



Royal Commission
into Family Violence

WITNESS STATEMENT OF DR MELANIE JANE HEENAN

I, Melanie Jane Heenan, Executive Director, Court Network of 565 Lonsdale Street, Melbourne in the State of Victoria say as follows:

1. I am authorised by Court Network to make this statement on its behalf.
2. I refer to and rely on Court Network's submission to the Royal Commission into Family Violence (**Royal Commission**) dated June 2015, which includes 14 recommendations in response to the Royal Commission's Issues Paper. Attached to this statement and marked "**MH-1**" is a copy of Court Network's submission.
3. 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.

Current role

4. I am the Executive Director of Court Network and have held this position since January 2012.
5. In my role as Executive Director, I support the Board to define and articulate the organisation's vision and to develop and implement operational plans and programs that support the strategic directions set by them. I perform all of the management functions at an organisational level as well as ensuring that the developmental programs are designed in a way that meets Court Network's goals and objectives. I am responsible for the overall management of human resources and quality and operations within the organisation.

Background and qualifications

6. I have over 25 years' research, policy and practice experience working in the field of violence against women and children.
7. Prior to commencing at Court Network in January 2012, I managed the Preventing Violence Against Women program at VicHealth for three years. In this role, I was

responsible for the design and delivery of a program of activity to address the underlying causes of violence against women at a population level.

8. From 2006 until 2008, I was the first manager of the Respect and Responsibility program at the Australian Football League. In this national role, I was responsible for leading the strategy to build environments that are safe, supportive and inclusive of women and girls in the male dominated football industry.
9. I have previously held positions at the Victorian Law Reform Commission and the Victorian Department of Justice. I was the inaugural coordinator of the Australian Centre for the Study of Sexual Assault and an original member of the Federal Government's National Council to Reduce Violence Against Women and their Children. I am currently an Independent Director on the Board of Australia's National Research Organisation for Women's Safety (**ANROWS**).
10. I hold the following qualifications:
 - 10.1. Bachelor of Arts (Honours) from Monash University in 1991;
 - 10.2. Doctor of Philosophy (Sociology) from Monash University in 2002. My doctoral thesis examined the impact of social and legal change on the conduct of rape trials following a progressive legislative and procedural reform package that had been introduced in Victoria in 1991.

Court Network

11. Court Network delivers a free, non-legal court support service to court users across Victoria and in some parts of Queensland. Court Network operates across jurisdictions, including 18 Magistrates' Courts in Victoria. In 2006, Court Network expanded its services to include courts in the Brisbane central business district and in 2010 to courts in Cairns and Townsville.
12. The service provided by Court Network is an important component of accessing justice, particularly for vulnerable and disadvantaged court users who may be attending court for the first time, be unfamiliar with court rules and processes, lack knowledge about what is expected of them, feel frightened and unsafe or need someone to listen, provide support and assist them navigate the court system.
13. Court Network's service is delivered by over 400 highly trained volunteers, known as Networkers. Our Networkers provide non-judgemental, confidential and respectful

support, information and referrals to all court users, including applicants, respondents, victims, witnesses and defendants, and their families and friends who attend court with them.

14. Any court user is eligible to receive assistance from Court Network, and many court users assisted by Court Network have no legal representation.
15. Court Networkers work from a dedicated office in the court, with a minimum of two Networkers rostered on duty at any one time. Networkers connect with court users requiring assistance by 'walking the floor' and introducing themselves to court users who are entering the court or waiting for their matter to be heard, developing a rapport and offering information, support and referral as required. Court Networkers are highly visible and well-known to court staff and other support services operating at court.
16. Examples of the ways in which Court Network provides assistance to court users include:
 - 16.1. A telephone information, support and referral service which operates daily from 1pm – 5pm, and is staffed by paid professionals. We do not have funding to operate this service for longer hours;
 - 16.2. Pre-court support such as providing information about court procedures, assisting with organising interpreters, showing court users around the court, and making arrangements to increase someone's safety when they are at court;
 - 16.3. In-court support such as being with them in person on their day in court and sitting with them while they give evidence (including in remote witness facilities), explaining how the courts and legal systems operate, and providing court users with a safe place in court;
 - 16.4. Post-court support such as referring people to other support services in their local area.

Inadequate structural reform to support effective integration

17. The *Family Violence Protection Act 2008* (Vic) was clear about its purpose. The principles contained in the preamble set a new bar for the treatment of family violence, particularly by the law and courts. It says to victims of family violence, and to women

in particular (who are acknowledged as disproportionately affected), that they will be believed and respected if they do in fact come forward and report violence, and that their perpetrator will be held to account.

