

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

**STATEMENT OF ASSISTANT COMMISSIONER THOMAS DONALD LUKE CORNELIUS**

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I, THOMAS DONALD LUKE CORNELIUS, Assistant Commissioner, Victoria Police, SAY AS  
 FOLLOWS:

1. I am an Assistant Commissioner of Victoria Police.
2. I have held my current position as an Assistant Commissioner since 4 December 2005, and I have previously been responsible for the Ethical Standards Department of Victoria Police. Since April 2010, I have been in charge of the Southern Metropolitan Region (**SM Region**) and in that role I lead around 2,000 police officers. I am also currently acting in an Acting Deputy Commissioner role until 29 July 2015.
3. In my capacity as an Assistant Commissioner, I am also a member of Victoria Police Command, the Victoria Police Service Delivery Committee and the Victoria Police Business Development Committee. I was also a member of the recently disbanded Violence Against Women and Children Steering Committee.
4. I have been a police officer since 24 July 1989, when I was appointed as a member of the Australian Federal Police. I have extensive policing experience, having performed a variety of operational and corporate roles during my 26 year career. During my 14 years as a Federal Agent in the Australian Federal Police, I performed roles in Drug Operations, Legal Policy, East Timor, Human Resources and People Strategies.
5. I hold a Degree in Law, a Graduate Diploma in Legal Practice and a Master's Degree in Public Administration. I have been awarded the Australian Police Medal,

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the National Medal, the Police Overseas Service Medal and the United Nations Medal.

6. I have received a notice from the Royal Commission into Family Violence pursuant to s 17(1)(d) of the *Inquiries Act 2014* (Vic) requiring me to attend to give evidence at the Royal Commission and to provide a written witness statement.

## **SCOPE OF STATEMENT**

7. I make this statement in response to a request by the Royal Commission into Family Violence to give evidence regarding matters the subject of the public hearing for Module 13 (Intervention Orders – Monitoring and Enforcement).
8. In my time as Assistant Commissioner for the SM Region, the prevention of family violence has been a particular focus, and as a result I have increased the size of the Family Violence Team for the SM Region over the last five years from 6 to 32 police officers. I describe in this statement below some of the key initiatives undertaken in the SM Region in relation to family violence during this period.
9. I understand that the Royal Commission is particularly interested in receiving evidence about Victoria Police's policies and protocols concerning:
  - 9.1 the service of intervention orders (IVOs);
  - 9.2 the monitoring of compliance with IVOs; and
  - 9.3 the response to breaches of IVOs.

In addition, I understand that the Royal Commission would like information about relevant recent initiatives by Victoria Police related to each of these topics.

10. Apart from a brief explanation of the relevant Victoria Police policy framework, my statement is limited to these issues in the context of my region.

## **FAMILY VIOLENCE POLICIES AND PROTOCOLS**

11. I understand that Assistant Commissioner Dean McWhirter is to provide information to the Royal Commission about the organisational structure within Victoria Police for responding to family violence, and the relevant State wide policies, protocols and resources that Victoria Police apply. I provide therefore only a brief summary of these policies and protocols.

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12. The Victoria Police Manual (**VPM**) is a key policy and operational manual for Victoria Police members. It comprises 'policy' in the form of mandated formal instructions issued by the Chief Commissioner of Police (**VPMP**) and 'guidelines' to provide further guidance to members in relation to the instructions (**VPMG**).
13. In relation to family violence, the VPM contains three specifically relevant parts:
  - 13.1 instructions set out in *VPMP – Family Violence* (**Attachment TC-1**); and
  - 13.2 guidance set out in three sections of the VPMGs, *VPMG – Family Violence* (**Attachment TC-2**), *VPMG - Family Violence Holding Powers* (**Attachment TC-3**) and *VPMG - Family Violence Safety Notices* (**Attachment TC-4**).
14. In addition to the VPM, Victoria Police has a code of practice in relation to family violence, the *Code of Practice for the Investigation of Family Violence* (Edition 3, 2014) (**Code of Practice**) (**Attachment TC-5**). The Code of Practice complements the VPM and provides comprehensive guidance to members in the initial response, investigation, risk assessment and prosecution of family violence incidents, as well as guidance on the relevant civil remedies available and their related processes.

