anonymous, Submission 12, 4–5. See also, Anonymous, Submission 586, 3.
- 52 Anonymous, Submission 586, 3; Family Life, Submission 758, 25.

- 53 See, eg, Community consultation, Warrnambool 2, 27 April 2015; Community consultation, Werribee 2, 11 May 2015; Community consultation, Melbourne 1, 14 May 2015; Community consultation, Melbourne 2, 14 May 2015; The Police Association Victoria, Submission 636, 20.
- 54 One in Three Campaign, Submission 584, 6.
- 55 Anonymous, Submission 241, 2.
- 56 Anonymous, Submission 378, 1.
- 57 See, eg, Anonymous, Submission 586, 3, 5.
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- 60 One in Three Campaign, Submission 584, 10.
- 61 See, eg, Community consultation, Melbourne 2, 22 May 2015; Community consultation, Melbourne 3, 24 April 2015.
- 62 Community consultation, Melbourne 3, 24 April 2015.
- 63 Ibid.
- 64 Ibid.
- 65 See, eg, Dads in Distress Support Services, Submission 493, 4.
- 66 Casey Cardinia Community Legal Service, Submission 991, 3.
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- 68 Transcript of Vickery, 20 July 2015, 815 [3]–[9].
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- 70 Confidential, Submission 45, 29; Community consultation, Melbourne 2, 22 May 2015.
- 71 Moonee Valley Legal Service, Submission 901, 10.
- 72 Transcript of Vickery, 20 July 2015, 815 [25]–[31]. See also, Transcript of Broughton, 6 August 2015, 2176 [7]–[31].
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- 74 See, eg, One in Three Campaign, Submission 584, 20.

# 33 Rural, regional and remote communities

## Introduction

The Commission's terms of reference require it to consider the needs and experiences of people affected by family violence, having particular regard to, among others, people from rural, regional and remote communities. For completeness, the Commission has also considered the needs of people living in remote communities.

This chapter outlines what we heard from and about people living in and providing services to these communities. The Commission held community consultations throughout Victoria—including in Bairnsdale, Benalla, Bendigo, Colac, Echuca, Geelong, Horsham, Maryborough, Mildura, Morwell, Sale, Shepparton, Traralgon and Warrnambool. It also received written submissions<sup>1</sup> and heard evidence from witnesses at the public hearings that dealt with the experiences of people affected by family violence who live outside Melbourne.

The chapter begins by looking at the limited data on the prevalence of family violence and explores some of the main factors that shape a person's experience of family violence in non-urban areas. These include geographic and social isolation, economic vulnerability and cultural factors, all of which may exacerbate the difficulties in finding support that many urban victims of family violence experience.

The next section describes the challenges faced by the justice and service systems that seek to support people in rural, regional and remote communities, including the limited access to specialist services for both victims and perpetrators. Finally, we consider opportunities for improving coordination, governance and the service system and for using technology to assist in addressing the situation in rural, regional and remote communities.

The Commission heard of an increasing awareness in rural, regional and remote communities of family violence and a growing commitment to seeking to prevent and respond to it. Various plans and initiatives are in progress, many of them initiated and led by the local communities themselves. The social connectedness and resilience within these communities offers great potential. At the same time, these communities face significant challenges in addressing family violence, which demands an active and appropriately resourced response.

Accordingly, our recommendations reflect the view that government and other stakeholders need to take further steps to respond to the particular challenges posed by family violence in rural, regional and remote communities. Government should give priority to preventing and responding to family violence in these communities. Greater flexibility in contracting and funding arrangements for service provision and using new technologies should also be pursued.

## Context and current practice

The latest Australian Bureau of Statistics figures (as at June 2014) show the estimated resident population of Victoria to be 5.84 million people. Of this, approximately 1.4 million people (24 per cent) live in regional Victoria; that is, anywhere outside of Greater Melbourne.<sup>2</sup> ABS data shows that 0.1 per cent of Victoria's population is classified as remote.<sup>3</sup>

The Regional Statement produced by the Victorian Government sets out the breakdown of the regional population as follows:

- ▷ Barwon: 276,935
- ▷ Central Highlands: 184,804
- ▷ Gippsland: 265,150
- ▷ Goulburn: 154,022
- ▷ Great South Coast: 101,117
- ▷ Loddon Campaspe: 226,640
- ▷ Mallee: 89,847
- ▷ Ovens Murray: 120,296
- ▷ Wimmera Southern Mallee: 48,261.<sup>4</sup>

## Family violence in rural, regional and remote communities

The Centre for Rural and Regional Law and Justice's recent *Landscapes of Violence* report acknowledged the difficulty in definitively determining the prevalence and rate of family violence generally, and in comparing one geographic area to another. After reviewing the limited data available, it concluded that Victoria Police family incident statistics 'affirm that higher rates of family violence reports occur in non-urban places'.<sup>5</sup>

This is supported by evidence provided to the Commission that in 2013–14, the 10 local government areas with the highest rates of family violence incidents reported to Victoria Police per 100,000 population were outside metropolitan Melbourne.<sup>6</sup>

According to the Victoria Police submission, although 'metropolitan areas have more than twice as many family violence offences as rural areas, on a per capita basis rural areas account for 65 per cent more offences'.<sup>7</sup>

Although family violence is in general under-reported,<sup>8</sup> given a number of factors discussed below (including geographic isolation, culture and barriers to accessing services) it is likely that under-reporting is an even greater problem in rural, regional and remote communities.<sup>9</sup>

## Experiences of family violence

The Commission heard evidence and received submissions about a number of factors that influence how family violence is experienced in rural, regional and remote communities,<sup>10</sup> as well as posing challenges for government and community responses. These will be discussed in turn.

### Geographic and social isolation

One of the biggest difficulties for people living in rural communities is geographic and social isolation.<sup>11</sup> Living in remote locations can increase victims' exposure to a variety of forms of violence by perpetrators. Victims living outside towns are particularly vulnerable. This can make it more difficult for police to respond as quickly as would be desirable, as well as making it harder for victims to seek support from family and friends. As one woman noted, 'there is only one road in/out and at times I feel trapped'.<sup>12</sup> Another person commented that:

I live on my own ... up in the Mountains ... very isolated. it's hard to receive the right support to come out to rural areas to see how things are going, as living out in the country on a farm you don't have any visitors or support ... you have to travel to find it.<sup>13</sup>

Isolation also makes it more difficult for victims to obtain relevant services. Many submissions identified transport as posing problems for rural, regional and remote communities,<sup>14</sup> the need to travel increasing both the time and the cost involved in seeking relevant services.<sup>15</sup> There is limited public transport, and any private transport that is available can be expensive, with the result that some victims cannot travel into town to get help.<sup>16</sup> If a perpetrator controls access to private vehicles, this exacerbates the isolation and vulnerability of a victim.<sup>17</sup> The Commission was told in a community consultation that 'people need the services to come to them. They can't get into town, the public transport system is shit. In some towns there's not even taxis'.<sup>18</sup> One woman told the Commission:

I would go out to my car and try to drive away but he would have taken the [removed] out in advance so I couldn't drive the car. By then he would be laughing at me and had locked the door so I'd be stuck outside. I'd have to walk or hitch hike to stay somewhere the night. He thought this was funny.<sup>19</sup>

During a consultation, the Commission heard that in rural, regional and remote communities it can be the local taxi service that helps victims escape from the place of violence.<sup>20</sup> It was suggested that if taxi drivers were equipped with an understanding of family violence and information about support services, they could better help victims in a crisis.

### **Position of perpetrator within the community**

Paradoxically, victims of family violence in rural, regional and remote communities may be both isolated from services and support, but also concerned about the perpetrator's position within the community and about the inability to maintain privacy, which can make seeking help harder. One woman told the Commission:

People in the local community loved him ... He was the left wing, alternative community hero. We would often drive long distances and he would pull the keys out of the ignition so the steering wheel would jam - we would slide to a halt, skidding alongside the road. He would push me out of the car in the middle of the night and I would have to walk [removed] kms home or hitch hike in pitch darkness through a forest.<sup>21</sup>

Victims can be reluctant to seek help when the police, court staff and the relevant services know the perpetrator. Intertwined with this can be a fear that the victim's (or perpetrator's) circumstances will become more widely known in their community and could result in their ostracism:

If your abuser is seen as an upstanding or outstanding member of the community, it may be difficult to report them to the local authorities.<sup>22</sup>

[It's a case of] small town syndrome: the police know the perpetrator and can't believe he's done anything wrong. Everyone talks to everyone.<sup>23</sup>

I went to a domestic violence service ... [The perpetrator's] sister worked there. She rang her father and the father told [the perpetrator].<sup>24</sup>

The Commission was told that this can not only discourage victims from seeking help; it can also deter others from taking action:

[H]ealth professionals may feel unwilling to intervene due to a personal connection with the perpetrator or victim.<sup>25</sup>

Some doctors who were part of the community tended to try to keep families together or discourage women leaving.<sup>26</sup>

Importantly, '[k]nowing a person socially does not exclude the potential of that person to be a perpetrator behind closed doors'.<sup>27</sup>

## Economic vulnerability and dependence

Rural, regional and remote communities can also experience economic dislocation—such as underemployment and unemployment.<sup>28</sup> This can increase a victim's economic dependence on their partner and family.<sup>29</sup>

The Commission heard many cases of economic abuse:

I didn't want to go to police because what do I tell them? He held a knife to my throat, but will they believe me? You walk in to a police station saying, "I'm hiding ten dollars under my mattress so that I have some money of my own." I thought I'd be laughed out of the station.<sup>30</sup>

I gained part time employment in an isolated town he was happy about that because it was so isolated ... he interfered in my work no matter what I did he made trouble for me until I lost the job.<sup>31</sup>

In some cases victims belong to, or have married into, a farm-owning family.<sup>32</sup> The Commission heard that if the victim flees or the perpetrator is excluded because of his violence this can have implications for the running of the farm and its ongoing viability. For example, Quantum Support Services submitted that 'family breakup' has implications in the division of the family farm in terms of both livelihood, income and assets,<sup>33</sup> with consequences for the entire family.

Isolation and economic dislocation can also lead to an increase in alcohol and drug misuse and have deleterious effects on mental health.<sup>34</sup> One submission noted the 'pub culture' in some small towns.<sup>35</sup> The evidence suggests both alcohol and drug misuse and mental illness are more prevalent in rural, regional and remote communities.<sup>36</sup> As discussed in Chapter 6, these are individual risk factors for family violence.

## Cultural norms in rural, regional and remote communities

Rural, regional and remote communities have many strengths which are relevant to addressing social problems. People living in these communities often feel a sense of connectedness and responsibility for other members of their community who are facing difficulty. As acknowledged in one submission, there is a 'strong community spirit wanting to make changes for the better' in these communities.<sup>37</sup>

The Commission heard, however, that the culture within some communities is also relevant to experiences of family violence. The Commission was told that rural, regional and remote communities can be characterised by a more conservative view of the world,<sup>38</sup> a 'stronger emphasis on gender stereotypes'<sup>39</sup> and 'traditional gender constructs and cultures of masculinity'.<sup>40</sup> The Centre for Rural Regional Law and Justice at Deakin University described a victim's experience of these cultural norms:

Tina spoke of the ways her abuser framed his controlling behaviour – restricting both her access to their finances and her association with others – as 'taking care' of her in an 'old fashioned' manner. On the farm she was encouraged to assume responsibility for the domestic sphere and to have no involvement in the operations and management of the business, which were regarded as male domains by her abuser.<sup>41</sup>

At a community consultation, the Commission was told of how these conservative views may affect the response that women receive when they disclose family violence:

In [removed] there is a brilliant police officer but there are two others who do not like assertive women. Unfortunately I had had to deal with them on a call-out.<sup>42</sup>

Another woman from a country area described the difficulties she experienced in gaining employment, due to expectations that she should be a primary caregiver.

Someone told me I shouldn't be working but should look after my children at home, but I didn't have any money. People would deny me work because 'I should be at home'.<sup>43</sup>



Victims might not identify family violence as wrong and illegal or might feel forced to endure it. This may be demonstrated by the fact that 60 per cent of women from remote areas who leave the family home after a violent episode return; this compares with 30 per cent nationally.<sup>44</sup> Others observed that 'values of self-reliance' can be important in rural, regional and remote communities and that this might make it more difficult for victims to seek help.<sup>45</sup>

### **Unique challenges for communities near state borders**

Some of Victoria's rural, regional and remote communities are located close to the state's borders. This can give rise to challenges for people experiencing family violence in such areas.<sup>46</sup> They might need to cross the border frequently for work, education and leisure,<sup>47</sup> and the closest police station or other relevant service might in fact be located across the border.<sup>48</sup>

There are no national arrangements for automatically recognising and enforcing intervention orders. An interstate intervention order will not be recognised in Victoria until it is registered, and any breaches of that order in Victoria will not be recognised until registration has occurred.<sup>49</sup> As one consultation participant put it, 'the border is bad for us ... you're not protected over the border.'<sup>50</sup> The Centre for Rural Regional Law and Justice argued that 'synchronisation and coordination of laws' and improved cooperation between law enforcement agencies were required.<sup>51</sup> In Chapter 1, the Commission notes that because this issue is being addressed by the Council of Australian Governments, it is not addressed in this report.

### **Firearms and other weapons**

The Commission was informed that access to firearms is a 'major concern' in rural, regional and remote communities.<sup>52</sup> Firearm ownership rates are higher in these communities<sup>53</sup> and, as Victoria Police pointed out, the high prevalence of firearms in such communities increases the risk of serious family violence.<sup>54</sup> This concern was raised both in community consultations<sup>55</sup> and in submissions.<sup>56</sup> A concern about access to and the prevalence of home-made weapons in these communities was also identified.<sup>57</sup> One woman told the Commission:

There's still a gun missing that the police didn't find. They said that it's not important ... if he comes out and wants to kill me, he will.<sup>58</sup>

It was also observed that in the past 20 years Victoria Police has become much more responsive to the risks associated with firearms.<sup>59</sup>

A family violence intervention order can include a condition cancelling or suspending a firearms authority,<sup>60</sup> which, it was submitted, could make it difficult for the perpetrator to manage a farm or maintain employment in rural, regional and remote communities.<sup>61</sup> While it is necessary to preserve safety, such intervention order conditions can also have unintended consequences for the economic wellbeing of the victim and any children.

### **The impact of natural disasters**

The Commission further heard that family violence increases in the wake of natural disasters such as bushfires, droughts and floods, which are more common in rural, regional and remote communities.<sup>62</sup> Some speculated that during such disasters a 'hypermasculinity kicks in for some.'<sup>63</sup> The dislocation, stress and loss experienced during and after these events can also contribute to this phenomenon.

Women's Health Goulburn North East and Women's Health in the North submitted there should be '[i]ncreased understanding by emergency [services] personnel (including police) and community of the likelihood that [family violence] will increase after disaster ... and that disaster is no excuse for violence'.<sup>64</sup> The links between natural disasters and family violence are discussed further in Chapter 2.

## Experiences of diverse groups

The Commission received evidence that some people within rural, regional and remote communities face additional difficulties and ‘[i]ntersectional disadvantage’ as a result of other aspects of their identity.<sup>65</sup> This includes children and young people, older people, Aboriginal and Torres Strait Islander peoples, people from culturally and linguistically diverse backgrounds, people within the lesbian, gay, bisexual, transgender and intersex communities and people with disabilities. Their experiences will be discussed in turn.

