



Royal Commission
into Family Violence

WITNESS STATEMENT OF FIONA MARGARET MCCORMACK

I, Fiona Margaret McCormack, Chief Executive Officer, of 2/210 Lonsdale Street, Melbourne in the State of Victoria, say as follows:

- 1 I am authorised by Domestic Violence Victoria (**DV Vic**) to make this statement on its behalf. I make this statement on the basis of my own knowledge, save where otherwise stated. Where I make statements based on information provided by others, I believe such information to be true.
- 2 DV Vic made two submissions to the Royal Commission into Family Violence (**Royal Commission**) dated 19 June 2015, respectively titled *Considerations for Governance of Family Violence in Victoria* and *Specialist Family Violence Services: The Heart of an Effective System*. I refer to and adopt those submissions.
 - 2.1 Attached to this statement and marked **FM-1** is a copy of DV Vic's submission titled *Considerations for Governance of Family Violence in Victoria*.
 - 2.2 Attached to this statement and marked **FM-2** is a copy of DV Vic's submission titled *Specialist Family Violence Services: The Heart of an Effective System*.
- 3 DV Vic also made two further submissions to the Royal Commission into Family Violence dated 17 July 2015, respectively titled *Managing Risk: the family violence services and police interface* and *Working with children and young people experiencing family violence: thinking about the most vulnerable person in the room*. I refer to and adopt those submissions.
 - 3.1 Attached to this statement and marked **FM-3** is a copy of DV Vic's submission titled *Managing Risk: the family violence services and police interface*.
 - 3.2 Attached to this statement and marked **FM-4** is a copy of DV Vic's submission titled *Working with children and young people experiencing family violence: thinking about the most vulnerable person in the room*.

4 I also refer to and adopt the submission made to the Royal Commission by DV Vic in conjunction with eight other peak bodies, titled *Getting Serious about change: the building blocks for effective primary prevention of men's violence against women in Victoria*.

4.1 Attached to this statement and marked **FM-5** is a copy of that submission.

Current role

5 I am currently employed as the Chief Executive Officer (**CEO**) of DV Vic and have held this role since 2005. In my role as CEO I am responsible for overseeing the operations of DV Vic, ensuring that the organisation is sustainable and robust and able to undertake its mission.

6 I am also the 'public face' of the organisation – representing the interests of women and children experiencing family violence and the agencies that work with them in the media and many different public forums. I have represented the family violence sector on numerous Ministerial advisory and reference groups of the state and federal governments.

Background and qualifications

7 I hold a Masters of Education with a specialisation in Leadership, Policy and Change and an undergraduate in Social Sciences, Community Development.

8 I have worked in numerous areas, with my primary focus on issues affecting marginalised women. I have primarily worked in women's health, particularly in relation to non-English speaking women, and making services accessible to those women.

9 I developed standards and delivered training to health services on supporting accessibility of women from non-English speaking backgrounds, same sex attracted women and on applying a gender-lens to service planning and delivery. I taught a module on family violence as part of the community development qualification for a number of years. I was also working with migrant women to understand the system so they could advocate on their own behalf, working with same-sex attracted women, and using gender analysis on service delivery.

10 In terms of my entry into the family violence space, the area I worked in within women's health involved looking at the impact of gender on population health outcomes. Gender is a key determinant of the risk of violence. This is one element

of a range of issues affecting women, so it was always a core part of my work in women's health. Women's health focuses on the prevention end of the scale, which meant understanding the causes of violence.

- 11 I have presented on the Victorian family violence response in China with the Australian Human Rights Commission, as part of the China-Australia Human Rights Technical Cooperation Program, and also at the UN Commission of the Status of Women NGO Parallel events in 2012 and 2013.
- 12 Under my leadership, DV Vic developed a Family Violence Code of Practice for Specialist Family Violence Services published in 2006 and which we had the opportunity to present on in South Korea, Canada and the USA. DV Vic also initiated a Victorian media awards initiative to encourage accurate media reporting on violence against women.