## **SERVICE OF INTERVENTION ORDERS**

15. Under the *Family Violence Protection Act 2008* (Vic) (**FVP Act**), a family violence related IVO must be personally served on the Respondent before it can be enforced by Victoria Police and/or the courts, unless attempts at personal service have failed and a court has made an order for substituted service (see sections 201-205; and sections 123-123A of the FVP Act).
16. The process for personally serving IVOs on a Respondent, which applies to both privately initiated and police initiated IVOs, is as follows:
  - 16.1 The Magistrates' or Children's Court makes the IVO;
  - 16.2 If the Respondent is present in Court at the time the IVO is made, the Court serves the IVO on the Respondent;
  - 16.3 If the Respondent is not present in Court at the time the IVO is made:
    - (a) the Court Registrar faxes a copy of the IVO to Victoria Police's Central Data Entry Bureau (along with any other IVOs and similar orders made that day, for example subpoenas, summonses and requests for interviews), which records the existence of the IVO on

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Victoria Police's Law Enforcement Assistance Program (**LEAP**) database;

- (b) the Court Registrar faxes another copy of the IVO to the relevant Victoria Police station, along with any other IVOs and similar orders made that day (I note that there are local agreements in place that dictate which police station certain Magistrates' and Children's Courts are to fax IVOs to and under what circumstances);
- (c) a police member from the relevant police station arranges for the IVO to be served on the Respondent on behalf of the Court Registrar (acting as a delegate of the Registrar under section 205 of the FVP Act);
- (d) once the IVO is successfully served, the police member who served it:
  - (i) completes an affidavit of service and returns the affidavit to the Court that issued the IVO;
  - (ii) notifies the affected family member (**AFM**) that the IVO has been served; and
  - (iii) faxes a notification of service of an intervention order form to the Central Data Entry Bureau, which records the service of the IVO on LEAP; or
  - (iv) records the service of the intervention order directly into LEAP themselves, using Victoria Police's LEAP Electronic Data Recorder Mk2 (**LEDR Mk2**).

17. *VPMP – Family Violence* provides that, once an IVO is received by the relevant police station for service, the Work Unit Manager responsible for the receipt of files (which is usually the Files Office Manager) must ensure that the IVO is served 'in a timely manner' in accordance with section 48 of the FVP Act (see clause 1.1). The Code of Practice provides that service must occur 'as soon as practicable', and makes it clear that the order remains unenforceable until it is properly served (see clause 5.11.2).



***Difficulties with personal service***

18. Police informants drive the process for serving IVOs. In many cases, personal service is difficult, with informants having to make multiple attempts to locate a Respondent amongst all of their other general policing duties. Some Respondents are itinerant, and some Respondents deliberately evade police. These challenges result in a significant amount of time being expended on the task of serving IVOs, and they also delay the execution of other protective mechanisms, which creates a risk for victims.
19. The number of attempts made to effect service, and the length of time for which police should persist in their attempts to effect service, is a matter of discretion for the relevant police officer. The Family Violence Command is currently reviewing the *VPMP – Family Violence* and *VPMPG – Family Violence* with a view to clarifying the timeframe within which an IVO, once received from the Court, should be served or, if service is unable to be effected, returned to the Court for consideration of substituted service options (**IVO Service Review**). A further issue that is being explored by the IVO Service Review is whether the practice of IVOs being faxed by the Court to non-24 hour police stations for service, results in avoidable delays in service of IVOs. If necessary, amendments to police practice will be considered.

***Substituted service***

20. Orders for substituted service may not necessarily provide effective control of family violence perpetrators. For example, if a Respondent to an IVO cannot be located and police do not have an address or a mobile number for a Respondent, substituted service may not be possible.
21. Further, even if substituted service is permitted and possible, this may not result in a Respondent in fact becoming aware that an IVO has been made against them. In those circumstances, the IVO may fail to offer effective protection to the AFM as its existence will have no effect on the behaviour of the Respondent. It may also be possible for a Respondent in any subsequent proceedings for breach of the IVO, to argue that s/he did not actually know that they were acting in contravention of an IVO.
22. A measure that would be likely to assist would be to permit service of IVOs in the first instance by means other than personal service where that is necessary and appropriate in the circumstances, for example by email, social media or registered post. Instead of requiring a court order for substituted service, it would assist if police had the option to serve by specified other means, where an officer has a

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reasonable basis to conclude that the Respondent is likely in fact to receive the IVO in that way. In many cases, it would be possible to prove that a Respondent received an IVO by those alternative means, by providing evidence of other communications the Respondent has made using those methods (e.g. emails or social media use at times proximate to the service of the IVO). These changes would require legislative amendments to the FVP Act and consideration to be given to the appropriate burden and standard of proof that ought apply to the question of service. For example, consideration might be given to whether the burden of proof ought be reversed, where there is evidence to support receipt of an IVO by alternative means, so that a Respondent would be required to prove that s/he did not in fact receive the IVO.