### Children and young people

The Commission was informed that there is a lack of services for children in rural, regional and remote communities<sup>66</sup> and that this applies across a broad spectrum of services relevant to family violence. As one person said, ‘[c]hildren’s voices are not heard much and this needs to change’.<sup>67</sup>

Few activities are available specifically for children and young people in rural, regional and remote communities. One parent noted, ‘[w]e need more opportunities for our children to meet other children who are not on drugs. There is nothing here to do except sport clubs and my kids are not sporty’.<sup>68</sup>

Concerns were also raised about the justice system’s response to children and young people. Victoria Police is required by legislation to interview young people in the presence of an independent third person,<sup>69</sup> most often a parent or guardian. If a parent or guardian is not available, a referral is made to a trained independent third person, but the Commission was told that trained individuals are not always available in some communities.<sup>70</sup>

The Commission heard that there are no appropriate trauma psychologists for children who have experienced violence in these communities.<sup>71</sup> There are also few options for children or young people who use violence, including limited counselling services.<sup>72</sup> One consultation participant noted that within their community there were ‘[n]o behaviour programs for kids or males under 18 years’.<sup>73</sup>

### Older people

As explored in Chapter 27, older people’s experience of family violence in rural, regional and remote communities can also be more challenging compared with that of those in metropolitan areas. The proportion of older people in rural, regional and remote communities is increasing as younger people leave to pursue study and employment opportunities elsewhere.<sup>74</sup>

Importantly, this development can exacerbate geographic and social isolation and hence increase the risk and consequence of family violence, including elder abuse by family members who have remained in the local community. One woman told the Commission of the abuse she and her husband experienced from their son:

We’ve had no real help ... he falls between the cracks. He’s 40 ... He damages the property. He’s on an intervention order ... I took it out. We have no other family here. We’re getting worried as we’re getting old and we’re worried about what would happen to us and him. I slept next to a knife block for 5 years I was so scared.<sup>75</sup>

Older people may also be more reliant on others for transport. The outflow of younger community members can diminish the workforce available to provide the services older people need.

The Commission also heard of a lack of attention being given to elder abuse in rural, regional and remote communities.<sup>76</sup>

### Aboriginal peoples

Just over half (52 per cent) of the Aboriginal and Torres Strait Islander population of Victoria lives outside Melbourne<sup>77</sup> and submissions outlined challenges for Aboriginal peoples in non-urban areas. These include a lack of mainstream or Aboriginal community controlled services, and a shortage of culturally safe crisis accommodation.<sup>78</sup> These and other issues relating to Aboriginal and Torres Strait Islander peoples are discussed in detail in Chapter 26.

## **Culturally and linguistically diverse communities**

The Commission was informed that the experience of family violence by people in CALD communities in rural, regional and remote areas presents various difficulties, including the availability of services.<sup>79</sup> For example, it can be difficult to find suitable interpreters, including ones who are not known to the parties, which is likely to be much more of a problem in rural, regional and remote communities.<sup>80</sup>

The Commission heard that it can also be difficult for CALD women in small communities to access information about their rights, which can lead to an increased vulnerability. One woman told the Commission of her experience in a small town:

... her husband lived there for 25 years. He's a charming person to everyone else. He brain washed her on everything. Told her Immigration will deport her. He has strong connections to everyone in the town. He said 'You cannot do anything here. You can't get help, your life is in my hands.' She ran away, and miraculously ran into a friend. She convinced her to leave. She packed everything. Felt she had to go. Caught a taxi. Sent to [removed]—very helpful. One knew her husband and said you have to be sent to Melbourne. Hard for you to fight your husband as it would be like fighting the whole city.<sup>81</sup>

InTouch Multicultural Centre Against Family Violence, which provides culturally appropriate family violence services to CALD communities, noted that it 'rarely sees family violence initiatives targeted at people in CALD communities in [rural, regional and remote communities], even where they make up a significant proportion of the population'.<sup>82</sup> It added that, because of the 'relatively low cost of living and relatively high rate of low skilled employment opportunities, [rural, regional and remote communities] are attractive to many recently arrived migrants'.<sup>83</sup> Such settlement patterns can themselves create vulnerabilities,<sup>84</sup> confirming the need for suitable services to be available.

Although InTouch is a statewide service, which provides a telephone service and serves as a source of expert advice for other providers (for example, those serving rural, regional and remote communities), its current resources do not allow it to provide more extensive services to CALD communities in these areas.<sup>85</sup> The experiences of people from culturally and linguistically diverse backgrounds is discussed in more detail in Chapter 28.

## **LGBTI communities**

The Commission was advised that higher levels of discrimination, homophobia and transphobia are experienced in rural, regional and remote communities than in metropolitan communities.<sup>86</sup> These attitudes can result in a higher prevalence of family members perpetrating violence against their LGBTI relatives.<sup>87</sup>

Discrimination can also make people in same-sex relationships in these communities more likely to remain 'in the closet' and, if they experience intimate partner violence, less likely to seek help.<sup>88</sup> As is the case throughout rural, regional and remote areas, there is a lack of suitable services—for example, a local or nearby LGBTI support service or health centre, much less an LGBTI family violence worker.<sup>89</sup> For further discussion see Chapter 30.

## **People with a disability**

The Commission heard that women with disabilities in rural, regional and remote communities face a greater risk than women without disabilities or in metropolitan areas.<sup>90</sup> Their isolation can be acute. The Commission was told that there is a lack of suitable services for people with disabilities experiencing family violence,<sup>91</sup> as well as a lack of refuges for women who have children with disabilities.<sup>92</sup> See Chapter 31 for more information about the experiences of people with disabilities.

## Community education and prevention initiatives

The Commission heard about a variety of plans and initiatives in progress in rural, regional and remote communities, illustrating their capacity to draw on local resources to prevent family violence and support people affected by it. Among these are establishment of the Benalla Family Violence Prevention Network,<sup>93</sup> the Goulburn Valley Family Violence Prevention Network<sup>94</sup> and the Grampians Integrated Family Violence Committee,<sup>95</sup> as well as the work of the Go Goldfields Alliance and Family Violence Action Group and the Rotary Club of Maryborough.<sup>96</sup> This is not an exhaustive list, and the Commission notes that family violence regional integration committees operate across Victoria.

The Commission also heard about examples of work already happening in rural, regional and remote communities, including the following:

- ▷ Community participation in campaigns and events such as White Ribbon Day<sup>97</sup> and Take a Stand.<sup>98</sup>
- ▷ Distribution of contact cards in an accessible format providing details of local crisis and support options.<sup>99</sup>
- ▷ Placement of advertising messages about family violence on posters and billboards to raise awareness.<sup>100</sup> In the Goulburn Valley, advertisements feature local people in local places as a way of making the messages immediately relevant. The Commission was told this particular campaign had attracted significant local support and positive comment.<sup>101</sup>
- ▷ Devoting local sporting rounds to the question of family violence—for example, Maryborough's '#sayno2familyviolence football round', which featured players wearing white armbands, the distribution of educational information to players and supporters, and presentation by a female Rotarian of the perpetual shield to the winning team. The intention is that this will be an annual event as part of the Maryborough football-netball league's community round.<sup>102</sup>
- ▷ A focus on parenting (such as Parent and Child Mother Goose, Parents Early Education Partnership, Real Men Make Great Dads and Bringing up Great Kids) and communication and self-defence (such as Rock and Water).<sup>103</sup>
- ▷ Provision of training to employers and local workers in how better to identify and respond to family violence.<sup>104</sup> One such program was attended by over 30 chief executive officers, human resource managers and key staff, with the purpose of embedding knowledge and responses in the workplace.<sup>105</sup>
- ▷ Provision of education about respectful relationships to people in schools, sporting clubs and community groups.<sup>106</sup>
- ▷ Encouraging local businesses and organisations to support gender equity and respect within their organisational structure,<sup>107</sup> this might include 'increasing the availability and affordability of child care, or changing workplace systems to promote men's equal participation in child-rearing'.<sup>108</sup>

## Technology

The Commission heard that technology is helping with the provision of family violence-related services. It could be especially promising in responding to some of the challenges rural, regional and remote communities face (although it is recognised that mobile and internet coverage may be an issue for some). The following examples provided to the Commission are indicative of the possibilities:

- ▷ Women's Legal Service Victoria offers the LINK Outreach service which uses Skype to enable rural women to obtain legal advice from professionals with appropriate expertise from across the state.<sup>109</sup> The Commission heard this can be a vital service for rural women when a conflict of interest prevents them from getting legal advice from a local source.<sup>110</sup> This could also be used to help provide services to meet specific needs—for example, for culturally and linguistically diverse communities in rural, regional and remote areas.<sup>111</sup>
- ▷ Using technology to disseminate general information on family violence—including to rural, regional and remote communities.<sup>112</sup>
- ▷ Electronic security systems and CCTV could be used to improve safety.

- ▷ An online platform (such as that trialled by the Neighbourhood Justice Centre) could be used as a more convenient and secure way to apply for a family violence intervention order.<sup>113</sup>
- ▷ Remote witness facilities could be made available for court hearings.<sup>114</sup> Given the cost of otherwise improving court infrastructure in rural, regional and remote communities, it was suggested that using remote witness facilities might be a more 'effective investment'.<sup>115</sup> It might also help with ensuring access to interpreters.<sup>116</sup>
- ▷ Services could be integrated across providers and locations by using virtual teams and virtual hubs.<sup>117</sup>

Although technology promises new ways in which victims can be supported, many consultation participants noted the importance of trusted local people,<sup>118</sup> drop-in services<sup>119</sup> and face-to-face contact<sup>120</sup> in encouraging victims to report violence and seek advice and assistance.

## Challenges and opportunities

This section examines some of the key challenges and opportunities in relation to addressing family violence in rural, regional and remote communities. Many of these challenges are not unique to these communities—examples of poor or inadequate justice system responses, inaccessibility of necessary family violence services and fragmented governance structures are problems that have been raised statewide. However, the manifestation of these universal challenges in the context of the rural, regional and remote communities needs to be understood in order to develop truly effective responses.

This section outlines the rural, regional and remote communities' experience of the justice system (including police, courts and legal services) and limitations around existing services (including specialist family violence services and access to safe accommodation). The loss of momentum around regional governance frameworks is also discussed.

### The justice system

#### Victoria Police

The evidence before the Commission showed that, as was the case with all victims (see Chapter 14), the experiences of people from rural, regional and remote communities in relation to Victoria Police were varied.

Some referred to 'fantastic'<sup>121</sup> and 'exemplary'<sup>122</sup> officers and described their 'excellent experiences being looked after by concerned police officers'.<sup>123</sup> In the community consultations there was general praise for family violence police teams (units) in rural, regional and remote communities.<sup>124</sup>

On the other hand, some consultation participants suggested that Victoria Police officers in these communities either 'don't want to deal with family violence'<sup>125</sup> or hold outdated views on family violence. In consultations, the Commission was told that police were reluctant to act if there had been no physical assault.<sup>126</sup> Examples included police considering that text messages in breach of a family violence intervention order do not amount to family violence<sup>127</sup> or advising against reporting a breach of a family violence intervention order on a public holiday because of the impact on the perpetrator.<sup>128</sup> One survivor described the police as 'hopeless' and declared, 'I'll never go through them again'.<sup>129</sup>

The Federation of Community Legal Centres suggested that the closeness of people in rural, regional and remote communities may affect Victoria Police responses: '[T]here is often more empathy from the local police station towards the perpetrator rather than focussing on the safety needs of the women and children'.<sup>130</sup> Some even alleged collusion between perpetrators and police officers.<sup>131</sup>

Police resourcing was also the subject of comment. Ovens Murray Goulburn Integrated Family Violence Services suggested that there were insufficient police resources in rural, regional and remote communities to respond to family violence.<sup>132</sup> Geographic distance contributes to delays in police attendance, which can ultimately jeopardise safety. The Commission was told by Victorian Police that transporting victims of family violence to a safe place sometimes ties up a police vehicle and delays the response to other incidents.<sup>133</sup>

The Police Association Victoria argued that the current legislative requirement that family violence safety notices be issued by a Victoria Police officer of the rank of sergeant or higher was inflexible,<sup>134</sup> noting this was a particular problem in regional areas.<sup>135</sup>

## The courts

As in the pattern throughout Victoria, discussed in Chapter 16, concerns were expressed about the level of resources at courts servicing rural, regional and remote communities.

Although the establishment of the Family Violence Court Division of the Magistrates' Court of Victoria in Ballarat was welcomed, there was a general call for a greater number of specialist family violence courts.<sup>136</sup> The Commission heard from the Magistrates' Court of Victoria that it had endeavoured to spread best practice from the Family Violence Court Division more broadly—'across more courts, across regional and rural Victoria as well as suburban courts'.<sup>137</sup> The Centre for Rural Regional Law and Justice argued that dedicated family violence services should be extended to all headquarter courts in Victoria.<sup>138</sup>

There was concern about poor infrastructure at many courts in rural, regional and remote communities. Several submissions, consultation participants and witnesses pointed to serious safety shortcomings—for example, the lack of a secure waiting area for applicant victims or their children and in some cases, insufficient space to keep them apart from respondent perpetrators in general waiting areas.<sup>139</sup> The lack of privacy at the front counter of Magistrates' Courts was seen to be a particular difficulty in small communities.<sup>140</sup> One woman described her court experience in a regional town:

For me it was about the exposure in an open court with people walking in and out when you are distraught and frightened and them reading out your name. The entry area, where you're in a small community and see people you live and work with. When you're standing outside distraught and your name is called out over a PA system. May as well say 'whole of Geelong ...'<sup>141</sup>

Despite these limitations, some consultation participants reported positive experiences of court staff in rural, regional and remote communities. One person described court staff in such a community as 'brilliant'.<sup>142</sup>

The Goulburn Valley Community Legal Centre emphasised the difficulties experienced by lawyers trying to seek instructions from, and provide advice to, clients in some courts noting that interviews were 'conducted in the park or sometimes in the lawyer's vehicle if it is raining, leaving both client and lawyer vulnerable absent security'.<sup>143</sup>

The Commission was made aware of a variety of perspectives in relation to decision-making in rural, regional and remote communities. Some consultation participants praised the work of magistrates sitting in these communities;<sup>144</sup> others commented that members of the magistracy are trained in and sensitive to the nature of family violence.<sup>145</sup> As the Commission explores in Chapter 16, magistrates sitting in rural, regional and remote communities are more likely than most magistrates sitting in metropolitan Melbourne to deal with a range of issues arising from family violence.