Domestic Violence Victoria

- 13 DV Vic is the peak body for women and children's family violence services in Victoria. DV Vic's mission is to lead the Victorian community in building safer lives for women and children experiencing or at risk of violence.
 - 14 DV Vic members are the organisations that support women and children when they experience violence in their lives. DV Vic supports its members to meet the standard of practice to ensure women and children get the response that meets their needs.
 - 15 The intention of the Victorian family violence reforms was that courts and police and services work together to enhance the safety of women and children and the accountability of men who choose to be violent. This required planning, coordination and monitoring of this system's response. DV Vic consults with member organisations, and where possible with women who have had contact with courts and police and services. It refers to the current evidence base and based on this knowledge provides high level advice to government and other stakeholders about ways in which the system can be improved. DV Vic also represents family violence services on state-wide and national advisory committees.
 - 16 Finally, DV Vic has also lead efforts since 2008 to coordinate and build capacity in the primary prevention of violence against women in the media.
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Initial police response in 2000

- 17 In 2000, the family violence sector was a very different place to that which it is now. In particular, the initial police response to incidents of reported family violence has changed significantly over these years. In 2000, the initial police response was often lacklustre, to say the least. Family violence wasn't considered to be core business of the police.
- 18 In 2000, if a woman rang the police because her husband was physically assaulting her, it was often minimised as a 'domestic' and thought to be something that just occurs within the family. She was unlikely to be regarded as the victim of a crime. It was very much understood to be about the man feeling anger or frustration towards the woman.
- 19 If police were called out to an incident, the approach was fairly superficial and focussed on relieving the tension from the immediate situation. The police might have given advice like, 'Try not to nag him', or 'You could always just leave.' Or they might have taken the perpetrator away and driven him around to let him 'calm down'.
- 20 In the aftermath of the incident it is unlikely that the woman would have been offered a referral to any women's service providers. It is likely that very little action would have been taken in respect of the perpetrator.
- 21 Attitudes differed among different police officers, but overall it could be said that police considered family violence to be a less serious form of violence. There was very little understanding of family violence as a concept. There was also a lack of understanding about why victims sometimes don't leave abusive relationships or the ways that living with violence and abuse can manifest in victim's choices and behaviours.
- 22 There was little communication and no operational links between the police and the various crisis response services that existed at that time. There were pockets of the state where women's crisis services developed relationships with their local police stations and the officers that worked in that station. However, these relationships were ad hoc and certainly not common.
- 23 There was also a lack of understanding on the part of crisis response services about the legislative context that informed the police response. There was very little understanding about the powers that police actually held, and what they
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could and couldn't do in any particular scenario. Many service providers believed that police had much more power than they actually did.

- 24 All of this meant that there was little confidence in the police response from both victims and crisis response services.

Key changes between 2000 and 2005

- 25 In 2001, Christine Nixon was appointed Chief Commissioner of Victoria Police. Ms Nixon was in many ways the champion of the family violence cause during this period.

- 26 During mid-2002, under Ms Nixon's guidance, the Statewide Steering Committee to Reduce Family Violence (**Steering Committee**) commenced operation. The Steering Committee consisted of representatives of government departments, Victoria Police, the courts, legal services, family violence services sector and men's referral services. The Steering Committee continues to exist today. It is presently known as the Violence Against Women and Children Forum.

- 27 In 2004, the Victoria Police introduced the *Code of Practice for the Investigation of Family Violence* (**Code of Practice**). The Code of Practice aimed to improve the safety and support of victims and the accountability of perpetrators. The Code of Practice had a mandatory action policy; even if no formal action was to be taken, police were required to provide referrals to the appropriate support services. Police were also required to complete a report after attending a family violence incident, regardless of the action that was ultimately taken. The Code of Practice was particularly significant, as I discuss below, in reforming the police response to incidents of family violence.

- 28 Since 2004, the Code of Practice has been the subject of two revisions. The second edition was issued in December 2010. The current edition of the Code of Practice is the third edition, issued in March 2014.