## **MONITORING OF INTERVENTION ORDERS**

### ***Privately initiated IVOs***

23. Police are not routinely notified of IVOs made on the application of an AFM (other than by the fact that police are engaged to serve IVOs, as I have explained above, if the Respondent was not present in court). Commonly, therefore, Victoria Police finds out about the existence of a privately initiated IVO when the AFM subsequently reports to police that it has been breached.
24. Police may be notified of the making of a privately initiated IVO, by the Registrar at the Magistrates' Court where the IVO was made. However, this is not necessarily a consistent practice across all Magistrates' Court venues. Where police officers at the Court are notified, they will typically offer to assist the AFM and to monitor compliance with the IVO in the ways described below. However, in some cases, the AFM will not want to have police involved.
25. On occasion, throughout the process of a privately initiated IVO application and the subsequent service of such an order, it will become apparent to Court staff and/or police officers that further police action is required in respect of, for example, an undisclosed criminal offence. The policies and protocols that apply to situations in which a police officer becomes aware that further action is required are those that apply to attendance at a family violence incident generally. For example, the officer should complete a Form L17 and apply the 'Options Model' (as detailed in chapters 4, 5 and 6 of the Code of Practice). The Options Model requires officers to exercise a judgment, after conducting a risk assessment, as to whether the incident reported or disclosed should be subject to criminal investigation, civil intervention and/or a formal or informal referral to a specialist agency. As required by clause 2.3 of the

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Code of Practice, police officers are required to respond to and take action on any family violence incident reported to them, regardless of who made the report and how it was made.

26. Currently, neither the VPM nor the Code of Practice contain a policy requiring members to actively assess each privately initiated IVO application to determine whether further police action may be required. Where further police action is required, Victoria Police is to a great extent reliant upon that information being given to us by the public. One way that Victoria Police, as an organisation, is seeking to overcome this challenge is through the continuing development of the specialist Family Violence Teams, Family Violence Advisors, Family Violence Liaison Officers (**FV Liaison Officers**) and Family Violence Court Liaison Officers (**FV Court Liaison Officers**). These roles are being developed with a view to:
  - 26.1 improving Victoria Police's capacity to recognise, understand, respond to and prevent family violence incidents;
  - 26.2 making Victoria Police more approachable to victims of family violence, so that reporting rates are improved; and
  - 26.3 developing relationships and communication pathways between Victoria Police and its key partner organisations, for example the Magistrates' Court.
27. An example of this is the process outlined in the Code of Conduct for communication between the Court and Victoria Police where the Court has concerns about an inadequate police response to a family violence incident. The Code of Conduct (see clause 7.2.1) provides that, if a Court Registrar (or other officer of the Court) has an immediate concern about the police response to a family violence incident (for example, that the response is not, or does not appear to be, in line with best practice under the Code of Practice), then the Registrar will contact the FV Liaison Officer or FV Court Liaison Officer at the relevant police member's station, or if unavailable another supervisor at the station, who will assess and investigate the situation to ensure the matter is dealt with in a timely manner. If required, the FV Liaison Officer or FV Court Liaison Officer or supervisor will direct members to take other action.

#### ***Police initiated IVOs***

28. Victoria Police has a variety of methods for monitoring compliance with an IVO obtained at the initiation of police. The same methods generally also apply once a

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privately initiated IVO has come to the attention of police, as described above. I describe these methods in the following sections. However, it is important to emphasise at the outset that effective monitoring of compliance with IVOs necessarily relies to a large extent on AFMs reporting IVO breaches to police. As discussed below, breaches of IVOs are significantly under-reported.