In its submission, the Magistrates' Court of Victoria explained that:

All of our country Magistrates regularly do work in the family law area in terms of their professional development ... We regard this as an incredibly important part, particularly dealing with families who are experiencing family violence, in being able to make appropriate family law orders to promote their safety.<sup>146</sup>

It was, however, suggested that some magistrates might not be 'well versed in the latest thinking regarding family violence'<sup>147</sup> and that, with magistrates serving on a circuit, they might lack relevant local knowledge.<sup>148</sup> The result can be 'great variance' in outcomes,<sup>149</sup> some comparing it to a lottery as to both the magistrate hearing the matter and the ultimate outcome.<sup>150</sup>

The Centre for Rural Regional Law and Justice called for 'funded applicant and respondent workers in all rural regional courts'.<sup>151</sup>

## Legal services

The Commission heard there was limited availability of legal services for people attending court. Victoria Legal Aid argued it was not feasible for it to have an office in every large regional centre (such as Mildura), so it is unable to deliver duty lawyer services in these locations (including Mildura).<sup>152</sup> In some cases, community legal centres' servicing of regional centres has also been affected by funding uncertainty.<sup>153</sup>

The Commission was also told that, because of the smaller populations in rural, regional and remote communities, it was more common for conflicts of interest to arise. As Victoria Legal Aid or a community legal centre may have previously acted for the victim (or the perpetrator), that service cannot then act for the other party.<sup>154</sup> In some cases this can leave the other party without access to any legal services.

## Service systems

### Service challenges

It was submitted that there is a 'significant disparity in service availability and provision between metropolitan and [rural, regional and remote communities]'.<sup>155</sup> Relevant services might not be available in a particular community, or it might be necessary for people to travel considerable distances in order to gain access to the services.

The Commission heard that many services are under-resourced, especially if they have to cover a large geographic area, or victims or perpetrators present with a number of different needs. People might also need more than one service. One provider explained that coordinating and integrating the various service systems which a person needs can entail 'quite significant difficulties'.<sup>156</sup> The end result can be that some people are effectively denied access to relevant services. As one consultation participant put it, '[t]here are just no support services here'.<sup>157</sup>

Even where services are available, other complexities can arise in rural, regional and remote communities. Sometimes an organisation might provide a variety of services associated with family violence—such as women's specialist services and men's behaviour change programs—which can give rise to safety concerns when both victims and perpetrators attend the same location.<sup>158</sup>

The Commission heard that providing services in these communities is challenging. Indeed, 'considerable effort is needed to get new resources, training and projects into [rural, regional and remote communities]'.<sup>159</sup> It is also difficult for service providers to recruit and retain staff, as well as equip them with suitable training and exposure to new ideas.<sup>160</sup> Some providers feel 'over-stretched' and concerned at 'delivering less than an optimal service' and the 'cumulative trauma of the "lost opportunity" to intervene effectively', which has a direct impact on the 'safety and well-being of [their] staff'.<sup>161</sup>

The Commission heard that rural, regional and remote communities do not have sufficient trained specialist family violence workers.<sup>162</sup> The result is that many people do not have ready access to these services and even where such services exist, as the Department of Health and Human Services acknowledged during the public hearings, the 'wait lists are greater than what we would like'.<sup>163</sup> One victim noted, however, that despite the long wait, their local service provider was 'brilliant';<sup>164</sup> another said, '[w]ithout [them] I wouldn't be here'.<sup>165</sup>

Similarly, problems with access to men's behaviour change programs were described. Some men might be required to travel long distances to attend such programs,<sup>166</sup> and again, there are long waiting lists. For example, in one regional area there were 2000 potential referrals in nine months, but there were only 120 funded places for the year and the result was a waiting list of six months to two years.<sup>167</sup> The Commission also heard that there are particular difficulties in recruiting people who are qualified to run men's behaviour change programs.<sup>168</sup> The Commission considers this issue further in Chapter 18.



## Accommodation

The Commission was told of critical shortages in access to refuges and other accommodation options. It was said that in some major regional cities there is no refuge accommodation at all.<sup>169</sup> Service providers try to place people in local motels and caravan parks—'anywhere that we can find a bed'.<sup>170</sup> Some even spoke of resorting to putting people in tents.<sup>171</sup> An associated problem in some rural, regional and remote communities is that they are tourist destinations, which decreases the availability of accommodation and drives up costs.<sup>172</sup> Accordingly, Macedon Ranges Shire Council argued for more refuges in these communities.<sup>173</sup> At present victims are often sent to Melbourne in order to be kept safe.<sup>174</sup>

The Commission also heard that the demand for public and community housing in rural, regional and remote communities exceeds the available stock.<sup>175</sup> The situation was described as 'ridiculous' in one major regional city.<sup>176</sup> In the private market, although rental properties are relatively more affordable in rural, regional and remote communities, there are often fewer available.<sup>177</sup>

The Commission heard that this shortage of refuge and other accommodation caused considerable hardship for victims and their families seeking to escape violence in these communities. Some victims were forced out of their communities altogether because of these shortages.<sup>178</sup> Leaving their community can offer a measure of immediate safety, but it jeopardises victims' social and economic wellbeing, removes them from their natural supports, as well as having a broader impact on their family, friends and the wider community they have left.

As discussed, the evidence suggests that alcohol and drug misuse is more prevalent in rural, regional and remote communities.<sup>179</sup> Some argue this has a direct impact on levels of family violence in these communities.<sup>180</sup> There is also evidence of higher levels of psychological distress in such communities.<sup>181</sup> As described in Chapter 19, increasing the availability of these health services and their responsiveness to family violence, including the link between depression and other psychological impacts of family violence, is another important element in meeting the needs of rural, regional and remote communities.

## Building the capacity of universal services

Although the Commission was told that both universal and specialist services can be under-resourced in rural, regional and remote communities, it was emphasised that universal services are particularly crucial in responding to family violence for several reasons.<sup>182</sup> First, it was argued that there will never be enough funds to develop specialist services in every community.<sup>183</sup> Secondly, it was noted that victims who are seeking help will usually go to universal services, such as the local community health service.<sup>184</sup> As a result, it was said to be important to invest in developing the level of family violence expertise in universal services in these communities.

As a result of the often large geographic areas, as well as the structures and limited amounts of government funding, some service providers seek to partner with others, which can facilitate a multi-disciplinary response. Ms Ailsa Carr, Executive Manager, Family Youth and Children's Services Unit, Gippsland Lakes Community Health, gave evidence that, in order to service communities, maximise the available funding and engage a team of staff, some providers seek to combine various programs 'where there are synergies' into a package of programs that is 'able to better respond'.<sup>185</sup> Ms Carr argued that a flexible approach was preferable to simple centralisation: '[T]here's 200 kilometres between our agencies. So it's not logical to have people relocated to a single agency ... it's also not logical to have a single centre'.<sup>186</sup>

At Gippsland Lakes Community Health an integrated model of care has been developed, involving the provision of five different units of health services.<sup>187</sup> One of these units is the Family Youth and Children's Services unit, which aims to provide a holistic response to the various needs of individuals, families, young people and children<sup>188</sup> and offers numerous programs and services, including the following:

- ▷ Integrated Family Services and Child FIRST
- ▷ maternal and child health nursing
- ▷ family violence outreach
- ▷ a men's behaviour-change program
- ▷ women's and children's family violence counselling
- ▷ a youth pregnancy and parenting group



- ▷ alcohol and drug services
- ▷ homelessness programs
- ▷ youth programs.<sup>189</sup>

Individuals who go to Gippsland Lakes Community Health are subject to a comprehensive assessment, which includes a risk assessment. Those who are assessed as requiring multiple services are linked to the relevant services.<sup>190</sup> Ms Carr said her staff:

... also try and utilise the same approach in working with external agencies and use a case management type approach so that [they] can provide a coordinated multidisciplinary response.<sup>191</sup>

The Commission heard that a model of this nature enables workers to develop a good knowledge of services beyond their own,<sup>192</sup> which means they are better equipped to deal with the complexity and range of problems presented by people coming to universal services.

The Commission was also informed that local governments are generally one of the main employers in rural, regional and remote communities.<sup>193</sup> Local government is an important provider of services, contracts and funding. Many local governments with responsibility for these communities already have relevant plans and initiatives under way. Local governments—in their capacity as a service provider, employer, contractor and funder—can play an important role in both preventing and responding to family violence.

Similarly, in some communities, one or two private entities can also be major employers.

The Commission was told about current workplace initiatives in rural, regional and remote communities, including the Act at Work initiative<sup>194</sup> which aims to improve understanding of sexism, discrimination and violence against women, increase awareness of the impacts of such behaviours, and develop individuals' and workplaces' capacity to take action.<sup>195</sup> As a result of this initiative, the Commission heard workplaces have become more aware of violence against women, including family violence,<sup>196</sup> while early evaluation findings suggest an overall positive change in staff knowledge, skills, attitudes and willingness to be an active bystander.<sup>197</sup>

## **Governance arrangements**

The Commission heard about the existing governance arrangements to support integrated service delivery in rural, regional and remote communities: the regional integration committees.

### **Regional Integration Committees**

Historically, regional integration committees were established (supported by a chairperson and with leadership from a regional integration coordinator) with the aim of bringing together organisations from a range of different sectors to work locally to integrate and improve a region's response to family violence. Among the organisations that contributed representatives to the committees were specialist family violence services, men's behaviour change services, homelessness services, and representatives from Victoria Police, the courts, Corrections Victoria, Child Protection and/or the local Department of Health and Human Services office. In some cases the local coordinator of the Indigenous Family Violence Regional Action Group was also a representative. In rural, regional and remote communities, the scope of regional integration committees' membership and activity could be even broader.<sup>198</sup>

The committees and their coordinators were funded by the Department of Health and Human Services, receiving varying allocations of funding for distribution. The coordinators were employed by a local service provider, which could be either a specialist family violence service or other service provider. Within government, the Office of Women's Policy supported the committees by providing a statewide policy framework and coordination. The committees were also able to report back to the Office of Women's Policy.

The Commission heard that, although the regional integration committees still exist, the structures for the committees and the sense of whole-of-government support, coordination and relationship with the committees have been lost.<sup>199</sup> Witnesses said there was a need for statewide strategic planning and coordination, as well as measures to ensure consistency in purpose and role definition across committees.<sup>200</sup> While it was acknowledged that government had supported the development of a regional family violence integration governance model, the model's relevance to and adoption by various committees differed.<sup>201</sup>

The Commission also heard it was important for the regional integration committees, and the family violence sector more generally, to have a structure through which information could be exchanged with government, including clear and consistent statewide messages from government.<sup>202</sup> As Domestic Violence Victoria put it:

... for us as a peak body, if [we] want to go and talk to government about how the system is going there's nowhere to go to. [We] might go and talk to DHHS about what they are doing. [We] might go to police and talk about what they are doing. But in terms of anything that's working together or towards common objectives there's nowhere.<sup>203</sup>

During the public hearings the Victorian Government acknowledged this situation. Some of the departmental secretaries who gave evidence are involved in the government's regional management forums, which cover the state. Although the regional management forms are not family violence-specific, the departmental secretary who chairs the southern forum said that one of its priorities in 2015 was family violence, in terms of both prevention and local community awareness.<sup>204</sup> In the case of another forum, there have been occasions where there has been a session on family violence,<sup>205</sup> although these were 'very ad hoc'.<sup>206</sup> The Commission discusses these issues further in Chapter 38.

### **Structuring and funding services**

The Commission heard that there are significant problems with the way the Victorian Government structures and funds family violence-related activities, particularly in rural, regional and remote communities.

The Victoria Police and Department of Health and Human Services regions consist of several local government areas, which can create anomalies in terms of the location from which services are provided or to which people are referred.<sup>207</sup> For people requiring multiple services, this can aggravate the problem of being sent in multiple directions, as well as making it harder to share information and integrate services.

Many argued that 'one size does not fit all' when it comes to policies, programs, structures and funding.<sup>208</sup> For example, structures and funding arrangements based on models that have been suitable in metropolitan areas (for example, servicing a given population) are difficult to apply in rural, regional and remote communities (the relevant population being distributed across a larger area) and might not take account of the greater cost of delivering the same service in these communities.<sup>209</sup>

Working with the structures and the limited amount of government funding is not easy. Service providers have to be imaginative.<sup>210</sup> The great strength of these communities is that service providers in these areas 'know each other and have strong working relationships'.<sup>211</sup>

Some witnesses gave evidence that government structures and funding mechanisms can have a centralising effect, forcing services to integrate and relocate to larger cities or towns.<sup>212</sup> As a consequence, smaller communities can lose their local services, resulting in increased travel costs and longer waiting times to gain access to the services sought.

Among other criticisms was the argument that government approaches lack flexibility<sup>213</sup> and force administrative burdens onto providers who have to 'unpack' their different activities and services in order to separately report back to government in accordance with their various funding lines.<sup>214</sup> It was argued that services should instead be developed in partnership with local communities and service providers.<sup>215</sup>

## The way forward

People experiencing family violence in rural, regional and remote communities face particular challenges. These include geographical and social isolation, greater economic vulnerability, cultural factors and a lack of access to services. The shortage of behaviour change programs also means that perpetrators are unable to access the interventions they need to change their behaviour.

However, many of these communities also have a strong sense of social connectedness and community, which can be leveraged to prevent and respond to family violence. Shared community condemnation of family violence is more likely to be effective in these communities, where strong social bonds can work to help to influence and change behaviour. There is also great resilience in many of these communities and great potential to build on this.<sup>216</sup> The Commission was impressed by the plans and initiatives already under way in some of these communities. These developments give us hope that the prevalence of family violence in rural, regional and remote communities can be reduced and that the barriers that victims face in seeking safety and support can be overcome. This will require the combined commitment of all levels of government, service providers and the community.

In Chapter 38, we propose a Statewide Family Violence Action Plan. This strategy should take account of, and give priority attention to, the particular needs of those experiencing family violence in rural, regional and remote communities when formulating policies, planning, developing structures and allocating funding.

The following section describes the Commission's recommended approach to improving responses to family violence in rural, regional and remote communities, by better leveraging universal services (such as health services), harnessing technology and strengthening community responses through reinvigorated governance arrangements.

### Services

The Commission heard that the dispersed population and the long distances between population centres in rural, regional and remote communities means that in some areas specialist family violence services are only available on a part-time basis or if the victim has the ability to travel long distances. Unfortunately, often this results in an effective denial of service.

The Commission accepts that no matter how desirable it might be, ensuring that there are specialist family violence services in every rural, regional and remote community would be financially prohibitive. A little more of the same will only result in a little less effective denial of service. More effective strategies are needed for the delivery of specialist family violence services in these communities. For this reason, we recommend that universal services that already have good geographic coverage in these communities—such as health practitioners, child and maternal health services, hospitals, schools and other education providers—are supported to build their capacity to provide a specialist response to family violence. Many of these universal services are already deeply embedded in, and have a broad reach across, their communities. With support from people with relevant specialist knowledge, these services could build on their existing reputation and networks to improve outcomes in rural, regional and remote communities.

In Chapter 13, the Commission recommends the creation of new Support and Safety Hubs designed to improve access to services for victims and perpetrators of family violence. While in metropolitan Melbourne we anticipate that many will operate from a single location, some in the outer suburban areas not well-served by public transport and in rural, regional and remote communities will need to build on existing universal service infrastructure and significant outreach capacity. We note the examples outlined in this chapter of how this could be achieved. Universal and specialist service providers, together with government and other funders, will need to pursue collaboration, creativity and flexibility in order to improve access to services. The Commission notes that when partnerships and relationships between diverse service providers work well, these providers in rural, regional and remote communities often make a noticeable difference with limited resources.

In our view, working with both local government and strategically chosen private employers presents real opportunities to reach a large proportion of the population in rural, regional and remote communities, enabling these communities to be involved in prevention support activities.