- 29 In 2005, the Committee released a report titled *Reforming the Family Violence System in Victoria*. This report announced the development of the Statewide Family Violence Advisory Committee, which included representatives from the Departments of Justice, Victorian Communities and Human Services, Victoria Police, nominated representatives from the Courts and relevant non-government organisations. I am aware that report has already been produced to the Royal Commission by Assistant Commissioner Steendam as part of her evidence on 13 July 2015. I was present for her evidence.
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- 30 The Statewide Family Violence Advisory Committee enabled and promoted linkages and the development of relationships across the gamut of organisations. Women's crisis services were able to talk with police about the causes and dynamics of family violence, which facilitated a shared understanding of the issues and what was going on in the family violence space. It assisted greatly in relationship developing between the respective organisations.
- 31 Accordingly, at around the time I commenced in my role at DV Vic, the significant reforms in the family violence space that characterised this period had begun to take shape.

Initial police response in 2015

- 32 Fast forwarding to 2015, while there are still issues within the system, significant progress has been made in respect of the police response to family violence. In 2015, a woman who reports a family violence incident should, if the system works as it is supposed to, have a completely different experience to the woman in 2000.
- 33 The first difference is that generally her story will be more likely to be believed and she will be more likely to be understood to be a victim of a crime, not just a participant in a 'domestic'. Her allegations are less likely to be minimised and thought to be nothing more than a 'tiff' between partners.
- 34 Police are more likely to attend the scene of a family violence incident, whereas in the past this could not necessarily be assured. When they do so, their work is informed by the information and procedures contained in the Code of Practice, including a uniform risk assessment and management process and the compulsory referral of incidents of family violence to family violence services, regardless of what other action needed to be taken by police.
- 35 The standards and procedures that have been put into place pursuant to the Code of Practice have been the critical difference between the woman's situation in 2000 and her situation in 2015. There are now systems in place which support better responses and accountability measures across the state. This is not to say that there aren't problems with the police response today, and generally in the ability of the various organisations in the family violence sector to respond to incidents. I discuss some of these issues and challenges below. However, the systems have now been developed such that an incident is much more likely to be met with a better approach, and the approach to ultimately yield a better result. I think it is important to acknowledge how far we've come, from 2000 to today.
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Key drivers in the improved police response

- 36 In my view, there are several factors that have driven the improved police response. These include the following.
- 36.1 Leadership: the work of senior leaders in Victoria have driven systemic changes across government. Among others, the key leaders have included Christine Nixon, Rob Hulls, and more recently Ken Lay.
 - 36.2 Governance arrangements: appropriate governance arrangements were put in place to support training, implementation and monitoring of different parts of the system.
 - 36.3 The development of standards: the Victoria Police Code of Practice and other relevant standards of practice have contributed significantly to building transparency, increasing accountability and developing consistent responses across the sector.
 - 36.4 Development of common tools: the development of the Common Risk Assessment Framework (**CRAF**) has been a critical factor. Building shared tools such as the CRAF is extremely important. The CRAF allows a wide range of people to make considered assessments of the incidents they see, and guides them to the appropriate level of response. It gives a common language to the variety of organisations involved in the sector.
 - 36.5 Attitudinal change: improved attitudes among the police, in particular, have made a significant difference. Having an understanding of family violence, including its patterns and how it manifests, is extremely important in that it enables police to contextualise the incidents they see, and to understand the incidents in a broader framework of a systemic and world-wide problem. Some of the responses we see from police now are extraordinary.

Current problems with police response to incidents of family violence

Victorian Police Form L17

- 37 One of the most critical reforms to police response introduced pursuant to the Code of Practice was the introduction of the Family Violence Risk Assessment and Management Report (known as a Form L17, or simply as an L17).
- 38 Before leaving the scene of a family violence incident, police are required by the Code of Practice to conduct a family violence risk assessment to ensure that all
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issues have been considered in relation to the safety and welfare of all persons, which involves completing the L17.

39 The L17 is intended to guide police through a risk assessment and risk management process which includes:

39.1 identifying and recording the most relevant evidence-based risk factors and indicators;

39.2 ensuring that decisions by police or others regarding the safety and welfare of affected family members are well informed;

39.3 making a structured assessment on the likelihood of future family violence; and

39.4 determining the most appropriate risk management strategy.

40 Once they have made the initial assessment, police then have a range of options, and they must take the most appropriate course of action. These include criminal, civil and referral options. In every case, police are required to refer all persons involved in family violence incidents to appropriate agencies. The referral can be either an informal or formal referral. In this way, police are able to facilitate access to specialist services for ongoing assistance, for both the victim, perpetrator and any children involved.