#### *Standard monitoring by Family Violence Teams*

29. In all regions, it is current practice for a member of the relevant Family Violence Team to follow up with an AFM of a family violence incident on a regular basis, in order to monitor their situation and any contact they have received from the Respondent to an IVO. In particular, the Family Violence Team ensures that the AFM knows who specifically at Victoria Police to contact in the event of a breach of the IVO. Family Violence Teams adopt flexible and case specific strategies for monitoring perpetrators and victims, in recognition of the fact that each AFM and Respondent will respond in different ways to police involvement.
30. I provide an example of the Standard Operating Procedures (SOPs) for the Family Violence Unit in Division 4 of the SM Region (**Attachment TC-6**). Division 4 incorporates the Frankston and Mornington Peninsula police service areas. Section 3 of the SOPs explains the approach taken to following up family violence incidents, ongoing monitoring of perpetrators and victims, and the specific measures taken to monitor 'high risk' and/or recidivist offenders as well as repeat victims.
31. For example, in Division 4, the Family Violence Team checks all new family violence incidents recorded in LEAP on a daily basis, in order to ensure that all immediate and necessary actions have been taken by the relevant police informant. The Team will assess whether any other steps should be taken and enter this information in LEAP to be actioned by the informant. Where urgent action is required, the Team will contact the relevant FV Liaison Officer and the informant, and other officers from the Team may be tasked to respond as necessary. The primary purpose of the Team's oversight is to ensure that there is a consistent and high quality approach to monitoring and responding to family violence incidents. Above all, the SOPs make clear that the safety of the AFM (including any children) is the paramount priority for police (see section 3.1 of the SOPs).

#### *Recidivist Offenders and Repeat Victims*

32. I understand that Assistant Commissioner Dean McWhirter will provide to the Royal Commission a detailed summary of the policies and protocols adopted by Victoria Police for dealing with recidivist offenders and repeat victims, including the

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requirements of the Victoria Police Intelligence Doctrine (**VPID**). In terms of the monitoring of compliance with IVOs, however, I would emphasise that Victoria Police has frontline, specialist and divisional responses to recidivist offenders and repeat victims. Family Violence Teams provide a specialist response, a part of which is to regularly monitor all family violence incidents occurring in their relevant police services area, as I have referred to above. In addition to ensuring appropriate follow up is conducted, this monitoring is done with a view to identifying repeat non-compliances and emerging recidivist risks, and to determine what measures should be taken to reduce them. Whilst each Family Violence Team has their own particular process for monitoring incidents in their area, I understand most adopt the same or similar practice as in Division 4 of the SM Region, in that the Family Violence Team will download from LEAP and review a list of all incidents on a daily basis.

33. In addition, at a divisional level, the VPID (which applies across the State) requires that the Divisional Intelligence Unit (**DIU**) within each Division collect and analyse intelligence on recidivist offenders and repeat offenders. The intelligence collected is used to support the creation and implementation of Recidivist Offender Management Plans (known as Priority Target Management Plans). Under these Plans, police identify an offender's history, appropriate control points for intervention and a plan for implementing active monitoring and control measures. Typically, police are actively engaged with the AFMs the subject of the Plan (by house calls and telephone calls) to ensure that there is an immediate response should there be a breach of an IVO. The Plans also ensure that there is an appropriate accountability mechanism for police, and that the response under the plan can be tracked and quality assured.
34. In Division 4 of the SM Region, Priority Target Management Plans are used not only for recidivist perpetrators and repeat victims (as they are defined in the VPID), but also for cases where the risks posed are considered particularly serious (defined as 'catastrophic' or 'major' in section 3.3 of the SOPs; see **Attachment TC-6**). A similar approach is therefore taken to dealing with the most serious cases, in that police establish and execute a tailored plan for minimising the serious risk of further incident and harm. Sections 3.3 to 3.15 of the SOPs set out the procedures adopted in respect of Priority Target Management Plans in Division 4, including the minimum requirements for contact and follow up where a Plan is in place.

## CONTRAVENTION/BREACHES

### *Victoria Police policy and guidance regarding contravention of IVOs*

35. The response expected of police members to a contravention of an IVO is prescribed in the first instance by the *VPMG – Family Violence*. Clause 3.2 explains (amongst other things) that:
  - 35.1 a contravention of an IVO or a Family Violence Safety Notice is a criminal offence;
  - 35.2 both summary and indictable contravention offences exist in the FVP Act;
  - 35.3 the offence of a contravention is against statute not the victim; and
  - 35.4 IVOs and Family Violence Safety Notices are to be strictly interpreted and enforced. There is no such thing as a 'technical' breach.
36. This is supplemented by section 4.8 of the Code of Practice, which provides more detailed guidance.