## Governance structures

The Commission discusses the desirable elements of regional governance arrangements in Chapter 38. The Commission emphasises here, however, that any new regional governance arrangements, including the regional partnerships, should take account of the role of regional integration committees and the concerns noted in this chapter. Such arrangements will be critical in determining progress in preventing and responding to family violence in rural, regional and remote communities.

Any approach to structuring or funding local services must:

- ▷ consult and involve the relevant community in planning and delivery
- ▷ avoid duplication and 'siloing' of services, and unnecessary administration and reporting
- ▷ balance the need to share best practice information with the need to encourage innovation and services which are flexible enough to respond to local conditions
- ▷ facilitate multi-disciplinary partnerships between service providers.

The Commission notes the roles of various groups and services addressing family violence in Aboriginal communities. These include the Indigenous Family Violence Regional Action Groups, which consist primarily of members of the Aboriginal community, particularly Elders, and Aboriginal services working in the local area, together with associate members such as Victoria Police, DHHS staff and service providers.<sup>217</sup> These groups have an essential role in developing and reviewing initiatives designed to redress family violence in Aboriginal communities, including those in rural, regional and remote areas.

## Technology

Effective and strategic use of technology has the potential to assist in disseminating information and providing services to victims and communities. It can also facilitate effective communication and relationships between service providers, which assists in improving the safety and efficiency of justice and other service systems.

This potential is especially important for rural, regional and remote communities, but should not be regarded as a substitute for the need for face-to-face contact and support for those affected by family violence.

The Commission urges government and service providers to consider funding technological solutions to better meet the specific needs of these communities, as well as ensuring that communications technology infrastructure is in place to support this.

## Recommendation

The following recommendation should be read together with the general recommendations in 'Family violence and diversity'.

### Recommendation 182

The Victorian Government and other relevant parties, in designing the recommended Statewide Family Violence Action Plan and implementing the Commission's other recommendations:

- ▷ give priority to reducing family violence in rural, regional and remote communities
- ▷ improve access to services by victims and perpetrators of family violence in such communities
- ▷ investigate and fund the use of technological solutions to provide access to service providers—among them those with experience in safety planning and counselling
- ▷ when contracting for and funding services in these communities, recognise:
  - ▷ the importance of building the capacity of universal services to deliver family violence services in order to facilitate an effective, locally based response
  - ▷ the need for flexibility in contracting and funding arrangements in order to facilitate collaboration between different services and providers.

## Endnotes

- 1 See generally, Centre for Rural Regional Law and Justice—Deakin University, Submission 511; Gippsland Lakes Community Health, Submission 229; Mallee Family Violence Executive, Submission 617; Women’s Health and Wellbeing—Barwon South West Inc, Submission 780.
- 2 Australian Bureau of Statistics, ‘Regional Population Growth, Australia, 2013–14’ (Catalogue No 3218.0, Australian Bureau of Statistics, March 2015) Victoria. Regional means anything outside Greater Melbourne.
- 3 Ibid Population Estimates by Remoteness Area, 2004 to 2014, Table 1.
- 4 State of Victoria, ‘Victoria’s Regional Statement: Your Voice, Your Region, Your State’ (November 2015), 53–71.
- 5 Amanda George and Bridget Harris, ‘Landscapes of Violence: Women Surviving Family Violence in Regional and Rural Victoria’ (2014) 33–34.
- 6 State of Victoria, Submission 717, 15. See also Women’s Health in the South East Inc, Submission 370, 11. See also Chapter 3.
- 7 Victoria Police, Submission 923, 36.
- 8 See Chapters 3 and 39.
- 9 Centre for Rural Regional Law and Justice—Deakin University, Submission 511, 4 citing George and Harris, above n 5 and Russell Hogg and Kerry Carrington, *Policing the Rural Crisis* (Federation Press, 2006).
- 10 See, eg, Daniel Mulino and Harriet Shing—Members for Eastern Victoria Region, Submission 806, 1–2.
- 11 Ibid 2.
- 12 Anonymous, Submission 76, 6.
- 13 Anonymous, Submission 856, 10.
- 14 Transcript of Smith, 15 October 2015, 3757 [5]–[9]; Castlemaine District Community Health Ltd on behalf of Health and Community Services Sector—Mount Alexander Shire, Submission 211, 1; Centre for Rural Regional Law and Justice—Deakin University, Submission 511, 5; Mary-Anne Thomas—Member for Macedon, Submission 441, 3; Sharon Knight—Member for Wendouree, Submission 788, 1; Municipal Association of Victoria, Submission 641, 55; Anonymous, Submission 251, 5.
- 15 Community consultation, Traralgon, 13 May 2015; Cobaw Community Health, Submission 396, 5.
- 16 Community consultation, Bairnsdale, 28 May 2015.
- 17 Centre for Rural Regional Law and Justice—Deakin University, Submission 511, 5, citing George and Harris, above n 5.
- 18 Community consultation, Bairnsdale, 28 May 2015.
- 19 Anonymous, Submission 411, 2.
- 20 Community consultation, Horsham 2, 22 April 2015.
- 21 Anonymous, Submission 411, 1–2.
- 22 Sharon Knight—Member for Wendouree, Submission 788, 2.
- 23 Community consultation, Warrnambool 2, 27 April 2015.
- 24 Anonymous, Submission 976, 2.
- 25 Colac Area Health, Submission 599, 1.
- 26 Centre for Rural Regional Law and Justice—Deakin University, Submission 511, 29.
- 27 Anonymous, Submission 383, 1.
- 28 Daniel Mulino and Harriet Shing—Members for Eastern Victoria Region, Submission 806, 2.
- 29 Women’s Health and Wellbeing—Barwon South West Inc, Submission 780, 15.
- 30 Community consultation, Bendigo 1, 5 May 2015.
- 31 Anonymous, Submission 585, 2–3.
- 32 Federation of Community Legal Centres, Submission 958, 18.
- 33 Quantum Support Services Incorporated, Submission 371, 10.
- 34 Daniel Mulino and Harriet Shing—Members for Eastern Victoria Region, Submission 806, 2.
- 35 Macedon Ranges Shire Council, Submission 122, 1.
- 36 Australian Institute of Health and Welfare, ‘National Drug Strategy Household Survey: Detailed Report 2013’ (Drug Statistics Series No 28 Cat no PHE 183, Australian Institute of Health and Welfare, 2014) ix, 84, 86–9; Australian Institute of Health and Welfare, ‘Rural, Regional and Remote Health: Indicators of Health Status and Determinants of Health’ (Rural Health Series No 9, Australian Institute of Health and Welfare, March 2008) 31–6.
- 37 Anonymous, Submission 76, 6.
- 38 Central Goldfields Shire Council, Submission 498, 4; Women’s Health Loddon Mallee, Submission 772, 23; Women’s Health and Wellbeing—Barwon South West Inc, Submission 780, 16; Women’s Health Grampians, Submission 824, 8; Anonymous, Submission 403, 2.
- 39 Transcript of Brennan, 15 July 2015, 302 [22]–[25].
- 40 Victorian Council of Social Service, Submission 467, 51. See also Victoria Police, Submission 923, 36.
- 41 George and Harris, above n 5, 48.
- 42 Community consultation, Shepparton 1, 18 May 2015.
- 43 Community consultation, Melbourne 1, 24 April 2015.
- 44 Women’s Health and Wellbeing—Barwon South West Inc, Submission 780, 15, citing Alexandra Neame and Melanie Heenan, ‘Responding to Sexual Assault in Rural Communities’ (ACSSA Briefing No 3, Australian Centre for the Study of Sexual Assault, June 2004) 5.
- 45 Centre for Rural Regional Law and Justice—Deakin University, Submission 511, 40.
- 46 Ovens Murray Goulburn Integrated Family Violence Services, Submission 444, 4.
- 47 Ibid 13.
- 48 Centre for Rural Regional Law and Justice—Deakin University, Submission 511, 36. See also Echuca Regional Health, Submission 754, 3–4; Community consultation, Maryborough 2, 21 April 2015.
- 49 *Family Violence Protection Act 2008* (Vic) pt 10. See also Murray Mallee Community Legal Service, Submission 513, 7; Ovens Murray Goulburn Integrated Family Violence Services, Submission 444, 13.
- 50 Community consultation, Mildura, 2 July 2015.
- 51 Centre for Rural Regional Law and Justice—Deakin University, Submission 511, 36.
- 52 Federation of Community Legal Centres, Submission 958, 18.
- 53 State of Victoria, Submission 717, 15 citing George and Harris, above n 5.
- 54 Victoria Police, Submission 923, 36.
- 55 Community consultation, Melbourne, 30 April 2015; Community consultation, Traralgon, 13 May 2015.
- 56 Centre for Rural Regional Law and Justice—Deakin University, Submission 511, 31 quoting George and Harris, above n 5, 153; Goulburn Valley Community Legal Centre, Submission 495, 7; Quantum Support Services Incorporated, Submission 371, 10.
- 57 Centre for Rural Regional Law and Justice—Deakin University, Submission 511, Attachment 1, 55.
- 58 Community consultation, Shepparton 1, 18 May 2015.
- 59 Centre for Rural Regional Law and Justice—Deakin University, Submission 511, Attachment 1, 57.
- 60 *Family Violence Protection Act 2008* (Vic) ss 81(2)(h), 95. In certain circumstances, a firearm can also be seized: ss 160(2)(b)(ii), 163.

61 Centre for Rural Regional Law and Justice—Deakin University, Submission 511, Attachment 1, 99–100.

62 Mallee Family Violence Executive, Submission 617, 17; Women’s Health Goulburn North East, Submission 367, 6; Women’s Health Grampians, Submission 824, 8; Women’s Health Loddon Mallee, Submission 772, 22; Women’s Health in the North, Submission 637, 29; Community consultation, Traralgon, 13 May 2015.

63 Chris Laming, Submission 658, 5.

64 Women’s Health Goulburn North East, Submission 367, 6. See also, Women’s Health in the North, Submission 637, 29.

65 Women’s Health Loddon Mallee, Submission 772, 4.

66 State-wide Children’s Resource Program, Submission 126, 1; Community consultation, Bendigo 2, 5 May 2015; Community consultation, Echuca 2, 7 May 2015; Community consultation, Traralgon, 13 May 2015. On children and young people, see generally Chapter 10.

67 Community consultation, Bendigo 2, 5 May 2015.

68 Anonymous, Submission 76, 6.

69 See, eg, *Crimes Act 1958* (Vic) s 464E.

70 Transcript of Allen, 11 August 2015, 2684 [13]–[17].

71 Community consultation, Traralgon, 13 May 2015.

72 Community consultation, Echuca 2, 7 May 2015. See generally, Chapter 23.

73 Community consultation, Traralgon, 13 May 2015.

74 Transcript of Blakey, 11 August 2015, 2601 [13]–[16].

75 Community consultation, Shepparton 1, 18 May 2015.

76 Community consultation, Shepparton 2, 18 May 2015.

77 Aboriginal Family Violence Prevention and Legal Service Victoria, Submission 941, 43.

78 *Ibid* 18.

79 Transcript of Avdibegovic, 11 August 2015, 2653 [19]–[22]. See, eg, The Federation of Chinese Associations Vic, Submission 774, 5–6. See also Chapter 28.

80 Barwon Community Legal Service, Submission 535, 4; Centre for Rural Regional Law and Justice—Deakin University, Submission 511, 23; Quantum Support Services Incorporated, Submission 371, 10.

81 Community consultation, Richmond, 1 May 2015.

82 InTouch Multicultural Centre Against Family Violence, Submission 612, 51.

83 *Ibid*.

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86 Gay and Lesbian Health Victoria; Australian Research Centre in Sex, Health and Society—La Trobe University, Submission 821, 12; Victorian Gay & Lesbian Rights Lobby, Submission 684, 7. On LGBTI communities, see generally Chapter 30.

87 Gay and Lesbian Health Victoria; Australian Research Centre in Sex, Health and Society—La Trobe University, Submission 821, 4.

88 Transcript of Brown, 11 August 2015, 2542 [11]–[16]; Victorian Gay & Lesbian Rights Lobby, Submission 684, 7.

89 Rainbow Families Council, Submission 865, 3.

90 Transcript of Taft, 13 October 2015, 3459 [4]–[6]; Community consultation, Benalla 2, 19 May 2015.

91 Community consultation, Geelong 2, 28 April 2015.

92 Community consultation, Melbourne, 6 May 2015.

93 Benalla Family Violence Prevention Network, Submission 131, 1.

94 Goulburn Valley Family Violence Prevention Network, Submission 801, 1.

95 Grampians Integrated Family Violence Committee, Submission 399, 2.

96 Statement of Higgins, 7 August 2015; Transcript of Higgins, 10 August 2015, 2486 [29]–2505 [31]; Maryborough Rotary Club, Submission 133.

97 See, eg, Benalla Family Violence Prevention Network, Submission 131, 8; Goulburn Valley Family Violence Prevention Network, Submission 801, 2.

98 Benalla Family Violence Prevention Network, Submission 131, 9.

99 Statement of Higgins, 7 August 2015, 9 [35]; Goulburn Valley Family Violence Prevention Network, Submission 801, 2.

100 Statement of Higgins, 7 August 2015, 9 [35]; Goulburn Valley Family Violence Prevention Network, Submission 801, 1.

101 Goulburn Valley Family Violence Prevention Network, Submission 801, 1.

102 Statement of Higgins, 7 August 2015, 6 [38]–[39].

103 Benalla Family Violence Prevention Network, Submission 131, 9.

104 Goulburn Valley Family Violence Prevention Network, Submission 801, 1–2.

105 Statement of Higgins, 7 August 2015, 5 [36].

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108 Our Watch—02, Submission 922, 18–19.

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110 Berry Street, Submission 834, 44.

111 InTouch Multicultural Centre Against Family Violence, Submission 612, 51.

112 Transcript of Renkin, 12 October 2015, 3298 [26]–[28].

113 Centre for Rural Regional Law and Justice—Deakin University, Submission 511, 38.

114 Community consultation, Bendigo 2, 5 May 2015; Centre for Rural Regional Law and Justice—Deakin University, Submission 511, 4, 17; Court Services Victoria, Submission 646, 11.

115 Commission for Children and Young People, Submission 790, 19 citing George and Harris, above n 5.

116 Centre for Rural Regional Law and Justice—Deakin University, Submission 511, 23.

117 Transcript of Carr, 13 August 2015, 3021 [10]–[15]; Transcript of Mahoney, 23 July 2015, 1392 [25]–[29].

118 Community consultation, Traralgon, 13 May 2015.

119 Community consultation, Echuca 2, 7 May 2015.

120 Community consultation, Warrnambool 2, 27 April 2015.

121 Community consultation, Sale, 12 May 2015.

122 Centre for Rural Regional Law and Justice—Deakin University, Submission 511, 7.

123 Anonymous, Submission 416, 1.

124 Community consultation, Warrnambool 2, 27 April 2015; Community consultation, Geelong 1, 28 April 2015; Community consultation, Mildura, 2 July 2015; Community consultation, Melbourne, 6 May 2015.