18. At the same time, the message from the leadership of Victoria Police was clear. Family violence was to be a priority for operational police with a new Code of Practice and procedural requirements in place that meant for every family violence call-out, there would be a response.
19. There is little doubt that with this context, the rapid rise in police reports and women appearing at court seeking intervention orders was predictable. And yet the funding allocated to drive the structural reform promised by the concept of integration was inadequate.
20. Instead, the funding announced in 2006 was committed to a suite of disparate strategies designed to manage the various stakeholder interests. A coherent governance structure with clear Ministerial and cross-departmental accountability to guide the reforms was not maintained. The "integrated systems reform" was without a master plan, without a blueprint for implementation, without monitoring or review mechanisms. At the local level there was little guidance or direction on what or how to achieve integration.
21. Without a strong authorising environment, without a master plan, and without the funds to support it, the result was a patchwork of responses that vary widely across Victoria.

The impact of predictable and unprecedented demand on courts

22. Court infrastructure and administration was always going to be uniquely impacted by the dramatic rise in family violence reports. It's difficult to understand how the relevant Ministers and departments could have imagined that the court precincts in their current form could be used to respond effectively to family violence. The parties are by virtue of being in that jurisdiction, not only known to each other, but intimate partners where one party is reported to have been violent, threatening and abusive to the other. And yet the existing architecture, literally the buildings themselves - the precincts - have resulted in women being less safe.
23. The introduction of pilot specialist courts and divisions has qualitatively improved our response to family violence. However, the majority of intervention order applications

continue to be heard in courts with very little support infrastructure. Demand drives the approach. A good day has become about getting through the list each day. Lost is the opportunity to triage her needs through case intake and case management.

24. There are serious safety, volume and capacity issues that need to be addressed immediately, and which I discuss further below.

The experience of court users in intervention order matters

25. Court Networkers have significant frontline experience and see every day the impacts of attending court on individual court users. Court Networkers have a unique insight into what it means to come to court for both applicants seeking protection through an intervention order and respondents who are required to attend court due to reported abusive behaviour towards a family member. Court Networkers are the 'eyes and ears' to the experience of court users in the court building.
26. Court Networkers identify that overwhelmingly, people attending court for family violence matters have limited information about, and are bewildered by, court processes. As I discuss below, this is compounded by long waiting times for court appearances, feeling scared and unsafe, and the pressures of other demands such as looking after children.
27. One of the main problems with the current system for applying for an intervention order is that it is so inconsistent. A woman walking into the Sunshine Magistrates' Court seeking an intervention order is going to have a very different experience to, for instance, a woman walking into the Melbourne Magistrates' Court. I explain some of the different experiences in these two Magistrates' Court further below.

Triaging of cases

28. In most courts there is no explicit triaging process to identify which cases might proceed more quickly, or who might have complex needs and require intensive support. Some courts do have a triage system. For example, at the Sunshine Magistrates' Court, there is a triage meeting every Monday at 9.15am which is convened by the Applicant Support Worker and attended by Court Network, InTouch Multicultural Centre Against Family Violence (**InTouch**), a family violence outreach worker from Women's Health West, a Centrelink social worker and McKillop Family Services. During the meeting, the day's family violence list is reviewed and the services identify women known to them, or likely to require support by one or more

of the services. The support workers then go on to the 'floor' of the court and approach the women who have been identified as requiring support in the triage meeting.

29. The triage meeting is an effective way of working through a long court list (there may be 40-70 matters listed on any one day) and discussing how to effectively support family violence cases. However, it is rare for the court registry staff to participate in the triage meeting which is a problem in my view. It would be beneficial for the registry staff to participate in the triaging so that the court and non-legal staff work in unison to provide a more coordinated response to court users, particularly to assess and prioritise high-risk cases. In courts where the registry staff do participate in a triaging like role, not all the relevant services providers are co-ordinated to participate. There is also variation in terms of the extent to which a triaging process can take place. The specialist services are not in court every day, nor are they often able to remain in court for the duration of the day. Furthermore, Victoria Legal Aid and other court-based community legal centre workers are not involved in these meetings.
30. Court Networkers play a vital role by ensuring that women are linked with support services they need and that they do not 'fall through the gaps' following the initial review and triage of the list. Court Networkers come across women who may need to see Women's Health West or InTouch and can introduce them to the relevant support worker. During their conversations with women, Court Networkers may identify that the woman would benefit from speaking with Centrelink, or that the woman is at high risk and would benefit from speaking with the Applicant Support Worker or Women's Health West. This 'outreach' style of working is particularly important given that the court lists are long and not everyone can be seen by the specialist services and Applicant and Respondent Support Workers. Court Networkers can, for example, sit with a woman whilst she is waiting for her matter to be called on, or offer her respite in the Court Network office.