### *Under-reporting of breaches*

37. Statistics as to the number of IVO breaches reported to Victoria Police on an annual basis are available from the Crime Statistics Agency (**CSA**). Attached to this statement is a report from the CSA that sets out the reported number of breaches of both family violence and non-family violence IVOs, for each financial year from 2005-2006 to 2013-2014 (**Attachment TC-7**). The report provides the total number of reported breaches State wide, as well as a breakdown of the North West Metro, Eastern, Southern Metro and Western Regions. Figures for the part year from July 2014 to March 2015 are also provided.
38. The report from the CSA indicates, in summary, that the following number of breaches were reported to police State wide:
  - 38.1 In 2010-2011:
    - (a) 9,794 family violence IVO breaches;
    - (b) 299 non-family violence IVO breaches;
  - 38.2 In 2011-2012:
    - (a) 11,695 family violence IVO breaches;



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(b) 758 non-family violence IVO breaches;

38.3 In 2012-2013:

(a) 16,034 family violence IVO breaches;

(b) 1,361 non-family violence IVO breaches;

38.4 In 2013-2014:

(a) 21,300 family violence IVO breaches;

(b) 2,159 non-family violence IVO breaches.

**Note:** As explained in the CSA's report, recorded crime statistics are based on data extracted by Victoria Police on the 18<sup>th</sup> day after the relevant reference period, and are subject to movement between releases.

39. From experience, Victoria Police is aware that breaches of IVOs are significantly under-reported, especially by victims from culturally and linguistically diverse backgrounds. Although there are barriers to tracking racially specific data, we do know that the rate of reporting of IVO breaches in Caucasian communities is starting to taper, but we are a long way off this with culturally and linguistically diverse communities. Victoria Police would like to see the increase in the level of breaches reported ultimately stabilise, as this would indicate that the gap between the incidence of breaches and the reporting of breaches has closed.
40. Often, when a breach is reported, it will turn out that there have been previous breaches that have not been reported. The previous breaches may have been of a less serious nature, but often follow a pattern of escalating seriousness. It is essential for the efficacy of IVOs that AFMs report all breaches, even those of a less serious nature. This is the best way to prevent escalation of the seriousness of a Respondent's behaviour. In my experience, Respondents routinely push the boundaries in relation to their compliance with the conditions of an IVO and, if it is not reported, this behaviour can escalate.
41. Whilst there is a need to encourage AFMs to report IVO breaches, I would caution against any models that result in the system becoming more onerous for AFMs, because it will deter them from seeking help. For example, a model that results in AFMs being required to attend court frequently is not likely to increase reporting rates.

***Police response to breaches***

42. The challenge for Victoria Police is to encourage AFMs to report IVO breaches to '000'. All calls to '000' are recorded and police officers are therefore accountable for their response to every call. Calls to '000' are also a more effective means of achieving an urgent police response because mobile data terminals can attach priority to a '000' call and send a police van to an incident. This may not always be possible with a walk up report, or a phone call, to a local station. Although local stations are equipped to deal with walk up reports, breaches reported to stations are not always recorded and prioritising a response can be constrained by the availability of resources. More training is required to ensure that all breaches reported to a local station are recorded (by the completion of a Form L17) and responded to.

***Charging of breaches and withdrawal of charges***

43. Currently, the fastest growing and third most frequent category of offences charged by Victoria Police is the 'justice procedures' category. This is primarily due to the high number of charges relating to breaches of IVOs.
44. However, charges are not laid in respect of every reported IVO breach. The report provided by the CSA (see **Attachment TC-7**) also sets out the number of reported IVO breaches in respect of which a charge was laid by Victoria Police (and the percentage of the total number of reported IVO breaches that this represents). The report indicates on a State wide basis the following in relation to family violence IVOs:
- 44.1 In 2010-2011, 73.1% of reported breaches resulted in a charge (being 7,163 out of 9,794);
  - 44.2 In 2011-2012, 69.4% of reported breaches resulted in a charge (being 8,120 out of 11,695);
  - 44.3 In 2012-2013, 72.3% of reported breaches resulted in a charge (being 11,586 out of 16,034); and
  - 44.4 In 2013-2014, 76.2% of reported breaches resulted in a charge (being 16,225 out of 21,300).
45. I understand that Acting Inspector Paul Rudd will provide evidence to the Royal Commission about Victoria Police's policies, practices and training in respect of

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prosecuting IVO breaches. I will limit my statement on this topic, therefore, and provide a few brief observations from my own experience.