125 Community consultation, Echuca 1, 7 May 2015.

126 Community consultation, Maryborough 1, 21 April 2015; Community consultation, Bendigo 1, 5 May 2015.

127 Confidential, Submission 4.

128 Confidential, Submission 283.



129 Community consultation, Melbourne, 6 May 2015.

130 Federation of Community Legal Centres, Submission 958, 18.

131 Confidential, Submission 594.

132 Owens Murray Goulburn Integrated Family Violence Services, Submission 444, 4.

133 Community consultation, Maryborough 2, 21 April 2015.

134 *Family Violence Protection Act 2008* (Vic) s 26.

135 The Police Association Victoria, Submission 636, 28.

136 Macedon Ranges Shire Council, Submission 122, 2. See generally Chapter 16.

137 Transcript of Hawkins, 4 August 2015, 1857 [19]–[24].

138 Centre for Rural Regional Law and Justice—Deakin University, Submission 511, 10.

139 Community consultation, Maryborough 2, 21 April 2015; Community consultation, Traralgon, 13 May 2015; Statement of Carr, 8 July 2015, 5 [26]; Transcript of Atmore, 5 August 2015, 1931 [20]–[21]; Transcript of Casey, 4 August 2015, 1780 [24]–[25]; Court Services Victoria, Submission 646, 11; Goulburn Valley Community Legal Centre, Submission 495, 5.

140 Centre for Rural Regional Law and Justice—Deakin University, Submission 511, 17.

141 Community consultation, Geelong 1, 28 April 2015.

142 Community consultation, Maryborough 1, 21 April 2015.

143 Goulburn Valley Community Legal Centre, Submission 495, 6.

144 Community consultation, Melbourne, 6 May 2015.

145 Gippsland Community Legal Service, Submission 443, 9.

146 Transcript of Broughton, 5 August 2015, 1967 [26]–1968 [2].

147 Statement of Carr, 8 July 2015, 5 [26].

148 Quantum Support Services Incorporated, Submission 371, 12.

149 *Ibid.*

150 Statement of Carr, 8 July 2015, 5 [26]; Gippsland Lakes Community Health, Submission 229, 4; Community consultation, Melbourne, 6 May 2015.

151 Centre for Rural Regional Law and Justice—Deakin University, Submission 511, 19.

152 Victoria Legal Aid, Submission 919, 22.

153 *Ibid.*

154 Community consultation, Werribee 1, 11 May 2015; Barwon Community Legal Service, Submission 535, 4; Central Highlands Community Legal Centre Inc, Submission 463, 2; Centre for Rural Regional Law and Justice—Deakin University, Submission 511, 12; Federation of Community Legal Centres, Submission 958, 7.

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156 Transcript of Smith, 15 October 2015, 3756 [27].

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169 Statement of Doody, 20 July 2015, 3 [13].

170 *Ibid.* 3 [14].

171 Statement of Kirby, 10 August 2015, 13 [53].

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173 Macedon Ranges Shire Council, Submission 122, 2.

174 Community consultation, Horsham 2, 22 April 2015.

175 Statement of Kirby, 10 August 2015, 13 [53].

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177 Council to Homeless Persons, Submission 920, 16.

178 Women's Health Loddon Mallee, Submission 772, 23; *ibid.*

179 Campaspe Primary Care Partnership, Submission 802, 2–3.

180 Anonymous, Submission 76, 2.

181 Quantum Support Services Incorporated, Submission 371, 5.

182 Community consultation, Traralgon, 13 May 2015.

183 Transcript of Carr, 13 August 2015, 3026 [14]–[17].

184 *Ibid.* 3027 [5]–[6].

185 *Ibid.* 2999 [13]–[17], [26]–[31].

186 *Ibid.* 3021 [5]–[9].

187 Statement of Carr, 8 July 2015, 2 [14].

188 *Ibid.* 3 [15].

189 *Ibid.* 3 [16].

190 *Ibid.* 3 [17].

191 Transcript of Carr, 14 July 2015, 230 [7]–[10].

192 Statement of Carr, 8 July 2015, 3 [18].

193 City of Greater Bendigo, Submission 763, 5.

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196 Statement of Brandenburg, 21 July 2015, 10 [47].

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- 202 Transcript of Smith, 15 October 2015, 3737 [15]–[19]; Transcript of Campbell, 15 October 2015, 3738 [22]–[27].
- 203 Transcript of McCormack, 15 October 2015, 3739 [22]–[27].
- 204 Transcript of Callister, 16 October 2015, 3886 [24]–[30].
- 205 Transcript of Peake, 16 October 2015, 3878 [12]–[13].
- 206 Ibid 3878 [15].
- 207 Transcript of Smith, 15 October 2015, 3756 [1]–[6]; Community consultation, Maryborough 2, 21 April 2015; Ovens Murray Goulburn Integrated Family Violence Services, Submission 444, 4.
- 208 Benalla Family Violence Prevention Network, Submission 131, 4; Grampians Community Health, Submission 520, 14; North Central Victoria Family Services Alliance, Submission 624, 2; Quantum Support Services Incorporated, Submission 371, 11, 15.
- 209 Quantum Support Services Incorporated, Submission 371, 9.
- 210 Community consultation, Echuca 2, 7 May 2015.
- 211 Community consultation, Warrnambool 2, 27 April 2015.
- 212 Statement of Carr, 8 July 2015, 4 [20]; Statement of Doody, 20 July 2015, 8 [40].
- 213 Statement of Carr, 8 July 2015, 5 [25]; Gippsland Lakes Community Health, Submission 229, 4.
- 214 Transcript of Carr, 13 August 2015, 2999 [26]–3000 [4].
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# 34 Women in prison

## Introduction

The Royal Commission's terms of reference require it to consider the needs and experiences of people affected by family violence, having particular regard to people in diverse communities.<sup>1</sup> Although women in prison are not specifically named, the Commission has chosen to consider them specifically because they are often marginalised, may include a disproportionate number of women from specific communities, and have a particular experience of family violence. In view of their different circumstances and needs, they warrant particular policy and practice interventions to facilitate access to supports and services.

Evidence presented to the Commission suggests that family violence looms large in the childhood and early years of many of these women and might disproportionately affect them in their adult life. Some women in prison might have committed offences as a result of a history of childhood violence or other trauma; some might have committed offences because they were pressured to do so by a violent partner; some might be pursued by a violent partner while they are in prison or might be at risk of violence when they leave prison. Women in these situations need support while they are in prison, to help them overcome the effects of past trauma and avoid re-offending. They might also need risk assessment and management to protect them from violence after their release. In addition, many women in prison face challenges in obtaining support before, during and after family violence. This can have serious consequences for their health and wellbeing, can impede their recovery from violence, and can lead to further criminalisation.

The Commission acknowledges the complexity of the lived experience of these women and the importance of avoiding categorising their identities and experiences. Evidence tells us that women in prison have often experienced social and economic disadvantage, and the intersection between these forms of inequality and family violence can have severe effects on their health, wellbeing and long-term recovery and can contribute to some of them re-offending.

The first section of this chapter describes women's patterns of offending and the policies and practices of Corrections Victoria in relation to family violence. The Commission was informed that Corrections Victoria has to date not collected data on the number of women prisoners who have experienced family violence but that new policies and documents outlining practical initiatives have recently been developed. This section also discusses how family violence can be a contributing factor to women committing offences and outlines current initiatives aimed at alleviating the effects of family violence on female prisoners.

The second section of this chapter discusses the experiences of female prisoners who have been victims of family violence and considers how these experiences can make it more difficult for women to re-integrate into the community after they are released.

In the final section of this chapter, the Commission makes recommendations aimed at helping to identify female victims of family violence in the corrections system and providing intensive practical and therapeutic support to meet their needs. The purpose of the recommendations is to improve the treatment of marginalised women and to ensure that, as victims of family violence, they receive the same access to support as other victims of family violence and that such support reflects the complexity of their experiences.

## Context and current practice

Evidence, research and submissions the Commission examined show that women in prison have experienced family violence at much higher rates than women in the rest of the community. This section discusses what is currently known about the population of women prisoners in Victoria and how Corrections Victoria assesses their needs. The chapter then examines how family violence can be a contributing factor to women committing offences and outlines current initiatives to mitigate the effects of family violence on women who have been imprisoned.

## Female prisoners

In Victoria there are two female-only prisons—the Dame Phyllis Frost Centre and Tarrengower Prison. As at 30 June 2015 these two institutions had a combined operational capacity of 468 prisoners.<sup>2</sup>

The Australian Institute of Criminology observes that women's pathways to and patterns of offending are very different from those of males.<sup>3</sup> Although the research results vary slightly, when compared with men Australian women tend to commit fewer and less violent crimes—for example, drug offences, fraud and property theft.<sup>4</sup> They also have shorter average periods of imprisonment but have more frequent periods in prison.<sup>5</sup> In addition, women offenders have higher levels of previous victimisation, poor mental health and serious mental illness, substance misuse, and unemployment and low educational attainment.<sup>6</sup>

## Family violence-related policy and practice: Corrections Victoria

In 2005 Corrections Victoria developed *Better Pathways: An Integrated Response to Women's Offending and Reoffending* with a view to meeting the needs of some women who are at risk of offending and re-offending—including women affected by family violence, mental ill-health, substance abuse, and lack of employment and housing.<sup>7</sup>

The 2014 Corrections Victoria document entitled *Standards for the Management of Women Prisoners in Victoria* establishes the minimum requirements for correctional services in Victorian prisons for women.<sup>8</sup> It also describes a range of services and supportive interventions designed to prepare prisoners for release and promote integration and reduce re-offending;<sup>9</sup> one element of this is access to specialist family violence and sexual assault services.<sup>10</sup>

The standards document establishes that 'survivors of sexual, physical and/or emotional abuse are provided with specialist counselling, advocacy and support services by an approved community-based agency to assist them in the recovery process and reduce the risk of perpetuating cycles of abuse and reoffending'. This occurs while in prison and after release. In the case of family violence victims, other services are provided, where practical, to respond to unmet needs relating to female prisoners' experiences of family violence.<sup>11</sup>

In 2015 Corrections Victoria produced its major family violence-related policy document, the *Family Violence Policy Framework*, which outlines the organisation's response and commitment to contributing to the broader work being done in relation to family violence in Victoria.<sup>12</sup> It also issued its Family Violence Service Reform Strategy, which covers all prisons and community corrections and includes identification of perpetrators, delivery of targeted family violence programs and services to perpetrators, support for victims of family violence, cultural and attitudinal change through education, and the need to work with other systems.<sup>13</sup>

The 2015 *Corrections Victoria Reintegration Pathway* document sets out the service delivery model for the re-integration pathway for prisoners, through entry, sentence stage, pre-release and post-release. It states:

The CV Reintegration Pathway provides general and targeted transitional activities at each stage that aim to build on achievements and interventions of previous stages. In accordance with evidence and best practice, transitional activities commence on entry and continue throughout a prisoner's correctional episode. The service will operate as a hybrid model combining internal Corrections Victoria services with contracted services delivered by Community Service Organisations.<sup>14</sup>

The Commission notes Corrections Victoria's transition programs—Reception Transition Triage, Case Planning Transition and the General Pre-Release Program. These deal with transitional needs, from entry into prison to pre-release, in combination with support from external services and agencies.<sup>15</sup>

The Commission was informed that about 560 Community Correctional Services staff members were trained in the use of the Victorian Family Violence Risk Assessment and Risk Management Framework (also known as the Common Risk Assessment Framework or the CRAF) between 2009–2010 and 2013–2014 and that training continues.<sup>16</sup>

In connection with identifying women who have experienced or are experiencing family violence, the Commission was informed that when an offender enters prison Corrections Victoria uses the following assessment tools to determine the general risk of re-offending as well as intervention needs:

- ▷ *The Level of Service Inventory—Revised: Screening Version (LSI-R: SV)*. This is administered as part of the classification process, within 14 days of sentencing or a sentenced prisoner's reception into prison custody.
- ▷ *The Level of Service/Risk, Need, Responsivity (LS/RNR)*. This is administered within six weeks of completion of the LSI-R: SV; it is for prisoners assessed as medium and high-risk who have six or more months remaining on their sentence.<sup>17</sup>

The *Sentence Management Manual—Level of Service (LS) Assessment Tools* states that the LS/RNR is an instrument in which static risks and dynamic (criminogenic) needs are combined to produce an overall assessment of offender risk.<sup>18</sup> It allows the interviewer to record whether the prisoner discloses that they are a 'victim of family violence' and whether it is 'past, current, physical, sexual, emotional, neglect'.<sup>19</sup>

In response to a request for information on the total number of prisoners for which a history of family violence is flagged or noted, Corrections Victoria said that data is not collected on family violence victim status of prisoners or offenders.<sup>20</sup>

## Family violence and the criminalisation of women

Provocative though it may be, the question then becomes to what extent Victoria would need a women's prison were it not for its epidemic of family violence.<sup>21</sup>

The trauma associated with family violence can be a contributing factor to criminal offending, can exacerbate the trauma of being imprisoned, and can make it difficult to re-integrate into the community on release.<sup>22</sup>

Evidence that family violence frequently features in the lives of women in prison was presented to the Commission. Women in prison report substantially higher rates of victimisation, physical and sexual abuse and family violence than in the rest of the community.<sup>23</sup> Although some women are incarcerated for violence-related offences, it is important to stress that female offenders experience higher rates of victimisation than male offenders.<sup>24</sup> The Commission's consultations with female offenders revealed that a substantial majority of these women had experienced family violence either as children or from their intimate partners, and sometimes both.<sup>25</sup>

Caraniche, a Victoria-based psychological consulting firm that delivers forensic drug, alcohol, violence prevention and rehabilitation services in prisons and corrections systems, estimates that more than 70 per cent of its female clients were exposed to family violence as a child and as an adult. This is substantially higher than the rate for its male clients.<sup>26</sup> It also noted, however, that the availability of quality data on the prevalence of family violence in offender populations and on the effect of family violence on criminal offending is limited.<sup>27</sup>

An Australian Institute of Criminology study found that 78 per cent of female offenders ( $n=470$ ) who were incarcerated in 2003 reported experiencing emotional, sexual or physical abuse as an adult and that the primary perpetrators of emotional and physical abuse were spouses or partners.<sup>28</sup>

As part of their submission, the Mental Health Legal Centre, Inside Access and the Centre for Innovative Justice analysed 50 civil matter case files from women at the Dame Phyllis Frost Centre who sought legal assistance from the prison's Inside Access program. Of the 50 randomly selected case files, family violence was a factor in 44 per cent of cases.<sup>29</sup>

This is not to say that all family violence victims become criminal offenders: rather, the effects of family violence can contribute to victims committing offences.<sup>30</sup> For some women, it is their only option for leaving violence. Other victims experience multiple layers of disadvantage that can contribute to their offending. Caraniche clinicians estimate that 40 per cent of female offenders also use violence in the home, often against their children.<sup>31</sup>

The Commission's discussions with women in prison highlighted the lengths to which some women go for safety from family violence because of the inadequacy of the options they perceive they have outside prison. One woman who had lived in a violent relationship, and who offended to protect a friend from her violent partner, said, 'The only way it stopped with my partner was when I came to jail'.<sup>32</sup>

The Australian Centre for the Study of Sexual Assault has noted that women can react violently after long-term exposure to intimate partner violence or sexual abuse, or both, especially when children are at risk.<sup>33</sup> The Commission notes the evidence that violence by women is more likely to be motivated by self-defence and fear of the (male) primary aggressor.<sup>34</sup>