41 An informal referral involves the details of an appropriate agency being given to the affected person, be that the victim or the perpetrator.

42 The formal referral means the police will relay the information contained in the L17 form to an appropriate agency. Police may forward the entire risk assessment, excluding the details of the other party, to the nominated referral agencies for both the affected family member and the perpetrator.

43 According to the Code of Practice, police will make a formal rather than informal referral:

43.1 where police intend to lay criminal charges or are investigating an alleged crime relating to a family violence incident;

43.2 where the safety, welfare or property of a family member appears to be endangered by another family member and police intend to apply for or have sought a Family Violence Safety Notice, Application and Warrant, Application and Summons or Family Violence Interim Intervention Order;

43.3 where the risk of future violence is assessed as 'likely';

- 43.4 to address recidivism;
- 43.5 to enable co-case management; and
- 43.6 in any circumstances where police assess a formal referral is required.
- 44 If police assess that an affected person is in need of immediate assistance, such as needing to relocate to a refuge or alternative accommodation or requires assistance with security measures (for example, changing of locks), police will make a formal referral via a direct telephone call and provision of the L17 to the relevant agency.
- 45 Where a formal referral is appropriate but police assess that non-urgent assistance is required, police will forward the L17 to the relevant agency for a timely response.
- 46 In practice, unless a victim is assessed as being in need of immediate assistance, after an incident has occurred and the relevant information recorded, police will forward the L17 to the agency via fax.
- 47 The police do not need the consent of any party to make the formal referral. However, they do need to inform the parties before making the formal referral that they intend to do so.
- 48 Once the referral agency receives the L17, triage and prioritisation processes differ between various agencies as different demand management processes have had to be adopted. In general, however, agencies review L17 forms, determining as best they can from the police risk assessment which referrals are at highest risk. They will then attempt to make contact with the Affected Family Member (**AFM**) and to engage with her. Different agencies have different processes for contacting women. Some agencies endeavour to contact all AFMs whereas some only have capacity to try to contact those that have been determined to be at higher levels of risk. Whether the woman can be contacted and, when she is, whether she will engage with the service, is highly variable.
- 49 In relation to children and young people, police members will make an independent assessment of risk for any child or young person who is present, has witnessed or has been affected by an incident of family violence.
- 50 Police must make a report to Victorian Child Protection Service (**Child Protection**) as soon as practicable after forming a belief on reasonable grounds that a child has suffered or is likely to suffer significant harm as a result of physical
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injury or sexual abuse, and the child's parents are unable or unwilling to protect the child. If police otherwise have significant concerns for the wellbeing of an unborn child, child or young person they may refer the matter to Child Protection or the relevant Child FIRST intake.

- 51 While the introduction of the L17 form has, in my view, been extremely beneficial overall, there are a number of issues with the L17.

Incomplete L17s

- 52 Agencies often receive incomplete L17s. This creates a further burden on agencies to ascertain the relevant information and respond appropriately. Other times, L17s are not sent through at all.

- 53 There is no data kept that measures incomplete L17s. However it is an issue that we frequently hear anecdotally from our member agencies (for example, that AFM telephone numbers have not been included, there is a lack of information about whether referrals have been made for children, or the Aboriginal status of parties has not been completed). We understand, however, that this has somewhat improved since the introduction of the automated police data collection system.

- 54 I refer to Part 2.3 of DV Vic's submission which forms attachment '**FM-3**' to this statement, titled *Managing Risk: the interface between police and family violence services*, which sets out further detail on this issue.

Not the full picture

- 55 While the L17 in its original form has information in respect of the victim, perpetrator and the children where necessary, the agency (which is in nearly all cases dealing with a female victim) only receives the information from the police relevant to the victim in accordance with the Code of Practice. However it is difficult for agency staff to understand the full picture and make a risk assessment 'on the papers', as it were, without the relevant perpetrator information.