Inadequate court infrastructure

31. The available support infrastructure at courts is variable, mostly inadequate, and is making women less safe. Court Networkers report the under-utilization of remote witness facilities for giving evidence in family violence cases. For example, Sunshine Magistrates' Court has a remote witness facility which is accessed via the VCAT entrance on the other side of the building. In Court Network's experience, this facility is rarely used. I understand that the reluctance to use the remote witness facility is

because it is logistically more difficult. The court is so intent on getting through the large number of matters it has on its list during the day that it loses sight of how arrangements could be made to make applicants safer. I think remote witness facilities should be used routinely in family violence cases, and in the case of the Sunshine Magistrates' Court, all applicants should be advised to access the court building through the VCAT entrance where they could wait to appear in the remote witness facility once their matter is called.

32. Another issue of concern is that at many courts there is no separate waiting rooms for applicants and respondents. To take the Melbourne Magistrates' Court as an example, I think there is a common perception that this court is the most modern and best equipped to deal with the volume of intervention order applications, but the reality is quite different. Women are required to assemble on level 6 where the court room and legal services are located. There are people everywhere; the waiting area is completely insufficient for the number of people attending court. Women sit on the floor nursing their babies and toddlers. Women's Legal Service and Legal Aid provide advice to women from a tiny alcove. Applicants are told to wait in the alcove area and respondents are told to wait down the other end of the floor, but the applicants and respondents are in direct line of sight of each other. Many women are terrified and have to sit there for hours waiting for their matter to be called on whilst being directly exposed to the perpetrator. Some respondents behave in a threatening and intimidating manner whilst waiting for the matter to be heard which further exacerbates the anxiety of the applicant.
33. The process at the Melbourne Magistrates' Court could be immediately improved by using the witness support room which is on level 5 (the level below the court rooms and legal services). The witness support room is rarely used because no one wants the administrative hassle of escorting people from one floor to the other. However, the experience for applicants would be greatly improved by using this room because applicants would have access to a waiting area with more adequate seating, and a safe space to receive support and legal advice. This is an example of how the system is geared around what it needs to do, rather than what the woman needs from the system.
34. There are often long waiting times for intervention order matters. You can see the anxiety levels rising in the waiting area as the day wears on. Everybody is told to arrive at 9.30am, regardless of when their matter will be heard. Most women assume that their matter will be heard at 9.30am and do not realize that they will likely be at

court all day. This means that many women come without nappies for their babies or toddlers, without lunch and without making arrangements for the school pick up of their older children. Some women simply leave before their matter is called, both because of these practical considerations and also because they feel scared and unsafe waiting in the same vicinity as the perpetrator. For some women, the longer they sit in the waiting area and reflect on things, the more they see taking out the intervention order as the least safe option for them, thinking it will only inflame the perpetrator. Court Networkers try and ensure that women who say they have to leave have seen or been referred to a service which can help them prepare a safety plan.

35. This stress is compounded by the formalities of the court process and the length of the Information Form which becomes the basis of the intervention order application. Some women have assistance from a support worker to complete the form, however the workers don't have a lot of time and many women feel they do not have an opportunity to properly communicate their story. The Information Form is incredibly lengthy at 12 pages long. It is impossible to complete for those women who are illiterate or semi-literate. Even for highly literate people, it is difficult to capture the reasons why they want the order on the form. Women don't realize that the form is eventually reduced to three or so paragraphs by the registrar which is then providing it to the Magistrate. The Magistrate does have access to the 12 page document, but they are also under time pressure.

Engaging with respondents

36. At a systems level for respondents, there is a dearth of effective responses. The interventions that do exist, particularly in relation to men's behaviour change programs, are often unsophisticated, poorly monitored and poorly resourced. They fall a long way short of holding men accountable for their actions or to effectively intervene with those respondents who may well be responsive to changing their behaviour, and to minimising the likelihood that they will reoffend against other women or re-victimise their partner and children.
37. The act of taking out an intervention order could quite possibly be the first time there has been any systems intervention in relation to his behaviour. Men are angry at being called to account for themselves at court. Often a blind eye is turned to his behaviour in court. It has almost become normal to see respondents displaying the very behaviour that he has been called to account for. He acts out his behaviour. And even with the full justice and police there, present. What message does that send to

her? The full weight of the law, of its authority, and at that moment - hope is our method.