I thought 'No, I'll change myself' to provoke my partner less. I had to not voice anything to aggravate him. I did that for many years but if you hold your opinions in, it's a heavy burden and it pushes you down. You say enough is enough. He stood in front of the door. I had to take a knife and put it under the bed. He woke me that morning and I said 'Please don't wake the kids up, let's drive somewhere.' I said 'It won't end unless one of us dies.' The police came (he called them), they found the knife and the tables turned. I was the one threatening him. I decided never to get the law involved again.<sup>35</sup>

The profile of Aboriginal and Torres Strait Islander women is striking: they are over-represented in the prison system and there is a strong correlation between their experience of family violence and their incarceration.<sup>36</sup> In 2013 research conducted by the Victorian Equal Opportunity and Human Rights Commission found that Koori women who enter prison are likely to re-enter the criminal justice system 'on multiple occasions, often for relatively short periods ...'<sup>37</sup> The report notes the lack of pre-prison diversionary options and post-release support compared to that provided to men.<sup>38</sup> VEOHRC added:

Family violence and other stressors manifest across the life cycle, and across generations. This cycle is typified by periods in prison, which entrenches trauma, family breakdown, contact with child protection and out-of-home care systems, homelessness, family violence, substance misuse and mental health episodes. Our research found that these inform further contact with the criminal justice system, post-release breakdown, reoffending and reimprisonment.<sup>39</sup>

The Mental Health Legal Service, Inside Access and the Centre for Innovative Justice submitted that, generally, women who have experienced the effects of family violence are likely to re-offend on release and that the likelihood is heightened by factors such as mental ill-health, low educational attainment and employment, drug and alcohol abuse and homelessness.<sup>40</sup>

The intersection of social exclusion and multiple forms of discrimination and disadvantage means that for some women the experience of family violence and its effects is exacerbated. The Australian Centre for the Study of Sexual Assault has noted that women entering prison have often experienced extreme disadvantage, and many of the outcomes they experience (such as mental ill-health, reduced socio-economic status and substance abuse) are related to their experience of violence.<sup>41</sup>

## Addressing the effects of family violence on criminalised women

### Corrections Victoria

The Commissioner of Corrections Victoria, Department of Justice and Regulation, Ms Jan Shuard, stated in evidence that one of Corrections Victoria's strategic objectives is to support prisoners and offenders who are victims of family violence.<sup>42</sup> She said Corrections Victoria recognises that a high proportion of female prisoners and offenders are victims of family violence and that supporting victims must take into account their previous victimisation and trauma.<sup>43</sup> She noted in addition:

Identifying and supporting victims of family violence is fundamentally different from identifying and treating perpetrators. Appropriate supports must be in place in the event that a female prisoner chooses to disclose that she is a victim and seek assistance.<sup>44</sup>

Commissioner Shuard told the Royal Commission that Corrections Victoria is considering a number of options, among them the following:

- ▷ targeting transitional housing for victims of family violence who are leaving prison and might be returning to an environment where their safety is at risk
- ▷ strengthening Community Correctional Services case-management resources to include referral to family violence-related services
- ▷ providing training to all Corrections Victoria staff, to improve their understanding of family violence.<sup>45</sup>

Corrections Victoria's Family Violence Reform Strategy, released in December 2015, states that the organisation will also be doing the following:

- ▷ developing a new women's policy to guide future program and service delivery in the women's correctional system
- ▷ piloting a family support program in prisons and Community Correctional Services that aims to build family connectedness
- ▷ increasing support for Aboriginal victims of family violence who are in prison
- ▷ reviewing all Community Correctional Services and prison-based programs delivered to women with a view to including family violence components
- ▷ developing culturally specific family violence awareness programs.<sup>46</sup>

The Commission understands that Corrections Victoria also facilitates the provision of family violence services to victims of family violence in prison, including through the following organisations:<sup>47</sup>

- ▷ Inside Access and the Aboriginal Family Violence Prevention and Legal Service Victoria, which provide legal assistance<sup>48</sup>
- ▷ West CASA and Loddon Campaspe CASA, which deliver sexual assault counselling, advocacy and support services such as individual and group counselling.<sup>49</sup>

Corrections Victoria informed the Commission that between 1 July 2012 and March 2015 a total of 429 counselling sessions were conducted by West CASA and Loddon Campaspe CASA at the Dame Phyllis Frost Centre and Tarrengower Prison.<sup>50</sup> Corrections Victoria informed the Commission that sexual assault counselling is available to women on remand and sentence.<sup>51</sup>

In addition to learning of the Corrections Victoria initiatives, the Commission received a number of submissions detailing programs that might help women avoid prison and also help those in prison who have experienced family violence. Caraniche suggested that imprisonment can present a timely opportunity for women to reconsider the nature and quality of their relationships, link up with support services, and build community networks in preparation for their release.<sup>52</sup> The Commission understands that while family violence-specific or related programs may not be readily available for prisoners on remand, Corrections Victoria is looking to implement programs for remand prisoners in the future.<sup>53</sup>

## The Women and Mentoring Program

The Women and Mentoring Program Limited is a community-based mentoring program operating in a small number of areas of Melbourne for women who have been charged with criminal offences. The program offers personal and practical assistance to participants, over 70 per cent of whom have experienced some form of family violence.<sup>54</sup> Of the 37 participants the program has helped to date, 97 per cent have avoided a custodial sentence and 95 per cent have not re-offended.<sup>55</sup>

## Out of the Dark

In 2009 Corrections Victoria engaged Melbourne City Mission to deliver the Out of the Dark family violence program at the Dame Phyllis Frost Centre.<sup>56</sup> Developed by the New South Wales Department of Corrective Services, the program now runs at both women's prisons in Victoria; to date, 163 women have completed the program.<sup>57</sup> The Commission was told that the existing arrangements with Melbourne City Mission have been extended from 1 July 2015 to 30 June 2016.<sup>58</sup>

The program runs 10 sessions over five weeks and relies on a psycho-educational model that supports women in identifying different forms of abuse, distinguishing between healthy and unhealthy relationships, understanding the effects of violence on children, and learning about family violence and the law.<sup>59</sup> Women are helped to 'develop strategies for moving forward'.<sup>60</sup> Program participants told the Commission about the program's benefits:<sup>61</sup>

The Out of Dark program helped me understand where the violence came from and the different types of violence there are.<sup>62</sup>

I'm back here for the second time. I breached my bail conditions. I saw my ex. He was my co-accused. I was in a violent relationship with my ex, and the one before that was violent too. He's got my kids. My daughter is seven and my son is four. I haven't had them for four years. The father is a morph addict. I tried to hang myself. Out of the Dark helped me a lot.<sup>63</sup>

Melbourne City Mission told the Commission, however, that it is unable to meet the demand for the program because of the number of referrals from another of its programs, Family Support; services in prisons and self-referrals. It submitted that funding should be provided to double the current capacity of the program at the Dame Phyllis Frost and Tarrengower facilities.<sup>64</sup> The Commission for Children and Young People submitted that the program should be adapted and implemented in other custodial settings.<sup>65</sup>

The Aboriginal Family Violence Prevention and Legal Service Victoria noted the importance of culturally safe, holistic services for imprisoned Aboriginal victims of family violence.<sup>66</sup> In view of the high proportion of Aboriginal mothers who are in prison, it also called for culturally appropriate, child-friendly facilities and policies in women's prison facilities so that women can care for or meet up with their children.<sup>67</sup> The Commission notes that through the implementation of the Cultural Wrap Around Model, Corrections Victoria will aim to reduce the risk of Aboriginal re-offending by strengthening the interface between cultural programs and mainstream offending behaviour programs.<sup>68</sup>

## Challenges and opportunities

### Experiences in prison

As noted earlier, the Commission was informed of Corrections Victoria's assessment tools to determine the risk of re-offending and intervention needs—the LSI-R: SV, and the LS/RNR.<sup>69</sup>

The Victorian Government submitted that, while the primary focus of Corrections Victoria is perpetrators, there is an increasing need for assessing whether female prisoners are victims of family violence and how this might have contributed to their offending.<sup>70</sup> It was submitted that further work is needed to identify victims of family violence when they enter the corrections system and to determine how they can be better supported while in prison and how services can be better linked up to support them once they are released.<sup>71</sup>



The Federation of Community Legal Centres argued that Corrections Victoria should conduct routine assessments of women prisoners in order to identify any history or risk of family violence and provide referrals to therapeutic and legal services.<sup>72</sup> The Mental Health Legal Centre, Inside Access and the Centre for Innovative Justice agreed that women in custody who have experienced or are at risk of being exposed to family violence must be identified as early as possible in their period of incarceration, so as to guide service provision and case management.<sup>73</sup>

Once in the prison system, women who are victims of family violence face additional barriers in their everyday living. For example, the Commission was informed about the retraumatising effects prison can have for victims of family violence—for example, through strip searching:<sup>74</sup> ‘strip searches perpetuate cycles of control, submission and humiliation—similar to the function of violent and abusive behaviour in the family.’<sup>75</sup>

For some, however, prison offered respite and was a positive circuit-breaker in the violence and trauma of their lives:<sup>76</sup>

Women who have suffered family violence who are incarcerated find that by committing a crime, they are finally provided with a safe haven. They are finally away from their abusers and they have a place to stay and three meals a day.<sup>77</sup>

One woman who had experienced extensive childhood violence and then severe and protracted intimate partner violence before ending up committing an act of violence herself described the experience of prison in very positive terms:

A year ago I came to prison scared, shattered and angry. But I want to say—this is the best thing that ever happened to me. It gave me the time I needed to reflect on my life and on why I ended up in prison and how could I change.<sup>78</sup>

The Mental Health Legal Centre, Inside Access and the Centre for Innovative Justice did, however, express concern that women might still not be safe from abusive partners while in prison.<sup>79</sup> They described a situation in which a female client in prison continued to receive letters from her ex-partner, despite the existence of an intervention order.<sup>80</sup>

In evidence, Corrections Victoria outlined its processes for preventing family violence perpetrators from having contact with female prisoners in contravention of an intervention order. Its approach involves approved contact monitoring and visiting lists, prisoner phone call detection, and intervention order information that can be entered into the Corrections Intelligence Unit database, Centurion.<sup>81</sup> Corrections Victoria noted that a joint project with Victoria Police will allow employees in both systems access to up-to-date intervention order information on prisoners and offenders in the Corrections Victoria system.<sup>82</sup>

The Commission also heard arguments that the prison environment is not therapeutic and does not aid recovery.<sup>83</sup> Flat Out Inc., for example, called for the Victorian Government to curb the number of female prisoners and reduce the harm of imprisonment and for state and federal governments to fund and expand specialist services in the community.<sup>84</sup> The Victorian Equal Opportunity and Human Rights Commission report noted that for Koori women involved in the research:

Rather than rehabilitating the women or tackling the factors contributing to their offending, imprisonment of these women further damaged the protective factors that might have prevented reoffending.<sup>85</sup>

For many women, incarceration means separation from their children. The Mental Health Legal Centre, Inside Access and the Centre for Innovative Justice noted that the Corrections Victoria Mothers and Children Program provides pre and ante-natal care in prison and allows prisoners' young children to reside with them in custody. They also reported that, for many of their Inside Access clients, gaining access to their children who are subject to child protection orders is deeply distressing.<sup>86</sup>

## Post-release transition

On release from prison, victims of family violence can experience difficulties with recovery—for example, in family re-unification and the risk of returning to pre-incarceration and potentially violent relationships.<sup>87</sup> The Commission was informed that:

The experience of having been incarcerated can directly contribute to women's vulnerability to subsequent violence from their partners – the disconnection caused by incarceration not only propelling them back to their violent partners upon release, but actually acting as a threat to an abusive man's sense of control.<sup>88</sup>

Corrections Victoria noted research performed by Monash University in a tracking study of 90 women prisoners after their release.<sup>89</sup> At the three-month interview stage about 21 per cent of the study group of released women reported victimisation of some type; the figure had increased to one-third (32 per cent) by the time of the final interview at 12 months post-release. The most frequent types of victimisation were assaults and domestic violence.<sup>90</sup>

The Commission was informed that, apart from returning to violence, women can also face family violence-related debt and homelessness on release, which can disrupt their transition back into the community.<sup>91</sup> Research into ex-prisoners' housing and social situations found that accommodation instability—being in a 'state of homelessness'—is an indicator of whether the person will return to prison.<sup>92</sup>

In addition to trying to recover from the violence, victims are having to face challenges in common with other prisoners on release—including securing accommodation, gaining employment and rebuilding social skills. Researchers have also found chronic homelessness, poverty and lack of support to be common in post-release participants' lives.<sup>93</sup>

Several submissions argued that post-release support and planning are vital for recovery. For example, the Mental Health Legal Centre, Inside Access and the Centre for Innovative Justice recommended that pre-release planning be integrated with post-release support and be delivered to all women through an intensive case-management model.<sup>94</sup>

Alongside other therapeutic interventions, the Commission was informed that the Victims of Crime Assistance Tribunal could be particularly useful in recovery and should form part of post-release planning for family violence victims. The Mental Health Legal Centre, Inside Access and the Innovative Centre for Justice submitted:

VOCAT could be an important piece of the puzzle in helping some of these women to heal, move forward, and to break the cycle of trauma. Planning for release from prison is an ideal time for these women to be submitting VOCAT applications, but because of their isolation and other difficulties they often need additional support to do so. This is particularly the case given the high rates of illiteracy or semi-literacy that we see among prisoners.<sup>95</sup>

The Victims of Crime Assistance Tribunal is discussed in Chapter 20.

The Commission was also told of inadequate, 'judgmental, non-responsive' responses by the justice and service systems towards women who have experienced family violence and committed offences, a factor that increases many women's reluctance to report family violence.<sup>96</sup> The Commission heard that on occasion police failed to investigate family violence reports and take steps to ensure the safety of these women because they view them as criminals rather than victims.<sup>97</sup> Victims of family violence who have been criminalised have also been reported to have been excluded from refuges because of their complex support needs.<sup>98</sup>

## The way forward

The Commission heard from a number of women in prison who were experiencing or had experienced family violence. These women helped the Commission gain an understanding of the link between the criminalisation of women and family violence, of initiatives designed to alleviate family violence-related trauma, and of how best to provide support during the post-release phase.

### Identifying victims of family violence in prison

Understanding the circumstances that contribute to the incarceration of women who have experienced family violence is important, in part because it casts light on the specific challenges they can face in prison. If women prisoners with a history of family violence are identified, case-management processes and service providers will be better able to support them in dealing with trauma and the other effects of violence.

The Commission understands that there are two assessment tools for determining intervention needs and the general risk of re-offending. These are the Level of Service Inventory—Revised: Screening Version (LSI-R: SV) and the Level of Service/Risk, Need, Responsivity (LS/RNR). The Commission did not review the LSI-R: SV, but it notes that the screening takes place within 14 days of sentencing or reception into prison custody and provides an opportunity to develop and offer support in the early stages of the victim's imprisonment. The Commission did, however, look at the use of the LS/RNR. Although this assessment tool is primarily used to assess offender risk, it does offer an opportunity to determine intervention needs, which can include family violence-related support services.