46. In considering whether to lay charges, investigating police officers apply the Director of Public Prosecutions' policy on prosecutorial discretion, which (as it applies to police) requires the investigating officer to assess the sufficiency of the available evidence and to apply a public interest test. Often when charges are laid for conduct which breaches an IVO, the conduct itself would not otherwise constitute a criminal offence. However, where breach of an IVO would also constitute another criminal offence, such as assault, Victoria Police will charge the perpetrator with both offences. This is consistent with Victoria Police's pro-arrest and pro-charge policy outlined in clause 3.2 of *VPMG – Family Violence*, and with the policy on family violence offences published by the Director of Public Prosecutions (see section 10) (**Attachment TC-8**).
47. In word-against-word scenarios, a police officer may proceed to issue charges based on a complaint and statement from an AFM. The officer would typically proceed to gather any additional evidence, make all necessary inquiries (including with the Respondent, if possible) and prepare a brief of evidence for a supervisor to review. If there is a lack of corroborating evidence and no statement of first complaint available, then an officer may not charge, and the supervisor may not authorise the bringing of charges, against the Respondent.
48. In addition, charges may not be brought, or they may be subsequently withdrawn, where an AFM provides police with a statement of no complaint. In some cases, police will attend an incident but the AFM will not want to pursue charges. In those circumstances, it is appropriate that police obtain from the AFM a statement of no complaint, so that there is a proper basis and record of the reasons for why no prosecution was instituted (if that is the decision made by the investigating officer and their supervisor).
49. However, in each case, officers have a duty to fully investigate an incident and to charge a Respondent if there is sufficient evidence available and the public interest justifies it. This is the case even if an AFM indicates a wish not to pursue a charge, although their wish will be an important factor in weighing up the public interest in bringing criminal proceedings.
50. It should also be emphasised that Victoria Police discourages the obtaining of statements of no complaint from AFMs at the time of the alleged incident (see, for example, section 9 of the Division 4, SM Region SOPs at **Attachment TC-6**). At the

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time of an incident, the priority is to ensure the AFM is safe and to introduce them immediately to support services, such as an FV Liaison Officer. AFMs are likely to be under significant stress at the time of an incident, which can make it difficult for them to make rational decisions about whether to pursue charges against the Respondent.

***Standard of proof for breach offences***

51. In making an assessment whether to lay charges for breach of an IVO, police members must consider whether the evidence is sufficient to establish the alleged breach to the criminal standard of proof. In my opinion, this is appropriate. I do not support the application of the lesser civil standard of proof to charges of breach of an IVO, because a breach is a criminal offence and (appropriately) carries with it criminal penalties.
52. Further, a breach of an IVO will often also constitute another criminal offence, such as assault, and in that case the perpetrator is charged with both offences. That is also appropriate. There is a risk that a lower standard of proof for IVO breaches will over time lead to other relevant charges being dropped or not brought in the first place given the higher likelihood of succeeding with the breach offence.
53. Nevertheless, it remains difficult to satisfy the criminal standard of proof in family violence matters. Successful prosecutions are heavily dependent on direct evidence from the victim, requiring them to attend court and be available for cross-examination. For a whole range of reasons, victims are often not willing to do this, and even if they are, their experience in court may cause further trauma.
54. In my view, consideration should be given to changes that could be appropriately made to ensure that prosecutions for breach of an IVO can proceed, without giving rise to secondary trauma for the victim. For example, permitting hearsay evidence from police or the tendering of a victim statement without oral evidence, would allow many prosecutions to proceed that might not otherwise have been possible. It would also help to empower victims and avoid the often damaging situation of a victim having to cross paths with the alleged perpetrator in the body of the court.