- 56 L17 recipient agencies don't receive any identifying information about the perpetrator. The L17 form for AFMs allows for basic information about the perpetrator to be supplied, although in the main this relates to the current incident; for example, whether the perpetrator was obviously under the influence of alcohol or other drugs, whether firearms/weapons were used or present, whether the perpetrator made threats of harm or tried to choke the victim. A few questions ask about the perpetrator's history of violence and require tick-box answers.
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- 57 Our member agencies tell us that this means they cannot, for example, match information they may have about the perpetrator and past victims who they may have worked with previously. Given what we know about family violence, understanding a man's history of violence perpetration is critical to assessing a woman's current risk.
- 58 Further, if the agency hasn't been able to make contact and engage with the woman and they don't have identifying information about the perpetrator, then they cannot make inquiries of police about the risk he poses to his family. With only minimal information about the perpetrator, agencies' ability to assess a woman's risk is severely undermined. This can place women and children at further risk of violence as agencies have to prioritise their engagement with clients.

Lack of information sharing

- 59 There can be insufficient information sharing between the police and the agency. The police conduct the risk assessment in the first instance and send the L17 to the agency. This is necessarily a fairly rudimentary risk assessment, given that it is being done at the time or immediately after the incident, and it depends on the information police have been able to elicit during what is a time of heightened tension and emotion. Potentially, if the full risk assessment is subsequently conducted by the agency, that information could be fed back to police. This would enable the police to have the full context of the matter and the loop will in a sense be closed off. This is sometimes done, but it is on a very ad hoc basis.
- 60 On occasion these loops will be closed and the information will flow through, but due to the huge demand, agencies often do not have sufficient resources to do so consistently.

Privacy concerns

- 61 Agencies are also very concerned about maintaining their clients' privacy and not disclosing any information about their clients or others that is not risk relevant. Even where it may not be unlawful, and it would be useful to do so, they can be reluctant to disclose anything for fear of legal repercussions. There is limited understanding and a lack of clarity at present in the sector about the legislative framework that governs information sharing and privacy.
- 62 Specific legislative framework allowing for disclosures between police and agencies if reasonably necessary in the interests of preventing family violence,
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with an associated protocol to further clarify obligations, would be a useful reform in this area. This could be in the manner of the NSW provision (section 13A, *Crimes (Domestic and Personal Violence) Act 2007* (NSW) and NSW's associated Domestic Violence Information Sharing Protocol).

- 63 Privacy training in service providers and police force on the above legislative framework and Information Sharing Protocol, specifically focussing on the circumstances in which information can be disclosed, would also be an important step to fix this present reluctance and lack of understanding.

Capacity

- 64 The introduction of the referral system and the use of the L17 forms through the Code of Practice was not met with corresponding funding increases and therefore has resulted in an extremely high workload for many agencies in responding to the forms. Agencies, in general, just don't have enough time to properly deal with each one. Further, in addition to the referrals they receive through the L17 process, family violence agencies receive referrals from many other places.
- 65 This results in issues with the capacity of agencies to adequately and thoroughly deal with every case. In some instances, due to the heavy workload, the capacity agencies have to work with women on an ongoing basis is limited. The agencies are too busy putting out spot fires in terms of dealing with every single L17 to work with a woman in sufficient depth.
- 66 I refer to Parts 2.1 and 2.2 of DV Vic's submission which forms attachment '**FM-3**' to this statement, titled *Managing Risk: the interface between police and family violence services* which sets out further detail on this issue.

Lack of education about family violence and the Code of Practice

- 67 I understand that training was carried out at the time of the introduction of the Code of Practice and at the time of the introduction of the *Family Violence Protection Act 2008* (Vic). We know that training is now carried out, including in the very early stages of a police officer's career at the Victorian Police Academy (**Academy**). We recently learnt that cadets at the Academy have receive family violence training since 2010; however police report that the number of current police members that have undergone this training accounts for only 3% of Victoria Police members.
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- 68 As a result, there are instances where police at times have a limited understanding of the nature and impact of family violence, the requirements of the Code of Practice and best practice in responding to incidents of family violence. Police are in some instances unaware of the patterns of family violence so unless it is clear, physical abuse, they don't understand that it constitutes family violence.
- 69 Another issue we are often presented with is that police do not properly assess children for risk. In some instances the risk in respect of children is not assessed at all. In other instances, certain police refer all children to Child Protection, which is not necessarily the appropriate response in a given situation.
- 70 I refer to Parts 3.1 and 3.2 of DV Vic's submission which forms attachment 'FM-3' to this statement, titled *Managing Risk: the interface between police and family violence services*, which sets out further detail on the above issues.
- 71 Further, sometimes police are not able to determine who the primary aggressor is and they will record on the L17 that both parties are aggressors. This is unhelpful and essentially renders the family violence invisible. It can also have impacts for future family court proceedings.
- 72 We are aware that since the introduction of the electronic data system, police sometimes complete the L17 form once the incident has been dealt with and they are back at the station. This means that the L17 form is not informing the initial response of police to the incident. Further, it can be viewed as a 'tick a box' form-filling exercise rather than a risk assessment process. There is a difficult balance to strike between meaningful risk assessment and time and resources available to police.