The LS/RNR is administered only for prisoners assessed as medium and high-risk and with six or more months remaining on their sentence. This could mean that some women are not subject to this screening tool. If the LS/RNR is administered, the Commission understands that identifying female offenders entering prison who have experienced family violence might be dependent on self-disclosure. It can be difficult for victims to disclose family violence and, if this is not identified in the initial assessment process, they might not receive any subsequent support.

In evidence to the Commission, Commissioner Shuard noted that Corrections Victoria is examining the training provided to staff to better support victims, with the option of expanding training on the CRAF to staff within the women's prison system being considered.<sup>99</sup> The Commission welcomes this initiative. It may mean that interviewers and employees gain the skills needed to allow victims to disclose safely. In addition, the Commission notes that CRAF training for community corrections staff continues.<sup>100</sup> This is also positive.

The Commission supports the suggestion of the Federation of Community Legal Centres, the Mental Health Legal Centre, and the Centre for Innovative Justice, that Corrections Victoria establish a process for identifying as early as possible female offenders with a risk or history of family violence. This information should guide service provision and case management.

### Recommendation 183

Corrections Victoria review the current processes for identifying female offenders at risk of or with a history of family violence and respond through therapeutic interventions and education programs [within 12 months].

## Therapeutic interventions

Serving time in prison can exacerbate the trauma family violence victims experience and disrupt efforts to promote recovery. As a consequence, therapeutic initiatives and support programs that can serve to enhance victims' recovery from family violence are needed in prisons.

The Commission was advised of the importance of interventions and programs in alleviating the trauma that led to female offenders' imprisonment and in preparing them for their release.<sup>101</sup> The Commission supports these programs and interventions, which have shown benefits in terms of victim recovery.

However, the Commission is concerned about the lack of family violence-related therapeutic initiatives and support programs available for women on remand or in prison for short periods. This presents an opportunity for Corrections Victoria to think creatively about support initiatives targeted at these groups of women. The Commission welcomes Corrections Victoria's intention of looking at family violence-specific or related programs for remand prisoners in the future.<sup>102</sup>

Melbourne City Mission recommended that Corrections Victoria provide funding to double the current capacity of the Out of the Dark program at the Dame Phyllis Frost Centre and Tarrengower Prison.<sup>103</sup> Corrections Victoria should ensure that therapeutic interventions such as individual counselling and group-based programs such as Out of the Dark are available for all women who are in prison or on community correction orders and have experienced family violence. Interventions of this nature should be culturally appropriate, including specifically for Aboriginal and Torres Strait Islander victims of family violence.

Commissioner Shuard described several initiatives that the organisation is considering in relation to post-release transitional housing, family violence service referrals, and staff training to improve their understanding of family violence.<sup>104</sup> Together with the range of family violence-related support and education programs described in Corrections Victoria's *Family Violence Reform Strategy—Priority Initiatives 2015–16*, the Commission welcomes these developments.

It is very positive that Corrections Victoria is proactively turning its mind to facilitating the provision of a wide range of programs to female prisoners; these programs are delivered by various community organisations, among them Inside Access. The continued provision of these programs in the prison environment requires both adequate funding and continued support from Corrections Victoria. The Commission therefore urges that such programs continue to be funded—as well as programs designed to support women following their release from prison—and that Corrections Victoria continues to support their delivery.<sup>105</sup>

### Recommendation 184

Corrections Victoria ensure that therapeutic interventions such as individual counselling and group-based programs such as Out of the Dark are available for all women in prison who have experienced family violence [within 12 months].

## Post-release support and planning

The Commission received evidence that victims of family violence experience major challenges on their release from prison—challenges ordinarily faced by other prisoners on release as well as family violence-related safety or recovery challenges, or both. We heard about women who returned to violent relationships or reported victimisation of some kind, including assault or family violence.<sup>106</sup> In addition, women can face financial problems, homelessness and difficulties gaining employment.

The Commission understands that Corrections Victoria's Reintegration Pathway provides pre-release programs aimed at prisoners' transitional needs when entering prison, throughout their incarceration and in preparation for release. Post-release support is available to prisoners with additional support needs.<sup>107</sup>

The Commission is concerned, however, about the lack of pre-release planning and post-release support specifically directed at women who are or have been victims of family violence. Family violence risk assessment should form a major part of discharge planning and ongoing risk management as part of post-release support. The Commission supports the Mental Health Legal Centre, Inside Access and Centre for Innovative Justice proposal that pre-release planning be integrated with post-release support and be delivered to all women through an intensive case-management model.<sup>108</sup> In addition, protocols between the prison and post-release services, including specialist family violence services, integrated family services and/or other support services, could assist in the post-release transition.

In particular, the Commission is concerned about post-release accommodation arrangements, which can place a woman at risk of further victimisation or perpetration, or both. If it is aware that a prisoner has a history of family violence perpetration or victimisation, Corrections Victoria should inform post-release support services in order to avoid accommodation placements that increase risk to women. This, of course, depends on Corrections Victoria being aware that a woman might experience victimisation and/or perpetration of family violence when she is released, highlighting the importance of family violence risk assessment as part of post-release planning and the need for appropriate services and case-management strategies being provided. These considerations must also be extended to women on community corrections orders.

The Commission is aware that Corrections Victoria has screening and identification processes, therapeutic interventions and pre- and post-release transition programs, but in view of the very large number of women in prison who are affected by family violence, there are substantial shortcomings when it comes to identifying and providing targeted interventions to assist these women while they are in prison and after their release.

### Recommendation 185

Corrections Victoria [within 12 months]:

- ▷ inform post-release support services if a prisoner has a history of family violence victimisation to ensure that post-release accommodation arrangements do not place the prisoner at increased risk
- ▷ refer prisoners who have been victims of family violence to family violence services when they are being released.

## Endnotes

- 1 Royal Commission into Family Violence, *Letters Patent—Terms of Reference* (22 February 2015) 3 <<http://www.rcfv.com.au/MediaLibraries/RCFamilyViolence/UploadedDocs/Terms-of-Reference.pdf>>.
- 2 Corrections Prisons and Parole, *Prison* (30 March 2015) <<http://www.corrections.vic.gov.au/home/prison/>>.
- 3 Lubica Forsythe and Kerryn Adams, 'Mental Health, Abuse, Drug Use and Crime: Does Gender Matter?' (Trends and Issues in Crime and Criminal Justice No 384, Australian Institute of Criminology, November 2009) 1–2, 5. See also, Mary Stathopoulos et al, 'Addressing Women's Victimization Histories in Custodial Settings' (ACSSA Issues No.13, Australian Centre for the Study of Sexual Assault, 2012) 6.
- 4 Stathopoulos et al, above n 3, 8; Forsythe and Adams, above n 3, 1.
- 5 Stathopoulos et al, above n 3, 7.
- 6 *Ibid.*
- 7 Corrections Victoria, 'Standards for the Management of Women Prisoners in Victoria' (Department of Justice and Regulation, 4 July 2014) 10.
- 8 *Ibid.* 6.
- 9 *Ibid.* 68–9.
- 10 *Ibid.* 68.
- 11 *Ibid.* 76.
- 12 Statement of Shuard, 27 July 2015, Attachment 6, 6.
- 13 Corrections Victoria, 'Family Violence Service Reform Strategy Priority Initiatives 2015–16' (Department of Justice and Regulation, 2015) 2.
- 14 Statement of Shuard, 27 July 2015, Attachment 5, 6.
- 15 Department of Justice and Regulation, 'Offending Behaviour Programs Branch: Program Suite' (April 2015), 9, produced by the State of Victoria in response to the Commission's Notice to Produce dated 5 June 2015.
- 16 Statement of Reaper, 17 July 2015, 11 [60].
- 17 Department of Justice and Regulation, 'Level of Service (LS) Assessment Tools' (26 May 2015), 3, produced by the State of Victoria in response to the Commission's Notice to Produce dated 5 June 2015.
- 18 *Ibid.*
- 19 Department of Justice and Regulation, 'LS/RNR: Quick Score Form—Level of Service-Risk Need Responsivity' (1 January 2008), 5, produced in response to the Commission's Notice to Produce dated 5 June 2015. The Commission did not receive LSI-R: SV, therefore cannot make any observations about whether it assists in identifying family violence.
- 20 Department of Premier and Cabinet, 'Table of Items where No Relevant Documents or Data Identified/Available' (21 October 2015), 23, produced by the State of Victoria in response to the Commission's Notice to Produce dated 5 June 2015.
- 21 Mental Health Legal Centre Inc; Inside Access; Centre for Innovative Justice, Submission 648, 17.
- 22 *Ibid.* 2.
- 23 Stathopoulos et al, above n 3, 6; Forsythe and Adams, above n 3, 2. See also Mental Health Legal Centre and Centre for Innovative Justice, 648, 24.
- 24 Stathopoulos et al, above n 3, 7.
- 25 Community consultation, Ravenhall, 11 May 2015.
- 26 Caraniche, Submission 456, 2. 'The estimates from this survey represent clinicians' perceptions based on their current caseload. Several responses noted that forensic clients are often reluctant to disclose experience with family violence (both as a victim and a perpetrator) and the results of this survey therefore probably represent conservative estimates of prevalence': Caraniche, Submission 456, 6.
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- 93 Ibid 20.
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# 35 Women working in the sex industry

## Introduction

The Royal Commission's terms of reference require it to consider the needs and experiences of people affected by family violence, having particular regard to people in certain diverse communities.<sup>1</sup> Although women working in the sex industry are not specifically named, the Commission decided to include them in its considerations because they are often marginalised and have a unique experience of family violence.

Although not all women in the sex industry have been exposed to family violence, many have experienced it in the past and some may still be victims of family violence. The Commission heard from a number of women who have previously been or are sex workers, along with people and organisations who have given them support.

The Commission was told that women who work in the sex industry are disproportionately affected by family violence and that they face particular challenges when seeking support before, during and after the violence. The impact of family violence on their health and wellbeing can be particularly severe and can impede their recovery.

The Commission is mindful of the diversity in experience of women who work in the sex industry. The Commission's focus is on ensuring that supports and services are available to women in the sex industry who have been or are still affected by family violence.

The Commission was informed that some women enter the sex industry as a consequence of family violence. While no reliable data on the number, sex or gender identity of people who work in the sex industry in Victoria exists, research and submissions suggest that those who work in the industry have higher levels of exposure to violence than others and experience additional barriers when seeking help and support because of entrenched, persistent stigma and discrimination. These women often feel 'invisible' or overlooked in the broader family violence system in terms of both prevention and response.

Submissions received by the Commission described the ongoing effects of trauma resulting from family violence for women in the sex industry and the lack of available therapeutic interventions and support. The Commission was also told that inadequate responses and poor attitudes on the part of police and family violence services prevent women who work in the industry from obtaining these services.

The Commission recommends that Victoria Police amend its Code of Practice for the Investigation of Family Violence to take into account the challenges faced by women in the sex industry when investigating family violence perpetrated against these victims.

## Context and current practice

The Commission took into account research and submissions relating to the experiences of women who work in the sex industry and who have been victims of family violence.

Under the *Sex Work Act 1994 (Vic)* people may provide paid sexual services in brothels and any premises on which an escort agency carries on business, but cannot solicit a person in a public place.<sup>2</sup>

There is no reliable data on the number, sex or gender identity of people who work in the sex industry in Australia or in the states or territories.<sup>3</sup> In its submission, Project Respect, a community-based organisation that aims to empower and support women who work in the sex industry, also noted an absence of data, including on the impact of sex work.<sup>4</sup>

The Commission was told that women who work in the sex industry are disproportionately affected by family violence: many are victims of family violence perpetrated by an intimate partner; others experienced it during childhood; and, for some, family violence led them into the sex industry.<sup>5</sup> The effects of this violence on their health and wellbeing can be severe.<sup>6</sup>

In its submission, Project Respect provided evidence to the Commission from a number of international studies that suggest that women who work in the sex industry can experience higher rates of family violence than other women in the community.<sup>7</sup> A study of 72 street-based female sex workers in Kings Cross, New South Wales, found that 81 per cent of female sex workers had experienced sexual assault and 44 per cent had been raped outside work.<sup>8</sup> Other research confirms that sex workers are mostly assaulted by someone known to them.<sup>9</sup>

Project Respect noted that 55 per cent of the 714 women with whom it had had contact in 2011–12 had experienced or were experiencing family violence.<sup>10</sup> It outlined the women's varying experiences:

- ▷ They are often subjected to violence, including in their work, which compounds the family violence they experience or have experienced, and they are disproportionately likely to have experienced violence as children.
- ▷ They experience additional barriers to seeking help when they are subjected to family violence because of entrenched, persistent stigma and discrimination.
- ▷ Although they experience high levels of family violence and other violence, they might be less likely to label these experiences violence because they have been exposed to and have normalised violence in their childhood, in previous relationships and in the sex industry.
- ▷ They commonly enter the sex industry as a consequence of family violence—including when they leave relationships with violent men—and in order to gain access to an income.<sup>11</sup>

Although the Commission did not receive evidence about the experiences of male or transgender sex workers, it is conceivable that some of them are likely to have also been subjected to family violence as children or adults.