***Effectiveness of IVOs in modifying perpetrator behaviour***

55. Police need a range of control measures to deal with family violence. IVOs are one measure, but bail and Priority Target Management Plans are another.

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56. In my view, the principal issue with IVOs is not whether they provide greater security or greater priority for victims than other measures, but whether police should be empowered to impose immediate consequences on a perpetrator for breach. At present, consequences for a breach are imposed on perpetrators once they are brought back before the Court. By the time the matter is listed and brought to hearing, there will typically be a delay of up to 16 weeks between the incident and the imposition of a court ordered consequence. The Accelerated Justice pilot program, discussed below, has helped to significantly reduce these delays at Dandenong Magistrates' Court, but it would require significant additional resources for both Victoria Police and the Court if it were to be expanded and instituted across all Court venues.
57. Another option is for police officers to be given powers to impose immediate consequences on a Respondent, for example powers to issue family violence related IVOs with longer duration than a Family Violence Safety Notice. A model such as this has been implemented in Tasmania, where police have powers to make and issue a 'Police Family Violence Order' if an officer is satisfied that a person has committed, or is likely to commit, a family violence related offence. Police Family Violence Orders may be issued for a period of up to 12 months, and an officer of the rank of inspector or above has power to vary an Order in appropriate circumstances (including where the AFM and Respondent consent to the variation). A Respondent, AFM or a police officer each have a right to apply to the courts for the variation, extension or revocation of a Police Family Violence Order.
58. Police in Victoria currently have powers to impose specific conditions in respect of bail. For example, police officers can impose bail conditions involving a curfew, exclusion orders or attendance at a drug and alcohol management program. This power is used particularly in relation to youth offenders as the prospect of bail can provide an effective control measure. This has led to positive results in terms of reducing re-offending.

#### **RECENT INITIATIVES TAKEN BY VICTORIA POLICE**

59. Several recent initiatives have been trialled in the SM Region to reduce the incidence of family violence, and each of these has had positive results. They are:
  - 59.1 the Dandenong Pro-arrest Policy;
  - 59.2 the Accelerated Justice Program (with Dandenong Magistrates' Court); and
  - 59.3 Taskforce Alexis.

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60. Taskforce Alexis is a pilot program that involves the co-location of a Salvation Army social worker with Victoria Police, and the bringing together of multiple agencies, to work intensively with high risk and recidivist family violence cases. It commenced in December 2014 and is located at the Moorabbin police headquarters. I understand that Senior Sergeant Fiona Alexander will provide further information to the Royal Commission about Taskforce Alexis.

***Dandenong Pro-arrest Policy***

61. The Pro-arrest Policy commenced in December 2013 in Dandenong, which is in Southern Division 3 of the SM Region. This Division has the highest rate of reported family violence in Victoria. In order to address this, the Division has adopted an aggressive pro-arrest, pro-remand policy, whereby perpetrators are arrested and remanded in custody for a period of 4 hours (which is also the standard period of time for 'drunk and disorderly' arrests).
62. Placing perpetrators into custody for this period of time allows police to provide support to the victim, including to arrange alternative accommodation for the perpetrator or victim if necessary, and to investigate whether to lay charges. It also has a positive effect on the perpetrator. It takes control away from them and makes clear to them that their conduct is criminal.
63. For internal police purposes, Victoria Police has compiled the following data relevant to the Pro-arrest Policy to monitor its effectiveness. Between July 2014 and June 2015, under the Pro-arrest Policy, the Southern Division 3 Family Violence Unit has:
- 63.1 executed 259 warrants;
  - 63.2 cleared 86 "whereabouts desired" files;
  - 63.3 laid 869 charges;
  - 63.4 remanded 50 family violence perpetrators for a total of 724 days; and
  - 63.5 arrested a total of 395 family violence perpetrators.
64. The policy has also resulted in a highly significant reduction in recidivism and repeat victimisation in Dandenong. Prior to the commencement of the Pro-arrest Policy, locally sourced police data has indicated that repeat perpetrator rates in Southern Division 3 were increasing on a year to date rate as at January 2013 at 31% annually. Since commencement of the Policy, repeat perpetrator rates have shown



a steady decline. The turnaround is in stark contrast to the State average and that of the whole of the SM Region.