Systemic problems with perpetrator accountability

- 73 Currently in Victoria we do not have a systems approach to perpetrator accountability. Most of the Victorian services system is set up to respond to women and children, and the focus is predominantly on the woman and how best to assist her, once the violence has occurred.
- 74 To help her, we need to focus on him. We need to solve these problems in the long term and to do so we need to stop men from choosing to use violence at all. Men who use violence do so because they have a belief that they are right and entitled to do so, and the frequent lack of response or minimal response condones those beliefs. In my view, if there were consequences from a range of agencies
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and he started to see it was in his interests to change his behaviour, he would begin to change his behaviour.

- 75 I think that an increased focus on the perpetrator would assist in reducing the rates of recidivism and impacts such as homelessness, poverty, dislocation from community and so forth. To achieve this, we would need to have some system of monitoring perpetrators. In my view, if men are aware that their behaviour is being monitored and they are being 'watched' by the system, combined with the imposition of serious and proportionate consequences when they do engage in violent behaviour, we will see rates of recidivism decrease.
- 76 There have been some good innovations within Victoria Police in terms of addressing recidivist perpetrators; we believe that these need to be evaluated with a view to implementation of a consistent approach to recidivism.
- 77 One example of a strengthened approach to perpetrator accountability and recidivism is the Morwell model, in which the Morwell Police Force have taken a proactive approach to prosecuting every single breach of an intervention order.
- 78 While the Morwell model itself has to my knowledge been tested only in the context of a regional community, I think certain aspects could be adopted across the state. For example, the adoption of a state-wide system to monitor men who are a risk to women and children. That would allow police, the courts, corrections staff, family violence groups and others who come into contact with offenders to share information and better protect victims. In addition, the imposition of consequences when perpetrators do offend needs to be consistent and certain, where possible.
- 79 A systems approach to perpetrator accountability requires:
- 79.1 development of a common definition of perpetrator accountability;
 - 79.2 establishment of an authorising environment to compel different sectors to work together for perpetrator accountability;
 - 79.3 an overarching policy framework which establishes the objectives of an accountable system;
 - 79.4 identification of the key points for intervention and interaction with perpetrators of violence;
 - 79.5 workforce development on family violence and risk assessment;
 - 79.6 data collection;
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- 79.7 data sharing; and
- 79.8 monitoring and evaluation.

Funding

- 80 In addition to my comments on the present state of the police response in Victoria, there are significant issues with funding for family violence services.
- 81 Most funding trickles down through funding that has been allocated to dealing with homelessness and is mostly related to national homelessness targets. This affects how money can be allocated and what measures services have to report against.
- 82 We need a dedicated family violence funding stream, shared between state and federal governments.
- 83 In addition to dedicated funding, the family violence sector needs certainty of funding. At DV Vic, the peak body for family violence in Victoria, we've spent a large part of the previous year fighting proposed cuts to the family violence sector at the federal level. That has limited what positive work we could do. If family violence services had ongoing assurance about funding, the sector could focus more of our time and energy on our core business needs. Funding insecurity limits service planning, worker expertise and retention.
- 84 I refer to Part 4 of DV Vic's submission which forms attachment '**FM-3**' to this statement, titled *Managing Risk: the interface between police and family violence services*, which sets out further detail on this issue.



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Fiona Margaret McCormack

Dated: 29 July 2015