The Commission heard from women who work in the sex industry about their experiences of family violence, and in some cases sexual assault, as a child<sup>12</sup> and about the continuing effects of this trauma and the lack of therapeutic interventions:

I have such a poor memory of my childhood. There are huge blocks in my memory. I have no memory and I should. I've blocked out so much of the bad stuff that a lot of the good stuff has gone as well. It creeps back too. Suddenly I remember something. It's traumatic.<sup>13</sup>

Childhood sexual abuse started at three – couldn't tell anyone as he threatened that something would happen to mum. She died at seven from cancer and I thought I've brought this on myself. It never stops that constant background noise of guilt. There are some who go into the industry with their eyes open and it's heartbreaking, seeing these women feeling 'less'.<sup>14</sup>

As a kid I lost my virginity to rape – it just goes downhill from there.<sup>15</sup>

One woman who previously worked in the sex industry but now supports women who work in the industry explained why she became involved in the industry:

Again, the whole reason I went into the sex industry was because, my body wasn't mine it was always theirs always someone else's to control, whether it was mum's or boyfriends ... So my body was never mine. I was a binge drinker before I started using heroin. So I blacked out a lot. I don't remember ever saying yes or I'd say no and it wasn't listened to and I didn't know how to say no further. So doing prostitution, was 'why not?' I'm not going to hurt anyone else, why not get paid for it, it's getting taken for free, why not get paid for it. Once you're a prostitute, you're a worthless piece of shit, you're belted, a non-human, you're not a woman and you're not a man, not a child, you're not on the human spectrum, you're a fucking whore.<sup>16</sup>

The Commission's consultations with women who work in the industry highlighted the correlation between unresolved trauma from family violence and sex industry work. Feelings of isolation and a loss of control were central to many of their experiences:

I just want to make a link with the sex industry and domestic violence – I was raped numerous times by my first proper boyfriend and I didn't know it was rape ... I decided to go into the sex industry ... my justification was sex was taken from me so many times why shouldn't I get paid for it.<sup>17</sup>

The Kings Cross study of 72 street-based female sex workers also found that a substantial majority (87 per cent) of women who participated in the research had experienced depressive symptoms ranging from mild to severe: 74 per cent had experienced suicidal ideation and 42 per cent had attempted suicide.<sup>18</sup> The study found that 45 per cent of non-Aboriginal and Torres Strait Islander sex workers had sought the help of a mental health professional in the preceding six months, whereas only 25 per cent of Aboriginal and Torres Strait Islander sex workers had done so.<sup>19</sup> Eighty per cent of these consultations with mental health professionals were related to depression.<sup>20</sup>

Several women who work or used to work in the sex industry described the normalisation of violence in the industry:

Links between domestic violence and sex industry is so strong. The expectation that it's part of the job to be abused. Women expect that he is going to try and have anal sex, push further than what's agreed upon. That is the norm. Link between women controlled by their boyfriend and them living off them working in industry. That normalised violence—it just makes sense that it's going to happen forever. And women ignore it and allow it to happen because that's what women are meant to do.<sup>21</sup>

100% connection between family violence and being in the sex industry. It's the reason for working in the sex industry, my justification for working in the sex industry. It was normal for every single guy, tries to get more so if we've made an agreement to have sex, they will try to have anal sex, I would have to fight them off, but I expected that to be the norm because that was the norm at home. All my relationships, in regards to anal sex, I've always had to fight them off, how many times do I have to say no. And then cop a beating.<sup>22</sup>

... being involved in the [sex] industry. You are further compromised because of the work you're doing. You may have experienced violence before going into the industry; it's compounded by the industry. If your partner finds out then it's a reason for it to continue.<sup>23</sup>

Some women who work in the industry explained how the nature of sex work can make it less likely for intimate partner violence to be recognised as abuse:<sup>24</sup>

Until you see a list of what family violence is, you don't realise that that's what it is, [it's] threats, making you feel small, him threatening to write on Facebook that I've worked in the industry if I ask for child support. He had been violent to other people, and I'd seen him in a rage, he would threaten me. We went to family counselling instead of family violence, if I had have known it was family violence ...<sup>25</sup>

Often with women in the sex industry unless they're being physically beaten they often don't realise they are in an abusive relationship, not when it's emotional and psychological abuse.<sup>26</sup>

For some women, their work in the industry was used as another form of control by abusive partners.<sup>27</sup> One woman who previously worked in the industry said, for example, "[T]here are often threats. Men will say "don't you dare leave because I will tell child protection you're in the sex industry".<sup>28</sup> For other women, it was their partners who forced them to work in the industry.<sup>29</sup>

## Challenges and opportunities

As noted, women working in the sex industry face particular difficulties when seeking support and assistance. This includes sex industry workers who report family violence to police. Additionally, a range of barriers can present themselves when these women seek access to family violence services in Victoria.

### The police

The subject of inadequate and inappropriate police responses to women who are or have been involved in the sex industry and have experienced family violence was often raised with the Commission as a concern. Women who were working or who had worked in the industry described the negative attitudes police held towards them, which in many cases affected the justice outcome they received:

When I was with [removed] I had told him I'd been a prostitute and when the police was called, he would tap them on the shoulder and say ... she's a prostitute and the police would say to me you need to pull your head in, and to him they'd say 'just don't hit her mate, just get rid of her'.<sup>30</sup>

From the police the other day: 'How can she be raped if she's a prostitute?' 'How can she be raped if she's married to him?' Both of these comments came from the police.<sup>31</sup>

The Commission also heard accounts of police physically and verbally abusing and sexually harassing workers in the sex industry who reported family violence. Many women told the Commission they would not report to the police again.<sup>32</sup>

Some women who work in the industry explained, however, that the police response is often dependent on which police station they attend or contact, and which police member assists them.<sup>33</sup> The Commission heard consistently that women who work in the sex industry want to be treated in the same way as other victims of family violence—to be listened to, believed and supported:

If just once a cop would have pulled me aside, and said 'he's not allowed to hit you' and given me his number, and said 'call me'. If they'd taken me away – not in front of my boyfriend. Just once, said call me, I'll do something, not even, I'll try and help you. It's not your fault. That would have helped me. But the number of times I heard 'you have gotta get off their back'.<sup>34</sup>

In contrast, one support worker described a positive experience with police:

I had a women at a brothel, her partner had bashed her and she left the house. I told her to get in a cab and come to me. I encouraged [her] to call the police and the guy was great. [The] cop said 'no matter what you do for a job, you shouldn't be treated like that'. He came past the brothel later that week to check if she was okay.<sup>35</sup>

Participants in the Commission's consultations suggested that exposure to the sex industry and adopting a pro-active approach might make a difference to the police response.<sup>36</sup> One woman who previously worked in the sex industry said:

Police need training—whatever training they've had is shit. No faith in the police. I can't change that, not trustworthy. I was gobsmacked re their response. The Family Violence Unit. They have an inkling that she's in the sex industry. They tried to take a statement without an interpreter—lucky I was there—ended up using my mobile and my interpreter. They need training from women who have experienced family violence and from women who they actually hear.<sup>37</sup>

The Commission heard that women who work in the sex industry can face multiple barriers when it comes to receiving a fair response from police. Some of these women told the Commission of their experiences:

I was sexually abused by quite a few men. I took it to the police and I was just treated horrible. They cancelled appointments, bringing up the past 'when you were 16 you stole ...'<sup>38</sup>

It is all too familiar ending up in court. Everything is looked at from your past to belittle. When you have that mentality used against you it's incredibly demoralising. You end up giving up trying.<sup>39</sup>

It is plain that these women's situations are complex and that their difficulties can be compounded by continued victimisation, ostracism and inadequate police responses.

## Family violence and related support services

Through submissions and consultations with women who work in the sex industry and their supporters, the Commission learnt that a range of factors can prevent these women from benefiting from family violence-related services in Victoria. For example, Vixen Collective submitted that women who work in the sex industry might be fearful of having their working status recorded by family violence services because this could result in them experiencing discrimination, changes to child custody arrangements, and difficulty gaining access to housing (including refuges).<sup>40</sup>

The attitudes of some family violence services and professionals towards women who work in the sex industry were noted as a concern.<sup>41</sup> One woman who previously worked in the sex industry told the Commission that family violence services need to be able to put their personal views aside and simply look at the situation of the victim of violence.<sup>42</sup>

Victims described not knowing how or where to obtain support services that would allow them to remain employed in the sex industry. One woman explained:

When you're looking for help—there isn't help out there. Unless I packed up my whole life right at that moment then I couldn't see the crisis people. They told me about AVOs because I was getting death threats: 'We can't help you until it happens'. Rigidity in the supports [is] a real barrier. There's not enough help out there. Years ago I didn't know about help. Unless you talk to the right people you don't know there is help out there. Things are only done when it's too late. There needs to be more help along the way.<sup>43</sup>

The Commission also heard about the lack of integration between family violence services and other support services, which can mean women who work in the sex industry become 'lost in the system'. One supporter of women working in the sex industry explained:

Women in the sex industry are often linked in with mental health services, alcohol and drug services, CASA workers – who may or may not be working with them on the family violence issues. By the time I make a referral to Safe Steps they're at the point where they've been beaten so much and they can't go home and they're just desperate.<sup>44</sup>

Participants in the Commission's consultations noted that this can serve to hinder a return to health and wellbeing for victims of family violence.<sup>45</sup> As Vixen Collective observed, women leaving family violence can face additional challenges obtaining housing (including in refuges) because of their employment status.<sup>46</sup> A community consultation participant said:

A lot of times we had to put women in a hotel because there was nowhere to take them. There was one woman at Project Respect who had called the domestic violence service. She said she was working in the industry, they said 'We don't deal with women like you. We're only for good nice women'. I was cut off. That was it. We're still looking for a domestic violence service that we can contact. Not all the workers were like that.<sup>47</sup>

It is also apparent that some women who work in the sex industry experience multiple forms of discrimination and disadvantage as a result of their cultural and linguistic background, disability, age, race, sexuality, gender identity or socio-economic status. For example, there has been limited research done on the experiences of transgender women who work in the industry, although there is some evidence to suggest that they face additional challenges in seeking access to family violence specialist services and programs such as housing support and accommodation.<sup>48</sup>

## The way forward

The Commission was greatly assisted by speaking with women who work or have worked in the sex industry and by a number of submissions provided by individuals and organisations who support them. There is a need to ensure that sex workers who are victims of family violence can access the support of police, family violence services and other related services. These services should work closely with organisations that advocate for and assist sex workers.

The effects on the health and wellbeing of women who work in the sex industry and who are family violence victims can be particularly severe. As Project Respect found, women who work in the sex industry face additional barriers to seeking support when they are victims of family violence because of entrenched, persistent stigma and discrimination.<sup>49</sup> Access to appropriate support is essential to their recovery. Submissions and consultations revealed that there remain major shortcomings in how the family violence system responds to the experience of women who work in the sex industry and who are victims of family violence. It is vitally important that support services understand the complexity and 'instability' of these women's lives when delivering services.<sup>50</sup>

The Commission notes that some diverse groups in the community, including women who work in the sex industry are often 'invisible' to the family violence system. In Chapter 13, the Commission found that there is a need for structural change to ensure better coordination within the service system—to improve entry into the system and access to a broad range of services. The needs of diverse communities must be part of this service system reform.

The Victoria Police Code of Practice for the Investigation of Family Violence<sup>51</sup> should acknowledge that people in the sex industry face particular challenges in reporting family violence and that they should be assisted in the same way as anyone else who reports such violence. It is not acceptable for police to turn away from reports of family violence brought forward by victims who either work in the sex industry or who have in the past had contact with the criminal justice system. Victoria Police must take steps to ensure that police members take reports of family violence by women who work in the sex industry seriously and investigate them as they would any other family violence report. Further, in areas that have high numbers of sex workers, police should take active steps to encourage reporting.

The Commission notes that neither the Victoria Police Code of Practice for the Investigation of Family Violence nor the Code of Practice for the Investigation of Sexual Assault mentions the particular challenges faced by women who work in the sex industry and who are victims of family violence or sexual assault. There is an opportunity to insert 'women who work in the sex industry' into the 'Responding to diverse communities' section of the (family violence) Code of Practice and to note that these women are disproportionately affected by family violence and might require specific support and consideration in their dealings with the justice system. The Commission encourages Victoria Police to make similar amendments to the Code of Practice for the Investigation of Sexual Assault.

In view of what the Commission learnt about the attitudes of some police towards women who work in the sex industry, there is a need to enhance understanding by police of the effects of family violence and more broadly, to improve the workforce's response to particular communities experiencing family violence. On this point, the Commission notes the recommendations made in Chapter 15 to develop a model to strengthen the investigation of family violence offences.

## Recommendation 186

Victoria Police amend the Victoria Police Code of Practice for the Investigation of Family Violence to describe the difficulties women in the sex industry face in reporting family violence to police and how to take those difficulties into account when investigating family violence perpetrated against these victims [within 12 months].

## Endnotes

- 1 Royal Commission into Family Violence, *Letters Patent—Terms of Reference* (22 February 2015) 3 <<http://www.rcfv.com.au/MediaLibraries/RCFamilyViolence/UploadedDocs/Terms-of-Reference.pdf>>.
- 2 See generally *Sex Work Act 1994* (Vic) ss 12–14. The Commission acknowledges Project Respect's submission that the sex industry includes a range of sexual services, including pornography, stripping, table-top dancing, and escort, street and brothel prostitution. Project Respect, Submission 930, 4.
- 3 Lauren Renshaw and Jules Kim, *The Australian sex industry* (21 September 2015) Australian Institute of Criminology <[http://aic.gov.au/publications/current%20series/rpp/121-140/rpp131/05\\_aus\\_industry.html](http://aic.gov.au/publications/current%20series/rpp/121-140/rpp131/05_aus_industry.html)>; Project Respect, Submission 930, 5.
- 4 Project Respect, Submission 930, 5.
- 5 Community consultation, Melbourne, 21 May 2015.
- 6 See Chapter 20.
- 7 Project Respect, Submission 930, 6–7.
- 8 Amanda Roxburgh, Louisa Degenhardt and Jan Copeland, 'Posttraumatic Stress Disorder Among Female Street-Based Sex Workers in the Greater Sydney Area, Australia' (2006) 6(24) *BMC Psychiatry* 6.
- 9 Antonia Quadara, 'Sex workers and sexual assault in Australia: Prevalence, risk and safety' (Issues No 8, Australian Institute of Family Studies, 2008) 5 (citations omitted) <[https://www3.aifs.gov.au/acssa/pubs/issue/acssa\\_issues8.pdf](https://www3.aifs.gov.au/acssa/pubs/issue/acssa_issues8.pdf)>.
- 10 Project Respect, Submission 930, 9.
- 11 *Ibid.* 2.
- 12 Community consultation, Melbourne, 21 May 2015; Anonymous, Submission 962, 1.
- 13 Community consultation, Melbourne, 21 May 2015.
- 14 *Ibid.*
- 15 *Ibid.*
- 16 Kate Connett, Submission 960, 4.
- 17 Community consultation, Melbourne, 21 May 2015.
- 18 Roxburgh, Degenhardt and Copeland, above n 8, 6.
- 19 *Ibid.*
- 20 *Ibid.*
- 21 Community consultation, Melbourne, 21 May 2015.
- 22 Kate Connett, Submission 960, 5.
- 23 Community consultation, Melbourne, 21 May 2015.
- 24 See, eg, *ibid.*
- 25 *Ibid.*
- 26 Shirley Woods, Submission 959, 2.
- 27 Anonymous, Submission 961, 2; Anonymous, Submission 311, 1; Kate Connett, Submission 960, 4.
- 28 Shirley Woods, Submission 959, 1.
- 29 *Ibid.*; Anonymous, Submission 311, 1.
- 30 Kate Connett, Submission 960, 3.
- 31 Community consultation, Melbourne, 21 May 2015.
- 32 *Ibid.*
- 33 *Ibid.*
- 34 Kate Connett, Submission 960, 4.
- 35 Shirley Woods, Submission 959, 2.
- 36 Community consultation, Melbourne, 21 May 2015.
- 37 *Ibid.*
- 38 *Ibid.*
- 39 *Ibid.*
- 40 Vixen Collective, Submission 671, 9.
- 41 Kate Connett, Submission 960, 5; Anonymous, Submission 962, 3; Shirley Woods, Submission 959, 2.
- 42 Shirley Woods, Submission 959, 3.
- 43 Community consultation, Melbourne, 21 May 2015.
- 44 Shirley Woods, Submission 959, 2.
- 45 Community consultation, Melbourne, 21 May 2015.
- 46 Vixen Collective, Submission 671, 9.
- 47 Community consultation, Melbourne, 21 May 2015.
- 48 Fiona Patten—Member for Northern Metropolitan Region, Submission 979, 3; Victorian Equal Opportunity and Human Rights Commission, Submission 609, 17; Safe Steps Family Violence Response Centre, Submission 942, 43; Gay and Lesbian Health Victoria; Australian Research Centre in Sex, Health and Society—La Trobe University, Submission 821, 16.
- 49 Project Respect, Submission 930, 2.
- 50 Roxburgh, Degenhardt and Copeland, above n 8, 12.
- 51 See generally Victoria Police, 'Code of Practice for the Investigation of Family Violence—Edition 3' (2014).



# 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.
Crimonogenic	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 (Vic)</i> . 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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