65. It should be emphasised that a longitudinal evaluation of the Policy will be needed to measure its effectiveness in changing men's behaviour over the longer term. It may be that, in the short term, the effect is mainly to displace or postpone further violent behaviour, until for example an offender starts up a relationship with a new partner. A longitudinal analysis will assist to evaluate the deeper affect of being taken into custody on men's attitudes and self-awareness.

***Dandenong Accelerated Justice Program***

66. The Accelerated Justice or 'Fast Track' Pilot Program started in December 2014 in Division 3 of the SM Region in Dandenong. This pilot stemmed from concerns held by Victoria Police and the courts about the length of time taken to finalise prosecutions in family violence matters. Extended delays were not only making it difficult to achieve successful prosecutions, but also risked offending continuing and subsequent risks to the safety of the AFM.

67. The pilot required changes in the manner in which police processed family violence matters into the justice system and the manner in which they were dealt with by Dandenong Magistrates' Court. The ultimate aim was to ensure that breaches of IVOs would be charged and brought before the Dandenong Magistrates' Court for final hearing as quickly as possible. As a result, Victoria Police and the Magistrates' Court introduced the following timelines:

- 67.1 First mention is to occur:

- (a) on the next court sitting date for remand hearings;
- (b) within 7 days for offenders charged and released on bail; and
- (c) within 28 days for offenders charged on summons;

- 67.2 A second listing is to occur within 28 days (which ensures that a summary case conference will occur within that period of time);

- 67.3 A contest mention is to occur within a further 28 days; and

- 67.4 Any contested hearing is to occur within 28 days after the contest mention.

68. The Magistrates' Court has issued Practice Direction No. 10 of 2014 in respect of the fast track process, together with an information document for accused persons

which is required to be given to them at the time of release on bail or service of a charge and summons (**Attachment TC-9**).

69. Initial results of the pilot program compiled from locally sourced data by Victoria Police demonstrate that the Accelerated Justice Program has been very effective so far. In particular:

- 69.1 It has reduced the time taken to get before a Magistrate from 16 weeks to one week.
- 69.2 It has resulted in a dramatic reduction in the number of withdrawals of family violence related prosecutions. Between January and March 2015, the percentage of overall withdrawals of family violence prosecutions reduced from 31% for the same period in 2014 to 13%, a 58% reduction in the Southern Division 3 rate and a 48% reduction in the State average.
- 69.3 It has also resulted in a reduction in the number of unsuccessful prosecutions. As of 1 June 2015, there have been 17 contested hearings, nine of which were matters that were commenced during the pilot period. The nine commenced during the pilot period were all successful and there was only a 62.5% success rate in the prosecutions that commenced before the pilot and were determined during the running of the pilot.
- 69.4 There has also been a reduction in recidivism and the seriousness of repeat offending. Only 6.5% of offenders processed under the pilot have criminally re-offended.

70. However, there are concerns about the sustainability of the Accelerated Justice model on current resourcing levels. The model is particularly resource intensive because of the need to do all of the necessary preparation to bring matters to a final hearing within one week. There has been a 90% increase in overtime by police members at Dandenong, and it has created difficulties in ensuring that members are provided with their minimum 10-hour break between shifts. This has obvious potential impacts on members' welfare and wellbeing.

71. Some of the additional work required to be undertaken by police members is a result of the fact that the Program is at the trial stage, and we expect a degree of normalisation to occur in the future. However, the needs will remain at a level well above what the resources committed prior to the trial can sustain. It should also be noted that the Program requires a significant increase in the resources available to the Court, to deal with the increased volume of applications and charges. The

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resource commitment that would be required to roll out this Program more widely may not be as large in lower volume areas as it is in Dandenong, but it would still be significant.

Signed by

**Thomas Donald Luke Cornelius**

at Melbourne

this 27<sup>th</sup> day of July 2015



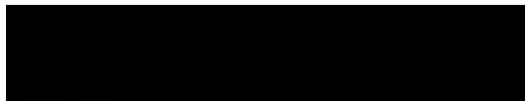
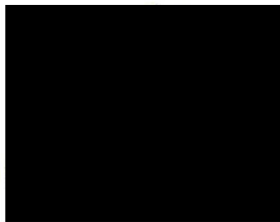
) Thomas Donald Luke Cornelius.

) Asset Controller

) Regional Controller.

Southern Metropolitan Region.

Before me:



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