38. As I mention above, Court Network does not just work with applicants but will also work with respondents to intervention order applications. If not for Court Network, many respondents would not have anyone approach them in the court building. It is important that respondents are informed about the court process and what is likely to happen during the day. Networkers can assist respondents by making sure the registry staff know they have arrived, and checking to see if they need to see the duty lawyer or other services. In Court Network's experience, respondents are often angry. They're suddenly engaged in a system that is requiring them to be accountable for their behaviour. The process is not in their control. If they have someone explain the process they are sometimes more able to engage effectively with the process. It can also reduce the likelihood of the respondent using the court precinct as an opportunity to further intimidate or threaten the applicant.
39. Networkers work in a complementary way to the court Respondent Support Worker, however very few Magistrates' Courts have a Respondent Support Worker. In Court Network's view, it is critical that these positions are funded because of the important role they play in providing information to respondents about the court process.

Access to interpreters

40. Access to interpreters is also a significant issue across the courts. It is difficult for someone from an English speaking background to navigate the court process, let alone someone who does not speak English and/or who may have low literacy in their preferred language. Court Network is acutely aware of the lack of trained interpreters to assist women applying for intervention orders and the difficulties this presents. It is problematic for women both in the pre-court period and when attending court. For example, if police attend an incident, information provided to women (i.e. paperwork relating to attending court, safety notices etc) is mainly provided in English and not always explained via an interpreter to the woman. This results in many women not attending court because they are unaware that they are required to do so. Where interpreters are used, frequently that role is filled by a family member.
41. When women attend court, an interpreter sometimes has not been booked. This results in the matter being adjourned or the woman waiting around until an interpreter arrives at court. Sometimes only one interpreter is booked for several cases meaning

women have to wait for long periods of time at court. Court Network observed this recently at Broadmeadows Magistrates' Court where there was one Arabic speaking interpreter interpreting for at least four cases. Generally, interpreters are only booked until 1.00pm, which can result in the matter either being rushed through before the interpreter leaves or adjourned if the matter is not resolved before the interpreter leaves.

42. Court Network has also observed cases where one interpreter has been used to interpret for both the applicant and the respondent in court. This appears to contravene court requirements for separate interpreters for each party, and raises a serious conflict of interest. There is also no opportunity for women to choose the gender of the interpreter. In very small communities, confidentiality is a huge issue as the interpreter may know the family.
43. For some women, the complexity of family dynamics, her unique support needs due to immigration issues and fear of being made to return to her country of origin can mean that an intervention order is an inadequate solution to this complex range of issues.

Exiting the court building

44. One area of concern at all Magistrates' Courts is the safety of women leaving the court building. Leaving the court building after the outcome of an application has been determined is a terrifying prospect for many women. There is potential for the respondent to be incredibly agitated and make threats towards the woman. There is no service available to accompany women to their cars or to public transport. It is an incredibly high risk time. In some courts, creative solutions are put in place such as creating a 'window' for the woman to leave whilst the court is preparing final papers for the perpetrator. In other courts, the woman may be assisted to exit the court building via a back door, however this does not happen at all courts, nor is it adequate to address the risk posed to women.

Magistrates

45. The approach to hearing intervention order applications varies between Magistrates, and the approach of some Magistrates is not conducive to applicants being able to properly express their concerns, fears and anxieties. For instance, I have observed some Magistrates ask applicants to get into the witness box to give evidence, when the respondent doesn't even appear or is not contesting the order. This is very

difficult for applicants and often results in them becoming really anxious and distressed. Although Magistrates are entitled to ask the applicant to give evidence in this way, I have seen other Magistrates take a different approach which is less confronting for the applicant.

46. I have observed Magistrate Noreen Toohey at Sunshine Magistrates' Court and her approach is exemplary in my view. She starts by explaining to respondents the definition of family violence under the *Family Violence Protection Act 2008 (Vic)* and makes it clear that it extends beyond physical violence. Ms Toohey often explains to the parties that children's exposure to violence constitutes family violence and that there are significant impacts of family violence on children. In my observation, speaking directly to the parties like this has a real impact. Ms Toohey explains the operation of the intervention order to the parties, including what the respondent is required to do next. In some cases, Ms Toohey will call the relevant services in to the court room to make sure they meet with the parties as they leave court. Court Network supports having specialist Magistrates hearing family violence matters because they are well versed in the relevant laws, the issues commonly confronting the parties and the support services which are available.

Cross jurisdictional issues

47. The concept of integration suggests the victim - the woman - will be responded to as a whole person. And yet there was nothing set in place to support how that change could occur in the court system. She is a family violence case in the Magistrates' Court. Another woman again to the County Court if there is an appeal. She is a woman with property and children before the Family Court, and she is a woman with a financial and tenancy dispute at VCAT. She is never a whole person in the court system. The court structure works against her being one woman with a holistic experience. She is instead a woman with many cases requiring many court appearances. We can do better than this.



Melanie Jane Heenan

Dated: 3 August 2015